

As Pending in the Senate Finance Committee

129th General Assembly

Regular Session

2011-2012

Sub. H. B. No. 153

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A BILL

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and to terminate certain provisions of this act on 391
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appropriations for the biennium beginning July 1, 395
2011, and ending June 30, 2013; and to provide 396
authorization and conditions for the operation of 397
programs, including reforms for the efficient and 398
effective operation of state and local government. 399

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

Section 101.01. That sections 7.10, 7.11, 7.12, 9.03, 9.06, 400
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6117.05, 6117.06, 6117.07, 6117.251, 6117.49, 6119.10, 6119.18, 590
6119.22, 6119.25, and 6119.58 be amended; sections 173.35 591
(5119.69), 173.351 (5119.691), 173.36 (5119.692), 505.481 592
(505.482), 505.482 (505.481), 3306.12 (3317.0212), 3314.20 593
(3313.473), 3721.561 (3721.56), 3722.01 (5119.70), 3722.011 594
(5119.701), 3722.02 (5119.71), 3722.021 (5119.711), 3722.022 595
(5119.712), 3722.03 (5119.72), 3722.04 (5119.73), 3722.041 596
(5119.731), 3722.05 (5119.74), 3722.06 (5119.75), 3722.07 597
(5119.76), 3722.08 (5119.77), 3722.09 (5119.78), 3722.10 598
(5119.79), 3722.11 (5119.80), 3722.12 (5119.81), 3722.13 599
(5119.82), 3722.14 (5119.83), 3722.15 (5119.84), 3722.151 600
(5119.85), 3722.16 (5119.86), 3722.17 (5119.87), 3722.18 601
(5119.88), 3733.02 (4781.26), 3733.021 (4781.31), 3733.022 602
(4781.32), 3733.024 (4781.33), 3733.025 (4781.34), 3733.03 603
(4781.27), 3733.04 (4781.28), 3733.05 (4781.29), 3733.06 604
(4781.30), 3733.08 (4781.35), 3733.09 (4781.36), 3733.091 605
(4781.37), 3733.10 (4781.38), 3733.101 (4781.39), 3733.11 606
(4781.40), 3733.12 (4781.41), 3733.121 (4781.42), 3733.122 607
(4781.43), 3733.123 (4781.44), 3733.13 (4781.45), 3733.14 608
(4781.46), 3733.15 (4781.47), 3733.16 (4781.48), 3733.17 609
(4781.49), 3733.18 (4781.50), 3733.19 (4781.51), 3733.20 610

(4781.52), 3733.49 (3733.43), 5101.271 (5101.272), 5101.272 611
(5101.273), 5101.5110 (5101.5111), 5111.14 (5111.141), 5111.261 612
(5111.263), 5111.892 (5111.893), 5119.612 (5119.613), and 5119.613 613
(5119.614) be amended for the purpose of adopting new section 614
numbers as indicated in parentheses; that new sections 3314.016, 615
5101.271, 5101.5110, 5111.14, 5111.261, 5111.861, 5111.892, 616
5119.612, 5126.18, and 5747.52 and sections 7.16, 9.334, 9.335, 617
9.336, 9.482, 101.36, 101.711, 111.181, 111.28, 111.29, 113.42, 618
113.43, 113.44, 113.47, 118.025, 118.31, 124.394, 125.024, 619
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5111.053, 5111.063, 5111.085, 5111.161, 5111.1711, 5111.224, 646
5111.225, 5111.259, 5111.862, 5111.863, 5111.864, 5111.865, 647
5111.944, 5111.945, 5111.981, 5112.991, 5119.012, 5119.013, 648
5119.222, 5119.622, 5119.623, 5119.693, 5120.092, 5122.341, 649
5123.0418, 5123.0419, 5703.059, 5725.34, 5729.17, 5748.09, 650
5751.41, 6115.231, and 6119.061 of the Revised Code be enacted to 651
read as follows: 652

Sec. 7.10. For the publication of advertisements, notices, 653
and proclamations, except those relating to proposed amendments to 654
the Ohio ~~constitution~~ Constitution, required to be published by a 655
public officer of the state, ~~county, municipal corporation,~~ 656
~~township, school,~~ a benevolent or other public institution, ~~or by~~ 657
a trustee, assignee, executor, or administrator, or by or in any 658
court of record, except when the rate is otherwise fixed by law, 659
publishers of newspapers may charge and receive for such 660
advertisements, notices, and proclamations rates charged on annual 661
contracts by them for a like amount of space to other advertisers 662
who advertise in its general display advertising columns. ~~Legal~~ 663

For the publication of advertisements, notices, or 664
proclamations required to be published by a public officer of a 665
county, municipal corporation, township, school, or other 666
political subdivision, publishers of newspapers shall establish a 667
government rate, which shall include free publication of 668
advertisements, notices, or proclamations on the newspaper's 669
internet web site, if the newspaper has one. The government rate 670
shall not exceed the lowest classified advertising rate and lowest 671
insert rate paid by other advertisers. 672

Legal advertising, except that relating to proposed 673

amendments to the Ohio ~~constitution~~ Constitution, shall be set up 674
in a compact form, without unnecessary spaces, blanks, or 675
headlines, and printed in not smaller than six-point type. The 676
type used must be of such proportions that the body of the capital 677
letter M is no wider than it is high and all other letters and 678
characters are in proportion. 679

Except as provided in section 2701.09 of the Revised Code, 680
all legal advertisements or notices shall be printed in newspapers 681
~~published in the English language only~~ of general circulation and 682
also shall be posted on the state public notice web site created 683
under section 125.182 of the Revised Code, and on a newspaper's 684
internet web site, if the newspaper has one. 685

Sec. 7.11. A proclamation for an election, an order fixing 686
the time of holding court, notice of the rates of taxation, bridge 687
and pike notices, notice to contractors, and such other 688
advertisements of general interest to the taxpayers as the county 689
auditor, county treasurer, probate judge, or board of county 690
commissioners deems proper shall be published in ~~two newspapers~~ a 691
newspaper of ~~opposite politics~~ of general circulation, as defined 692
in section ~~5721.01~~ 7.12 of the Revised Code at the county seat ~~if~~ 693
~~there are such newspapers published thereat. If there are not two~~ 694
~~newspapers of opposite politics and of general circulation~~ 695
~~published in said county seat, such publication shall be made in~~ 696
~~one newspaper published in said county seat and in any other~~ 697
~~newspaper of general circulation in said county as defined in~~ 698
~~section 5721.01 of the Revised Code, wherever published, without~~ 699
~~regard to the politics of such other newspaper.~~ In counties having 700
cities of eight thousand inhabitants or more, not the county seat 701
of such counties, additional publication of such notice shall be 702
made in ~~two newspapers~~ a newspaper of ~~opposite politics and of~~ 703
general circulation ~~in such city,~~ as defined in such section, in 704
such city. ~~For purposes of this section, a newspaper independent~~ 705

~~in politics is a newspaper of opposite politics to a newspaper of
designated political affiliation. Sections 7.10 to 7.13,
inclusive, of the Revised Code, do not apply to the publication of
notices of delinquent and forfeited land sales.~~

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

Sec. 7.12. (A) ~~Whenever any legal publication a state agency
or a political subdivision of the state is required by law to be
made~~ make any legal publication in a newspaper ~~published in a
municipal corporation, county, or other political subdivision, the
newspaper shall also be a newspaper of general circulation in the
municipal corporation, county, or other political subdivision,
without further restriction or limitation upon a selection of the
newspaper to be used. If no newspaper is published in such
municipal corporation, county, or other political subdivision,
such legal publication shall be made in any newspaper of general
circulation therein. If there are less than two newspapers
published in any municipal corporation, county, or other political
subdivision in the manner defined by this section, then any legal
publication required by law to be made in a newspaper published in
a municipal corporation, county, or other political subdivision
may be made in any newspaper regularly issued at stated intervals
from a known office of publication located within the municipal
corporation, county, or other political subdivision. As used in
this section, a known office of publication is a public office
where the business of the newspaper is transacted during the usual
business hours, and such office shall be shown by the publication
itself. As used in the Revised Code,~~

~~In addition to all other requirements, a "newspaper" or~~

"newspaper of general circulation," except ~~those publications~~ 737
daily law journals in existence on or before July 1, 2011, and 738
performing the functions described in section 2701.09 of the 739
Revised Code for a period of ~~one year~~ three years immediately 740
preceding any such legal publication required to be made, ~~shall be~~ 741
is a publication bearing a title or name, that is regularly issued 742
~~as frequently as at least~~ at least once a week ~~for a definite price or~~ 743
~~consideration paid for by not less than fifty per cent of those to~~ 744
~~whom distribution is made, having a second class mailing~~ 745
~~privilege, being not less than four pages, published continuously~~ 746
~~during the immediately preceding one year period, and circulated~~ 747
~~generally in the political subdivision in which it is published.~~ 748
~~Such publication must be of a type to which the general public~~ 749
~~resorts for passing events of a political, religious, commercial,~~ 750
~~and social nature, current happenings, announcements,~~ 751
~~miscellaneous reading matter, advertisements, and other notices,~~ 752
and that meets all of the following requirements: 753

(1) It is printed in the English language using standard 754
printing methods, being not less than eight pages in the 755
broadsheet format or sixteen pages in the tabloid format. 756

(2) It contains at least twenty-five per cent editorial 757
content, which includes, but is not limited to, local news, 758
political information, and local sports. 759

(3) It has been published continuously for at least three 760
years immediately preceding legal publication by the state agency 761
or political subdivision. 762

(4) The publication has the ability to add subscribers to its 763
distribution list. 764

(5) The publication is circulated generally by United States 765
mail or carrier delivery in the political subdivision responsible 766
for legal publication or in the state, if legal publication is 767

made by a state agency, by proof of the filing of a United States 768
postal service "Statement of Ownership, Management, and 769
Circulation" (PS form 3526) with the local postmaster, or by proof 770
of an independent audit of the publication performed, within the 771
twelve months immediately preceding legal publication. 772

(B) A person who disagrees that a publication is a "newspaper 773
of general circulation" in which legal publication may be made 774
under this section may deliver a written request for mediation to 775
the publisher of the publication and to the court of common pleas 776
of the county in which is located the political subdivision in 777
which the publication is circulated, or in the Franklin county 778
court of common pleas if legal publication is to be made by a 779
state agency. The court of common pleas shall appoint a mediator, 780
and the parties shall follow the procedures of the mediation 781
program operated by the court. 782

Sec. 7.16. (A) If a section of the Revised Code or an 783
administrative rule requires a state agency or a political 784
subdivision of the state to publish a notice or advertisement two 785
or more times in a newspaper of general circulation and the 786
section or administrative rule refers to this section, the first 787
publication of the notice or advertisement shall be made in its 788
entirety in a newspaper of general circulation and may be made in 789
a preprinted insert in the newspaper, but the second publication 790
otherwise required by that section or administrative rule may be 791
made in abbreviated form in a newspaper of general circulation in 792
the state or in the political subdivision, as designated in that 793
section or administrative rule, and on the newspaper's internet 794
web site, if the newspaper has one. The state agency or political 795
subdivision may eliminate any further newspaper publications 796
required by that section or administrative rule, provided that the 797
second, abbreviated notice or advertisement meets all of the 798
following requirements: 799

(1) It is published in the newspaper of general circulation 800
in which the first publication of the notice or advertisement was 801
made and is published on that newspaper's internet web site, if 802
the newspaper has one. 803

(2) It includes a title, followed by a summary paragraph or 804
statement that clearly describes the specific purpose of the 805
notice or advertisement, and includes a statement that the notice 806
or advertisement is posted in its entirety on the state public 807
notice web site established under section 125.182 of the Revised 808
Code. The notice or advertisement also may be posted on the state 809
agency's or political subdivision's internet web site. 810

(3) It includes the internet addresses of the state public 811
notice web site, and of the newspaper's and state agency's or 812
political subdivision's internet web site if the notice or 813
advertisement is posted on those web sites, and the name, address, 814
telephone number, and electronic mail address of the state agency, 815
political subdivision, or other party responsible for publication 816
of the notice or advertisement. 817

(B) A notice or advertisement published under this section on 818
an internet web site shall be published in its entirety in 819
accordance with the section of the Revised Code or the 820
administrative rule that requires the publication. 821

(C) If a state agency or political subdivision does not 822
operate and maintain, or ceases to operate and maintain, an 823
internet web site, and if the state public notice web site 824
established under section 125.182 of the Revised Code is not 825
operational, the state agency or political subdivision shall not 826
publish a notice or advertisement under this section, but instead 827
shall comply with the publication requirements of the section of 828
the Revised Code or the administrative rule that refers to this 829
section. 830

Sec. 9.03. (A) As used in this section, "political
subdivision" means any body corporate and politic, except a
municipal corporation that has adopted a charter under Section 7
of Article XVIII, Ohio Constitution, and except a county that has
adopted a charter under Sections 3 and 4 of Article X, Ohio
Constitution, to which both of the following apply:

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

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

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

(C) Except as otherwise provided in division (A)~~(7)~~(6) of
section 340.03 or division (A)(12) of section 340.033 of the
Revised Code, no governing body of a political subdivision shall
use public funds to do any of the following:

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

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

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

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

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

(e) Supports or opposes the nomination or election of a candidate for public office, the investigation, prosecution, or recall of a public official, or the passage of a levy or bond issue.

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

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

(1) Charitable or public service advertising that is not commercial in nature;

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

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

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

Sec. 9.06. (A)(1) The department of rehabilitation and

correction may contract for the private operation and management 890
pursuant to this section of the initial intensive program prison 891
established pursuant to section 5120.033 of the Revised Code, if 892
one or more intensive program prisons are established under that 893
section, and may contract for the private operation and management 894
of any other facility under this section. Counties and municipal 895
corporations to the extent authorized in sections 307.93, 341.35, 896
753.03, and 753.15 of the Revised Code may contract for the 897
private operation and management of a facility under this section. 898
A contract entered into under this section shall be for an initial 899
term ~~of not more than two years~~ specified in the contract with an 900
option to renew for additional periods of two years. 901

(2) The department of rehabilitation and correction, by rule, 902
shall adopt minimum criteria and specifications that a person or 903
entity, other than a person or entity that satisfies the criteria 904
set forth in division (A)(3)(a) of this section and subject to 905
division (I) of this section, must satisfy in order to apply to 906
operate and manage as a contractor pursuant to this section the 907
initial intensive program prison established pursuant to section 908
5120.033 of the Revised Code, if one or more intensive program 909
prisons are established under that section. 910

(3) Subject to division (I) of this section, any person or 911
entity that applies to operate and manage a facility as a 912
contractor pursuant to this section shall satisfy one or more of 913
the following criteria: 914

(a) The person or entity ~~is accredited by the American~~ 915
~~correctional association and~~, at the time of the application, 916
operates and manages one or more facilities accredited by the 917
American correctional association. 918

(b) The person or entity satisfies all of the minimum 919
criteria and specifications adopted by the department of 920
rehabilitation and correction pursuant to division (A)(2) of this 921

section, provided that this alternative shall be available only in 922
relation to the initial intensive program prison established 923
pursuant to section 5120.033 of the Revised Code, if one or more 924
intensive program prisons are established under that section. 925

(4) Subject to division (I) of this section, before a public 926
entity may enter into a contract under this section, the 927
contractor shall convincingly demonstrate to the public entity 928
that it can operate the facility with the inmate capacity required 929
by the public entity and provide the services required in this 930
section and realize at least a five per cent savings over the 931
projected cost to the public entity of providing these same 932
services to operate the facility that is the subject of the 933
contract. No out-of-state prisoners may be housed in any facility 934
that is the subject of a contract entered into under this section. 935

(B) Subject to division (I) of this section, any contract 936
entered into under this section shall include all of the 937
following: 938

(1) A requirement that ~~the contractor retain the contractor's~~ 939
~~accreditation from the American correctional association~~ 940
~~throughout the contract term or~~, if the contractor applied 941
pursuant to division (A)(3)(b) of this section, the contractor 942
continue complying with the applicable criteria and specifications 943
adopted by the department of rehabilitation and correction 944
pursuant to division (A)(2) of this section; 945

(2) A requirement that all of the following conditions be 946
met: 947

(a) The contractor begins the process of accrediting the 948
facility with the American correctional association no later than 949
sixty days after the facility receives its first inmate. 950

(b) The contractor receives accreditation of the facility 951
within twelve months after the date the contractor applies to the 952

American correctional association for accreditation.	953
(c) Once the accreditation is received, the contractor maintains it for the duration of the contract term.	954 955
(d) If the contractor does not comply with divisions (B)(2)(a) to (c) of this section, the contractor is in violation of the contract, and the public entity may revoke the contract at its discretion.	956 957 958 959
(3) A requirement that the contractor comply with all rules promulgated by the department of rehabilitation and correction that apply to the operation and management of correctional facilities, including the minimum standards for jails in Ohio and policies regarding the use of force and the use of deadly force, although the public entity may require more stringent standards, and comply with any applicable laws, rules, or regulations of the federal, state, and local governments, including, but not limited to, sanitation, food service, safety, and health regulations. The contractor shall be required to send copies of reports of inspections completed by the appropriate authorities regarding compliance with rules and regulations to the director of rehabilitation and correction or the director's designee and, if contracting with a local public entity, to the governing authority of that entity.	960 961 962 963 964 965 966 967 968 969 970 971 972 973 974
(4) A requirement that the contractor report for investigation all crimes in connection with the facility to the public entity, to all local law enforcement agencies with jurisdiction over the place at which the facility is located, and, for a crime committed at a state correctional institution, to the state highway patrol;	975 976 977 978 979 980
(5) A requirement that the contractor immediately report all escapes from the facility, and the apprehension of all escapees, by telephone and in writing to all local law enforcement agencies	981 982 983

with jurisdiction over the place at which the facility is located, 984
to the prosecuting attorney of the county in which the facility is 985
located, to the state highway patrol, to a daily newspaper having 986
general circulation in the county in which the facility is 987
located, and, if the facility is a state correctional institution, 988
to the department of rehabilitation and correction. The written 989
notice may be by either facsimile transmission or mail. A failure 990
to comply with this requirement regarding an escape is a violation 991
of section 2921.22 of the Revised Code. 992

(6) A requirement that, if the facility is a state 993
correctional institution, the contractor provide a written report 994
within specified time limits to the director of rehabilitation and 995
correction or the director's designee of all unusual incidents at 996
the facility as defined in rules promulgated by the department of 997
rehabilitation and correction or, if the facility is a local 998
correctional institution, that the contractor provide a written 999
report of all unusual incidents at the facility to the governing 1000
authority of the local public entity; 1001

(7) A requirement that the contractor maintain proper control 1002
of inmates' personal funds pursuant to rules promulgated by the 1003
department of rehabilitation and correction for state correctional 1004
institutions or pursuant to the minimum standards for jails along 1005
with any additional standards established by the local public 1006
entity for local correctional institutions and that records 1007
pertaining to these funds be made available to representatives of 1008
the public entity for review or audit; 1009

(8) A requirement that the contractor prepare and distribute 1010
to the director of rehabilitation and correction or, if 1011
contracting with a local public entity, to the governing authority 1012
of the local entity annual budget income and expenditure 1013
statements and funding source financial reports; 1014

(9) A requirement that the public entity appoint and 1015

supervise a full-time contract monitor, that the contractor 1016
provide suitable office space for the contract monitor at the 1017
facility, and that the contractor allow the contract monitor 1018
unrestricted access to all parts of the facility and all records 1019
of the facility except the contractor's financial records; 1020

(10) A requirement that if the facility is a state 1021
correctional institution designated department of rehabilitation 1022
and correction staff members be allowed access to the facility in 1023
accordance with rules promulgated by the department; 1024

(11) A requirement that the contractor provide internal and 1025
perimeter security as agreed upon in the contract; 1026

(12) If the facility is a state correctional institution, a 1027
requirement that the contractor impose discipline on inmates 1028
housed in ~~a state correctional institution~~ the facility only in 1029
accordance with rules promulgated by the department of 1030
rehabilitation and correction; 1031

(13) A requirement that the facility be staffed at all times 1032
with a staffing pattern approved by the public entity and adequate 1033
both to ensure supervision of inmates and maintenance of security 1034
within the facility and to provide for programs, transportation, 1035
security, and other operational needs. In determining security 1036
needs, the contractor shall be required to consider, among other 1037
things, the proximity of the facility to neighborhoods and 1038
schools. 1039

(14) If the contract is with a local public entity, a 1040
requirement that the contractor provide services and programs, 1041
consistent with the minimum standards for jails promulgated by the 1042
department of rehabilitation and correction under section 5120.10 1043
of the Revised Code; 1044

(15) A clear statement that no immunity from liability 1045
granted to the state, and no immunity from liability granted to 1046

political subdivisions under Chapter 2744. of the Revised Code, 1047
shall extend to the contractor or any of the contractor's 1048
employees; 1049

(16) A statement that all documents and records relevant to 1050
the facility shall be maintained in the same manner required for, 1051
and subject to the same laws, rules, and regulations as apply to, 1052
the records of the public entity; 1053

(17) Authorization for the public entity to impose a fine on 1054
the contractor from a schedule of fines included in the contract 1055
for the contractor's failure to perform its contractual duties or 1056
to cancel the contract, as the public entity considers 1057
appropriate. If a fine is imposed, the public entity may reduce 1058
the payment owed to the contractor pursuant to any invoice in the 1059
amount of the imposed fine. 1060

(18) A statement that all services provided or goods produced 1061
at the facility shall be subject to the same regulations, and the 1062
same distribution limitations, as apply to goods and services 1063
produced at other correctional institutions; 1064

(19) ~~Authorization~~ If the facility is a state correctional 1065
institution, authorization for the department to establish one or 1066
more prison industries at a the facility ~~operated and managed by a~~ 1067
~~contractor for the department;~~ 1068

(20) A requirement that, if the facility is an intensive 1069
program prison established pursuant to section 5120.033 of the 1070
Revised Code, the facility shall comply with all criteria for 1071
intensive program prisons of that type that are set forth in that 1072
section; 1073

(21) If the ~~institution~~ facility is a state correctional 1074
institution, a requirement that the contractor provide clothing 1075
for all inmates housed in the facility that is conspicuous in its 1076
color, style, or color and style, that conspicuously identifies 1077

its wearer as an inmate, and that is readily distinguishable from 1078
clothing of a nature that normally is worn outside the facility by 1079
non-inmates, that the contractor require all inmates housed in the 1080
facility to wear the clothing so provided, and that the contractor 1081
not permit any inmate, while inside or on the premises of the 1082
facility or while being transported to or from the facility, to 1083
wear any clothing of a nature that does not conspicuously identify 1084
its wearer as an inmate and that normally is worn outside the 1085
facility by non-inmates. 1086

(C) No contract entered into under this section may require, 1087
authorize, or imply a delegation of the authority or 1088
responsibility of the public entity to a contractor for any of the 1089
following: 1090

(1) Developing or implementing procedures for calculating 1091
inmate release and parole eligibility dates and recommending the 1092
granting or denying of parole, although the contractor may submit 1093
written reports that have been prepared in the ordinary course of 1094
business; 1095

(2) Developing or implementing procedures for calculating and 1096
awarding earned credits, approving the type of work inmates may 1097
perform and the wage or earned credits, if any, that may be 1098
awarded to inmates engaging in that work, and granting, denying, 1099
or revoking earned credits; 1100

(3) For inmates serving a term imposed for a felony offense 1101
committed prior to July 1, 1996, or for a misdemeanor offense, 1102
developing or implementing procedures for calculating and awarding 1103
good time, approving the good time, if any, that may be awarded to 1104
inmates engaging in work, and granting, denying, or revoking good 1105
time; 1106

(4) Classifying an inmate or placing an inmate in a more or a 1107
less restrictive custody than the custody ordered by the public 1108

entity;	1109
(5) Approving inmates for work release;	1110
(6) Contracting for local or long distance telephone services	1111
for inmates or receiving commissions from those services at a	1112
facility that is owned by or operated under a contract with the	1113
department.	1114
(D) A contractor that has been approved to operate a facility	1115
under this section, and a person or entity that enters into a	1116
contract for specialized services, as described in division (I) of	1117
this section, relative to an intensive program prison established	1118
pursuant to section 5120.033 of the Revised Code to be operated by	1119
a contractor that has been approved to operate the prison under	1120
this section, shall provide an adequate policy of insurance	1121
specifically including, but not limited to, insurance for civil	1122
rights claims as determined by a risk management or actuarial firm	1123
with demonstrated experience in public liability for state	1124
governments. The insurance policy shall provide that the state,	1125
including all state agencies, and all political subdivisions of	1126
the state with jurisdiction over the facility or in which a	1127
facility is located are named as insured, and that the state and	1128
its political subdivisions shall be sent any notice of	1129
cancellation. The contractor may not self-insure.	1130
A contractor that has been approved to operate a facility	1131
under this section, and a person or entity that enters into a	1132
contract for specialized services, as described in division (I) of	1133
this section, relative to an intensive program prison established	1134
pursuant to section 5120.033 of the Revised Code to be operated by	1135
a contractor that has been approved to operate the prison under	1136
this section, shall indemnify and hold harmless the state, its	1137
officers, agents, and employees, and any local government entity	1138
in the state having jurisdiction over the facility or ownership of	1139
the facility, shall reimburse the state for its costs in defending	1140

the state or any of its officers, agents, or employees, and shall 1141
reimburse any local government entity of that nature for its costs 1142
in defending the local government entity, from all of the 1143
following: 1144

(1) Any claims or losses for services rendered by the 1145
contractor, person, or entity performing or supplying services in 1146
connection with the performance of the contract; 1147

(2) Any failure of the contractor, person, or entity or its 1148
officers or employees to adhere to the laws, rules, regulations, 1149
or terms agreed to in the contract; 1150

(3) Any constitutional, federal, state, or civil rights claim 1151
brought against the state related to the facility operated and 1152
managed by the contractor; 1153

(4) Any claims, losses, demands, or causes of action arising 1154
out of the contractor's, person's, or entity's activities in this 1155
state; 1156

(5) Any attorney's fees or court costs arising from any 1157
habeas corpus actions or other inmate suits that may arise from 1158
any event that occurred at the facility or was a result of such an 1159
event, or arise over the conditions, management, or operation of 1160
the facility, which fees and costs shall include, but not be 1161
limited to, attorney's fees for the state's representation and for 1162
any court-appointed representation of any inmate, and the costs of 1163
any special judge who may be appointed to hear those actions or 1164
suits. 1165

(E) Private correctional officers of a contractor operating 1166
and managing a facility pursuant to a contract entered into under 1167
this section may carry and use firearms in the course of their 1168
employment only after being certified as satisfactorily completing 1169
an approved training program as described in division (A) of 1170
section 109.78 of the Revised Code. 1171

(F) Upon notification by the contractor of an escape from, or 1172
of a disturbance at, the facility that is the subject of a 1173
contract entered into under this section, the department of 1174
rehabilitation and correction and state and local law enforcement 1175
agencies shall use all reasonable means to recapture escapees or 1176
quell any disturbance. Any cost incurred by the state or its 1177
political subdivisions relating to the apprehension of an escapee 1178
or the quelling of a disturbance at the facility shall be 1179
chargeable to and borne by the contractor. The contractor shall 1180
also reimburse the state or its political subdivisions for all 1181
reasonable costs incurred relating to the temporary detention of 1182
the escapee following recapture. 1183

(G) Any offense that would be a crime if committed at a state 1184
correctional institution or jail, workhouse, prison, or other 1185
correctional facility shall be a crime if committed by or with 1186
regard to inmates at facilities operated pursuant to a contract 1187
entered into under this section. 1188

(H) A contractor operating and managing a facility pursuant 1189
to a contract entered into under this section shall pay any inmate 1190
workers at the facility at the rate approved by the public entity. 1191
Inmates working at the facility shall not be considered employees 1192
of the contractor. 1193

(I) In contracting for the private operation and management 1194
pursuant to division (A) of this section of any intensive program 1195
prison established pursuant to section 5120.033 of the Revised 1196
Code, the department of rehabilitation and correction may enter 1197
into a contract with a contractor for the general operation and 1198
management of the prison and may enter into one or more separate 1199
contracts with other persons or entities for the provision of 1200
specialized services for persons confined in the prison, 1201
including, but not limited to, security or training services or 1202
medical, counseling, educational, or similar treatment programs. 1203

If, pursuant to this division, the department enters into a contract with a contractor for the general operation and management of the prison and also enters into one or more specialized service contracts with other persons or entities, all of the following apply:

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

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

(J) If, on or after the effective date of this amendment, a contractor enters into a contract with the department of rehabilitation and correction under this section for the operation and management of any facility described in Section 753.10 of the act in which this amendment was adopted, if the contract provides for the sale of the facility to the contractor, if the facility is sold to the contractor subsequent to the execution of the contract, and if the contractor is privately operating and managing the facility, notwithstanding the contractor's private operation and management of the facility, all of the following apply:

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

(2) Any reference in this section to "state correctional institution," any reference in Chapter 2967. of the Revised Code to "state correctional institution," other than the definition of that term set forth in section 2967.01 of the Revised Code, or to "prison," and any reference in Chapter 2929., 5120., 5145., 5147., or 5149. or any other provision of the Revised Code to "state correctional institution" or "prison" shall be considered to include a reference to the facility being privately operated and managed by the contractor, unless the context makes the inclusion of that facility clearly inapplicable.

(3) Upon the sale and conveyance of the facility, the facility shall be returned to the tax list and duplicate maintained by the county auditor, and the facility shall be subject to all real property taxes and assessments. No exemption from real property taxation pursuant to Chapter 5709. of the Revised Code shall apply to the facility conveyed. The gross receipts and income of the contractor to whom the facility is conveyed that are derived from operating and managing the facility under this section shall be subject to gross receipts and income taxes levied by the state and its subdivisions, including the taxes levied pursuant to Chapters 718., 5747., 5748., and 5751. of the Revised Code. Unless exempted under another section of the Revised Code, transactions involving a contractor as a consumer or purchaser are subject to any tax levied under Chapters 5739. and 5741. of the Revised Code.

(4) After the sale and conveyance of the facility, before the contractor may resell or otherwise transfer the facility and the real property on which it is situated, any surrounding land that also was transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that was transferred under the contract, the contractor first must offer the state the opportunity to repurchase the facility, real

property, and surrounding land that is to be resold or transferred 1267
and must sell the facility, real property, and surrounding land to 1268
the state if the state so desires, pursuant to and in accordance 1269
with the repurchase clause included in the contract. 1270

(K) As used in this section: 1271

(1) "Public entity" means the department of rehabilitation 1272
and correction, or a county or municipal corporation or a 1273
combination of counties and municipal corporations, that has 1274
jurisdiction over a facility that is the subject of a contract 1275
entered into under this section. 1276

(2) "Local public entity" means a county or municipal 1277
corporation, or a combination of counties and municipal 1278
corporations, that has jurisdiction over a jail, workhouse, or 1279
other correctional facility used only for misdemeanants that is 1280
the subject of a contract entered into under this section. 1281

(3) "Governing authority of a local public entity" means, for 1282
a county, the board of county commissioners; for a municipal 1283
corporation, the legislative authority; for a combination of 1284
counties and municipal corporations, all the boards of county 1285
commissioners and municipal legislative authorities that joined to 1286
create the facility. 1287

(4) "Contractor" means a person or entity that enters into a 1288
contract under this section to operate and manage a jail, 1289
workhouse, or other correctional facility. 1290

(5) "Facility" means ~~the~~ any of the following: 1291

(a) The specific county, multicounty, municipal, 1292
municipal-county, or multicounty-municipal jail, workhouse, 1293
prison, or other type of correctional institution or facility used 1294
only for misdemeanants, ~~or a~~ that is the subject of a contract 1295
entered into under this section; 1296

(b) Any state correctional institution, that is the subject of a contract entered into under this section, including any facility described in Section 753.10 of the act in which this amendment was adopted at any time prior to or after any sale to a contractor of the state's right, title, and interest in the facility, the land situated thereon, and specified surrounding land.

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

Sec. 9.231. (A)(1) Subject to divisions (A)(2) and (3) of this section, a governmental entity shall not disburse money totaling twenty-five thousand dollars or more to any person for the provision of services for the primary benefit of individuals or the public and not for the primary benefit of a governmental entity or the employees of a governmental entity, unless the contracting authority of the governmental entity first enters into a written contract with the person that is signed by the person or by an officer or agent of the person authorized to legally bind the person and that embodies all of the requirements and conditions set forth in sections 9.23 to 9.236 of the Revised Code. If the disbursement of money occurs over the course of a governmental entity's fiscal year, rather than in a lump sum, the contracting authority of the governmental entity shall enter into the written contract with the person at the point during the governmental entity's fiscal year that at least seventy-five thousand dollars has been disbursed by the governmental entity to the person. Thereafter, the contracting authority of the governmental entity shall enter into the written contract with the person at the beginning of the governmental entity's fiscal year,

if, during the immediately preceding fiscal year, the governmental 1329
entity disbursed to that person an aggregate amount totaling at 1330
least seventy-five thousand dollars. 1331

(2) If the money referred to in division (A)(1) of this 1332
section is disbursed by or through more than one state agency to 1333
the person for the provision of services to the same population, 1334
the contracting authorities of those agencies shall determine 1335
which one of them will enter into the written contract with the 1336
person. 1337

(3) The requirements and conditions set forth in divisions 1338
(A), (B), (C), and (F) of section 9.232, divisions (A)(1) and (2) 1339
and (B) of section 9.234, divisions (A)(2) and (B) of section 1340
9.235, and sections 9.233 and 9.236 of the Revised Code do not 1341
apply with respect to the following: 1342

(a) Contracts to which all of the following apply: 1343

(i) The amount received for the services is a set fee for 1344
each time the services are provided, is determined in accordance 1345
with a fixed rate per unit of time or per service, or is a 1346
capitated rate, and the fee or rate is established by competitive 1347
bidding or by a market rate survey of similar services provided in 1348
a defined market area. The market rate survey may be one conducted 1349
by or on behalf of the governmental entity or an independent 1350
survey accepted by the governmental entity as statistically valid 1351
and reliable. 1352

(ii) The services are provided in accordance with standards 1353
established by state or federal law, or by rules or regulations 1354
adopted thereunder, for their delivery, which standards are 1355
enforced by the federal government, a governmental entity, or an 1356
accrediting organization recognized by the federal government or a 1357
governmental entity. 1358

(iii) Payment for the services is made after the services are 1359

delivered and upon submission to the governmental entity of an 1360
invoice or other claim for payment as required by any applicable 1361
local, state, or federal law or, if no such law applies, by the 1362
terms of the contract. 1363

(b) Contracts under which the services are reimbursed through 1364
or in a manner consistent with a federal program that meets all of 1365
the following requirements: 1366

(i) The program calculates the reimbursement rate on the 1367
basis of the previous year's experience or in accordance with an 1368
alternative method set forth in rules adopted by the Ohio 1369
department of job and family services. 1370

(ii) The reimbursement rate is derived from a breakdown of 1371
direct and indirect costs. 1372

(iii) The program's guidelines describe types of expenditures 1373
that are allowable and not allowable under the program and 1374
delineate which costs are acceptable as direct costs for purposes 1375
of calculating the reimbursement rate. 1376

(iv) The program includes a uniform cost reporting system 1377
with specific audit requirements. 1378

(c) Contracts under which the services are reimbursed through 1379
or in a manner consistent with a federal program that calculates 1380
the reimbursement rate on a fee for service basis in compliance 1381
with United States office of management and budget Circular A-87, 1382
as revised May 10, 2004. 1383

(d) Contracts for services that are paid pursuant to the 1384
earmarking of an appropriation made by the general assembly for 1385
that purpose. 1386

(B) Division (A) of this section does not apply if the money 1387
is disbursed to a person pursuant to a contract with the United 1388
States or a governmental entity under any of the following 1389

circumstances:	1390
(1) The person receives the money directly or indirectly from the United States, and no governmental entity exercises any oversight or control over the use of the money.	1391 1392 1393
(2) The person receives the money solely in return for the performance of one or more of the following types of services:	1394 1395
(a) Medical, therapeutic, or other health-related services provided by a person if the amount received is a set fee for each time the person provides the services, is determined in accordance with a fixed rate per unit of time, or is a capitated rate, and the fee or rate is reasonable and customary in the person's trade or profession;	1396 1397 1398 1399 1400 1401
(b) Medicaid-funded services, including administrative and management services, provided pursuant to a contract or medicaid provider agreement that meets the requirements of the medicaid program established under Chapter 5111. of the Revised Code.	1402 1403 1404 1405
(c) Services, other than administrative or management services or any of the services described in division (B)(2)(a) or (b) of this section, that are commonly purchased by the public at an hourly rate or at a set fee for each time the services are provided, unless the services are performed for the benefit of children, persons who are eligible for the services by reason of advanced age, medical condition, or financial need, or persons who are confined in a detention facility as defined in section 2921.01 of the Revised Code, and the services are intended to help promote the health, safety, or welfare of those children or persons;	1406 1407 1408 1409 1410 1411 1412 1413 1414 1415
(d) Educational services provided by a school to children eligible to attend that school. For purposes of division (B)(2)(d) of this section, "school" means any school operated by a school district board of education, any community school established under Chapter 3314. of the Revised Code, or any nonpublic school	1416 1417 1418 1419 1420

for which the state board of education prescribes minimum	1421
education standards under section 3301.07 of the Revised Code.	1422
(e) Services provided by a foster home as defined in section	1423
5103.02 of the Revised Code;	1424
(f) "Routine business services other than administrative or	1425
management services," as that term is defined by the attorney	1426
general by rule adopted in accordance with Chapter 119. of the	1427
Revised Code;	1428
(g) Services to protect the environment or promote	1429
environmental education that are provided by a nonprofit entity or	1430
services to protect the environment that are funded with federal	1431
grants or revolving loan funds and administered in accordance with	1432
federal law;	1433
(h) Services, including administrative and management	1434
services, provided under the children's buy in program established	1435
under sections 5101.5211 to 5101.5216 of the Revised Code.	1436
(3) The person receives the money solely in return for the	1437
performance of services intended to help preserve public health or	1438
safety under circumstances requiring immediate action as a result	1439
of a natural or man-made emergency.	1440
(C) With respect to a nonprofit association, corporation, or	1441
organization established for the purpose of providing educational,	1442
technical, consulting, training, financial, or other services to	1443
its members in exchange for membership dues and other fees, any of	1444
the services provided to a member that is a governmental entity	1445
shall, for purposes of this section, be considered services "for	1446
the primary benefit of a governmental entity or the employees of a	1447
governmental entity.	1448
Sec. 9.24. (A) Except as may be allowed under division (F) of	1449
this section, no state agency and no political subdivision shall	1450

award a contract as described in division (G)(1) of this section 1451
for goods, services, or construction, paid for in whole or in part 1452
with state funds, to a person against whom a finding for recovery 1453
has been issued by the auditor of state on and after January 1, 1454
2001, if the finding for recovery is unresolved. 1455

A contract is considered to be awarded when it is entered 1456
into or executed, irrespective of whether the parties to the 1457
contract have exchanged any money. 1458

(B) For purposes of this section, a finding for recovery is 1459
unresolved unless one of the following criteria applies: 1460

(1) The money identified in the finding for recovery is paid 1461
in full to the state agency or political subdivision to whom the 1462
money was owed; 1463

(2) The debtor has entered into a repayment plan that is 1464
approved by the attorney general and the state agency or political 1465
subdivision to whom the money identified in the finding for 1466
recovery is owed. A repayment plan may include a provision 1467
permitting a state agency or political subdivision to withhold 1468
payment to a debtor for goods, services, or construction provided 1469
to or for the state agency or political subdivision pursuant to a 1470
contract that is entered into with the debtor after the date the 1471
finding for recovery was issued. 1472

(3) The attorney general waives a repayment plan described in 1473
division (B)(2) of this section for good cause; 1474

(4) The debtor and state agency or political subdivision to 1475
whom the money identified in the finding for recovery is owed have 1476
agreed to a payment plan established through an enforceable 1477
settlement agreement. 1478

(5) The state agency or political subdivision desiring to 1479
enter into a contract with a debtor certifies, and the attorney 1480
general concurs, that all of the following are true: 1481

(a) Essential services the state agency or political subdivision is seeking to obtain from the debtor cannot be provided by any other person besides the debtor; 1482
1483
1484

(b) Awarding a contract to the debtor for the essential services described in division (B)(5)(a) of this section is in the best interest of the state; 1485
1486
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(c) Good faith efforts have been made to collect the money identified in the finding of recovery. 1488
1489

(6) The debtor has commenced an action to contest the finding for recovery and a final determination on the action has not yet been reached. 1490
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1492

(C) The attorney general shall submit an initial report to the auditor of state, not later than December 1, 2003, indicating the status of collection for all findings for recovery issued by the auditor of state for calendar years 2001, 2002, and 2003. Beginning on January 1, 2004, the attorney general shall submit to the auditor of state, on the first day of every January, April, July, and October, a list of all findings for recovery that have been resolved in accordance with division (B) of this section during the calendar quarter preceding the submission of the list and a description of the means of resolution. The attorney general shall notify the auditor of state when a judgment is issued against an entity described in division (F)(1) of this section. 1493
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(D) The auditor of state shall maintain a database, accessible to the public, listing persons against whom an unresolved finding for recovery has been issued, and the amount of the money identified in the unresolved finding for recovery. The auditor of state shall have this database operational on or before January 1, 2004. The initial database shall contain the information required under this division for calendar years 2001, 2002, and 2003. 1505
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Beginning January 15, 2004, the auditor of state shall update 1513
the database by the fifteenth day of every January, April, July, 1514
and October to reflect resolved findings for recovery that are 1515
reported to the auditor of state by the attorney general on the 1516
first day of the same month pursuant to division (C) of this 1517
section. 1518

(E) Before awarding a contract as described in division 1519
(G)(1) of this section for goods, services, or construction, paid 1520
for in whole or in part with state funds, a state agency or 1521
political subdivision shall verify that the person to whom the 1522
state agency or political subdivision plans to award the contract 1523
has no unresolved finding for recovery issued against the person. 1524
A state agency or political subdivision shall verify that the 1525
person does not appear in the database described in division (D) 1526
of this section or shall obtain other proof that the person has no 1527
unresolved finding for recovery issued against the person. 1528

(F) The prohibition of division (A) of this section and the 1529
requirement of division (E) of this section do not apply with 1530
respect to the companies, payments, or agreements described in 1531
divisions (F)(1) and (2) of this section, or in the circumstance 1532
described in division (F)(3) of this section. 1533

(1) A bonding company or a company authorized to transact the 1534
business of insurance in this state, a self-insurance pool, joint 1535
self-insurance pool, risk management program, or joint risk 1536
management program, unless a court has entered a final judgment 1537
against the company and the company has not yet satisfied the 1538
final judgment. 1539

(2) To medicaid provider agreements under Chapter 5111. of 1540
the Revised Code ~~or payments or provider agreements under the~~ 1541
~~children's buy-in program established under sections 5101.5211 to~~ 1542
~~5101.5216 of the Revised Code.~~ 1543

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

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

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

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

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

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

(H) As used in this section:

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

(2) "Political subdivision" means a political subdivision as

defined in section 9.82 of the Revised Code that has received more 1574
than fifty thousand dollars of state money in the current fiscal 1575
year or the preceding fiscal year. 1576

(3) "Finding for recovery" means a determination issued by 1577
the auditor of state, contained in a report the auditor of state 1578
gives to the attorney general pursuant to section 117.28 of the 1579
Revised Code, that public money has been illegally expended, 1580
public money has been collected but not been accounted for, public 1581
money is due but has not been collected, or public property has 1582
been converted or misappropriated. 1583

(4) "Debtor" means a person against whom a finding for 1584
recovery has been issued. 1585

(5) "Person" means the person named in the finding for 1586
recovery. 1587

(6) "State money" does not include funds the state receives 1588
from another source and passes through to a political subdivision. 1589

Sec. 9.312. (A) If a state agency or political subdivision is 1590
required by law or by an ordinance or resolution adopted under 1591
division ~~(C)~~(F) of this section to award a contract to the lowest 1592
responsive and responsible bidder, a bidder on the contract shall 1593
be considered responsive if the bidder's proposal responds to bid 1594
specifications in all material respects and contains no 1595
irregularities or deviations from the specifications which would 1596
affect the amount of the bid or otherwise give the bidder a 1597
competitive advantage. ~~The~~ 1598

(B) A state agency or political subdivision described in 1599
division (A) of this section may prequalify bidders as responsible 1600
bidders for each construction trade prior to requesting bids for a 1601
project and may disqualify a contractor the state agency or 1602
political subdivision determines is a nonresponsible bidder prior 1603

to requesting bids in accordance with rules adopted under section 1604
153.503 of the Revised Code. 1605

The factors that the state agency or political subdivision 1606
shall consider in determining whether a bidder on the contract is 1607
responsible include the experience of the bidder, the bidder's 1608
financial condition, conduct and performance on previous 1609
contracts, facilities, management skills, and ability to execute 1610
the contract properly. In addition to the factors a state agency 1611
or political subdivision is required to consider under this 1612
division, a state agency or political subdivision may include, 1613
either in the bid specification or through a bidder 1614
prequalification process, the following requirements to determine 1615
whether a bidder is to be considered the lowest responsive and 1616
responsible bidder: 1617

(1) That no final unsatisfied judgment exists against the 1618
bidder in excess of a percentage of the bid amount of the project 1619
for which the bid is submitted as specified by the state agency or 1620
political subdivision; 1621

(2) That the bidder for a specified trade will not 1622
subcontract more than a percentage of the amount bid for the 1623
contract as specified by the state agency or political 1624
subdivision, and the bidder lists the names of any subcontractors 1625
the bidder intends to use for the project; 1626

(3) That the bidder in a particular trade is licensed by the 1627
Ohio construction industry licensing board, as required under 1628
Chapter 4740. of the Revised Code, is licensed by the state fire 1629
marshal pursuant to section 3737.65 of the Revised Code, or is 1630
licensed to perform that trade by another jurisdiction, and that 1631
license has not been revoked within a period of time specified by 1632
the state agency or political subdivision; 1633

(4) That the bidder in a particular trade will employ on the 1634

project supervisory personnel who have at least the number of 1635
years of experience in the particular trade as specified by the 1636
state agency or political subdivision; 1637

(5) That the bidder in a specified trade employs only 1638
personnel who have graduated from or are currently enrolled in an 1639
apprenticeship program approved by the state or the federal 1640
government or a career technical program or who have at least the 1641
specified number of years of experience in the particular trade, 1642
as specified by the state agency or political subdivision; 1643

(6) That the bidder has implemented a safety program that is 1644
in compliance with the guidelines established by the federal 1645
occupational safety and health administration; 1646

(7) That the bidder provides documentation demonstrating that 1647
the bidder is in compliance with the requirements of section 1648
153.03 of the Revised Code; 1649

(8) If applicable, that the bidder does not have an 1650
experience modification rating greater than the level specified by 1651
the state agency or political subdivision with respect to the 1652
bidder's coverage under Chapter 4121., 4123., 4127., or 4131. of 1653
the Revised Code. 1654

(C) A state agency or political subdivision may include in 1655
the state agency's or political subdivision's bid specifications 1656
or prequalification process a percentage of difference between the 1657
bid made by the apparent low bidder and the next lowest bid that 1658
will require the apparent low bidder to submit additional 1659
information in order to be awarded the contract. If, after opening 1660
all of the bids, the state agency or political subdivision 1661
determines that the bid submitted by the apparent low bidder is 1662
more than that percentage in relation to the bid of the next 1663
lowest bidder, the state agency or political subdivision shall 1664
require the apparent low bidder to list a specified number of 1665

similar contracts for prior projects. The cost of each prior contract included in the list shall fall within a specified percentage of the estimated cost for the project for which the apparent low bidder submitted the bid, and each contract included in the list shall have been completed successfully by the apparent low bidder not more than a specified number of years prior to the current bid.

(D) For purposes of divisions (A) and (B) of this division section, the provision of a bid guaranty in accordance with divisions (A)(1) and (B) of section 153.54 of the Revised Code issued by a surety licensed to do business in this state is evidence of financial responsibility, but a state agency or political subdivision described in division (A) of this section may request additional financial information for review from an apparent low bidder after it opens all submitted bids. A state agency or political subdivision shall keep additional financial information it receives pursuant to a request under this division confidential, except under proper order of a court. The additional financial information is not a public record under section 149.43 of the Revised Code.

~~An~~ (E) A bidder that does not satisfy prequalification requirements established by a state agency or political subdivision under this section, or an apparent low bidder found not to be responsive and responsible shall be notified by the state agency or political subdivision of that finding and the reasons for it. Except for contracts awarded by the department of administrative services pursuant to section 125.11 of the Revised Code, the notification shall be given in writing and by certified mail. When awarding contracts pursuant to section 125.11 of the Revised Code, the department may send such notice in writing by first class mail.

~~(B) Where~~ If a state agency or a political subdivision that

has adopted an ordinance or resolution under division ~~(C)~~(F) of 1698
this section determines to award a contract to a bidder other than 1699
the apparent low bidder or bidders for the construction, 1700
reconstruction, improvement, enlargement, alteration, repair, 1701
painting, or decoration of a public improvement, it shall meet 1702
with the apparent low bidder or bidders upon a filing of a timely 1703
written protest. The protest must be received within five days of 1704
the notification required in division ~~(A)~~(E) of this section. No 1705
final award shall be made until the state agency or political 1706
subdivision either affirms or reverses its earlier determination. 1707
Notwithstanding any other provisions of the Revised Code, the 1708
procedure described in this division is not subject to Chapter 1709
119. of the Revised Code. 1710

~~(C)~~(F) A municipal corporation, township, school district, 1711
board of county commissioners, any other county board or 1712
commission, or any other political subdivision required by law to 1713
award contracts by competitive bidding may by ordinance or 1714
resolution adopt a policy of requiring each competitively bid 1715
contract it awards to be awarded to the lowest responsive and 1716
responsible bidder in accordance with this section. 1717

Sec. 9.314. (A) As used in this section: 1718

(1) "Contracting authority" has the same meaning as in 1719
section 307.92 of the Revised Code. 1720

(2) "Political subdivision" means a municipal corporation, 1721
township, county, school district, or other body corporate and 1722
politic responsible for governmental activities only in geographic 1723
areas smaller than that of the state and also includes a 1724
contracting authority. 1725

(3) "Reverse auction" means a purchasing process in which 1726
offerors submit proposals in competing to sell services or 1727
supplies in an open environment via the internet. 1728

(4) "Services" means the furnishing of labor, time, or effort 1729
by a person, not involving the delivery of a specific end product 1730
other than a report which, if provided, is merely incidental to 1731
the required performance. "Services" does not include services 1732
furnished pursuant to employment agreements or collective 1733
bargaining agreements. 1734

(5) "Supplies" means all property, including, but not limited 1735
to, equipment, materials, other tangible assets, and insurance, 1736
but excluding real property or interests in real property. 1737

(B)~~(1)~~ Whenever any political subdivision determines that the 1738
use of a reverse auction is advantageous to the political 1739
subdivision, the political subdivision, in accordance with this 1740
section and rules the political subdivision shall adopt, may 1741
purchase services or supplies by reverse auction. The services or 1742
supplies purchased by reverse auction may include 1743

~~(2) A political subdivision shall not purchase supplies or~~ 1744
~~services by reverse auction if the contract concerns~~ the design, 1745
construction, alteration, repair, reconstruction, or demolition of 1746
a building, highway, road, street, alley, drainage system, water 1747
system, waterworks, ditch, sewer, sewage disposal plant, or any 1748
other structure or works of any kind. 1749

(C) A political subdivision shall solicit proposals through a 1750
request for proposals. The request for proposals shall state the 1751
relative importance of price and other evaluation factors. The 1752
political subdivision shall give notice of the request for 1753
proposals in accordance with the rules it adopts. 1754

(D) As provided in the request for proposals and in the rules 1755
a political subdivision adopts, and to ensure full understanding 1756
of and responsiveness to solicitation requirements, the political 1757
subdivision may conduct discussions with responsible offerors who 1758
submit proposals determined to be reasonably susceptible of being 1759

selected for award. The political subdivision shall accord 1760
offerors fair and equal treatment with respect to any opportunity 1761
for discussion regarding any clarification, correction, or 1762
revision of their proposals. 1763

(E) A political subdivision may award a contract to the 1764
offeror whose proposal the political subdivision determines to be 1765
the most advantageous to the political subdivision, taking into 1766
consideration factors such as price and the evaluation criteria 1767
set forth in the request for proposals. The contract file shall 1768
contain the basis on which the award is made. 1769

(F) The rules that a political subdivision adopts under this 1770
section may require the provision of a performance bond, or 1771
another similar form of financial security, in the amount and in 1772
the form specified in the rules. 1773

(G) If a political subdivision is required by law to purchase 1774
services or supplies by competitive sealed bidding or competitive 1775
sealed proposals, a purchase made by reverse auction satisfies 1776
that requirement. 1777

Sec. 9.33. As used in sections 9.33 to ~~9.333~~ 9.336 of the 1778
Revised Code: 1779

(A) "Construction manager" means a person with substantial 1780
discretion and authority to plan, coordinate, manage, and direct 1781
all phases of a project for the construction, demolition, 1782
alteration, repair, or reconstruction of any public building, 1783
structure, or other improvement, but does not mean the person who 1784
provides the professional design services or who actually performs 1785
the construction, demolition, alteration, repair, or 1786
reconstruction work on the project. 1787

(B)(1) "Construction manager at risk" means a person with 1788
substantial discretion and authority to plan, coordinate, manage, 1789

direct, and construct all phases of a project for the 1790
construction, demolition, alteration, repair, or reconstruction of 1791
any public building, structure, or other improvement and who 1792
provides the public authority a guaranteed maximum price as 1793
determined in section 9.334 of the Revised Code. 1794

(2) As used in division (B)(1) of this section: 1795

(a) "Construct" includes performing, or subcontracting for 1796
performing, construction, demolition, alteration, repair, or 1797
reconstruction. 1798

(b) "Manage" includes approving bidders and awarding 1799
subcontracts for furnishing materials regarding, or for 1800
performing, construction, demolition, alteration, repair, or 1801
reconstruction. 1802

(C) "Construction management contract" means a contract 1803
between a public authority and another person obligating the 1804
person to provide construction management services. 1805

(D) "Construction management services" or "management 1806
services" means the range of services that either a construction 1807
manager or a construction manager at risk may provide. 1808

(E) "Qualified" means having the following qualifications: 1809

(1) Competence to perform the required management services as 1810
indicated by the technical training, education, and experience of 1811
the construction manager's or construction manager at risk's 1812
personnel, especially the technical training, education, and 1813
experience of the construction manager's or construction manager 1814
at risk's employees who would be assigned to perform the services; 1815

(2) Ability in terms of workload and the availability of 1816
qualified personnel, equipment, and facilities to perform the 1817
required management services competently and expeditiously; 1818

(3) Past performance as reflected by the evaluations of 1819

previous clients with respect to factors such as control of costs, 1820
quality of work, and meeting of deadlines; 1821

(4) Financial responsibility as evidenced by the capability 1822
to provide a letter of credit pursuant to Chapter 1305. of the 1823
Revised Code, a surety bond, certified check, or cashier's check 1824
in an amount equal to the value of the construction management 1825
contract, or by other means acceptable to the public ~~owner~~ 1826
authority; 1827

(5) Other similar factors. 1828

~~(C)~~(F)(1) "Public ~~owner~~ authority" means the state, ~~or any~~ 1829
state institution of higher education as defined in section 1830
3345.011 of the Revised Code, any county, township, municipal 1831
corporation, school district, or other political subdivision, or 1832
any public agency, authority, board, commission, instrumentality, 1833
or special purpose district of the state or of a political 1834
subdivision. 1835

(2) "Public authority" does not include the Ohio turnpike 1836
commission. 1837

(G) "Open book pricing method" means a method in which a 1838
construction manager at risk provides the public authority, at the 1839
public authority's request, all books, records, documents, and 1840
other data in its possession, other than trade secrets, pertaining 1841
to the bidding, pricing, or performance of a construction 1842
management contract awarded to the construction manager at risk. 1843

Sec. 9.331. (A) Before entering into a contract to employ a 1844
construction manager or construction manager at risk, a public 1845
~~owner~~ authority shall advertise, in a newspaper of general 1846
circulation in the county where the contract is to be performed, 1847
and may advertise by electronic means pursuant to rules adopted by 1848
public authority, notice of its intent to employ a construction 1849

manager or construction manager at risk. The notice shall invite 1850
interested parties to submit proposals for consideration and shall 1851
be published at least thirty days prior to the date for accepting 1852
the proposals. The public ~~owner~~ authority also may advertise the 1853
information contained in the notice in appropriate trade journals 1854
and otherwise notify persons believed to be interested in 1855
employment as a construction manager or construction manager at 1856
risk. 1857

(B) The advertisement shall include a general description of 1858
the project, a statement of the specific management services 1859
required, and a description of the qualifications required for the 1860
project. The public authority shall also include in the 1861
advertisement a statement of intent of the public authority to 1862
delegate specific authority to, or require a guaranteed maximum 1863
price from, the selected construction manager at risk. 1864

Sec. 9.332. ~~For every construction management contract, the~~ 1865
Every public ~~owner~~ authority planning to contract for construction 1866
management services with a construction manager shall evaluate the 1867
proposals submitted and may hold discussions with individual 1868
construction managers to explore further their proposals, the 1869
scope and nature of the services they would provide, and the 1870
various technical approaches they may take regarding the project. 1871
Following this evaluation, the public ~~owner~~ authority shall: 1872

(A) Select and rank no fewer than three construction managers 1873
that it considers to be the most qualified to provide the required 1874
construction management services, except when the public ~~owner~~ 1875
authority determines in writing that fewer than three qualified 1876
construction managers are available in which case it shall select 1877
and rank them; 1878

(B) Negotiate a contract with the construction manager ranked 1879
most qualified to perform the required services at a compensation 1880

determined in writing to be fair and reasonable. Contract 1881
negotiations shall be directed toward: 1882

(1) Ensuring that the construction manager and the public 1883
~~owner~~ authority have a mutual understanding of the essential 1884
requirements involved in providing the required services; 1885

(2) Determining that the construction manager will make 1886
available the necessary personnel, equipment, and facilities to 1887
perform the services within the required time. 1888

(C) Upon failure to negotiate a contract with the 1889
construction manager ranked most qualified, the public ~~owner~~ 1890
authority shall inform the construction manager in writing of the 1891
termination of negotiations and enter into negotiations with the 1892
construction manager ranked next most qualified. If negotiations 1893
again fail, the same procedure ~~shall~~ may be followed with each 1894
next most qualified construction manager selected and ranked 1895
pursuant to division (A) of this section, in order of ranking, 1896
until a contract is negotiated. 1897

(D) If the public ~~owner~~ authority fails to negotiate a 1898
contract with any of the construction managers selected pursuant 1899
to division (A) of this section, the public ~~owner shall~~ authority 1900
may select and rank additional construction managers, based on 1901
their qualifications, and negotiations ~~shall~~ may continue as with 1902
the construction managers selected and ranked initially until a 1903
contract is negotiated. 1904

(E) Nothing in this section affects a public authority's 1905
right to accept or reject any or all proposals in whole or in 1906
part. 1907

Sec. 9.333. (A) No public ~~owner~~ authority shall enter into a 1908
construction management contract with a construction manager 1909
unless the construction manager provides a letter of credit 1910

pursuant to Chapter 1305. of the Revised Code, a surety bond 1911
pursuant to sections 153.54 and 153.57 of the Revised Code, a 1912
certified check or cashier's check in an amount equal to the value 1913
of the construction management contract for the project, or 1914
provides other reasonable financial assurance of a nature and in 1915
an amount satisfactory to the ~~owner~~ public authority. The public 1916
~~owner~~ authority may waive this requirement for good cause. 1917

(B) Before construction begins pursuant to a construction 1918
management contract with a construction manager at risk, the 1919
construction manager at risk shall provide a surety bond to the 1920
public authority in accordance with rules adopted by the director 1921
of administrative services under Chapter 119. of the Revised Code. 1922

Sec. 9.334. (A) A public authority described in section 1923
153.01 of the Revised Code that is an owner shall not contract for 1924
construction management contracts with a construction manager at 1925
risk unless the public authority is certified by the state 1926
architect as eligible to enter into such contracts under the 1927
program established pursuant to section 153.503 of the Revised 1928
Code. 1929

A public authority described in section 153.01 of the Revised 1930
Code that is not an owner may seek to be certified by the state 1931
architect. 1932

(B) Every public authority planning to contract for 1933
construction management services with a construction manager at 1934
risk shall evaluate the proposals submitted and select not fewer 1935
than three construction managers at risk the public authority 1936
considers to be the most qualified to provide the required 1937
construction management services, except that the public authority 1938
shall select and rank fewer than three when the public authority 1939
determines in writing that fewer than three qualified construction 1940
managers at risk are available. 1941

(C) The public authority shall provide each construction manager at risk selected under division (B) of this section with a description of the project, including a statement of available design detail, a description of how the guaranteed maximum price for the project shall be determined, including the estimated level of design detail upon which the guaranteed maximum price shall be based, the form of the construction management contract, and a request for a pricing proposal. 1942
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(D) The pricing proposal of each construction manager at risk shall include at least the following regarding the construction manager at risk: 1950
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1952

(1) A list of key personnel for the project and the construction manager at risk's staffing chart; 1953
1954

(2) A statement of the general conditions and contingency requirements; 1955
1956

(3) A fee proposal divided into a preconstruction fee, a construction fee, and the portion of the construction fee to be at risk in a guaranteed maximum price. 1957
1958
1959

(E) The public authority shall evaluate the submitted pricing proposals and may hold discussions with individual construction managers at risk to explore their proposals further, including the scope and nature of the proposed services and potential technical approaches. 1960
1961
1962
1963
1964

(F) After evaluating the pricing proposals, the public authority shall rank the selected construction managers at risk based on its evaluation of the value of each pricing proposal, with such evaluation considering the proposed cost and qualifications. 1965
1966
1967
1968
1969

(G) The public authority shall enter into negotiations for a construction management contract with the construction manager at risk whose pricing proposal the public authority determines to be 1970
1971
1972

the best value under division (F) of this section. Contract 1973
negotiations shall be directed toward: 1974

(1) Ensuring that the construction manager at risk and the 1975
public authority mutually understand the essential requirements 1976
involved in providing the required construction management 1977
services, including the provisions for the use of contingency 1978
funds; 1979

(2) Ensuring that the construction manager at risk will be 1980
able to provide the necessary personnel, equipment, and facilities 1981
to perform the construction management services within the time 1982
required by the construction management contract; 1983

(3) Agreeing that the construction management contract will 1984
not provide for any bonus or other additional compensation to be 1985
paid to the construction manager at risk for completing the 1986
project by a specified date or achieving savings in the final 1987
costs of the project; 1988

(4) Agreeing upon a procedure and schedule for determining a 1989
guaranteed maximum price using an open book pricing method that 1990
shall represent the total maximum amount to be paid by the public 1991
authority to the construction manager at risk for the project and 1992
that shall include the costs of all the work, the cost of its 1993
general conditions, the contingency, the fee payable to the 1994
construction manager at risk, and that shall permit adjustment of 1995
the guaranteed maximum price in the event of increased costs, 1996
including reasonable overhead and profit, related to matters that 1997
are not in the control of the construction manager at risk or the 1998
subcontractors. 1999

(H)(1) If the public authority fails to negotiate a 2000
construction management contract with the construction manager at 2001
risk whose pricing proposal the public authority determines to be 2002
the best value under division (F) of this section, the public 2003

authority shall inform the construction manager at risk, in writing, of the termination of negotiations. 2004
2005

(2) Upon terminating negotiations, the public authority may enter into negotiations as provided in this section with the construction manager at risk that the public authority ranked next highest under division (F) of this section. If negotiations fail, the public authority may enter into negotiations as provided in this section with the construction manager at risk the public authority ranked next highest under division (F) of this section. 2006
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2012

(3) If a public authority fails to negotiate a construction management contract with a construction manager at risk whose pricing proposal the public authority determines to be the best value under division (F) of this section, the public authority may select additional construction managers at risk to provide pricing proposals to the public authority pursuant to this section or may select an alternative delivery method for the project. 2013
2014
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2019

(I) If the public authority and construction manager at risk fail to agree on a guaranteed maximum price, nothing in this section shall prohibit the public authority from allowing the construction manager at risk to provide the management services that a construction manager is authorized to provide. 2020
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(J) Nothing in this section affects a public authority's right to accept or reject any or all proposals in whole or in part. 2025
2026
2027

Sec. 9.335. (A) A public authority may delegate to a construction manager at risk any of the duties, authorities, rights, and responsibilities of the public authority for a project under such terms of indemnity and recourse against the construction manager at risk as the public authority determines appropriate. Those duties, authorities, rights, and responsibilities include all of the following: 2028
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<u>(1) Project design;</u>	2035
<u>(2) Project scheduling;</u>	2036
<u>(3) Bidding for the work on the project;</u>	2037
<u>(4) Awarding contracts for the work on the project;</u>	2038
<u>(5) Construction fund management;</u>	2039
<u>(6) Payment under the contracts for the project;</u>	2040
<u>(7) Legal defense of the public owner.</u>	2041
<u>(B) A construction manager at risk shall not retain from a subcontractor a greater percentage of the subcontract price than the percentage of the contract price retained from the construction manager at risk by the public authority, if any. With the consent of the public authority, the construction manager at risk shall pay all amounts retained from a subcontractor when the subcontractor's work is completed and there exists no other reason to withhold the retainage.</u>	2042 2043 2044 2045 2046 2047 2048 2049
<u>Sec. 9.336. The requirements set forth in sections 9.33 to 9.335 of the Revised Code for the bidding, selection, and award of a construction management contract by a public authority prevail in the event of any conflict with a provision of Chapter 153. of the Revised Code.</u>	2050 2051 2052 2053 2054
<u>Sec. 9.482. (A) As used in this section, "political subdivision" has the meaning defined in section 2744.01 of the Revised Code.</u>	2055 2056 2057
<u>(B) When authorized by their respective legislative authorities, a political subdivision may enter into an agreement with another political subdivision whereby a contracting political subdivision agrees to exercise any power, perform any function, or render any service for another contracting recipient political subdivision that the contracting recipient political subdivision</u>	2058 2059 2060 2061 2062 2063

is otherwise legally authorized to exercise, perform, or render. 2064

In the absence in the agreement of provisions determining by 2065
what officer, office, department, agency, or other authority the 2066
powers and duties of a contracting political subdivision shall be 2067
exercised or performed, the legislative authority of the 2068
contracting political subdivision shall determine and assign the 2069
powers and duties. 2070

An agreement shall not suspend the possession by a 2071
contracting recipient political subdivision of any power or 2072
function that is exercised or performed on its behalf by another 2073
contracting political subdivision under the agreement. 2074

A political subdivision shall not enter into an agreement to 2075
levy any tax or to exercise, with regard to public moneys, any 2076
investment powers, perform any investment function, or render any 2077
investment service on behalf of a contracting subdivision. Nothing 2078
in this paragraph prohibits a political subdivision from entering 2079
into an agreement to collect, administer, or enforce any tax on 2080
behalf of another political subdivision or to limit the authority 2081
of political subdivisions to create and operate joint economic 2082
development zones or joint economic development districts as 2083
provided in sections 715.69 to 715.83 of the Revised Code. 2084

(C) No power shall be exercised, no function shall be 2085
performed, and no service shall be rendered by a contracting 2086
political subdivision pursuant to an agreement entered into under 2087
this section within a political subdivision that is not a party to 2088
the agreement, without first obtaining the written consent of the 2089
political subdivision that is not a party to the agreement and 2090
within which the power is to be exercised, a function is to be 2091
performed, or a service is to be rendered. 2092

(D) Chapter 2744. of the Revised Code, insofar as it applies 2093
to the operation of a political subdivision, applies to the 2094

political subdivisions that are parties to an agreement and to 2095
their employees when they are rendering a service outside the 2096
boundaries of their employing political subdivision under the 2097
agreement. Employees acting outside the boundaries of their 2098
employing political subdivision while providing a service under an 2099
agreement may participate in any pension or indemnity fund 2100
established by the political subdivision to the same extent as 2101
while they are acting within the boundaries of the political 2102
subdivision, and are entitled to all the rights and benefits of 2103
Chapter 4123. of the Revised Code to the same extent as while they 2104
are performing a service within the boundaries of the political 2105
subdivision. 2106

Sec. 9.82. As used in sections 9.82 to 9.83 of the Revised 2107
Code: 2108

(A) "State" means the state of Ohio, including, but not 2109
limited to, the general assembly, the supreme court, the offices 2110
of all elected state officers, and all departments, boards, 2111
offices, commissions, agencies, institutions, and other 2112
instrumentalities of the state of Ohio. "State" does not include 2113
political subdivisions. 2114

For purposes of the judicial liability program, "state" means 2115
the supreme court, the courts of appeals, the courts of common 2116
pleas and any division of courts of common pleas, municipal 2117
courts, and county courts. 2118

(B) "Political subdivision" means a county, city, village, 2119
township, park district, or school district. 2120

(C) "Personal property" means tangible personal property 2121
owned, leased, controlled, or possessed by a state agency and 2122
includes, but is not limited to, chattels, movable property, 2123
merchandise, furniture, goods, livestock, vehicles, watercraft, 2124
aircraft, movable machinery, movable tools, movable equipment, 2125

general operating supplies, and media. 2126

(D) "Media" means all active information processing material, 2127
including all forms of data, program material, and related 2128
engineering specifications employed in any state agency's 2129
information processing operation. 2130

(E) "Property" means real and personal property as defined in 2131
divisions (C) and (F) of this section and any other property in 2132
which the state determines it has an insurable interest. 2133

(F) "Real property" means land or interests in land whose 2134
title is vested in the state or that is under the control of the 2135
state through a lease purchase agreement, installment purchase, 2136
mortgage, lien, or otherwise, and includes, but is not limited to, 2137
all buildings, structures, improvements, machinery, equipment, or 2138
fixtures erected on, above, or under such land. 2139

(G) "State agency" means every department, bureau, board, 2140
commission, office, or other organized body established by the 2141
constitution or laws of this state for the exercise of any 2142
function of state government, the general assembly, all 2143
legislative agencies, the supreme court, and the court of claims. 2144
"State agency" does not include any state-supported institutions 2145
of higher education, the public employees retirement system, the 2146
Ohio police and ~~and Fire~~ fire pension fund, the state teachers 2147
retirement system, the school employees retirement system, the 2148
state highway patrol retirement system, or the city of Cincinnati 2149
retirement system. 2150

Sec. 9.823. (A) All contributions collected by the director 2151
of administrative services under division (E) of this section 2152
shall be deposited into the state treasury to the credit of the 2153
risk management reserve fund, which is hereby created. The fund 2154
shall be used to provide insurance and self-insurance for the 2155
state under sections 9.822 and 9.83 of the Revised Code. All 2156

investment earnings of the fund shall be credited to it. 2157

(B) The director, through the office of risk management, 2158
shall operate the risk management reserve fund on an actuarially 2159
sound basis. 2160

(C) Reserves shall be maintained in the risk management 2161
reserve fund in any amount that is necessary and adequate, in the 2162
exercise of sound and prudent actuarial judgment, to cover 2163
potential liability claims, expenses, fees, or damages. Money in 2164
the fund may be applied to the payment of liability claims that 2165
are filed against the state ~~in the court of claims and determined~~ 2166
~~in the manner provided for under Chapter 2743. of the Revised~~ 2167
~~Code.~~ The director may procure the services of a qualified 2168
actuarial firm for the purpose of recommending the specific amount 2169
of money that would be required to maintain adequate reserves for 2170
a given period of time. 2171

(D) A report of the amounts reserved and disbursements made 2172
from the reserves, together with a written report of a competent 2173
property and casualty actuary, shall be submitted, on or before 2174
the last day of March for the preceding calendar year, to the 2175
speaker of the house of representatives and the president of the 2176
senate. The actuary shall certify the adequacy of the rates of 2177
contributions, the sufficiency of excess insurance, and whether 2178
the amounts reserved conform to the requirements of this section, 2179
are computed in accordance with accepted loss reserving standards, 2180
and are fairly stated in accordance with sound loss reserving 2181
principles. The report shall include disbursements made for the 2182
administration of the fund, including claims paid, cost of legal 2183
representation of state agencies and employees, and fees paid to 2184
consultants. 2185

(E) The director shall collect from each state agency or any 2186
participating state body its contribution to the risk management 2187
reserve fund for the purpose of purchasing insurance or 2188

administering self-insurance programs for coverages authorized 2189
under sections 9.822 and 9.83 of the Revised Code. The 2190
contribution shall be determined by the director, with the 2191
approval of the director of budget and management, and shall be 2192
based upon actuarial assumptions and the relative risk and loss 2193
experience of each state agency or participating state body. The 2194
contribution shall further include a reasonable sum to cover the 2195
department's administrative costs. 2196

Sec. 9.833. (A) As used in this section, "political 2197
subdivision" ~~means a municipal corporation, township, county, or~~ 2198
~~other body corporate and politic responsible for governmental~~ 2199
~~activities in a geographic area smaller than that of the state,~~ 2200
~~and agencies and instrumentalities of these entities~~ has the 2201
meaning defined in sections 2744.01 and 3905.36 of the Revised 2202
Code. For purposes of this section, "political subdivision" 2203
includes municipal corporations as defined in section 5705.01 of 2204
the Revised Code. 2205

(B) Political subdivisions that provide health care benefits 2206
for their officers or employees may do any of the following: 2207

(1) Establish If a self-insurance program is approved by the 2208
department of administrative services under section 9.901 of the 2209
Revised Code, establish and maintain an individual self-insurance 2210
program with public moneys to provide authorized health care 2211
benefits, including but not limited to, health care, prescription 2212
drugs, dental care, and vision care, in accordance with division 2213
(C) of this section; 2214

(2) Establish and maintain a health savings account program 2215
whereby employees or officers may establish and maintain health 2216
savings accounts in accordance with section 223 of the Internal 2217
Revenue Code. Public moneys may be used to pay for or fund 2218
federally qualified high deductible health plans that are linked 2219

to health savings accounts or to make contributions to health 2220
savings accounts. A health savings account program may be a part 2221
of a self-insurance program. 2222

(3) After establishing an individual self-insurance program, 2223
agree with other political subdivisions that have established 2224
individual self-insurance programs for health care benefits, that 2225
their programs will be jointly administered in a manner specified 2226
in the agreement pursuant to approval under section 9.901 of the 2227
Revised Code; 2228

(4) Pursuant to a written agreement, pursuant to approval 2229
under section 9.901 of the Revised Code, and in accordance with 2230
division (C) of this section, join in any combination with other 2231
political subdivisions to establish and maintain a joint 2232
self-insurance program to provide health care benefits; 2233

(5) Pursuant to a written agreement, join in any combination 2234
with other political subdivisions to procure or contract for 2235
policies, contracts, or plans of insurance to provide ~~health care~~ 2236
~~benefits, which may include~~ a health savings account program, for 2237
their officers and employees subject to the agreement; 2238

(6) Use in any combination any of the policies, contracts, 2239
plans, or programs authorized under this division. 2240

(7) Any agreement made under divisions (B)(3), (4), (5), or 2241
(6) of this section shall be in writing, comply with division (C) 2242
of this section, and contain best practices established in 2243
consultation with and approved by the department of administrative 2244
services. These best practices shall provide standards upon which 2245
the program providing benefits shall adhere to in the selection 2246
and implementation of the health care plan. The best practices may 2247
be reviewed and amended at the discretion of the political 2248
subdivisions in consultation with the department. Detailed 2249
information regarding the best practices shall be made available 2250

to any employee upon that employee's request. 2251

(8) The department of administrative services may adopt rules 2252
for the adoption and enforcement of the best practices standards. 2253

(C) Except as otherwise provided in division (E) of this 2254
section or by section 9.901 of the Revised Code, the following 2255
apply to individual or joint self-insurance programs established 2256
pursuant to this section: 2257

(1) Such funds shall be reserved as are necessary, in the 2258
exercise of sound and prudent actuarial judgment, to cover 2259
potential cost of health care benefits for the officers and 2260
employees of the political subdivision. A certified audited 2261
financial statement and a report of amounts so reserved and 2262
disbursements made from such funds, together with a written report 2263
of a member of the American academy of actuaries certifying 2264
whether the amounts reserved conform to the requirements of this 2265
division, are computed in accordance with accepted loss reserving 2266
standards, and are fairly stated in accordance with sound loss 2267
reserving principles, shall be prepared and maintained, within 2268
ninety days after the last day of the fiscal year of the entity 2269
for which the report is provided for that fiscal year, in the 2270
office of the program administrator described in division (C)(3) 2271
of this section. 2272

The report required by division (C)(1) of this section shall 2273
include, but not be limited to, disbursements made for the 2274
administration of the program, including claims paid, costs of the 2275
legal representation of political subdivisions and employees, and 2276
fees paid to consultants. 2277

The program administrator described in division (C)(3) of 2278
this section shall make the report required by this division 2279
available for inspection by any person at all reasonable times 2280
during regular business hours, and, upon the request of such 2281

person, shall make copies of the report available at cost within a 2282
reasonable period of time. The program administrator shall further 2283
provide the report to the auditor of state under Chapter 117. of 2284
the Revised Code. 2285

(2) Each political subdivision shall reserve funds necessary 2286
for an individual or joint self-insurance program in a special 2287
fund that may be established for political subdivisions other than 2288
an agency or instrumentality pursuant to an ordinance or 2289
resolution of the political subdivision and not subject to section 2290
5705.12 of the Revised Code. An agency or instrumentality shall 2291
reserve the funds necessary for an individual or joint 2292
self-insurance program in a special fund established pursuant to a 2293
resolution duly adopted by the agency's or instrumentality's 2294
governing board. The political subdivision may allocate the costs 2295
of insurance or any self-insurance program, or both, among the 2296
funds or accounts established under this division on the basis of 2297
relative exposure and loss experience. 2298

(3) A contract may be awarded, without the necessity of 2299
competitive bidding, to any person, political subdivision, 2300
nonprofit corporation organized under Chapter 1702. of the Revised 2301
Code, or regional council of governments created under Chapter 2302
167. of the Revised Code for purposes of administration of an 2303
individual or joint self-insurance program. No such contract shall 2304
be entered into without full, prior, public disclosure of all 2305
terms and conditions. The disclosure shall include, at a minimum, 2306
a statement listing all representations made in connection with 2307
any possible savings and losses resulting from the contract, and 2308
potential liability of any political subdivision or employee. The 2309
proposed contract and statement shall be disclosed and presented 2310
at a meeting of the political subdivision not less than one week 2311
prior to the meeting at which the political subdivision authorizes 2312
the contract. 2313

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

(4) The individual or joint self-insurance program shall include a contract with a certified public accountant and a member of the American academy of actuaries for the preparation of the ~~written evaluation of the reserve funds~~ evaluations required under division (C)(1) of this section.

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

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

(7) Two or more political subdivisions may also authorize the establishment and maintenance of a joint health care cost containment program, including, but not limited to, the employment of risk managers, health care cost containment specialists, and consultants, for the purpose of preventing and reducing health care costs covered by insurance, individual self-insurance, or joint self-insurance programs.

(8) A political subdivision is not liable under a joint self-insurance program for any amount in excess of amounts payable pursuant to the written agreement for the participation of the political subdivision in the joint self-insurance program. Under a

joint self-insurance program agreement, a political subdivision 2345
may, to the extent permitted under the written agreement, assume 2346
the risks of any other political subdivision. A joint 2347
self-insurance program established under this section is deemed a 2348
separate legal entity for the public purpose of enabling the 2349
members of the joint self-insurance program to obtain insurance or 2350
to provide for a formalized, jointly administered self-insurance 2351
fund for its members. An entity created pursuant to this section 2352
is exempt from all state and local taxes. 2353

(9) Any political subdivision, other than an agency or 2354
instrumentality, may issue general obligation bonds, or special 2355
obligation bonds that are not payable from real or personal 2356
property taxes, and may also issue notes in anticipation of such 2357
bonds, pursuant to an ordinance or resolution of its legislative 2358
authority or other governing body for the purpose of providing 2359
funds to pay expenses associated with the settlement of claims, 2360
whether by way of a reserve or otherwise, and to pay the political 2361
subdivision's portion of the cost of establishing and maintaining 2362
an individual or joint self-insurance program or to provide for 2363
the reserve in the special fund authorized by division (C)(2) of 2364
this section. 2365

In its ordinance or resolution authorizing bonds or notes 2366
under this section, a political subdivision may elect to issue 2367
such bonds or notes under the procedures set forth in Chapter 133. 2368
of the Revised Code. In the event of such an election, 2369
notwithstanding Chapter 133. of the Revised Code, the maturity of 2370
the bonds may be for any period authorized in the ordinance or 2371
resolution not exceeding twenty years, which period shall be the 2372
maximum maturity of the bonds for purposes of section 133.22 of 2373
the Revised Code. 2374

Bonds and notes issued under this section shall not be 2375
considered in calculating the net indebtedness of the political 2376

subdivision under sections 133.04, 133.05, 133.06, and 133.07 of 2377
the Revised Code. Sections 9.98 to 9.983 of the Revised Code are 2378
hereby made applicable to bonds or notes authorized under this 2379
section. 2380

(10) A joint self-insurance program is not an insurance 2381
company. Its operation does not constitute doing an insurance 2382
business and is not subject to the insurance laws of this state. 2383

(D) A political subdivision may procure group life insurance 2384
for its employees in conjunction with an individual or joint 2385
self-insurance program authorized by this section, provided that 2386
the policy of group life insurance is not self-insured. 2387

(E) ~~Divisions (C)(1), (2), and (4) of this~~ This section ~~do~~ 2388
does not apply to individual self-insurance programs ~~in~~ created 2389
solely by municipal corporations, ~~townships, or counties as~~ 2390
defined in section 5705.01 of the Revised Code. 2391

(F) A public official or employee of a political subdivision 2392
who is or becomes a member of the governing body of the program 2393
administrator of a joint self-insurance program in which the 2394
political subdivision participates is not in violation of division 2395
(D) or (E) of section 102.03, division (C) of section 102.04, or 2396
section 2921.42 of the Revised Code as a result of either of the 2397
following: 2398

(1) The political subdivision's entering under this section 2399
into the written agreement to participate in the joint 2400
self-insurance program; 2401

(2) The political subdivision's entering under this section 2402
into any other contract with the joint self-insurance program. 2403

Sec. 9.90. (A) ~~The governing board of any public institution~~ 2404
~~of higher education, including without limitation state~~ 2405
~~universities and colleges, community college districts, university~~ 2406

~~branch districts, technical college districts, and municipal~~ 2407
~~universities, The following applies until the department of~~ 2408
~~administrative services implements healthcare plans designed under~~ 2409
~~section 9.901 of the Revised Code. If those plans do not include~~ 2410
~~or address any benefits listed in this section, the following~~ 2411
~~provisions continue in effect for those benefits. The board of~~ 2412
~~trustees or other governing body of a state institution of higher~~ 2413
~~education, as defined in section 3345.011 of the Revised Code,~~ 2414
~~board of education of a school district, or governing board of an~~ 2415
~~educational service center may, in addition to all other powers~~ 2416
provided in the Revised Code: 2417

(1) Contract for, purchase, or otherwise procure from an 2418
insurer or insurers licensed to do business by the state of Ohio 2419
for or on behalf of such of its employees as it may determine, 2420
life insurance, or sickness, accident, annuity, endowment, health, 2421
medical, hospital, dental, or surgical coverage and benefits, or 2422
any combination thereof, by means of insurance plans or other 2423
types of coverage, family, group or otherwise, and may pay from 2424
funds under its control and available for such purpose all or any 2425
portion of the cost, premium, or charge for such insurance, 2426
coverage, or benefits. However, the governing board, in addition 2427
to or as an alternative to the authority otherwise granted by 2428
division (A)(1) of this section, may elect to procure coverage for 2429
health care services, for or on behalf of such of its employees as 2430
it may determine, by means of policies, contracts, certificates, 2431
or agreements issued by at least two health insuring corporations 2432
holding a certificate of authority under Chapter 1751. of the 2433
Revised Code and may pay from funds under the governing board's 2434
control and available for such purpose all or any portion of the 2435
cost of such coverage. 2436

(2) Make payments to a custodial account for investment in 2437
regulated investment company stock for the purpose of providing 2438

retirement benefits as described in section 403(b)(7) of the Internal Revenue Code of 1954, as amended. Such stock shall be purchased only from persons authorized to sell such stock in this state.

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

(B) All or any portion of the cost, premium, or charge therefor may be paid in such other manner or combination of manners as the ~~governing~~ board or governing body may determine, including direct payment by the employee in cases under division (A)(1) of this section, and, if authorized in writing by the employee in cases under division (A)(1) or (2) of this section, by ~~such governing the~~ board or governing body with moneys made available by deduction from or reduction in salary or wages or by the foregoing of a salary or wage increase. Nothing in section 3917.01 or section 3917.06 of the Revised Code shall prohibit the issuance or purchase of group life insurance authorized by this section by reason of payment of premiums therefor by the ~~governing~~ board or governing body from its funds, and such group life insurance may be so issued and purchased if otherwise consistent with the provisions of sections 3917.01 to 3917.07 of the Revised Code.

(C) The board of education of any school district may exercise any of the powers granted to the governing boards of public institutions of higher education under divisions (A) and (B) of this section, except in relation to the provision of health

care benefits to employees. All health care benefits provided to 2471
persons employed by the public schools of this state shall be 2472
through health care plans that contain best practices established 2473
by the school employees health care board or the department of 2474
administrative services pursuant to section 9.901 of the Revised 2475
Code, until the department implements for public school districts 2476
the health care plans designed under section 9.901 of the Revised 2477
Code. 2478

(D) Once the department of administrative services releases 2479
in final form health care plans designed under section 9.901 of 2480
the Revised Code, all health care benefits provided to persons 2481
employed by state institutions of higher education, school 2482
districts, or educational service centers may be through those 2483
plans. 2484

Sec. 9.901. (A)(1) ~~All~~ Until the department implements for 2485
public school districts the health care plans designed under this 2486
section, all health care benefits provided to persons employed by 2487
the political subdivisions and public school districts of this 2488
state shall be provided by health care plans that contain best 2489
practices established pursuant to this section by the school 2490
employees health care board or the department of administrative 2491
services. Twelve months after the release of best practices by the 2492
board all policies or contracts for health care benefits provided 2493
to public school district employees that are issued or renewed 2494
after the expiration of any applicable collective bargaining 2495
agreement must contain best practices established pursuant to this 2496
section by the board. Any or all of the health care plans that 2497
contain best practices specified by the board may be self-insured. 2498
~~As used in this section, a "public school district" means a city,~~ 2499
~~local, exempted village, or joint vocational school district, and~~ 2500
~~includes the educational service centers associated with those~~ 2501
~~districts but not charter schools.~~ 2502

(2) ~~The board shall determine what strategies are used by the existing medical plans to manage health care costs and shall study the potential benefits of state or regional consortiums of public schools offering multiple health care plans.~~ Upon completion of the consultant's report under division (E) of this section and once the plans are released in final form by the department, all health care benefits provided to persons employed by political subdivisions, public school districts, and state institutions of higher education may be provided by health care plans designed under this section by the department. The department, in consultation with the superintendent of insurance, may negotiate with and, in accordance with the competitive selection procedures of Chapter 125. of the Revised Code, contract with one or more insurance companies authorized to do business in this state for the issuance of the plans. Any or all of the health care plans designed by the department may be self-insured. All self-insured plans adopted shall be administered by the department in accordance with this section. The plans shall incorporate the best practices adopted by the department under division (C)(3) of this section.

(3) Before soliciting proposals from insurance companies for the issuance of health care plans, the department shall determine what geographic regions exist in the state based on the availability of providers, networks, costs, and other factors relating to providing health care benefits. The department shall then determine what health care plans offered by political subdivisions, public school districts, state institutions, and existing consortiums in the region offer the most cost-effective plan.

(4) The department shall develop a request for proposals and solicit bids for health care plans for political subdivisions, public school districts, and state institutions in a region

similar to the existing plans. The department shall also determine 2535
the benefits offered by existing health care plans, the employees' 2536
costs, and the cost-sharing arrangements used by political 2537
subdivisions, schools, and institutions participating in a 2538
consortium. The department shall determine what strategies are 2539
used by the existing plans to manage health care costs and shall 2540
study the potential benefits of state or regional consortiums 2541
offering multiple health care plans. 2542

(5) No political subdivision, public school district, or 2543
state institution may be required to offer the health care plans 2544
designed under this section until they are released in final form 2545
by the department. 2546

In addition, political subdivisions, public school districts, 2547
or state institutions offering employee health care benefits 2548
through a plan offered by a consortium of two or more political 2549
subdivisions, districts, or state institutions, or a consortium of 2550
one or more political subdivisions, districts, or state 2551
institutions and one or more other political subdivisions, as 2552
defined in section 9.833 of the Revised Code may request 2553
permission from the department to continue offering consortium 2554
plans to the political subdivisions', districts', or institutions' 2555
employees at the discretion of the department. 2556

(6) As used in this section: 2557

(a) "Public school district" means a city, local, exempted 2558
village, or joint vocational school district; a STEM school 2559
established under Chapter 3326. of the Revised Code; or an 2560
educational service center. "Public school district" does not mean 2561
a community school established under Chapter 3314. of the Revised 2562
Code. 2563

(b) "State institution of higher education" or "state 2564
institution" means a state institution of higher education as 2565

defined in section 3345.011 of the Revised Code. 2566

(c) "Political subdivision" has the same meaning as defined 2567
in section 9.833 of the Revised Code. 2568

(d) A "health care plan" includes group policies, contracts, 2569
and agreements that provide hospital, surgical, or medical expense 2570
coverage, including self-insured plans. A "health care plan" does 2571
not include an individual plan offered to the employees of a 2572
political subdivision, public school district, or state 2573
institution, or a plan that provides coverage only for specific 2574
disease or accidents, or a hospital indemnity, medicare 2575
supplement, or other plan that provides only supplemental 2576
benefits, paid for by the employees of a political subdivision, 2577
public school district, or state institution. 2578

~~(b)~~(e) A "health plan sponsor" means a political subdivision, 2579
public school district, a state institution of higher education, a 2580
consortium of political subdivisions, public school districts, or 2581
state institutions, or a council of governments. 2582

~~(B) The school employees health care board is hereby created.~~ 2583
~~The school employees health care board shall consist of the~~ 2584
~~following twelve members and shall include individuals with~~ 2585
~~experience with public school district benefit programs, health~~ 2586
~~care industry providers, and health care plan beneficiaries:~~ 2587

~~(1) Four members appointed by the governor, one of whom shall~~ 2588
~~be representative of nonadministrative public school district~~ 2589
~~employees;~~ 2590

~~(2) Four members appointed by the president of the senate,~~ 2591
~~one of whom shall be representative of nonadministrative public~~ 2592
~~school district employees;~~ 2593

~~(3) Four members appointed by the speaker of the house of~~ 2594
~~representatives, one of whom shall be representative of~~ 2595
~~nonadministrative public school district employees.~~ 2596

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

~~(C)(1) Members of the school employees health care board shall serve four year terms, but may be reappointed, except as otherwise specified in division (B) of this section.~~

~~A member shall continue to serve subsequent to the expiration of the member's term until a successor is appointed. Any vacancy occurring during a member's term shall be filled in the same manner as the original appointment, except that the person appointed to fill the vacancy shall be appointed to the remainder of the unexpired term.~~

~~(2) Members shall receive compensation fixed pursuant to division (J) of section 124.15 of the Revised Code and shall be reimbursed from the school employees health care fund for actual and necessary expenses incurred in the performance of their official duties as members of the board.~~

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

~~(D)(1) At the first meeting of the board after the first day of January of each calendar year, the board shall elect a chairperson and may elect members to other positions on the board as the board considers necessary or appropriate. The board shall meet at least nine times each calendar year and shall also meet at the call of the chairperson or four or more board members. The chairperson shall provide reasonable advance notice of the time and place of board meetings to all members.~~

~~(2) A majority of the board constitutes a quorum for the~~

~~transaction of business at a board meeting. A majority vote of the~~ 2628
~~members present is necessary for official action.~~ 2629

~~(E) The school employees health care board shall conduct its~~ 2630
~~business at open meetings; however, the records of the board are~~ 2631
~~not public records for purposes of section 149.43 of the Revised~~ 2632
~~Code.~~ 2633

~~(F) The school political subdivisions and public employees~~ 2634
health care fund is hereby created in the state treasury. The 2635
~~board department~~ shall use all funds in the ~~school political~~ 2636
~~subdivisions and public~~ employees health care fund solely to carry 2637
out the provisions of this section and related administrative 2638
costs. 2639

~~(G)(C) The school employees health care board department~~ 2640
shall do all of the following: 2641

(1) Include disease management and consumer education 2642
programs, which programs shall include, but are not limited to, 2643
wellness programs and other measures designed to encourage the 2644
wise use of medical plan coverage. These programs are not services 2645
or treatments for purposes of section 3901.71 of the Revised Code. 2646

(2) Design health care plans for political subdivisions, 2647
public school districts, and state institutions of higher 2648
education in accordance with division (A) of this section separate 2649
from the plans for state agencies; 2650

(3) Adopt and release a set of standards that shall be 2651
considered the best practices ~~to which public school districts~~ 2652
~~shall adhere in the selection and implementation of~~ for health 2653
care plans offered to employees of political subdivisions, public 2654
school districts, and state institutions. 2655

~~(2)(4) Require that the plans the health plan sponsors~~ 2656
administer make readily available to the public all cost and 2657
design elements of the plan; 2658

(3) Work with health plan sponsors through educational outlets and consultation;	2659
	2660
(4) Maintain a commitment to transparency and public access of its meetings and activity pursuant to division (E) of this section;	2661
	2662
	2663
<u>(5) Set employee and employer health care plan premiums for the plans designed under division (C)(2) of this section;</u>	2664
	2665
<u>(6) Promote cooperation among all organizations affected by this section in identifying the elements for the successful implementation of this section;</u>	2666
	2667
	2668
(6)(7) Promote cost containment measures aligned with patient, plan, and provider management strategies in developing and managing health care plans;	2669
	2670
	2671
(7)(8) Prepare and disseminate to the public an annual report on the status of health plan sponsors' effectiveness in making progress to reduce the rate of increase in insurance premiums and employee out of pocket expenses, as well as progress in improving the health status of <u>political subdivision, public school district, and state institution</u> employees and their families.	2672
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	2677
(H)(D) The sections in Chapter 3923. of the Revised Code regulating public employee benefit plans are not applicable to the health care plans designed pursuant to this section.	2678
	2679
	2680
(I) The board may contract with one or more independent consultants to analyze costs related to employee health care benefits provided by existing public school district plans in this state. The consultants may evaluate the benefits offered by existing health care plans, the employees' costs, and the cost-sharing arrangements used by public school districts either participating in a consortium or by other means. The consultants may evaluate what strategies are used by the existing health care plans to manage health care costs and the potential benefits of	2681
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~~state or regional consortiums of public schools offering multiple~~ 2690
~~health care plans. Based on the findings of the analysis, the~~ 2691
~~consultants may submit written recommendations to the board for~~ 2692
~~the development and implementation of successful best practices~~ 2693
~~and programs for improving school districts' purchasing power for~~ 2694
~~the acquisition of employee health care plans (E) Before the~~ 2695
~~department's release of the initial health care plans, the~~ 2696
~~department shall contract with an independent consultant to~~ 2697
~~analyze costs related to employee health care benefits provided by~~ 2698
~~existing political subdivision, public school district, and state~~ 2699
~~institution plans. All political subdivisions shall provide~~ 2700
~~information requested by the department that the department~~ 2701
~~determines is needed to complete this study. The information~~ 2702
~~requested shall be held confidentially by the department and shall~~ 2703
~~not be considered a public record under Chapter 149. of the~~ 2704
~~Revised Code. The department may release the information after~~ 2705
~~redacting all personally identifiable information. The consultant~~ 2706
~~shall determine the benefits offered by existing plans, the~~ 2707
~~employees' costs, and the cost-sharing arrangements used by~~ 2708
~~political subdivisions, schools, and institutions participating in~~ 2709
~~a consortium. The consultant shall determine what strategies are~~ 2710
~~used by the existing plans to manage health care costs and shall~~ 2711
~~study the potential benefits of state or regional consortiums of~~ 2712
~~political subdivisions, public schools, and institutions offering~~ 2713
~~multiple health care plans. Based on the findings of the analysis,~~ 2714
~~the consultant shall submit written recommendations to the~~ 2715
~~department for the development and implementation of a successful~~ 2716
~~program for pooling purchasing power for the acquisition of~~ 2717
~~employee health care plans. The consultant's recommendations shall~~ 2718
~~address, at a minimum, all of the following issues:~~ 2719

(1) The development of a plan for regional coordination of 2720
the health care plans; 2721

<u>(2) The establishment of regions for the provision of health care plans, based on the availability of providers and plans in the state at the time;</u>	2722
	2723
	2724
<u>(3) The viability of voluntary and mandatory participation by political subdivisions, public schools, and institutions of higher education;</u>	2725
	2726
	2727
<u>(4) The use of regional preferred provider and closed panel plans, health savings accounts, and alternative health care plans, to stabilize both costs and the premiums charged to political subdivisions, public school districts, and state institutions and their employees;</u>	2728
	2729
	2730
	2731
	2732
<u>(5) The use of the competitive bidding process for regional health care plans;</u>	2733
	2734
<u>(6) The use of information on claims and costs and of information reported by political subdivisions, public school districts, and state institutions pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA) 100 Stat. 227, 29 U.S.C. 1161, as amended in analyzing administrative and premium costs;</u>	2735
	2736
	2737
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	2739
<u>(7) The experience of states that have statewide health care plans for political subdivision, public school district, and state institution employees, including the implementation strategies used by those states;</u>	2740
	2741
	2742
	2743
<u>(8) Recommended strategies for the use of first-year roll-in premiums in the transition from political subdivision, district, and state institution health care plans to department plans;</u>	2744
	2745
	2746
<u>(9) The option of allowing political subdivisions, public school districts, and state institutions to join an existing regional consortium as an alternative to department plans;</u>	2747
	2748
	2749
<u>(10) Mandatory and optional coverages to be offered by the department's plans;</u>	2750
	2751

<u>(11) Potential risks to the state from the use of plans developed under this section;</u>	2752 2753
<u>(12) Any legislation needed to ensure the long-term financial solvency and stability of a health care purchasing system;</u>	2754 2755
<u>(13) The potential impacts of any changes to the existing purchasing structure on all of the following:</u>	2756 2757
<u>(a) Existing health care pooling and consortiums;</u>	2758
<u>(b) Political subdivision, school district, and state institution employees;</u>	2759 2760
<u>(c) Individual political subdivisions, school districts, and state institutions.</u>	2761 2762
<u>(14) Issues that could arise when political subdivisions, school districts, and state institutions transition from the existing purchasing structure to a new purchasing structure;</u>	2763 2764 2765
<u>(15) Strategies available to the department in the creation of fund reserves and the need for stop-loss insurance coverage for catastrophic losses;</u>	2766 2767 2768
<u>(16) Impact on eliminating the premium tax or excise currently received on behalf of a public employer under division (A) of section 5725.18 and division (A) of 5729.03 of the Revised Code;</u>	2769 2770 2771 2772
<u>(17) How development of the federal health exchange in Ohio may impact public employees and the private health insurance market;</u>	2773 2774 2775
<u>(18) Impact of joint health insurance regional program on insurance carriers and agents.</u>	2776 2777
(J) <u>(F) The public schools health care advisory committee is hereby created under the school employees health care board department of administrative services. The committee shall make recommendations to the school employees health care board related</u>	2778 2779 2780 2781

~~to the board's accomplishment of the duties assigned to the board~~ 2782
~~director of administrative services or the director's designee on~~ 2783
~~the development and adoption of best practices~~ under this section. 2784
The committee shall consist of ~~eighteen~~ fifteen members appointed 2785
by the speaker of the house of representatives, the president of 2786
the senate, and the governor and shall include representatives 2787
from state and local government employers, state and local 2788
government employees, insurance agents, health insurance 2789
companies, and joint purchasing arrangements currently in 2790
existence. ~~The governor shall appoint two representatives each~~ 2791
~~from the Ohio education association, the Ohio school boards~~ 2792
~~association, and a health insuring corporation licensed to do~~ 2793
~~business in Ohio and recommended by the Ohio association of Health~~ 2794
~~Plans. The speaker shall appoint two representatives each from the~~ 2795
~~Ohio association of school business officials, the Ohio federation~~ 2796
~~of teachers, and the buckeye association of school administrators.~~ 2797
~~The president of the senate shall appoint two representatives each~~ 2798
~~from the Ohio association of health underwriters, an existing~~ 2799
~~health care consortium serving public schools, and the Ohio~~ 2800
~~association of public school employees. The initial appointees~~ 2801
~~shall serve until December 31, 2007; subsequent two year~~ 2802
~~appointments, to commence on the first day of January of each year~~ 2803
~~thereafter, and shall be made in the same manner. A member shall~~ 2804
~~continue to serve subsequent to the expiration of the member's~~ 2805
~~term until the member's successor is appointed. Any vacancy~~ 2806
~~occurring during a member's term shall be filled in the same~~ 2807
~~manner as the original appointment, except that the person~~ 2808
~~appointed to fill the vacancy shall be appointed to the remainder~~ 2809
~~of the unexpired term. The advisory committee shall elect a~~ 2810
~~chairperson at its first meeting after the first day of January~~ 2811
~~each year who shall call the time and place of future committee~~ 2812
~~meetings in addition to the meetings that are to be held jointly~~ 2813
~~with the school employees health care board. Committee members are~~ 2814

~~not subject to the conditions for eligibility set by division (B)~~ 2815
~~of this section for members of the school employees health care~~ 2816
~~board. Nothing in this section prohibits a political subdivision~~ 2817
~~from adopting a delivery system of benefits that is not in~~ 2818
~~accordance with the department's adopted best practices if it is~~ 2819
~~considered to be most financially advantageous to the political~~ 2820
~~subdivision.~~ 2821

~~(K)(G)~~ The ~~board~~ department may adopt rules for the 2822
enforcement of health plan sponsors' compliance with the best 2823
practices standards adopted by the ~~board~~ department pursuant to 2824
this section. 2825

~~(L)~~ Any ~~districts providing health care plan coverage for the~~ 2826
~~employees of public school districts shall provide nonidentifiable~~ 2827
~~aggregate claims data for the coverage to the school employees~~ 2828
~~health care board, without charge, within sixty days after~~ 2829
~~receiving a written request from the board. (H) Any health care~~ 2830
~~plan providing coverage for the employees of political~~ 2831
~~subdivisions, public school districts, or state institutions of~~ 2832
~~higher education, or that have provided coverage within two years~~ 2833
~~before the effective date of this amendment, shall provide~~ 2834
~~nonidentifiable aggregate claims data for the coverage provided to~~ 2835
~~the department, without charge, within thirty days after receiving~~ 2836
~~a written request from the department.~~ The claims data shall 2837
include data relating to employee group benefit sets, 2838
demographics, and claims experience. 2839

~~(M)(I)(1)~~ The ~~school employees health care board~~ department 2840
may contract with other state agencies for services as the ~~board~~ 2841
department deems necessary for the implementation and operation of 2842
this section, based on demonstrated experience and expertise in 2843
administration, management, data handling, actuarial studies, 2844
quality assurance, or for other needed services. ~~The school~~ 2845
~~employees health care board may contract with the department of~~ 2846

~~administrative services for central services until such time the board deems itself able to obtain such services from its own staff or from other sources. The board shall reimburse the department of administrative services for the reasonable cost of those services.~~

(2) The ~~board~~ department shall hire staff as necessary to provide administrative support to the ~~board~~ department and the public ~~school~~ employee health care plan program established by this section.

~~(N)(J)~~ Not more than ninety days before coverage begins for political subdivision, public school district, and state institution employees under health care plans ~~containing best practices prescribed~~ designed by the ~~school employees health care board department, a political subdivision's governing body, public school district's board of education, and a state institution's board of trustees or managing authority~~ shall provide detailed information about the health care plans to the employees.

~~(O)(K)~~ Nothing in this section shall be construed as prohibiting political subdivisions, public school districts, or state institutions from consulting with and compensating insurance agents and brokers for professional services or from establishing a self-insurance program, if the department approves that program as specified under section 9.833 of the Revised Code.

~~(P)(1)(L)~~ Pursuant to Chapter 117. of the Revised Code, the auditor of state shall conduct all necessary and required audits of the ~~board~~ department. The auditor of state, upon request, also shall furnish to the ~~board~~ department copies of audits of political subdivisions, public school districts, or consortia performed by the auditor of state.

Sec. 101.36. (A) As used in this section:

(1) "Tax expenditure" has the same meaning as in section

5703.48 of the Revised Code. 2877

(2) "Tax expenditure bill" means a bill introduced in the 2878
house of representatives or the senate that proposes to enact or 2879
modify one or more tax expenditures. 2880

(B) There is hereby created the joint tax expenditure review 2881
committee, consisting of eight members, composed of the following: 2882

(1) The chair and ranking minority member of the house of 2883
representatives committee that deals primarily with tax 2884
legislation; 2885

(2) The chair and ranking minority member of the senate 2886
committee that deals primarily with tax legislation; 2887

(3) Two members of the house of representatives appointed by 2888
the speaker of the house of representatives; 2889

(4) Two members of the senate appointed by the president of 2890
the senate. 2891

The speaker of the house of representatives and the president 2892
of the senate shall make initial appointments to the board not 2893
later than thirty days following the effective date of the 2894
enactment of this section. Thereafter, the terms of the office 2895
shall be the same as the term of each general assembly. Members 2896
may be reappointed, provided the member continues to meet all 2897
other eligibility requirements. Vacancies shall be filled in the 2898
manner provided for original appointments. Any member appointed to 2899
fill a vacancy before the expiration of the term for which the 2900
predecessor was appointed shall hold office as a member for the 2901
remainder of that term. Appointed members of the committee serve 2902
at the pleasure of the members' appointing authority and may be 2903
removed only by the appointing authority. 2904

(C) The joint tax expenditure review committee shall hold its 2905
first meeting within ninety days after the effective date of the 2906

enactment of this section. At the first meeting, the members shall 2907
elect a chairperson. Thereafter, the committee shall meet at least 2908
twice per year at the call of the chairperson. The committee is a 2909
public body for the purposes of section 121.22 of the Revised 2910
Code. 2911

A vacancy on the committee does not impair the right of the 2912
other members to exercise all the functions of the committee. The 2913
presence of a majority of the members of the committee constitutes 2914
a quorum for the conduct of business of the committee. The 2915
concurrence of at least a majority of the members of the committee 2916
is necessary for any action to be taken by the committee. 2917

The committee shall permit any person to present evidence or 2918
testimony related to tax expenditures at a meeting of the 2919
committee. Upon the committee's request, the department of 2920
taxation, department of development, office of budget and 2921
management, or other state agency shall provide any information in 2922
its possession that the committee requires to perform its duties. 2923

(D) The committee shall establish a schedule for review for 2924
each tax expenditure so that each expenditure is reviewed at least 2925
once every eight years. The schedule may provide for the review of 2926
each tax expenditure in the order the expenditures were enacted or 2927
modified, beginning with the least recently enacted or modified 2928
tax expenditure. Alternatively, the review schedule may group tax 2929
expenditures by the individuals or industries benefiting from the 2930
expenditures, the objectives of each expenditure, or the policy 2931
rationale of each expenditure. In its review, the committee shall 2932
make recommendations as to whether each tax expenditure should be 2933
continued without modification, modified, scheduled for further 2934
review at a future date to consider repealing the expenditure, or 2935
repealed outright. For each expenditure reviewed, the committee 2936
may recommend accountability standards for the future review of 2937
the expenditure. The committee may consider, when reviewing a tax 2938

expenditure, any of the relevant factors in division (F) of this 2939
section. 2940

(E) Any tax expenditure bill shall include a statement 2941
explaining the objectives of the tax expenditure or its 2942
modification and the sponsor's intent in proposing the tax 2943
expenditure or its modification. Before a tax expenditure bill may 2944
be scheduled for a vote in any legislative committee, the bill 2945
must be reviewed by the joint tax expenditure review committee. 2946
The committee shall commence its review following the introduction 2947
of the tax expenditure bill in the chamber in which the bill 2948
originates. During the committee's review, the committee may 2949
consider any of the relevant factors in division (F) of this 2950
section. The committee shall issue copies of its review to each 2951
member of the legislative committee to which the bill has been 2952
referred upon the conclusion of the committee's review. 2953

(F) In conducting reviews pursuant to division (D) or (E) of 2954
this section, the committee may consider the following factors: 2955

(1) The number and classes of persons, organizations, 2956
businesses, or types of industries that would receive the direct 2957
benefit or consequences of the tax expenditure; 2958

(2) The fiscal impact of the tax expenditure on state and 2959
local taxing authorities, including, in the case of a review under 2960
division (D) of this section, any past fiscal effects and expected 2961
future fiscal impacts of the tax expenditure in the following 2962
eight-year period; 2963

(3) Public policy objectives that might support the tax 2964
expenditure. In researching such objectives, the committee may 2965
consider the expenditure's legislative history, the tax 2966
expenditure's sponsor's intent in proposing the tax expenditure, 2967
the extent to which the tax expenditure encourages or would 2968
encourage business growth or relocation into the state, promotes 2969

or would promote growth or retention of high-wage jobs in the 2970
state, or aids or would aid community stabilization. 2971

(4) Whether the tax expenditure successfully accomplishes any 2972
of the objectives identified in division (F)(3) of this section; 2973

(5) Whether the objectives identified in division (F)(3) of 2974
this section would or could have been accomplished successfully in 2975
the absence of the tax expenditure or with less cost to the state 2976
or local governments; 2977

(6) Whether the objectives identified in division (F)(3) of 2978
this section could have been accomplished successfully through a 2979
program that requires legislative appropriations for funding; 2980

(7) The extent to which the tax expenditure may provide 2981
unintended benefits to an individual, organization, or industry 2982
other than those the legislature or sponsor intended or creates an 2983
unfair competitive advantage for its recipient with respect to 2984
other businesses in the state; 2985

(8) The extent to which terminating the tax expenditure may 2986
have negative effects on taxpayers that currently benefit from the 2987
tax expenditure; 2988

(9) The extent to which the repeal of the tax expenditure may 2989
have negative effects on the state's employment and economy; 2990

(10) The feasibility of modifying the tax expenditure to 2991
provide for adjustment or recapture of the proceeds of the tax 2992
expenditure if the objectives of the tax expenditure are not 2993
fulfilled by the recipient of the tax expenditure. 2994

(G) The committee shall annually prepare a report of its 2995
determinations under this section and, not later than the 2996
thirty-first day of December of each year, provide a copy of the 2997
report to the governor, the speaker of the house of 2998
representatives, the president of the senate, the minority leader 2999

of the house of representatives, and the minority leader of the 3000
senate. The first annual report may be submitted either in the 3001
year of the effective date of this act or in the following year. 3002

Sec. 101.532. The main operating appropriations bill shall 3003
not contain appropriations for the industrial commission, ~~the~~ 3004
~~workers' compensation council,~~ or the bureau of workers' 3005
compensation. Appropriations for the bureau ~~and the council~~ shall 3006
be enacted in one bill, and appropriations for the industrial 3007
commission shall be enacted in a separate bill. 3008

Sec. 101.711. (A) As used in this section: 3009

(1) "Public office" has the meaning defined in section 117.01 3010
of the Revised Code. 3011

(2) "Legislative agent" has the meaning defined in section 3012
101.70 of the Revised Code. 3013

(B) No public office shall enter into a contract with a 3014
legislative agent, with a cost exceeding fifty thousand dollars in 3015
a calendar year, without the approval of the controlling board. 3016

This section does not apply to an employment contract 3017
pursuant to which an individual is employed directly by a public 3018
office as a legislative agent. 3019

Sec. 101.82. As used in sections 101.82 to 101.87 of the 3020
Revised Code: 3021

(A) "Agency" means any board, commission, committee, or 3022
council, or any other similar state public body required to be 3023
established pursuant to state statutes for the exercise of any 3024
function of state government and to which members are appointed or 3025
elected. "Agency" does not include the following: 3026

(1) The general assembly, or any commission, committee, or 3027

other body composed entirely of members of the general assembly;	3028
(2) Any court;	3029
(3) Any public body created by or directly pursuant to the constitution of this state;	3030 3031
(4) The board of trustees of any institution of higher education financially supported in whole or in part by the state;	3032 3033
(5) Any public body that has the authority to issue bonds or notes or that has issued bonds or notes that have not been fully repaid;	3034 3035 3036
(6) The public utilities commission of Ohio;	3037
(7) The consumers' council governing board;	3038
(8) The Ohio board of regents;	3039
(9) Any state board or commission that has the authority to issue any final adjudicatory order that may be appealed to the court of common pleas under Chapter 119. of the Revised Code;	3040 3041 3042
(10) Any board of elections;	3043
(11) The board of directors of the Ohio insurance guaranty association and the board of governors of the Ohio fair plan underwriting association;	3044 3045 3046
(12) The Ohio public employees deferred compensation board;	3047
(13) The Ohio retirement study council;	3048
(14) The board of trustees of the Ohio police and fire pension fund, public employees retirement board, school employees retirement board, state highway patrol retirement board, and state teachers retirement board;	3049 3050 3051 3052
(15) The industrial commission;	3053
(16) The parole board;	3054
(17) The board of tax appeals;	3055

(18) The controlling board;	3056
(19) The release authority of department of youth services;	3057
(20) The environmental review appeals commission;	3058
(21) The Ohio ethics commission;	3059
(22) The Ohio public works commission;	3060
(23) The self-insuring employers evaluation board;	3061
(24) The state board of deposit;	3062
(25) The state employment relations board;	3063
(26) The workers' compensation council.	3064
(B) "Abolish" means to repeal the statutes creating and empowering an agency, remove its personnel, and transfer its records to the department of administrative services pursuant to division (E) of section 149.331 of the Revised Code.	3065 3066 3067 3068
(C) "Terminate" means to amend or repeal the statutes creating and empowering an agency, remove its personnel, and reassign its functions and records to another agency or officer designated by the general assembly.	3069 3070 3071 3072
(D) "Transfer" means to amend the statutes creating and empowering an agency so that its functions, records, and personnel are conveyed to another agency or officer.	3073 3074 3075
(E) "Renew" means to continue an agency, and may include amendment of the statutes creating and empowering the agency, or recommendations for changes in agency operation or personnel.	3076 3077 3078
Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate commission: every person who is elected to or is a candidate for a	3079 3080 3081 3082 3083

state, county, or city office and every person who is appointed to 3084
fill a vacancy for an unexpired term in such an elective office; 3085
all members of the state board of education; the director, 3086
assistant directors, deputy directors, division chiefs, or persons 3087
of equivalent rank of any administrative department of the state; 3088
the president or other chief administrative officer of every state 3089
institution of higher education as defined in section 3345.011 of 3090
the Revised Code; the executive director and the members of the 3091
capitol square review and advisory board appointed or employed 3092
pursuant to section 105.41 of the Revised Code; all members of the 3093
Ohio casino control commission, the executive director of the 3094
commission, all professional employees of the commission, and all 3095
technical employees of the commission who perform an internal 3096
audit function; the individuals set forth in division (B)(2) of 3097
section 187.03 of the Revised Code; the chief executive officer 3098
and the members of the board of each state retirement system; each 3099
employee of a state retirement board who is a state retirement 3100
system investment officer licensed pursuant to section 1707.163 of 3101
the Revised Code; the members of the Ohio retirement study council 3102
appointed pursuant to division (C) of section 171.01 of the 3103
Revised Code; employees of the Ohio retirement study council, 3104
other than employees who perform purely administrative or clerical 3105
functions; the administrator of workers' compensation and each 3106
member of the bureau of workers' compensation board of directors; 3107
the bureau of workers' compensation director of investments; the 3108
chief investment officer of the bureau of workers' compensation; 3109
~~the director appointed by the workers' compensation council;~~ 3110
members of the board of commissioners on grievances and discipline 3111
of the supreme court and the ethics commission created under 3112
section 102.05 of the Revised Code; every business manager, 3113
treasurer, or superintendent of a city, local, exempted village, 3114
joint vocational, or cooperative education school district or an 3115
educational service center; every person who is elected to or is a 3116

candidate for the office of member of a board of education of a 3117
city, local, exempted village, joint vocational, or cooperative 3118
education school district or of a governing board of an 3119
educational service center that has a total student count of 3120
twelve thousand or more as most recently determined by the 3121
department of education pursuant to section 3317.03 of the Revised 3122
Code; every person who is appointed to the board of education of a 3123
municipal school district pursuant to division (B) or (F) of 3124
section 3311.71 of the Revised Code; all members of the board of 3125
directors of a sanitary district that is established under Chapter 3126
6115. of the Revised Code and organized wholly for the purpose of 3127
providing a water supply for domestic, municipal, and public use, 3128
and that includes two municipal corporations in two counties; 3129
every public official or employee who is paid a salary or wage in 3130
accordance with schedule C of section 124.15 or schedule E-2 of 3131
section 124.152 of the Revised Code; members of the board of 3132
trustees and the executive director of the southern Ohio 3133
agricultural and community development foundation; all members 3134
appointed to the Ohio livestock care standards board under section 3135
904.02 of the Revised Code; and every other public official or 3136
employee who is designated by the appropriate ethics commission 3137
pursuant to division (B) of this section. 3138

The disclosure statement shall include all of the following: 3139

(1) The name of the person filing the statement and each 3140
member of the person's immediate family and all names under which 3141
the person or members of the person's immediate family do 3142
business; 3143

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 3144
and except as otherwise provided in section 102.022 of the Revised 3145
Code, identification of every source of income, other than income 3146
from a legislative agent identified in division (A)(2)(b) of this 3147
section, received during the preceding calendar year, in the 3148

person's own name or by any other person for the person's use or 3149
benefit, by the person filing the statement, and a brief 3150
description of the nature of the services for which the income was 3151
received. If the person filing the statement is a member of the 3152
general assembly, the statement shall identify the amount of every 3153
source of income received in accordance with the following ranges 3154
of amounts: zero or more, but less than one thousand dollars; one 3155
thousand dollars or more, but less than ten thousand dollars; ten 3156
thousand dollars or more, but less than twenty-five thousand 3157
dollars; twenty-five thousand dollars or more, but less than fifty 3158
thousand dollars; fifty thousand dollars or more, but less than 3159
one hundred thousand dollars; and one hundred thousand dollars or 3160
more. Division (A)(2)(a) of this section shall not be construed to 3161
require a person filing the statement who derives income from a 3162
business or profession to disclose the individual items of income 3163
that constitute the gross income of that business or profession, 3164
except for those individual items of income that are attributable 3165
to the person's or, if the income is shared with the person, the 3166
partner's, solicitation of services or goods or performance, 3167
arrangement, or facilitation of services or provision of goods on 3168
behalf of the business or profession of clients, including 3169
corporate clients, who are legislative agents. A person who files 3170
the statement under this section shall disclose the identity of 3171
and the amount of income received from a person who the public 3172
official or employee knows or has reason to know is doing or 3173
seeking to do business of any kind with the public official's or 3174
employee's agency. 3175

(b) If the person filing the statement is a member of the 3176
general assembly, the statement shall identify every source of 3177
income and the amount of that income that was received from a 3178
legislative agent during the preceding calendar year, in the 3179
person's own name or by any other person for the person's use or 3180
benefit, by the person filing the statement, and a brief 3181

description of the nature of the services for which the income was 3182
received. Division (A)(2)(b) of this section requires the 3183
disclosure of clients of attorneys or persons licensed under 3184
section 4732.12 of the Revised Code, or patients of persons 3185
certified under section 4731.14 of the Revised Code, if those 3186
clients or patients are legislative agents. Division (A)(2)(b) of 3187
this section requires a person filing the statement who derives 3188
income from a business or profession to disclose those individual 3189
items of income that constitute the gross income of that business 3190
or profession that are received from legislative agents. 3191

(c) Except as otherwise provided in division (A)(2)(c) of 3192
this section, division (A)(2)(a) of this section applies to 3193
attorneys, physicians, and other persons who engage in the 3194
practice of a profession and who, pursuant to a section of the 3195
Revised Code, the common law of this state, a code of ethics 3196
applicable to the profession, or otherwise, generally are required 3197
not to reveal, disclose, or use confidences of clients, patients, 3198
or other recipients of professional services except under 3199
specified circumstances or generally are required to maintain 3200
those types of confidences as privileged communications except 3201
under specified circumstances. Division (A)(2)(a) of this section 3202
does not require an attorney, physician, or other professional 3203
subject to a confidentiality requirement as described in division 3204
(A)(2)(c) of this section to disclose the name, other identity, or 3205
address of a client, patient, or other recipient of professional 3206
services if the disclosure would threaten the client, patient, or 3207
other recipient of professional services, would reveal details of 3208
the subject matter for which legal, medical, or professional 3209
advice or other services were sought, or would reveal an otherwise 3210
privileged communication involving the client, patient, or other 3211
recipient of professional services. Division (A)(2)(a) of this 3212
section does not require an attorney, physician, or other 3213
professional subject to a confidentiality requirement as described 3214

in division (A)(2)(c) of this section to disclose in the brief 3215
description of the nature of services required by division 3216
(A)(2)(a) of this section any information pertaining to specific 3217
professional services rendered for a client, patient, or other 3218
recipient of professional services that would reveal details of 3219
the subject matter for which legal, medical, or professional 3220
advice was sought or would reveal an otherwise privileged 3221
communication involving the client, patient, or other recipient of 3222
professional services. 3223

(3) The name of every corporation on file with the secretary 3224
of state that is incorporated in this state or holds a certificate 3225
of compliance authorizing it to do business in this state, trust, 3226
business trust, partnership, or association that transacts 3227
business in this state in which the person filing the statement or 3228
any other person for the person's use and benefit had during the 3229
preceding calendar year an investment of over one thousand dollars 3230
at fair market value as of the thirty-first day of December of the 3231
preceding calendar year, or the date of disposition, whichever is 3232
earlier, or in which the person holds any office or has a 3233
fiduciary relationship, and a description of the nature of the 3234
investment, office, or relationship. Division (A)(3) of this 3235
section does not require disclosure of the name of any bank, 3236
savings and loan association, credit union, or building and loan 3237
association with which the person filing the statement has a 3238
deposit or a withdrawable share account. 3239

(4) All fee simple and leasehold interests to which the 3240
person filing the statement holds legal title to or a beneficial 3241
interest in real property located within the state, excluding the 3242
person's residence and property used primarily for personal 3243
recreation; 3244

(5) The names of all persons residing or transacting business 3245
in the state to whom the person filing the statement owes, in the 3246

person's own name or in the name of any other person, more than 3247
one thousand dollars. Division (A)(5) of this section shall not be 3248
construed to require the disclosure of debts owed by the person 3249
resulting from the ordinary conduct of a business or profession or 3250
debts on the person's residence or real property used primarily 3251
for personal recreation, except that the superintendent of 3252
financial institutions shall disclose the names of all 3253
state-chartered savings and loan associations and of all service 3254
corporations subject to regulation under division (E)(2) of 3255
section 1151.34 of the Revised Code to whom the superintendent in 3256
the superintendent's own name or in the name of any other person 3257
owes any money, and that the superintendent and any deputy 3258
superintendent of banks shall disclose the names of all 3259
state-chartered banks and all bank subsidiary corporations subject 3260
to regulation under section 1109.44 of the Revised Code to whom 3261
the superintendent or deputy superintendent owes any money. 3262

(6) The names of all persons residing or transacting business 3263
in the state, other than a depository excluded under division 3264
(A)(3) of this section, who owe more than one thousand dollars to 3265
the person filing the statement, either in the person's own name 3266
or to any person for the person's use or benefit. Division (A)(6) 3267
of this section shall not be construed to require the disclosure 3268
of clients of attorneys or persons licensed under section 4732.12 3269
or 4732.15 of the Revised Code, or patients of persons certified 3270
under section 4731.14 of the Revised Code, nor the disclosure of 3271
debts owed to the person resulting from the ordinary conduct of a 3272
business or profession. 3273

(7) Except as otherwise provided in section 102.022 of the 3274
Revised Code, the source of each gift of over seventy-five 3275
dollars, or of each gift of over twenty-five dollars received by a 3276
member of the general assembly from a legislative agent, received 3277
by the person in the person's own name or by any other person for 3278

the person's use or benefit during the preceding calendar year, 3279
except gifts received by will or by virtue of section 2105.06 of 3280
the Revised Code, or received from spouses, parents, grandparents, 3281
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 3282
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 3283
fathers-in-law, mothers-in-law, or any person to whom the person 3284
filing the statement stands in loco parentis, or received by way 3285
of distribution from any inter vivos or testamentary trust 3286
established by a spouse or by an ancestor; 3287

(8) Except as otherwise provided in section 102.022 of the 3288
Revised Code, identification of the source and amount of every 3289
payment of expenses incurred for travel to destinations inside or 3290
outside this state that is received by the person in the person's 3291
own name or by any other person for the person's use or benefit 3292
and that is incurred in connection with the person's official 3293
duties, except for expenses for travel to meetings or conventions 3294
of a national or state organization to which any state agency, 3295
including, but not limited to, any legislative agency or state 3296
institution of higher education as defined in section 3345.011 of 3297
the Revised Code, pays membership dues, or any political 3298
subdivision or any office or agency of a political subdivision 3299
pays membership dues; 3300

(9) Except as otherwise provided in section 102.022 of the 3301
Revised Code, identification of the source of payment of expenses 3302
for meals and other food and beverages, other than for meals and 3303
other food and beverages provided at a meeting at which the person 3304
participated in a panel, seminar, or speaking engagement or at a 3305
meeting or convention of a national or state organization to which 3306
any state agency, including, but not limited to, any legislative 3307
agency or state institution of higher education as defined in 3308
section 3345.011 of the Revised Code, pays membership dues, or any 3309
political subdivision or any office or agency of a political 3310

subdivision pays membership dues, that are incurred in connection 3311
with the person's official duties and that exceed one hundred 3312
dollars aggregated per calendar year; 3313

(10) If the disclosure statement is filed by a public 3314
official or employee described in division (B)(2) of section 3315
101.73 of the Revised Code or division (B)(2) of section 121.63 of 3316
the Revised Code who receives a statement from a legislative 3317
agent, executive agency lobbyist, or employer that contains the 3318
information described in division (F)(2) of section 101.73 of the 3319
Revised Code or division (G)(2) of section 121.63 of the Revised 3320
Code, all of the nondisputed information contained in the 3321
statement delivered to that public official or employee by the 3322
legislative agent, executive agency lobbyist, or employer under 3323
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 3324
the Revised Code. 3325

A person may file a statement required by this section in 3326
person or by mail. A person who is a candidate for elective office 3327
shall file the statement no later than the thirtieth day before 3328
the primary, special, or general election at which the candidacy 3329
is to be voted on, whichever election occurs soonest, except that 3330
a person who is a write-in candidate shall file the statement no 3331
later than the twentieth day before the earliest election at which 3332
the person's candidacy is to be voted on. A person who holds 3333
elective office shall file the statement on or before the 3334
fifteenth day of April of each year unless the person is a 3335
candidate for office. A person who is appointed to fill a vacancy 3336
for an unexpired term in an elective office shall file the 3337
statement within fifteen days after the person qualifies for 3338
office. Other persons shall file an annual statement on or before 3339
the fifteenth day of April or, if appointed or employed after that 3340
date, within ninety days after appointment or employment. No 3341
person shall be required to file with the appropriate ethics 3342

commission more than one statement or pay more than one filing fee 3343
for any one calendar year. 3344

The appropriate ethics commission, for good cause, may extend 3345
for a reasonable time the deadline for filing a statement under 3346
this section. 3347

A statement filed under this section is subject to public 3348
inspection at locations designated by the appropriate ethics 3349
commission except as otherwise provided in this section. 3350

(B) The Ohio ethics commission, the joint legislative ethics 3351
committee, and the board of commissioners on grievances and 3352
discipline of the supreme court, using the rule-making procedures 3353
of Chapter 119. of the Revised Code, may require any class of 3354
public officials or employees under its jurisdiction and not 3355
specifically excluded by this section whose positions involve a 3356
substantial and material exercise of administrative discretion in 3357
the formulation of public policy, expenditure of public funds, 3358
enforcement of laws and rules of the state or a county or city, or 3359
the execution of other public trusts, to file an annual statement 3360
on or before the fifteenth day of April under division (A) of this 3361
section. The appropriate ethics commission shall send the public 3362
officials or employees written notice of the requirement by the 3363
fifteenth day of February of each year the filing is required 3364
unless the public official or employee is appointed after that 3365
date, in which case the notice shall be sent within thirty days 3366
after appointment, and the filing shall be made not later than 3367
ninety days after appointment. 3368

Except for disclosure statements filed by members of the 3369
board of trustees and the executive director of the southern Ohio 3370
agricultural and community development foundation, disclosure 3371
statements filed under this division with the Ohio ethics 3372
commission by members of boards, commissions, or bureaus of the 3373
state for which no compensation is received other than reasonable 3374

and necessary expenses shall be kept confidential. Disclosure 3375
statements filed with the Ohio ethics commission under division 3376
(A) of this section by business managers, treasurers, and 3377
superintendents of city, local, exempted village, joint 3378
vocational, or cooperative education school districts or 3379
educational service centers shall be kept confidential, except 3380
that any person conducting an audit of any such school district or 3381
educational service center pursuant to section 115.56 or Chapter 3382
117. of the Revised Code may examine the disclosure statement of 3383
any business manager, treasurer, or superintendent of that school 3384
district or educational service center. Disclosure statements 3385
filed with the Ohio ethics commission under division (A) of this 3386
section by the individuals set forth in division (B)(2) of section 3387
187.03 of the Revised Code shall be kept confidential. The Ohio 3388
ethics commission shall examine each disclosure statement required 3389
to be kept confidential to determine whether a potential conflict 3390
of interest exists for the person who filed the disclosure 3391
statement. A potential conflict of interest exists if the private 3392
interests of the person, as indicated by the person's disclosure 3393
statement, might interfere with the public interests the person is 3394
required to serve in the exercise of the person's authority and 3395
duties in the person's office or position of employment. If the 3396
commission determines that a potential conflict of interest 3397
exists, it shall notify the person who filed the disclosure 3398
statement and shall make the portions of the disclosure statement 3399
that indicate a potential conflict of interest subject to public 3400
inspection in the same manner as is provided for other disclosure 3401
statements. Any portion of the disclosure statement that the 3402
commission determines does not indicate a potential conflict of 3403
interest shall be kept confidential by the commission and shall 3404
not be made subject to public inspection, except as is necessary 3405
for the enforcement of Chapters 102. and 2921. of the Revised Code 3406
and except as otherwise provided in this division. 3407

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

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

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

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

For state office, except member of the		3420
state board of education	\$65	3421
For office of member of general assembly	\$40	3422
For county office	\$40	3423
For city office	\$25	3424
For office of member of the state board		3425
of education	\$25	3426
For office of member of the Ohio		3427
livestock care standards board	\$25	3428
For office of member of a city, local,		3429
exempted village, or cooperative		3430
education board of		3431
education or educational service		3432
center governing board	\$20	3433
For position of business manager,		3434
treasurer, or superintendent of a		3435
city, local, exempted village, joint		3436
vocational, or cooperative education		3437
school district or		3438
educational service center	\$20	3439

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

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

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

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

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

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

into the joint legislative ethics committee investigative fund. 3471

(H) Division (A) of this section does not apply to a person 3472
elected or appointed to the office of precinct, ward, or district 3473
committee member under Chapter 3517. of the Revised Code; a 3474
presidential elector; a delegate to a national convention; village 3475
or township officials and employees; any physician or psychiatrist 3476
who is paid a salary or wage in accordance with schedule C of 3477
section 124.15 or schedule E-2 of section 124.152 of the Revised 3478
Code and whose primary duties do not require the exercise of 3479
administrative discretion; or any member of a board, commission, 3480
or bureau of any county or city who receives less than one 3481
thousand dollars per year for serving in that position. 3482

Sec. 105.41. (A) There is hereby created in the legislative 3483
branch of government the capitol square review and advisory board, 3484
consisting of thirteen members as follows: 3485

(1) Two members of the senate, appointed by the president of 3486
the senate, both of whom shall not be members of the same 3487
political party; 3488

(2) Two members of the house of representatives, appointed by 3489
the speaker of the house of representatives, both of whom shall 3490
not be members of the same political party; 3491

(3) Five members appointed by the governor, with the advice 3492
and consent of the senate, not more than three of whom shall be 3493
members of the same political party, one of whom shall be the 3494
chief of staff of the governor's office, one of whom shall 3495
represent the Ohio arts council, one of whom shall represent the 3496
Ohio historical society, one of whom shall represent the Ohio 3497
building authority, and one of whom shall represent the public at 3498
large; 3499

(4) One member, who shall be a former president of the 3500

senate, appointed by the current president of the senate. If the 3501
current president of the senate, in the current president's 3502
discretion, decides for any reason not to make the appointment or 3503
if no person is eligible or available to serve, the seat shall 3504
remain vacant. 3505

(5) One member, who shall be a former speaker of the house of 3506
representatives, appointed by the current speaker of the house of 3507
representatives. If the current speaker of the house of 3508
representatives, in the current speaker's discretion, decides for 3509
any reason not to make the appointment or if no person is eligible 3510
or available to serve, the seat shall remain vacant. 3511

(6) The clerk of the senate and the clerk of the house of 3512
representatives. 3513

(B) Terms of office of each appointed member of the board 3514
shall be for three years, except that members of the general 3515
assembly appointed to the board shall be members of the board only 3516
so long as they are members of the general assembly and the chief 3517
of staff of the governor's office shall be a member of the board 3518
only so long as the appointing governor remains in office. Each 3519
member shall hold office from the date of the member's appointment 3520
until the end of the term for which the member was appointed. In 3521
case of a vacancy occurring on the board, the president of the 3522
senate, the speaker of the house of representatives, or the 3523
governor, as the case may be, shall in the same manner prescribed 3524
for the regular appointment to the commission, fill the vacancy by 3525
appointing a member. Any member appointed to fill a vacancy 3526
occurring prior to the expiration of the term for which the 3527
member's predecessor was appointed shall hold office for the 3528
remainder of the term. Any appointed member shall continue in 3529
office subsequent to the expiration date of the member's term 3530
until the member's successor takes office, or until a period of 3531
sixty days has elapsed, whichever occurs first. 3532

(C) The board shall hold meetings in a manner and at times 3533
prescribed by the rules adopted by the board. A majority of the 3534
board constitutes a quorum, and no action shall be taken by the 3535
board unless approved by at least six members or by at least seven 3536
members if a person is appointed under division (A)(4) or (5) of 3537
this section. At its first meeting, the board shall adopt rules 3538
for the conduct of its business and the election of its officers, 3539
and shall organize by selecting a chairperson and other officers 3540
as it considers necessary. Board members shall serve without 3541
compensation but shall be reimbursed for actual and necessary 3542
expenses incurred in the performance of their duties. 3543

(D) The board may do any of the following: 3544

(1) Employ or hire on a consulting basis professional, 3545
technical, and clerical employees as are necessary for the 3546
performance of its duties. All employees of the board are in the 3547
unclassified service and serve at the pleasure of the board. For 3548
purposes of section 4117.01 of the Revised Code, employees of the 3549
board shall be considered employees of the general assembly, 3550
except that employees who are covered by a collective bargaining 3551
agreement on the effective date of this amendment shall remain 3552
subject to the agreement until the agreement expires on its terms, 3553
and the agreement shall not be extended or renewed. Upon 3554
expiration of the agreement, the employees are considered 3555
employees of the general assembly for purposes of section 4117.01 3556
of the Revised Code and are in the unclassified service and serve 3557
at the pleasure of the board. 3558

(2) Hold public hearings at times and places as determined by 3559
the board; 3560

(3) Adopt, amend, or rescind rules necessary to accomplish 3561
the duties of the board as set forth in this section; 3562

(4) Sponsor, conduct, and support such social events as the 3563

board may authorize and consider appropriate for the employees of 3564
the board, employees and members of the general assembly, 3565
employees of persons under contract with the board or otherwise 3566
engaged to perform services on the premises of capitol square, or 3567
other persons as the board may consider appropriate. Subject to 3568
the requirements of Chapter 4303. of the Revised Code, the board 3569
may provide beer, wine, and intoxicating liquor, with or without 3570
charge, for those events and may use funds only from the sale of 3571
goods and services fund to purchase the beer, wine, and 3572
intoxicating liquor the board provides; 3573

(5) Purchase a warehouse in which to store items of the 3574
capitol collection trust and, whenever necessary, equipment or 3575
other property of the board. 3576

(E) The board shall do all of the following: 3577

(1) Have sole authority to coordinate and approve any 3578
improvements, additions, and renovations that are made to the 3579
capitol square. The improvements shall include, but not be limited 3580
to, the placement of monuments and sculpture on the capitol 3581
grounds. 3582

(2) Subject to section 3353.07 of the Revised Code, operate 3583
the capitol square, and have sole authority to regulate all uses 3584
of the capitol square. The uses shall include, but not be limited 3585
to, the casual and recreational use of the capitol square. 3586

(3) Employ, fix the compensation of, and prescribe the duties 3587
of the executive director of the board and other employees the 3588
board considers necessary for the performance of its powers and 3589
duties; 3590

(4) Establish and maintain the capitol collection trust. The 3591
capitol collection trust shall consist of furniture, antiques, and 3592
other items of personal property that the board shall store in 3593
suitable facilities until they are ready to be displayed in the 3594

capitol square. 3595

(5) Perform repair, construction, contracting, purchasing, 3596
maintenance, supervisory, and operating activities the board 3597
determines are necessary for the operation and maintenance of the 3598
capitol square; 3599

(6) Maintain and preserve the capitol square, in accordance 3600
with guidelines issued by the United States secretary of the 3601
interior for application of the secretary's standards for 3602
rehabilitation adopted in 36 C.F.R. part 67; 3603

(7) Plan and develop a center at the capitol building for the 3604
purpose of educating visitors about the history of Ohio, including 3605
its political, economic, and social development and the design and 3606
erection of the capitol building and its grounds. 3607

(F)(1) The board shall lease capital facilities improved or 3608
financed by the Ohio building authority pursuant to Chapter 152. 3609
of the Revised Code for the use of the board, and may enter into 3610
any other agreements with the authority ancillary to improvement, 3611
financing, or leasing of those capital facilities, including, but 3612
not limited to, any agreement required by the applicable bond 3613
proceedings authorized by Chapter 152. of the Revised Code. Any 3614
lease of capital facilities authorized by this section shall be 3615
governed by division (D) of section 152.24 of the Revised Code. 3616

(2) Fees, receipts, and revenues received by the board from 3617
the state underground parking garage constitute available receipts 3618
as defined in section 152.09 of the Revised Code, and may be 3619
pledged to the payment of bond service charges on obligations 3620
issued by the Ohio building authority pursuant to Chapter 152. of 3621
the Revised Code to improve, finance, or purchase capital 3622
facilities useful to the board. The authority may, with the 3623
consent of the board, provide in the bond proceedings for a pledge 3624
of all or a portion of those fees, receipts, and revenues as the 3625

authority determines. The authority may provide in the bond 3626
proceedings or by separate agreement with the board for the 3627
transfer of those fees, receipts, and revenues to the appropriate 3628
bond service fund or bond service reserve fund as required to pay 3629
the bond service charges when due, and any such provision for the 3630
transfer of those fees, receipts, and revenues shall be 3631
controlling notwithstanding any other provision of law pertaining 3632
to those fees, receipts, and revenues. 3633

(3) All moneys received by the treasurer of state on account 3634
of the board and required by the applicable bond proceedings or by 3635
separate agreement with the board to be deposited, transferred, or 3636
credited to the bond service fund or bond service reserve fund 3637
established by the bond proceedings shall be transferred by the 3638
treasurer of state to such fund, whether or not it is in the 3639
custody of the treasurer of state, without necessity for further 3640
appropriation, upon receipt of notice from the Ohio building 3641
authority as prescribed in the bond proceedings. 3642

(G) All fees, receipts, and revenues received by the board 3643
from the state underground parking garage shall be deposited into 3644
the state treasury to the credit of the underground parking garage 3645
operating fund, which is hereby created, to be used for the 3646
purposes specified in division (F) of this section and for the 3647
operation and maintenance of the garage. All investment earnings 3648
of the fund shall be credited to the fund. 3649

(H) All donations received by the board shall be deposited 3650
into the state treasury to the credit of the capitol square 3651
renovation gift fund, which is hereby created. The fund shall be 3652
used by the board as follows: 3653

(1) To provide part or all of the funding related to 3654
construction, goods, or services for the renovation of the capitol 3655
square; 3656

(2) To purchase art, antiques, and artifacts for display at 3657
the capitol square; 3658

(3) To award contracts or make grants to organizations for 3659
educating the public regarding the historical background and 3660
governmental functions of the capitol square. Chapters 125., 127., 3661
and 153. and section 3517.13 of the Revised Code do not apply to 3662
purchases made exclusively from the fund, notwithstanding anything 3663
to the contrary in those chapters or that section. All investment 3664
earnings of the fund shall be credited to the fund. 3665

(I) Except as provided in divisions (G), (H), and (J) of this 3666
section, all fees, receipts, and revenues received by the board 3667
shall be deposited into the state treasury to the credit of the 3668
sale of goods and services fund, which is hereby created. Money 3669
credited to the fund shall be used solely to pay costs of the 3670
board other than those specified in divisions (F) and (G) of this 3671
section. All investment earnings of the fund shall be credited to 3672
the fund. 3673

(J) There is hereby created in the state treasury the capitol 3674
square improvement fund, to be used by the board to pay 3675
construction, renovation, and other costs related to the capitol 3676
square for which money is not otherwise available to the board. 3677
Whenever the board determines that there is a need to incur those 3678
costs and that the unencumbered, unobligated balance to the credit 3679
of the underground parking garage operating fund exceeds the 3680
amount needed for the purposes specified in division (F) of this 3681
section and for the operation and maintenance of the garage, the 3682
board may request the director of budget and management to 3683
transfer from the underground parking garage operating fund to the 3684
capitol square improvement fund the amount needed to pay such 3685
construction, renovation, or other costs. The director then shall 3686
transfer the amount needed from the excess balance of the 3687
underground parking garage operating fund. 3688

(K) As the operation and maintenance of the capitol square 3689
constitute essential government functions of a public purpose, the 3690
board shall not be required to pay taxes or assessments upon the 3691
square, upon any property acquired or used by the board under this 3692
section, or upon any income generated by the operation of the 3693
square. 3694

(L) As used in this section, "capitol square" means the 3695
capitol building, senate building, capitol atrium, capitol 3696
grounds, the state underground parking garage, and the warehouse 3697
owned by the board. 3698

(M) The capitol annex shall be known as the senate building. 3699

Sec. 107.09. Immediately after the determination of each 3700
decennial apportionment for members of the general assembly the 3701
governor shall cause such apportionment to be published for four 3702
consecutive weeks, or as provided in section 7.16 of the Revised 3703
Code, in three newspapers, one in Cincinnati, one in Cleveland, 3704
and one in Columbus. 3705

Sec. 109.36. As used in this section and sections 109.361 to 3706
109.366 of the Revised Code: 3707

(A)(1) "Officer or employee" means any of the following: 3708

(a) A person who, at the time a cause of action against the 3709
person arises, is serving in an elected or appointed office or 3710
position with the state or is employed by the state. 3711

(b) A person that, at the time a cause of action against the 3712
person, partnership, or corporation arises, is rendering medical, 3713
nursing, dental, podiatric, optometric, physical therapeutic, 3714
psychiatric, or psychological services pursuant to a personal 3715
services contract or purchased service contract with a department, 3716
agency, or institution of the state. 3717

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

(d) A person who, at the time a cause of action against the person arises, is rendering medical, nursing, dental, podiatric, optometric, physical therapeutic, psychiatric, or psychological services to patients in a state institution operated by the department of mental health, ~~is a member of the institution's staff, and is performing the services~~ pursuant to an agreement ~~between the state institution and a board of alcohol, drug addiction, and mental health services described in section 340.021 of the Revised Code~~ with the department.

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

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

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

(D) "Employer" means the general assembly, the supreme court,

courts of appeals, any office of an elected state officer, or any 3749
department, board, office, commission, agency, institution, or 3750
other instrumentality of the state of Ohio that employs or 3751
contracts with an officer or employee or to which an officer or 3752
employee is elected or appointed. 3753

Sec. 109.57. (A)(1) The superintendent of the bureau of 3754
criminal identification and investigation shall procure from 3755
wherever procurable and file for record photographs, pictures, 3756
descriptions, fingerprints, measurements, and other information 3757
that may be pertinent of all persons who have been convicted of 3758
committing within this state a felony, any crime constituting a 3759
misdemeanor on the first offense and a felony on subsequent 3760
offenses, or any misdemeanor described in division (A)(1)(a), 3761
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 3762
of all children under eighteen years of age who have been 3763
adjudicated delinquent children for committing within this state 3764
an act that would be a felony or an offense of violence if 3765
committed by an adult or who have been convicted of or pleaded 3766
guilty to committing within this state a felony or an offense of 3767
violence, and of all well-known and habitual criminals. The person 3768
in charge of any county, multicounty, municipal, municipal-county, 3769
or multicounty-municipal jail or workhouse, community-based 3770
correctional facility, halfway house, alternative residential 3771
facility, or state correctional institution and the person in 3772
charge of any state institution having custody of a person 3773
suspected of having committed a felony, any crime constituting a 3774
misdemeanor on the first offense and a felony on subsequent 3775
offenses, or any misdemeanor described in division (A)(1)(a), 3776
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or 3777
having custody of a child under eighteen years of age with respect 3778
to whom there is probable cause to believe that the child may have 3779
committed an act that would be a felony or an offense of violence 3780

if committed by an adult shall furnish such material to the 3781
superintendent of the bureau. Fingerprints, photographs, or other 3782
descriptive information of a child who is under eighteen years of 3783
age, has not been arrested or otherwise taken into custody for 3784
committing an act that would be a felony or an offense of violence 3785
who is not in any other category of child specified in this 3786
division, if committed by an adult, has not been adjudicated a 3787
delinquent child for committing an act that would be a felony or 3788
an offense of violence if committed by an adult, has not been 3789
convicted of or pleaded guilty to committing a felony or an 3790
offense of violence, and is not a child with respect to whom there 3791
is probable cause to believe that the child may have committed an 3792
act that would be a felony or an offense of violence if committed 3793
by an adult shall not be procured by the superintendent or 3794
furnished by any person in charge of any county, multicounty, 3795
municipal, municipal-county, or multicounty-municipal jail or 3796
workhouse, community-based correctional facility, halfway house, 3797
alternative residential facility, or state correctional 3798
institution, except as authorized in section 2151.313 of the 3799
Revised Code. 3800

(2) Every clerk of a court of record in this state, other 3801
than the supreme court or a court of appeals, shall send to the 3802
superintendent of the bureau a weekly report containing a summary 3803
of each case involving a felony, involving any crime constituting 3804
a misdemeanor on the first offense and a felony on subsequent 3805
offenses, involving a misdemeanor described in division (A)(1)(a), 3806
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 3807
or involving an adjudication in a case in which a child under 3808
eighteen years of age was alleged to be a delinquent child for 3809
committing an act that would be a felony or an offense of violence 3810
if committed by an adult. The clerk of the court of common pleas 3811
shall include in the report and summary the clerk sends under this 3812
division all information described in divisions (A)(2)(a) to (f) 3813

of this section regarding a case before the court of appeals that 3814
is served by that clerk. The summary shall be written on the 3815
standard forms furnished by the superintendent pursuant to 3816
division (B) of this section and shall include the following 3817
information: 3818

(a) The incident tracking number contained on the standard 3819
forms furnished by the superintendent pursuant to division (B) of 3820
this section; 3821

(b) The style and number of the case; 3822

(c) The date of arrest, offense, summons, or arraignment; 3823

(d) The date that the person was convicted of or pleaded 3824
guilty to the offense, adjudicated a delinquent child for 3825
committing the act that would be a felony or an offense of 3826
violence if committed by an adult, found not guilty of the 3827
offense, or found not to be a delinquent child for committing an 3828
act that would be a felony or an offense of violence if committed 3829
by an adult, the date of an entry dismissing the charge, an entry 3830
declaring a mistrial of the offense in which the person is 3831
discharged, an entry finding that the person or child is not 3832
competent to stand trial, or an entry of a nolle prosequi, or the 3833
date of any other determination that constitutes final resolution 3834
of the case; 3835

(e) A statement of the original charge with the section of 3836
the Revised Code that was alleged to be violated; 3837

(f) If the person or child was convicted, pleaded guilty, or 3838
was adjudicated a delinquent child, the sentence or terms of 3839
probation imposed or any other disposition of the offender or the 3840
delinquent child. 3841

If the offense involved the disarming of a law enforcement 3842
officer or an attempt to disarm a law enforcement officer, the 3843
clerk shall clearly state that fact in the summary, and the 3844

superintendent shall ensure that a clear statement of that fact is 3845
placed in the bureau's records. 3846

(3) The superintendent shall cooperate with and assist 3847
sheriffs, chiefs of police, and other law enforcement officers in 3848
the establishment of a complete system of criminal identification 3849
and in obtaining fingerprints and other means of identification of 3850
all persons arrested on a charge of a felony, any crime 3851
constituting a misdemeanor on the first offense and a felony on 3852
subsequent offenses, or a misdemeanor described in division 3853
(A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the 3854
Revised Code and of all children under eighteen years of age 3855
arrested or otherwise taken into custody for committing an act 3856
that would be a felony or an offense of violence if committed by 3857
an adult. The superintendent also shall file for record the 3858
fingerprint impressions of all persons confined in a county, 3859
multicounty, municipal, municipal-county, or multicounty-municipal 3860
jail or workhouse, community-based correctional facility, halfway 3861
house, alternative residential facility, or state correctional 3862
institution for the violation of state laws and of all children 3863
under eighteen years of age who are confined in a county, 3864
multicounty, municipal, municipal-county, or multicounty-municipal 3865
jail or workhouse, community-based correctional facility, halfway 3866
house, alternative residential facility, or state correctional 3867
institution or in any facility for delinquent children for 3868
committing an act that would be a felony or an offense of violence 3869
if committed by an adult, and any other information that the 3870
superintendent may receive from law enforcement officials of the 3871
state and its political subdivisions. 3872

(4) The superintendent shall carry out Chapter 2950. of the 3873
Revised Code with respect to the registration of persons who are 3874
convicted of or plead guilty to a sexually oriented offense or a 3875
child-victim oriented offense and with respect to all other duties 3876

imposed on the bureau under that chapter. 3877

(5) The bureau shall perform centralized recordkeeping 3878
functions for criminal history records and services in this state 3879
for purposes of the national crime prevention and privacy compact 3880
set forth in section 109.571 of the Revised Code and is the 3881
criminal history record repository as defined in that section for 3882
purposes of that compact. The superintendent or the 3883
superintendent's designee is the compact officer for purposes of 3884
that compact and shall carry out the responsibilities of the 3885
compact officer specified in that compact. 3886

(B) The superintendent shall prepare and furnish to every 3887
county, multicounty, municipal, municipal-county, or 3888
multicounty-municipal jail or workhouse, community-based 3889
correctional facility, halfway house, alternative residential 3890
facility, or state correctional institution and to every clerk of 3891
a court in this state specified in division (A)(2) of this section 3892
standard forms for reporting the information required under 3893
division (A) of this section. The standard forms that the 3894
superintendent prepares pursuant to this division may be in a 3895
tangible format, in an electronic format, or in both tangible 3896
formats and electronic formats. 3897

(C)(1) The superintendent may operate a center for 3898
electronic, automated, or other data processing for the storage 3899
and retrieval of information, data, and statistics pertaining to 3900
criminals and to children under eighteen years of age who are 3901
adjudicated delinquent children for committing an act that would 3902
be a felony or an offense of violence if committed by an adult, 3903
criminal activity, crime prevention, law enforcement, and criminal 3904
justice, and may establish and operate a statewide communications 3905
network to be known as the Ohio law enforcement gateway to gather 3906
and disseminate information, data, and statistics for the use of 3907
law enforcement agencies and for other uses specified in this 3908

division. The superintendent may gather, store, retrieve, and 3909
disseminate information, data, and statistics that pertain to 3910
children who are under eighteen years of age and that are gathered 3911
pursuant to sections 109.57 to 109.61 of the Revised Code together 3912
with information, data, and statistics that pertain to adults and 3913
that are gathered pursuant to those sections. 3914

(2) The superintendent or the superintendent's designee shall 3915
gather information of the nature described in division (C)(1) of 3916
this section that pertains to the offense and delinquency history 3917
of a person who has been convicted of, pleaded guilty to, or been 3918
adjudicated a delinquent child for committing a sexually oriented 3919
offense or a child-victim oriented offense for inclusion in the 3920
state registry of sex offenders and child-victim offenders 3921
maintained pursuant to division (A)(1) of section 2950.13 of the 3922
Revised Code and in the internet database operated pursuant to 3923
division (A)(13) of that section and for possible inclusion in the 3924
internet database operated pursuant to division (A)(11) of that 3925
section. 3926

(3) In addition to any other authorized use of information, 3927
data, and statistics of the nature described in division (C)(1) of 3928
this section, the superintendent or the superintendent's designee 3929
may provide and exchange the information, data, and statistics 3930
pursuant to the national crime prevention and privacy compact as 3931
described in division (A)(5) of this section. 3932

(4) The attorney general may adopt rules under Chapter 119. 3933
of the Revised Code establishing guidelines for the operation of 3934
and participation in the Ohio law enforcement gateway. The rules 3935
may include criteria for granting and restricting access to 3936
information gathered and disseminated through the Ohio law 3937
enforcement gateway. The attorney general may appoint a steering 3938
committee to advise the attorney general in the operation of the 3939
Ohio law enforcement gateway that is comprised of persons who are 3940

representatives of the criminal justice agencies in this state 3941
that use the Ohio law enforcement gateway and is chaired by the 3942
superintendent or the superintendent's designee. 3943

(D)(1) The following are not public records under section 3944
149.43 of the Revised Code: 3945

(a) Information and materials furnished to the superintendent 3946
pursuant to division (A) of this section; 3947

(b) Information, data, and statistics gathered or 3948
disseminated through the Ohio law enforcement gateway pursuant to 3949
division (C)(1) of this section; 3950

(c) Information and materials furnished to any board or 3951
person under division (F) or (G) of this section. 3952

(2) The superintendent or the superintendent's designee shall 3953
gather and retain information so furnished under division (A) of 3954
this section that pertains to the offense and delinquency history 3955
of a person who has been convicted of, pleaded guilty to, or been 3956
adjudicated a delinquent child for committing a sexually oriented 3957
offense or a child-victim oriented offense for the purposes 3958
described in division (C)(2) of this section. 3959

(E) The attorney general shall adopt rules, in accordance 3960
with Chapter 119. of the Revised Code, setting forth the procedure 3961
by which a person may receive or release information gathered by 3962
the superintendent pursuant to division (A) of this section. A 3963
reasonable fee may be charged for this service. If a temporary 3964
employment service submits a request for a determination of 3965
whether a person the service plans to refer to an employment 3966
position has been convicted of or pleaded guilty to an offense 3967
listed in division (A)(1), (3), (4), (5), or (6) of section 3968
109.572 of the Revised Code, the request shall be treated as a 3969
single request and only one fee shall be charged. 3970

(F)(1) As used in division (F)(2) of this section, "head 3971

start agency" means an entity in this state that has been approved 3972
to be an agency for purposes of subchapter II of the "Community 3973
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 3974
as amended. 3975

(2)(a) In addition to or in conjunction with any request that 3976
is required to be made under section 109.572, 2151.86, 3301.32, 3977
3301.541, division (C) of section 3310.58, or section 3319.39, 3978
3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, 3979
5126.28, 5126.281, or 5153.111 of the Revised Code or that is made 3980
under section 3314.41, 3319.392, ~~or 3326.25,~~ or 3328.20 of the 3981
Revised Code, the board of education of any school district; the 3982
director of developmental disabilities; any county board of 3983
developmental disabilities; any entity under contract with a 3984
county board of developmental disabilities; the chief 3985
administrator of any chartered nonpublic school; the chief 3986
administrator of a registered private provider that is not also a 3987
chartered nonpublic school; the chief administrator of any home 3988
health agency; the chief administrator of or person operating any 3989
child day-care center, type A family day-care home, or type B 3990
family day-care home licensed or certified under Chapter 5104. of 3991
the Revised Code; the administrator of any type C family day-care 3992
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 3993
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 3994
general assembly; the chief administrator of any head start 3995
agency; the executive director of a public children services 3996
agency; a private company described in section 3314.41, 3319.392, 3997
~~or 3326.25,~~ or 3328.20 of the Revised Code; or an employer 3998
described in division (J)(2) of section 3327.10 of the Revised 3999
Code may request that the superintendent of the bureau investigate 4000
and determine, with respect to any individual who has applied for 4001
employment in any position after October 2, 1989, or any 4002
individual wishing to apply for employment with a board of 4003
education may request, with regard to the individual, whether the 4004

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

(b) When a board of education or a registered private provider is required to receive information under this section as a prerequisite to employment of an individual pursuant to division (C) of section 3310.58 or section 3319.39 of the Revised Code, it may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by an individual applying for employment with the district in lieu of requesting that information itself. In such a case, the board shall accept the certified copy issued by the bureau in order to make a photocopy of it for that individual's employment application documents and shall return the certified copy to the individual. In a case of that nature, a district or provider only shall accept a certified copy of records of that

nature within one year after the date of their issuance by the 4038
bureau. 4039

(c) Notwithstanding division (F)(2)(a) of this section, in 4040
the case of a request under section 3319.39, 3319.391, or 3327.10 4041
of the Revised Code only for criminal records maintained by the 4042
federal bureau of investigation, the superintendent shall not 4043
determine whether any information gathered under division (A) of 4044
this section exists on the person for whom the request is made. 4045

(3) The state board of education may request, with respect to 4046
any individual who has applied for employment after October 2, 4047
1989, in any position with the state board or the department of 4048
education, any information that a school district board of 4049
education is authorized to request under division (F)(2) of this 4050
section, and the superintendent of the bureau shall proceed as if 4051
the request has been received from a school district board of 4052
education under division (F)(2) of this section. 4053

(4) When the superintendent of the bureau receives a request 4054
for information under section 3319.291 of the Revised Code, the 4055
superintendent shall proceed as if the request has been received 4056
from a school district board of education and shall comply with 4057
divisions (F)(2)(a) and (c) of this section. 4058

(5) When a recipient of a classroom reading improvement grant 4059
paid under section 3301.86 of the Revised Code requests, with 4060
respect to any individual who applies to participate in providing 4061
any program or service funded in whole or in part by the grant, 4062
the information that a school district board of education is 4063
authorized to request under division (F)(2)(a) of this section, 4064
the superintendent of the bureau shall proceed as if the request 4065
has been received from a school district board of education under 4066
division (F)(2)(a) of this section. 4067

(G) In addition to or in conjunction with any request that is 4068

required to be made under section 3701.881, 3712.09, 3721.121, 4069
5119.693, or ~~3722.151~~ 5119.85 of the Revised Code with respect to 4070
an individual who has applied for employment in a position that 4071
involves providing direct care to an older adult or adult 4072
resident, the chief administrator of a home health agency, hospice 4073
care program, home licensed under Chapter 3721. of the Revised 4074
Code, adult day-care program operated pursuant to rules adopted 4075
under section 3721.04 of the Revised Code, adult foster home, or 4076
adult care facility may request that the superintendent of the 4077
bureau investigate and determine, with respect to any individual 4078
who has applied after January 27, 1997, for employment in a 4079
position that does not involve providing direct care to an older 4080
adult or adult resident, whether the bureau has any information 4081
gathered under division (A) of this section that pertains to that 4082
individual. 4083

In addition to or in conjunction with any request that is 4084
required to be made under section 173.27 of the Revised Code with 4085
respect to an individual who has applied for employment in a 4086
position that involves providing ombudsperson services to 4087
residents of long-term care facilities or recipients of 4088
community-based long-term care services, the state long-term care 4089
ombudsperson, ombudsperson's designee, or director of health may 4090
request that the superintendent investigate and determine, with 4091
respect to any individual who has applied for employment in a 4092
position that does not involve providing such ombudsperson 4093
services, whether the bureau has any information gathered under 4094
division (A) of this section that pertains to that applicant. 4095

In addition to or in conjunction with any request that is 4096
required to be made under section 173.394 of the Revised Code with 4097
respect to an individual who has applied for employment in a 4098
position that involves providing direct care to an individual, the 4099
chief administrator of a community-based long-term care agency may 4100

request that the superintendent investigate and determine, with 4101
respect to any individual who has applied for employment in a 4102
position that does not involve providing direct care, whether the 4103
bureau has any information gathered under division (A) of this 4104
section that pertains to that applicant. 4105

On receipt of a request under this division, the 4106
superintendent shall determine whether that information exists 4107
and, on request of the individual requesting information, shall 4108
also request from the federal bureau of investigation any criminal 4109
records it has pertaining to the applicant. The superintendent or 4110
the superintendent's designee also may request criminal history 4111
records from other states or the federal government pursuant to 4112
the national crime prevention and privacy compact set forth in 4113
section 109.571 of the Revised Code. Within thirty days of the 4114
date a request is received, the superintendent shall send to the 4115
requester a report of any information determined to exist, 4116
including information contained in records that have been sealed 4117
under section 2953.32 of the Revised Code, and, within thirty days 4118
of its receipt, shall send the requester a report of any 4119
information received from the federal bureau of investigation, 4120
other than information the dissemination of which is prohibited by 4121
federal law. 4122

(H) Information obtained by a government entity or person 4123
under this section is confidential and shall not be released or 4124
disseminated. 4125

(I) The superintendent may charge a reasonable fee for 4126
providing information or criminal records under division (F)(2) or 4127
(G) of this section. 4128

(J) As used in this section, ~~"sexually:~~ 4129

(1) "Sexually oriented offense" and "child-victim oriented 4130
offense" have the same meanings as in section 2950.01 of the 4131

Revised Code. 4132

(2) "Registered private provider" means a nonpublic school or 4133
entity registered with the superintendent of public instruction 4134
under section 3310.41 of the Revised Code to participate in the 4135
autism scholarship program or section 3310.58 of the Revised Code 4136
to participate in the special education scholarship program. 4137

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 4138
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 4139
a completed form prescribed pursuant to division (C)(1) of this 4140
section, and a set of fingerprint impressions obtained in the 4141
manner described in division (C)(2) of this section, the 4142
superintendent of the bureau of criminal identification and 4143
investigation shall conduct a criminal records check in the manner 4144
described in division (B) of this section to determine whether any 4145
information exists that indicates that the person who is the 4146
subject of the request previously has been convicted of or pleaded 4147
guilty to any of the following: 4148

(a) A violation of section 2903.01, 2903.02, 2903.03, 4149
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 4150
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 4151
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 4152
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 4153
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 4154
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 4155
2925.06, or 3716.11 of the Revised Code, felonious sexual 4156
penetration in violation of former section 2907.12 of the Revised 4157
Code, a violation of section 2905.04 of the Revised Code as it 4158
existed prior to July 1, 1996, a violation of section 2919.23 of 4159
the Revised Code that would have been a violation of section 4160
2905.04 of the Revised Code as it existed prior to July 1, 1996, 4161
had the violation been committed prior to that date, or a 4162

violation of section 2925.11 of the Revised Code that is not a 4163
minor drug possession offense; 4164

(b) A violation of an existing or former law of this state, 4165
any other state, or the United States that is substantially 4166
equivalent to any of the offenses listed in division (A)(1)(a) of 4167
this section. 4168

(2) On receipt of a request pursuant to section 5123.081 of 4169
the Revised Code with respect to an applicant for employment in 4170
any position with the department of developmental disabilities, 4171
pursuant to section 5126.28 of the Revised Code with respect to an 4172
applicant for employment in any position with a county board of 4173
developmental disabilities, or pursuant to section 5126.281 of the 4174
Revised Code with respect to an applicant for employment in a 4175
direct services position with an entity contracting with a county 4176
board for employment, a completed form prescribed pursuant to 4177
division (C)(1) of this section, and a set of fingerprint 4178
impressions obtained in the manner described in division (C)(2) of 4179
this section, the superintendent of the bureau of criminal 4180
identification and investigation shall conduct a criminal records 4181
check. The superintendent shall conduct the criminal records check 4182
in the manner described in division (B) of this section to 4183
determine whether any information exists that indicates that the 4184
person who is the subject of the request has been convicted of or 4185
pleaded guilty to any of the following: 4186

(a) A violation of section 2903.01, 2903.02, 2903.03, 4187
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 4188
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 4189
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 4190
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 4191
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 4192
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 4193
2925.03, or 3716.11 of the Revised Code; 4194

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

(3) On receipt of a request pursuant to section 173.27, 173.394, 3712.09, 3721.121, 5119.693, or ~~3722.151~~ 5119.85 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position for which a criminal records check is required by those sections. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

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

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

(4) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with

a home health agency as a person responsible for the care, 4227
custody, or control of a child, a completed form prescribed 4228
pursuant to division (C)(1) of this section, and a set of 4229
fingerprint impressions obtained in the manner described in 4230
division (C)(2) of this section, the superintendent of the bureau 4231
of criminal identification and investigation shall conduct a 4232
criminal records check. The superintendent shall conduct the 4233
criminal records check in the manner described in division (B) of 4234
this section to determine whether any information exists that 4235
indicates that the person who is the subject of the request 4236
previously has been convicted of or pleaded guilty to any of the 4237
following: 4238

(a) A violation of section 2903.01, 2903.02, 2903.03, 4239
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 4240
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 4241
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 4242
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 4243
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 4244
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 4245
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 4246
violation of section 2925.11 of the Revised Code that is not a 4247
minor drug possession offense; 4248

(b) An existing or former law of this state, any other state, 4249
or the United States that is substantially equivalent to any of 4250
the offenses listed in division (A)(4)(a) of this section. 4251

(5) On receipt of a request pursuant to section 5111.032, 4252
5111.033, or 5111.034 of the Revised Code, a completed form 4253
prescribed pursuant to division (C)(1) of this section, and a set 4254
of fingerprint impressions obtained in the manner described in 4255
division (C)(2) of this section, the superintendent of the bureau 4256
of criminal identification and investigation shall conduct a 4257
criminal records check. The superintendent shall conduct the 4258

criminal records check in the manner described in division (B) of 4259
this section to determine whether any information exists that 4260
indicates that the person who is the subject of the request 4261
previously has been convicted of, has pleaded guilty to, or has 4262
been found eligible for intervention in lieu of conviction for any 4263
of the following, regardless of the date of the conviction, the 4264
date of entry of the guilty plea, or the date the person was found 4265
eligible for intervention in lieu of conviction: 4266

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 4267
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 4268
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 4269
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 4270
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 4271
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 4272
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 4273
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 4274
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 4275
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 4276
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 4277
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 4278
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 4279
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 4280
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 4281
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 4282
penetration in violation of former section 2907.12 of the Revised 4283
Code, a violation of section 2905.04 of the Revised Code as it 4284
existed prior to July 1, 1996, a violation of section 2919.23 of 4285
the Revised Code that would have been a violation of section 4286
2905.04 of the Revised Code as it existed prior to July 1, 1996, 4287
had the violation been committed prior to that date; 4288

(b) A violation of an existing or former municipal ordinance 4289
or law of this state, any other state, or the United States that 4290

is substantially equivalent to any of the offenses listed in 4291
division (A)(5)(a) of this section. 4292

(6) On receipt of a request pursuant to section 3701.881 of 4293
the Revised Code with respect to an applicant for employment with 4294
a home health agency in a position that involves providing direct 4295
care to an older adult, a completed form prescribed pursuant to 4296
division (C)(1) of this section, and a set of fingerprint 4297
impressions obtained in the manner described in division (C)(2) of 4298
this section, the superintendent of the bureau of criminal 4299
identification and investigation shall conduct a criminal records 4300
check. The superintendent shall conduct the criminal records check 4301
in the manner described in division (B) of this section to 4302
determine whether any information exists that indicates that the 4303
person who is the subject of the request previously has been 4304
convicted of or pleaded guilty to any of the following: 4305

(a) A violation of section 2903.01, 2903.02, 2903.03, 4306
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 4307
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 4308
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 4309
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 4310
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 4311
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 4312
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 4313
2925.22, 2925.23, or 3716.11 of the Revised Code; 4314

(b) An existing or former law of this state, any other state, 4315
or the United States that is substantially equivalent to any of 4316
the offenses listed in division (A)(6)(a) of this section. 4317

(7) When conducting a criminal records check upon a request 4318
pursuant to section 3319.39 of the Revised Code for an applicant 4319
who is a teacher, in addition to the determination made under 4320
division (A)(1) of this section, the superintendent shall 4321
determine whether any information exists that indicates that the 4322

person who is the subject of the request previously has been 4323
convicted of or pleaded guilty to any offense specified in section 4324
3319.31 of the Revised Code. 4325

(8) On receipt of a request pursuant to section 2151.86 of 4326
the Revised Code, a completed form prescribed pursuant to division 4327
(C)(1) of this section, and a set of fingerprint impressions 4328
obtained in the manner described in division (C)(2) of this 4329
section, the superintendent of the bureau of criminal 4330
identification and investigation shall conduct a criminal records 4331
check in the manner described in division (B) of this section to 4332
determine whether any information exists that indicates that the 4333
person who is the subject of the request previously has been 4334
convicted of or pleaded guilty to any of the following: 4335

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 4336
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 4337
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 4338
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 4339
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 4340
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 4341
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 4342
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 4343
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 4344
of the Revised Code, a violation of section 2905.04 of the Revised 4345
Code as it existed prior to July 1, 1996, a violation of section 4346
2919.23 of the Revised Code that would have been a violation of 4347
section 2905.04 of the Revised Code as it existed prior to July 1, 4348
1996, had the violation been committed prior to that date, a 4349
violation of section 2925.11 of the Revised Code that is not a 4350
minor drug possession offense, two or more OVI or OVUAC violations 4351
committed within the three years immediately preceding the 4352
submission of the application or petition that is the basis of the 4353
request, or felonious sexual penetration in violation of former 4354

section 2907.12 of the Revised Code; 4355

(b) A violation of an existing or former law of this state, 4356
any other state, or the United States that is substantially 4357
equivalent to any of the offenses listed in division (A)(8)(a) of 4358
this section. 4359

(9) Upon receipt of a request pursuant to section 5104.012 or 4360
5104.013 of the Revised Code, a completed form prescribed pursuant 4361
to division (C)(1) of this section, and a set of fingerprint 4362
impressions obtained in the manner described in division (C)(2) of 4363
this section, the superintendent of the bureau of criminal 4364
identification and investigation shall conduct a criminal records 4365
check in the manner described in division (B) of this section to 4366
determine whether any information exists that indicates that the 4367
person who is the subject of the request has been convicted of or 4368
pleaded guilty to any of the following: 4369

(a) A violation of section 2903.01, 2903.02, 2903.03, 4370
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 4371
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 4372
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 4373
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 4374
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 4375
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 4376
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 4377
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 4378
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 4379
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 4380
3716.11 of the Revised Code, felonious sexual penetration in 4381
violation of former section 2907.12 of the Revised Code, a 4382
violation of section 2905.04 of the Revised Code as it existed 4383
prior to July 1, 1996, a violation of section 2919.23 of the 4384
Revised Code that would have been a violation of section 2905.04 4385
of the Revised Code as it existed prior to July 1, 1996, had the 4386

violation been committed prior to that date, a violation of 4387
section 2925.11 of the Revised Code that is not a minor drug 4388
possession offense, a violation of section 2923.02 or 2923.03 of 4389
the Revised Code that relates to a crime specified in this 4390
division, or a second violation of section 4511.19 of the Revised 4391
Code within five years of the date of application for licensure or 4392
certification. 4393

(b) A violation of an existing or former law of this state, 4394
any other state, or the United States that is substantially 4395
equivalent to any of the offenses or violations described in 4396
division (A)(9)(a) of this section. 4397

(10) Upon receipt of a request pursuant to section 5153.111 4398
of the Revised Code, a completed form prescribed pursuant to 4399
division (C)(1) of this section, and a set of fingerprint 4400
impressions obtained in the manner described in division (C)(2) of 4401
this section, the superintendent of the bureau of criminal 4402
identification and investigation shall conduct a criminal records 4403
check in the manner described in division (B) of this section to 4404
determine whether any information exists that indicates that the 4405
person who is the subject of the request previously has been 4406
convicted of or pleaded guilty to any of the following: 4407

(a) A violation of section 2903.01, 2903.02, 2903.03, 4408
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 4409
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 4410
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 4411
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 4412
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 4413
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 4414
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 4415
felonious sexual penetration in violation of former section 4416
2907.12 of the Revised Code, a violation of section 2905.04 of the 4417
Revised Code as it existed prior to July 1, 1996, a violation of 4418

section 2919.23 of the Revised Code that would have been a 4419
violation of section 2905.04 of the Revised Code as it existed 4420
prior to July 1, 1996, had the violation been committed prior to 4421
that date, or a violation of section 2925.11 of the Revised Code 4422
that is not a minor drug possession offense; 4423

(b) A violation of an existing or former law of this state, 4424
any other state, or the United States that is substantially 4425
equivalent to any of the offenses listed in division (A)(10)(a) of 4426
this section. 4427

(11) On receipt of a request for a criminal records check 4428
from an individual pursuant to section 4749.03 or 4749.06 of the 4429
Revised Code, accompanied by a completed copy of the form 4430
prescribed in division (C)(1) of this section and a set of 4431
fingerprint impressions obtained in a manner described in division 4432
(C)(2) of this section, the superintendent of the bureau of 4433
criminal identification and investigation shall conduct a criminal 4434
records check in the manner described in division (B) of this 4435
section to determine whether any information exists indicating 4436
that the person who is the subject of the request has been 4437
convicted of or pleaded guilty to a felony in this state or in any 4438
other state. If the individual indicates that a firearm will be 4439
carried in the course of business, the superintendent shall 4440
require information from the federal bureau of investigation as 4441
described in division (B)(2) of this section. The superintendent 4442
shall report the findings of the criminal records check and any 4443
information the federal bureau of investigation provides to the 4444
director of public safety. 4445

(12) On receipt of a request pursuant to section 1321.37, 4446
1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised 4447
Code, a completed form prescribed pursuant to division (C)(1) of 4448
this section, and a set of fingerprint impressions obtained in the 4449
manner described in division (C)(2) of this section, the 4450

superintendent of the bureau of criminal identification and 4451
investigation shall conduct a criminal records check with respect 4452
to any person who has applied for a license, permit, or 4453
certification from the department of commerce or a division in the 4454
department. The superintendent shall conduct the criminal records 4455
check in the manner described in division (B) of this section to 4456
determine whether any information exists that indicates that the 4457
person who is the subject of the request previously has been 4458
convicted of or pleaded guilty to any of the following: a 4459
violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 4460
2925.03 of the Revised Code; any other criminal offense involving 4461
theft, receiving stolen property, embezzlement, forgery, fraud, 4462
passing bad checks, money laundering, or drug trafficking, or any 4463
criminal offense involving money or securities, as set forth in 4464
Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 4465
the Revised Code; or any existing or former law of this state, any 4466
other state, or the United States that is substantially equivalent 4467
to those offenses. 4468

(13) On receipt of a request for a criminal records check 4469
from the treasurer of state under section 113.041 of the Revised 4470
Code or from an individual under section 4701.08, 4715.101, 4471
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4472
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4473
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4474
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4475
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 4476
a completed form prescribed under division (C)(1) of this section 4477
and a set of fingerprint impressions obtained in the manner 4478
described in division (C)(2) of this section, the superintendent 4479
of the bureau of criminal identification and investigation shall 4480
conduct a criminal records check in the manner described in 4481
division (B) of this section to determine whether any information 4482
exists that indicates that the person who is the subject of the 4483

request has been convicted of or pleaded guilty to any criminal 4484
offense in this state or any other state. The superintendent shall 4485
send the results of a check requested under section 113.041 of the 4486
Revised Code to the treasurer of state and shall send the results 4487
of a check requested under any of the other listed sections to the 4488
licensing board specified by the individual in the request. 4489

(14) On receipt of a request pursuant to section 1121.23, 4490
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 4491
Code, a completed form prescribed pursuant to division (C)(1) of 4492
this section, and a set of fingerprint impressions obtained in the 4493
manner described in division (C)(2) of this section, the 4494
superintendent of the bureau of criminal identification and 4495
investigation shall conduct a criminal records check in the manner 4496
described in division (B) of this section to determine whether any 4497
information exists that indicates that the person who is the 4498
subject of the request previously has been convicted of or pleaded 4499
guilty to any criminal offense under any existing or former law of 4500
this state, any other state, or the United States. 4501

(15) On receipt of a request for a criminal records check 4502
from an appointing or licensing authority under section 3772.07 of 4503
the Revised Code, a completed form prescribed under division 4504
(C)(1) of this section, and a set of fingerprint impressions 4505
obtained in the manner prescribed in division (C)(2) of this 4506
section, the superintendent of the bureau of criminal 4507
identification and investigation shall conduct a criminal records 4508
check in the manner described in division (B) of this section to 4509
determine whether any information exists that indicates that the 4510
person who is the subject of the request previously has been 4511
convicted of or pleaded guilty or no contest to any offense under 4512
any existing or former law of this state, any other state, or the 4513
United States that is a disqualifying offense as defined in 4514
section 3772.07 of the Revised Code or substantially equivalent to 4515

such an offense. 4516

(16) Not later than thirty days after the date the 4517
superintendent receives a request of a type described in division 4518
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), 4519
(14), or (15) of this section, the completed form, and the 4520
fingerprint impressions, the superintendent shall send the person, 4521
board, or entity that made the request any information, other than 4522
information the dissemination of which is prohibited by federal 4523
law, the superintendent determines exists with respect to the 4524
person who is the subject of the request that indicates that the 4525
person previously has been convicted of or pleaded guilty to any 4526
offense listed or described in division (A)(1), (2), (3), (4), 4527
(5), (6), (7), (8), (9), (10), (11), (12), (14), or (15) of this 4528
section, as appropriate. The superintendent shall send the person, 4529
board, or entity that made the request a copy of the list of 4530
offenses specified in division (A)(1), (2), (3), (4), (5), (6), 4531
(7), (8), (9), (10), (11), (12), (14), or (15) of this section, as 4532
appropriate. If the request was made under section 3701.881 of the 4533
Revised Code with regard to an applicant who may be both 4534
responsible for the care, custody, or control of a child and 4535
involved in providing direct care to an older adult, the 4536
superintendent shall provide a list of the offenses specified in 4537
divisions (A)(4) and (6) of this section. 4538

Not later than thirty days after the superintendent receives 4539
a request for a criminal records check pursuant to section 113.041 4540
of the Revised Code, the completed form, and the fingerprint 4541
impressions, the superintendent shall send the treasurer of state 4542
any information, other than information the dissemination of which 4543
is prohibited by federal law, the superintendent determines exist 4544
with respect to the person who is the subject of the request that 4545
indicates that the person previously has been convicted of or 4546
pleaded guilty to any criminal offense in this state or any other 4547

state. 4548

(B) The superintendent shall conduct any criminal records 4549
check requested under section 113.041, 121.08, 173.27, 173.394, 4550
1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 4551
1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 4552
3701.881, 3712.09, 3721.121, ~~3722.151~~ 5119.85, 3772.07, 4701.08, 4553
4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4554
4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4555
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4556
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4557
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 4558
5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5123.081, 4559
5126.28, 5126.281, or 5153.111 of the Revised Code as follows: 4560

(1) The superintendent shall review or cause to be reviewed 4561
any relevant information gathered and compiled by the bureau under 4562
division (A) of section 109.57 of the Revised Code that relates to 4563
the person who is the subject of the request, including, if the 4564
criminal records check was requested under section 113.041, 4565
121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 4566
1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 4567
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 4568
~~3722.151~~ 5119.85, 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 4569
5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5123.081, 4570
5126.28, 5126.281, or 5153.111 of the Revised Code, any relevant 4571
information contained in records that have been sealed under 4572
section 2953.32 of the Revised Code; 4573

(2) If the request received by the superintendent asks for 4574
information from the federal bureau of investigation, the 4575
superintendent shall request from the federal bureau of 4576
investigation any information it has with respect to the person 4577
who is the subject of the request, including fingerprint-based 4578
checks of national crime information databases as described in 42 4579

U.S.C. 671 if the request is made pursuant to section 2151.86, 4580
5104.012, or 5104.013 of the Revised Code or if any other Revised 4581
Code section requires fingerprint-based checks of that nature, and 4582
shall review or cause to be reviewed any information the 4583
superintendent receives from that bureau. If a request under 4584
section 3319.39 of the Revised Code asks only for information from 4585
the federal bureau of investigation, the superintendent shall not 4586
conduct the review prescribed by division (B)(1) of this section. 4587

(3) The superintendent or the superintendent's designee may 4588
request criminal history records from other states or the federal 4589
government pursuant to the national crime prevention and privacy 4590
compact set forth in section 109.571 of the Revised Code. 4591

(C)(1) The superintendent shall prescribe a form to obtain 4592
the information necessary to conduct a criminal records check from 4593
any person for whom a criminal records check is requested under 4594
section 113.041 of the Revised Code or required by section 121.08, 4595
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 4596
1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 4597
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151~~ 5119.85, 4598
3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4599
4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4600
4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4601
4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4602
4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 4603
5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 4604
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The 4605
form that the superintendent prescribes pursuant to this division 4606
may be in a tangible format, in an electronic format, or in both 4607
tangible and electronic formats. 4608

(2) The superintendent shall prescribe standard impression 4609
sheets to obtain the fingerprint impressions of any person for 4610
whom a criminal records check is requested under section 113.041 4611

of the Revised Code or required by section 121.08, 173.27, 4612
173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 4613
1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 4614
3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151~~ 5119.85, 3772.07, 4615
4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4616
4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4617
4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4618
4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4619
4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 4620
5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5123.081, 4621
5126.28, 5126.281, or 5153.111 of the Revised Code. Any person for 4622
whom a records check is requested under or required by any of 4623
those sections shall obtain the fingerprint impressions at a 4624
county sheriff's office, municipal police department, or any other 4625
entity with the ability to make fingerprint impressions on the 4626
standard impression sheets prescribed by the superintendent. The 4627
office, department, or entity may charge the person a reasonable 4628
fee for making the impressions. The standard impression sheets the 4629
superintendent prescribes pursuant to this division may be in a 4630
tangible format, in an electronic format, or in both tangible and 4631
electronic formats. 4632

(3) Subject to division (D) of this section, the 4633
superintendent shall prescribe and charge a reasonable fee for 4634
providing a criminal records check requested under section 4635
113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 4636
1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 4637
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 4638
~~3722.151~~ 5119.85, 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4639
4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4640
4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4641
4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4642
4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4643
4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 4644

5119.693, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The person making a criminal records request under any of those sections shall pay the fee prescribed pursuant to this division. A person making a request under section 3701.881 of the Revised Code for a criminal records check for an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult shall pay one fee for the request. In the case of a request under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the fee shall be paid in the manner specified in that section.

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

(D) A determination whether any information exists that indicates that a person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or (b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), (A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), (A)(14), or (A)(15) of this section, or that indicates that a person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state regarding a criminal records check of a type described in division (A)(13) of this section, and that is made by the superintendent with respect to information considered in a criminal records check in accordance with this section is valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent makes the determination. During the period in which the determination in regard to a person is valid, if another

request under this section is made for a criminal records check 4677
for that person, the superintendent shall provide the information 4678
that is the basis for the superintendent's initial determination 4679
at a lower fee than the fee prescribed for the initial criminal 4680
records check. 4681

(E) When the superintendent receives a request for 4682
information from a registered private provider, the superintendent 4683
shall proceed as if the request was received from a school 4684
district board of education under section 3319.39 of the Revised 4685
Code. The superintendent shall apply division (A)(7) of this 4686
section to any such request for an applicant who is a teacher. 4687

(F) As used in this section: 4688

(1) "Criminal records check" means any criminal records check 4689
conducted by the superintendent of the bureau of criminal 4690
identification and investigation in accordance with division (B) 4691
of this section. 4692

(2) "Minor drug possession offense" has the same meaning as 4693
in section 2925.01 of the Revised Code. 4694

(3) "Older adult" means a person age sixty or older. 4695

(4) "OVI or OVUAC violation" means a violation of section 4696
4511.19 of the Revised Code or a violation of an existing or 4697
former law of this state, any other state, or the United States 4698
that is substantially equivalent to section 4511.19 of the Revised 4699
Code. 4700

(5) "Registered private provider" means a nonpublic school or 4701
entity registered with the superintendent of public instruction 4702
under section 3310.41 of the Revised Code to participate in the 4703
autism scholarship program or section 3310.58 of the Revised Code 4704
to participate in the special education scholarship program. 4705

Sec. 109.64. The bureau of criminal identification and 4706

investigation shall prepare a periodic information bulletin 4707
concerning missing children whom it determines may be present in 4708
this state. The bureau shall compile the bulletin from information 4709
contained in the national crime information center computer. The 4710
bulletin shall indicate the names and addresses of these minors 4711
who are the subject of missing children cases and other 4712
information that the superintendent of the bureau considers 4713
appropriate. The bulletin shall contain a reminder to law 4714
enforcement agencies of their responsibilities under section 4715
2901.30 of the Revised Code. 4716

The bureau shall send a copy of each periodic information 4717
bulletin to the missing children clearinghouse established under 4718
section 109.65 of the Revised Code for use in connection with its 4719
responsibilities under division (E) of that section. Upon receipt 4720
of each periodic information bulletin from the bureau, the missing 4721
children clearinghouse shall send a copy of the bulletin to each 4722
sheriff, marshal, police department of a municipal corporation, 4723
police force of a township police district or joint ~~township~~ 4724
police district, and township constable in this state, to the 4725
board of education of each school district in this state, and to 4726
each nonpublic school in this state. The bureau shall provide a 4727
copy of the bulletin, upon request, to other persons or entities. 4728
The superintendent of the bureau, with the approval of the 4729
attorney general, may establish a reasonable fee for a copy of a 4730
bulletin provided to persons or entities other than law 4731
enforcement agencies in this or other states or of the federal 4732
government, the department of education, governmental entities of 4733
this state, and libraries in this state. The superintendent shall 4734
deposit all such fees collected ~~by him~~ into the missing children 4735
fund created by section 109.65 of the Revised Code. 4736

As used in this section, "missing children," "information," 4737
and "minor" have the same meanings as in section 2901.30 of the 4738

Revised Code. 4739

Sec. 109.71. There is hereby created in the office of the 4740
attorney general the Ohio peace officer training commission. The 4741
commission shall consist of nine members appointed by the governor 4742
with the advice and consent of the senate and selected as follows: 4743
one member representing the public; two members who are incumbent 4744
sheriffs; two members who are incumbent chiefs of police; one 4745
member from the bureau of criminal identification and 4746
investigation; one member from the state highway patrol; one 4747
member who is the special agent in charge of a field office of the 4748
federal bureau of investigation in this state; and one member from 4749
the department of education, trade and industrial education 4750
services, law enforcement training. 4751

This section does not confer any arrest authority or any 4752
ability or authority to detain a person, write or issue any 4753
citation, or provide any disposition alternative, as granted under 4754
Chapter 2935. of the Revised Code. 4755

As used in sections 109.71 to 109.801 of the Revised Code: 4756

(A) "Peace officer" means: 4757

(1) A deputy sheriff, marshal, deputy marshal, member of the 4758
organized police department of a township or municipal 4759
corporation, member of a township police district or joint 4760
~~township~~ police district police force, member of a police force 4761
employed by a metropolitan housing authority under division (D) of 4762
section 3735.31 of the Revised Code, or township constable, who is 4763
commissioned and employed as a peace officer by a political 4764
subdivision of this state or by a metropolitan housing authority, 4765
and whose primary duties are to preserve the peace, to protect 4766
life and property, and to enforce the laws of this state, 4767
ordinances of a municipal corporation, resolutions of a township, 4768
or regulations of a board of county commissioners or board of 4769

township trustees, or any of those laws, ordinances, resolutions, or regulations;	4770 4771
(2) A police officer who is employed by a railroad company and appointed and commissioned by the secretary of state pursuant to sections 4973.17 to 4973.22 of the Revised Code;	4772 4773 4774
(3) Employees of the department of taxation engaged in the enforcement of Chapter 5743. of the Revised Code and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under section 5743.45 of the Revised Code;	4775 4776 4777 4778 4779
(4) An undercover drug agent;	4780
(5) Enforcement agents of the department of public safety whom the director of public safety designates under section 5502.14 of the Revised Code;	4781 4782 4783
(6) An employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013, a park officer designated pursuant to section 1541.10, a forest officer designated pursuant to section 1503.29, a preserve officer designated pursuant to section 1517.10, a wildlife officer designated pursuant to section 1531.13, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code;	4784 4785 4786 4787 4788 4789 4790 4791
(7) An employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code;	4792 4793
(8) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;	4794 4795
(9) A police officer who is employed by a hospital that employs and maintains its own proprietary police department or security department, and who is appointed and commissioned by the secretary of state pursuant to sections 4973.17 to 4973.22 of the	4796 4797 4798 4799

Revised Code;	4800
(10) Veterans' homes police officers designated under section 5907.02 of the Revised Code;	4801 4802
(11) A police officer who is employed by a qualified nonprofit corporation police department pursuant to section 1702.80 of the Revised Code;	4803 4804 4805
(12) A state university law enforcement officer appointed under section 3345.04 of the Revised Code or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;	4806 4807 4808 4809 4810 4811 4812 4813
(13) A special police officer employed by the department of mental health pursuant to section 5119.14 of the Revised Code or the department of developmental disabilities pursuant to section 5123.13 of the Revised Code;	4814 4815 4816 4817
(14) A member of a campus police department appointed under section 1713.50 of the Revised Code;	4818 4819
(15) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;	4820 4821 4822
(16) Investigators appointed by the auditor of state pursuant to section 117.091 of the Revised Code and engaged in the enforcement of Chapter 117. of the Revised Code;	4823 4824 4825
(17) A special police officer designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer pursuant to that section on a permanent	4826 4827 4828 4829

basis on October 21, 1997, and who has been awarded a certificate 4830
by the executive director of the Ohio peace officer training 4831
commission attesting to the person's satisfactory completion of an 4832
approved state, county, municipal, or department of natural 4833
resources peace officer basic training program; 4834

(18) A special police officer employed by a port authority 4835
under section 4582.04 or 4582.28 of the Revised Code or a person 4836
serving as a special police officer employed by a port authority 4837
on a permanent basis on May 17, 2000, who has been awarded a 4838
certificate by the executive director of the Ohio peace officer 4839
training commission attesting to the person's satisfactory 4840
completion of an approved state, county, municipal, or department 4841
of natural resources peace officer basic training program; 4842

(19) A special police officer employed by a municipal 4843
corporation who has been awarded a certificate by the executive 4844
director of the Ohio peace officer training commission for 4845
satisfactory completion of an approved peace officer basic 4846
training program and who is employed on a permanent basis on or 4847
after March 19, 2003, at a municipal airport, or other municipal 4848
air navigation facility, that has scheduled operations, as defined 4849
in section 119.3 of Title 14 of the Code of Federal Regulations, 4850
14 C.F.R. 119.3, as amended, and that is required to be under a 4851
security program and is governed by aviation security rules of the 4852
transportation security administration of the United States 4853
department of transportation as provided in Parts 1542. and 1544. 4854
of Title 49 of the Code of Federal Regulations, as amended; 4855

(20) A police officer who is employed by an owner or operator 4856
of an amusement park that has an average yearly attendance in 4857
excess of six hundred thousand guests and that employs and 4858
maintains its own proprietary police department or security 4859
department, and who is appointed and commissioned by a judge of 4860
the appropriate municipal court or county court pursuant to 4861

section 4973.17 of the Revised Code; 4862

(21) A police officer who is employed by a bank, savings and 4863
loan association, savings bank, credit union, or association of 4864
banks, savings and loan associations, savings banks, or credit 4865
unions, who has been appointed and commissioned by the secretary 4866
of state pursuant to sections 4973.17 to 4973.22 of the Revised 4867
Code, and who has been awarded a certificate by the executive 4868
director of the Ohio peace officer training commission attesting 4869
to the person's satisfactory completion of a state, county, 4870
municipal, or department of natural resources peace officer basic 4871
training program; 4872

(22) An investigator, as defined in section 109.541 of the 4873
Revised Code, of the bureau of criminal identification and 4874
investigation who is commissioned by the superintendent of the 4875
bureau as a special agent for the purpose of assisting law 4876
enforcement officers or providing emergency assistance to peace 4877
officers pursuant to authority granted under that section; 4878

(23) A state fire marshal law enforcement officer appointed 4879
under section 3737.22 of the Revised Code or a person serving as a 4880
state fire marshal law enforcement officer on a permanent basis on 4881
or after July 1, 1982, who has been awarded a certificate by the 4882
executive director of the Ohio peace officer training commission 4883
attesting to the person's satisfactory completion of an approved 4884
state, county, municipal, or department of natural resources peace 4885
officer basic training program; 4886

(24) A gaming agent employed under section 3772.03 of the 4887
Revised Code. 4888

(B) "Undercover drug agent" has the same meaning as in 4889
division (B)(2) of section 109.79 of the Revised Code. 4890

(C) "Crisis intervention training" means training in the use 4891
of interpersonal and communication skills to most effectively and 4892

sensitively interview victims of rape. 4893

(D) "Missing children" has the same meaning as in section 4894
2901.30 of the Revised Code. 4895

Sec. 109.801. (A)(1) Each year, any of the following persons 4896
who are authorized to carry firearms in the course of their 4897
official duties shall complete successfully a firearms 4898
requalification program approved by the executive director of the 4899
Ohio peace officer training commission in accordance with rules 4900
adopted by the attorney general pursuant to section 109.743 of the 4901
Revised Code: any peace officer, sheriff, chief of police of an 4902
organized police department of a municipal corporation or 4903
township, chief of police of a township police district or joint 4904
police district police force, superintendent of the state highway 4905
patrol, state highway patrol trooper, or chief of police of a 4906
university or college police department; any parole or probation 4907
officer who carries a firearm in the course of official duties; 4908
the house of representatives sergeant at arms if the house of 4909
representatives sergeant at arms has arrest authority pursuant to 4910
division (E)(1) of section 101.311 of the Revised Code; any 4911
assistant house of representatives sergeant at arms; or any 4912
employee of the department of youth services who is designated 4913
pursuant to division (A)(2) of section 5139.53 of the Revised Code 4914
as being authorized to carry a firearm while on duty as described 4915
in that division. 4916

(2) No person listed in division (A)(1) of this section shall 4917
carry a firearm during the course of official duties if the person 4918
does not comply with division (A)(1) of this section. 4919

(B) The hours that a sheriff spends attending a firearms 4920
requalification program required by division (A) of this section 4921
are in addition to the sixteen hours of continuing education that 4922
are required by division (E) of section 311.01 of the Revised 4923

Code. 4924

(C) As used in this section, "firearm" has the same meaning 4925
as in section 2923.11 of the Revised Code. 4926

Sec. 111.12. ~~(A) Except as otherwise provided in division (B)~~ 4927
~~of this section, the~~ The secretary of state shall compile and 4928
publish biennially in a paper, book, or ~~other nonelectronic~~ 4929
electronic format ~~twenty-five hundred copies of~~ the election 4930
statistics of Ohio, ~~four thousand copies of~~ the official roster of 4931
federal, state, and county officers, and ~~twenty-five hundred~~ 4932
~~copies of~~ the official roster of township and municipal officers. 4933

~~(B) The secretary of state may compile and publish biennially~~ 4934
~~the election statistics of Ohio, the official roster of federal,~~ 4935
~~state, and county officers, and the official roster of township~~ 4936
~~and municipal officers in an electronic format instead of~~ 4937
~~compiling and publishing these documents biennially in a paper,~~ 4938
~~book, or other nonelectronic format in the numbers specified in~~ 4939
~~division (A) of this section. If the secretary of state does so,~~ 4940
~~the secretary of state shall maintain the ability to provide~~ 4941
~~copies of the election statistics of Ohio, the official roster of~~ 4942
~~federal, state, and county officers, and the official roster of~~ 4943
~~township and municipal officers in accordance with section 149.43~~ 4944
~~of the Revised Code.~~ 4945

Sec. 111.16. The secretary of state shall charge and collect, 4946
for the benefit of the state, the following fees: 4947

(A) For filing and recording articles of incorporation of a 4948
domestic corporation, including designation of agent: 4949

(1) Wherein the corporation shall not be authorized to issue 4950
any shares of capital stock, one hundred twenty-five dollars; 4951

(2) Wherein the corporation shall be authorized to issue 4952
shares of capital stock, with or without par value: 4953

(a) Ten cents for each share authorized up to and including one thousand shares;	4954 4955
(b) Five cents for each share authorized in excess of one thousand shares up to and including ten thousand shares;	4956 4957
(c) Two cents for each share authorized in excess of ten thousand shares up to and including fifty thousand shares;	4958 4959
(d) One cent for each share authorized in excess of fifty thousand shares up to and including one hundred thousand shares;	4960 4961
(e) One-half cent for each share authorized in excess of one hundred thousand shares up to and including five hundred thousand shares;	4962 4963 4964
(f) One-quarter cent for each share authorized in excess of five hundred thousand shares; provided no fee shall be less than one hundred twenty-five dollars or greater than one hundred thousand dollars.	4965 4966 4967 4968
(B) For filing and recording a certificate of amendment to or amended articles of incorporation of a domestic corporation, or for filing and recording a certificate of reorganization, a certificate of dissolution, or an amendment to a foreign license application:	4969 4970 4971 4972 4973
(1) If the domestic corporation is not authorized to issue any shares of capital stock, fifty dollars;	4974 4975
(2) If the domestic corporation is authorized to issue shares of capital stock, fifty dollars, and in case of any increase in the number of shares authorized to be issued, a further sum computed in accordance with the schedule set forth in division (A)(2) of this section less a credit computed in the same manner for the number of shares previously authorized to be issued by the corporation; provided no fee under division (B)(2) of this section shall be greater than one hundred thousand dollars;	4976 4977 4978 4979 4980 4981 4982 4983

(3) If the foreign corporation is not authorized to issue any shares of capital stock, fifty dollars;	4984 4985
(4) If the foreign corporation is authorized to issue shares of capital stock, fifty dollars.	4986 4987
(C) For filing and recording articles of incorporation of a savings and loan association, one hundred twenty-five dollars; and for filing and recording a certificate of amendment to or amended articles of incorporation of a savings and loan association, fifty dollars;	4988 4989 4990 4991 4992
(D) For filing and recording a certificate of conversion, including a designation of agent, a certificate of merger, or a certificate of consolidation, one hundred twenty-five dollars and, in the case of any new corporation resulting from a consolidation or any surviving corporation that has an increased number of shares authorized to be issued resulting from a merger, an additional sum computed in accordance with the schedule set forth in division (A)(2) of this section less a credit computed in the same manner for the number of shares previously authorized to be issued or represented in this state by each of the corporations for which a consolidation or merger is effected by the certificate;	4993 4994 4995 4996 4997 4998 4999 5000 5001 5002 5003 5004
(E) For filing and recording articles of incorporation of a credit union or the American credit union guaranty association, one hundred twenty-five dollars, and for filing and recording a certificate of increase in capital stock or any other amendment of the articles of incorporation of a credit union or the association, fifty dollars;	5005 5006 5007 5008 5009 5010
(F) For filing and recording articles of organization of a limited liability company, for filing and recording an application to become a registered foreign limited liability company, for filing and recording a registration application to become a	5011 5012 5013 5014

domestic limited liability partnership, or for filing and 5015
recording an application to become a registered foreign limited 5016
liability partnership, one hundred twenty-five dollars; 5017

(G) For filing and recording a certificate of limited 5018
partnership or an application for registration as a foreign 5019
limited partnership, or for filing an initial statement of 5020
partnership authority pursuant to section 1776.33 of the Revised 5021
Code, one hundred twenty-five dollars. 5022

(H) For filing a copy of papers evidencing the incorporation 5023
of a municipal corporation or of annexation of territory by a 5024
municipal corporation, five dollars, to be paid by the municipal 5025
corporation, the petitioners therefor, or their agent; 5026

(I) For filing and recording any of the following: 5027

(1) A license to transact business in this state by a foreign 5028
corporation for profit pursuant to section 1703.04 of the Revised 5029
Code or a foreign nonprofit corporation pursuant to section 5030
1703.27 of the Revised Code, one hundred twenty-five dollars; 5031

(2) A biennial report or biennial statement pursuant to 5032
section 1775.63, 1776.83, or 1785.06 of the Revised Code, 5033
twenty-five dollars; 5034

(3) Except as otherwise provided in this section or any other 5035
section of the Revised Code, any other certificate or paper that 5036
is required to be filed and recorded or is permitted to be filed 5037
and recorded by any provision of the Revised Code with the 5038
secretary of state, twenty-five dollars. 5039

(J) For filing any certificate or paper not required to be 5040
recorded, five dollars; 5041

(K)(1) For making copies of any certificate or other paper 5042
filed in the office of the secretary of state, a fee not to exceed 5043
one dollar per page, except as otherwise provided in the Revised 5044

Code, and for creating and affixing the seal of the office of the secretary of state to any good standing or other certificate, five dollars. For copies of certificates or papers required by state officers for official purpose, no charge shall be made.

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

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

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

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

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

(2) A notice of dissolution of a foreign licensed corporation or a certificate of surrender of license by a foreign licensed corporation under section 1703.17 of the Revised Code;

(3) The withdrawal of registration of a foreign or domestic limited liability partnership under section 1775.61, 1775.64, 1776.81, or 1776.86 of the Revised Code, or the certificate of cancellation of registration of a foreign limited liability company under section 1705.57 of the Revised Code;

(4) The filing of a statement of denial under section 1776.34 5075
of the Revised Code, a statement of dissociation under section 5076
1776.57 of the Revised Code, a statement of disclaimer of general 5077
partner status under Chapter 1782. of the Revised Code, or a 5078
cancellation of disclaimer of general partner status under Chapter 5079
1782. of the Revised Code. 5080

(O) For filing a statement of continued existence by a 5081
nonprofit corporation, twenty-five dollars; 5082

(P) For filing a restatement under section 1705.08 or 1782.09 5083
of the Revised Code, an amendment to a certificate of cancellation 5084
under section 1782.10 of the Revised Code, an amendment under 5085
section 1705.08 or 1782.09 of the Revised Code, or a correction 5086
under section 1705.55, 1775.61, 1775.64, 1776.12, or 1782.52 of 5087
the Revised Code, fifty dollars; 5088

(Q) For filing for reinstatement of an entity cancelled by 5089
operation of law, by the secretary of state, by order of the 5090
department of taxation, or by order of a court, twenty-five 5091
dollars; 5092

(R) For filing a and recording any of the following: 5093

(1) A change of agent, resignation of agent, or change of 5094
agent's address under section 1701.07, 1702.06, 1703.041, 1703.27, 5095
1705.06, 1705.55, 1746.04, 1747.03, 1776.07, or 1782.04 of the 5096
Revised Code, twenty-five dollars; 5097

(2) A multiple change of agent name or address, 5098
standardization of agent address, or resignation of agent under 5099
section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 5100
1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, one 5101
hundred twenty-five dollars, plus three dollars per entity record 5102
being changed, by the multiple agent update. 5103

(S) For filing and recording any of the following: 5104

(1) An application for the exclusive right to use a name or	5105
an application to reserve a name for future use under section	5106
1701.05, 1702.05, 1703.31, 1705.05, or 1746.06 of the Revised	5107
Code, fifty dollars;	5108
(2) A trade name or fictitious name registration or report,	5109
fifty dollars;	5110
(3) An application to renew any item covered by division	5111
(S)(1) or (2) of this section that is permitted to be renewed,	5112
twenty-five dollars;	5113
(4) An assignment of rights for use of a name covered by	5114
division (S)(1), (2), or (3) of this section, the cancellation of	5115
a name registration or name reservation that is so covered, or	5116
notice of a change of address of the registrant of a name that is	5117
so covered, twenty-five dollars.	5118
(T) For filing and recording a report to operate a business	5119
trust or a real estate investment trust, either foreign or	5120
domestic, one hundred twenty-five dollars; and for filing and	5121
recording an amendment to a report or associated trust instrument,	5122
or a surrender of authority, to operate a business trust or real	5123
estate investment trust, fifty dollars;	5124
(U)(1) For filing and recording the registration of a	5125
trademark, service mark, or mark of ownership, one hundred	5126
twenty-five dollars;	5127
(2) For filing and recording the change of address of a	5128
registrant, the assignment of rights to a registration, a renewal	5129
of a registration, or the cancellation of a registration	5130
associated with a trademark, service mark, or mark of ownership,	5131
twenty-five dollars.	5132
(V) For filing a service of process with the secretary of	5133
state, five dollars, except as otherwise provided in any section	5134
of the Revised Code.	5135

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

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

(B) The secretary of state may implement alternative payment programs that permit payment of any fee charged by the secretary of state by means other than cash, check, money order, or credit card; an alternative payment program may include, but is not limited to, one that permits a fee to be paid by electronic means of transmission. Fees paid under an alternative payment program shall be deposited to the credit of the secretary of state alternative payment program fund, which is hereby created in the state treasury. Any investment income of the secretary of state alternative payment program fund shall be credited to that fund and used to operate the alternative payment program. Within two working days following the deposit of funds to the credit of the secretary of state alternative payment program fund, the secretary of state shall pay those funds to the credit of the corporate and uniform commercial code filing fund, subject to division (B) of section 1309.401 of the Revised Code and except as otherwise provided in the Revised Code.

The secretary of state shall adopt rules necessary to carry 5167
out the purposes of this division. 5168

Sec. 111.181. There is hereby created in the state treasury 5169
the information systems fund. The fund shall receive revenues from 5170
fees charged to customers for special database requests, including 5171
corporate and uniform commercial code filings. The secretary of 5172
state shall use the fund for information technology related 5173
expenses of the office. 5174

Sec. 111.28. (A) There is hereby created in the state 5175
treasury the help America vote act (HAVA) fund. All moneys 5176
received by the secretary of state from the United States election 5177
assistance commission shall be credited to the fund. The secretary 5178
of state shall use the moneys credited to the fund for activities 5179
conducted pursuant to the "Help America Vote Act of 2002," Pub. L. 5180
No. 107-252, 116 Stat. 1666. All investment earnings of the fund 5181
shall be credited to the fund. 5182

(B) There is hereby created in the state treasury the 5183
election reform/health and human services fund. All moneys 5184
received by the secretary of state from the United States 5185
department of health and human services shall be credited to the 5186
fund. The secretary of state shall use the moneys credited to the 5187
fund for activities conducted pursuant to grants awarded to the 5188
state under Title II, Subtitle D, Sections 261 to 265 of the Help 5189
America Vote Act of 2002 to assure access for individuals with 5190
disabilities. All investment earnings of the fund shall be 5191
credited to the fund. 5192

Sec. 111.29. There is hereby created in the state treasury 5193
the citizen education fund. The fund shall receive gifts, grants, 5194
fees, and donations from private individuals and entities for 5195
voter education purposes. The secretary of state shall use the 5196

moneys credited to the fund for preparing, printing, and 5197
distributing voter registration and educational materials and for 5198
conducting related workshops and conferences for public education. 5199

Sec. 113.42. (A) As used in this section: 5200

(1) "School employee" means both of the following: 5201

(a) Any employee of a city, vocational, exempted village, or 5202
local school district; 5203

(b) Any employee of a community college, technical college, 5204
or state community college. 5205

(2) "Supplemental employee deferral plan" means a tax 5206
deferred annuity, as described in 26 U.S.C. 403(b), including a 5207
custodial account as described in 26 U.S.C. 403(b)(7). 5208

(B) The treasurer of state may, subject to an appropriate 5209
assurance of the approval of the internal revenue service, offer 5210
to all eligible school employees, and thereafter administer on 5211
behalf of participating employees, a supplemental employee 5212
deferral plan. The treasurer shall establish eligibility criteria 5213
for plan participation. 5214

The treasurer may designate a third party to act on behalf of 5215
the treasurer as the administrator of the plan. The plan may 5216
invest in such investments as are considered appropriate by the 5217
treasurer, including life insurance, annuity contracts, or mutual 5218
funds. Any investment included in the plan shall be reviewed and 5219
selected by the treasurer based on a competitive bidding process 5220
established by the treasurer and as the treasurer considers 5221
appropriate. 5222

(C) If the administrative entity of a school district, 5223
community college, technical college, or state community college 5224
elects to participate in the supplemental employee deferral plan 5225

established under this section, any school employee who meets the 5226
eligibility criteria established by the treasurer of state may 5227
participate in the plan. An election to participate in the plan 5228
shall be made in the manner and form prescribed by the treasurer 5229
of state. Notwithstanding any law to the contrary, a school 5230
district, community college, technical college, or state community 5231
college electing to participate in the supplemental employee 5232
deferral plan may elect exclusively to offer the supplemental 5233
employee deferral plan to employees or may elect to offer the 5234
supplemental employee deferral plan as one of a limited number of 5235
options. 5236

(D)(1) An election by an employee to participate in the plan 5237
authorizes the employer to make reductions from the employee's 5238
compensation for contributions to the plan. The total of the 5239
amount contributed and the employee's nondeferred income for any 5240
year shall not exceed the employee's total compensation under the 5241
existing salary schedule or classification plan applicable to the 5242
employee in that year. For purposes of this section, 5243
"compensation" includes any compensation received as a lump sum 5244
for accumulated unused vacation, personal leave, or sick leave. 5245

A deferred compensation program shall be in addition to any 5246
retirement or any other benefit program provided by law for 5247
employees of the school district or college. The treasurer of 5248
state shall adopt rules pursuant to Chapter 119. of the Revised 5249
Code to provide any necessary standards or conditions for the 5250
administration of the plan, including any limits on the portion of 5251
a participating employee's compensation that may be deferred in 5252
order to avoid adverse treatment of the plan by the internal 5253
revenue service or the occurrence of a reduction in compensation 5254
in excess of the compensation available for any pay period. 5255

Any compensation deferred under the supplemental employee 5256
deferral plan shall continue to be included as regular 5257

compensation for the purpose of computing the contributions to and 5258
benefits from the retirement system of a participating employee, 5259
if applicable. Compensation deferred shall not be included in the 5260
computation of any federal or state income taxes withheld on 5261
behalf of a participating employee. 5262

Employee contributions and earnings on those contributions 5263
are immediately vested. 5264

(2) If permitted by the plan, an employer may make employer 5265
contributions to the plan on behalf of participating employees. 5266
Employer contributions, if any, and the earnings on those 5267
contributions shall vest according to the schedule established in 5268
the plan. 5269

(E) Any administrative expenses of the plan shall be applied 5270
in one of the following ways: 5271

(1) Against earnings from investments; 5272

(2) As prorated fees charged equitably among the participants 5273
of the plan; 5274

(3) By another method determined by the treasurer of state. 5275

The treasurer may apply different methods or amounts of 5276
recovery of administrative expenses for different types of 5277
investment options provided under the plan. 5278

Sec. 113.43. Except as provided in sections 3105.171 and 5279
3105.63 and Chapters 3119., 3121., 3123., and 3125. of the Revised 5280
Code, an account, benefit, or other right accrued or accruing to 5281
any person under the supplemental employee deferral plan 5282
established under section 113.42 of the Revised Code shall not be 5283
subject to execution, garnishment, attachment, sale to satisfy a 5284
judgment or order, the operation of bankruptcy or insolvency laws, 5285
or other process of law and shall be unassignable. 5286

Sec. 113.44. Notwithstanding any provision of section 113.42 5287
or 113.43 of the Revised Code: 5288

(A) Any payment, other than a survivorship benefit, that is 5289
made to a person by the supplemental employee deferral plan is 5290
subject to any withholding order issued pursuant to section 5291
2907.15 or division (C)(2)(b) of section 2921.41 of the Revised 5292
Code. The treasurer of state or third party administering the plan 5293
shall comply with that withholding order in making payment. 5294

(B) If the plan receives a notice pursuant to section 2907.15 5295
or division (D) of section 2921.41 of the Revised Code that a 5296
person who has an account has been charged with a violation of 5297
section 2907.02, 2907.03, 2907.04, 2907.05, or 2921.41 of the 5298
Revised Code, no payment from that account shall be made prior to 5299
whichever of the following is applicable: 5300

(1) If the person is convicted of or pleads guilty to the 5301
violation, but a motion for a withholding order for purposes of 5302
restitution has not been filed under section 2907.15 or division 5303
(C)(2)(b)(i) of section 2921.41 of the Revised Code, thirty days 5304
after the day on which the person is sentenced for the violation; 5305

(2) If the person is convicted of or pleads guilty to the 5306
violation and a motion for a withholding order for purposes of 5307
restitution has been filed under section 2907.15 or division 5308
(C)(2)(b)(i) of section 2921.41 of the Revised Code, the day on 5309
which the court decides the motion; 5310

(3) If the charge is dismissed or the person found not guilty 5311
or not guilty by reason of insanity of the violation, the day on 5312
which the dismissal of the charge or the verdict is entered in the 5313
journal of the court. 5314

Sec. 113.47. (A) As used in this section: 5315

(1) "Governmental entity" means a governmental entity, as 5316

defined in section 9.23 of the Revised Code, that pays wages, as 5317
defined in section 4111.01 of the Revised Code, to employees or 5318
elected officials. 5319

(2) "Reportable information" means, for any calendar year: 5320

(a) The name, title, gross pay, employer, and years of 5321
service of each employee or elected official of a governmental 5322
entity; and 5323

(b) Any cost associated with employment other than gross pay, 5324
including, but not limited to, pension, medical insurance, dental 5325
insurance, vision insurance, vacation leave, sick leave, personal 5326
time, disability leave, and any other type of leave. 5327

(B) Each governmental entity shall submit reportable 5328
information to the treasurer of state in the form and manner 5329
prescribed by the treasurer of state by the first day of March of 5330
each calendar year following the year for which reportable 5331
information is being submitted, except that reportable information 5332
for calendar year 2010 shall be submitted by September 1, 2011. 5333

(C) The treasurer of state shall make the reportable 5334
information submitted to the treasurer of state available to the 5335
public by the fifteenth day of April of each year on the treasurer 5336
of state's web site or in any other convenient and accessible 5337
manner determined by the treasurer of state. 5338

(D) The treasurer of state may adopt rules under Chapter 119. 5339
of the Revised Code to prescribe incentives to enforce compliance 5340
with the requirement set forth in division (B) of this section. 5341

Sec. 117.101. The auditor of state shall provide, operate, 5342
and maintain a uniform and compatible computerized financial 5343
management and accounting system known as the uniform accounting 5344
network. The network shall be designed to provide public offices, 5345
other than state agencies and the Ohio education computer network 5346

and public school districts, with efficient and economical access 5347
to data processing and management information facilities and 5348
expertise. In accordance with this objective, activities of the 5349
network shall include, but not be limited to, provision, 5350
maintenance, and operation of the following facilities and 5351
services: 5352

(A) A cooperative program of technical assistance for public 5353
offices, other than state agencies and the Ohio education computer 5354
network and public school districts, including, but not limited 5355
to, an adequate computer software system and a data base; 5356

(B) An information processing service center providing 5357
approved computerized financial accounting and reporting services 5358
to participating public offices. 5359

The auditor of state and any public office, other than a 5360
state agency and the Ohio education computer network and public 5361
school districts, may enter into any necessary agreements, without 5362
advertisement or bidding, for the provision of necessary goods, 5363
materials, supplies, and services to such public offices by the 5364
auditor of state through the network. 5365

The auditor of state may, by rule, provide for a system of 5366
user fees to be charged participating public offices for goods, 5367
materials, supplies, and services received from the network. All 5368
such fees shall be paid into the state treasury to the credit of 5369
the uniform accounting network fund, which is hereby created. The 5370
fund shall be used by the auditor of state to pay the costs of 5371
establishing and maintaining the network. The fund shall be 5372
assessed a proportionate share of the auditor of state's 5373
administrative costs in accordance with procedures prescribed by 5374
the auditor of state ~~and approved by the director of budget and~~ 5375
~~management.~~ 5376

Sec. 117.13. (A) The costs of audits of state agencies shall 5377

be recovered by the auditor of state in the following manner: 5378

(1) The costs of all audits of state agencies shall be paid 5379
to the auditor of state on statements rendered by the auditor of 5380
state. Money so received by the auditor of state shall be paid 5381
into the state treasury to the credit of the public audit expense 5382
fund--intrastate, which is hereby created, and shall be used to 5383
pay costs related to such audits. The costs of audits of a state 5384
agency shall be charged to the state agency being audited. The 5385
costs of any assistant auditor, employee, or expert employed 5386
pursuant to section 117.09 of the Revised Code called upon to 5387
testify in any legal proceedings in regard to any audit, or called 5388
upon to review or discuss any matter related to any audit, may be 5389
charged to the state agency to which the audit relates. 5390

(2) The auditor of state shall establish by rule rates to be 5391
charged to state agencies for recovering the costs of audits of 5392
state agencies. 5393

(B) As used in this division, "government auditing standards" 5394
means the government auditing standards published by the 5395
comptroller general of the United States general accounting 5396
office. 5397

(1) Except as provided in divisions (B)(2) and (3) of this 5398
section, any costs of an audit of a private institution, 5399
association, board, or corporation receiving public money for its 5400
use shall be charged to the public office providing the public 5401
money in the same manner as costs of an audit of the public 5402
office. 5403

(2) If an audit of a private child placing agency or private 5404
noncustodial agency receiving public money from a public children 5405
services agency for providing child welfare or child protection 5406
services sets forth that money has been illegally expended, 5407
converted, misappropriated, or is unaccounted for, the costs of 5408

the audit shall be charged to the agency being audited in the same 5409
manner as costs of an audit of a public office, unless the 5410
findings are inconsequential, as defined by government auditing 5411
standards. 5412

(3) If such an audit does not set forth that money has been 5413
illegally expended, converted, misappropriated, or is unaccounted 5414
for or sets forth findings that are inconsequential, as defined by 5415
government auditing standards, the costs of the audit shall be 5416
charged as follows: 5417

(a) One-third of the costs to the agency being audited; 5418

(b) One-third of the costs to the public children services 5419
agency that provided the public money to the agency being audited; 5420

(c) One-third of the costs to the department of job and 5421
family services. 5422

(C) The costs of audits of local public offices shall be 5423
recovered by the auditor of state in the following manner: 5424

(1) The total amount of compensation paid assistant auditors 5425
of state, their expenses, the cost of employees assigned to assist 5426
the assistant auditors of state, the cost of experts employed 5427
pursuant to section 117.09 of the Revised Code, and the cost of 5428
typing, reviewing, and copying reports shall be borne by the 5429
public office to which such assistant auditors of state are so 5430
assigned, ~~except that annual vacation and sick leave of assistant~~ 5431
~~auditors of state, employees, and typists shall be financed from~~ 5432
~~the general revenue fund. The necessary traveling and hotel~~ 5433
~~expenses of the deputy inspectors and supervisors of public~~ 5434
~~offices shall be paid from the state treasury.~~ Assistant auditors 5435
of state shall be compensated by the taxing district or other 5436
public office audited for activities undertaken pursuant to 5437
division (B) of section 117.18 and section 117.24 of the Revised 5438
Code. The costs of any assistant auditor, employee, or expert 5439

employed pursuant to section 117.09 of the Revised Code called 5440
upon to testify in any legal proceedings in regard to any audit, 5441
or called upon to review or discuss any matter related to any 5442
audit, may be charged to the public office to which the audit 5443
relates. 5444

(2) The auditor of state shall certify the amount of such 5445
compensation, expenses, cost of experts, reviewing, copying, and 5446
typing to the fiscal officer of the local public office audited. 5447
The fiscal officer of the local public office shall forthwith draw 5448
a warrant upon the general fund or other appropriate funds of the 5449
local public office to the order of the auditor of state; 5450
provided, that the auditor of state is authorized to negotiate 5451
with any local public office and, upon agreement between the 5452
auditor of state and the local public office, may adopt a schedule 5453
for payment of the amount due under this section. Money so 5454
received by the auditor of state shall be paid into the state 5455
treasury to the credit of the public audit expense fund--local 5456
government, which is hereby created, and shall be used to pay the 5457
compensation, expense, cost of experts and employees, reviewing, 5458
copying, and typing of reports. 5459

(3) At the conclusion of each audit, or analysis and report 5460
made pursuant to section 117.24 of the Revised Code, the auditor 5461
of state shall furnish the fiscal officer of the local public 5462
office audited a statement showing the total cost of the audit, or 5463
of the audit and the analysis and report, and the percentage of 5464
the total cost chargeable to each fund audited. The fiscal officer 5465
may distribute such total cost to each fund audited in accordance 5466
with its percentage of the total cost. 5467

(4) The auditor of state shall provide each local public 5468
office a statement or certification of the amount due from the 5469
public office for services performed by the auditor of state under 5470
this or any other section of the Revised Code, as well as the date 5471

upon which payment is due to the auditor of state. Any local 5472
public office that does not pay the amount due to the auditor of 5473
state by that date may be assessed by the auditor of state for 5474
interest from the date upon which the payment is due at the rate 5475
per annum prescribed by section 5703.47 of the Revised Code. All 5476
interest charges assessed by the auditor of state may be collected 5477
in the same manner as audit costs pursuant to division (D) of this 5478
section. 5479

(5) The auditor of state shall establish by rule rates to be 5480
charged to local public offices for recovering the costs of audits 5481
of local public offices. 5482

(D) If the auditor of state fails to receive payment for any 5483
amount due, including, but not limited to, fines, fees, and costs, 5484
from a public office for services performed under this or any 5485
other section of the Revised Code, the auditor of state may seek 5486
payment through the office of budget and management. (Amounts due 5487
include any amount due to an independent public accountant with 5488
whom the auditor has contracted to perform services, all costs and 5489
fees associated with participation in the uniform accounting 5490
network, and all costs associated with the auditor's provision of 5491
local government services.) Upon certification by the auditor of 5492
state to the director of budget and management of any such amount 5493
due, the director shall withhold from the public office any amount 5494
available, up to and including the amount certified as due, from 5495
any funds under the director's control that belong to or are 5496
lawfully payable or due to the public office. The director shall 5497
promptly pay the amount withheld to the auditor of state. If the 5498
director determines that no funds due and payable to the public 5499
office are available or that insufficient amounts of such funds 5500
are available to cover the amount due, the director shall withhold 5501
and pay to the auditor of state the amounts available and, in the 5502
case of a local public office, certify the remaining amount to the 5503

county auditor of the county in which the local public office is 5504
located. The county auditor shall withhold from the local public 5505
office any amount available, up to and including the amount 5506
certified as due, from any funds under the county auditor's 5507
control and belonging to or lawfully payable or due to the local 5508
public office. The county auditor shall promptly pay any such 5509
amount withheld to the auditor of state. 5510

Sec. 118.023. (A) Upon determining that one or more of the 5511
conditions described in section 118.022 of the Revised Code are 5512
present, the auditor of state shall issue a written declaration of 5513
the existence of a fiscal watch to the municipal corporation, 5514
county, or township and the county budget commission. The fiscal 5515
watch shall be in effect until the auditor of state determines 5516
that none of the conditions are any longer present and cancels the 5517
watch, or until the auditor of state determines that a state of 5518
fiscal emergency exists. The auditor of state, or a designee, 5519
shall provide such technical and support services to the municipal 5520
corporation, county, or township after a fiscal watch has been 5521
declared to exist as the auditor of state considers necessary. ~~The~~ 5522
~~controlling board shall provide sufficient funds for any costs~~ 5523
~~that the auditor of state may incur in determining if a fiscal~~ 5524
~~watch exists and for providing technical and support services.~~ 5525

(B) Within one hundred twenty days after the day a written 5526
declaration of the existence of a fiscal watch is issued under 5527
division (A) of this section, the mayor of the municipal 5528
corporation, the board of county commissioners of the county, or 5529
the board of township trustees of the township for which a fiscal 5530
watch was declared shall submit to the auditor of state a 5531
financial recovery plan that shall identify actions to be taken to 5532
eliminate all of the conditions described in section 118.022 of 5533
the Revised Code, include a schedule detailing the approximate 5534
dates for beginning and completing the actions, and include a 5535

five-year forecast reflecting the effects of the actions. The 5536
financial recovery plan is subject to review and approval by the 5537
auditor of state. The auditor of state may extend the amount of 5538
time by which a financial recovery plan is required to be filed, 5539
for good cause shown. 5540

(C) If a feasible financial recovery plan for a municipal 5541
corporation, county, or township for which a fiscal watch was 5542
declared is not submitted within the time period prescribed by 5543
division (B) of this section, or within any extension of time 5544
thereof, the auditor of state shall declare that a fiscal 5545
emergency condition exists under section 118.04 of the Revised 5546
Code in the municipal corporation, county, or township. 5547

Sec. 118.025. (A) The auditor of state shall develop 5548
guidelines for identifying fiscal practices and budgetary 5549
conditions of municipal corporations, counties, and townships 5550
that, if uncorrected, could result in a future declaration of a 5551
fiscal watch or fiscal emergency. 5552

(B) If the auditor of state determines that a municipal 5553
corporation, county, or township is engaging in any of those 5554
practices or that any of those conditions exist, the auditor of 5555
state may declare the municipal corporation, county, or township 5556
to be under a fiscal caution. 5557

(C) When the auditor of state declares a fiscal caution, the 5558
auditor of state shall promptly notify the municipal corporation, 5559
county, or township of that declaration and shall request the 5560
municipal corporation, county, or township to provide written 5561
proposals for discontinuing or correcting the fiscal practices or 5562
budgetary conditions that prompted the declaration and for 5563
preventing the municipal corporation, county, or township from 5564
experiencing further fiscal difficulties that could result in a 5565
declaration of fiscal watch or fiscal emergency. 5566

(D) The auditor of state, or a designee, may visit and 5567
inspect any municipal corporation, county, or township that is 5568
declared to be under a fiscal caution. The auditor of state may 5569
provide technical assistance to the municipal corporation, county, 5570
or township in implementing proposals to eliminate the practices 5571
or budgetary conditions that prompted the declaration of fiscal 5572
caution and may make recommendations concerning those proposals. 5573

(E) If the auditor of state finds that a municipal 5574
corporation, county, or township declared to be under a fiscal 5575
caution has not made reasonable proposals or otherwise taken 5576
action to discontinue or correct the fiscal practices or budgetary 5577
conditions that prompted the declaration of fiscal caution, and if 5578
the auditor of state considers it necessary to prevent further 5579
fiscal decline, the auditor of state may determine that the 5580
municipal corporation, county, or township should be in a state of 5581
fiscal watch. 5582

Sec. 118.04. (A) The existence of a fiscal emergency 5583
condition constitutes a fiscal emergency. The existence of fiscal 5584
emergency conditions shall be determined by the auditor of state. 5585
Such determination, for purposes of this chapter, may be made only 5586
upon the filing with the auditor of state of a written request for 5587
such a determination by the governor, by the county budget 5588
commission, by the mayor of the municipal corporation, or by the 5589
presiding officer of the legislative authority of the municipal 5590
corporation when authorized by a majority of the members of such 5591
legislative authority, by the board of county commissioners, or by 5592
the board of township trustees, or upon initiation by the auditor 5593
of state. The request may designate in general or specific terms, 5594
but without thereby limiting the determination thereto, the 5595
condition or conditions to be examined to determine whether they 5596
constitute fiscal emergency conditions. Promptly upon receipt of 5597
such written request, or upon initiation by the auditor of state, 5598

the auditor of state shall transmit copies of such request or a 5599
written notice of such initiation to the mayor and the presiding 5600
officer of the legislative authority of the municipal corporation 5601
or to the board of county commissioners or the board of township 5602
trustees by personal service or certified mail. Such 5603
determinations shall be set forth in written reports and 5604
supplemental reports, which shall be filed with the mayor, fiscal 5605
officer, and presiding officer of the legislative authority of the 5606
municipal corporation, or with the board of county commissioners 5607
or the board of township trustees, and with the treasurer of 5608
state, secretary of state, governor, director of budget and 5609
management, and county budget commission, within thirty days after 5610
the request. The auditor of state shall so file an initial report 5611
immediately upon determining the existence of any fiscal emergency 5612
condition. 5613

(B) In making such determination, the auditor of state may 5614
rely on reports or other information filed or otherwise made 5615
available by the municipal corporation, county, or township, 5616
accountants' reports, or other sources and data the auditor of 5617
state considers reliable for such purpose. As to the status of 5618
funds or accounts, a determination that the amounts stated in 5619
section 118.03 of the Revised Code are exceeded may be made 5620
without need for determination of the specific amount of the 5621
excess. The auditor of state may engage the services of 5622
independent certified or registered public accountants, including 5623
public accountants engaged or previously engaged by the municipal 5624
corporation, county, or township, to conduct audits or make 5625
reports or render such opinions as the auditor of state considers 5626
desirable with respect to any aspect of the determinations to be 5627
made by the auditor of state. 5628

(C) A determination by the auditor of state under this 5629
section that a fiscal emergency condition does not exist is final 5630

and conclusive and not appealable. A determination by the auditor 5631
of state under this section that a fiscal emergency exists is 5632
final, except that the mayor of any municipal corporation affected 5633
by a determination of the existence of a fiscal emergency 5634
condition under this section, when authorized by a majority of the 5635
members of the legislative authority, or the board of county 5636
commissioners or board of township trustees, may appeal the 5637
determination of the existence of a fiscal emergency condition to 5638
the court of appeals having territorial jurisdiction over the 5639
municipal corporation, county, or township. The appeal shall be 5640
heard expeditiously by the court of appeals and for good cause 5641
shown shall take precedence over all other civil matters except 5642
earlier matters of the same character. Notice of such appeal must 5643
be filed with the auditor of state and such court within thirty 5644
days after certification by the auditor of state to the mayor and 5645
presiding officer of the legislative authority of the municipal 5646
corporation or to the board of county commissioners or board of 5647
township trustees as provided for in division (A) of this section. 5648
In such appeal, determinations of the auditor of state shall be 5649
presumed to be valid and the municipal corporation, county, or 5650
township shall have the burden of proving, by clear and convincing 5651
evidence, that each of the determinations made by the auditor of 5652
state as to the existence of a fiscal emergency condition under 5653
section 118.03 of the Revised Code was in error. If the municipal 5654
corporation, county, or township fails, upon presentation of its 5655
case, to prove by clear and convincing evidence that each such 5656
determination by the auditor of state was in error, the court 5657
shall dismiss the appeal. The municipal corporation, county, or 5658
township and the auditor of state may introduce any evidence 5659
relevant to the existence or nonexistence of such fiscal emergency 5660
conditions at the times indicated in the applicable provisions of 5661
divisions (A) and (B) of section 118.03 of the Revised Code. The 5662
pendency of any such appeal shall not affect or impede the 5663

operations of this chapter; no restraining order, temporary 5664
injunction, or other similar restraint upon actions consistent 5665
with this chapter shall be imposed by the court or any court 5666
pending determination of such appeal; and all things may be done 5667
under this chapter that may be done regardless of the pendency of 5668
any such appeal. Any action taken or contract executed pursuant to 5669
this chapter during the pendency of such appeal is valid and 5670
enforceable among all parties, notwithstanding the decision in 5671
such appeal. If the court of appeals reverses the determination of 5672
the existence of a fiscal emergency condition by the auditor of 5673
state, the determination no longer has any effect, and any 5674
procedures undertaken as a result of the determination shall be 5675
terminated. 5676

(D) All expenses incurred by the auditor of state relating to 5677
a determination or termination of a fiscal emergency under this 5678
section ~~or~~, a fiscal watch under section 118.021 of the Revised 5679
Code, or a fiscal caution under section 118.025 of the Revised 5680
Code, including providing technical and support services, shall be 5681
reimbursed from an appropriation for that purpose. If necessary, 5682
the controlling board may provide sufficient funds for these 5683
purposes. 5684

Sec. 118.05. (A) Pursuant to the powers of the general 5685
assembly and for the purposes of this chapter, upon the occurrence 5686
of a fiscal emergency in any municipal corporation, county, or 5687
township, as determined pursuant to section 118.04 of the Revised 5688
Code, there is established, with respect to that municipal 5689
corporation, county, or township, a body both corporate and 5690
politic constituting an agency and instrumentality of the state 5691
and performing essential governmental functions of the state to be 5692
known as the "financial planning and supervision commission for 5693
..... (name of municipal corporation, county, or 5694
township)," which, in that name, may exercise all authority vested 5695

in such a commission by this chapter. A Except as otherwise 5696
provided in division (L) of this section, a separate commission is 5697
established with respect to each municipal corporation, county, or 5698
township as to which there is a fiscal emergency as determined 5699
under this chapter. 5700

(B) A commission shall consist of the following voting 5701
members: 5702

(1) Four ex officio members: the treasurer of state; the 5703
director of budget and management; in the case of a municipal 5704
corporation, the mayor of the municipal corporation and the 5705
presiding officer of the legislative authority of the municipal 5706
corporation; in the case of a county, the president of the board 5707
of county commissioners and the county auditor; and in the case of 5708
a township, a member of the board of township trustees and the 5709
county auditor. 5710

The treasurer of state may designate a deputy treasurer or 5711
director within the office of the treasurer of state or any other 5712
appropriate person who is not an employee of the treasurer of 5713
state's office; the director of budget and management may 5714
designate an individual within the office of budget and management 5715
or any other appropriate person who is not an employee of the 5716
office of budget and management; ~~the mayor may designate a~~ 5717
~~responsible official within the mayor's office or the fiscal~~ 5718
~~officer of the municipal corporation;~~ the presiding officer of the 5719
legislative authority of the municipal corporation may designate 5720
any other member of the legislative authority; the board of county 5721
commissioners may designate any other member of the board or the 5722
fiscal officer of the county; and the board of township trustees 5723
may designate any other member of the board or the fiscal officer 5724
of the township to attend the meetings of the commission when the 5725
ex officio member is absent or unable for any reason to attend. A 5726
designee, when present, shall be counted in determining whether a 5727

quorum is present at any meeting of the commission and may vote 5728
and participate in all proceedings and actions of the commission. 5729
The designations shall be in writing, executed by the ex officio 5730
member or entity making the designation, and filed with the 5731
secretary of the commission. The designations may be changed from 5732
time to time in like manner, but due regard shall be given to the 5733
need for continuity. 5734

(2) If a municipal corporation, county, or township has a 5735
population of at least one thousand, three members nominated and 5736
appointed as follows: 5737

The mayor and presiding officer of the legislative authority 5738
of the municipal corporation, the board of county commissioners, 5739
or the board of township trustees shall, within ten days after the 5740
determination of the fiscal emergency by the auditor of state 5741
under section 118.04 of the Revised Code, submit in writing to the 5742
governor the nomination of five persons agreed to by them and 5743
meeting the qualifications set forth in this division. If the 5744
governor is not satisfied that at least three of the nominees are 5745
well qualified, the governor shall notify the mayor and presiding 5746
officer, or the board of county commissioners, or the board of 5747
township trustees to submit in writing, within five days, 5748
additional nominees agreed upon by them, not exceeding three. The 5749
governor shall appoint three members from all the agreed-upon 5750
nominees so submitted or a lesser number that the governor 5751
considers well qualified within thirty days after receipt of the 5752
nominations, and shall fill any remaining positions on the 5753
commission by appointment of any other persons meeting the 5754
qualifications set forth in this division. All appointments by the 5755
governor shall be made with the advice and consent of the senate. 5756
Each of the three appointed members shall serve during the life of 5757
the commission, subject to removal by the governor for 5758
misfeasance, nonfeasance, or malfeasance in office. In the event 5759

of the death, resignation, incapacity, removal, or ineligibility 5760
to serve of an appointed member, the governor, pursuant to the 5761
process for original appointment, shall appoint a successor. 5762

~~(3) If a municipal corporation, county, or township has a 5763
population of less than one thousand, one member nominated and 5764
appointed as follows: 5765~~

~~The mayor and presiding officer of the legislative authority 5766
of the municipal corporation, the board of county commissioners, 5767
or the board of township trustees shall, within ten days after the 5768
determination of the fiscal emergency by the auditor of state 5769
under section 118.04 of the Revised Code, submit in writing to the 5770
governor the nomination of three persons agreed to by them and 5771
meeting the qualifications set forth in this division. If the 5772
governor is not satisfied that at least one of the nominees is 5773
well qualified, the governor shall notify the mayor and presiding 5774
officer, or the board of county commissioners, or the board of 5775
township trustees to submit in writing, within five days, 5776
additional nominees agreed upon by them, not exceeding three. The 5777
governor shall appoint one member from all the agreed upon 5778
nominees so submitted or shall fill the position on the commission 5779
by appointment of any other person meeting the qualifications set 5780
forth in this division. All appointments by the governor shall be 5781
made with the advice and consent of the senate. The appointed 5782
member shall serve during the life of the commission, subject to 5783
removal by the governor for misfeasance, nonfeasance, or 5784
malfeasance in office. In the event of the death, resignation, 5785
incapacity, removal, or ineligibility to serve of the appointed 5786
member, the governor, pursuant to the process for original 5787
appointment, shall appoint a successor. 5788~~

Each appointed member shall be an individual: 5789

(a) Who has knowledge and experience in financial matters, 5790
financial management, or business organization or operations; 5791

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

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

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

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

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

(F) Four members of a commission established pursuant to divisions (B)(1) and (2) of this section constitute a quorum of the commission. ~~The affirmative vote of a majority of the members of such a commission is necessary for any action taken by vote of the commission. Three members of a commission established pursuant to divisions (B)(1) and (3) of this section constitute a quorum of the commission.~~ The affirmative vote of a majority of the members

of ~~such a~~ the commission is necessary for any action taken by vote 5823
of the commission. No vacancy in the membership of the commission 5824
shall impair the rights of a quorum by such vote to exercise all 5825
the rights and perform all the duties of the commission. Members 5826
of the commission, and their designees, are not disqualified from 5827
voting by reason of the functions of the other office they hold 5828
and are not disqualified from exercising the functions of the 5829
other office with respect to the municipal corporation, county, or 5830
township, its officers, or the commission. 5831

(G) The auditor of state shall serve as the "financial 5832
supervisor" to the commission unless the auditor of state elects 5833
to contract for that service. As used in this chapter, "financial 5834
supervisor" means the auditor of state. 5835

(H) At the request of the commission, the auditor of state 5836
shall designate employees of the auditor of state's office to 5837
assist the commission and the financial supervisor and to 5838
coordinate the work of the auditor of state's office and the 5839
financial supervisor. Upon the determination of a fiscal emergency 5840
in any municipal corporation, county, or township, the municipal 5841
corporation, county, or township shall provide the commission with 5842
such reasonable office space in the principal building housing 5843
city, county, or township government, where feasible, as it 5844
determines is necessary to carry out its duties under this 5845
chapter. 5846

(I) The financial supervisor, the members of the commission, 5847
the auditor of state, and any person authorized to act on behalf 5848
of or assist them shall not be personally liable or subject to any 5849
suit, judgment, or claim for damages resulting from the exercise 5850
of or failure to exercise the powers, duties, and functions 5851
granted to them in regard to their functioning under this chapter, 5852
but the commission, the financial supervisor, the auditor of 5853
state, and those other persons shall be subject to mandamus 5854

proceedings to compel performance of their duties under this 5855
chapter and with respect to any debt obligations issued pursuant 5856
or subject to this chapter. 5857

(J) At the request of the commission, the administrative head 5858
of any state agency shall temporarily assign personnel skilled in 5859
accounting and budgeting procedures to assist the commission or 5860
the financial supervisor in its duties as financial supervisor. 5861

(K) The appointed members of the commission are not subject 5862
to section 102.02 of the Revised Code. Each appointed member of 5863
the commission shall file with the commission a signed written 5864
statement setting forth the general nature of sales of goods, 5865
property, or services or of loans to the municipal corporation, 5866
county, or township with respect to which that commission is 5867
established, in which the appointed member has a pecuniary 5868
interest or in which any member of the appointed member's 5869
immediate family, as defined in section 102.01 of the Revised 5870
Code, or any corporation, partnership, or enterprise of which the 5871
appointed member is an officer, director, or partner, or of which 5872
the appointed member or a member of the appointed member's 5873
immediate family, as so defined, owns more than a five per cent 5874
interest, has a pecuniary interest, and of which sale, loan, or 5875
interest such member has knowledge. The statement shall be 5876
supplemented from time to time to reflect changes in the general 5877
nature of any such sales or loans. 5878

(L) A commission is not established with respect to any 5879
village or township with a population of less than one thousand as 5880
of the most recent federal decennial census. Upon the occurrence 5881
of a fiscal emergency in such a village or township, the auditor 5882
of state shall serve as the financial supervisor of the village or 5883
township and shall have all the powers and responsibilities of a 5884
commission. 5885

Sec. 118.06. (A) Within one hundred twenty days after the 5886
first meeting of the commission, the mayor of the municipal 5887
corporation or the board of county commissioners or board of 5888
township trustees shall submit to the commission a detailed 5889
financial plan, as approved or amended and approved by ordinance 5890
or resolution of the legislative authority, containing the 5891
following: 5892

(1) Actions to be taken by the municipal corporation, county, 5893
or township to: 5894

(a) Eliminate all fiscal emergency conditions determined to 5895
exist pursuant to section 118.04 of the Revised Code; 5896

(b) Satisfy any judgments, past due accounts payable, and all 5897
past due and payable payroll and fringe benefits; 5898

(c) Eliminate the deficits in all deficit funds; 5899

(d) Restore to construction funds and other special funds 5900
moneys from such funds that were used for purposes not within the 5901
purposes of such funds, or borrowed from such construction funds 5902
by the purchase of debt obligations of the municipal corporation, 5903
county, or township with the moneys of such funds, or missing from 5904
the construction funds or such special funds and not accounted 5905
for; 5906

(e) Balance the budgets, avoid future deficits in any funds, 5907
and maintain current payments of payroll, fringe benefits, and all 5908
accounts; 5909

(f) Avoid any fiscal emergency condition in the future; 5910

(g) Restore the ability of the municipal corporation, county, 5911
or township to market long-term general obligation bonds under 5912
provisions of law applicable to municipal corporations, counties, 5913
or townships generally. 5914

(2) The legal authorities permitting the municipal 5915

corporation, county, or township to take the actions enumerated 5916
pursuant to division (A)(1) of this section; 5917

(3) The approximate dates of the commencement, progress upon, 5918
and completion of the actions enumerated pursuant to division 5919
(A)(1) of this section, a five-year forecast reflecting the 5920
effects of those actions, and a reasonable period of time expected 5921
to be required to implement the plan. The municipal corporation, 5922
county, or township, in consultation with the commission and the 5923
financial supervisor, shall prepare a reasonable time schedule for 5924
progress toward and achievement of the requirements for the 5925
financial plan and the financial plan shall be consistent with 5926
that time schedule. 5927

(4) The amount and purpose of any issue of debt obligations 5928
that will be issued, together with assurances that any such debt 5929
obligations that will be issued will not exceed debt limits 5930
supported by appropriate certifications by the fiscal officer of 5931
the municipal corporation, county, or township and the county 5932
auditor; 5933

(5) Assurances that the municipal corporation, county, or 5934
township will establish monthly levels of expenditures and 5935
encumbrances pursuant to division (B)(2) of section 118.07 of the 5936
Revised Code; 5937

(6) Assurances that the municipal corporation, county, or 5938
township will conform to statutes with respect to tax budgets and 5939
appropriation measures; 5940

(7) The detail, the form, and the supporting information that 5941
the commission may direct. 5942

(B) The financial plan developed pursuant to division (A) of 5943
this section shall be filed with the financial supervisor and the 5944
financial planning and supervision commission and shall be updated 5945
annually. After consultation with the financial supervisor, the 5946

commission shall either approve or reject any initial or 5947
subsequent financial plan. If the commission rejects the initial 5948
or any subsequent financial plan, it shall forthwith inform the 5949
mayor and legislative authority of the municipal corporation or 5950
the board of county commissioners or board of township trustees of 5951
the reasons for its rejection. Within thirty days after the 5952
rejection of any plan, the mayor with the approval of the 5953
legislative authority by the passage of an ordinance or 5954
resolution, or the board of county commissioners or board of 5955
township trustees, shall submit another plan meeting the 5956
requirements of divisions (A)(1) to (7) of this section, to the 5957
commission and the financial supervisor for approval or rejection 5958
by the commission. 5959

(C) Any initial or subsequent financial plan passed by the 5960
municipal corporation, county, or township shall be approved by 5961
the commission if it complies with divisions (A)(1) to (7) of this 5962
section, and if the commission finds that the plan is bona fide 5963
and can reasonably be expected to be implemented within the period 5964
specified in the plan. 5965

(D) Any financial plan may be amended subsequent to its 5966
adoption in the same manner as the passage and approval of the 5967
initial or subsequent plan pursuant to divisions (A) to (C) of 5968
this section. 5969

(E) If a municipal corporation, county, or township fails to 5970
submit a financial plan as required by this section, or fails to 5971
substantially comply with an approved financial plan, upon 5972
certification of the commission, all state funding for that 5973
municipal corporation, county, or township other than benefit 5974
assistance to individuals shall be escrowed until a feasible plan 5975
is submitted and approved or substantial compliance with the plan 5976
is achieved, as the case may be. 5977

Sec. 118.12. (A) After the date by which the municipal 5978
corporation, county, or township is required to submit a financial 5979
plan or segment of a financial plan to the financial planning and 5980
supervision commission, if the municipal corporation, county, or 5981
township has failed to submit a financial plan or segment as 5982
required by this chapter, expenditures from the general fund of 5983
the municipal corporation, county, or township in any month may 5984
not exceed eighty-five per cent of expenditures from the general 5985
fund for such month in the preceding fiscal year, except the 5986
commission may authorize a higher per cent for any month upon 5987
justification of need by the municipal corporation, county, or 5988
township. If considered prudent by the commission, expenditures 5989
from any other fund of the municipal corporation, county, or 5990
township also may be limited. 5991

(B) After submission of a proposed financial plan by the 5992
municipal corporation, county, or township to the commission, 5993
until approval or disapproval no expenditure may be made contrary 5994
to such proposed financial plan. 5995

(C) After disapproval by the commission of a proposed 5996
financial plan, no expenditure may be made by the municipal 5997
corporation, county, or township inconsistent with the reasons for 5998
disapproval given pursuant to division (B) of section 118.06 of 5999
the Revised Code; and if the municipal corporation, county, or 6000
township fails to submit a revised financial plan within the time 6001
required, the expenditure limits of division (A) of this section 6002
are applicable. 6003

(D) After approval of a financial plan, or any amendment 6004
thereof, no expenditure may be made contrary to the approved 6005
financial plan, or amendment thereof, without the advance approval 6006
of the financial supervisor. The commission, by a majority vote, 6007
may overrule the decision of the financial supervisor. 6008

Sec. 118.17. (A) During a fiscal emergency period and with 6009
the approval of the financial planning and supervision commission, 6010
a municipal corporation, county, or township may issue local 6011
government fund notes, in anticipation of amounts to be allocated 6012
to it pursuant to division (B) of section 5747.50 of the Revised 6013
Code or to be apportioned to it under section 5747.51 or 5747.53 6014
of the Revised Code in a future year or years, for a period of no 6015
more than eight calendar years. The principal amount of the notes 6016
and interest on the notes due and payable in any year shall not 6017
exceed fifty per cent of the total amount of local government fund 6018
moneys so allocated or apportioned to the municipal corporation, 6019
county, or township for the year preceding the year in which the 6020
notes are issued. The notes may mature in semiannual or annual 6021
installments in such amounts as may be fixed by the commission, 6022
and need not mature in substantially equal semiannual or annual 6023
installments. The notes of a municipal corporation may be 6024
authorized and issued, subject to the approval of the commission, 6025
in the manner provided in sections 717.15 and 717.16 of the 6026
Revised Code, except that, notwithstanding division (A)(2) of 6027
section 717.16 of the Revised Code, the rate or rates of interest 6028
payable on the notes shall be the prevailing market rate or rates 6029
as determined and approved by the commission, and except that they 6030
shall not be issued in anticipation of bonds, shall not constitute 6031
general obligations of the municipal corporation, and shall not 6032
pledge the full faith and credit of the municipal corporation. 6033

(B) The principal and interest on the notes provided for in 6034
this section shall be payable, as provided in this section, solely 6035
from the portion of the local government fund that would otherwise 6036
be apportioned to the municipal corporation, county, or township 6037
and shall not be payable from or constitute a pledge of or claim 6038
upon, or require the levy, collection, or application of, any 6039
unvoted ad valorem property taxes or other taxes, or in any manner 6040

occupy any portion of the indirect debt limit. 6041

(C) Local government fund notes may be issued only to the 6042
extent needed to achieve one or more of the following objectives 6043
of the financial plan: 6044

(1) Satisfying any contractual or noncontractual judgments, 6045
past due accounts payable, and all past due and payable payroll 6046
and fringe benefits to be taken into account under section 118.03 6047
of the Revised Code; 6048

(2) Restoring to construction funds or other restricted funds 6049
any money applied from such funds to uses not within the purposes 6050
of such funds and which could not be transferred to such use under 6051
section 5705.14 of the Revised Code; 6052

(3) Eliminating deficit balances in all deficit funds, 6053
including funds that may be used to pay operating expenses. 6054

In addition to the objectives set forth in divisions (C)(1) 6055
to (3) of this section, local government fund notes may be issued 6056
and the proceeds of those notes may be used for the purpose of 6057
retiring or replacing other moneys used to retire current revenue 6058
notes issued pursuant to section 118.23 of the Revised Code to the 6059
extent that the proceeds of the current revenue notes have been or 6060
are to be used directly or to replace other moneys used to achieve 6061
one or more of the objectives of the financial plan specified in 6062
divisions (C)(1) to (3) of this section. Upon authorization of the 6063
local government fund notes by the legislative authority of the 6064
municipal corporation, county, or township, the proceeds of the 6065
local government fund notes and the proceeds of any such current 6066
revenue notes shall be deemed to be appropriated, to the extent 6067
that the proceeds have been or are to be so used, for the purposes 6068
for which the revenues anticipated by any such current revenue 6069
notes are collected and appropriated within the meaning of section 6070
133.10 of the Revised Code. 6071

(D) The need for an issue of local government fund notes for 6072
such purposes shall be determined by taking into consideration 6073
other money and sources of moneys available therefor under this 6074
chapter or other provisions of law, and calculating the respective 6075
amounts needed therefor in accordance with section 118.03 of the 6076
Revised Code, including the deductions or offsets therein 6077
provided, for determining that a fiscal emergency condition 6078
exists, and by eliminating any duplication of amounts thereunder. 6079
The respective amounts needed to achieve such objectives and the 6080
resulting aggregate net amount shall be determined initially by a 6081
certification of the fiscal officer as and to the extent approved 6082
by the financial supervisor. The principal amount of such notes 6083
shall not exceed the aggregate net amount needed for such 6084
purposes. The aggregate amount of all issues of such notes shall 6085
not exceed three times the average of the allocation or 6086
apportionment to the municipal corporation, county, or township of 6087
moneys from the local government fund in each of the three fiscal 6088
years preceding the fiscal year in which the notes are issued. 6089

(E) The proceeds of the sale of local government fund notes 6090
shall be appropriated by the municipal corporation, county, or 6091
township for and shall be applied only to the purposes, and in the 6092
respective amounts for those purposes, set forth in the 6093
certification given pursuant to division (D) of this section, as 6094
the purposes and amounts may be modified in the approval by the 6095
commission provided for in this section. The proceeds shall be 6096
deposited in separate accounts with a fiscal agent designated in 6097
the resolution referred to in division (F) of this section and 6098
released only for such respective purposes in accordance with the 6099
procedures set forth in division (D) of section 118.20 of the 6100
Revised Code. Any amounts not needed for such purposes shall be 6101
deposited with the fiscal agent designated to receive deposits for 6102
payment of the principal of and interest due on the notes. 6103

(F) An application for approval by the financial planning and supervision commission of an issue of local government fund notes shall be authorized by a preliminary resolution adopted by the legislative authority. The resolution may authorize the application as a part of the initial submission of the financial plan for approval or as a part of any proposed amendment to an approved financial plan or at any time after the approval of a financial plan, or amendment to a financial plan, that proposes the issue of such notes. The preliminary resolution shall designate a fiscal agent for the deposit of the proceeds of the sale of the notes, and shall contain a covenant of the municipal corporation, county, or township to comply with this chapter and the financial plan.

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

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

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

(G) Upon the sale of any local government fund notes issued under this section, the commission shall determine a schedule for the deposit of local government fund distributions that are pledged for the payment of the principal of and interest on the

notes with the fiscal agent or trustee designated in the agreement 6136
between the municipal corporation, county, or township and the 6137
holders of the notes to receive and disburse the distributions. 6138
The amounts to be deposited shall be adequate to provide for the 6139
payment of principal and interest on the notes when due and to pay 6140
all other proper charges, costs, or expenses pertaining thereto. 6141

The amount of the local government fund moneys apportioned to 6142
the municipal corporation, county, or township that is to be so 6143
deposited in each year shall not be included in the tax budget and 6144
appropriation measures of the municipal corporation, county, or 6145
township, or in certificates of estimated revenues, for that year. 6146

The commission shall certify the schedule to the officers 6147
designated in division (F) of this section. 6148

(H) Deposit of amounts with the fiscal agent or trustee 6149
pursuant to the schedule determined by the commission shall be 6150
made from local government fund distributions to or apportioned to 6151
the municipal corporation, county, or township as provided in this 6152
division. The apportionment of local government fund moneys to the 6153
municipal corporation, county, or township for any year from the 6154
undivided local government fund shall be determined as to the 6155
municipal corporation, county, or township without regard to the 6156
amounts to be deposited with the fiscal agent or trustee in that 6157
year in accordance with division (G) of this section. After the 6158
amount of the undivided local government fund apportioned to the 6159
municipal corporation, county, or township for a calendar year is 6160
determined, the county auditor and the county treasurer shall 6161
withhold from each monthly amount to be distributed to the 6162
municipal corporation, county, or township from the undivided 6163
local government fund, and transmit to the fiscal agent or trustee 6164
for deposit, one-twelfth of the amount scheduled for deposit in 6165
that year pursuant to division (G) of this section. 6166

(I) If the commission approves the application, the municipal 6167

corporation, county, or township may proceed with the issuance of 6168
the notes as approved by the commission. 6169

All notes issued under authority of this section are lawful 6170
investments for the entities enumerated in division (A)(1) of 6171
section 133.03 of the Revised Code and are eligible as security 6172
for the repayment of the deposit of public moneys. 6173

Upon the issuance of any notes under this section, the fiscal 6174
officer of the municipal corporation, county, or township shall 6175
certify the fact of the issuance to the county auditor and shall 6176
also certify to the county auditor the last calendar year in which 6177
any of the notes are scheduled to mature. 6178

(J) After the legislative authority of the municipal 6179
corporation, county, or township has passed an ordinance or 6180
resolution authorizing the issuance of local government fund notes 6181
and subsequent to the commission's preliminary or final approval 6182
of the ordinance or resolution, the director of law, prosecuting 6183
attorney, or other chief legal officer of the municipal 6184
corporation, county, or township shall certify a sample of the 6185
form and content of a note to be used to issue the local 6186
government fund notes to the commission. The commission shall 6187
determine whether the sample note is consistent with this section 6188
and the ordinance or resolution authorizing the issuance of the 6189
local government fund notes, and if the sample note is found to be 6190
consistent with this section and the ordinance, the commission 6191
shall approve the sample note for use by the municipal 6192
corporation, county, or township. The form and content of the 6193
notes to be used by the municipal corporation, county, or township 6194
in issuing the local government fund notes may be modified at any 6195
time subsequent to the commission's approval of the sample note 6196
upon the approval of the commission and the director of law, 6197
prosecuting attorney, or other chief legal officer of the 6198
municipal corporation, county, or township. The failure of the 6199

director of law, prosecuting attorney, or other chief legal 6200
officer of the municipal corporation, county, or township to make 6201
the certification required by this division shall not subject that 6202
legal officer to removal pursuant to the Revised Code or the 6203
charter of a municipal corporation. If the director of law, 6204
prosecuting attorney, or other chief legal officer fails or 6205
refuses to make the certification required by this division, or if 6206
any officer of the municipal corporation, county, or township 6207
fails or refuses to take any action required by this section or 6208
the ordinance or resolution authorizing the issuance or sale of 6209
local government fund notes, the mayor of the municipal 6210
corporation or the board of county commissioners or board of 6211
township trustees may cause the commencement of a mandamus action 6212
in the supreme court against the director of law, prosecuting 6213
attorney, or other chief legal officer to secure the certification 6214
required by this division or other action required by this section 6215
or the ordinance or resolution. If an adjudication of the matters 6216
that could be adjudicated in validation proceedings under section 6217
133.70 of the Revised Code is necessary to a determination of the 6218
mandamus action, the mayor, the board of county commissioners, or 6219
the board of township trustees or the mayor's or board's legal 6220
counsel shall name and cause to be served as defendants to the 6221
mandamus action all of the following: 6222

(1) The director of law, prosecuting attorney, or other chief 6223
legal officer, or other official of the municipal corporation, 6224
county, or township, whose failure or refusal to act necessitated 6225
the action; 6226

(2) The municipal corporation, through its mayor, or the 6227
board of county commissioners or board of township trustees; 6228

(3) The financial planning and supervision commission, 6229
through its chairperson; 6230

(4) The prosecuting attorney and auditor of each county in 6231

which the municipal corporation, county, or township is located, 6232
in whole or in part; 6233

(5) The auditor of state; 6234

(6) The property owners, taxpayers, citizens of the municipal 6235
corporation, county, or township and others having or claiming any 6236
right, title, or interest in any property or funds to be affected 6237
by the issuance of the local government fund notes by the 6238
municipal corporation, county, or township, or otherwise affected 6239
in any way thereby. 6240

Service upon all defendants described in division (J)(6) of 6241
this section shall be either by publication three times, with at 6242
least six days between each publication, in a newspaper of general 6243
circulation in Franklin county and a newspaper of general 6244
circulation in the county or counties where the municipal 6245
corporation, county, or township is located, or by publication in 6246
both such newspapers as provided in section 7.16 of the Revised 6247
Code. The publication and the notice shall indicate that the 6248
nature of the action is in mandamus, the name of the parties to 6249
the action, and that the action may result in the validation of 6250
the subject local government fund notes. Authorization to commence 6251
such an action by the legislative authority of the municipal 6252
corporation, county, or township is not required. 6253

A copy of the complaint in the mandamus action shall be 6254
served personally or by certified mail upon the attorney general. 6255
If the attorney general has reason to believe that the complaint 6256
is defective, insufficient, or untrue, or if in the attorney 6257
general's opinion the issuance of the local government fund notes 6258
is not lawful or has not been duly authorized, defense shall be 6259
made to the complaint as the attorney general considers proper. 6260

(K) The action in mandamus authorized by division (J) of this 6261
section shall take priority over all other civil cases pending in 6262

the court, except habeas corpus, and shall be determined with the
least possible delay. The supreme court may determine that the
local government fund notes will be consistent with the purpose
and effects, including not occupying the indirect debt limit,
provided for in this section and will be validly issued and
acquired. Such a determination shall include a finding of
validation of the subject local government fund notes if the court
specifically finds that:

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

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

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

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

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

(M) Divisions (J) and (K) of this section do not prevent a
municipal corporation, county, or township from using section
133.70 of the Revised Code to validate local government fund notes

by the filing of a petition for validation in the court of common 6294
pleas of the county in which the municipal corporation, county, or 6295
township is located, in whole or in part. 6296

(N) It is hereby determined by the general assembly that a 6297
validation action authorized by section 133.70 of the Revised Code 6298
is not an adequate remedy at law with respect to a municipal 6299
corporation, county, or township that is a party to a mandamus 6300
action pursuant to divisions (J) and (K) of this section and in 6301
which a fiscal emergency condition has been determined to exist 6302
pursuant to section 118.04 of the Revised Code because of, but not 6303
limited to, the following reasons: 6304

(1) It is urgently necessary for such a municipal 6305
corporation, county, or township to take prompt action to issue 6306
local government fund notes for the purposes provided in division 6307
(C) of this section; 6308

(2) The potentially ruinous effect upon the fiscal condition 6309
of a municipal corporation, county, or township by the passage of 6310
the time required to adjudicate such a separate validation action 6311
and any appeals thereof; 6312

(3) The reasons stated in division (K)(4) of this section. 6313

Sec. 118.31. (A) Upon petition of the financial supervisor 6314
and approval of the financial planning and supervision commission, 6315
if any, the attorney general shall file a court action to dissolve 6316
a municipal corporation or township if all of the following 6317
conditions apply: 6318

(1) The municipal corporation or township has a population of 6319
less than five thousand as of the most recent federal decennial 6320
census. 6321

(2) The municipal corporation or township has been under a 6322
fiscal emergency for at least four consecutive years. 6323

(3) Implementation of the financial plan of the municipal corporation or township required under this chapter cannot reasonably be expected to correct and eliminate all fiscal emergency conditions within five years. 6324
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(B) If the court finds that all of the conditions described in division (A) of this section apply to the municipal corporation or township, it shall appoint a receiver. The receiver, under court supervision, shall work with executive and legislative officers of the municipal corporation or township to wind up the affairs of and dissolve the municipal corporation in accordance with section 703.21 of the Revised Code or the township in accordance with the process in section 503.02 and sections 503.17 to 503.21 of the Revised Code. 6328
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Sec. 118.99. (A) During the fiscal emergency period, no officer or employee of the municipal corporation, county, or township shall do any of the following: 6337
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(1) Knowingly enter into any contract, financial obligation, or other liability of the municipal corporation, county, or township involving an expenditure, or make any expenditure in excess of the amount permitted by section 118.12 of the Revised Code; 6340
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(2) Knowingly enter into any contract, financial obligation, or other liability of the municipal corporation, county, or township, or knowingly execute or deliver debt obligations, or transfer, advance, or borrow moneys from one fund of the municipal corporation, county, or township to or for any other fund of the municipal corporation, county, or township where any of such actions are required to be approved by the financial planning and supervision commission unless such actions have been so approved or deemed to be approved as provided in or pursuant to this chapter; 6345
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(3) Knowingly fail or refuse to take any of the actions 6355
required by this chapter for the preparation or amendment of the 6356
financial plan, or knowingly prepare, present, or certify any 6357
information or report for the commission or any of its employees, 6358
advisory committees, task forces, or agents that is false or 6359
misleading or which is recklessly prepared or presented without 6360
due care for its accuracy, or, upon learning that any such 6361
information is false or misleading, or was recklessly prepared or 6362
presented, knowingly fail promptly to advise the commission, or 6363
the employee, advisory committee, task force, or agent to whom 6364
such information was given, of that fact; 6365

(4) Knowingly use or cause to be used moneys of a 6366
construction fund for purposes other than the lawful purposes of 6367
the construction fund, or knowingly use or cause to be used moneys 6368
of a fund created under this chapter for the payment of principal 6369
and interest on debt obligations, or a bond retirement fund, or 6370
sinking fund for other than the payment of the principal of and 6371
interest on debt obligations or other authorized costs or payments 6372
from such funds, or knowingly fail to perform the duty of such 6373
officer or employee to cause the prompt deposit of moneys to any 6374
of the funds referred to in this division. 6375

(B) The prohibitions set forth in division (A) of this 6376
section are in addition to any other prohibitions provided by law 6377
for a municipal corporation, county, or township, or by or 6378
pursuant to a municipal charter. 6379

(C) In addition to any other penalty or liability provided by 6380
law for a municipal corporation, county, or township, or by or 6381
pursuant to a municipal charter, a violation of division (A)(1), 6382
(2), (3), or (4) of this section is a misdemeanor of the second 6383
degree. Upon conviction of any officer or employee of a municipal 6384
corporation, county, or township for any violation under division 6385
(A)(1), (2), (3), or (4) of this section, such officer or employee 6386

shall forfeit office or employment. For the seven-year period 6387
immediately following the date of conviction, such officer shall 6388
also be ineligible to hold any public office or other position of 6389
trust in this state or be employed by any public entity in this 6390
state. 6391

Sec. 120.40. (A) The pay ranges established by the board of 6392
county commissioners for the county public defender ~~and staff~~, and 6393
those established by the joint board of county commissioners for 6394
the joint county public defender ~~and staff~~, shall not exceed the 6395
pay ranges assigned under section ~~124.14~~ 325.11 of the Revised 6396
Code for ~~comparable positions of the Ohio public defender and~~ 6397
~~staff~~ county prosecutors. 6398

(B) The pay ranges established by the board of county 6399
commissioners for the staff of the county public defender and 6400
those established by the joint board of county commissioners for 6401
the staff of the joint county public defender shall not exceed the 6402
pay ranges assigned under section 124.14 of the Revised Code for 6403
comparable positions of the staff of the Ohio public defender. 6404

Sec. 121.03. The following administrative department heads 6405
shall be appointed by the governor, with the advice and consent of 6406
the senate, and shall hold their offices during the term of the 6407
appointing governor, and are subject to removal at the pleasure of 6408
the governor. 6409

(A) The director of budget and management; 6410

(B) The director of commerce; 6411

(C) The director of transportation; 6412

(D) The director of agriculture; 6413

(E) The director of job and family services; 6414

(F) Until July 1, 1997, the director of liquor control; 6415

(G) The director of public safety;	6416
(H) The superintendent of insurance;	6417
(I) The director of development;	6418
(J) The tax commissioner;	6419
(K) The director of administrative services;	6420
(L) The director of natural resources;	6421
(M) The director of mental health;	6422
(N) The director of developmental disabilities;	6423
(O) The director of health;	6424
(P) The director of youth services;	6425
(Q) The director of rehabilitation and correction;	6426
(R) The director of environmental protection;	6427
(S) The director of aging;	6428
(T) The director of alcohol and drug addiction services;	6429
(U) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code;	6430 6431 6432
(V) The director of veterans services who meets the qualifications required under section 5902.01 of the Revised Code;	6433 6434
<u>(W) The chancellor of the Ohio board of regents.</u>	6435
Sec. 121.04. Offices are created within the several departments as follows:	6436 6437
In the department of commerce:	6438
Commissioner of securities;	6439
Superintendent of real estate and professional licensing;	6440
Superintendent of financial institutions;	6441

State fire marshal;	6442
Superintendent of labor;	6443
Superintendent of liquor control;	6444
Superintendent of unclaimed funds.	6445
In the department of administrative services:	6446
State architect and engineer;	6447
Equal employment opportunity coordinator.	6448
In the department of agriculture:	6449
Chiefs of divisions as follows:	6450
Administration;	6451
Animal industry;	6452
Dairy;	6453
Food safety;	6454
Plant industry;	6455
Markets;	6456
Meat inspection;	6457
Consumer analytical laboratory;	6458
Amusement ride safety;	6459
Enforcement;	6460
Weights and measures.	6461
In the department of natural resources:	6462
Chiefs of divisions as follows:	6463
	6464
Mineral resources management;	6465
<u>Oil and gas resources management;</u>	6466
Forestry;	6467
Natural areas and preserves;	6468
Wildlife;	6469
Geological survey;	6470
Parks and recreation;	6471
Watercraft;	6472

Recycling and litter prevention;	6473
Soil and water resources;	6474
Engineering.	6475
In the department of insurance:	6476
Deputy superintendent of insurance;	6477
Assistant superintendent of insurance, technical;	6478
Assistant superintendent of insurance, administrative;	6479
Assistant superintendent of insurance, research.	6480
Sec. 121.22. (A) This section shall be liberally construed to	6481
require public officials to take official action and to conduct	6482
all deliberations upon official business only in open meetings	6483
unless the subject matter is specifically excepted by law.	6484
(B) As used in this section:	6485
(1) "Public body" means any of the following:	6486
(a) Any board, commission, committee, council, or similar	6487
decision-making body of a state agency, institution, or authority,	6488
and any legislative authority or board, commission, committee,	6489
council, agency, authority, or similar decision-making body of any	6490
county, township, municipal corporation, school district, or other	6491
political subdivision or local public institution;	6492
(b) Any committee or subcommittee of a body described in	6493
division (B)(1)(a) of this section;	6494
(c) A court of jurisdiction of a sanitary district organized	6495
wholly for the purpose of providing a water supply for domestic,	6496
municipal, and public use when meeting for the purpose of the	6497
appointment, removal, or reappointment of a member of the board of	6498
directors of such a district pursuant to section 6115.10 of the	6499
Revised Code, if applicable, or for any other matter related to	6500
such a district other than litigation involving the district. As	6501
used in division (B)(1)(c) of this section, "court of	6502

jurisdiction" has the same meaning as "court" in section 6115.01 6503
of the Revised Code. 6504

(2) "Meeting" means any prearranged discussion of the public 6505
business of the public body by a majority of its members. 6506

(3) "Regulated individual" means either of the following: 6507

(a) A student in a state or local public educational 6508
institution; 6509

(b) A person who is, voluntarily or involuntarily, an inmate, 6510
patient, or resident of a state or local institution because of 6511
criminal behavior, mental illness or retardation, disease, 6512
disability, age, or other condition requiring custodial care. 6513

(4) "Public office" has the same meaning as in section 6514
149.011 of the Revised Code. 6515

(C) All meetings of any public body are declared to be public 6516
meetings open to the public at all times. A member of a public 6517
body shall be present in person at a meeting open to the public to 6518
be considered present or to vote at the meeting and for purposes 6519
of determining whether a quorum is present at the meeting. 6520

The minutes of a regular or special meeting of any public 6521
body shall be promptly prepared, filed, and maintained and shall 6522
be open to public inspection. The minutes need only reflect the 6523
general subject matter of discussions in executive sessions 6524
authorized under division (G) or (J) of this section. 6525

(D) This section does not apply to any of the following: 6526

(1) A grand jury; 6527

(2) An audit conference conducted by the auditor of state or 6528
independent certified public accountants with officials of the 6529
public office that is the subject of the audit; 6530

(3) The adult parole authority when its hearings are 6531
conducted at a correctional institution for the sole purpose of 6532

interviewing inmates to determine parole or pardon;	6533
(4) The organized crime investigations commission established under section 177.01 of the Revised Code;	6534 6535
(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;	6536 6537 6538
(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;	6539 6540 6541
(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;	6542 6543 6544
(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;	6545 6546 6547
(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code;	6548 6549 6550
(10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code;	6551 6552 6553 6554
(11) The board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code or any committee thereof, and the board of directors of any subsidiary of that corporation or a committee thereof;	6555 6556 6557 6558
<u>(12) An audit conference conducted by the audit staff of the department of job and family services with officials of the public office that is the subject of that audit under section 5101.37 of the Revised Code.</u>	6559 6560 6561 6562

(E) The controlling board, the development financing advisory 6563
council, the industrial technology and enterprise advisory 6564
council, the tax credit authority, or the minority development 6565
financing advisory board, when meeting to consider granting 6566
assistance pursuant to Chapter 122. or 166. of the Revised Code, 6567
in order to protect the interest of the applicant or the possible 6568
investment of public funds, by unanimous vote of all board, 6569
council, or authority members present, may close the meeting 6570
during consideration of the following information confidentially 6571
received by the authority, council, or board from the applicant: 6572

(1) Marketing plans; 6573

(2) Specific business strategy; 6574

(3) Production techniques and trade secrets; 6575

(4) Financial projections; 6576

(5) Personal financial statements of the applicant or members 6577
of the applicant's immediate family, including, but not limited 6578
to, tax records or other similar information not open to public 6579
inspection. 6580

The vote by the authority, council, or board to accept or 6581
reject the application, as well as all proceedings of the 6582
authority, council, or board not subject to this division, shall 6583
be open to the public and governed by this section. 6584

(F) Every public body, by rule, shall establish a reasonable 6585
method whereby any person may determine the time and place of all 6586
regularly scheduled meetings and the time, place, and purpose of 6587
all special meetings. A public body shall not hold a special 6588
meeting unless it gives at least twenty-four hours' advance notice 6589
to the news media that have requested notification, except in the 6590
event of an emergency requiring immediate official action. In the 6591
event of an emergency, the member or members calling the meeting 6592
shall notify the news media that have requested notification 6593

immediately of the time, place, and purpose of the meeting. 6594

The rule shall provide that any person, upon request and 6595
payment of a reasonable fee, may obtain reasonable advance 6596
notification of all meetings at which any specific type of public 6597
business is to be discussed. Provisions for advance notification 6598
may include, but are not limited to, mailing the agenda of 6599
meetings to all subscribers on a mailing list or mailing notices 6600
in self-addressed, stamped envelopes provided by the person. 6601

(G) Except as provided in division (J) of this section, the 6602
members of a public body may hold an executive session only after 6603
a majority of a quorum of the public body determines, by a roll 6604
call vote, to hold an executive session and only at a regular or 6605
special meeting for the sole purpose of the consideration of any 6606
of the following matters: 6607

(1) To consider the appointment, employment, dismissal, 6608
discipline, promotion, demotion, or compensation of a public 6609
employee or official, or the investigation of charges or 6610
complaints against a public employee, official, licensee, or 6611
regulated individual, unless the public employee, official, 6612
licensee, or regulated individual requests a public hearing. 6613
Except as otherwise provided by law, no public body shall hold an 6614
executive session for the discipline of an elected official for 6615
conduct related to the performance of the elected official's 6616
official duties or for the elected official's removal from office. 6617
If a public body holds an executive session pursuant to division 6618
(G)(1) of this section, the motion and vote to hold that executive 6619
session shall state which one or more of the approved purposes 6620
listed in division (G)(1) of this section are the purposes for 6621
which the executive session is to be held, but need not include 6622
the name of any person to be considered at the meeting. 6623

(2) To consider the purchase of property for public purposes, 6624
or for the sale of property at competitive bidding, if premature 6625

disclosure of information would give an unfair competitive or 6626
bargaining advantage to a person whose personal, private interest 6627
is adverse to the general public interest. No member of a public 6628
body shall use division (G)(2) of this section as a subterfuge for 6629
providing covert information to prospective buyers or sellers. A 6630
purchase or sale of public property is void if the seller or buyer 6631
of the public property has received covert information from a 6632
member of a public body that has not been disclosed to the general 6633
public in sufficient time for other prospective buyers and sellers 6634
to prepare and submit offers. 6635

If the minutes of the public body show that all meetings and 6636
deliberations of the public body have been conducted in compliance 6637
with this section, any instrument executed by the public body 6638
purporting to convey, lease, or otherwise dispose of any right, 6639
title, or interest in any public property shall be conclusively 6640
presumed to have been executed in compliance with this section 6641
insofar as title or other interest of any bona fide purchasers, 6642
lessees, or transferees of the property is concerned. 6643

(3) Conferences with an attorney for the public body 6644
concerning disputes involving the public body that are the subject 6645
of pending or imminent court action; 6646

(4) Preparing for, conducting, or reviewing negotiations or 6647
bargaining sessions with public employees concerning their 6648
compensation or other terms and conditions of their employment; 6649

(5) Matters required to be kept confidential by federal law 6650
or regulations or state statutes; 6651

(6) Details relative to the security arrangements and 6652
emergency response protocols for a public body or a public office, 6653
if disclosure of the matters discussed could reasonably be 6654
expected to jeopardize the security of the public body or public 6655
office; 6656

(7) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, a joint township hospital operated pursuant to Chapter 513. of the Revised Code, or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, to consider trade secrets, as defined in section 1333.61 of the Revised Code.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (7) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.

A public body specified in division (B)(1)(c) of this section shall not hold an executive session when meeting for the purposes specified in that division.

(H) A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule, or formal action violated division (F) of this section.

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

(2)(a) If the court of common pleas issues an injunction 6688
pursuant to division (I)(1) of this section, the court shall order 6689
the public body that it enjoins to pay a civil forfeiture of five 6690
hundred dollars to the party that sought the injunction and shall 6691
award to that party all court costs and, subject to reduction as 6692
described in division (I)(2) of this section, reasonable 6693
attorney's fees. The court, in its discretion, may reduce an award 6694
of attorney's fees to the party that sought the injunction or not 6695
award attorney's fees to that party if the court determines both 6696
of the following: 6697

(i) That, based on the ordinary application of statutory law 6698
and case law as it existed at the time of violation or threatened 6699
violation that was the basis of the injunction, a well-informed 6700
public body reasonably would believe that the public body was not 6701
violating or threatening to violate this section; 6702

(ii) That a well-informed public body reasonably would 6703
believe that the conduct or threatened conduct that was the basis 6704
of the injunction would serve the public policy that underlies the 6705
authority that is asserted as permitting that conduct or 6706
threatened conduct. 6707

(b) If the court of common pleas does not issue an injunction 6708
pursuant to division (I)(1) of this section and the court 6709
determines at that time that the bringing of the action was 6710
frivolous conduct, as defined in division (A) of section 2323.51 6711
of the Revised Code, the court shall award to the public body all 6712
court costs and reasonable attorney's fees, as determined by the 6713
court. 6714

(3) Irreparable harm and prejudice to the party that sought 6715
the injunction shall be conclusively and irrebuttably presumed 6716
upon proof of a violation or threatened violation of this section. 6717

(4) A member of a public body who knowingly violates an 6718

injunction issued pursuant to division (I)(1) of this section may 6719
be removed from office by an action brought in the court of common 6720
pleas for that purpose by the prosecuting attorney or the attorney 6721
general. 6722

(J)(1) Pursuant to division (C) of section 5901.09 of the 6723
Revised Code, a veterans service commission shall hold an 6724
executive session for one or more of the following purposes unless 6725
an applicant requests a public hearing: 6726

(a) Interviewing an applicant for financial assistance under 6727
sections 5901.01 to 5901.15 of the Revised Code; 6728

(b) Discussing applications, statements, and other documents 6729
described in division (B) of section 5901.09 of the Revised Code; 6730

(c) Reviewing matters relating to an applicant's request for 6731
financial assistance under sections 5901.01 to 5901.15 of the 6732
Revised Code. 6733

(2) A veterans service commission shall not exclude an 6734
applicant for, recipient of, or former recipient of financial 6735
assistance under sections 5901.01 to 5901.15 of the Revised Code, 6736
and shall not exclude representatives selected by the applicant, 6737
recipient, or former recipient, from a meeting that the commission 6738
conducts as an executive session that pertains to the applicant's, 6739
recipient's, or former recipient's application for financial 6740
assistance. 6741

(3) A veterans service commission shall vote on the grant or 6742
denial of financial assistance under sections 5901.01 to 5901.15 6743
of the Revised Code only in an open meeting of the commission. The 6744
minutes of the meeting shall indicate the name, address, and 6745
occupation of the applicant, whether the assistance was granted or 6746
denied, the amount of the assistance if assistance is granted, and 6747
the votes for and against the granting of assistance. 6748

Sec. 121.37. (A)(1) There is hereby created the Ohio family 6749
and children first cabinet council. The council shall be composed 6750
of the superintendent of public instruction, the administrator of 6751
the rehabilitation services commission, and the directors of youth 6752
services, job and family services, mental health, health, alcohol 6753
and drug addiction services, developmental disabilities, aging, 6754
rehabilitation and correction, and budget and management. The 6755
chairperson of the council shall be the governor or the governor's 6756
designee and shall establish procedures for the council's internal 6757
control and management. 6758

The purpose of the cabinet council is to help families 6759
seeking government services. This section shall not be interpreted 6760
or applied to usurp the role of parents, but solely to streamline 6761
and coordinate existing government services for families seeking 6762
assistance for their children. 6763

(2) In seeking to fulfill its purpose, the council may do any 6764
of the following: 6765

(a) Advise and make recommendations to the governor and 6766
general assembly regarding the provision of services to children; 6767

(b) Advise and assess local governments on the coordination 6768
of service delivery to children; 6769

(c) Hold meetings at such times and places as may be 6770
prescribed by the council's procedures and maintain records of the 6771
meetings, except that records identifying individual children are 6772
confidential and shall be disclosed only as provided by law; 6773

(d) Develop programs and projects, including pilot projects, 6774
to encourage coordinated efforts at the state and local level to 6775
improve the state's social service delivery system; 6776

(e) Enter into contracts with and administer grants to county 6777
family and children first councils, as well as other county or 6778

multicounty organizations to plan and coordinate service delivery	6779
between state agencies and local service providers for families	6780
and children;	6781
(f) Enter into contracts with and apply for grants from	6782
federal agencies or private organizations;	6783
(g) Enter into interagency agreements to encourage	6784
coordinated efforts at the state and local level to improve the	6785
state's social service delivery system. The agreements may include	6786
provisions regarding the receipt, transfer, and expenditure of	6787
funds;	6788
(h) Identify public and private funding sources for services	6789
provided to alleged or adjudicated unruly children and children	6790
who are at risk of being alleged or adjudicated unruly children,	6791
including regulations governing access to and use of the services;	6792
(i) Collect information provided by local communities	6793
regarding successful programs for prevention, intervention, and	6794
treatment of unruly behavior, including evaluations of the	6795
programs;	6796
(j) Identify and disseminate publications regarding alleged	6797
or adjudicated unruly children and children who are at risk of	6798
being alleged or adjudicated unruly children and regarding	6799
programs serving those types of children;	6800
(k) Maintain an inventory of strategic planning facilitators	6801
for use by government or nonprofit entities that serve alleged or	6802
adjudicated unruly children or children who are at risk of being	6803
alleged or adjudicated unruly children.	6804
(3) The cabinet council shall provide for the following:	6805
(a) Reviews of service and treatment plans for children for	6806
which such reviews are requested;	6807
(b) Assistance as the council determines to be necessary to	6808

meet the needs of children referred by county family and children first councils;

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

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

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

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

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

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

(B)(1) Each board of county commissioners shall establish a county family and children first council. The board may invite any local public or private agency or group that funds, advocates, or

provides services to children and families to have a 6840
representative become a permanent or temporary member of its 6841
county council. Each county council must include the following 6842
individuals: 6843

(a) At least three individuals who are not employed by an 6844
agency represented on the council and whose families are or have 6845
received services from an agency represented on the council or 6846
another county's council. Where possible, the number of members 6847
representing families shall be equal to twenty per cent of the 6848
council's membership. 6849

(b) The director of the board of alcohol, drug addiction, and 6850
mental health services that serves the county, or, in the case of 6851
a county that has a board of alcohol and drug addiction services 6852
and a community mental health board, the directors of both boards. 6853
If a board of alcohol, drug addiction, and mental health services 6854
covers more than one county, the director may designate a person 6855
to participate on the county's council. 6856

(c) The health commissioner, or the commissioner's designee, 6857
of the board of health of each city and general health district in 6858
the county. If the county has two or more health districts, the 6859
health commissioner membership may be limited to the commissioners 6860
of the two districts with the largest populations. 6861

(d) The director of the county department of job and family 6862
services; 6863

(e) The executive director of the public children services 6864
agency; 6865

(f) The superintendent of the county board of developmental 6866
disabilities; 6867

(g) The superintendent of the city, exempted village, or 6868
local school district with the largest number of pupils residing 6869
in the county, as determined by the department of education, which 6870

shall notify each board of county commissioners of its 6871
determination at least biennially; 6872

(h) A school superintendent representing all other school 6873
districts with territory in the county, as designated at a 6874
biennial meeting of the superintendents of those districts; 6875

(i) A representative of the municipal corporation with the 6876
largest population in the county; 6877

(j) The president of the board of county commissioners or an 6878
individual designated by the board; 6879

(k) A representative of the regional office of the department 6880
of youth services; 6881

(l) A representative of the county's head start agencies, as 6882
defined in section 3301.32 of the Revised Code; 6883

(m) A representative of the county's early intervention 6884
collaborative established pursuant to the federal early 6885
intervention program operated under the "Individuals with 6886
Disabilities Education Act of 2004"; 6887

(n) A representative of a local nonprofit entity that funds, 6888
advocates, or provides services to children and families. 6889

Notwithstanding any other provision of law, the public 6890
members of a county council are not prohibited from serving on the 6891
council and making decisions regarding the duties of the council, 6892
including those involving the funding of joint projects and those 6893
outlined in the county's service coordination mechanism 6894
implemented pursuant to division (C) of this section. 6895

The cabinet council shall establish a state appeals process 6896
to resolve disputes among the members of a county council 6897
concerning whether reasonable responsibilities as members are 6898
being shared. The appeals process may be accessed only by a 6899
majority vote of the council members who are required to serve on 6900

the council. Upon appeal, the cabinet council may order that state 6901
funds for services to children and families be redirected to a 6902
county's board of county commissioners. 6903

The county's juvenile court judge senior in service or 6904
another judge of the juvenile court designated by the 6905
administrative judge or, where there is no administrative judge, 6906
by the judge senior in service shall serve as the judicial advisor 6907
to the county family and children first council. The judge may 6908
advise the county council on the court's utilization of resources, 6909
services, or programs provided by the entities represented by the 6910
members of the county council and how those resources, services, 6911
or programs assist the court in its administration of justice. 6912
Service of a judge as a judicial advisor pursuant to this section 6913
is a judicial function. 6914

(2) The purpose of the county council is to streamline and 6915
coordinate existing government services for families seeking 6916
services for their children. In seeking to fulfill its purpose, a 6917
county council shall provide for the following: 6918

(a) Referrals to the cabinet council of those children for 6919
whom the county council cannot provide adequate services; 6920

(b) Development and implementation of a process that annually 6921
evaluates and prioritizes services, fills service gaps where 6922
possible, and invents new approaches to achieve better results for 6923
families and children; 6924

(c) Participation in the development of a countywide, 6925
comprehensive, coordinated, multi-disciplinary, interagency system 6926
for infants and toddlers with developmental disabilities or delays 6927
and their families, as established pursuant to federal grants 6928
received and administered by the department of health for early 6929
intervention services under the "Individuals with Disabilities 6930
Education Act of 2004"; 6931

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

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

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

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

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

(c) An annual plan that identifies the county's interagency efforts to increase child well-being in the county.

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

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

those rules or agreements. 6963

(b) On application of a county council, the cabinet council 6964
may grant an exemption from any rules or interagency agreements of 6965
a state department participating on the council if an exemption is 6966
necessary for the council to implement an alternative program or 6967
approach for service delivery to families and children. The 6968
application shall describe the proposed program or approach and 6969
specify the rules or interagency agreements from which an 6970
exemption is necessary. The cabinet council shall approve or 6971
disapprove the application in accordance with standards and 6972
procedures it shall adopt. If an application is approved, the 6973
exemption is effective only while the program or approach is being 6974
implemented, including a reasonable period during which the 6975
program or approach is being evaluated for effectiveness. 6976

(5)(a) Each county council shall designate an administrative 6977
agent for the council from among the following public entities: 6978
the board of alcohol, drug addiction, and mental health services, 6979
including a board of alcohol and drug addiction or a community 6980
mental health board if the county is served by separate boards; 6981
the board of county commissioners; any board of health of the 6982
county's city and general health districts; the county department 6983
of job and family services; the county agency responsible for the 6984
administration of children services pursuant to section 5153.15 of 6985
the Revised Code; the county board of developmental disabilities; 6986
any of the county's boards of education or governing boards of 6987
educational service centers; or the county's juvenile court. Any 6988
of the foregoing public entities, other than the board of county 6989
commissioners, may decline to serve as the council's 6990
administrative agent. 6991

A county council's administrative agent shall serve as the 6992
council's appointing authority for any employees of the council. 6993
The council shall file an annual budget with its administrative 6994

agent, with copies filed with the county auditor and with the 6995
board of county commissioners, unless the board is serving as the 6996
council's administrative agent. The council's administrative agent 6997
shall ensure that all expenditures are handled in accordance with 6998
policies, procedures, and activities prescribed by state 6999
departments in rules or interagency agreements that are applicable 7000
to the council's functions. 7001

The administrative agent of a county council shall send 7002
notice of a member's absence if a member listed in division (B)(1) 7003
of this section has been absent from either three consecutive 7004
meetings of the county council or a county council subcommittee, 7005
or from one-quarter of such meetings in a calendar year, whichever 7006
is less. The notice shall be sent to the board of county 7007
commissioners that establishes the county council and, for the 7008
members listed in divisions (B)(1)(b), (c), (e), and (l) of this 7009
section, to the governing board overseeing the respective entity; 7010
for the member listed in division (B)(1)(f) of this section, to 7011
the county board of developmental disabilities that employs the 7012
superintendent; for a member listed in division (B)(1)(g) or (h) 7013
of this section, to the school board that employs the 7014
superintendent; for the member listed in division (B)(1)(i) of 7015
this section, to the mayor of the municipal corporation; for the 7016
member listed in division (B)(1)(k) of this section, to the 7017
director of youth services; and for the member listed in division 7018
(B)(1)(n) of this section, to that member's board of trustees. 7019

The administrative agent for a county council may do any of 7020
the following on behalf of the council: 7021

(i) Enter into agreements or administer contracts with public 7022
or private entities to fulfill specific council business. Such 7023
agreements and contracts are exempt from the competitive bidding 7024
requirements of section 307.86 of the Revised Code if they have 7025
been approved by the county council and they are for the purchase 7026

of family and child welfare or child protection services or other 7027
social or job and family services for families and children. The 7028
approval of the county council is not required to exempt 7029
agreements or contracts entered into under section 5139.34, 7030
5139.41, or 5139.43 of the Revised Code from the competitive 7031
bidding requirements of section 307.86 of the Revised Code. 7032

(ii) As determined by the council, provide financial 7033
stipends, reimbursements, or both, to family representatives for 7034
expenses related to council activity; 7035

(iii) Receive by gift, grant, devise, or bequest any moneys, 7036
lands, or other property for the purposes for which the council is 7037
established. The agent shall hold, apply, and dispose of the 7038
moneys, lands, or other property according to the terms of the 7039
gift, grant, devise, or bequest. Any interest or earnings shall be 7040
treated in the same manner and are subject to the same terms as 7041
the gift, grant, devise, or bequest from which it accrues. 7042

(b)(i) If the county council designates the board of county 7043
commissioners as its administrative agent, the board may, by 7044
resolution, delegate any of its powers and duties as 7045
administrative agent to an executive committee the board 7046
establishes from the membership of the county council. The board 7047
shall name to the executive committee at least the individuals 7048
described in divisions (B)(1)(b) to (h) of this section and may 7049
appoint the president of the board or another individual as the 7050
chair of the executive committee. The executive committee must 7051
include at least one family county council representative who does 7052
not have a family member employed by an agency represented on the 7053
council. 7054

(ii) The executive committee may, with the approval of the 7055
board, hire an executive director to assist the county council in 7056
administering its powers and duties. The executive director shall 7057
serve in the unclassified civil service at the pleasure of the 7058

executive committee. The executive director may, with the approval 7059
of the executive committee, hire other employees as necessary to 7060
properly conduct the county council's business. 7061

(iii) The board may require the executive committee to submit 7062
an annual budget to the board for approval and may amend or repeal 7063
the resolution that delegated to the executive committee its 7064
authority as the county council's administrative agent. 7065

(6) Two or more county councils may enter into an agreement 7066
to administer their county councils jointly by creating a regional 7067
family and children first council. A regional council possesses 7068
the same duties and authority possessed by a county council, 7069
except that the duties and authority apply regionally rather than 7070
to individual counties. Prior to entering into an agreement to 7071
create a regional council, the members of each county council to 7072
be part of the regional council shall meet to determine whether 7073
all or part of the members of each county council will serve as 7074
members of the regional council. 7075

(7) A board of county commissioners may approve a resolution 7076
by a majority vote of the board's members that requires the county 7077
council to submit a statement to the board each time the council 7078
proposes to enter into an agreement, adopt a plan, or make a 7079
decision, other than a decision pursuant to section 121.38 of the 7080
Revised Code, that requires the expenditure of funds for two or 7081
more families. The statement shall describe the proposed 7082
agreement, plan, or decision. 7083

Not later than fifteen days after the board receives the 7084
statement, it shall, by resolution approved by a majority of its 7085
members, approve or disapprove the agreement, plan, or decision. 7086
Failure of the board to pass a resolution during that time period 7087
shall be considered approval of the agreement, plan, or decision. 7088

An agreement, plan, or decision for which a statement is 7089

required to be submitted to the board shall be implemented only if 7090
it is approved by the board. 7091

(C) Each county shall develop a county service coordination 7092
mechanism. The county service coordination mechanism shall serve 7093
as the guiding document for coordination of services in the 7094
county. For children who also receive services under the help me 7095
grow program, the service coordination mechanism shall be 7096
consistent with rules adopted by the department of health under 7097
section 3701.61 of the Revised Code. All family service 7098
coordination plans shall be developed in accordance with the 7099
county service coordination mechanism. The mechanism shall be 7100
developed and approved with the participation of the county 7101
entities representing child welfare; mental retardation and 7102
developmental disabilities; alcohol, drug addiction, and mental 7103
health services; health; juvenile judges; education; the county 7104
family and children first council; and the county early 7105
intervention collaborative established pursuant to the federal 7106
early intervention program operated under the "Individuals with 7107
Disabilities Education Act of 2004." The county shall establish an 7108
implementation schedule for the mechanism. The cabinet council may 7109
monitor the implementation and administration of each county's 7110
service coordination mechanism. 7111

Each mechanism shall include all of the following: 7112

(1) A procedure for an agency, including a juvenile court, or 7113
a family voluntarily seeking service coordination, to refer the 7114
child and family to the county council for service coordination in 7115
accordance with the mechanism; 7116

(2) A procedure ensuring that a family and all appropriate 7117
staff from involved agencies, including a representative from the 7118
appropriate school district, are notified of and invited to 7119
participate in all family service coordination plan meetings; 7120

(3) A procedure that permits a family to initiate a meeting 7121
to develop or review the family's service coordination plan and 7122
allows the family to invite a family advocate, mentor, or support 7123
person of the family's choice to participate in any such meeting; 7124

(4) A procedure for ensuring that a family service 7125
coordination plan meeting is conducted for each child who receives 7126
service coordination under the mechanism and for whom an emergency 7127
out-of-home placement has been made or for whom a nonemergency 7128
out-of-home placement is being considered. The meeting shall be 7129
conducted within ten days of an emergency out-of-home placement. 7130
The meeting shall be conducted before a nonemergency out-of-home 7131
placement. The family service coordination plan shall outline how 7132
the county council members will jointly pay for services, where 7133
applicable, and provide services in the least restrictive 7134
environment. 7135

(5) A procedure for monitoring the progress and tracking the 7136
outcomes of each service coordination plan requested in the county 7137
including monitoring and tracking children in out-of-home 7138
placements to assure continued progress, appropriateness of 7139
placement, and continuity of care after discharge from placement 7140
with appropriate arrangements for housing, treatment, and 7141
education. 7142

(6) A procedure for protecting the confidentiality of all 7143
personal family information disclosed during service coordination 7144
meetings or contained in the comprehensive family service 7145
coordination plan. 7146

(7) A procedure for assessing the needs and strengths of any 7147
child or family that has been referred to the council for service 7148
coordination, including a child whose parent or custodian is 7149
voluntarily seeking services, and for ensuring that parents and 7150
custodians are afforded the opportunity to participate; 7151

(8) A procedure for development of a family service 7152
coordination plan described in division (D) of this section; 7153

(9) A local dispute resolution process to serve as the 7154
process that must be used first to resolve disputes among the 7155
agencies represented on the county council concerning the 7156
provision of services to children, including children who are 7157
abused, neglected, dependent, unruly, alleged unruly, or 7158
delinquent children and under the jurisdiction of the juvenile 7159
court and children whose parents or custodians are voluntarily 7160
seeking services. The local dispute resolution process shall 7161
comply with sections 121.38, 121.381, and 121.382 of the Revised 7162
Code. The local dispute resolution process shall be used to 7163
resolve disputes between a child's parents or custodians and the 7164
county council regarding service coordination. The county council 7165
shall inform the parents or custodians of their right to use the 7166
dispute resolution process. Parents or custodians shall use 7167
existing local agency grievance procedures to address disputes not 7168
involving service coordination. The dispute resolution process is 7169
in addition to and does not replace other rights or procedures 7170
that parents or custodians may have under other sections of the 7171
Revised Code. 7172

The cabinet council shall adopt rules in accordance with 7173
Chapter 119. of the Revised Code establishing an administrative 7174
review process to address problems that arise concerning the 7175
operation of a local dispute resolution process. 7176

Nothing in division (C)(4) of this section shall be 7177
interpreted as overriding or affecting decisions of a juvenile 7178
court regarding an out-of-home placement, long-term placement, or 7179
emergency out-of-home placement. 7180

(D) Each county shall develop a family service coordination 7181
plan that does all of the following: 7182

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

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

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

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

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

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

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

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

(b) An emphasis on the personal responsibilities of the child	7213
and the parental responsibilities of the parents, guardian, or	7214
custodian of the child;	7215
(c) Involvement of local law enforcement agencies and	7216
officials.	7217
(2) The method to divert a child from the juvenile court	7218
system that must be included in the service coordination process	7219
may include, but is not limited to, the following:	7220
(a) The preparation of a complaint under section 2151.27 of	7221
the Revised Code alleging that the child is an unruly child and	7222
notifying the child and the parents, guardian, or custodian that	7223
the complaint has been prepared to encourage the child and the	7224
parents, guardian, or custodian to comply with other methods to	7225
divert the child from the juvenile court system;	7226
(b) Conducting a meeting with the child, the parents,	7227
guardian, or custodian, and other interested parties to determine	7228
the appropriate methods to divert the child from the juvenile	7229
court system;	7230
(c) A method to provide to the child and the child's family a	7231
short-term respite from a short-term crisis situation involving a	7232
confrontation between the child and the parents, guardian, or	7233
custodian;	7234
(d) A program to provide a mentor to the child or the	7235
parents, guardian, or custodian;	7236
(e) A program to provide parenting education to the parents,	7237
guardian, or custodian;	7238
(f) An alternative school program for children who are truant	7239
from school, repeatedly disruptive in school, or suspended or	7240
expelled from school;	7241
(g) Other appropriate measures, including, but not limited	7242

to, any alternative methods to divert a child from the juvenile 7243
court system that are identified by the Ohio family and children 7244
first cabinet council. 7245

(F) Each county may review and revise the service 7246
coordination process described in division (D) of this section 7247
based on the availability of funds under Title IV-A of the "Social 7248
Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, 7249
or to the extent resources are available from any other federal, 7250
state, or local funds. 7251

Sec. 121.40. (A) There is hereby created the Ohio ~~community~~ 7252
commission on service council and volunteerism consisting of 7253
twenty-one voting members including the superintendent of public 7254
instruction or the superintendent's designee, the chancellor of 7255
the Ohio board of regents or the chancellor's designee, the 7256
director of youth services or the director's designee, the 7257
director of aging or the director's designee, the chairperson of 7258
the committee of the house of representatives dealing with 7259
education or the chairperson's designee, the chairperson of the 7260
committee of the senate dealing with education or the 7261
chairperson's designee, and fifteen members who shall be appointed 7262
by the governor with the advice and consent of the senate and who 7263
shall serve terms of office of three years. The appointees shall 7264
include educators, including teachers and administrators; 7265
representatives of youth organizations; students and parents; 7266
representatives of organizations engaged in volunteer program 7267
development and management throughout the state, including youth 7268
and conservation programs; and representatives of business, 7269
government, nonprofit organizations, social service agencies, 7270
veterans organizations, religious organizations, or philanthropies 7271
that support or encourage volunteerism within the state. The 7272
director of the governor's office of faith-based and community 7273
initiatives shall serve as a nonvoting ex officio member of the 7274

~~council~~ commission. Members of the ~~council~~ commission shall 7275
receive no compensation, but shall be reimbursed for actual and 7276
necessary expenses incurred in the performance of their official 7277
duties. 7278

(B) The ~~council~~ commission shall appoint an executive 7279
director for the ~~council~~ commission, who shall be in the 7280
unclassified civil service. The governor shall be informed of the 7281
appointment of an executive director before such an appointment is 7282
made. The executive director shall supervise the ~~council's~~ 7283
commission's activities and report to the ~~council~~ commission on 7284
the progress of those activities. The executive director shall do 7285
all things necessary for the efficient and effective 7286
implementation of the duties of the ~~council~~ commission. 7287

The responsibilities assigned to the executive director do 7288
not relieve the members of the ~~council~~ commission from final 7289
responsibility for the proper performance of the requirements of 7290
this section. 7291

(C) The ~~council~~ commission or its designee shall do all of 7292
the following: 7293

(1) Employ, promote, supervise, and remove all employees as 7294
needed in connection with the performance of its duties under this 7295
section and may assign duties to those employees as necessary to 7296
achieve the most efficient performance of its functions, and to 7297
that end may establish, change, or abolish positions, and assign 7298
and reassign duties and responsibilities of any employee of the 7299
~~council~~ commission. Personnel employed by the ~~council~~ commission 7300
who are subject to Chapter 4117. of the Revised Code shall retain 7301
all of their rights and benefits conferred pursuant to that 7302
chapter. Nothing in this chapter shall be construed as eliminating 7303
or interfering with Chapter 4117. of the Revised Code or the 7304
rights and benefits conferred under that chapter to public 7305
employees or to any bargaining unit. 7306

- (2) Maintain its office in Columbus, and may hold sessions at any place within the state; 7307
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- (3) Acquire facilities, equipment, and supplies necessary to house the ~~council~~ commission, its employees, and files and records under its control, and to discharge any duty imposed upon it by law. The expense of these acquisitions shall be audited and paid for in the same manner as other state expenses. For that purpose, the ~~council~~ commission shall prepare and submit to the office of budget and management a budget for each biennium according to sections 101.532 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the ~~council~~ commission and its staff in the discharge of any duty imposed upon the ~~council~~ commission by law. The ~~council~~ commission shall not delegate any authority to obligate funds. 7309
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- (4) Pay its own payroll and other operating expenses from line items designated by the general assembly; 7321
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- (5) Retain its fiduciary responsibility as appointing authority. Any transaction instructions shall be certified by the appointing authority or its designee. 7323
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- (6) Establish the overall policy and management of the ~~council~~ commission in accordance with this chapter; 7326
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- (7) Assist in coordinating and preparing the state application for funds under sections 101 to 184 of the "National and Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C.A. 12411 to 12544, as amended, assist in administering and overseeing the "National and Community Service Trust Act of 1993," P.L. 103-82, 107 Stat. 785, and the americorps program in this state, and assist in developing objectives for a comprehensive strategy to encourage and expand community service programs throughout the state; 7328
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- (8) Assist the state board of education, school districts, 7337

the chancellor of the board of regents, and institutions of higher 7338
education in coordinating community service education programs 7339
through cooperative efforts between institutions and organizations 7340
in the public and private sectors; 7341

(9) Assist the departments of natural resources, youth 7342
services, aging, and job and family services in coordinating 7343
community service programs through cooperative efforts between 7344
institutions and organizations in the public and private sectors; 7345

(10) Suggest individuals and organizations that are available 7346
to assist school districts, institutions of higher education, and 7347
the departments of natural resources, youth services, aging, and 7348
job and family services in the establishment of community service 7349
programs and assist in investigating sources of funding for 7350
implementing these programs; 7351

(11) Assist in evaluating the state's efforts in providing 7352
community service programs using standards and methods that are 7353
consistent with any statewide objectives for these programs and 7354
provide information to the state board of education, school 7355
districts, the chancellor of the board of regents, institutions of 7356
higher education, and the departments of natural resources, youth 7357
services, aging, and job and family services to guide them in 7358
making decisions about these programs; 7359

(12) Assist the state board of education in complying with 7360
section 3301.70 of the Revised Code and the chancellor of the 7361
board of regents in complying with division (B)(2) of section 7362
3333.043 of the Revised Code; 7363

(13) Advise, assist, consult with, and cooperate with, by 7364
contract or otherwise, agencies and political subdivisions of this 7365
state in establishing a statewide system for volunteers pursuant 7366
to section 121.404 of the Revised Code. 7367

(D) The ~~council~~ commission shall in writing enter into an 7368

agreement with another state agency to serve as the ~~council's~~ 7369
commission's fiscal agent. Before entering into such an agreement, 7370
the ~~council~~ commission shall inform the governor of the terms of 7371
the agreement and of the state agency designated to serve as the 7372
~~council's~~ commission's fiscal agent. The fiscal agent shall be 7373
responsible for all the ~~council's~~ commission's fiscal matters and 7374
financial transactions, as specified in the agreement. Services to 7375
be provided by the fiscal agent include, but are not limited to, 7376
the following: 7377

(1) Preparing and processing payroll and other personnel 7378
documents that the ~~council~~ commission executes as the appointing 7379
authority; 7380

(2) Maintaining ledgers of accounts and reports of account 7381
balances, and monitoring budgets and allotment plans in 7382
consultation with the ~~council~~ commission; and 7383

(3) Performing other routine support services that the fiscal 7384
agent considers appropriate to achieve efficiency. 7385

(E)(1) The ~~council~~ commission, in conjunction and 7386
consultation with the fiscal agent, has the following authority 7387
and responsibility relative to fiscal matters: 7388

(a) Sole authority to draw funds for any and all federal 7389
programs in which the ~~council~~ commission is authorized to 7390
participate; 7391

(b) Sole authority to expend funds from their accounts for 7392
programs and any other necessary expenses the ~~council~~ commission 7393
may incur and its subgrantees may incur; and 7394

(c) Responsibility to cooperate with and inform the fiscal 7395
agent fully of all financial transactions. 7396

(2) The ~~council~~ commission shall follow all state 7397
procurement, fiscal, human resources, statutory, and 7398

administrative rule requirements. 7399

(3) The fiscal agent shall determine fees to be charged to 7400
the ~~council~~ commission, which shall be in proportion to the 7401
services performed for the ~~council~~ commission. 7402

(4) The ~~council~~ commission shall pay fees owed to the fiscal 7403
agent from a general revenue fund of the ~~council~~ commission or 7404
from any other fund from which the operating expenses of the 7405
~~council~~ commission are paid. Any amounts set aside for a fiscal 7406
year for the payment of these fees shall be used only for the 7407
services performed for the ~~council~~ commission by the fiscal agent 7408
in that fiscal year. 7409

(F) The ~~council~~ commission may accept and administer grants 7410
from any source, public or private, to carry out any of the 7411
~~council's~~ commission's functions this section establishes. 7412

Sec. 121.401. (A) As used in this section and section 121.402 7413
of the Revised Code, "organization or entity" and "unsupervised 7414
access to a child" have the same meanings as in section 109.574 of 7415
the Revised Code. 7416

(B) The Ohio ~~community~~ commission on service ~~council~~ and 7417
volunteerism shall adopt a set of "recommended best practices" for 7418
organizations or entities to follow when one or more volunteers of 7419
the organization or entity have unsupervised access to one or more 7420
children or otherwise interact with one or more children. The 7421
"recommended best practices" shall focus on, but shall not be 7422
limited to, the issue of the safety of the children and, in 7423
addition, the screening and supervision of volunteers. The 7424
"recommended best practices" shall include as a recommended best 7425
practice that the organization or entity subject to a criminal 7426
records check performed by the bureau of criminal identification 7427
and investigation pursuant to section 109.57, section 109.572, or 7428
rules adopted under division (E) of section 109.57 of the Revised 7429

Code, all of the following: 7430

(1) All persons who apply to serve as a volunteer in a 7431
position in which the person will have unsupervised access to a 7432
child on a regular basis. 7433

(2) All volunteers who are in a position in which the person 7434
will have unsupervised access to a child on a regular basis and 7435
who the organization or entity has not previously subjected to a 7436
criminal records check performed by the bureau of criminal 7437
identification and investigation. 7438

(C) The set of "recommended best practices" required to be 7439
adopted by this section are in addition to the educational program 7440
required to be adopted under section 121.402 of the Revised Code. 7441

Sec. 121.402. (A) The Ohio ~~community~~ commission on service 7442
~~council and volunteerism~~ shall establish and maintain an 7443
educational program that does all of the following: 7444

(1) Makes available to parents and guardians of children 7445
notice about the provisions of sections 109.574 to 109.577, 7446
section 121.401, and section 121.402 of the Revised Code and 7447
information about how to keep children safe when they are under 7448
the care, custody, or control of a person other than the parent or 7449
guardian; 7450

(2) Makes available to organizations and entities information 7451
regarding the best methods of screening and supervising 7452
volunteers, how to obtain a criminal records check of a volunteer, 7453
confidentiality issues relating to reports of criminal records 7454
checks, and record keeping regarding the reports; 7455

(3) Makes available to volunteers information regarding the 7456
possibility of being subjected to a criminal records check and 7457
displaying appropriate behavior to minors; 7458

(4) Makes available to children advice on personal safety and 7459

information on what action to take if someone takes inappropriate 7460
action towards a child. 7461

(B) The program shall begin making the materials described in 7462
this section available not later than March 22, 2002. 7463

Sec. 121.403. (A) The Ohio ~~community~~ commission on service 7464
~~council and volunteerism~~ may do any of the following: 7465

(1) Accept monetary gifts or donations; 7466

(2) Sponsor conferences, meetings, or events in furtherance 7467
of the ~~council's~~ commission's purpose described in section 121.40 7468
of the Revised Code and charge fees for participation or 7469
involvement in the conferences, meetings, or events; 7470

(3) Sell promotional items in furtherance of the ~~council's~~ 7471
commission's purpose described in section 121.40 of the Revised 7472
Code. 7473

(B) All monetary gifts and donations, funds from the sale of 7474
promotional items, contributions received from the issuance of 7475
Ohio "volunteer" license plates pursuant to section 4503.93 of the 7476
Revised Code, and any fees paid to the ~~council~~ commission for 7477
conferences, meetings, or events sponsored by the ~~council~~ 7478
commission shall be deposited into the Ohio ~~community~~ commission 7479
on service ~~council and volunteerism~~ gifts and donations fund, 7480
which is hereby created in the state treasury. Moneys in the fund 7481
may be used only as follows: 7482

(1) To pay operating expenses of the ~~council~~ commission, 7483
including payroll, personal services, maintenance, equipment, and 7484
subsidy payments; 7485

(2) To support ~~council~~ commission programs promoting 7486
volunteerism and community service in the state; 7487

(3) As matching funds for federal grants. 7488

Sec. 121.404. (A) The Ohio ~~community~~ commission on service 7489
~~council and volunteerism~~ shall advise, assist, consult with, and 7490
cooperate with agencies and political subdivisions of this state 7491
to establish a statewide system for recruiting, registering, 7492
training, and deploying the types of volunteers the ~~council~~ 7493
commission considers advisable and reasonably necessary to respond 7494
to an emergency declared by the state or political subdivision. 7495

(B) A registered volunteer is not liable in damages to any 7496
person or government entity in tort or other civil action, 7497
including an action upon a medical, dental, chiropractic, 7498
optometric, or other health-related claim or veterinary claim, for 7499
injury, death, or loss to person or property that may arise from 7500
an act or omission of that volunteer. This division applies to a 7501
registered volunteer while providing services within the scope of 7502
the volunteer's responsibilities during an emergency declared by 7503
the state or political subdivision or in disaster-related 7504
exercises, testing, or other training activities, if the 7505
volunteer's act or omission does not constitute willful or wanton 7506
misconduct. 7507

(C) The Ohio ~~community~~ commission on service ~~council and~~ 7508
volunteerism shall adopt rules pursuant to Chapter 119. of the 7509
Revised Code to establish fees, procedures, standards, and 7510
requirements the ~~council~~ commission considers necessary to carry 7511
out the purposes of this section. 7512

(D)(1) A registered volunteer's status as a volunteer, and 7513
any information presented in summary, statistical, or aggregate 7514
form that does not identify an individual, is a public record 7515
pursuant to section 149.43 of the Revised Code. 7516

(2) Information related to a registered volunteer's specific 7517
and unique responsibilities, assignments, or deployment plans, 7518
including but not limited to training, preparedness, readiness, or 7519

organizational assignment, is a security record for purposes of 7520
section 149.433 of the Revised Code. 7521

(3) Information related to a registered volunteer's personal 7522
information, including but not limited to contact information, 7523
medical information, or information related to family members or 7524
dependents, is not a public record pursuant to section 149.43 of 7525
the Revised Code. 7526

(E) As used in this section and section 121.40 of the Revised 7527
Code: 7528

(1) "Registered volunteer" means any individual registered as 7529
a volunteer pursuant to procedures established under this section 7530
and who serves without pay or other consideration, other than the 7531
reasonable reimbursement or allowance for expenses actually 7532
incurred or the provision of incidental benefits related to the 7533
volunteer's service, such as meals, lodging, and childcare. 7534

(2) "Political subdivision" means a county, township, or 7535
municipal corporation in this state. 7536

Sec. 122.121. (A) If an endorsing municipality or endorsing 7537
county enters into a joinder undertaking with a site selection 7538
organization, the endorsing municipality or endorsing county may 7539
apply to the director of development, on a form and in the manner 7540
prescribed by the director, for a grant based on the projected 7541
incremental increase in the receipts from the tax imposed under 7542
section 5739.02 of the Revised Code within the market area 7543
designated under division (C) of this section, for the two-week 7544
period that ends at the end of the day after the date on which a 7545
game will be held, that is directly attributable, as determined by 7546
the director, to the preparation for and presentation of the game. 7547
The director shall determine the projected incremental increase in 7548
the tax imposed under section 5739.02 of the Revised Code from 7549
information certified to the director by the endorsing 7550

municipality or the endorsing county including, but not limited 7551
to, historical attendance and ticket sales for the game, income 7552
statements showing revenue and expenditures for the game in prior 7553
years, attendance capacity at the proposed venues, event budget at 7554
the proposed venues, and projected lodging room nights based on 7555
historical attendance, attendance capacity at the proposed venues, 7556
and duration of the game and related activities. The endorsing 7557
municipality or endorsing county is eligible to receive a grant 7558
under this section only if the projected incremental increase in 7559
receipts from the tax imposed under section 5739.02 of the Revised 7560
Code, as determined by the director, exceeds two hundred fifty 7561
thousand dollars. The amount of the grant shall be determined by 7562
the director but shall not exceed five hundred thousand dollars. 7563
The director shall not issue grants with a total value of more 7564
than one million dollars in any fiscal year, and shall not issue 7565
any grant before July 1, ~~2011~~ 2013. 7566

(B) If the director of development approves an application 7567
for an endorsing municipality or endorsing county and that 7568
endorsing municipality or endorsing county enters into a joinder 7569
agreement with a site selection organization, the endorsing 7570
municipality or endorsing county shall file a copy of the joinder 7571
agreement with the director of development, who immediately shall 7572
notify the director of budget and management of the filing. Within 7573
thirty days after receiving the notice, the director of budget and 7574
management shall establish a schedule to disburse from the general 7575
revenue fund to such endorsing municipality or endorsing county 7576
payments that total the amount certified by the director of 7577
development under division (A) of this section, but in no event 7578
shall the total amount disbursed exceed five hundred thousand 7579
dollars, and no disbursement shall be made before July 1, ~~2011~~ 7580
2013. The payments shall be used exclusively by the endorsing 7581
municipality or endorsing county to fulfill a portion of its 7582

obligations to a site selection organization under game support 7583
contracts, which obligations may include the payment of costs 7584
relating to the preparations necessary for the conduct of the 7585
game, including acquiring, renovating, or constructing facilities; 7586
to pay the costs of conducting the game; and to assist the local 7587
organizing committee, endorsing municipality, or endorsing county 7588
in providing assurances required by a site selection organization 7589
sponsoring one or more games. 7590

(C) For the purposes of division (A) of this section, the 7591
director of development, in consultation with the tax 7592
commissioner, shall designate as a market area for a game each 7593
area in which they determine there is a reasonable likelihood of 7594
measurable economic impact directly attributable to the 7595
preparation for and presentation of the game and related events, 7596
including areas likely to provide venues, accommodations, and 7597
services in connection with the game based on the information and 7598
the copy of the joinder undertaking provided to the director under 7599
divisions (A) and (B) of this section. The director and 7600
commissioner shall determine the geographic boundaries of each 7601
market area. An endorsing municipality or endorsing county that 7602
has been selected as the site for a game must be included in a 7603
market area for the game. 7604

(D) A local organizing committee, endorsing municipality, or 7605
endorsing county shall provide information required by the 7606
director of development and tax commissioner to enable the 7607
director and commissioner to fulfill their duties under this 7608
section, including annual audited statements of any financial 7609
records required by a site selection organization and data 7610
obtained by the local organizing committee, endorsing 7611
municipality, or endorsing county relating to attendance at a game 7612
and to the economic impact of the game. A local organizing 7613
committee, an endorsing municipality, or an endorsing county shall 7614

provide an annual audited financial statement if so required by 7615
the director and commissioner, not later than the end of the 7616
fourth month after the date the period covered by the financial 7617
statement ends. 7618

(E) Within sixty days after the game, the endorsing 7619
municipality or the endorsing county shall report to the director 7620
of development about the economic impact of the game. The report 7621
shall be in the form and substance required by the director, 7622
including, but not limited to, a final income statement for the 7623
event showing total revenue and expenditures and revenue and 7624
expenditures in the market area for the game, and ticket sales for 7625
the game and any related activities for which admission was 7626
charged. The director of development shall determine, based on the 7627
reported information and the exercise of reasonable judgment, the 7628
incremental increase in receipts from the tax imposed under 7629
section 5739.02 of the Revised Code directly attributable to the 7630
game. If the actual incremental increase in such receipts is less 7631
than the projected incremental increase in receipts, the director 7632
may require the endorsing municipality or the endorsing county to 7633
refund to the state all or a portion of the grant. 7634

(F) No disbursement may be made under this section if the 7635
director of development determines that it would be used for the 7636
purpose of soliciting the relocation of a professional sports 7637
franchise located in this state. 7638

(G) This section may not be construed as creating or 7639
requiring a state guarantee of obligations imposed on an endorsing 7640
municipality or endorsing county under a game support contract or 7641
any other agreement relating to hosting one or more games in this 7642
state. 7643

Sec. 122.171. (A) As used in this section: 7644

(1) "Capital investment project" means a plan of investment 7645

at a project site for the acquisition, construction, renovation, 7646
or repair of buildings, machinery, or equipment, or for 7647
capitalized costs of basic research and new product development 7648
determined in accordance with generally accepted accounting 7649
principles, but does not include any of the following: 7650

(a) Payments made for the acquisition of personal property 7651
through operating leases; 7652

(b) Project costs paid before January 1, 2002; 7653

(c) Payments made to a related member as defined in section 7654
5733.042 of the Revised Code or to a consolidated elected taxpayer 7655
or a combined taxpayer as defined in section 5751.01 of the 7656
Revised Code. 7657

(2) "Eligible business" means a taxpayer and its related 7658
members with Ohio operations satisfying all of the following: 7659

(a) The taxpayer employs at least five hundred full-time 7660
equivalent employees or has an annual payroll of at least 7661
thirty-five million dollars at the time the tax credit authority 7662
grants the tax credit under this section; 7663

(b) The taxpayer makes or causes to be made payments for the 7664
capital investment project of ~~either~~ one of the following: 7665

(i) If the taxpayer is engaged at the project site primarily 7666
as a manufacturer, at least fifty million dollars in the aggregate 7667
at the project site during a period of three consecutive calendar 7668
years, including the calendar year that includes a day of the 7669
taxpayer's taxable year or tax period with respect to which the 7670
credit is granted; 7671

(ii) If the taxpayer is engaged at the project site primarily 7672
in significant corporate administrative functions, as defined by 7673
the director of development by rule, at least twenty million 7674
dollars in the aggregate at the project site during a period of 7675

three consecutive calendar years including the calendar year that 7676
includes a day of the taxpayer's taxable year or tax period with 7677
respect to which the credit is granted; 7678

(iii) If the taxpayer is applying to enter into an agreement 7679
for a tax credit authorized under division (B)(3) of this section, 7680
at least five million dollars in the aggregate at the project site 7681
during a period of three consecutive calendar years, including the 7682
calendar year that includes a day of the taxpayer's taxable year 7683
or tax period with respect to which the credit is granted. 7684

(c) The taxpayer had a capital investment project reviewed 7685
and approved by the tax credit authority as provided in divisions 7686
(C), (D), and (E) of this section. 7687

(3) "Full-time equivalent employees" means the quotient 7688
obtained by dividing the total number of hours for which employees 7689
were compensated for employment in the project by two thousand 7690
eighty. "Full-time equivalent employees" shall exclude hours that 7691
are counted for a credit under section 122.17 of the Revised Code. 7692

(4) "Income tax revenue" means the total amount withheld 7693
under section 5747.06 of the Revised Code by the taxpayer during 7694
the taxable year, or during the calendar year that includes the 7695
tax period, from the compensation of all employees employed in the 7696
project whose hours of compensation are included in calculating 7697
the number of full-time equivalent employees. 7698

(5) "Manufacturer" has the same meaning as in section 7699
5739.011 of the Revised Code. 7700

(6) "Project site" means an integrated complex of facilities 7701
in this state, as specified by the tax credit authority under this 7702
section, within a fifteen-mile radius where a taxpayer is 7703
primarily operating as an eligible business. 7704

(7) "Related member" has the same meaning as in section 7705
5733.042 of the Revised Code as that section existed on the 7706

effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 7707
general assembly, September 29, 1997. 7708

(8) "Taxable year" includes, in the case of a domestic or 7709
foreign insurance company, the calendar year ending on the 7710
thirty-first day of December preceding the day the superintendent 7711
of insurance is required to certify to the treasurer of state 7712
under section 5725.20 or 5729.05 of the Revised Code the amount of 7713
taxes due from insurance companies. 7714

(B) The tax credit authority created under section 122.17 of 7715
the Revised Code may grant tax credits under this section for the 7716
purpose of fostering job retention in this state. Upon application 7717
by an eligible business and upon consideration of the 7718
recommendation of the director of budget and management, tax 7719
commissioner, the superintendent of insurance in the case of an 7720
insurance company, and director of development under division (C) 7721
of this section, the tax credit authority may grant the following 7722
credits against the tax imposed by section 5725.18, 5729.03, 7723
5733.06, 5747.02, or 5751.02 of the Revised Code: 7724

(1) A nonrefundable credit to an eligible business; 7725

(2) A refundable credit to an eligible business meeting the 7726
following conditions, provided that the director of budget and 7727
management, tax commissioner, superintendent of insurance in the 7728
case of an insurance company, and director of development have 7729
recommended the granting of the credit to the tax credit authority 7730
before July 1, 2011: 7731

(a) The business retains at least one thousand full-time 7732
equivalent employees at the project site. 7733

(b) The business makes or causes to be made payments for a 7734
capital investment project of at least twenty-five million dollars 7735
in the aggregate at the project site during a period of three 7736
consecutive calendar years, including the calendar year that 7737

includes a day of the business' taxable year or tax period with 7738
respect to which the credit is granted. 7739

(c) In 2010, the business received a written offer of 7740
financial incentives from another state of the United States that 7741
the director determines to be sufficient inducement for the 7742
business to relocate the business' operations from this state to 7743
that state. 7744

(3) A refundable credit to an eligible business with a total 7745
annual payroll of at least twenty million dollars, provided that 7746
the tax credit authority grants the tax credit on or after July 1, 7747
2011, and before January 1, 2014. 7748

The credits authorized in divisions (B)(1) ~~and~~, (2), and (3) 7749
of this section may be granted for a period up to fifteen taxable 7750
years or, in the case of the tax levied by section 5751.02 of the 7751
Revised Code, for a period of up to fifteen calendar years. The 7752
credit amount for a taxable year or a calendar year that includes 7753
the tax period for which a credit may be claimed equals the income 7754
tax revenue for that year multiplied by the percentage specified 7755
in the agreement with the tax credit authority. The percentage may 7756
not exceed seventy-five per cent. The credit shall be claimed in 7757
the order required under section 5725.98, 5729.98, 5733.98, 7758
5747.98, or 5751.98 of the Revised Code. In determining the 7759
percentage and term of the credit, the tax credit authority shall 7760
consider both the number of full-time equivalent employees and the 7761
value of the capital investment project. The credit amount may not 7762
be based on the income tax revenue for a calendar year before the 7763
calendar year in which the tax credit authority specifies the tax 7764
credit is to begin, and the credit shall be claimed only for the 7765
taxable years or tax periods specified in the eligible business' 7766
agreement with the tax credit authority. In no event shall the 7767
credit be claimed for a taxable year or tax period terminating 7768
before the date specified in the agreement. Any credit granted 7769

under this section against the tax imposed by section 5733.06 or 7770
5747.02 of the Revised Code, to the extent not fully utilized 7771
against such tax for taxable years ending prior to 2008, shall 7772
automatically be converted without any action taken by the tax 7773
credit authority to a credit against the tax levied under Chapter 7774
5751. of the Revised Code for tax periods beginning on or after 7775
July 1, 2008, provided that the person to whom the credit was 7776
granted is subject to such tax. The converted credit shall apply 7777
to those calendar years in which the remaining taxable years 7778
specified in the agreement end. 7779

If a nonrefundable credit allowed under division (B)(1) of 7780
this section for a taxable year or tax period exceeds the 7781
taxpayer's tax liability for that year or period, the excess may 7782
be carried forward for the three succeeding taxable or calendar 7783
years, but the amount of any excess credit allowed in any taxable 7784
year or tax period shall be deducted from the balance carried 7785
forward to the succeeding year or period. 7786

(C) A taxpayer that proposes a capital investment project to 7787
retain jobs in this state may apply to the tax credit authority to 7788
enter into an agreement for a tax credit under this section. The 7789
director of development shall prescribe the form of the 7790
application. After receipt of an application, the authority shall 7791
forward copies of the application to the director of budget and 7792
management, the tax commissioner, the superintendent of insurance 7793
in the case of an insurance company, and the director of 7794
development, each of whom shall review the application to 7795
determine the economic impact the proposed project would have on 7796
the state and the affected political subdivisions and shall submit 7797
a summary of their determinations and recommendations to the 7798
authority. 7799

(D) Upon review and consideration of the determinations and 7800
recommendations described in division (C) of this section, the tax 7801

credit authority may enter into an agreement with the taxpayer for 7802
a credit under this section if the authority determines all of the 7803
following: 7804

(1) The taxpayer's capital investment project will result in 7805
the retention of employment in this state. 7806

(2) The taxpayer is economically sound and has the ability to 7807
complete the proposed capital investment project. 7808

(3) The taxpayer intends to and has the ability to maintain 7809
operations at the project site for at least the greater of (a) the 7810
term of the credit plus three years, or (b) seven years. 7811

(4) Receiving the credit is a major factor in the taxpayer's 7812
decision to begin, continue with, or complete the project. 7813

(5) If the taxpayer is applying to enter into an agreement 7814
for a tax credit authorized under division (B)(3) of this section, 7815
the taxpayer's capital investment project will be located in the 7816
political subdivision in which the taxpayer maintains its 7817
principal place of business. 7818

(E) An agreement under this section shall include all of the 7819
following: 7820

(1) A detailed description of the project that is the subject 7821
of the agreement, including the amount of the investment, the 7822
period over which the investment has been or is being made, the 7823
number of full-time equivalent employees at the project site, and 7824
the anticipated income tax revenue to be generated. 7825

(2) The term of the credit, the percentage of the tax credit, 7826
the maximum annual value of tax credits that may be allowed each 7827
year, and the first year for which the credit may be claimed. 7828

(3) A requirement that the taxpayer maintain operations at 7829
the project site for at least the greater of (a) the term of the 7830
credit plus three years, or (b) seven years. 7831

~~(4) A requirement that the taxpayer retain a specified number of full-time equivalent employees at the project site and within this state for the term of the credit, including a requirement that the taxpayer continue to employ at least five hundred full-time equivalent employees during the entire term of the agreement in the case of a credit granted under division (B)(1) of this section, and one thousand full-time equivalent employees in the case of a credit granted under division (B)(2) of this section~~ 7832
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(a) In the case of a credit granted under division (B)(1) of this section, a requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit, or a requirement that the taxpayer maintain an annual payroll of at least thirty-five million dollars for the entire term of the credit; 7840
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(b) In the case of a credit granted under division (B)(2) of this section, a requirement that the taxpayer retain at least one thousand full-time equivalent employees at the project site and within this state for the entire term of the credit; 7847
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(c) In the case of a credit granted under division (B)(3) of this section, a requirement that the taxpayer maintain an annual payroll of at least twenty million dollars for the entire term of the credit and either of the following: 7851
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(i) A requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit; 7855
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(ii) A requirement that the taxpayer maintain an annual payroll of at least thirty-five million dollars for the entire term of the credit. 7858
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(5) A requirement that the taxpayer annually report to the director of development employment, tax withholding, capital 7861
7862

investment, and other information the director needs to perform 7863
the director's duties under this section. 7864

(6) A requirement that the director of development annually 7865
review the annual reports of the taxpayer to verify the 7866
information reported under division (E)(5) of this section and 7867
compliance with the agreement. Upon verification, the director 7868
shall issue a certificate to the taxpayer stating that the 7869
information has been verified and identifying the amount of the 7870
credit for the taxable year or calendar year that includes the tax 7871
period. In determining the number of full-time equivalent 7872
employees, no position shall be counted that is filled by an 7873
employee who is included in the calculation of a tax credit under 7874
section 122.17 of the Revised Code. 7875

(7) A provision providing that the taxpayer may not relocate 7876
a substantial number of employment positions from elsewhere in 7877
this state to the project site unless the director of development 7878
determines that the taxpayer notified the legislative authority of 7879
the county, township, or municipal corporation from which the 7880
employment positions would be relocated. 7881

For purposes of this section, the movement of an employment 7882
position from one political subdivision to another political 7883
subdivision shall be considered a relocation of an employment 7884
position unless the movement is confined to the project site. The 7885
transfer of an employment position from one political subdivision 7886
to another political subdivision shall not be considered a 7887
relocation of an employment position if the employment position in 7888
the first political subdivision is replaced by another employment 7889
position. 7890

(8) A waiver by the taxpayer of any limitations periods 7891
relating to assessments or adjustments resulting from the 7892
taxpayer's failure to comply with the agreement. 7893

(F) If a taxpayer fails to meet or comply with any condition 7894
or requirement set forth in a tax credit agreement, the tax credit 7895
authority may amend the agreement to reduce the percentage or term 7896
of the credit. The reduction of the percentage or term may take 7897
effect in the current taxable or calendar year. 7898

(G) Financial statements and other information submitted to 7899
the department of development or the tax credit authority by an 7900
applicant for or recipient of a tax credit under this section, and 7901
any information taken for any purpose from such statements or 7902
information, are not public records subject to section 149.43 of 7903
the Revised Code. However, the chairperson of the authority may 7904
make use of the statements and other information for purposes of 7905
issuing public reports or in connection with court proceedings 7906
concerning tax credit agreements under this section. Upon the 7907
request of the tax commissioner, or the superintendent of 7908
insurance in the case of an insurance company, the chairperson of 7909
the authority shall provide to the commissioner or superintendent 7910
any statement or other information submitted by an applicant for 7911
or recipient of a tax credit in connection with the credit. The 7912
commissioner or superintendent shall preserve the confidentiality 7913
of the statement or other information. 7914

(H) A taxpayer claiming a tax credit under this section shall 7915
submit to the tax commissioner or, in the case of an insurance 7916
company, to the superintendent of insurance, a copy of the 7917
director of development's certificate of verification under 7918
division (E)(6) of this section with the taxpayer's tax report or 7919
return for the taxable year or for the calendar year that includes 7920
the tax period. Failure to submit a copy of the certificate with 7921
the report or return does not invalidate a claim for a credit if 7922
the taxpayer submits a copy of the certificate to the commissioner 7923
or superintendent within sixty days after the commissioner or 7924
superintendent requests it. 7925

(I) For the purposes of this section, a taxpayer may include 7926
a partnership, a corporation that has made an election under 7927
subchapter S of chapter one of subtitle A of the Internal Revenue 7928
Code, or any other business entity through which income flows as a 7929
distributive share to its owners. A partnership, S-corporation, or 7930
other such business entity may elect to pass the credit received 7931
under this section through to the persons to whom the income or 7932
profit of the partnership, S-corporation, or other entity is 7933
distributed. The election shall be made on the annual report 7934
required under division (E)(5) of this section. The election 7935
applies to and is irrevocable for the credit for which the report 7936
is submitted. If the election is made, the credit shall be 7937
apportioned among those persons in the same proportions as those 7938
in which the income or profit is distributed. 7939

(J) If the director of development determines that a taxpayer 7940
that received a tax credit under this section is not complying 7941
with the requirement under division (E)(3) of this section, the 7942
director shall notify the tax credit authority of the 7943
noncompliance. After receiving such a notice, and after giving the 7944
taxpayer an opportunity to explain the noncompliance, the 7945
authority may terminate the agreement and require the taxpayer to 7946
refund to the state all or a portion of the credit claimed in 7947
previous years, as follows: 7948

(1) If the taxpayer maintained operations at the project site 7949
for less than or equal to the term of the credit, an amount not to 7950
exceed one hundred per cent of the sum of any tax credits allowed 7951
and received under this section. 7952

(2) If the taxpayer maintained operations at the project site 7953
longer than the term of the credit, but less than the greater of 7954
(a) the term of the credit plus three years, or (b) seven years, 7955
the amount required to be refunded shall not exceed seventy-five 7956
per cent of the sum of any tax credits allowed and received under 7957

this section. 7958

In determining the portion of the credit to be refunded to 7959
this state, the authority shall consider the effect of market 7960
conditions on the taxpayer's project and whether the taxpayer 7961
continues to maintain other operations in this state. After making 7962
the determination, the authority shall certify the amount to be 7963
refunded to the tax commissioner or the superintendent of 7964
insurance. If the taxpayer is not an insurance company, the 7965
commissioner shall make an assessment for that amount against the 7966
taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. 7967
If the taxpayer is an insurance company, the superintendent of 7968
insurance shall make an assessment under section 5725.222 or 7969
5729.102 of the Revised Code. The time limitations on assessments 7970
under those chapters and sections do not apply to an assessment 7971
under this division, but the commissioner or superintendent shall 7972
make the assessment within one year after the date the authority 7973
certifies to the commissioner or superintendent the amount to be 7974
refunded. 7975

(K) The director of development, after consultation with the 7976
tax commissioner and the superintendent of insurance and in 7977
accordance with Chapter 119. of the Revised Code, shall adopt 7978
rules necessary to implement this section. The rules may provide 7979
for recipients of tax credits under this section to be charged 7980
fees to cover administrative costs of the tax credit program. The 7981
fees collected shall be credited to the tax incentive programs 7982
operating fund created in section 122.174 of the Revised Code. At 7983
the time the director gives public notice under division (A) of 7984
section 119.03 of the Revised Code of the adoption of the rules, 7985
the director shall submit copies of the proposed rules to the 7986
chairpersons of the standing committees on economic development in 7987
the senate and the house of representatives. 7988

(L) On or before the first day of August of each year, the 7989

director of development shall submit a report to the governor, the 7990
president of the senate, and the speaker of the house of 7991
representatives on the tax credit program under this section. The 7992
report shall include information on the number of agreements that 7993
were entered into under this section during the preceding calendar 7994
year, a description of the project that is the subject of each 7995
such agreement, and an update on the status of projects under 7996
agreements entered into before the preceding calendar year. 7997

(M)(1) The aggregate amount of tax credits issued under 7998
division (B)(1) of this section during any calendar year for 7999
capital investment projects reviewed and approved by the tax 8000
credit authority may not exceed the following amounts: 8001

(a) For 2010, thirteen million dollars; 8002

(b) For 2011 through 2023, the amount of the limit for the 8003
preceding calendar year plus thirteen million dollars; 8004

(c) For 2024 and each year thereafter, one hundred 8005
ninety-five million dollars. 8006

(2) The aggregate amount of tax credits ~~issued~~ authorized 8007
under ~~division~~ divisions (B)(2) and (3) of this section ~~during and~~ 8008
allowed to be claimed by taxpayers in any calendar year for 8009
capital improvement projects reviewed and approved by the tax 8010
credit authority ~~may not exceed eight million dollars in 2011,~~ 8011
2012, and 2013 combined shall not exceed twenty-five million 8012
dollars. An amount equal to the aggregate amount of credits first 8013
authorized in calendar year 2011, 2012, and 2013 may be claimed 8014
over the ensuing period up to fifteen years, subject to the terms 8015
of individual tax credit agreements. 8016

The limitations in division (M) of this section do not apply 8017
to credits for capital investment projects approved by the tax 8018
credit authority before July 1, 2009. 8019

Sec. 122.76. (A) The director of development, with 8020
controlling board approval, may lend funds to minority business 8021
enterprises and to community improvement corporations, Ohio 8022
development corporations, minority contractors business assistance 8023
organizations, and minority business supplier development councils 8024
for the purpose of loaning funds to minority business enterprises 8025
and for the purpose of procuring or improving real or personal 8026
property, or both, for the establishment, location, or expansion 8027
of industrial, distribution, commercial, or research facilities in 8028
the state, and to community development corporations that 8029
predominantly benefit minority business enterprises or are located 8030
in a census tract that has a population that is sixty per cent or 8031
more minority if the director determines, in the director's sole 8032
discretion, that all of the following apply: 8033

(1) The project is economically sound and will benefit the 8034
people of the state by increasing opportunities for employment, by 8035
strengthening the economy of the state, or expanding minority 8036
business enterprises. 8037

(2) The proposed minority business enterprise borrower is 8038
unable to finance the proposed project through ordinary financial 8039
channels at comparable terms. 8040

(3) The value of the project is or, upon completion, will be 8041
at least equal to the total amount of the money expended in the 8042
procurement or improvement of the project, ~~and one or more~~ 8043
~~financial institutions or other governmental entities have loaned~~ 8044
~~not less than thirty per cent of that amount.~~ 8045

(4) The amount to be loaned by the director will not exceed 8046
sixty per cent of the total amount expended in the procurement or 8047
improvement of the project. 8048

(5) The amount to be loaned by the director will be 8049
adequately secured by a first or second mortgage upon the project 8050

or by mortgages, leases, liens, assignments, or pledges on or of 8051
other property or contracts as the director requires, and such 8052
mortgage will not be subordinate to any other liens or mortgages 8053
except the liens securing loans or investments made by financial 8054
institutions referred to in division (A)(3) of this section, and 8055
the liens securing loans previously made by any financial 8056
institution in connection with the procurement or expansion of all 8057
or part of a project. 8058

(B) Any proposed minority business enterprise borrower 8059
submitting an application for assistance under this section shall 8060
not have defaulted on a previous loan from the director, and no 8061
full or limited partner, major shareholder, or holder of an equity 8062
interest of the proposed minority business enterprise borrower 8063
shall have defaulted on a loan from the director. 8064

(C) The proposed minority business enterprise borrower shall 8065
demonstrate to the satisfaction of the director that it is able to 8066
successfully compete in the private sector if it obtains the 8067
necessary financial, technical, or managerial support and that 8068
support is available through the director, the minority business 8069
development office of the department of development, or other 8070
identified and acceptable sources. In determining whether a 8071
minority business enterprise borrower will be able to successfully 8072
compete, the director may give consideration to such factors as 8073
the successful completion of or participation in courses of study, 8074
recognized by the board of regents as providing financial, 8075
technical, or managerial skills related to the operation of the 8076
business, by the economically disadvantaged individual, owner, or 8077
partner, and the prior success of the individual, owner, or 8078
partner in personal, career, or business activities, as well as to 8079
other factors identified by the director. 8080

(D) The director shall not lend funds for the purpose of 8081
procuring or improving motor vehicles or accounts receivable. 8082

Sec. 123.01. (A) The department of administrative services, 8083
in addition to those powers enumerated in Chapters 124. and 125. 8084
of the Revised Code and provided elsewhere by law, shall exercise 8085
the following powers: 8086

(1) To prepare, or contract to be prepared, by licensed 8087
engineers or architects, surveys, general and detailed plans, 8088
specifications, bills of materials, and estimates of cost for any 8089
projects, improvements, or public buildings to be constructed by 8090
state agencies that may be authorized by legislative 8091
appropriations or any other funds made available therefor, 8092
provided that the construction of the projects, improvements, or 8093
public buildings is a statutory duty of the department. This 8094
section does not require the independent employment of an 8095
architect or engineer as provided by section 153.01 of the Revised 8096
Code in the cases to which that section applies nor affect or 8097
alter the existing powers of the director of transportation. 8098

(2) To have general supervision over the construction of any 8099
projects, improvements, or public buildings constructed for a 8100
state agency and over the inspection of materials previous to 8101
their incorporation into those projects, improvements, or 8102
buildings; 8103

(3) To make contracts for and supervise the construction of 8104
any projects and improvements or the construction and repair of 8105
buildings under the control of a state agency, except contracts 8106
for the repair of buildings under the management and control of 8107
the departments of public safety, job and family services, mental 8108
health, developmental disabilities, rehabilitation and correction, 8109
and youth services, the bureau of workers' compensation, the 8110
rehabilitation services commission, and boards of trustees of 8111
educational and benevolent institutions and except contracts for 8112
the construction of projects that do not require the issuance of a 8113

building permit or the issuance of a certificate of occupancy and 8114
that are necessary to remediate conditions at a hazardous waste 8115
facility, solid waste facility, or other location at which the 8116
director of environmental protection has reason to believe there 8117
is a substantial threat to public health or safety or the 8118
environment. These contracts shall be made and entered into by the 8119
directors of public safety, job and family services, mental 8120
health, developmental disabilities, rehabilitation and correction, 8121
and youth services, the administrator of workers' compensation, 8122
the rehabilitation services commission, the boards of trustees of 8123
such institutions, and the director of environmental protection, 8124
respectively. All such contracts may be in whole or in part on 8125
unit price basis of maximum estimated cost, with payment computed 8126
and made upon actual quantities or units. 8127

(4) To prepare and suggest comprehensive plans for the 8128
development of grounds and buildings under the control of a state 8129
agency; 8130

(5) To acquire, by purchase, gift, devise, lease, or grant, 8131
all real estate required by a state agency, in the exercise of 8132
which power the department may exercise the power of eminent 8133
domain, in the manner provided by sections 163.01 to 163.22 of the 8134
Revised Code; 8135

(6) To make and provide all plans, specifications, and models 8136
for the construction and perfection of all systems of sewerage, 8137
drainage, and plumbing for the state in connection with buildings 8138
and grounds under the control of a state agency; 8139

(7) To erect, supervise, and maintain all public monuments 8140
and memorials erected by the state, except where the supervision 8141
and maintenance is otherwise provided by law; 8142

(8) To procure, by lease, storage accommodations for a state 8143
agency; 8144

(9) To lease or grant easements or licenses for unproductive 8145
and unused lands or other property under the control of a state 8146
agency. Such leases, easements, or licenses shall be granted for a 8147
period not to exceed fifteen years and shall be executed for the 8148
state by the director of administrative services and the governor 8149
and shall be approved as to form by the attorney general, provided 8150
that leases, easements, or licenses may be granted to any county, 8151
township, municipal corporation, port authority, water or sewer 8152
district, school district, library district, health district, park 8153
district, soil and water conservation district, conservancy 8154
district, or other political subdivision or taxing district, or 8155
any agency of the United States government, for the exclusive use 8156
of that agency, political subdivision, or taxing district, without 8157
any right of sublease or assignment, for a period not to exceed 8158
fifteen years, and provided that the director shall grant leases, 8159
easements, or licenses of university land for periods not to 8160
exceed twenty-five years for purposes approved by the respective 8161
university's board of trustees wherein the uses are compatible 8162
with the uses and needs of the university and may grant leases of 8163
university land for periods not to exceed forty years for purposes 8164
approved by the respective university's board of trustees pursuant 8165
to section 123.77 of the Revised Code. 8166

(10) To lease space for the use of a state agency; 8167

(11) To have general supervision and care of the storerooms, 8168
offices, and buildings leased for the use of a state agency; 8169

(12) To exercise general custodial care of all real property 8170
of the state; 8171

(13) To assign and group together state offices in any city 8172
in the state and to establish, in cooperation with the state 8173
agencies involved, rules governing space requirements for office 8174
or storage use; 8175

(14) To lease for a period not to exceed forty years, 8176
pursuant to a contract providing for the construction thereof 8177
under a lease-purchase plan, buildings, structures, and other 8178
improvements for any public purpose, and, in conjunction 8179
therewith, to grant leases, easements, or licenses for lands under 8180
the control of a state agency for a period not to exceed forty 8181
years. The lease-purchase plan shall provide that at the end of 8182
the lease period, the buildings, structures, and related 8183
improvements, together with the land on which they are situated, 8184
shall become the property of the state without cost. 8185

(a) Whenever any building, structure, or other improvement is 8186
to be so leased by a state agency, the department shall retain 8187
either basic plans, specifications, bills of materials, and 8188
estimates of cost with sufficient detail to afford bidders all 8189
needed information or, alternatively, all of the following plans, 8190
details, bills of materials, and specifications: 8191

(i) Full and accurate plans suitable for the use of mechanics 8192
and other builders in the improvement; 8193

(ii) Details to scale and full sized, so drawn and 8194
represented as to be easily understood; 8195

(iii) Accurate bills showing the exact quantity of different 8196
kinds of material necessary to the construction; 8197

(iv) Definite and complete specifications of the work to be 8198
performed, together with such directions as will enable a 8199
competent mechanic or other builder to carry them out and afford 8200
bidders all needed information; 8201

(v) A full and accurate estimate of each item of expense and 8202
of the aggregate cost thereof. 8203

(b) The department shall give public notice, in such 8204
newspaper, in such form, and with such phraseology as the director 8205
of administrative services prescribes, published once each week 8206

for four consecutive weeks, of the time when and place where bids 8207
will be received for entering into an agreement to lease to a 8208
state agency a building, structure, or other improvement. The last 8209
publication shall be at least eight days preceding the day for 8210
opening the bids. The bids shall contain the terms upon which the 8211
builder would propose to lease the building, structure, or other 8212
improvement to the state agency. The form of the bid approved by 8213
the department shall be used, and a bid is invalid and shall not 8214
be considered unless that form is used without change, alteration, 8215
or addition. Before submitting bids pursuant to this section, any 8216
builder shall comply with Chapter 153. of the Revised Code. 8217

(c) On the day and at the place named for receiving bids for 8218
entering into lease agreements with a state agency, the director 8219
of administrative services shall open the bids and shall publicly 8220
proceed immediately to tabulate the bids upon duplicate sheets. No 8221
lease agreement shall be entered into until the bureau of workers' 8222
compensation has certified that the person to be awarded the lease 8223
agreement has complied with Chapter 4123. of the Revised Code, 8224
until, if the builder submitting the lowest and best bid is a 8225
foreign corporation, the secretary of state has certified that the 8226
corporation is authorized to do business in this state, until, if 8227
the builder submitting the lowest and best bid is a person 8228
nonresident of this state, the person has filed with the secretary 8229
of state a power of attorney designating the secretary of state as 8230
its agent for the purpose of accepting service of summons in any 8231
action brought under Chapter 4123. of the Revised Code, and until 8232
the agreement is submitted to the attorney general and the 8233
attorney general's approval is certified thereon. Within thirty 8234
days after the day on which the bids are received, the department 8235
shall investigate the bids received and shall determine that the 8236
bureau and the secretary of state have made the certifications 8237
required by this section of the builder who has submitted the 8238
lowest and best bid. Within ten days of the completion of the 8239

investigation of the bids, the department shall award the lease 8240
agreement to the builder who has submitted the lowest and best bid 8241
and who has been certified by the bureau and secretary of state as 8242
required by this section. If bidding for the lease agreement has 8243
been conducted upon the basis of basic plans, specifications, 8244
bills of materials, and estimates of costs, upon the award to the 8245
builder the department, or the builder with the approval of the 8246
department, shall appoint an architect or engineer licensed in 8247
this state to prepare such further detailed plans, specifications, 8248
and bills of materials as are required to construct the building, 8249
structure, or improvement. The department shall adopt such rules 8250
as are necessary to give effect to this section. The department 8251
may reject any bid. Where there is reason to believe there is 8252
collusion or combination among bidders, the bids of those 8253
concerned therein shall be rejected. 8254

(15) To acquire by purchase, gift, devise, or grant and to 8255
transfer, lease, or otherwise dispose of all real property 8256
required to assist in the development of a conversion facility as 8257
defined in section 5709.30 of the Revised Code as that section 8258
existed before its repeal by Amended Substitute House Bill 95 of 8259
the 125th general assembly; 8260

(16) To lease for a period not to exceed forty years, 8261
notwithstanding any other division of this section, the 8262
state-owned property located at 408-450 East Town Street, 8263
Columbus, Ohio, formerly the state school for the deaf, to a 8264
developer in accordance with this section. "Developer," as used in 8265
this section, has the same meaning as in section 123.77 of the 8266
Revised Code. 8267

Such a lease shall be for the purpose of development of the 8268
land for use by senior citizens by constructing, altering, 8269
renovating, repairing, expanding, and improving the site as it 8270
existed on June 25, 1982. A developer desiring to lease the land 8271

shall prepare for submission to the department a plan for 8272
development. Plans shall include provisions for roads, sewers, 8273
water lines, waste disposal, water supply, and similar matters to 8274
meet the requirements of state and local laws. The plans shall 8275
also include provision for protection of the property by insurance 8276
or otherwise, and plans for financing the development, and shall 8277
set forth details of the developer's financial responsibility. 8278

The department may employ, as employees or consultants, 8279
persons needed to assist in reviewing the development plans. Those 8280
persons may include attorneys, financial experts, engineers, and 8281
other necessary experts. The department shall review the 8282
development plans and may enter into a lease if it finds all of 8283
the following: 8284

(a) The best interests of the state will be promoted by 8285
entering into a lease with the developer; 8286

(b) The development plans are satisfactory; 8287

(c) The developer has established the developer's financial 8288
responsibility and satisfactory plans for financing the 8289
development. 8290

The lease shall contain a provision that construction or 8291
renovation of the buildings, roads, structures, and other 8292
necessary facilities shall begin within one year after the date of 8293
the lease and shall proceed according to a schedule agreed to 8294
between the department and the developer or the lease will be 8295
terminated. The lease shall contain such conditions and 8296
stipulations as the director considers necessary to preserve the 8297
best interest of the state. Moneys received by the state pursuant 8298
to this lease shall be paid into the general revenue fund. The 8299
lease shall provide that at the end of the lease period the 8300
buildings, structures, and related improvements shall become the 8301
property of the state without cost. 8302

(17) To lease to any person any tract of land owned by the state and under the control of the department, or any part of such a tract, for the purpose of drilling for or the pooling of oil or gas. Such a lease shall be granted for a period not exceeding forty years, with the full power to contract for, determine the conditions governing, and specify the amount the state shall receive for the purposes specified in the lease, and shall be prepared as in other cases.

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

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

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

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

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

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

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

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

(B) This section and section 125.02 of the Revised Code shall 8333
not interfere with any of the following: 8334

(1) The power of the adjutant general to purchase military 8335
supplies, or with the custody of the adjutant general of property 8336
leased, purchased, or constructed by the state and used for 8337
military purposes, or with the functions of the adjutant general 8338
as director of state armories; 8339

(2) The power of the director of transportation in acquiring 8340
rights-of-way for the state highway system, or the leasing of 8341
lands for division or resident district offices, or the leasing of 8342
lands or buildings required in the maintenance operations of the 8343
department of transportation, or the purchase of real property for 8344
garage sites or division or resident district offices, or in 8345
preparing plans and specifications for and constructing such 8346
buildings as the director may require in the administration of the 8347
department; 8348

(3) The power of the director of public safety and the 8349
registrar of motor vehicles to purchase or lease real property and 8350
buildings to be used solely as locations to which a deputy 8351
registrar is assigned pursuant to division (B) of section 4507.011 8352
of the Revised Code and from which the deputy registrar is to 8353
conduct the deputy registrar's business, the power of the director 8354
of public safety to purchase or lease real property and buildings 8355
to be used as locations for division or district offices as 8356
required in the maintenance of operations of the department of 8357
public safety, and the power of the superintendent of the state 8358
highway patrol in the purchase or leasing of real property and 8359
buildings needed by the patrol, to negotiate the sale of real 8360
property owned by the patrol, to rent or lease real property owned 8361
or leased by the patrol, and to make or cause to be made repairs 8362
to all property owned or under the control of the patrol; 8363

(4) The power of the division of liquor control in the 8364

leasing or purchasing of retail outlets and warehouse facilities 8365
for the use of the division; 8366

(5) The power of the director of development to enter into 8367
leases of real property, buildings, and office space to be used 8368
solely as locations for the state's foreign offices to carry out 8369
the purposes of section 122.05 of the Revised Code; 8370

(6) The power of the director of environmental protection to 8371
enter into environmental covenants, to grant and accept easements, 8372
or to sell property pursuant to division (G) of section 3745.01 of 8373
the Revised Code. 8374

(C) Purchases for, and the custody and repair of, buildings 8375
under the management and control of the capitol square review and 8376
advisory board, the rehabilitation services commission, the bureau 8377
of workers' compensation, or the departments of public safety, job 8378
and family services, mental health, developmental disabilities, 8379
and rehabilitation and correction, ~~and~~; buildings of educational 8380
and benevolent institutions under the management and control of 8381
boards of trustees, ~~and~~ purchases or leases for, and the custody 8382
and repair of, office space used for the purposes of the joint 8383
legislative ethics committee are not subject to the control and 8384
jurisdiction of the department of administrative services. 8385

If the joint legislative ethics committee so requests, the 8386
committee and the director of administrative services may enter 8387
into a contract under which the department of administrative 8388
services agrees to perform any services requested by the committee 8389
that the department is authorized under this section to perform. 8390

(D) Any instrument by which real property is acquired 8391
pursuant to this section shall identify the agency of the state 8392
that has the use and benefit of the real property as specified in 8393
section 5301.012 of the Revised Code. 8394

Sec. 123.011. (A) As used in this section:	8395
(1) "Construct" includes reconstruct, improve, renovate, enlarge, or otherwise alter.	8396 8397
(2) "Energy consumption analysis" means the evaluation of all energy consuming systems, components, and equipment by demand and type of energy, including the internal energy load imposed on a facility by its occupants and the external energy load imposed by climatic conditions.	8398 8399 8400 8401 8402
(3) "Energy performance index" means a number describing the energy requirements of a facility per square foot of floor space or per cubic foot of occupied volume as appropriate under defined internal and external ambient conditions over an entire seasonal cycle.	8403 8404 8405 8406 8407
(4) "Facility" means a building or other structure, or part of a building or other structure, that includes provision for a heating, refrigeration, ventilation, cooling, lighting, hot water, or other major energy consuming system, component, or equipment.	8408 8409 8410 8411
(5) <u>"Life-cycle cost analysis" means a general approach to economic evaluation that takes into account all dollar costs related to owning, operating, maintaining, and ultimately disposing of a project over the appropriate study period.</u>	8412 8413 8414 8415
(6) <u>"Political subdivision" means a county, township, municipal corporation, board of education of any school district, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.</u>	8416 8417 8418 8419 8420
(7) "State funded" means funded in whole or in part through appropriation by the general assembly or through the use of any guarantee provided by this state.	8421 8422 8423
(6) (8) "State institution of higher education" has the same	8424

meaning as in section 3345.011 of the Revised Code. 8425

(B) There is hereby created within the department of 8426
administrative services the office of energy services. The office 8427
shall be under the supervision of a manager, who shall be 8428
appointed by the director of administrative services. The director 8429
shall assign to the office such number of employees and furnish 8430
such equipment and supplies as are necessary for the performance 8431
of the office's duties. 8432

The office shall develop energy efficiency and conservation 8433
programs in each of the following areas: 8434

- (1) New construction design and review; 8435
- (2) Existing building audit and retrofit; 8436
- (3) Energy efficient procurement; 8437
- (4) Alternative fuel vehicles. 8438

The office may accept and administer grants from public and 8439
private sources for carrying out any of its duties under this 8440
section. 8441

(C) No state agency, department, division, bureau, office, 8442
unit, board, commission, authority, quasi-governmental entity, or 8443
institution, including those agencies otherwise excluded from the 8444
jurisdiction of the department under division (A)(3) of section 8445
123.01 of the Revised Code, shall lease, construct, or cause to be 8446
leased or constructed, within the limits prescribed in this 8447
section, a state-funded facility, without ~~having secured from the~~ 8448
~~office~~ a proper life-cycle cost analysis or, in the case of a 8449
lease, an energy consumption analysis, as computed or prepared by 8450
a qualified architect or engineer in accordance with the rules 8451
required by division (D) of this section. 8452

Construction shall proceed only upon the disclosure to the 8453
office, for the facility chosen, of the life-cycle costs as 8454

determined in this section and the capitalization of the initial 8455
construction costs of the building. The results of life-cycle cost 8456
analysis shall be a primary consideration in the selection of a 8457
building design. That analysis shall be required only for 8458
construction of buildings with an area of five thousand square 8459
feet or greater. An energy consumption analysis for the term of a 8460
proposed lease shall be required only for the leasing of an area 8461
of twenty thousand square feet or greater within a given building 8462
boundary. That analysis shall be a primary consideration in the 8463
selection of a facility to be leased. 8464

Nothing in this section shall deprive or limit any state 8465
agency that has review authority over design, construction, or 8466
leasing plans from requiring a life-cycle cost analysis or energy 8467
consumption analysis. 8468

~~Whenever any state agency, department, division, bureau, 8469
office, unit, board, commission, authority, quasi governmental 8470
entity, or institution requests release of capital improvement 8471
funds for any state funded facility, it shall submit copies of all 8472
pertinent life cycle cost analyses prepared pursuant to this 8473
section and in accordance with rules adopted under Chapters 3781- 8474
and 4101. of the Revised Code. 8475~~

(D) For the purposes of assisting the department in its 8476
responsibility for state-funded facilities pursuant to section 8477
123.01 of the Revised Code and of cost-effectively reducing the 8478
energy consumption of those and any other state-funded facilities, 8479
thereby promoting fiscal, economic, and environmental benefits to 8480
this state, the office shall promulgate rules specifying 8481
cost-effective, energy efficiency and conservation standards that 8482
may govern the lease, design, construction, operation, and 8483
maintenance of all state-funded facilities, except facilities of 8484
state institutions of higher education or facilities operated by a 8485
political subdivision. The office of energy efficiency in the 8486

department of development shall cooperate in providing information 8487
and technical expertise to the office of energy services to ensure 8488
promulgation of rules of maximum effectiveness. The standards 8489
prescribed by rules promulgated under this division may draw from 8490
or incorporate, by reference or otherwise and in whole or in part, 8491
standards already developed or implemented by any competent, 8492
public or private standards organization or program. The rules 8493
also may include any of the following: 8494

(1) Specifications for a life-cycle cost analysis that shall 8495
determine, for the economic life of such state-funded facility, 8496
the reasonably expected costs of facility ownership, operation, 8497
and maintenance including labor and materials. Life-cycle cost may 8498
be expressed as an annual cost for each year of the facility's 8499
use. ~~Further, the life cycle cost analysis may demonstrate for~~ 8500
~~each design how the design contributes to energy efficiency and~~ 8501
~~conservation with respect to any of the following:~~ 8502

~~(a) The coordination, orientation, and positioning of the~~ 8503
~~facility on its physical site;~~ 8504

~~(b) The amount and type of glass employed in the facility and~~ 8505
~~the directions of exposure;~~ 8506

~~(c) Thermal characteristics of materials incorporated into~~ 8507
~~facility design, including insulation;~~ 8508

~~(d) Architectural features that affect energy consumption,~~ 8509
~~including the solar absorption and reflection properties of~~ 8510
~~external surfaces;~~ 8511

~~(e) The variable occupancy and operating conditions of the~~ 8512
~~facility and portions of the facility, including illumination~~ 8513
~~levels;~~ 8514

~~(f) Any other pertinent, physical characteristics of the~~ 8515
~~design.~~ 8516

A life-cycle cost analysis additionally may include an energy consumption analysis that conforms to division (D)(2) of this section. 8517
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(2) Specifications for an energy consumption analysis of the facility's heating, refrigeration, ventilation, cooling, lighting, hot water, and other major energy consuming systems, components, and equipment. ~~This analysis shall include both of the following:~~ 8520
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~~(a) The comparison of two or more system alternatives, one of which may be a system using solar energy;~~ 8524
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~~(b) The projection of the annual energy consumption of those major energy consuming systems, components, and equipment, for a range of operation of the facility over the economic life of the facility and considering their operation at other than full or rated outputs.~~ 8526
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A life-cycle cost analysis and energy consumption analysis shall be based on the best currently available methods of analysis, such as those of the national ~~bureau~~ institute of standards and technology, the United States department of ~~housing and urban development~~ energy or other federal agencies, professional societies, and directions developed by the department. 8531
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(3) Specifications for energy performance indices, to be used to audit and evaluate competing design proposals submitted to the state. 8538
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(4) A requirement that, not later than two years after ~~the effective date of this amendment~~ April 6, 2007, each state-funded facility, except a facility of a state institution of higher education or a facility operated by a political subdivision, is managed by at least one building operator certified under the building operator certification program or any equivalent program or standards as shall be prescribed in the rules and considered 8541
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reasonably equivalent. 8548

(5) An application process by which a ~~project manager, as to~~ 8549
of a specified state-funded facility, except a facility of a state 8550
institution of higher education or a facility operated by a 8551
political subdivision, may apply for a waiver of compliance with 8552
any provision of the rules required by divisions (D)(1) to (4) of 8553
this section. 8554

(E) The office of energy services shall promulgate rules to 8555
ensure that energy efficiency and conservation will be considered 8556
in the purchase of products and equipment, except motor vehicles, 8557
by any state agency, department, division, bureau, office, unit, 8558
board, commission, authority, quasi-governmental entity, or 8559
institution. Minimum energy efficiency standards for purchased 8560
products and equipment may be required, based on federal testing 8561
and labeling where available or on standards developed by the 8562
office. The rules shall apply to the competitive selection of 8563
energy consuming systems, components, and equipment under Chapter 8564
125. of the Revised Code where possible. 8565

The office also shall ensure energy efficient and energy 8566
conserving purchasing practices by doing all of the following: 8567

(1) Cooperatively with the office of energy efficiency, 8568
identifying available energy efficiency and conservation 8569
opportunities; 8570

(2) Providing for interchange of information among purchasing 8571
agencies; 8572

(3) Identifying laws, policies, rules, and procedures that 8573
need modification; 8574

(4) Monitoring experience with and the cost-effectiveness of 8575
this state's purchase and use of motor vehicles and of major 8576
energy-consuming systems, components, equipment, and products 8577
having a significant impact on energy consumption by government; 8578

(5) Cooperatively with the office of energy efficiency, 8579
providing technical assistance and training to state employees 8580
involved in the purchasing process. 8581

The department of development shall make recommendations to 8582
the office regarding planning and implementation of purchasing 8583
policies and procedures supportive of energy efficiency and 8584
conservation. 8585

(F)(1) The office of energy services shall require all state 8586
agencies, departments, divisions, bureaus, offices, units, 8587
commissions, boards, authorities, quasi-governmental entities, 8588
institutions, and state institutions of higher education to 8589
implement procedures ensuring that all their passenger automobiles 8590
acquired in each fiscal year, except for those passenger 8591
automobiles acquired for use in law enforcement or emergency 8592
rescue work, achieve a fleet average fuel economy of not less than 8593
the fleet average fuel economy for that fiscal year as shall be 8594
prescribed by the office by rule. The office shall promulgate the 8595
rule prior to the beginning of the fiscal year in accordance with 8596
the average fuel economy standards established pursuant to federal 8597
law for passenger automobiles manufactured during the model year 8598
that begins during the fiscal year. 8599

(2) Each state agency, department, division, bureau, office, 8600
unit, commission, board, authority, quasi-governmental entity, 8601
institution, and state institution of higher education shall 8602
determine its fleet average fuel economy by dividing: 8603

(a) The total number of passenger vehicles acquired during 8604
the fiscal year, except for those passenger vehicles acquired for 8605
use in law enforcement or emergency rescue work, by 8606

(b) A sum of terms, each of which is a fraction created by 8607
dividing: 8608

(i) The number of passenger vehicles of a given make, model, 8609

and year, except for passenger vehicles acquired for use in law 8610
enforcement or emergency rescue work, acquired during the fiscal 8611
year, by 8612

(ii) The fuel economy measured by the administrator of the 8613
United States environmental protection agency, for the given make, 8614
model, and year of vehicle, that constitutes an average fuel 8615
economy for combined city and highway driving. 8616

As used in division (F)(2) of this section, "acquired" means 8617
leased for a period of sixty continuous days or more, or 8618
purchased. 8619

(G) Each state agency, department, division, bureau, office, 8620
unit, board, commission, authority, quasi-governmental entity, 8621
institution, and state institution of higher education shall 8622
comply with any applicable provision of this section or of a rule 8623
promulgated pursuant to division (D) or (F) of this section. 8624

Sec. 123.10. (A) The director of administrative services 8625
shall regulate the rate of tolls to be collected on the public 8626
works of the state, and shall fix all rentals and collect all 8627
tolls, rents, fines, commissions, fees, and other revenues arising 8628
from any source in the public works, including the sale, 8629
construction, purchase, or rental of property, except that the 8630
director shall not collect a commission or fee from a real estate 8631
broker or the private owner when real property is leased or rented 8632
to the state. 8633

(B) There is hereby created in the state treasury the state 8634
architect's fund which shall consist of money received by the 8635
department of administrative services under division (A) of this 8636
section, fees paid under section 123.17 of the Revised Code, 8637
transfers of money to the fund authorized by the general assembly, 8638
and such amount of the investment earnings of the administrative 8639
building fund created in division ~~(C)~~(F) of ~~this~~ section 154.24 of 8640

the Revised Code as the director of budget and management 8641
determines to be appropriate and in excess of the amounts required 8642
to meet estimated federal arbitrage rebate requirements. Money in 8643
the fund shall be used by the department of administrative 8644
services for the following purposes: 8645

(1) To pay personnel and other administrative expenses of the 8646
department; 8647

(2) To pay the cost of conducting evaluations of public 8648
works; 8649

(3) To pay the cost of building design specifications; 8650

(4) To pay the cost of providing project management services; 8651

(5) To pay the cost of operating the local administration 8652
competency certification program prescribed by section 123.17 of 8653
the Revised Code; 8654

(6) Any other purposes that the director of administrative 8655
services determines to be necessary for the department to execute 8656
its duties under this chapter. 8657

~~(C) There is hereby created in the state treasury the 8658
administrative building fund which shall consist of proceeds of 8659
obligations authorized to pay the cost of capital facilities. 8660
Except as provided in division (B) of this section, all investment 8661
earnings of the fund shall be credited to the fund. The fund shall 8662
be used to pay the cost of capital facilities designated by or 8663
pursuant to an act of the general assembly. The director of budget 8664
and management shall approve and provide a voucher for payments of 8665
amounts from the fund that represent the portion of investment 8666
earnings to be rebated or to be paid to the federal government in 8667
order to maintain the exclusion from gross income for federal 8668
income tax purposes on interest on those obligations pursuant to 8669
section 148(f) of the Internal Revenue Code. 8670~~

~~As used in this division, "capital facilities" has the same meaning as under section 152.09 of the Revised Code.~~

Sec. 124.09. The director of administrative services shall do all of the following:

(A) Prescribe, amend, and enforce administrative rules for the purpose of carrying out the functions, powers, and duties vested in and imposed upon the director by this chapter. Except in the case of rules adopted pursuant to section 124.14 of the Revised Code, the prescription, amendment, and enforcement of rules under this division are subject to approval, disapproval, or modification by the state personnel board of review.

(B) Keep records of the director's proceedings and records of all applications for examinations and all examinations conducted by the director or the director's designee. All of those records, except examinations, proficiency assessments, and recommendations of former employers, shall be open to public inspection under reasonable regulations; provided the governor, or any person designated by the governor, may, for the purpose of investigation, have free access to all of those records, whenever the governor has reason to believe that this chapter, or the administrative rules of the director prescribed under this chapter, are being violated.

(C) Prepare, continue, and keep in the office of the department of administrative services a complete roster of all persons in the classified civil service of the state who are paid directly by warrant of the director of budget and management. This roster shall be open to public inspection at all reasonable hours. It shall show in reference to each of those persons, the person's name, address, date of appointment to or employment in the classified civil service of the state, and salary or compensation, the title of the place or office that the person holds, the nature

of the duties of that place or office, and, in case of the 8702
person's removal or resignation, the date of the termination of 8703
that service. 8704

(D) Approve the establishment of all new positions in the 8705
civil service of the state and the reestablishment of abolished 8706
positions; 8707

(E) Require the abolishment of any position in the civil 8708
service of the state that is not filled after a period of twelve 8709
months unless it is determined that the position is seasonal in 8710
nature or that the vacancy is otherwise justified; 8711

(F) Make investigations concerning all matters touching the 8712
enforcement and effect of this chapter and the administrative 8713
rules of the director of administrative services prescribed under 8714
this chapter. In the course of those investigations, the director 8715
or the director's deputy may administer oaths and affirmations and 8716
take testimony relative to any matter which the director has 8717
authority to investigate. 8718

(G) Have the power to subpoena and require the attendance and 8719
testimony of witnesses and the production of books, papers, public 8720
records, and other documentary evidence pertinent to the 8721
investigations, inquiries, or hearings on any matter which the 8722
director has authority to investigate, inquire into, or hear, and 8723
to examine them in relation to any matter which the director has 8724
authority to investigate, inquire into, or hear. Fees and mileage 8725
shall be allowed to witnesses and, on their certificate, duly 8726
audited, shall be paid by the treasurer of state or, in the case 8727
of municipal or civil service township civil service commissions, 8728
by the county treasurer, for attendance and traveling, as provided 8729
in section 119.094 of the Revised Code. All officers in the civil 8730
service of the state or any of the political subdivisions of the 8731
state and their deputies, clerks, and employees shall attend and 8732
testify when summoned to do so by the director or the state 8733

personnel board of review. Depositions of witnesses may be taken 8734
by the director or the board, or any member of the board, in the 8735
manner prescribed by law for like depositions in civil actions in 8736
the courts of common pleas. In case any person, in disobedience to 8737
any subpoena issued by the director or the board, or any member of 8738
the board, or the chief examiner, fails or refuses to attend and 8739
testify to any matter regarding which the person may be lawfully 8740
interrogated, or produce any documentary evidence pertinent to any 8741
investigation, inquiry, or hearing, the court of common pleas of 8742
any county, or any judge of the court of common pleas of any 8743
county, where the disobedience, failure, or refusal occurs, upon 8744
application of the director or the board, or any member of the 8745
board, or a municipal or civil service township civil service 8746
commission, or any commissioner of such a commission, or their 8747
chief examiner, shall compel obedience by attachment proceedings 8748
for contempt as in the case of disobedience of the requirements of 8749
a subpoena issued from the court or a refusal to testify in the 8750
court. 8751

(H) Make a report to the governor, on or before the first day 8752
of January of each year, showing the director's actions, the rules 8753
and all exceptions to the rules in force, and any recommendations 8754
for the more effectual accomplishment of the purposes of this 8755
chapter. The director shall also furnish any special reports to 8756
the governor whenever the governor requests them. The reports 8757
shall be printed for public distribution under the same 8758
regulations as are the reports of other state officers, boards, or 8759
commissions. 8760

Sec. 124.11. The civil service of the state and the several 8761
counties, cities, civil service townships, city health districts, 8762
general health districts, and city school districts of the state 8763
shall be divided into the unclassified service and the classified 8764
service. 8765

(A) The unclassified service shall comprise the following 8766
positions, which shall not be included in the classified service, 8767
and which shall be exempt from all examinations required by this 8768
chapter: 8769

(1) All officers elected by popular vote or persons appointed 8770
to fill vacancies in those offices; 8771

(2) All election officers as defined in section 3501.01 of 8772
the Revised Code; 8773

(3)(a) The members of all boards and commissions, and heads 8774
of principal departments, boards, and commissions appointed by the 8775
governor or by and with the governor's consent; 8776

(b) The heads of all departments appointed by a board of 8777
county commissioners; 8778

(c) The members of all boards and commissions and all heads 8779
of departments appointed by the mayor, or, if there is no mayor, 8780
such other similar chief appointing authority of any city or city 8781
school district; 8782

Except as otherwise provided in division (A)(17) or (C) of 8783
this section, this chapter does not exempt the chiefs of police 8784
departments and chiefs of fire departments of cities or civil 8785
service townships from the competitive classified service. 8786

(4) The members of county or district licensing boards or 8787
commissions and boards of revision, and not more than five deputy 8788
county auditors; 8789

(5) All officers and employees elected or appointed by either 8790
or both branches of the general assembly, and employees of the 8791
city legislative authority engaged in legislative duties; 8792

(6) All commissioned, warrant, and noncommissioned officers 8793
and enlisted persons in the Ohio organized militia, including 8794
military appointees in the adjutant general's department; 8795

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

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

(8) Four clerical and administrative support employees for each of the elective state officers, four clerical and administrative support employees for each board of county commissioners and one such employee for each county commissioner, and four clerical and administrative support employees for other elective officers and each of the principal appointive executive officers, boards, or commissions, except for civil service commissions, that are authorized to appoint such clerical and administrative support employees;

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

(10) Bailiffs, constables, official stenographers, and 8828
commissioners of courts of record, deputies of clerks of the 8829
courts of common pleas who supervise or who handle public moneys 8830
or secured documents, and such officers and employees of courts of 8831
record and such deputies of clerks of the courts of common pleas 8832
as the director of administrative services finds it impracticable 8833
to determine their fitness by competitive examination; 8834

(11) Assistants to the attorney general, special counsel 8835
appointed or employed by the attorney general, assistants to 8836
county prosecuting attorneys, and assistants to city directors of 8837
law; 8838

(12) Such teachers and employees in the agricultural 8839
experiment stations; such students in normal schools, colleges, 8840
and universities of the state who are employed by the state or a 8841
political subdivision of the state in student or intern 8842
classifications; and such unskilled labor positions as the 8843
director of administrative services or any municipal civil service 8844
commission may find it impracticable to include in the competitive 8845
classified service; provided such exemptions shall be by order of 8846
the commission or the director, duly entered on the record of the 8847
commission or the director with the reasons for each such 8848
exemption; 8849

(13) Any physician or dentist who is a full-time employee of 8850
the department of mental health, the department of developmental 8851
disabilities, or an institution under the jurisdiction of either 8852
department; and physicians who are in residency programs at the 8853
institutions; 8854

(14) Up to twenty positions at each institution under the 8855
jurisdiction of the department of mental health or the department 8856
of developmental disabilities that the department director 8857
determines to be primarily administrative or managerial; and up to 8858
fifteen positions in any division of either department, excluding 8859

administrative assistants to the director and division chiefs, 8860
which are within the immediate staff of a division chief and which 8861
the director determines to be primarily and distinctively 8862
administrative and managerial; 8863

(15) Noncitizens of the United States employed by the state, 8864
or its counties or cities, as physicians or nurses who are duly 8865
licensed to practice their respective professions under the laws 8866
of this state, or medical assistants, in mental or chronic disease 8867
hospitals, or institutions; 8868

(16) Employees of the governor's office; 8869

(17) Fire chiefs and chiefs of police in civil service 8870
townships appointed by boards of township trustees under section 8871
505.38 or 505.49 of the Revised Code; 8872

(18) Executive directors, deputy directors, and program 8873
directors employed by boards of alcohol, drug addiction, and 8874
mental health services under Chapter 340. of the Revised Code, and 8875
secretaries of the executive directors, deputy directors, and 8876
program directors; 8877

(19) Superintendents, and management employees as defined in 8878
section 5126.20 of the Revised Code, of county boards of 8879
developmental disabilities; 8880

(20) Physicians, nurses, and other employees of a county 8881
hospital who are appointed pursuant to sections 339.03 and 339.06 8882
of the Revised Code; 8883

(21) The executive director of the state medical board, who 8884
is appointed pursuant to division (B) of section 4731.05 of the 8885
Revised Code; 8886

(22) County directors of job and family services as provided 8887
in section 329.02 of the Revised Code and administrators appointed 8888
under section 329.021 of the Revised Code; 8889

(23) A director of economic development who is hired pursuant to division (A) of section 307.07 of the Revised Code;	8890 8891
(24) Chiefs of construction and compliance, of operations and maintenance, of worker protection, and of licensing and certification in the division of labor in the department of commerce;	8892 8893 8894 8895
(25) The executive director of a county transit system appointed under division (A) of section 306.04 of the Revised Code;	8896 8897 8898
(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of workers' compensation, industrial commission, state lottery commission, and public utilities commission of Ohio that the head of that administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range 44 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative department or state agency has under the Revised Code to establish positions, appoint employees, or set compensation.	8899 8900 8901 8902 8903 8904 8905 8906 8907 8908 8909 8910 8911 8912 8913 8914 8915 8916
(27) Employees of the department of agriculture employed under section 901.09 of the Revised Code;	8917 8918
(28) For cities, counties, civil service townships, city health districts, general health districts, and city school	8919 8920

districts, the deputies and assistants of elective or principal 8921
executive officers authorized to act for and in the place of their 8922
principals or holding a fiduciary relation to their principals; 8923

(29) Employees who receive intermittent or temporary 8924
appointments under division (B) of section 124.30 of the Revised 8925
Code; 8926

(30) Employees appointed to administrative staff positions 8927
for which an appointing authority is given specific statutory 8928
authority to set compensation; 8929

(31) Employees appointed to highway patrol cadet or highway 8930
patrol cadet candidate classifications; 8931

(32) An administrator appointed by a county board of 8932
information services and records management under section 307.847 8933
of the Revised Code; 8934

(33) Employees placed in the unclassified service by another 8935
section of the Revised Code. 8936

(B) The classified service shall comprise all persons in the 8937
employ of the state and the several counties, cities, city health 8938
districts, general health districts, and city school districts of 8939
the state, not specifically included in the unclassified service. 8940
Upon the creation by the board of trustees of a civil service 8941
township civil service commission, the classified service shall 8942
also comprise, except as otherwise provided in division (A)(17) or 8943
(C) of this section, all persons in the employ of a civil service 8944
township police or fire department having ten or more full-time 8945
paid employees. The classified service consists of two classes, 8946
which shall be designated as the competitive class and the 8947
unskilled labor class. 8948

(1) The competitive class shall include all positions and 8949
employments in the state and the counties, cities, city health 8950
districts, general health districts, and city school districts of 8951

the state, and, upon the creation by the board of trustees of a 8952
civil service township of a township civil service commission, all 8953
positions in a civil service township police or fire department 8954
having ten or more full-time paid employees, for which it is 8955
practicable to determine the merit and fitness of applicants by 8956
competitive examinations. Appointments shall be made to, or 8957
employment shall be given in, all positions in the competitive 8958
class that are not filled by promotion, reinstatement, transfer, 8959
or reduction, as provided in this chapter, and the rules of the 8960
director of administrative services, by appointment from those 8961
certified to the appointing officer in accordance with this 8962
chapter. 8963

(2) The unskilled labor class shall include ordinary 8964
unskilled laborers. Vacancies in the labor class for positions in 8965
service of the state shall be filled by appointment from lists of 8966
applicants registered by the director. Vacancies in the labor 8967
class for all other positions shall be filled by appointment from 8968
lists of applicants registered by a commission. The director or 8969
the commission, as applicable, by rule, shall require an applicant 8970
for registration in the labor class to furnish evidence or take 8971
tests as the director or commission considers proper with respect 8972
to age, residence, physical condition, ability to labor, honesty, 8973
sobriety, industry, capacity, and experience in the work or 8974
employment for which application is made. Laborers who fulfill the 8975
requirements shall be placed on the eligible list for the kind of 8976
labor or employment sought, and preference shall be given in 8977
employment in accordance with the rating received from that 8978
evidence or in those tests. Upon the request of an appointing 8979
officer, stating the kind of labor needed, the pay and probable 8980
length of employment, and the number to be employed, the director 8981
or commission, as applicable, shall certify from the highest on 8982
the list double the number to be employed; from this number, the 8983
appointing officer shall appoint the number actually needed for 8984

the particular work. If more than one applicant receives the same 8985
rating, priority in time of application shall determine the order 8986
in which their names shall be certified for appointment. 8987

(C) A municipal or civil service township civil service 8988
commission may place volunteer firefighters who are paid on a 8989
fee-for-service basis in either the classified or the unclassified 8990
civil service. 8991

(D) This division does not apply to persons in the 8992
unclassified service who have the right to resume positions in the 8993
classified service under sections 4121.121, 5119.071, 5120.38, 8994
5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised 8995
Code. 8996

An appointing authority whose employees are paid directly by 8997
warrant of the director of budget and management may appoint a 8998
person who holds a certified position in the classified service 8999
within the appointing authority's agency to a position in the 9000
unclassified service within that agency. A person appointed 9001
pursuant to this division to a position in the unclassified 9002
service shall retain the right to resume the position and status 9003
held by the person in the classified service immediately prior to 9004
the person's appointment to the position in the unclassified 9005
service, regardless of the number of positions the person held in 9006
the unclassified service. An employee's right to resume a position 9007
in the classified service may only be exercised when an appointing 9008
authority demotes the employee to a pay range lower than the 9009
employee's current pay range or revokes the employee's appointment 9010
to the unclassified service. An employee forfeits the right to 9011
resume a position in the classified service when the employee is 9012
removed from the position in the unclassified service due to 9013
incompetence, inefficiency, dishonesty, drunkenness, immoral 9014
conduct, insubordination, discourteous treatment of the public, 9015
neglect of duty, violation of this chapter or the rules of the 9016

director of administrative services, any other failure of good 9017
behavior, any other acts of misfeasance, malfeasance, or 9018
nonfeasance in office, or conviction of a felony. An employee also 9019
forfeits the right to resume a position in the classified service 9020
upon transfer to a different agency. 9021

Reinstatement to a position in the classified service shall 9022
be to a position substantially equal to that position in the 9023
classified service held previously, as certified by the director 9024
of administrative services. If the position the person previously 9025
held in the classified service has been placed in the unclassified 9026
service or is otherwise unavailable, the person shall be appointed 9027
to a position in the classified service within the appointing 9028
authority's agency that the director of administrative services 9029
certifies is comparable in compensation to the position the person 9030
previously held in the classified service. Service in the position 9031
in the unclassified service shall be counted as service in the 9032
position in the classified service held by the person immediately 9033
prior to the person's appointment to the position in the 9034
unclassified service. When a person is reinstated to a position in 9035
the classified service as provided in this division, the person is 9036
entitled to all rights, status, and benefits accruing to the 9037
position in the classified service during the person's time of 9038
service in the position in the unclassified service. 9039

Sec. 124.14. (A)(1) The director of administrative services 9040
shall establish, and may modify or rescind, ~~by rule,~~ a job 9041
classification plan for all positions, offices, and employments 9042
the salaries of which are paid in whole or in part by the state. 9043
The director shall group jobs within a classification so that the 9044
positions are similar enough in duties and responsibilities to be 9045
described by the same title, to have the same pay assigned with 9046
equity, and to have the same qualifications for selection applied. 9047
The director shall, ~~by rule,~~ assign a classification title to each 9048

classification within the classification plan. However, the 9049
director shall consider in establishing classifications, including 9050
classifications with parenthetical titles, and assigning pay 9051
ranges such factors as duties performed only on one shift, special 9052
skills in short supply in the labor market, recruitment problems, 9053
separation rates, comparative salary rates, the amount of training 9054
required, and other conditions affecting employment. The director 9055
shall describe the duties and responsibilities of the class, 9056
establish the qualifications for being employed in each position 9057
in the class, and file with the secretary of state a copy of 9058
specifications for all of the classifications. The director shall 9059
file new, additional, or revised specifications with the secretary 9060
of state before they are used. 9061

The director shall, ~~by rule,~~ assign each classification, 9062
either on a statewide basis or in particular counties or state 9063
institutions, to a pay range established under section 124.15 or 9064
section 124.152 of the Revised Code. The director may assign a 9065
classification to a pay range on a temporary basis for a period of 9066
six months. The director may establish, ~~by rule adopted under~~ 9067
~~Chapter 119. of the Revised Code,~~ experimental classification 9068
plans for some or all employees paid directly by warrant of the 9069
director of budget and management. ~~The rule~~ An experimental 9070
classification plan shall include specifications for each 9071
classification within the plan and shall specifically address 9072
compensation ranges, and methods for advancing within the ranges, 9073
for the classifications, which may be assigned to pay ranges other 9074
than the pay ranges established under section 124.15 or 124.152 of 9075
the Revised Code. 9076

(2) The director of administrative services may reassign to a 9077
proper classification those positions that have been assigned to 9078
an improper classification. If the compensation of an employee in 9079
such a reassigned position exceeds the maximum rate of pay for the 9080

employee's new classification, the employee shall be placed in pay 9081
step X and shall not receive an increase in compensation until the 9082
maximum rate of pay for that classification exceeds the employee's 9083
compensation. 9084

(3) The director may reassign an exempt employee, as defined 9085
in section 124.152 of the Revised Code, to a bargaining unit 9086
classification if the director determines that the bargaining unit 9087
classification is the proper classification for that employee. 9088
Notwithstanding Chapter 4117. of the Revised Code or instruments 9089
and contracts negotiated under it, these placements are at the 9090
director's discretion. 9091

(4) The director shall, ~~by rule,~~ assign related 9092
classifications, which form a career progression, to a 9093
classification series. The director shall, ~~by rule,~~ assign each 9094
classification in the classification plan a five-digit number, the 9095
first four digits of which shall denote the classification series 9096
to which the classification is assigned. When a career progression 9097
encompasses more than ten classifications, the director shall, ~~by~~ 9098
~~rule,~~ identify the additional classifications belonging to a 9099
classification series. The additional classifications shall be 9100
part of the classification series, notwithstanding the fact that 9101
the first four digits of the number assigned to the additional 9102
classifications do not correspond to the first four digits of the 9103
numbers assigned to other classifications in the classification 9104
series. 9105

(5) The director may establish, modify, or rescind a 9106
classification plan for county agencies that elect not to use the 9107
services and facilities of a county personnel department. ~~The~~ 9108
~~director shall establish any such classification plan by means of~~ 9109
~~rules adopted under Chapter 119. of the Revised Code. The rules~~ 9110
The classification plan shall include a methodology for the 9111
establishment of titles unique to county agencies, the use of 9112

state classification titles and classification specifications for 9113
common positions, the criteria for a county to meet in 9114
establishing its own classification plan, and the establishment of 9115
what constitutes a classification series for county agencies. The 9116
director may assess a county agency that chooses to use the 9117
classification plan a usage fee the director determines. All usage 9118
fees the department of administrative services receives shall be 9119
paid into the state treasury to the credit of the human resources 9120
fund created in section 124.07 of the Revised Code. 9121

(B) Division (A) of this section and sections 124.15 and 9122
124.152 of the Revised Code do not apply to the following persons, 9123
positions, offices, and employments: 9124

(1) Elected officials; 9125

(2) Legislative employees, employees of the legislative 9126
service commission, employees in the office of the governor, 9127
employees who are in the unclassified civil service and exempt 9128
from collective bargaining coverage in the office of the secretary 9129
of state, auditor of state, treasurer of state, and attorney 9130
general, and employees of the supreme court; 9131

(3) Employees of a county children services board that 9132
establishes compensation rates under section 5153.12 of the 9133
Revised Code; 9134

(4) Any position for which the authority to determine 9135
compensation is given by law to another individual or entity; 9136

(5) Employees of the bureau of workers' compensation whose 9137
compensation the administrator of workers' compensation 9138
establishes under division (B) of section 4121.121 of the Revised 9139
Code. 9140

(C) The director may employ a consulting agency to aid and 9141
assist the director in carrying out this section. 9142

(D)(1) When the director proposes to modify a classification 9143
or the assignment of classes to appropriate pay ranges, the 9144
director shall send written notice of the ~~proposed rule~~ 9145
modification to the appointing authorities of the affected 9146
employees ~~thirty days before a hearing on the proposed rule. The,~~ 9147
and the appointing authorities shall notify the affected employees 9148
regarding the ~~proposed rule~~ modification thirty days before the 9149
modification occurs. The director also shall send those appointing 9150
authorities notice of any ~~final rule that is adopted~~ modification 9151
within ten days after ~~adoption~~ the modification. 9152

(2) When the director proposes to reclassify any employee so 9153
that the employee is adversely affected, the director shall give 9154
to the employee affected and to the employee's appointing 9155
authority a written notice setting forth the proposed new 9156
classification, pay range, and salary. Upon the request of any 9157
classified employee who is not serving in a probationary period, 9158
the director shall perform a job audit to review the 9159
classification of the employee's position to determine whether the 9160
position is properly classified. The director shall give to the 9161
employee affected and to the employee's appointing authority a 9162
written notice of the director's determination whether or not to 9163
reclassify the position or to reassign the employee to another 9164
classification. An employee or appointing authority desiring a 9165
hearing shall file a written request for the hearing with the 9166
state personnel board of review within thirty days after receiving 9167
the notice. The board shall set the matter for a hearing and 9168
notify the employee and appointing authority of the time and place 9169
of the hearing. The employee, the appointing authority, or any 9170
authorized representative of the employee who wishes to submit 9171
facts for the consideration of the board shall be afforded 9172
reasonable opportunity to do so. After the hearing, the board 9173
shall consider anew the reclassification and may order the 9174
reclassification of the employee and require the director to 9175

assign the employee to such appropriate classification as the 9176
facts and evidence warrant. As provided in division (A)(1) of 9177
section 124.03 of the Revised Code, the board may determine the 9178
most appropriate classification for the position of any employee 9179
coming before the board, with or without a job audit. The board 9180
shall disallow any reclassification or reassignment classification 9181
of any employee when it finds that changes have been made in the 9182
duties and responsibilities of any particular employee for 9183
political, religious, or other unjust reasons. 9184

(E)(1) Employees of each county department of job and family 9185
services shall be paid a salary or wage established by the board 9186
of county commissioners. The provisions of section 124.18 of the 9187
Revised Code concerning the standard work week apply to employees 9188
of county departments of job and family services. A board of 9189
county commissioners may do either of the following: 9190

(a) Notwithstanding any other section of the Revised Code, 9191
supplement the sick leave, vacation leave, personal leave, and 9192
other benefits of any employee of the county department of job and 9193
family services of that county, if the employee is eligible for 9194
the supplement under a written policy providing for the 9195
supplement; 9196

(b) Notwithstanding any other section of the Revised Code, 9197
establish alternative schedules of sick leave, vacation leave, 9198
personal leave, or other benefits for employees not inconsistent 9199
with the provisions of a collective bargaining agreement covering 9200
the affected employees. 9201

(2) Division (E)(1) of this section does not apply to 9202
employees for whom the state employment relations board 9203
establishes appropriate bargaining units pursuant to section 9204
4117.06 of the Revised Code, except in either of the following 9205
situations: 9206

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

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

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

(2) Each board of trustees shall adopt rules under section 111.15 of the Revised Code to carry out the matters of governance described in division (F)(1) of this section. Until the board of trustees adopts those rules, a state university or college shall continue to operate pursuant to the applicable rules adopted by the director of administrative services under this chapter.

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

(2)(a) Each board of county commissioners, by a resolution

adopted by a majority of its members, may designate the county 9238
personnel department of the county to exercise the powers, duties, 9239
and functions specified in sections 124.01 to 124.64 and Chapter 9240
325. of the Revised Code with regard to employees in the service 9241
of the county, except for the powers and duties of the state 9242
personnel board of review, which powers and duties shall not be 9243
construed as having been modified or diminished in any manner by 9244
division (G)(2) of this section, with respect to the employees for 9245
whom the board of county commissioners is the appointing authority 9246
or co-appointing authority. 9247

(b) Nothing in division (G)(2) of this section shall be 9248
construed to limit the right of any employee who possesses the 9249
right of appeal to the state personnel board of review to continue 9250
to possess that right of appeal. 9251

(c) Any board of county commissioners that has established a 9252
county personnel department may contract with the department of 9253
administrative services, another political subdivision, or an 9254
appropriate public or private entity to provide competitive 9255
testing services or other appropriate services. 9256

(3) After the county personnel department of a county has 9257
been established as described in division (G)(2) of this section, 9258
any elected official, board, agency, or other appointing authority 9259
of that county, upon written notification to the county personnel 9260
department, may elect to use the services and facilities of the 9261
county personnel department. Upon receipt of the notification by 9262
the county personnel department, the county personnel department 9263
shall exercise the powers, duties, and functions as described in 9264
division (G)(2) of this section with respect to the employees of 9265
that elected official, board, agency, or other appointing 9266
authority. 9267

(4) Each board of county commissioners, by a resolution 9268
adopted by a majority of its members, may disband the county 9269

personnel department. 9270

(5) Any elected official, board, agency, or appointing 9271
authority of a county may end its involvement with a county 9272
personnel department upon actual receipt by the department of a 9273
certified copy of the notification that contains the decision to 9274
no longer participate. 9275

(6) The director of administrative services may, by rule 9276
adopted in accordance with Chapter 119. of the Revised Code, 9277
prescribe criteria and procedures for the following: 9278

(a) A requirement that each county personnel department, in 9279
carrying out its duties, adhere to merit system principles with 9280
regard to employees of county departments of job and family 9281
services, child support enforcement agencies, and public child 9282
welfare agencies so that there is no threatened loss of federal 9283
funding for these agencies, and a requirement that the county be 9284
financially liable to the state for any loss of federal funds due 9285
to the action or inaction of the county personnel department. The 9286
costs associated with audits conducted to monitor compliance with 9287
division (G)(6)(a) of this section shall be reimbursed to the 9288
department of administrative services as determined by the 9289
director. All money the department receives for these audits shall 9290
be paid into the state treasury to the credit of the human 9291
resources fund created in section 124.07 of the Revised Code. 9292

(b) Authorization for the director of administrative services 9293
to conduct periodic audits and reviews of county personnel 9294
departments to guarantee the uniform application of the powers, 9295
duties, and functions exercised pursuant to division (G)(2)(a) of 9296
this section. The costs of the audits and reviews shall be 9297
reimbursed to the department of administrative services as 9298
determined by the director by the county for which the services 9299
are performed. All money the department receives shall be paid 9300
into the state treasury to the credit of the human resources fund 9301

created in section 124.07 of the Revised Code. 9302

(H) The director of administrative services shall establish 9303
the rate and method of compensation for all employees who are paid 9304
directly by warrant of the director of budget and management and 9305
who are serving in positions that the director of administrative 9306
services has determined impracticable to include in the state job 9307
classification plan. This division does not apply to elected 9308
officials, legislative employees, employees of the legislative 9309
service commission, employees who are in the unclassified civil 9310
service and exempt from collective bargaining coverage in the 9311
office of the secretary of state, auditor of state, treasurer of 9312
state, and attorney general, employees of the courts, employees of 9313
the bureau of workers' compensation whose compensation the 9314
administrator of workers' compensation establishes under division 9315
(B) of section 4121.121 of the Revised Code, or employees of an 9316
appointing authority authorized by law to fix the compensation of 9317
those employees. 9318

(I) The director shall set the rate of compensation for all 9319
intermittent, seasonal, temporary, emergency, and casual employees 9320
in the service of the state who are not considered public 9321
employees under section 4117.01 of the Revised Code. Those 9322
employees are not entitled to receive employee benefits. This rate 9323
of compensation shall be equitable in terms of the rate of 9324
employees serving in the same or similar classifications. This 9325
division does not apply to elected officials, legislative 9326
employees, employees of the legislative service commission, 9327
employees who are in the unclassified civil service and exempt 9328
from collective bargaining coverage in the office of the secretary 9329
of state, auditor of state, treasurer of state, and attorney 9330
general, employees of the courts, employees of the bureau of 9331
workers' compensation whose compensation the administrator 9332
establishes under division (B) of section 4121.121 of the Revised 9333

Code, or employees of an appointing authority authorized by law to 9334
fix the compensation of those employees. 9335

Sec. 124.141. The director of administrative services may 9336
~~establish, by rule adopted under Chapter 119. of the Revised Code,~~ 9337
an appointment incentive program that allows an appointing 9338
authority to pay to an officer or employee described in division 9339
(A)(30) of section 124.11, division (B)(2) of section 124.14, or 9340
division (B) of section 126.32 of the Revised Code a salary and 9341
benefits package that differs from the salary and benefits 9342
otherwise provided by law for that officer or employee, provided 9343
that the appointment incentive program established by the director 9344
cannot include authority for an appointing authority to provide 9345
health care benefits to a covered officer or employee that are 9346
different from health care benefits otherwise provided by law for 9347
that officer or employee. 9348

Sec. 124.15. (A) Board and commission members appointed prior 9349
to July 1, 1991, shall be paid a salary or wage in accordance with 9350
the following schedules of rates: 9351

Schedule B 9352

Pay Ranges and Step Values 9353

Range	Step 1	Step 2	Step 3	Step 4	
23 Hourly	5.72	5.91	6.10	6.31	9355
Annually	11897.60	12292.80	12688.00	13124.80	9356
	Step 5	Step 6			9357
Hourly	6.52	6.75			9358
Annually	13561.60	14040.00			9359
	Step 1	Step 2	Step 3	Step 4	9360
24 Hourly	6.00	6.20	6.41	6.63	9361
Annually	12480.00	12896.00	13332.80	13790.40	9362
	Step 5	Step 6			9363

	Hourly	6.87	7.10			9364
	Annually	14289.60	14768.00			9365
		Step 1	Step 2	Step 3	Step 4	9366
25	Hourly	6.31	6.52	6.75	6.99	9367
	Annually	13124.80	13561.60	14040.00	14539.20	9368
		Step 5	Step 6			9369
	Hourly	7.23	7.41			9370
	Annually	15038.40	15412.80			9371
		Step 1	Step 2	Step 3	Step 4	9372
26	Hourly	6.63	6.87	7.10	7.32	9373
	Annually	13790.40	14289.60	14768.00	15225.60	9374
		Step 5	Step 6			9375
	Hourly	7.53	7.77			9376
	Annually	15662.40	16161.60			9377
		Step 1	Step 2	Step 3	Step 4	9378
27	Hourly	6.99	7.23	7.41	7.64	9379
	Annually	14534.20	15038.40	15412.80	15891.20	9380
		Step 5	Step 6	Step 7		9381
	Hourly	7.88	8.15	8.46		9382
	Annually	16390.40	16952.00	17596.80		9383
		Step 1	Step 2	Step 3	Step 4	9384
28	Hourly	7.41	7.64	7.88	8.15	9385
	Annually	15412.80	15891.20	16390.40	16952.00	9386
		Step 5	Step 6	Step 7		9387
	Hourly	8.46	8.79	9.15		9388
	Annually	17596.80	18283.20	19032.00		9389
		Step 1	Step 2	Step 3	Step 4	9390
29	Hourly	7.88	8.15	8.46	8.79	9391
	Annually	16390.40	16952.00	17596.80	18283.20	9392
		Step 5	Step 6	Step 7		9393
	Hourly	9.15	9.58	10.01		9394
	Annually	19032.00	19926.40	20820.80		9395
		Step 1	Step 2	Step 3	Step 4	9396

30	Hourly	8.46	8.79	9.15	9.58	9397
	Annually	17596.80	18283.20	19032.00	19926.40	9398
	Step 5		Step 6	Step 7		9399
	Hourly	10.01	10.46	10.99		9400
	Annually	20820.80	21756.80	22859.20		9401
	Step 1		Step 2	Step 3	Step 4	9402
31	Hourly	9.15	9.58	10.01	10.46	9403
	Annually	19032.00	19962.40	20820.80	21756.80	9404
	Step 5		Step 6	Step 7		9405
	Hourly	10.99	11.52	12.09		9406
	Annually	22859.20	23961.60	25147.20		9407
	Step 1		Step 2	Step 3	Step 4	9408
32	Hourly	10.01	10.46	10.99	11.52	9409
	Annually	20820.80	21756.80	22859.20	23961.60	9410
	Step 5		Step 6	Step 7	Step 8	9411
	Hourly	12.09	12.68	13.29	13.94	9412
	Annually	25147.20	26374.40	27643.20	28995.20	9413
	Step 1		Step 2	Step 3	Step 4	9414
33	Hourly	10.99	11.52	12.09	12.68	9415
	Annually	22859.20	23961.60	25147.20	26374.40	9416
	Step 5		Step 6	Step 7	Step 8	9417
	Hourly	13.29	13.94	14.63	15.35	9418
	Annually	27643.20	28995.20	30430.40	31928.00	9419
	Step 1		Step 2	Step 3	Step 4	9420
34	Hourly	12.09	12.68	13.29	13.94	9421
	Annually	25147.20	26374.40	27643.20	28995.20	9422
	Step 5		Step 6	Step 7	Step 8	9423
	Hourly	14.63	15.35	16.11	16.91	9424
	Annually	30430.40	31928.00	33508.80	35172.80	9425
	Step 1		Step 2	Step 3	Step 4	9426
35	Hourly	13.29	13.94	14.63	15.35	9427
	Annually	27643.20	28995.20	30430.40	31928.00	9428
	Step 5		Step 6	Step 7	Step 8	9429

	Hourly	16.11	16.91	17.73	18.62	9430
	Annually	33508.80	35172.80	36878.40	38729.60	9431
		Step 1	Step 2	Step 3	Step 4	9432
36	Hourly	14.63	15.35	16.11	16.91	9433
	Annually	30430.40	31928.00	33508.80	35172.80	9434
		Step 5	Step 6	Step 7	Step 8	9435
	Hourly	17.73	18.62	19.54	20.51	9436
	Annually	36878.40	38729.60	40643.20	42660.80	9437

Schedule C 9438

Pay Range and Values 9439

Range	Minimum	Maximum	
41 Hourly	10.44	15.72	9441
Annually	21715.20	32697.60	9442
42 Hourly	11.51	17.35	9443
Annually	23940.80	36088.00	9444
43 Hourly	12.68	19.12	9445
Annually	26374.40	39769.60	9446
44 Hourly	13.99	20.87	9447
Annually	29099.20	43409.60	9448
45 Hourly	15.44	22.80	9449
Annually	32115.20	47424.00	9450
46 Hourly	17.01	24.90	9451
Annually	35380.80	51792.00	9452
47 Hourly	18.75	27.18	9453
Annually	39000.00	56534.40	9454
48 Hourly	20.67	29.69	9455
Annually	42993.60	61755.20	9456
49 Hourly	22.80	32.06	9457
Annually	47424.00	66684.80	9458

(B) The pay schedule of all employees shall be on a biweekly basis, with amounts computed on an hourly basis. 9459
9460

(C) Part-time employees shall be compensated on an hourly 9461

basis for time worked, at the rates shown in division (A) of this section or in section 124.152 of the Revised Code.

(D) The salary and wage rates in division (A) of this section or in section 124.152 of the Revised Code represent base rates of compensation and may be augmented by the provisions of section 124.181 of the Revised Code. In those cases where lodging, meals, laundry, or other personal services are furnished an employee in the service of the state, the actual costs or fair market value of the personal services shall be paid by the employee in such amounts and manner as determined by the director of administrative services and approved by the director of budget and management, and those personal services shall not be considered as a part of the employee's compensation. An appointing authority that appoints employees in the service of the state, with the approval of the director of administrative services and the director of budget and management, may establish payments to employees for uniforms, tools, equipment, and other requirements of the department and payments for the maintenance of them.

The director of administrative services may review collective bargaining agreements entered into under Chapter 4117. of the Revised Code that cover employees in the service of the state and determine whether certain benefits or payments provided to the employees covered by those agreements should also be provided to employees in the service of the state who are exempt from collective bargaining coverage and are paid in accordance with section 124.152 of the Revised Code or are listed in division (B)(2) or (4) of section 124.14 of the Revised Code. On completing the review, the director of administrative services, with the approval of the director of budget and management, may provide to some or all of these employees any payment or benefit, except for salary, contained in such a collective bargaining agreement even if it is similar to a payment or benefit already provided by law

to some or all of these employees. Any payment or benefit so 9494
provided shall not exceed the highest level for that payment or 9495
benefit specified in such a collective bargaining agreement. The 9496
director of administrative services shall not provide, and the 9497
director of budget and management shall not approve, any payment 9498
or benefit to such an employee under this division unless the 9499
payment or benefit is provided pursuant to a collective bargaining 9500
agreement to a state employee who is in a position with similar 9501
duties as, is supervised by, or is employed by the same appointing 9502
authority as, the employee to whom the benefit or payment is to be 9503
provided. 9504

As used in this division, "payment or benefit already 9505
provided by law" includes, but is not limited to, bereavement, 9506
personal, vacation, administrative, and sick leave, disability 9507
benefits, holiday pay, and pay supplements provided under the 9508
Revised Code, but does not include wages or salary. 9509

(E) New employees paid in accordance with schedule B of 9510
division (A) of this section or schedule E-1 of section 124.152 of 9511
the Revised Code shall be employed at the minimum rate established 9512
for the range unless otherwise provided. Employees with 9513
qualifications that are beyond the minimum normally required for 9514
the position and that are determined by the director to be 9515
exceptional may be employed in, or may be transferred or promoted 9516
to, a position at an advanced step of the range. Further, in time 9517
of a serious labor market condition when it is relatively 9518
impossible to recruit employees at the minimum rate for a 9519
particular classification, the entrance rate may be set at an 9520
advanced step in the range by the director of administrative 9521
services. This rate may be limited to geographical regions of the 9522
state. Appointments made to an advanced step under the provision 9523
regarding exceptional qualifications shall not affect the step 9524
assignment of employees already serving. However, anytime the 9525

hiring rate of an entire classification is advanced to a higher 9526
step, all incumbents of that classification being paid at a step 9527
lower than that being used for hiring, shall be advanced beginning 9528
at the start of the first pay period thereafter to the new hiring 9529
rate, and any time accrued at the lower step will be used to 9530
calculate advancement to a succeeding step. If the hiring rate of 9531
a classification is increased for only a geographical region of 9532
the state, only incumbents who work in that geographical region 9533
shall be advanced to a higher step. When an employee in the 9534
unclassified service changes from one state position to another or 9535
is appointed to a position in the classified service, or if an 9536
employee in the classified service is appointed to a position in 9537
the unclassified service, the employee's salary or wage in the new 9538
position shall be determined in the same manner as if the employee 9539
were an employee in the classified service. When an employee in 9540
the unclassified service who is not eligible for step increases is 9541
appointed to a classification in the classified service under 9542
which step increases are provided, future step increases shall be 9543
based on the date on which the employee last received a pay 9544
increase. If the employee has not received an increase during the 9545
previous year, the date of the appointment to the classified 9546
service shall be used to determine the employee's annual step 9547
advancement eligibility date. In reassigning any employee to a 9548
classification resulting in a pay range increase or to a new pay 9549
range as a result of a promotion, an increase pay range 9550
adjustment, or other classification change resulting in a pay 9551
range increase, the director shall assign such employee to the 9552
step in the new pay range that will provide an increase of 9553
approximately four per cent if the new pay range can accommodate 9554
the increase. When an employee is being assigned to a 9555
classification or new pay range as the result of a class plan 9556
change, if the employee has completed a probationary period, the 9557
employee shall be placed in a step no lower than step two of the 9558

new pay range. If the employee has not completed a probationary 9559
period, the employee may be placed in step one of the new pay 9560
range. Such new salary or wage shall become effective on such date 9561
as the director determines. 9562

(F) If employment conditions and the urgency of the work 9563
require such action, the director of administrative services may, 9564
upon the application of a department head, authorize payment at 9565
any rate established within the range for the class of work, for 9566
work of a casual or intermittent nature or on a project basis. 9567
Payment at such rates shall not be made to the same individual for 9568
more than three calendar months in any one calendar year. Any such 9569
action shall be subject to the approval of the director of budget 9570
and management as to the availability of funds. This section and 9571
sections 124.14 and 124.152 of the Revised Code do not repeal any 9572
authority of any department or public official to contract with or 9573
fix the compensation of professional persons who may be employed 9574
temporarily for work of a casual nature or for work on a project 9575
basis. 9576

(G)(1) Except as provided in divisions (G)(2) and (3) of this 9577
section, each state employee paid in accordance with schedule B of 9578
this section or schedule E-1 of section 124.152 of the Revised 9579
Code shall be eligible for advancement to succeeding steps in the 9580
range for the employee's class or grade according to the schedule 9581
established in this division. Beginning on the first day of the 9582
pay period within which the employee completes the prescribed 9583
probationary period in the employee's classification with the 9584
state, each employee shall receive an automatic salary adjustment 9585
equivalent to the next higher step within the pay range for the 9586
employee's class or grade. 9587

Except as provided in divisions (G)(2) and (3) of this 9588
section, each employee paid in accordance with schedule E-1 of 9589
section 124.152 of the Revised Code shall be eligible to advance 9590

to the next higher step until the employee reaches the top step in 9591
the range for the employee's class or grade, if the employee has 9592
maintained satisfactory performance in accordance with criteria 9593
established by the employee's appointing authority. Those step 9594
advancements shall not occur more frequently than once in any 9595
twelve-month period. 9596

When an employee is promoted, the step entry date shall be 9597
set to account for a probationary period. When an employee is 9598
reassigned to a higher pay range, the step entry date shall be set 9599
to allow an employee who is not at the highest step of the range 9600
to receive a step advancement one year from the reassignment date. 9601
Step advancement shall not be affected by demotion. A promoted 9602
employee shall advance to the next higher step of the pay range on 9603
the first day of the pay period in which the required probationary 9604
period is completed. Step advancement shall become effective at 9605
the beginning of the pay period within which the employee attains 9606
the necessary length of service. Time spent on authorized leave of 9607
absence shall be counted for this purpose. 9608

If determined to be in the best interest of the state 9609
service, the director of administrative services may, either 9610
statewide or in selected agencies, adjust the dates on which 9611
annual step advancements are received by employees paid in 9612
accordance with schedule E-1 of section 124.152 of the Revised 9613
Code. 9614

(2)(a) There shall be a moratorium on annual step 9615
advancements under division (G)(1) of this section beginning June 9616
21, 2009, through June 20, 2011. Step advancements shall resume 9617
with the pay period beginning June 21, 2011. Upon the resumption 9618
of step advancements, there shall be no retroactive step 9619
advancements for the period the moratorium was in effect. The 9620
moratorium shall not affect an employee's performance evaluation 9621
schedule. 9622

An employee who begins a probationary period before June 21, 2009, shall advance to the next step in the employee's pay range at the end of probation, and then become subject to the moratorium. An employee who is hired, promoted, or reassigned to a higher pay range between June 21, 2009, through June 20, 2011, shall not advance to the next step in the employee's pay range until the next anniversary of the employee's date of hire, promotion, or reassignment that occurs on or after June 21, 2011.

(b) The moratorium under division (G)(2)(a) of this section shall apply to the employees of the secretary of state, the auditor of state, the treasurer of state, and the attorney general, who are subject to this section unless the secretary of state, the auditor of state, the treasurer of state, or the attorney general decides to exempt the office's employees from the moratorium and so notifies the director of administrative services in writing on or before July 1, 2009.

(3) Employees in intermittent positions shall be employed at the minimum rate established for the pay range for their classification and are not eligible for step advancements.

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

(I) When an employee is assigned to duty outside this state, the employee may be compensated, upon request of the department

head and with the approval of the director of administrative 9655
services, at a rate not to exceed fifty per cent in excess of the 9656
employee's current base rate for the period of time spent on that 9657
duty. 9658

(J) Unless compensation for members of a board or commission 9659
is otherwise specifically provided by law, the director of 9660
administrative services shall establish the rate and method of 9661
payment for members of boards and commissions pursuant to the pay 9662
schedules listed in section 124.152 of the Revised Code. 9663

(K) Regular full-time employees in positions assigned to 9664
classes within the instruction and education administration series 9665
~~under the rules of~~ by the director of administrative services, 9666
except certificated employees on the instructional staff of the 9667
state school for the blind or the state school for the deaf, whose 9668
positions are scheduled to work on the basis of an academic year 9669
rather than a full calendar year, shall be paid according to the 9670
pay range assigned by ~~such rules~~ the director, but only during 9671
those pay periods included in the academic year of the school 9672
where the employee is located. 9673

(1) Part-time or substitute teachers or those whose period of 9674
employment is other than the full academic year shall be 9675
compensated for the actual time worked at the rate established by 9676
this section. 9677

(2) Employees governed by this division are exempt from 9678
sections 124.13 and 124.19 of the Revised Code. 9679

(3) Length of service for the purpose of determining 9680
eligibility for step advancements as provided by division (G) of 9681
this section and for the purpose of determining eligibility for 9682
longevity pay supplements as provided by division (E) of section 9683
124.181 of the Revised Code shall be computed on the basis of one 9684
full year of service for the completion of each academic year. 9685

(L) The superintendent of the state school for the deaf and 9686
the superintendent of the state school for the blind shall, 9687
subject to the approval of the superintendent of public 9688
instruction, carry out both of the following: 9689

(1) Annually, between the first day of April and the last day 9690
of June, establish for the ensuing fiscal year a schedule of 9691
hourly rates for the compensation of each certificated employee on 9692
the instructional staff of that superintendent's respective school 9693
constructed as follows: 9694

(a) Determine for each level of training, experience, and 9695
other professional qualification for which an hourly rate is set 9696
forth in the current schedule, the per cent that rate is of the 9697
rate set forth in such schedule for a teacher with a bachelor's 9698
degree and no experience. If there is more than one such rate for 9699
such a teacher, the lowest rate shall be used to make the 9700
computation. 9701

(b) Determine which six city, local, and exempted village 9702
school districts with territory in Franklin county have in effect 9703
on, or have adopted by, the first day of April for the school year 9704
that begins on the ensuing first day of July, teacher salary 9705
schedules with the highest minimum salaries for a teacher with a 9706
bachelor's degree and no experience; 9707

(c) Divide the sum of such six highest minimum salaries by 9708
ten thousand five hundred sixty; 9709

(d) Multiply each per cent determined in division (L)(1)(a) 9710
of this section by the quotient obtained in division (L)(1)(c) of 9711
this section; 9712

(e) One hundred five per cent of each product thus obtained 9713
shall be the hourly rate for the corresponding level of training, 9714
experience, or other professional qualification in the schedule 9715
for the ensuing fiscal year. 9716

(2) Annually, assign each certificated employee on the instructional staff of the superintendent's respective school to an hourly rate on the schedule that is commensurate with the employee's training, experience, and other professional qualifications.

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

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

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

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

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

As used in this division, "academic year" means the number of days in each school year that the schools are required to be open for instruction with pupils in attendance. Upon completing an academic year, an employee paid under this division shall be deemed to have completed one year of service. An employee paid under this division is eligible to receive a pay supplement under division (L)(1), (2), or (3) of section 124.181 of the Revised Code for which the employee qualifies, but is not eligible to receive a pay supplement under division (L)(4) or (5) of that section. An employee paid under this division is eligible to

receive a pay supplement under division (L)(6) of section 124.181 9748
of the Revised Code for which the employee qualifies, except that 9749
the supplement is not limited to a maximum of five per cent of the 9750
employee's regular base salary in a calendar year. 9751

(M) Division (A) of this section does not apply to "exempt 9752
employees," as defined in section 124.152 of the Revised Code, who 9753
are paid under that section. 9754

Notwithstanding any other provisions of this chapter, when an 9755
employee transfers between bargaining units or transfers out of or 9756
into a bargaining unit, the director of administrative services 9757
shall establish the employee's compensation and adjust the maximum 9758
leave accrual schedule as the director deems equitable. 9759

Sec. 124.23. (A) All applicants for positions and places in 9760
the classified service shall be subject to examination, except for 9761
applicants for positions as professional or certified service and 9762
paraprofessional employees of county boards of developmental 9763
disabilities, who shall be hired in the manner provided in section 9764
124.241 of the Revised Code. 9765

(B) Any examination administered under this section shall be 9766
public and be open to all citizens of the United States and those 9767
persons who have legally declared their intentions of becoming 9768
United States citizens. For examinations administered for 9769
positions in the service of the state, the director of 9770
administrative services or the director's designee may determine 9771
certain limitations as to citizenship, age, experience, education, 9772
health, habit, and moral character. 9773

(C) Any person who has completed service in the uniformed 9774
services, who has been honorably discharged from the uniformed 9775
services or transferred to the reserve with evidence of 9776
satisfactory service, and who is a resident of this state and any 9777
member of the national guard or a reserve component of the armed 9778

forces of the United States who has completed more than one 9779
hundred eighty days of active duty service pursuant to an 9780
executive order of the president of the United States or an act of 9781
the congress of the United States may file with the director a 9782
certificate of service or honorable discharge, and, upon this 9783
filing, the person shall receive additional credit of twenty per 9784
cent of the person's total grade given in the ~~regular~~ examination 9785
in which the person receives a passing grade. 9786

As used in this division, "service in the uniformed services" 9787
and "uniformed services" have the same meanings as in the 9788
"Uniformed Services Employment and Reemployment Rights Act of 9789
1994," 108 Stat. 3149, 38 U.S.C.A. 4303. 9790

(D) An examination may include an evaluation of such factors 9791
as education, training, capacity, knowledge, manual dexterity, and 9792
physical or psychological fitness. An examination shall consist of 9793
one or more tests in any combination. Tests may be written, oral, 9794
physical, demonstration of skill, or an evaluation of training and 9795
experiences and shall be designed to fairly test the relative 9796
capacity of the persons examined to discharge the particular 9797
duties of the position for which appointment is sought. Tests may 9798
include structured interviews, assessment centers, work 9799
simulations, examinations of knowledge, skills, and abilities, and 9800
any other acceptable testing methods. If minimum or maximum 9801
requirements are established for any examination, they shall be 9802
specified in the examination announcement. 9803

(E) Except as otherwise provided in sections 124.01 to 124.64 9804
of the Revised Code, when a position in the classified service of 9805
the state is to be filled, an examination shall be administered. 9806
The director of administrative services shall have control of all 9807
examinations administered for positions in the service of the 9808
state and all other examinations the director administers as 9809
provided in section 124.07 of the Revised Code, except as 9810

otherwise provided in sections 124.01 to 124.64 of the Revised Code. The director shall, by rule adopted under Chapter 119. of the Revised Code, prescribe the notification method that is to be used by an appointing authority to notify the director that a position in the classified service of the state is to be filled. In addition to the positions described in section 124.30 of the Revised Code, the director may, with sufficient justification from the appointing authority, allow the appointing authority to fill the position by noncompetitive examination. The director shall establish, by rule adopted under Chapter 119. of the Revised Code, standards that the director shall use to determine what serves as sufficient justification from an appointing authority to fill a position by noncompetitive examination.

(F) No questions in any examination shall relate to political or religious opinions or affiliations. No credit for seniority, efficiency, or any other reason shall be added to an applicant's examination grade unless the applicant achieves at least the minimum passing grade on the examination without counting that extra credit.

(G) Except as otherwise provided in sections 124.01 to 124.64 of the Revised Code, the director of administrative services or the director's designee shall give reasonable notice of the time, place, and general scope of every competitive examination for appointment that the director or the director's designee administers for positions in the classified service of the state. The director or the director's designee shall ~~send written, printed, or electronic post~~ notices via electronic media of every examination to be conducted for positions in the classified civil service of the state ~~to each agency of the type the director of job and family services specifies and, in the case of a county in which no such agency is located, to the clerk of the court of common pleas of that county and to the clerk of each city located~~

~~within that county. Those notices shall be posted in conspicuous 9843
public places in the designated agencies or the courthouse, and 9844
city hall of the cities, of the counties in which no designated 9845
agency is located for at least two weeks. The electronic notice 9846
shall be posted on the director's internet site on the world wide 9847
web for a minimum of one week preceding any examination involved, 9848
and in a conspicuous place in the office of the director of 9849
administrative services for at least two weeks preceding any 9850
examination involved. In case of examinations limited by the 9851
director to a district, county, city, or department, the director 9852
shall provide by rule for adequate publicity of an examination in 9853
the district, county, city, or department within which competition 9854
is permitted. 9855~~

Sec. 124.231. (A) As used in this section, "legally blind 9856
person" means any person who qualifies as being blind under any 9857
Ohio or federal statute, or any rule adopted thereunder. As used 9858
in this section, "legally deaf person" means any person who 9859
qualifies as being deaf under any Ohio or federal statute, or any 9860
rule adopted thereunder. 9861

(B) ~~The~~ When an examination is to be administered under 9862
sections 124.01 to 124.64 of the Revised Code, the director of 9863
administrative services or the director's designee shall whenever 9864
practicable arrange for special examinations to be administered to 9865
legally blind or legally deaf persons applying for ~~original~~ 9866
~~appointments~~ positions in the classified service to ensure that 9867
the abilities of such applicants are properly assessed and that 9868
such applicants are not subject to discrimination because they are 9869
legally blind or legally deaf persons. 9870

~~(C) The director may administer equitable programs for the 9871
employment of legally blind persons and legally deaf persons in 9872
the classified service. 9873~~

~~Nothing in this section shall be construed to prohibit the appointment of a legally blind or legally deaf person to a position in the classified service under the procedures otherwise provided in this chapter.~~

Sec. 124.24. (A) Notwithstanding sections 124.01 to 124.64 and Chapter 145. of the Revised Code, the examinations of applicants for the positions of deputy mine inspector, superintendent of rescue stations, assistant superintendent of rescue stations, electrical inspectors, ~~gas storage well inspector,~~ and mine chemists in the division of mineral resources management, department of natural resources, as provided in Chapters 1561., 1563., 1565., and 1567. of the Revised Code shall be provided for, conducted, and administered by the chief of the division of mineral resources management.

From the returns of the examinations the chief shall prepare eligible lists of the persons whose general average standing upon examinations for such grade or class is not less than the minimum fixed by rules adopted under section 1561.05 of the Revised Code and who are otherwise eligible. All appointments to a position shall be made from ~~such~~ that eligible list in the same manner as appointments are made from eligible lists prepared by the director of administrative services. Any person upon being appointed to fill one of the positions provided for in this ~~section~~ division, from any such eligible list, shall have the same standing, rights, privileges, and status as other state employees in the classified service.

(B) Notwithstanding sections 124.01 to 124.64 and Chapter 145. of the Revised Code, the examinations of applicants for the position of gas storage well inspector in the division of oil and gas resources management, department of natural resources, as provided in Chapter 1571. of the Revised Code shall be provided

for, conducted, and administered by the chief of the division of 9905
oil and gas resources management. 9906

From the returns of the examinations, the chief shall prepare 9907
an eligible list of the persons whose general average standing 9908
upon examinations for that position is not less than the minimum 9909
fixed by rules adopted under section 1571.014 of the Revised Code 9910
and who are otherwise eligible. An appointment to the position 9911
shall be made from that eligible list in the same manner as 9912
appointments are made from eligible lists prepared by the director 9913
of administrative services. Any person, upon being appointed to 9914
fill the position provided for in this division from any such 9915
eligible list, shall have the same standing, rights, privileges, 9916
and status as other state employees in the classified service. 9917

Sec. 124.25. The director of administrative services shall 9918
require persons applying for an examination for original 9919
appointment to file with the director or the director's designee, 9920
within reasonable time prior to the examination, a formal 9921
application, in which the applicant shall state the applicant's 9922
name, address, and such other information as may reasonably be 9923
required concerning the applicant's education and experience. No 9924
inquiry shall be made as to religious or political affiliations or 9925
as to racial or ethnic origin of the applicant, except as 9926
necessary to gather equal employment opportunity or other 9927
statistics that, when compiled, will not identify any specific 9928
individual. 9929

Blank forms for applications shall be furnished by the 9930
director or the director's designee without charge to any person 9931
requesting the same. The director or the director's designee may 9932
require in connection with such application such certificate of 9933
persons having knowledge of the applicant as the good of the 9934
service demands. The director or the director's designee may 9935

refuse to appoint or examine an applicant, or, after an 9936
examination, refuse to certify the applicant as eligible, who is 9937
found to lack any of the established preliminary requirements for 9938
the examination, who is addicted to the habitual use of 9939
intoxicating liquors or drugs to excess, who has a pattern of poor 9940
work habits and performance with previous employers, who has been 9941
convicted of a felony, who has been guilty of infamous or 9942
notoriously disgraceful conduct, who has been dismissed from 9943
either branch of the civil service for delinquency or misconduct, 9944
or who has made false statements of any material fact, or 9945
practiced, or attempted to practice, any deception or fraud in the 9946
application or examination, in establishing eligibility, or 9947
securing an appointment. 9948

Sec. 124.26. From the returns of the examinations, the 9949
director of administrative services or the director's designee 9950
shall prepare an eligible list of the persons whose general 9951
average standing upon examinations for the ~~grade or~~ class or 9952
position is not less than the minimum fixed by the rules of the 9953
director, and who are otherwise eligible. Those persons shall take 9954
rank upon the eligible list as candidates in the order of their 9955
relative excellence as determined by the examination without 9956
reference to priority of the time of examination. If two or more 9957
applicants receive the same mark in an open competitive 9958
examination, priority in the time of filing the application with 9959
the director or the director's designee shall determine the order 9960
in which their names shall be placed on the eligible list, except 9961
that applicants eligible for veteran's preference under section 9962
124.23 of the Revised Code shall receive priority in rank on the 9963
eligible list over nonveterans on the list with a rating equal to 9964
that of the veteran. Ties among veterans shall be decided by 9965
priority of filing the application. ~~If two or more applicants~~ 9966
~~receive the same mark on a promotional examination, seniority~~ 9967

~~shall determine the order in which their names shall be placed on
the eligible list. The term of eligibility of each list shall be
fixed by the director at not less than one or more than two years.~~

~~When an eligible list is reduced to ten names or less, a new
list may be prepared. The director may consolidate two or more
eligible lists of the same kind by the rearranging of eligibles
named in the lists, according to their grades. An eligible list
expires upon the filling or closing of the position. An expired
eligible list may be used to fill a position of the same
classification within the same appointing authority for which the
list was created. But, in no event shall an expired list be used
more than one year past its expiration date.~~

Sec. 124.27. (A) ~~The head of a department, office, or
institution, in which a position in the classified service is to
be filled, shall notify the director of administrative services of
the fact, and the director shall, except as otherwise provided in
this section and sections 124.30 and 124.31 of the Revised Code,
certify to the appointing authority the names and addresses of the
ten candidates standing highest on the eligible list for the class
or grade to which the position belongs, except that the director
may certify less than ten names if ten names are not available.
When less than ten names are certified to an appointing authority,
appointment from that list shall not be mandatory. When a position
in the classified service in the department of mental health or
the department of developmental disabilities is to be filled, the
director of administrative services shall make such certification
to the appointing authority within seven working days of the date
the eligible list is requested.~~

~~(B) The appointing authority shall notify the director of a
position in the classified service to be filled, and the
appointing authority shall fill the vacant position by appointment~~

~~of one of the ten persons certified by the director. If more than~~ 9999
~~one position is to be filled, the director may certify a group of~~ 10000
~~names from the eligible list, and the appointing authority shall~~ 10001
~~appoint in the following manner: beginning at the top of the list,~~ 10002
~~each time a selection is made, it must be from one of the first~~ 10003
~~ten candidates remaining on the list who is willing to accept~~ 10004
~~consideration for the position. If an eligible list becomes~~ 10005
~~exhausted, and until a new list can be created, or when no~~ 10006
~~eligible list for a position exists, names may be certified from~~ 10007
~~eligible lists most appropriate for the group or class in which~~ 10008
~~the position to be filled is classified. A person who is certified~~ 10009
~~from an eligible list more than three times to the same appointing~~ 10010
~~authority for the same or similar positions may be omitted from~~ 10011
~~future certification to that appointing authority, provided that~~ 10012
~~certification for a temporary appointment shall not be counted as~~ 10013
~~one of those certifications. Every person who qualifies for~~ 10014
~~veteran's preference under section 124.23 of the Revised Code, who~~ 10015
~~is a resident of this state, and whose name is on the eligible~~ 10016
~~list for a position shall be entitled to preference in original~~ 10017
~~appointments to any such competitive position in the civil service~~ 10018
~~of the state and its civil divisions over all other persons~~ 10019
~~eligible for those appointments and standing on the relevant~~ 10020
~~eligible list with a rating equal to that of the person qualifying~~ 10021
~~for veteran's preference. Appointments to all positions in the~~ 10022
~~classified service, that are not filled by promotion, transfer, or~~ 10023
~~reduction, as provided in sections 124.01 to 124.64 of the Revised~~ 10024
~~Code and the rules of the director prescribed under those~~ 10025
~~sections, shall be made only from those persons whose names are~~ 10026
~~certified to the appointing authority take rank order on an~~ 10027
~~eligible list, and no employment, except as provided in those~~ 10028
~~sections, shall be otherwise given in the classified service of~~ 10029
~~this state or any political subdivision of the state. The~~ 10030
~~appointing authority shall appoint in the following manner: each~~ 10031

time a selection is made, it shall be from one of the names that 10032
ranks in the top twenty-five per cent of the eligible list. But, 10033
in the event that ten or fewer names are on the eligible list, the 10034
appointing authority may select any of the listed candidates. Each 10035
person who qualifies for the veteran's preference under section 10036
124.23 of the Revised Code, who is a resident of this state, and 10037
whose name is on the eligible list for a position is entitled to 10038
preference in original appointment to any such competitive 10039
position in the civil service of the state and its civil divisions 10040
over all other persons who are eligible for those appointments and 10041
who are standing on the relevant eligible list with a rating equal 10042
to that of the person qualifying for the veteran's preference. 10043

~~(C)~~(B) All original and promotional appointments, including 10044
appointments made pursuant to section 124.30 of the Revised Code, 10045
but not intermittent appointments, shall be for a probationary 10046
period, not less than sixty days nor more than one year, to be 10047
fixed by the rules of the director, except as provided in section 10048
124.231 of the Revised Code, and except for original appointments 10049
to a police department as a police officer or to a fire department 10050
as a firefighter which shall be for a probationary period of one 10051
year. No appointment or promotion is final until the appointee has 10052
satisfactorily served the probationary period. If the service of 10053
the probationary employee is unsatisfactory, the employee may be 10054
removed or reduced at any time during the probationary period. If 10055
the appointing authority decides to remove a probationary employee 10056
in the service of the state, the appointing authority shall 10057
communicate the removal to the director ~~the reason for that~~ 10058
~~decision~~. A probationary employee duly removed or reduced in 10059
position for unsatisfactory service does not have the right to 10060
appeal the removal or reduction under section 124.34 of the 10061
Revised Code. 10062

Sec. 124.31. ~~(A)~~ Vacancies in positions in the classified 10063

service of the state shall be filled insofar as practicable by 10064
promotions. The director of administrative services shall provide 10065
in the director's rules for keeping a record of efficiency for 10066
each employee in the classified civil service of the state, and 10067
for making promotions in the classified civil service of the state 10068
on the basis of merit, ~~to be ascertained insofar as practicable by~~ 10069
~~promotional examinations, and~~ by conduct and capacity in office, 10070
and by seniority in service. The director shall provide that 10071
vacancies in positions in the classified civil service of the 10072
state shall be filled by promotion in all cases where, in the 10073
judgment of the director, it is for the best interest of the 10074
service. The director's rules shall authorize each appointing 10075
authority of a county to develop and administer in a manner it 10076
devises, an evaluation system for the employees it appoints. 10077

~~(B) All examinations for promotions shall be competitive and 10078
may be conducted in the same manner as examinations described in 10079
section 124.23 of the Revised Code. In promotional examinations, 10080
seniority in service shall be added to the examination grade, but 10081
no credit for seniority or any other reason shall be added to an 10082
examination grade unless the applicant achieves at least the 10083
minimum passing score on the examination without counting that 10084
extra credit. Credit for seniority shall equal, for the first four 10085
years of service, one per cent of the total grade attainable in 10086
the promotion examination, and, for each of the fifth through 10087
fourteenth years of service, six tenths per cent of the total 10088
grade attainable. 10089~~

~~In all cases where vacancies are to be filled by promotion, 10090
the director shall certify to the appointing authority the names 10091
of the three persons having the highest rating on the eligible 10092
list. The method of examination for promotions, the manner of 10093
giving notice of the examination, and the rules governing it shall 10094
be in general the same as those provided for original 10095~~

~~examinations, except as otherwise provided in sections 124.01 to 10096
124.64 of the Revised Code. 10097~~

Sec. 124.34. (A) The tenure of every officer or employee in 10098
the classified service of the state and the counties, civil 10099
service townships, cities, city health districts, general health 10100
districts, and city school districts of the state, holding a 10101
position under this chapter, shall be during good behavior and 10102
efficient service. No officer or employee shall be reduced in pay 10103
or position, fined, suspended, or removed, or have the officer's 10104
or employee's longevity reduced or eliminated, except as provided 10105
in section 124.32 of the Revised Code, and for incompetency, 10106
inefficiency, dishonesty, drunkenness, immoral conduct, 10107
insubordination, discourteous treatment of the public, neglect of 10108
duty, violation of any policy or work rule of the officer's or 10109
employee's appointing authority, violation of this chapter or the 10110
rules of the director of administrative services or the 10111
commission, any other failure of good behavior, any other acts of 10112
misfeasance, malfeasance, or nonfeasance in office, or conviction 10113
of a felony. The denial of a one-time pay supplement or a bonus to 10114
an officer or employee is not a reduction in pay for purposes of 10115
this section. 10116

This section does not apply to any modifications or 10117
reductions in pay or work week authorized by division (Q) of 10118
section 124.181 or section 124.392 ~~or~~, 124.393, or 124.394 of the 10119
Revised Code. 10120

An appointing authority may require an employee who is 10121
suspended to report to work to serve the suspension. An employee 10122
serving a suspension in this manner shall continue to be 10123
compensated at the employee's regular rate of pay for hours 10124
worked. The disciplinary action shall be recorded in the 10125
employee's personnel file in the same manner as other disciplinary 10126

actions and has the same effect as a suspension without pay for 10127
the purpose of recording disciplinary actions. 10128

A finding by the appropriate ethics commission, based upon a 10129
preponderance of the evidence, that the facts alleged in a 10130
complaint under section 102.06 of the Revised Code constitute a 10131
violation of Chapter 102., section 2921.42, or section 2921.43 of 10132
the Revised Code may constitute grounds for dismissal. Failure to 10133
file a statement or falsely filing a statement required by section 10134
102.02 of the Revised Code may also constitute grounds for 10135
dismissal. The tenure of an employee in the career professional 10136
service of the department of transportation is subject to section 10137
5501.20 of the Revised Code. 10138

Conviction of a felony is a separate basis for reducing in 10139
pay or position, suspending, or removing an officer or employee, 10140
even if the officer or employee has already been reduced in pay or 10141
position, suspended, or removed for the same conduct that is the 10142
basis of the felony. An officer or employee may not appeal to the 10143
state personnel board of review or the commission any disciplinary 10144
action taken by an appointing authority as a result of the 10145
officer's or employee's conviction of a felony. If an officer or 10146
employee removed under this section is reinstated as a result of 10147
an appeal of the removal, any conviction of a felony that occurs 10148
during the pendency of the appeal is a basis for further 10149
disciplinary action under this section upon the officer's or 10150
employee's reinstatement. 10151

A person convicted of a felony immediately forfeits the 10152
person's status as a classified employee in any public employment 10153
on and after the date of the conviction for the felony. If an 10154
officer or employee is removed under this section as a result of 10155
being convicted of a felony or is subsequently convicted of a 10156
felony that involves the same conduct that was the basis for the 10157
removal, the officer or employee is barred from receiving any 10158

compensation after the removal notwithstanding any modification or 10159
disaffirmance of the removal, unless the conviction for the felony 10160
is subsequently reversed or annulled. 10161

Any person removed for conviction of a felony is entitled to 10162
a cash payment for any accrued but unused sick, personal, and 10163
vacation leave as authorized by law. If subsequently reemployed in 10164
the public sector, the person shall qualify for and accrue these 10165
forms of leave in the manner specified by law for a newly 10166
appointed employee and shall not be credited with prior public 10167
service for the purpose of receiving these forms of leave. 10168

As used in this division, "felony" means any of the 10169
following: 10170

(1) A felony that is an offense of violence as defined in 10171
section 2901.01 of the Revised Code; 10172

(2) A felony that is a felony drug abuse offense as defined 10173
in section 2925.01 of the Revised Code; 10174

(3) A felony under the laws of this or any other state or the 10175
United States that is a crime of moral turpitude; 10176

(4) A felony involving dishonesty, fraud, or theft; 10177

(5) A felony that is a violation of section 2921.05, 2921.32, 10178
or 2921.42 of the Revised Code. 10179

(B) In case of a reduction, a suspension of more than forty 10180
work hours in the case of an employee exempt from the payment of 10181
overtime compensation, a suspension of more than twenty-four work 10182
hours in the case of an employee required to be paid overtime 10183
compensation, a fine of more than forty hours' pay in the case of 10184
an employee exempt from the payment of overtime compensation, a 10185
fine of more than twenty-four hours' pay in the case of an 10186
employee required to be paid overtime compensation, or removal, 10187
except for the reduction or removal of a probationary employee, 10188

the appointing authority shall serve the employee with a copy of 10189
the order of reduction, fine, suspension, or removal, which order 10190
shall state the reasons for the action. 10191

Within ten days following the date on which the order is 10192
served or, in the case of an employee in the career professional 10193
service of the department of transportation, within ten days 10194
following the filing of a removal order, the employee, except as 10195
otherwise provided in this section, may file an appeal of the 10196
order in writing with the state personnel board of review or the 10197
commission. For purposes of this section, the date on which an 10198
order is served is the date of hand delivery of the order or the 10199
date of delivery of the order by certified United States mail, 10200
whichever occurs first. If an appeal is filed, the board or 10201
commission shall forthwith notify the appointing authority and 10202
shall hear, or appoint a trial board to hear, the appeal within 10203
thirty days from and after its filing with the board or 10204
commission. The board, commission, or trial board may affirm, 10205
disaffirm, or modify the judgment of the appointing authority. 10206
However, in an appeal of a removal order based upon a violation of 10207
a last chance agreement, the board, commission, or trial board may 10208
only determine if the employee violated the agreement and thus 10209
affirm or disaffirm the judgment of the appointing authority. 10210

In cases of removal or reduction in pay for disciplinary 10211
reasons, either the appointing authority or the officer or 10212
employee may appeal from the decision of the state personnel board 10213
of review or the commission, and any such appeal shall be to the 10214
court of common pleas of the county in which the appointing 10215
authority is located, or to the court of common pleas of Franklin 10216
county, as provided by section 119.12 of the Revised Code. 10217

(C) In the case of the suspension for any period of time, or 10218
a fine, demotion, or removal, of a chief of police, a chief of a 10219
fire department, or any member of the police or fire department of 10220

a city or civil service township, who is in the classified civil 10221
service, the appointing authority shall furnish the chief or 10222
member with a copy of the order of suspension, fine, demotion, or 10223
removal, which order shall state the reasons for the action. The 10224
order shall be filed with the municipal or civil service township 10225
civil service commission. Within ten days following the filing of 10226
the order, the chief or member may file an appeal, in writing, 10227
with the commission. If an appeal is filed, the commission shall 10228
forthwith notify the appointing authority and shall hear, or 10229
appoint a trial board to hear, the appeal within thirty days from 10230
and after its filing with the commission, and it may affirm, 10231
disaffirm, or modify the judgment of the appointing authority. An 10232
appeal on questions of law and fact may be had from the decision 10233
of the commission to the court of common pleas in the county in 10234
which the city or civil service township is situated. The appeal 10235
shall be taken within thirty days from the finding of the 10236
commission. 10237

(D) A violation of division (A)(7) of section 2907.03 of the 10238
Revised Code is grounds for termination of employment of a 10239
nonteaching employee under this section. 10240

(E) As used in this section, "last chance agreement" means an 10241
agreement signed by both an appointing authority and an officer or 10242
employee of the appointing authority that describes the type of 10243
behavior or circumstances that, if it occurs, will automatically 10244
lead to removal of the officer or employee without the right of 10245
appeal to the state personnel board of review or the appropriate 10246
commission. 10247

Sec. 124.393. (A) As used in this section: 10248

(1) "~~County exempt~~ Exempt employee" means a permanent 10249
full-time or permanent part-time county, township, or municipal 10250
corporation employee who is not subject to a collective bargaining 10251

agreement between a public employer and an exclusive representative. 10252
10253

(2) "Fiscal emergency" means any of the following: 10254

(a) A fiscal emergency declared by the governor under section 10255
126.05 of the Revised Code. 10256

(b) A fiscal watch or fiscal emergency has been declared or 10257
determined under section 118.023 or 118.04 of the Revised Code. 10258

(c) Lack of funds as defined in section 124.321 of the 10259
Revised Code. 10260

~~(e)~~(d) Reasons of economy as described in section 124.321 of 10261
the Revised Code. 10262

(B)(1) A county, township, or municipal corporation 10263
appointing authority may establish a mandatory cost savings 10264
program applicable to its ~~county~~ exempt employees. Each ~~county~~ 10265
exempt employee shall participate in the program of mandatory cost 10266
savings for not more than eighty hours, as determined by the 10267
appointing authority, in each of state fiscal years 2010 ~~and 2011~~ 10268
to 2013. The program may include, but is not limited to, a loss of 10269
pay or loss of holiday pay. The program may be administered 10270
differently among employees based on their classifications, 10271
appointment categories, or other relevant distinctions. 10272

(2) After June 30, ~~2011~~ 2013, a county, township, or 10273
municipal corporation appointing authority may implement mandatory 10274
cost savings days as described in division (B)(1) of this section 10275
that apply to its ~~county~~ exempt employees in the event of a fiscal 10276
emergency. 10277

(C) A county, township, or municipal corporation appointing 10278
authority shall issue guidelines concerning how the appointing 10279
authority will implement the cost savings program. 10280

Sec. 124.394. (A) As used in this section: 10281

<u>(1) "Exempt employee" means a permanent full-time or</u>	10282
<u>permanent part-time county employee , township, or municipal</u>	10283
<u>corporation who is not subject to a collective bargaining</u>	10284
<u>agreement between a public employer and an exclusive</u>	10285
<u>representative.</u>	10286
<u>(2) "Fiscal emergency" means any of the following:</u>	10287
<u>(a) A fiscal emergency declared by the governor under section</u>	10288
<u>126.05 of the Revised Code.</u>	10289
<u>(b) A fiscal watch or a fiscal emergency declared or</u>	10290
<u>determined by the auditor of state under section 118.023 or 118.04</u>	10291
<u>of the Revised Code.</u>	10292
<u>(c) Lack of funds as defined in section 124.321 of the</u>	10293
<u>Revised Code.</u>	10294
<u>(d) Reasons of economy as described in section 124.321 of the</u>	10295
<u>Revised Code.</u>	10296
<u>(B) A county, township, or municipal corporation appointing</u>	10297
<u>authority may establish a modified work week schedule program</u>	10298
<u>applicable to its exempt employees. Each exempt employee shall</u>	10299
<u>participate in any established modified work week schedule program</u>	10300
<u>in each of state fiscal years 2012 and 2013. The program may</u>	10301
<u>provide for a reduction from the usual number of hours worked</u>	10302
<u>during a week by exempt employees immediately before the</u>	10303
<u>establishment of the program by the appointing authority. The</u>	10304
<u>reduction in hours may include any number of hours so long as the</u>	10305
<u>reduction is not more than fifty per cent of the usual hours</u>	10306
<u>worked by exempt employees immediately before the establishment of</u>	10307
<u>the program. The program may be administered differently among</u>	10308
<u>employees based on classifications, appointment categories, or</u>	10309
<u>other relevant distinctions.</u>	10310
<u>(C) After June 30, 2013, a county, township, or municipal</u>	10311
<u>corporation appointing authority may implement a modified work</u>	10312

week schedule program as described in division (B) of this section 10313
that applies to its exempt employees in the event of a fiscal 10314
emergency. 10315

Sec. 125.021. (A) Except as to the military department, the 10316
general assembly, the capitol square review advisory board, the 10317
bureau of workers' compensation, the industrial commission, and 10318
institutions administered by boards of trustees, the department of 10319
administrative services may contract for telephone, other 10320
telecommunication, and computer services for state agencies. 10321
Nothing in this division precludes the bureau or the commission 10322
from contracting with the department to authorize the department 10323
to contract for those services for the bureau or the commission. 10324

(B)(1) As used in this division: 10325

(a) "Active duty" means active duty pursuant to an executive 10326
order of the president of the United States, an act of the 10327
congress of the United States, or section 5919.29 or 5923.21 of 10328
the Revised Code. 10329

(b) "Immediate family" means a person's spouse residing in 10330
the person's household, brothers and sisters of the whole or of 10331
the half blood, children, including adopted children and 10332
stepchildren, parents, and grandparents. 10333

(2) The department of administrative services may enter into 10334
a contract to purchase bulk long distance telephone services and 10335
make them available at cost, or may make bulk long distance 10336
telephone services available at cost under any existing contract 10337
the department has entered into, to members of the immediate 10338
family of persons deployed on active duty so that those family 10339
members can communicate with the persons so deployed. If the 10340
department enters into contracts under division (B)(2) of this 10341
section, it shall do so in accordance with sections 125.01 to 10342
125.11 of the Revised Code and in a nondiscriminatory manner that 10343

does not place any potential vendor at a competitive disadvantage. 10344

(3) If the department decides to exercise either option under 10345
division (B)(2) of this section, it shall adopt, and may amend, 10346
rules under Chapter 119. of the Revised Code to implement that 10347
division. 10348

Sec. 125.024. (A) If the department of mental health provides 10349
the goods and services described in division (C)(3) of section 10350
5119.16 of the Revised Code to the persons and government entities 10351
described in that section, the department of administrative 10352
services shall issue a request for proposals for the purpose of 10353
determining whether such goods and services could be provided by a 10354
vendor, on behalf of the department of mental health, in a manner 10355
that achieves greater operational efficiencies and savings to the 10356
state than those that could be achieved if the department of 10357
mental health provides the goods and services itself. The request 10358
for proposals must be issued not later than sixty days after the 10359
effective date of this section. 10360

(B) Before issuing a request for proposals under division (A) 10361
of this section, the department of administrative services shall 10362
develop a process to be used in issuing the request for proposals, 10363
receiving responses to the request, and evaluating responses on a 10364
competitive basis. 10365

(C) If the department of administrative services determines, 10366
from a review of the proposals submitted through the process 10367
described in division (B) of this section, that a vendor is able 10368
to provide the goods and services described in division (C)(3) of 10369
section 5119.16 of the Revised Code in the manner described in 10370
division (A) of this section, the department shall enter into a 10371
contract with the vendor for the provision of such goods and 10372
services. 10373

(D) The department of administrative services shall adopt 10374

rules in accordance with Chapter 119. of the Revised Code to 10375
implement this section. At a minimum, the rules must specify the 10376
duration of a contract entered into under division (C) of this 10377
section and a process for issuing subsequent requests for 10378
proposals, receiving responses to such requests, and evaluating 10379
the responses on a competitive basis. 10380

Sec. 125.15. All state agencies required to secure any 10381
equipment, materials, supplies, or services from the department of 10382
administrative services shall make acquisition in the manner and 10383
upon forms prescribed by the director of administrative services 10384
and shall reimburse the department for the equipment, materials, 10385
supplies, or services, including a reasonable sum to cover the 10386
department's administrative costs and costs relating to energy 10387
efficiency and conservation programs, whenever reimbursement is 10388
required by the department. The money so paid shall be deposited 10389
in the state treasury to the credit of the general services fund 10390
~~or~~, the information technology fund, or the information technology 10391
governance fund, as appropriate. Those funds are hereby created. 10392

Sec. 125.18. (A) There is hereby established the office of 10393
information technology within the department of administrative 10394
services. The office shall be under the supervision of a state 10395
chief information officer to be appointed by the director of 10396
administrative services and subject to removal at the pleasure of 10397
the director. The chief information officer is an assistant 10398
director of administrative services. 10399

(B) Under the direction of the director of administrative 10400
services, the state chief information officer shall lead, oversee, 10401
and direct state agency activities related to information 10402
technology development and use. In that regard, the state chief 10403
information officer shall do all of the following: 10404

(1) Coordinate and superintend statewide efforts to promote common use and development of technology by state agencies. The office of information technology shall establish policies and standards that govern and direct state agency participation in statewide programs and initiatives.

(2) Establish policies and standards for the acquisition and use of common information technology by state agencies, including, but not limited to, hardware, software, technology services, and security, and the extension of the service life of information technology systems, with which state agencies shall comply;

(3) Establish criteria and review processes to identify state agency information technology projects or purchases that require alignment or oversight. As appropriate, the department of administrative services shall provide the governor and the director of budget and management with notice and advice regarding the appropriate allocation of resources for those projects. The state chief information officer may require state agencies to provide, and may prescribe the form and manner by which they must provide, information to fulfill the state chief information officer's alignment and oversight role;

(4) Establish policies and procedures for the security of personal information that is maintained and destroyed by state agencies;

(5) Employ a chief information security officer who is responsible for the implementation of the policies and procedures described in division (B)(4) of this section and for coordinating the implementation of those policies and procedures in all of the state agencies;

(6) Employ a chief privacy officer who is responsible for advising state agencies when establishing policies and procedures for the security of personal information and developing education

and training programs regarding the state's security procedures;	10436
(7) Establish policies on the purchasing, use, and	10437
reimbursement for use of handheld computing and telecommunications	10438
devices by state agency employees;	10439
(8) Establish policies for the reduction of printing and the	10440
use of electronic records by state agencies;	10441
(9) Establish policies for the reduction of energy	10442
consumption by state agencies;	10443
<u>(10) Compute the amount of revenue attributable to the</u>	10444
<u>amortization of all equipment purchases and capitalized systems</u>	10445
<u>from information technology service delivery and major information</u>	10446
<u>technology purchases operating appropriation items and major</u>	10447
<u>computer purchases capital appropriation items that is recovered</u>	10448
<u>as part of the information technology services rates the</u>	10449
<u>department of administrative services charges and deposits into</u>	10450
<u>the information technology fund created in section 125.15 of the</u>	10451
<u>Revised Code.</u>	10452
(C)(1) The chief information security officer shall assist	10453
each state agency with the development of an information	10454
technology security strategic plan and review that plan, and each	10455
state agency shall submit that plan to the state chief information	10456
officer. The chief information security officer may require that	10457
each state agency update its information technology security	10458
strategic plan annually as determined by the state chief	10459
information officer.	10460
(2) Prior to the implementation of any information technology	10461
data system, a state agency shall prepare or have prepared a	10462
privacy impact statement for that system.	10463
(D) When a state agency requests a purchase of information	10464
technology supplies or services under Chapter 125. of the Revised	10465
Code, the state chief information officer may review and reject	10466

the requested purchase for noncompliance with information 10467
technology direction, plans, policies, standards, or 10468
project-alignment criteria. 10469

(E) The office of information technology may operate 10470
technology services for state agencies in accordance with this 10471
chapter. 10472

(F) With the approval of the director of administrative 10473
services, the office of information technology may establish 10474
cooperative agreements with federal and local government agencies 10475
and state agencies that are not under the authority of the 10476
governor for the provision of technology services and the 10477
development of technology projects. 10478

(G) The office of information technology may operate a 10479
program to make information technology purchases. The director of 10480
administrative services may recover the cost of operating the 10481
program from all participating government entities by issuing 10482
intrastate transfer voucher billings for the procured technology 10483
or through any pass-through billing method agreed to by the 10484
director of administrative services, the director of budget and 10485
management, and the participating government entities that will 10486
receive the procured technology. 10487

If the director of administrative services chooses to recover 10488
the program costs through intrastate transfer voucher billings, 10489
the participating government entities shall process the intrastate 10490
transfer vouchers to pay for the cost. Amounts received under this 10491
section for the information technology purchase program shall be 10492
deposited to the credit of the information technology governance 10493
fund created in section 125.15 of the Revised Code. 10494

(H) Upon request from the director of administrative 10495
services, the director of budget and management may transfer cash 10496
from the information technology fund created in section 125.15 of 10497

the Revised Code to the major information technology purchases 10498
fund in an amount not to exceed the amount computed under division 10499
(B)(10) of this section. The major information technology 10500
purchases fund is hereby created in the state treasury. 10501

(I) As used in this section: 10502

(1) "Personal information" has the same meaning as in section 10503
149.45 of the Revised Code. 10504

(2) "State agency" means every organized body, office, or 10505
agency established by the laws of the state for the exercise of 10506
any function of state government, other than any state-supported 10507
institution of higher education, the office of the auditor of 10508
state, treasurer of state, secretary of state, or attorney 10509
general, the adjutant general's department, the bureau of workers' 10510
compensation, the industrial commission, the public employees 10511
retirement system, the Ohio police and fire pension fund, the 10512
state teachers retirement system, the school employees retirement 10513
system, the state highway patrol retirement system, the general 10514
assembly or any legislative agency, the capitol square review 10515
advisory board, or the courts or any judicial agency. 10516

Sec. 125.182. The office of information technology, by itself 10517
or by contract with another entity, shall establish, operate, and 10518
maintain a state public notice web site. In establishing, 10519
maintaining, and operating the state public notice web site, the 10520
office of information technology shall: 10521

(A) Use a domain name for the web site that will be easily 10522
recognizable and remembered by and understandable to users of the 10523
web site; 10524

(B) Maintain the web site so that it is fully accessible to 10525
and searchable by members of the public at all times; 10526

(C) Not charge a fee to a person who accesses, searches, or 10527

<u>otherwise uses the web site;</u>	10528
<u>(D) Not charge a fee to a state agency or political subdivision for publishing a notice on the web site;</u>	10529
<u>(E) Ensure that notices displayed on the web site conform to the requirements that would apply to the notices if they were being published in a newspaper, as directed in section 7.16 of the Revised Code or in the relevant provision of the statute or rule that requires the notice;</u>	10531
	10532
	10533
	10534
	10535
<u>(F) Ensure that notices continue to be displayed on the web site for not less than the length of time required by the relevant provision of the statute or rule that requires the notice;</u>	10536
	10537
	10538
<u>(G) Devise and display on the web site a form that may be downloaded and used to request publication of a notice on the web site;</u>	10539
	10540
	10541
<u>(H) Enable responsible parties to submit notices and requests for their publication;</u>	10542
	10543
<u>(I) Maintain an archive of notices that no longer are displayed on the web site;</u>	10544
	10545
<u>(J) Enable notices, both those currently displayed and those archived, to be accessed by key word, by party name, by case number, by county, and by other useful identifiers;</u>	10546
	10547
	10548
<u>(K) Maintain adequate systemic security and backup features, and develop and maintain a contingency plan for coping with and recovering from power outages, systemic failures, and other unforeseeable difficulties;</u>	10549
	10550
	10551
	10552
<u>(L) Maintain the web site in such a manner that it will not infringe legally protected interests, so that vulnerability of the web site to interruption because of litigation or the threat of litigation is reduced; and</u>	10553
	10554
	10555
	10556
<u>(M) Submit a status report to the secretary of state twice</u>	10557

annually that demonstrates compliance with statutory requirements 10558
governing publication of notices. 10559

The office of information technology shall bear the expense 10560
of maintaining the state public notice web site domain name. 10561

Sec. 125.213. There is hereby created the state employee 10562
child support fund. The fund shall be in the custody of the 10563
treasurer of state, but shall not be part of the state treasury. 10564
The fund shall consist of all money withheld or deducted from 10565
salaries and wages of state officials and employees pursuant to a 10566
withholding or deduction notice described in section 3121.03 of 10567
the Revised Code for forwarding to the office of child support in 10568
the department of job and family services pursuant to section 10569
3121.19 of the Revised Code. All money in the fund, including 10570
investment earnings thereon, shall be used only for the following 10571
purposes: 10572

(A) Forwarding to the office of child support money withheld 10573
or deducted from salaries and wages of state officials and 10574
employees pursuant to a withholding or deduction notice described 10575
in section 3121.03 of the Revised Code; 10576

(B) Paying any direct or indirect costs associated with 10577
maintaining the fund. 10578

Sec. 125.28. (A)(1) Each state agency that is supported in 10579
whole or in part by nongeneral revenue fund money and that 10580
occupies space in the James A. Rhodes or Frank J. Lausche state 10581
office tower, Toledo government center, Senator Oliver R. Ocasek 10582
government office building, Vern Riffe center for government and 10583
the arts, ~~state of Ohio computer center~~, capitol square, or 10584
governor's mansion shall reimburse the general revenue fund for 10585
the cost of occupying the space in the ratio that the occupied 10586
space in each facility attributable to the nongeneral revenue fund 10587

money bears to the total space occupied by the state agency in the 10588
facility. 10589

(2) All agencies that occupy space in the old blind school or 10590
that occupy warehouse space in the general services facility shall 10591
reimburse the department of administrative services for the cost 10592
of occupying the space. The director of administrative services 10593
shall determine the amount of debt service, if any, to be charged 10594
to building tenants and shall collect reimbursements for it. 10595

(3) Each agency that is supported in whole or in part by 10596
nongeneral revenue fund money and that occupies space in any other 10597
facility or facilities owned and maintained by the department of 10598
administrative services or space in the general services facility 10599
other than warehouse space shall reimburse the department for the 10600
cost of occupying the space, including debt service, if any, in 10601
the ratio that the occupied space in each facility attributable to 10602
the nongeneral revenue fund money bears to the total space 10603
occupied by the state agency in the facility. 10604

(B) The director of administrative services may provide 10605
building maintenance services and skilled trades services to any 10606
state agency occupying space in a facility that is not owned by 10607
the department of administrative services and may collect 10608
reimbursements for the cost of providing those services. 10609

(C) All money collected by the department of administrative 10610
services for operating expenses of facilities owned or maintained 10611
by the department shall be deposited into the state treasury to 10612
the credit of the building management fund, which is hereby 10613
created. All money collected by the department for skilled trades 10614
services shall be deposited into the state treasury to the credit 10615
of the skilled trades fund, which is hereby created. All money 10616
collected for debt service shall be deposited into the general 10617
revenue fund. 10618

(D) The director of administrative services shall determine 10619
the reimbursable cost of space in state-owned or state-leased 10620
facilities and shall collect reimbursements for that cost. 10621

Sec. 125.89. Subject to the approval of the governor, the 10622
department of administrative services may enter into contracts, 10623
compacts, and cooperative agreements for and on behalf of the 10624
state of Ohio with the several states or the federal government, 10625
singularly or severally, in order to provide, with or without 10626
reimbursement, for the utilization by and exchange between them, 10627
singularly or severally, of property, facilities, personnel, and 10628
services of each by the other, and, for the same purpose, to enter 10629
into contracts and cooperative agreements with eligible public or 10630
private state or local authorities, institutions, organizations, 10631
or activities. ~~The department shall make, annually, a report of~~ 10632
~~its actions under sections 125.84 to 125.90 of the Revised Code,~~ 10633
~~in accordance with section 149.01 of the Revised Code, and file~~ 10634
~~such report with the general assembly.~~ 10635

Sec. 126.021. Whenever, pursuant to section 126.06 of the 10636
Revised Code, the department of ~~administrative services~~ commerce 10637
files with the director of budget and management its estimate of 10638
proposed expenditures for the succeeding biennium, the department 10639
shall request, and the director of budget and management shall 10640
approve the request for, the following general revenue fund 10641
appropriations for operating the construction compliance section 10642
~~of the equal employment opportunity office~~ of the department of 10643
~~administrative services~~ commerce: 10644

(A) For the first fiscal year of the biennium, an 10645
appropriation equal to fifty-three one-thousandths of one per cent 10646
of the total new capital appropriations provided for in the most 10647
recently enacted main capital appropriations act; 10648

(B) For the second fiscal year of the biennium, an 10649
appropriation equal to the amount computed under division (A) of 10650
this section, adjusted for anticipated changes in operating costs 10651
based upon the inflation/deflation factor used by the director of 10652
budget and management for that fiscal year. 10653

The amounts of the appropriations requested pursuant to 10654
divisions (A) and (B) of this section shall be in addition to the 10655
amounts provided for staff in the construction compliance section 10656
as of January 1, 1988. 10657

Sec. 126.10. No certificate of participation or any similar 10658
debt instrument may be obtained or entered into by the state 10659
without the prior approval of the general assembly. 10660

Sec. 126.12. (A)(1) The office of budget and management shall 10661
prepare and administer a statewide indirect cost allocation plan 10662
that provides for the recovery of statewide indirect costs from 10663
any fund of the state. The director of budget and management may 10664
make transfers of statewide indirect costs from the appropriate 10665
fund of the state to the general revenue fund on an intrastate 10666
transfer voucher. The director, for reasons of sound financial 10667
management, also may waive the recovery of statewide indirect 10668
costs. Prior to making a transfer in accordance with this 10669
division, the director shall notify the affected agency of the 10670
amounts to be transferred. 10671

(2) To support development and upgrade costs to the state's 10672
enterprise resource planning system, the director also may make 10673
transfers of statewide indirect costs attributable to debt service 10674
paid for the system to the OAKS support organization fund created 10675
in section 126.24 of the Revised Code. Transfers may be made from 10676
either of the following: 10677

(a) The appropriate fund of the state; 10678

(b) The general revenue fund, if the statewide indirect costs 10679
have been collected under division (A)(1) of this section and 10680
deposited in the general revenue fund. 10681

(B) As used in this section, "statewide indirect costs" means 10682
operating costs incurred by an agency in providing services to any 10683
other agency, for which there was no billing to such other agency 10684
for the services provided, and for which disbursements have been 10685
made from the general revenue fund or other funds. 10686

(C) Notwithstanding any provision of law to the contrary, in 10687
order to reduce the payment of adjustments to the federal 10688
government as determined under the plan prepared under division 10689
(A)(1) of this section, the director of budget and management 10690
shall, on or before the first day of September each fiscal year, 10691
designate such funds of the state as the director considers 10692
necessary to retain their own interest earnings. 10693

Sec. 126.141. Any request for release of capital 10694
appropriations by the director of budget and management or the 10695
controlling board for facilities projects shall contain a 10696
contingency reserve, the amount of which shall be determined by 10697
the public authority, for payment of unanticipated project 10698
expenses. Any amount deducted from the encumbrance for a 10699
contractor's contract as an assessment for liquidated damages 10700
shall be added to the encumbrance for the contingency reserve. 10701
Contingency reserve funds shall be used to pay costs resulting 10702
from unanticipated job conditions, to comply with rulings 10703
regarding building and other codes, to pay costs related to 10704
errors, omissions, or other deficiencies in contract documents, to 10705
pay costs associated with changes in the scope of work, to pay 10706
interest due on late payments, and to pay the costs of settlements 10707
and judgments related to the project. 10708

Any funds remaining upon completion of a project may, upon 10709

approval of the controlling board, be released for the use of the 10710
agency or instrumentality to which the appropriation was made for 10711
other capital facilities projects. 10712

Sec. 126.21. (A) The director of budget and management shall 10713
do all of the following: 10714

(1) Keep all necessary accounting records; 10715

(2) Prescribe and maintain the accounting system of the state 10716
and establish appropriate accounting procedures and charts of 10717
accounts; 10718

(3) Establish procedures for the use of written, electronic, 10719
optical, or other communications media for approving and reviewing 10720
payment vouchers; 10721

(4) Reconcile, in the case of any variation between the 10722
amount of any appropriation and the aggregate amount of items of 10723
the appropriation, with the advice and assistance of the state 10724
agency affected by it and the legislative service commission, 10725
totals so as to correspond in the aggregate with the total 10726
appropriation. In the case of a conflict between the item and the 10727
total of which it is a part, the item shall be considered the 10728
intended appropriation. 10729

(5) Evaluate on an ongoing basis and, if necessary, recommend 10730
improvements to the internal controls used in state agencies; 10731

(6) Authorize the establishment of petty cash accounts. The 10732
director may withdraw approval for any petty cash account and 10733
require the officer in charge to return to the state treasury any 10734
unexpended balance shown by the officer's accounts to be on hand. 10735
Any officer who is issued a warrant for petty cash shall render a 10736
detailed account of the expenditures of the petty cash and shall 10737
report when requested the balance of petty cash on hand at any 10738
time. 10739

(7) Process orders, invoices, vouchers, claims, and payrolls	10740
and prepare financial reports and statements;	10741
(8) Perform extensions, reviews, and compliance checks prior	10742
to or after approving a payment as the director considers	10743
necessary;	10744
(9) Issue the official comprehensive annual financial report	10745
of the state. The report shall cover all funds of the state	10746
reporting entity and shall include basic financial statements and	10747
required supplementary information prepared in accordance with	10748
generally accepted accounting principles and other information as	10749
the director provides. All state agencies, authorities,	10750
institutions, offices, retirement systems, and other component	10751
units of the state reporting entity as determined by the director	10752
shall furnish the director whatever financial statements and other	10753
information the director requests for the report, in the form, at	10754
the times, covering the periods, and with the attestation the	10755
director prescribes. The information for state institutions of	10756
higher education, as defined in section 3345.011 of the Revised	10757
Code, shall be submitted to the chancellor by the Ohio board of	10758
regents. The board shall establish a due date by which each such	10759
institution shall submit the information to the board, but no such	10760
date shall be later than one hundred twenty days after the end of	10761
the state fiscal year unless a later date is approved by the	10762
director.	10763
(B) In addition to the director's duties under division (A)	10764
of this section, the director may establish and administer one or	10765
more state payment card programs that permit or require state	10766
agencies to use a payment card to purchase equipment, materials,	10767
supplies, or services in accordance with guidelines issued by the	10768
director. The chief administrative officer of a state agency that	10769
uses a payment card for such purposes shall ensure that purchases	10770
made with the card are made in accordance with the guidelines	10771

issued by the director and do not exceed the unexpended, 10772
unencumbered, unobligated balance in the appropriation to be 10773
charged for the purchase. State agencies may participate in only 10774
those state payment card programs that the director establishes 10775
pursuant to this section. 10776

(C) In addition to the director's duties under divisions (A) 10777
and (B) of this section, the director may enter into any contract 10778
or agreement necessary for and incidental to the performance of 10779
the director's duties or the duties of the office of budget and 10780
management. 10781

(D) In consultation with the director of administrative 10782
services, the director may appoint and fix the compensation of 10783
employees of the office of budget and management whose primary 10784
duties include the consolidation of statewide financing functions 10785
and common transactional processes. 10786

(E) The director may transfer cash between funds other than 10787
the general revenue fund in order to correct an erroneous payment 10788
or deposit regardless of the fiscal year during which the 10789
erroneous payment or deposit occurred. 10790

Sec. 126.24. The OAKS support organization fund is hereby 10791
created in the state treasury for the purpose of paying the 10792
operating, development, and upgrade expenses of the state's 10793
enterprise resource planning system. The fund shall consist of 10794
~~cash transfers from the accounting and budgeting fund and the~~ 10795
~~human resources services fund, and other~~ received pursuant to 10796
division (A)(2) of section 126.12 of the Revised Code and agency 10797
payroll charge revenues that are designated to support the 10798
operating, development, and upgrade costs of the Ohio 10799
administrative knowledge system. All investment earnings of the 10800
fund shall be credited to the fund. 10801

Sec. 126.45. (A) As used in sections 126.45 to 126.48 of the Revised Code, "state agency" means the administrative departments listed in section 121.02 of the Revised Code, the department of taxation, ~~and~~ the bureau of workers' compensation, and the Ohio board of regents.

(B) The office of internal auditing is hereby created in the office of budget and management to conduct internal audits of state agencies or divisions of state agencies to improve their operations in the areas of risk management, internal controls, and governance. The director of budget and management, with the approval of the governor, shall appoint for the office of internal auditing a chief internal auditor who meets the qualifications specified in division (C) of this section. The chief internal auditor shall serve at the director's pleasure and be responsible for the administration of the office of internal auditing consistent with sections 126.45 to 126.48 of the Revised Code.

The office of internal auditing shall conduct programs for the internal auditing of state agencies. The programs shall include an annual internal audit plan, reviewed by the state audit committee, that utilizes risk assessment techniques and identifies the specific audits to be conducted during the year. The programs also shall include periodic audits of each state agency's major systems and controls, including those systems and controls pertaining to accounting, administration, and electronic data processing. Upon the request of the office of internal auditing, each state agency shall provide office employees access to all records and documents necessary for the performance of an internal audit.

The director of budget and management shall assess a charge against each state agency for which the office of internal auditing conducts internal auditing programs under sections 126.45

to 126.48 of the Revised Code so that the total amount of these 10833
charges is sufficient to cover the costs of the operation of the 10834
office of internal auditing. 10835

(C) The chief internal auditor of the office of internal 10836
auditing shall hold at least a bachelor's degree and be one of the 10837
following: 10838

(1) A certified internal auditor, a certified government 10839
auditing professional, or a certified public accountant, who also 10840
has held a PA registration or a CPA certificate authorized by 10841
Chapter 4701. of the Revised Code for at least four years and has 10842
at least six years of auditing experience; 10843

(2) An auditor who has held a PA registration or a CPA 10844
certificate authorized by Chapter 4701. of the Revised Code for at 10845
least four years and has at least ten years of auditing 10846
experience. 10847

(D) The chief internal auditor, subject to the direction and 10848
control of the director of budget and management, may appoint and 10849
maintain any staff necessary to carry out the duties assigned by 10850
sections 126.45 to 126.48 of the Revised Code to the office of 10851
internal auditing or to the chief internal auditor. 10852

Sec. 126.46. (A)(1) There is hereby created the state audit 10853
committee, consisting of the following five members: one public 10854
member appointed by the governor; two public members appointed by 10855
the speaker of the house of representatives, one of which may be a 10856
person who is recommended by the minority leader of the house of 10857
representatives; and two public members appointed by the president 10858
of the senate, one of which may be a person who is recommended by 10859
the minority leader of the senate. Not more than two of the four 10860
members appointed by the speaker of the house of representatives 10861
and the president of the senate shall belong to or be affiliated 10862
with the same political party. The member appointed by the 10863

~~governor shall be a person who is external to the management structure associated with the preparation of financial statements of state government and shall~~ have the program and management expertise required to perform the duties of the committee's chairperson.

Each member of the committee shall be external to the management structure of state government and shall serve a three-year term, ~~except for the initial members. With respect to the initial appointments of the members, the first member appointed by the speaker of the house of representatives shall serve a one year term, the second member appointed by the speaker of the house of representatives shall serve a three year term, the initial members appointed by the president of the senate shall serve two year terms, and the initial member appointed by the governor shall serve a three year term.~~ Each term shall commence on the first day of July and end on the thirtieth day of June. A member shall continue to serve subsequent to the expiration of the member's term until a successor is appointed. Members may be reappointed to serve one additional term.

On the effective date of the amendment of this section by H.B. 153 of the 129th general assembly, the terms of the members shall be altered as follows:

(a) The terms of the members appointed by the president shall expire on June 30, 2012.

(b) The term of the member appointed by the speaker scheduled to expire on November 17, 2012, shall expire on June 30, 2013.

(c) The term of the other member appointed by the speaker shall expire on June 30, 2014.

(d) The term of the member appointed by the governor shall expire on June 30, 2014.

The committee shall include one member who is a financial

expert; one member who is an active, inactive, or retired 10895
certified public accountant; one member who is familiar with 10896
governmental financial accounting; and one member who is a 10897
representative of the public. 10898

Any vacancy on the committee shall be filled in the same 10899
manner as provided in this division, and, when applicable, the 10900
person appointed to fill a vacancy shall serve the remainder of 10901
the predecessor's term. 10902

(2) Members of the committee shall receive reimbursement for 10903
actual and necessary expenses incurred in the discharge of their 10904
duties. 10905

(3) The member of the committee appointed by the governor 10906
shall serve as the committee's chairperson. 10907

(4) ~~Initial appointments of committee members shall be made 10908
not later than thirty days after the effective date of this 10909
section. 10910~~

~~(5) Members of the committee shall be subject to the 10911
disclosure statement requirements of section 102.02 of the Revised 10912
Code. 10913~~

(B) The state audit committee shall do all of the following: 10914

(1) Ensure that the internal audits conducted by the office 10915
of internal auditing in the office of budget and management 10916
conform to the institute of internal auditors' international 10917
standards for the professional practice of internal auditing and 10918
to the institute of internal auditors' code of ethics; 10919

(2) Review and comment on the process used by the office of 10920
budget and management to prepare its annual budgetary financial 10921
report and the state's comprehensive annual financial report 10922
required under division (A)(9) of section 126.21 of the Revised 10923
Code; 10924

(3) Review and comment on unaudited financial statements submitted to the auditor of state and communicate with external auditors as required by government auditing standards;	10925 10926 10927
(4) Perform the additional functions imposed upon it by section 126.47 of the Revised Code.	10928 10929
(C) As used in this section, "financial expert" means a person who has all of the following:	10930 10931
(1) An understanding of generally accepted accounting principles and financial statements;	10932 10933
(2) The ability to assess the general application of those principles in connection with accounting for estimates, accruals, and reserves;	10934 10935 10936
(3) Experience preparing, auditing, analyzing, or evaluating financial statements presenting accounting issues that generally are of comparable breadth and level of complexity to those likely to be presented by a state agency's financial statements, or experience actively supervising one or more persons engaged in those activities;	10937 10938 10939 10940 10941 10942
(4) An understanding of internal controls and procedures for financial reporting; and	10943 10944
(5) An understanding of audit committee functions.	10945
Sec. 126.50. As used in sections 126.50, 126.501, 126.502, 126.503, 126.504, 126.505, <u>and</u> 126.506, and 126.507 of the Revised Code:	10946 10947 10948
(A) "Critical services" means a service provided by the state the deferral or cancellation of which would cause at least one of the following:	10949 10950 10951
(1) An immediate risk to the health, safety, or welfare of the citizens of the state;	10952 10953

(2) A undermining of activity aimed at creating or retaining jobs in the state;	10954
	10955
(3) An interference with the receipt of revenue to the state or the realization of savings to the state.	10956
	10957
"Critical services" does not mean a deferral or cancellation of a service provided by the state that would result in inconvenience, sustainable delay, or other similar compromise to the normal provision of state provided services.	10958
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(B) "State <u>state</u> agency" has the same meaning as in section 1.60 of the Revised Code, but does not include the elected state officers, the general assembly or any legislative agency, a court or any judicial agency, or a state institution of higher education.	10962
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Sec. 126.503. All state agencies shall control nonessential travel expenses by doing all of the following:	10967
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(A) Complying with any travel directives issued by the director of budget and management;	10969
	10970
(B) Using, when possible, the online travel authorization and expense reimbursement process;	10971
	10972
(C) Conducting meetings, whenever possible and in compliance with section 121.22 of the Revised Code, using conference calls, teleconferences, webinars, or other technology tools;	10973
	10974
	10975
(D) Using fleet vehicles for official state travel whenever possible; and	10976
	10977
(E) Following restrictions set by the department of administrative services regarding mileage reimbursement pursuant to section 125.832 of the Revised Code; <u>and</u>	10978
	10979
	10980
<u>(F) Requiring state agency employees to use the state-contracted, preferred rental vehicle provider for all</u>	10981
	10982

vehicle rentals over one hundred miles. 10983

The director of budget and management shall not reimburse any 10984
state agency employee for unauthorized travel expenses. 10985

Sec. 126.60. As used in sections 126.60 to 126.605 of the 10986
Revised Code: 10987

(A) "Contract" means any purchase and sale agreement, lease, 10988
service agreement, franchise agreement, concession agreement, or 10989
other written agreement entered into under sections 126.60 to 10990
126.605 of the Revised Code with respect to the provision of 10991
highway services and any project related thereto. 10992

(B) "Highway services" means the operation or maintenance of 10993
any highway in this state, the construction of which was funded by 10994
proceeds from state revenue bonds that are to be repaid primarily 10995
from revenues derived from the operation of the highway and any 10996
related facilities and not primarily from the tax that is subject 10997
to the limitations of Article XII, Section 5a of the Ohio 10998
Constitution. 10999

(C) "Improvement" means any construction, reconstruction, 11000
rehabilitation, renovation, installation, improvement, 11001
enlargement, or extension of property or improvements to property. 11002

(D) "Private sector entity" means any corporation, whether 11003
for profit or not for profit, limited liability company, 11004
partnership, limited liability partnership, sole proprietorship, 11005
business trust, joint venture or other entity, but shall not mean 11006
the state, a political subdivision of the state, or a public or 11007
governmental entity, agency, or instrumentality of the state. 11008

(E) "Project" means real or personal property, or both, and 11009
improvements thereto or in support thereof, including undivided 11010
and other interests therein, used for or in the provision of 11011
highway services. 11012

(F) "Proposer" means a private sector entity, local or regional public entity or agency, or any group or combination thereof, in collaboration or cooperation with other private sector entities, local or regional public entities, submitting qualifications or a proposal for providing highway services. 11013
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Sec. 126.601. (A) The director of budget and management and the director of transportation may make recommendations to the general assembly concerning whether to take any action and execute any contract for the provision of highway services in order to more efficiently and effectively provide those services, including by generating additional resources in support of those services and related projects. Nothing in sections 126.60 to 126.605 of Revised Code authorizes or shall be construed to authorize the sale, lease, operation under a contract with a private sector entity, other disposition of a turnpike project, as defined in section 5537.01 of the Revised Code, or other transfer of authority over a turnpike project until the general assembly approves it by the enactment of legislation that includes the specific terms and conditions of the sale, lease, or operation of the turnpike project. 11018
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(B) The director of transportation, pursuant to legislation as described in division (A) of this section, may exercise all powers of the Ohio turnpike commission for purposes of sections 126.60 to 126.605 of the Revised Code, and may take any action and, with the director of budget and management, execute any contract necessary to effect the purposes of sections 126.60 to 126.605 of the Revised Code. 11033
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Sec. 126.602. (A) Before entering into a contract for the provision of highway services, the director of budget and management shall publish notice of its intent to enter into a contract for the highway services and any related project. The 11040
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notice shall notify interested parties of the opportunity to 11044
submit their qualifications or proposals, or both, for 11045
consideration and shall be published at least thirty days prior to 11046
the deadline for submitting those qualifications or proposals. The 11047
director also may advertise the information contained in the 11048
notice in appropriate trade journals and otherwise notify parties 11049
believed to be interested in providing the highway services and in 11050
any related project. The notice shall include a general 11051
description of the highway services to be provided and any related 11052
project and of the qualifications or proposals being sought and 11053
instructions for obtaining the invitation. 11054

(B) After inviting qualifications, the director of budget and 11055
management, in consultation with the department of transportation, 11056
shall evaluate the qualifications submitted and may hold 11057
discussions with proposers to further explore their 11058
qualifications. Following this evaluation, the director, in 11059
consultation with the department, may determine a list of 11060
qualified proposers based on criteria in the invitation and invite 11061
only those proposers to submit a proposal for the provision of the 11062
highway services and any related project. 11063

(C) After inviting proposals, the director of budget and 11064
management, in consultation with the department of transportation, 11065
shall evaluate the proposals submitted and may hold discussions 11066
with proposers to further explore their proposals, the scope and 11067
nature of the highway services they would provide, and the various 11068
technical approaches they may take regarding the highway services 11069
and any related project. Following this evaluation, the director, 11070
in consultation with the department, shall: 11071

(1) Select and rank no fewer than three proposers that the 11072
director considers to be the most qualified to enter into the 11073
contract, except when the director determines that fewer than 11074

three qualified proposers are available, in which case the 11075
director shall select and rank them; 11076

(2) Negotiate a contract with the proposer ranked most 11077
qualified to provide the highway services at a compensation 11078
determined in writing to be fair and reasonable, and to purchase, 11079
lease or otherwise take a legal interest in the project. 11080

(D)(1) Upon failure to negotiate a contract with the proposer 11081
ranked most qualified, the director shall inform the proposer in 11082
writing of the termination of negotiations and may enter into 11083
negotiations with the proposer ranked next most qualified. If 11084
negotiations again fail, the same procedure may be followed with 11085
each next most qualified proposer selected and ranked, in order of 11086
ranking, until a contract is negotiated. 11087

(2) If the director, in consultation with the department, 11088
fails to negotiate a contract with any of the ranked proposers, 11089
the director, in consultation with the department, may terminate 11090
the process or select and rank additional proposers, based on 11091
their qualifications or proposals, and negotiations shall continue 11092
as with the proposers selected and ranked initially until a 11093
contract is negotiated. 11094

(E) Any contract entered into under this section may contain 11095
terms, as deemed appropriate by the director, in consultation with 11096
the department, including the duration of the contract, which 11097
shall not exceed seventy-five years, rates or fees for the highway 11098
services to be provided or methods or procedures for the 11099
determination of such rates or fees, standards for the highway 11100
services to be provided, responsibilities and standards for 11101
operation and maintenance of any related project, required 11102
financial assurances, financial and other data reporting 11103
requirements, bases and procedures for termination of the contract 11104
and retaking of possession or title to the project, and events of 11105
default and remedies upon default, including mandamus, a suit in 11106

equity, an action at law, or any combination of those remedial 11107
actions. 11108

(F) Chapter 4115. of the Revised Code shall not apply to any 11109
project. Chapter 4117. of the Revised Code shall not apply to any 11110
employees working at or on a project to provide highway services. 11111

(G) The director of budget and management may reject any and 11112
all submissions of qualifications or proposals. 11113

Sec. 126.603. (A) In addition to its powers under sections 11114
127.14 and 127.16 of the Revised Code, the controlling board shall 11115
approve any invitation for qualifications or for proposals and 11116
related contract negotiated under sections 126.60 to 126.605 of 11117
the Revised Code, which approval may be by pre-approval of 11118
specified terms of the contract. The controlling board may approve 11119
any transfer of moneys and funds necessary to support the highway 11120
services. 11121

(B) All money received by the director of budget and 11122
management under a contract executed pursuant to sections 126.60 11123
to 126.605 of the Revised Code shall be deposited into the state 11124
treasury to the credit of the highway services fund, which is 11125
hereby created. Any interest earned on money in the fund shall be 11126
credited to the fund. 11127

Sec. 126.604. The exercise of the powers granted by sections 11128
126.60 to 126.605 of the Revised Code will be for the benefit of 11129
the people of the state and shall be liberally construed to effect 11130
the purposes thereof. Any project or part thereof owned by the 11131
state and used for performing any highway services pursuant to a 11132
contract entered into under sections 126.60 to 126.605 of the 11133
Revised Code that would be exempt from real property taxes or 11134
assessments in the absence of such contract shall remain exempt 11135
from real property taxes and assessments levied by the state and 11136

its subdivisions to the same extent as if not subject to that 11137
contract. The gross receipts and income of a successful proposer 11138
derived from providing highway services under a contract through a 11139
project owned by the state shall be exempt from gross receipts and 11140
income taxes levied by the state and its subdivisions, including 11141
the tax levied pursuant to Chapter 5751. of the Revised Code. Any 11142
transfer or lease between a successful proposer and the state of a 11143
project or part thereof, or item included or to be included in the 11144
project, shall be exempt from the taxes levied pursuant to 11145
Chapters 5739. and 5741. of the Revised Code if the state is 11146
retaining ownership of the project or part thereof that is being 11147
transferred or leased. 11148

Sec. 126.605. The director of budget and management, in 11149
consultation with the department of transportation, may retain or 11150
contract for the services of commercial appraisers, engineers, 11151
investment bankers, financial advisers, accounting experts, and 11152
other consultants, independent contractors or providers of 11153
professional services as are necessary in the judgment of the 11154
director to carry out the director's powers and duties under 11155
sections 126.60 to 126.605 of the Revised Code, including the 11156
identification of highway services and any related projects to be 11157
subject to invitations for qualifications or proposals under 11158
sections 126.60 to 126.605 of the Revised Code, the development of 11159
those invitations and related evaluation criteria, the evaluation 11160
of those invitations, and negotiation of any contract under 11161
sections 126.60 to 126.605 of the Revised Code. 11162

Sec. 127.14. The controlling board may, at the request of any 11163
state agency or the director of budget and management, authorize, 11164
with respect to the provisions of any appropriation act: 11165
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(A) Transfers of all or part of an appropriation within but 11167
not between state agencies, except such transfers as the director 11168
of budget and management is authorized by law to make, provided 11169
that no transfer shall be made by the director for the purpose of 11170
effecting new or changed levels of program service not authorized 11171
by the general assembly; 11172

(B) Transfers of all or part of an appropriation from one 11173
fiscal year to another; 11174

(C) Transfers of all or part of an appropriation within or 11175
between state agencies made necessary by administrative 11176
reorganization or by the abolition of an agency or part of an 11177
agency; 11178

(D) Transfers of all or part of cash balances in excess of 11179
needs from any fund of the state to the general revenue fund or to 11180
such other fund of the state to which the money would have been 11181
credited in the absence of the fund from which the transfers are 11182
authorized to be made, except that the controlling board may not 11183
authorize such transfers from the accrued leave liability fund, 11184
auto registration distribution fund, budget stabilization fund, 11185
development bond retirement fund, facilities establishment fund, 11186
gasoline excise tax fund, general revenue fund, higher education 11187
improvement fund, highway improvement bond retirement fund, 11188
highway obligations bond retirement fund, highway capital 11189
improvement fund, highway operating fund, horse racing tax fund, 11190
improvements bond retirement fund, public library fund, liquor 11191
control fund, local government fund, local transportation 11192
improvement program fund, mental health facilities improvement 11193
fund, Ohio fairs fund, parks and recreation improvement fund, 11194
public improvements bond retirement fund, school district income 11195
tax fund, state agency facilities improvement fund, state and 11196
local government highway distribution fund, state highway safety 11197
fund, state lottery fund, undivided liquor permit fund, Vietnam 11198

conflict compensation bond retirement fund, volunteer fire 11199
fighters' dependents fund, waterways safety fund, wildlife fund, 11200
workers' compensation fund, ~~workers' compensation council~~ 11201
~~remuneration fund~~, or any fund not specified in this division that 11202
the director of budget and management determines to be a bond fund 11203
or bond retirement fund; 11204

(E) Transfers of all or part of those appropriations included 11205
in the emergency purposes account of the controlling board; 11206

(F) Temporary transfers of all or part of an appropriation or 11207
other moneys into and between existing funds, or new funds, as may 11208
be established by law when needed for capital outlays for which 11209
notes or bonds will be issued; 11210

(G) Transfer or release of all or part of an appropriation to 11211
a state agency requiring controlling board approval of such 11212
transfer or release as provided by law; 11213

(H) Temporary transfer of funds included in the emergency 11214
purposes appropriation of the controlling board. Such temporary 11215
transfers may be made subject to conditions specified by the 11216
controlling board at the time temporary transfers are authorized. 11217
No transfers shall be made under this division for the purpose of 11218
effecting new or changed levels of program service not authorized 11219
by the general assembly. 11220

As used in this section, "request" means an application by a 11221
state agency or the director of budget and management seeking some 11222
action by the controlling board. 11223

When authorizing the transfer of all or part of an 11224
appropriation under this section, the controlling board may 11225
authorize the transfer to an existing appropriation item and the 11226
creation of and transfer to a new appropriation item. 11227

Whenever there is a transfer of all or part of funds included 11228
in the emergency purposes appropriation by the controlling board, 11229

pursuant to division (E) of this section, the state agency or the 11230
director of budget and management receiving such transfer shall 11231
keep a detailed record of the use of the transferred funds. At the 11232
earliest scheduled meeting of the controlling board following the 11233
accomplishment of the purposes specified in the request originally 11234
seeking the transfer, or following the total expenditure of the 11235
transferred funds for the specified purposes, the state agency or 11236
the director of budget and management shall submit a report on the 11237
expenditure of such funds to the board. The portion of any 11238
appropriation so transferred which is not required to accomplish 11239
the purposes designated in the original request to the controlling 11240
board shall be returned to the proper appropriation of the 11241
controlling board at this time. 11242

Notwithstanding any provisions of law providing for the 11243
deposit of revenues received by a state agency to the credit of a 11244
particular fund in the state treasury, whenever there is a 11245
temporary transfer of funds included in the emergency purposes 11246
appropriation of the controlling board pursuant to division (H) of 11247
this section, revenues received by any state agency receiving such 11248
a temporary transfer of funds shall, as directed by the 11249
controlling board, be transferred back to the emergency purposes 11250
appropriation. 11251

The board may delegate to the director of budget and 11252
management authority to approve transfers among items of 11253
appropriation under division (A) of this section. 11254

Sec. 127.16. (A) Upon the request of either a state agency or 11255
the director of budget and management and after the controlling 11256
board determines that an emergency or a sufficient economic reason 11257
exists, the controlling board may approve the making of a purchase 11258
without competitive selection as provided in division (B) of this 11259
section. 11260

(B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly, shall:

(1) Make any purchase from a particular supplier, that would amount to fifty thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the controlling board;

(2) Lease real estate from a particular supplier, if the lease would amount to seventy-five thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for real estate leases made by the agency and the amount of all outstanding encumbrances for real estate leases made by the agency from the supplier, unless the lease is made by competitive selection or with the approval of the controlling board.

(C) Any person who authorizes a purchase in violation of division (B) of this section shall be liable to the state for any state funds spent on the purchase, and the attorney general shall collect the amount from the person.

(D) Nothing in division (B) of this section shall be construed as:

(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;

(2) Applying to medicaid provider agreements under Chapter 5111. of the Revised Code;

(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the

Revised Code;	11292
(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;	11293 11294 11295 11296 11297 11298 11299 11300 11301
(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;	11302 11303 11304 11305
(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.	11306 11307 11308 11309 11310 11311 11312 11313
(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;	11314 11315 11316
(8) Applying to purchases made by the rehabilitation services commission of services, or supplies, that are provided to persons with disabilities, or to purchases made by the commission in connection with the eligibility determinations it makes for applicants of programs administered by the social security administration;	11317 11318 11319 11320 11321 11322

(9) Applying to payments by the department of job and family services under section 5111.13 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;	11323 11324 11325 11326
(10) Applying to any agency of the legislative branch of the state government;	11327 11328
(11) Applying to agreements or contracts entered into under section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the Revised Code;	11329 11330 11331
(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;	11332 11333 11334 11335
(13) Applying to dues or fees paid for membership in an organization or association;	11336 11337
(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	11338 11339
(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;	11340 11341 11342 11343
(16) Applying to purchases of tickets for passenger air transportation;	11344 11345
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	11346 11347 11348
(18) Applying to the judicial branch of state government;	11349
(19) Applying to purchases of liquor for resale by the division of liquor control;	11350 11351
(20) Applying to purchases of motor courier and freight	11352

services made in accordance with department of administrative services rules;	11353 11354
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	11355 11356 11357 11358
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	11359 11360 11361
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	11362 11363
(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	11364 11365 11366 11367
(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code;	11368 11369 11370
(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;	11371 11372 11373 11374 11375
(27) Applying to contracts entered into by the department of developmental disabilities under section 5123.18 of the Revised Code;	11376 11377 11378
(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;	11379 11380 11381
(29) Applying to contracts entered into with persons by the	11382

director of commerce for unclaimed funds collection and remittance 11383
efforts as provided in division (F) of section 169.03 of the 11384
Revised Code. The director shall keep an itemized accounting of 11385
unclaimed funds collected by those persons and amounts paid to 11386
them for their services. 11387

(30) Applying to purchases made by a state institution of 11388
higher education in accordance with the terms of a contract 11389
between the vendor and an inter-university purchasing group 11390
comprised of purchasing officers of state institutions of higher 11391
education; 11392

(31) Applying to the department of job and family services' 11393
purchases of health assistance services under the children's 11394
health insurance program part I provided for under section 5101.50 11395
of the Revised Code, the children's health insurance program part 11396
II provided for under section 5101.51 of the Revised Code, or the 11397
children's health insurance program part III provided for under 11398
section 5101.52 of the Revised Code, ~~or the children's buy-in~~ 11399
~~program provided for under sections 5101.5211 to 5101.5216 of the~~ 11400
~~Revised Code;~~ 11401

(32) Applying to payments by the attorney general from the 11402
reparations fund to hospitals and other emergency medical 11403
facilities for performing medical examinations to collect physical 11404
evidence pursuant to section 2907.28 of the Revised Code; 11405

(33) Applying to contracts with a contracting authority or 11406
administrative receiver under division (B) of section 5126.056 of 11407
the Revised Code; 11408

(34) Applying to purchases of goods and services by the 11409
department of veterans services in accordance with the terms of 11410
contracts entered into by the United States department of veterans 11411
affairs; 11412

(35) Applying to payments by the superintendent of the bureau 11413

of criminal identification and investigation to the federal bureau 11414
of investigation for criminal records checks pursuant to section 11415
109.572 of the Revised Code. 11416

(E) When determining whether a state agency has reached the 11417
cumulative purchase thresholds established in divisions (B)(1) and 11418
(2) of this section, all of the following purchases by such agency 11419
shall not be considered: 11420

(1) Purchases made through competitive selection or with 11421
controlling board approval; 11422

(2) Purchases listed in division (D) of this section; 11423

(3) For the purposes of the threshold of division (B)(1) of 11424
this section only, leases of real estate. 11425

(F) As used in this section, "competitive selection," 11426
"purchase," "supplies," and "services" have the same meanings as 11427
in section 125.01 of the Revised Code. 11428

Sec. 127.162. (A) Upon the request of a state agency or the 11429
director of budget and management, the controlling board may 11430
approve the making of a purchase as being in full compliance with 11431
competitive selection if the agency seeking to make the purchase 11432
has met both of the following requirements: 11433

(1) The agency has substantially complied with one of the 11434
following competitive selection or evaluation and selection 11435
processes: 11436

(a) The requirements for competitive sealed bidding under 11437
section 125.07 of the Revised Code; 11438

(b) The requirements for competitive sealed proposals under 11439
section 125.071 of the Revised Code; 11440

(c) The requirements for reverse auctions under section 11441
125.072 of the Revised Code; 11442

(d) The evaluation and selection requirements for professional design services under section 153.69 of the Revised Code. 11443
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(2) The agency has provided in its request to the board a detailed explanation of the type of competitive selection or evaluation and selection process with which it was seeking to comply and the specific requirements of that type of competitive selection or evaluation and selection with which the agency has failed to comply. 11446
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(B) The controlling board, by a majority vote, may disapprove or defer a request submitted under this section or request that the agency resubmit the request pursuant to section 127.16 of the Revised Code if the agency fails to demonstrate substantial compliance with the relevant competitive selection or evaluation and selection requirements. 11452
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(C) Nothing in this section shall be construed to modify the cumulative purchasing thresholds established in divisions (B) and (E) of section 127.16 of the Revised Code. 11458
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Sec. 127.19. There is hereby created in the state treasury the controlling board emergency purposes fund, consisting of transfers from the general revenue fund and any other funds appropriated by the general assembly. Moneys in the fund may be used by the controlling board at the request of a state agency or the director of budget and management for the purpose of providing disaster and emergency aid to state agencies and political subdivisions or for other purposes approved by the controlling board. 11461
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Sec. 131.02. (A) Except as otherwise provided in section 4123.37 and division (K) of section 4123.511 of the Revised Code, whenever any amount is payable to the state, the officer, 11470
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employee, or agent responsible for administering the law under 11473
which the amount is payable shall immediately proceed to collect 11474
the amount or cause the amount to be collected and shall pay the 11475
amount into the state treasury or into the appropriate custodial 11476
fund in the manner set forth pursuant to section 113.08 of the 11477
Revised Code. Except as otherwise provided in this division, if 11478
the amount is not paid within forty-five days after payment is 11479
due, the officer, employee, or agent shall certify the amount due 11480
to the attorney general, in the form and manner prescribed by the 11481
attorney general, and notify the director of budget and management 11482
thereof. In the case of an amount payable by a student enrolled in 11483
a state institution of higher education, the amount shall be 11484
certified within the later of forty-five days after the amount is 11485
due or the tenth day after the beginning of the next academic 11486
semester, quarter, or other session following the session for 11487
which the payment is payable. The attorney general may assess the 11488
collection cost to the amount certified in such manner and amount 11489
as prescribed by the attorney general. If an amount payable to a 11490
political subdivision is past due, the political subdivision may, 11491
with the approval of the attorney general, certify the amount to 11492
the attorney general pursuant to this section. 11493

For the purposes of this section, the attorney general and 11494
the officer, employee, or agent responsible for administering the 11495
law under which the amount is payable shall agree on the time a 11496
payment is due, and that agreed upon time shall be one of the 11497
following times: 11498

(1) If a law, including an administrative rule, of this state 11499
prescribes the time a payment is required to be made or reported, 11500
when the payment is required by that law to be paid or reported. 11501

(2) If the payment is for services rendered, when the 11502
rendering of the services is completed. 11503

(3) If the payment is reimbursement for a loss, when the loss 11504

is incurred. 11505

(4) In the case of a fine or penalty for which a law or 11506
administrative rule does not prescribe a time for payment, when 11507
the fine or penalty is first assessed. 11508

(5) If the payment arises from a legal finding, judgment, or 11509
adjudication order, when the finding, judgment, or order is 11510
rendered or issued. 11511

(6) If the payment arises from an overpayment of money by the 11512
state to another person, when the overpayment is discovered. 11513

(7) The date on which the amount for which an individual is 11514
personally liable under section 5735.35, section 5739.33, or 11515
division (G) of section 5747.07 of the Revised Code is determined. 11516

(8) Upon proof of claim being filed in a bankruptcy case. 11517

(9) Any other appropriate time determined by the attorney 11518
general and the officer, employee, or agent responsible for 11519
administering the law under which the amount is payable on the 11520
basis of statutory requirements or ordinary business processes of 11521
the state agency to which the payment is owed. 11522

(B)(1) The attorney general shall give immediate notice by 11523
mail or otherwise to the party indebted of the nature and amount 11524
of the indebtedness. 11525

(2) If the amount payable to this state arises from a tax 11526
levied under Chapter 5733., 5739., 5741., 5747., or 5751. of the 11527
Revised Code, the notice also shall specify all of the following: 11528

(a) The assessment or case number; 11529

(b) The tax pursuant to which the assessment is made; 11530

(c) The reason for the liability, including, if applicable, 11531
that a penalty or interest is due; 11532

(d) An explanation of how and when interest will be added to 11533

the amount assessed; 11534

(e) That the attorney general and tax commissioner, acting 11535
together, have the authority, but are not required, to compromise 11536
the claim and accept payment over a reasonable time, if such 11537
actions are in the best interest of the state. 11538

(C) The attorney general shall collect the claim or secure a 11539
judgment and issue an execution for its collection. 11540

(D) Each claim shall bear interest, from the day on which the 11541
claim became due, at the rate per annum required by section 11542
5703.47 of the Revised Code. 11543

(E) The attorney general and the chief officer of the agency 11544
reporting a claim, acting together, may do any of the following if 11545
such action is in the best interests of the state: 11546

(1) Compromise the claim; 11547

(2) Extend for a reasonable period the time for payment of 11548
the claim by agreeing to accept monthly or other periodic 11549
payments. The agreement may require security for payment of the 11550
claim. 11551

(3) Add fees to recover the cost of processing checks or 11552
other draft instruments returned for insufficient funds and the 11553
cost of providing electronic payment options. 11554

(F)(1) Except as provided in division (F)(2) of this section, 11555
if the attorney general finds, after investigation, that any claim 11556
due and owing to the state is uncollectible, the attorney general, 11557
with the consent of the chief officer of the agency reporting the 11558
claim, may do the following: 11559

(a) Sell, convey, or otherwise transfer the claim to one or 11560
more private entities for collection; 11561

(b) Cancel the claim or cause it to be canceled. 11562

(2) The attorney general shall cancel or cause to be canceled 11563

an unsatisfied claim on the date that is forty years after the 11564
date the claim is certified. 11565

(3) No initial action shall be commenced to collect any tax 11566
payable to the state that is administered by the tax commissioner, 11567
whether or not such tax is subject to division (B) of this 11568
section, or any penalty, interest, or additional charge on such 11569
tax, after the expiration of the period ending on the later of the 11570
dates specified in divisions (F)(3)(a) and (b) of this section, 11571
provided that such period shall be extended by the period of any 11572
stay to such collection or by any other period to which the 11573
parties mutually agree. If the initial action in aid of execution 11574
is commenced before the later of the dates specified in divisions 11575
(F)(3)(a) and (b) of this section, any and all subsequent actions 11576
may be pursued in aid of execution of judgment for as long as the 11577
debt exists. 11578

(a) Seven years after the assessment of the tax, penalty, 11579
interest, or additional charge is issued. 11580

(b) Four years after the assessment of the tax, penalty, 11581
interest, or additional charge becomes final. For the purposes of 11582
division (F)(3)(b) of this section, the assessment becomes final 11583
at the latest of the following: upon expiration of the period to 11584
petition for reassessment, or if applicable, to appeal a final 11585
determination of the commissioner or decision of the board of tax 11586
appeals or a court, or, if applicable, upon decision of the United 11587
States supreme court. 11588

For the purposes of division (F)(3) of this section, an 11589
initial action to collect a tax debt is commenced at the time when 11590
any action, including any action in aid of execution on a 11591
judgment, commences after a certified copy of the tax 11592
commissioner's entry making an assessment final has been filed in 11593
the office of the clerk of court of common pleas in the county in 11594
which the taxpayer resides or has its principal place of business 11595

in this state, or in the office of the clerk of court of common 11596
pleas of Franklin county, as provided in section 5739.13, 5741.14, 11597
5747.13, or 5751.09 of the Revised Code or in any other applicable 11598
law requiring such a filing. If an assessment has not been issued 11599
and there is no time limitation on the issuance of an assessment 11600
under applicable law, an action to collect a tax debt commences 11601
when the action is filed in the courts of this state to collect 11602
the liability. 11603

(4) If information contained in a claim that is sold, 11604
conveyed, or transferred to a private entity pursuant to this 11605
section is confidential pursuant to federal law or a section of 11606
the Revised Code that implements a federal law governing 11607
confidentiality, such information remains subject to that law 11608
during and following the sale, conveyance, or transfer. 11609

Sec. 131.024. (A) The attorney general may, not later than 11610
the first day of February of each year, send to the director of 11611
commerce a request containing the name, address, and social 11612
security number of any person who owes a claim that has been 11613
certified to the attorney general under section 131.02 of the 11614
Revised Code and request that the director provide information to 11615
the attorney general as required in division (B) of this section. 11616
If the information the director provides identifies or results in 11617
identifying unclaimed funds held by the state for an obligor in 11618
default, the attorney general may file a claim under section 11619
169.08 of the Revised Code to recover the unclaimed funds. If the 11620
director allows the claim, the director shall pay the claim 11621
directly to the attorney general. The director shall not disallow 11622
a claim made by the attorney general because the attorney general 11623
is not the owner of the unclaimed funds according to the report 11624
made under section 169.03 of the Revised Code. 11625

(B) The director of commerce shall provide the attorney 11626

general, not later than the first day of March of each year, the 11627
name, address, social security number, if the social security 11628
number is available, and any other identifying information for any 11629
individual included in a request sent by the attorney general 11630
pursuant to division (A) of this section who has unclaimed funds 11631
delivered or reported to the state under Chapter 169. of the 11632
Revised Code. 11633

(C) The attorney general, in consultation with the department 11634
of commerce, may adopt rules under Chapter 119. of the Revised 11635
Code to aid in the implementation of this section. 11636

Sec. 131.23. The various political subdivisions of this state 11637
may issue bonds, and any indebtedness created by that issuance 11638
shall not be subject to the limitations or included in the 11639
calculation of indebtedness prescribed by sections 133.05, 133.06, 11640
133.07, and 133.09 of the Revised Code, but the bonds may be 11641
issued only under the following conditions: 11642

(A) The subdivision desiring to issue the bonds shall obtain 11643
from the county auditor a certificate showing the total amount of 11644
delinquent taxes due and unpayable to the subdivision at the last 11645
semiannual tax settlement. 11646

(B) The fiscal officer of that subdivision shall prepare a 11647
statement, from the books of the subdivision, verified by the 11648
fiscal officer under oath, which shall contain the following facts 11649
of the subdivision: 11650

(1) The total bonded indebtedness; 11651

(2) The aggregate amount of notes payable or outstanding 11652
accounts of the subdivision, incurred prior to the commencement of 11653
the current fiscal year, which shall include all evidences of 11654
indebtedness issued by the subdivision except notes issued in 11655
anticipation of bond issues and the indebtedness of any 11656

nontax-supported public utility;	11657
(3) Except in the case of school districts, the aggregate current year's requirement for disability financial assistance provided under Chapter 5115. of the Revised Code that the subdivision is unable to finance except by the issue of bonds;	11658 11659 11660 11661
(4) The indebtedness outstanding through the issuance of any bonds or notes pledged or obligated to be paid by any delinquent taxes;	11662 11663 11664
(5) The total of any other indebtedness;	11665
(6) The net amount of delinquent taxes unpledged to pay any bonds, notes, or certificates, including delinquent assessments on improvements on which the bonds have been paid;	11666 11667 11668
(7) The budget requirements for the fiscal year for bond and note retirement;	11669 11670
(8) The estimated revenue for the fiscal year.	11671
(C) The certificate and statement provided for in divisions (A) and (B) of this section shall be forwarded to the tax commissioner together with a request for authority to issue bonds of the subdivision in an amount not to exceed seventy per cent of the net unobligated delinquent taxes and assessments due and owing to the subdivision, as set forth in division (B)(6) of this section.	11672 11673 11674 11675 11676 11677 11678
(D) No subdivision may issue bonds under this section in excess of a sufficient amount to pay the indebtedness of the subdivision as shown by division (B)(2) of this section and, except in the case of school districts, to provide funds for disability financial assistance as shown by division (B)(3) of this section.	11679 11680 11681 11682 11683 11684
(E) The tax commissioner shall grant to the subdivision authority requested by the subdivision as restricted by divisions	11685 11686

(C) and (D) of this section and shall make a record of the 11687
certificate, statement, and grant in a record book devoted solely 11688
to such recording and which shall be open to inspection by the 11689
public. 11690

(F) The commissioner shall immediately upon issuing the 11691
authority provided in division (E) of this section notify the 11692
proper authority having charge of the retirement of bonds of the 11693
subdivision by forwarding a copy of the grant of authority and of 11694
the statement provided for in division (B) of this section. 11695

(G) Upon receipt of authority, the subdivision shall proceed 11696
according to law to issue the amount of bonds authorized by the 11697
commissioner, and authorized by the taxing authority, provided the 11698
taxing authority of that subdivision may submit, by resolution, to 11699
the electors of that subdivision the question of issuing the 11700
bonds. The resolution shall make the declarations and statements 11701
required by section 133.18 of the Revised Code. The county auditor 11702
and taxing authority shall thereupon proceed as set forth in 11703
divisions (C) and (D) of that section. The election on the 11704
question of issuing the bonds shall be held under divisions (E), 11705
(F), and (G) of that section, except that publication of the 11706
notice of the election shall be made on two separate days prior to 11707
the election in ~~one or more newspapers~~ a newspaper of general 11708
circulation in the subdivision, ~~and, if~~ or as provided in section 11709
7.16 of the Revised Code. If the board of elections operates and 11710
maintains a web site, notice of the election also shall be posted 11711
on that web site for thirty days prior to the election. The bonds 11712
may be exchanged at their face value with creditors of the 11713
subdivision in liquidating the indebtedness described and 11714
enumerated in division (B)(2) of this section or may be sold as 11715
provided in Chapter 133. of the Revised Code, and in either event 11716
shall be uncontestable. 11717

(H) The per cent of delinquent taxes and assessments 11718

collected for and to the credit of the subdivision after the 11719
exchange or sale of bonds as certified by the commissioner shall 11720
be paid to the authority having charge of the sinking fund of the 11721
subdivision, which money shall be placed in a separate fund for 11722
the purpose of retiring the bonds so issued. The proper authority 11723
of the subdivisions shall provide for the levying of a tax 11724
sufficient in amount to pay the debt charges on all such bonds 11725
issued under this section. 11726

(I) This section is for the sole purpose of assisting the 11727
various subdivisions in paying their unsecured indebtedness, and 11728
providing funds for disability financial assistance. The bonds 11729
issued under authority of this section shall not be used for any 11730
other purpose, and any exchange for other purposes, or the use of 11731
the money derived from the sale of the bonds by the subdivision 11732
for any other purpose, is misapplication of funds. 11733

(J) The bonds authorized by this section shall be redeemable 11734
or payable in not to exceed ten years from date of issue and shall 11735
not be subject to or considered in calculating the net 11736
indebtedness of the subdivision. The budget commission of the 11737
county in which the subdivision is located shall annually allocate 11738
such portion of the then delinquent levy due the subdivision which 11739
is unpledged for other purposes to the payment of debt charges on 11740
the bonds issued under authority of this section. 11741

(K) The issue of bonds under this section shall be governed 11742
by Chapter 133. of the Revised Code, respecting the terms used, 11743
forms, manner of sale, and redemption except as otherwise provided 11744
in this section. 11745

The board of county commissioners of any county may issue 11746
bonds authorized by this section and distribute the proceeds of 11747
the bond issues to any or all of the cities and townships of the 11748
county, according to their relative needs for disability financial 11749
assistance as determined by the county. 11750

All sections of the Revised Code inconsistent with or prohibiting the exercise of the authority conferred by this section are inoperative respecting bonds issued under this section.

Sec. 131.44. (A) As used in this section:

(1) "Surplus revenue" means the excess, if any, of the total fund balance over the required year-end balance.

(2) "Total fund balance" means the sum of the unencumbered balance in the general revenue fund on the last day of the preceding fiscal year plus the balance in the budget stabilization fund.

(3) "Required year-end balance" means the sum of the following:

(a) Five per cent of the general revenue fund revenues for the preceding fiscal year;

(b) "Ending fund balance," which means one-half of one per cent of general revenue fund revenues for the preceding fiscal year;

(c) "Carryover balance," which means, with respect to a fiscal biennium, the excess, if any, of the estimated general revenue fund appropriation and transfer requirement for the second fiscal year of the biennium over the estimated general revenue fund revenue for that fiscal year;

(d) "Capital appropriation reserve," which means the amount, if any, of general revenue fund capital appropriations made for the current biennium that the director of budget and management has determined will be encumbered or disbursed;

(e) "Income tax reduction impact reserve," which means an amount equal to the reduction projected by the director of budget and management in income tax revenue in the current fiscal year

attributable to the previous reduction in the income tax rate made 11781
by the tax commissioner pursuant to division (B) of section 11782
5747.02 of the Revised Code. 11783

(4) "Estimated general revenue fund appropriation and 11784
transfer requirement" means the most recent adjusted 11785
appropriations made by the general assembly from the general 11786
revenue fund and includes both of the following: 11787

(a) Appropriations made and transfers of appropriations from 11788
the first fiscal year to the second fiscal year of the biennium in 11789
provisions of acts of the general assembly signed by the governor 11790
but not yet effective; 11791

(b) Transfers of ~~appropriation~~ appropriations from the first 11792
fiscal year to the second fiscal year of the biennium approved by 11793
the controlling board. 11794

(5) "Estimated general revenue fund revenue" means the most 11795
recent such estimate available to the director of budget and 11796
management. 11797

(B)(1) Not later than the thirty-first day of July each year, 11798
the director of budget and management shall determine the surplus 11799
revenue that existed on the preceding thirtieth day of June and 11800
transfer from the general revenue fund, to the extent of the 11801
unobligated, unencumbered balance on the preceding thirtieth day 11802
of June in excess of one-half of one per cent of the general 11803
revenue fund revenues in the preceding fiscal year, the following: 11804

(a) First, to the budget stabilization fund, any amount 11805
necessary for the balance of the budget stabilization fund to 11806
equal five per cent of the general revenue fund revenues of the 11807
preceding fiscal year; 11808

(b) Then, to the income tax reduction fund, which is hereby 11809
created in the state treasury, an amount equal to the surplus 11810
revenue. 11811

(2) Not later than the thirty-first day of July each year, 11812
the director shall determine the percentage that the balance in 11813
the income tax reduction fund is of the amount of revenue that the 11814
director estimates will be received from the tax levied under 11815
section 5747.02 of the Revised Code in the current fiscal year 11816
without regard to any reduction under division (B) of that 11817
section. If that percentage exceeds thirty-five one hundredths of 11818
one per cent, the director shall certify the percentage to the tax 11819
commissioner not later than the thirty-first day of July. 11820

(C) The director of budget and management shall transfer 11821
money in the income tax reduction fund to the general revenue 11822
fund, the local government fund, and the public library fund as 11823
necessary to offset revenue reductions resulting from the 11824
reductions in taxes required under division (B) of section 5747.02 11825
of the Revised Code in the respective amounts and percentages 11826
prescribed by division (A) of section 5747.03 and divisions ~~(A)~~(B) 11827
and ~~(B)~~(C) of section 131.51 of the Revised Code as if the amount 11828
transferred had been collected as taxes under Chapter 5747. of the 11829
Revised Code. If no reductions in taxes are made under that 11830
division that affect revenue received in the current fiscal year, 11831
the director shall not transfer money from the income tax 11832
reduction fund to the general revenue fund, the local government 11833
fund, and the public library fund. 11834

Sec. 131.51. ~~(A) Beginning January 2008, on~~ On or before July 11835
5, 2013, the tax commissioner shall compute the following amounts 11836
and certify those amounts to the director of budget and 11837
management: 11838

(1) A percentage calculated by multiplying one hundred by the 11839
quotient obtained by dividing the total amount credited to the 11840
local government fund in fiscal year 2013 by the total amount of 11841
tax revenue credited to the general revenue fund in fiscal year 11842

2013. The percentage shall be rounded to the nearest one-hundredth 11843
of one per cent. 11844

(2) A percentage calculated by multiplying one hundred by the 11845
quotient obtained by dividing the total amount credited to the 11846
public library fund in fiscal year 2013 by the total amount of tax 11847
revenue credited to the general revenue fund in fiscal year 2013. 11848
The percentage shall be rounded to the nearest one-hundredth of 11849
one per cent. 11850

(B) On or before the fifth seventh day of each month, the 11851
director of budget and management shall credit to the local 11852
government fund ~~three and sixty-eight one hundredths per cent of~~ 11853
an amount equal to the product obtained by multiplying the 11854
percentage calculated under division (A)(1) of this section by the 11855
total tax revenue credited to the general revenue fund during the 11856
preceding month. ~~In determining the total tax revenue credited to~~ 11857
~~the general revenue fund during the preceding month, the director~~ 11858
~~shall include amounts transferred from that fund during the~~ 11859
~~preceding month pursuant to divisions (A) and (B) of this section.~~ 11860
Money shall be distributed from the local government fund as 11861
required under section 5747.50 of the Revised Code during the same 11862
month in which it is credited to the fund. 11863

~~(B) Beginning January 2008, on~~ (C) On or before the ~~fifth~~ 11864
~~seventh~~ day of each month, the director of budget and management 11865
shall credit to the public library fund, ~~two and twenty-two one~~ 11866
~~hundredths per cent of~~ an amount equal to the product obtained by 11867
multiplying the percentage calculated under division (A)(2) of 11868
this section by the total tax revenue credited to the general 11869
revenue fund during the preceding month. ~~In determining the total~~ 11870
~~tax revenue credited to the general revenue fund during the~~ 11871
~~preceding month, the director shall include amounts transferred~~ 11872
~~from that fund during the preceding month pursuant to divisions~~ 11873
~~(A) and (B) of this section.~~ Money shall be distributed from the 11874

public library fund as required under section 5747.47 of the 11875
Revised Code during the same month in which it is credited to the 11876
fund. 11877

~~(C)~~(D) The director of budget and management shall develop a 11878
schedule identifying the specific tax revenue sources to be used 11879
to make the monthly transfers required under divisions ~~(A)~~(B) and 11880
~~(B)~~(C) of this section. The director may, from time to time, 11881
revise the schedule as the director considers necessary. 11882

Sec. 133.01. As used in this chapter, in sections 9.95, 9.96, 11883
and 2151.655 of the Revised Code, in other sections of the Revised 11884
Code that make reference to this chapter unless the context does 11885
not permit, and in related proceedings, unless otherwise expressly 11886
provided: 11887

(A) "Acquisition" as applied to real or personal property 11888
includes, among other forms of acquisition, acquisition by 11889
exercise of a purchase option, and acquisition of interests in 11890
property, including, without limitation, easements and 11891
rights-of-way, and leasehold and other lease interests initially 11892
extending or extendable for a period of at least sixty months. 11893

(B) "Anticipatory securities" means securities, including 11894
notes, issued in anticipation of the issuance of other securities. 11895

(C) "Board of elections" means the county board of elections 11896
of the county in which the subdivision is located. If the 11897
subdivision is located in more than one county, "board of 11898
elections" means the county board of elections of the county that 11899
contains the largest portion of the population of the subdivision 11900
or that otherwise has jurisdiction in practice over and 11901
customarily handles election matters relating to the subdivision. 11902

(D) "Bond retirement fund" means the bond retirement fund 11903
provided for in section 5705.09 of the Revised Code, and also 11904

means a sinking fund or any other special fund, regardless of the name applied to it, established by or pursuant to law or the proceedings for the payment of debt charges. Provision may be made in the applicable proceedings for the establishment in a bond retirement fund of separate accounts relating to debt charges on particular securities, or on securities payable from the same or common sources, and for the application of moneys in those accounts only to specified debt charges on specified securities or categories of securities. Subject to law and any provisions in the applicable proceedings, moneys in a bond retirement fund or separate account in a bond retirement fund may be transferred to other funds and accounts.

(E) "Capitalized interest" means all or a portion of the interest payable on securities from their date to a date stated or provided for in the applicable legislation, which interest is to be paid from the proceeds of the securities.

(F) "Chapter 133. securities" means securities authorized by or issued pursuant to or in accordance with this chapter.

(G) "County auditor" means the county auditor of the county in which the subdivision is located. If the subdivision is located in more than one county, "county auditor" means the county auditor of the county that contains the highest amount of the tax valuation of the subdivision or that otherwise has jurisdiction in practice over and customarily handles property tax matters relating to the subdivision. In the case of a county that has adopted a charter, "county auditor" means the officer who generally has the duties and functions provided in the Revised Code for a county auditor.

(H) "Credit enhancement facilities" means letters of credit, lines of credit, stand-by, contingent, or firm securities purchase agreements, insurance, or surety arrangements, guarantees, and other arrangements that provide for direct or contingent payment

of debt charges, for security or additional security in the event 11937
of nonpayment or default in respect of securities, or for making 11938
payment of debt charges to and at the option and on demand of 11939
securities holders or at the option of the issuer or upon certain 11940
conditions occurring under put or similar arrangements, or for 11941
otherwise supporting the credit or liquidity of the securities, 11942
and includes credit, reimbursement, marketing, remarketing, 11943
indexing, carrying, interest rate hedge, and subrogation 11944
agreements, and other agreements and arrangements for payment and 11945
reimbursement of the person providing the credit enhancement 11946
facility and the security for that payment and reimbursement. 11947

(I) "Current operating expenses" or "current expenses" means 11948
the lawful expenditures of a subdivision, except those for 11949
permanent improvements and for payments of debt charges of the 11950
subdivision. 11951

(J) "Debt charges" means the principal, including any 11952
mandatory sinking fund deposits and mandatory redemption payments, 11953
interest, and any redemption premium, payable on securities as 11954
those payments come due and are payable. The use of "debt charges" 11955
for this purpose does not imply that any particular securities 11956
constitute debt within the meaning of the Ohio Constitution or 11957
other laws. 11958

(K) "Financing costs" means all costs and expenses relating 11959
to the authorization, including any required election, issuance, 11960
sale, delivery, authentication, deposit, custody, clearing, 11961
registration, transfer, exchange, fractionalization, replacement, 11962
payment, and servicing of securities, including, without 11963
limitation, costs and expenses for or relating to publication and 11964
printing, postage, delivery, preliminary and final official 11965
statements, offering circulars, and informational statements, 11966
travel and transportation, underwriters, placement agents, 11967
investment bankers, paying agents, registrars, authenticating 11968

agents, remarketing agents, custodians, clearing agencies or 11969
corporations, securities depositories, financial advisory 11970
services, certifications, audits, federal or state regulatory 11971
agencies, accounting and computation services, legal services and 11972
obtaining approving legal opinions and other legal opinions, 11973
credit ratings, redemption premiums, and credit enhancement 11974
facilities. Financing costs may be paid from any moneys available 11975
for the purpose, including, unless otherwise provided in the 11976
proceedings, from the proceeds of the securities to which they 11977
relate and, as to future financing costs, from the same sources 11978
from which debt charges on the securities are paid and as though 11979
debt charges. 11980

(L) "Fiscal officer" means the following, or, in the case of 11981
absence or vacancy in the office, a deputy or assistant authorized 11982
by law or charter to act in the place of the named officer, or if 11983
there is no such authorization then the deputy or assistant 11984
authorized by legislation to act in the place of the named officer 11985
for purposes of this chapter, in the case of the following 11986
subdivisions: 11987

(1) A county, the county auditor; 11988

(2) A municipal corporation, the city auditor or village 11989
clerk or clerk-treasurer, or the officer who, by virtue of a 11990
charter, has the duties and functions provided in the Revised Code 11991
for the city auditor or village clerk or clerk-treasurer; 11992

(3) A school district, the treasurer of the board of 11993
education; 11994

(4) A regional water and sewer district, the secretary of the 11995
board of trustees; 11996

(5) A joint township hospital district, the treasurer of the 11997
district; 11998

(6) A joint ambulance district, the clerk of the board of 11999

trustees;	12000
(7) A joint recreation district, the person designated pursuant to section 755.15 of the Revised Code;	12001 12002
(8) A detention facility district or a district organized under section 2151.65 of the Revised Code or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district;	12003 12004 12005 12006 12007
(9) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the fiscal officer of the township;	12008 12009 12010
(10) A joint fire district, the clerk of the board of trustees of that district;	12011 12012
(11) A regional or county library district, the person responsible for the financial affairs of that district;	12013 12014
(12) A joint solid waste management district, the fiscal officer appointed by the board of directors of the district under section 343.01 of the Revised Code;	12015 12016 12017
(13) A joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code;	12018 12019 12020
(14) A fire and ambulance district, the person appointed as fiscal officer under division (B) of section 505.375 of the Revised Code;	12021 12022 12023
(15) A subdivision described in division (MM) (17) <u>(18)</u> of this section, the officer who is designated by law as or performs the functions of its chief fiscal officer;	12024 12025 12026
<u>(16) A joint police district, the treasurer of the district.</u>	12027
(M) "Fiscal year" has the same meaning as in section 9.34 of the Revised Code.	12028 12029

(N) "Fractionalized interests in public obligations" means participations, certificates of participation, shares, or other instruments or agreements, separate from the public obligations themselves, evidencing ownership of interests in public obligations or of rights to receive payments of, or on account of, principal or interest or their equivalents payable by or on behalf of an obligor pursuant to public obligations.

(O) "Fully registered securities" means securities in certificated or uncertificated form, registered as to both principal and interest in the name of the owner.

(P) "Fund" means to provide for the payment of debt charges and expenses related to that payment at or prior to retirement by purchase, call for redemption, payment at maturity, or otherwise.

(Q) "General obligation" means securities to the payment of debt charges on which the full faith and credit and the general property taxing power, including taxes within the tax limitation if available to the subdivision, of the subdivision are pledged.

(R) "Interest" or "interest equivalent" means those payments or portions of payments, however denominated, that constitute or represent consideration for forbearing the collection of money, or for deferring the receipt of payment of money to a future time.

(S) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended, and includes any laws of the United States providing for application of that code.

(T) "Issuer" means any public issuer and any nonprofit corporation authorized to issue securities for or on behalf of any public issuer.

(U) "Legislation" means an ordinance or resolution passed by a majority affirmative vote of the then members of the taxing authority unless a different vote is required by charter

provisions governing the passage of the particular legislation by 12061
the taxing authority. 12062

(V) "Mandatory sinking fund redemption requirements" means 12063
amounts required by proceedings to be deposited in a bond 12064
retirement fund for the purpose of paying in any year or fiscal 12065
year by mandatory redemption prior to stated maturity the 12066
principal of securities that is due and payable, except for 12067
mandatory prior redemption requirements as provided in those 12068
proceedings, in a subsequent year or fiscal year. 12069

(W) "Mandatory sinking fund requirements" means amounts 12070
required by proceedings to be deposited in a year or fiscal year 12071
in a bond retirement fund for the purpose of paying the principal 12072
of securities that is due and payable in a subsequent year or 12073
fiscal year. 12074

(X) "Net indebtedness" has the same meaning as in division 12075
(A) of section 133.04 of the Revised Code. 12076

(Y) "Obligor," in the case of securities or fractionalized 12077
interests in public obligations issued by another person the debt 12078
charges or their equivalents on which are payable from payments 12079
made by a public issuer, means that public issuer. 12080

(Z) "One purpose" relating to permanent improvements means 12081
any one permanent improvement or group or category of permanent 12082
improvements for the same utility, enterprise, system, or project, 12083
development or redevelopment project, or for or devoted to the 12084
same general purpose, function, or use or for which 12085
self-supporting securities, based on the same or different sources 12086
of revenues, may be issued or for which special assessments may be 12087
levied by a single ordinance or resolution. "One purpose" 12088
includes, but is not limited to, in any case any off-street 12089
parking facilities relating to another permanent improvement, and: 12090

(1) Any number of roads, highways, streets, bridges, 12091

sidewalks, and viaducts;	12092
(2) Any number of off-street parking facilities;	12093
(3) In the case of a county, any number of permanent improvements for courthouse, jail, county offices, and other county buildings, and related facilities;	12094 12095 12096
(4) In the case of a school district, any number of facilities and buildings for school district purposes, and related facilities.	12097 12098 12099
(AA) "Outstanding," referring to securities, means securities that have been issued, delivered, and paid for, except any of the following:	12100 12101 12102
(1) Securities canceled upon surrender, exchange, or transfer, or upon payment or redemption;	12103 12104
(2) Securities in replacement of which or in exchange for which other securities have been issued;	12105 12106
(3) Securities for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the applicable legislation or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, mandatory sinking fund requirements, or otherwise, have been deposited, and credited for the purpose in a bond retirement fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of securities to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected security holders has been filed with the subdivision or its agent for the purpose.	12107 12108 12109 12110 12111 12112 12113 12114 12115 12116 12117 12118 12119
(BB) "Paying agent" means the one or more banks, trust companies, or other financial institutions or qualified persons,	12120 12121

including an appropriate office or officer of the subdivision, 12122
designated as a paying agent or place of payment of debt charges 12123
on the particular securities. 12124

(CC) "Permanent improvement" or "improvement" means any 12125
property, asset, or improvement certified by the fiscal officer, 12126
which certification is conclusive, as having an estimated life or 12127
period of usefulness of five years or more, and includes, but is 12128
not limited to, real estate, buildings, and personal property and 12129
interests in real estate, buildings, and personal property, 12130
equipment, furnishings, and site improvements, and reconstruction, 12131
rehabilitation, renovation, installation, improvement, 12132
enlargement, and extension of property, assets, or improvements so 12133
certified as having an estimated life or period of usefulness of 12134
five years or more. The acquisition of all the stock ownership of 12135
a corporation is the acquisition of a permanent improvement to the 12136
extent that the value of that stock is represented by permanent 12137
improvements. A permanent improvement for parking, highway, road, 12138
and street purposes includes resurfacing, but does not include 12139
ordinary repair. 12140

(DD) "Person" has the same meaning as in section 1.59 of the 12141
Revised Code and also includes any federal, state, interstate, 12142
regional, or local governmental agency, any subdivision, and any 12143
combination of those persons. 12144

(EE) "Proceedings" means the legislation, certifications, 12145
notices, orders, sale proceedings, trust agreement or indenture, 12146
mortgage, lease, lease-purchase agreement, assignment, credit 12147
enhancement facility agreements, and other agreements, 12148
instruments, and documents, as amended and supplemented, and any 12149
election proceedings, authorizing, or providing for the terms and 12150
conditions applicable to, or providing for the security or sale or 12151
award of, public obligations, and includes the provisions set 12152
forth or incorporated in those public obligations and proceedings. 12153

(FF) "Public issuer" means any of the following that is	12154
authorized by law to issue securities or enter into public	12155
obligations:	12156
(1) The state, including an agency, commission, officer,	12157
institution, board, authority, or other instrumentality of the	12158
state;	12159
(2) A taxing authority, subdivision, district, or other local	12160
public or governmental entity, and any combination or consortium,	12161
or public division, district, commission, authority, department,	12162
board, officer, or institution, thereof;	12163
(3) Any other body corporate and politic, or other public	12164
entity.	12165
(GG) "Public obligations" means both of the following:	12166
(1) Securities;	12167
(2) Obligations of a public issuer to make payments under	12168
installment sale, lease, lease purchase, or similar agreements,	12169
which obligations may bear interest or interest equivalent.	12170
(HH) "Refund" means to fund and retire outstanding	12171
securities, including advance refunding with or without payment or	12172
redemption prior to maturity.	12173
(II) "Register" means the books kept and maintained by the	12174
registrar for registration, exchange, and transfer of registered	12175
securities.	12176
(JJ) "Registrar" means the person responsible for keeping the	12177
register for the particular registered securities, designated by	12178
or pursuant to the proceedings.	12179
(KK) "Securities" means bonds, notes, certificates of	12180
indebtedness, commercial paper, and other instruments in writing,	12181
including, unless the context does not admit, anticipatory	12182
securities, issued by an issuer to evidence its obligation to	12183

repay money borrowed, or to pay interest, by, or to pay at any 12184
future time other money obligations of, the issuer of the 12185
securities, but not including public obligations described in 12186
division (GG)(2) of this section. 12187

(LL) "Self-supporting securities" means securities or 12188
portions of securities issued for the purpose of paying costs of 12189
permanent improvements to the extent that receipts of the 12190
subdivision, other than the proceeds of taxes levied by that 12191
subdivision, derived from or with respect to the improvements or 12192
the operation of the improvements being financed, or the 12193
enterprise, system, project, or category of improvements of which 12194
the improvements being financed are part, are estimated by the 12195
fiscal officer to be sufficient to pay the current expenses of 12196
that operation or of those improvements or enterprise, system, 12197
project, or categories of improvements and the debt charges 12198
payable from those receipts on securities issued for the purpose. 12199
Until such time as the improvements or increases in rates and 12200
charges have been in operation or effect for a period of at least 12201
six months, the receipts therefrom, for purposes of this 12202
definition, shall be those estimated by the fiscal officer, except 12203
that those receipts may include, without limitation, payments made 12204
and to be made to the subdivision under leases or agreements in 12205
effect at the time the estimate is made. In the case of an 12206
operation, improvements, or enterprise, system, project, or 12207
category of improvements without at least a six-month history of 12208
receipts, the estimate of receipts by the fiscal officer, other 12209
than those to be derived under leases and agreements then in 12210
effect, shall be confirmed by the taxing authority. 12211

(MM) "Subdivision" means any of the following: 12212

(1) A county, including a county that has adopted a charter 12213
under Article X, Ohio Constitution; 12214

(2) A municipal corporation, including a municipal 12215

corporation that has adopted a charter under Article XVIII, Ohio Constitution;	12216 12217
(3) A school district;	12218
(4) A regional water and sewer district organized under Chapter 6119. of the Revised Code;	12219 12220
(5) A joint township hospital district organized under section 513.07 of the Revised Code;	12221 12222
(6) A joint ambulance district organized under section 505.71 of the Revised Code;	12223 12224
(7) A joint recreation district organized under division (C) of section 755.14 of the Revised Code;	12225 12226
(8) A detention facility district organized under section 2152.41, a district organized under section 2151.65, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code;	12227 12228 12229 12230
(9) A township police district organized under section 505.48 of the Revised Code;	12231 12232
(10) A township;	12233
(11) A joint fire district organized under section 505.371 of the Revised Code;	12234 12235
(12) A county library district created under section 3375.19 or a regional library district created under section 3375.28 of the Revised Code;	12236 12237 12238
(13) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code;	12239 12240
(14) A joint emergency medical services district organized under section 307.052 of the Revised Code;	12241 12242
(15) A fire and ambulance district organized under section 505.375 of the Revised Code;	12243 12244

(16) A fire district organized under division (C) of section 505.37 of the Revised Code;	12245 12246
(17) <u>A joint police district organized under section 505.482 of the Revised Code;</u>	12247 12248
(18) Any other political subdivision or taxing district or other local public body or agency authorized by this chapter or other laws to issue Chapter 133. securities.	12249 12250 12251
(NN) "Taxing authority" means in the case of the following subdivisions:	12252 12253
(1) A county, a county library district, or a regional library district, the board or boards of county commissioners, or other legislative authority of a county that has adopted a charter under Article X, Ohio Constitution, but with respect to such a library district acting solely as agent for the board of trustees of that district;	12254 12255 12256 12257 12258 12259
(2) A municipal corporation, the legislative authority;	12260
(3) A school district, the board of education;	12261
(4) A regional water and sewer district, a joint ambulance district, a joint recreation district, a fire and ambulance district, or a joint fire district, the board of trustees of the district;	12262 12263 12264 12265
(5) A joint township hospital district, the joint township hospital board;	12266 12267
(6) A detention facility district or a district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a joint emergency medical services district, the joint board of county commissioners;	12268 12269 12270 12271 12272
(7) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police	12273 12274

district, the board of township trustees; 12275

(8) A joint solid waste management district organized under 12276
section 343.01 or 343.012 of the Revised Code, the board of 12277
directors of the district; 12278

(9) A subdivision described in division (MM)~~(17)~~(18) of this 12279
section, the legislative or governing body or official; 12280

(10) A joint police district, the joint police district 12281
board. 12282

(OO) "Tax limitation" means the "ten-mill limitation" as 12283
defined in section 5705.02 of the Revised Code without diminution 12284
by reason of section 5705.313 of the Revised Code or otherwise, 12285
or, in the case of a municipal corporation or county with a 12286
different charter limitation on property taxes levied to pay debt 12287
charges on unvoted securities, that charter limitation. Those 12288
limitations shall be respectively referred to as the "ten-mill 12289
limitation" and the "charter tax limitation." 12290

(PP) "Tax valuation" means the aggregate of the valuations of 12291
property subject to ad valorem property taxation by the 12292
subdivision on the real property, personal property, and public 12293
utility property tax lists and duplicates most recently certified 12294
for collection, and shall be calculated without deductions of the 12295
valuations of otherwise taxable property exempt in whole or in 12296
part from taxation by reason of exemptions of certain amounts of 12297
taxable value under division (C) of section 5709.01, tax 12298
reductions under section 323.152 of the Revised Code, or similar 12299
laws now or in the future in effect. 12300

For purposes of section 133.06 of the Revised Code, "tax 12301
valuation" shall not include the valuation of tangible personal 12302
property used in business, telephone or telegraph property, 12303
interexchange telecommunications company property, or personal 12304
property owned or leased by a railroad company and used in 12305

railroad operations listed under or described in section 5711.22, 12306
division (B) or (F) of section 5727.111, or section 5727.12 of the 12307
Revised Code. 12308

(QQ) "Year" means the calendar year. 12309

(RR) "Administrative agent," "agent," "commercial paper," 12310
"floating rate interest structure," "indexing agent," "interest 12311
rate hedge," "interest rate period," "put arrangement," and 12312
"remarketing agent" have the same meanings as in section 9.98 of 12313
the Revised Code. 12314

(SS) "Sales tax supported" means obligations to the payment 12315
of debt charges on which an additional sales tax or additional 12316
sales taxes have been pledged by the taxing authority of a county 12317
pursuant to section 133.081 of the Revised Code. 12318

Sec. 133.06. (A) A school district shall not incur, without a 12319
vote of the electors, net indebtedness that exceeds an amount 12320
equal to one-tenth of one per cent of its tax valuation, except as 12321
provided in divisions (G) and (H) of this section and in division 12322
(C) of section 3313.372 of the Revised Code, or as prescribed in 12323
section 3318.052 or 3318.44 of the Revised Code, or as provided in 12324
division (J) of this section. 12325

(B) Except as provided in divisions (E), (F), and (I) of this 12326
section, a school district shall not incur net indebtedness that 12327
exceeds an amount equal to nine per cent of its tax valuation. 12328

(C) A school district shall not submit to a vote of the 12329
electors the question of the issuance of securities in an amount 12330
that will make the district's net indebtedness after the issuance 12331
of the securities exceed an amount equal to four per cent of its 12332
tax valuation, unless the superintendent of public instruction, 12333
acting under policies adopted by the state board of education, and 12334
the tax commissioner, acting under written policies of the 12335

commissioner, consent to the submission. A request for the 12336
consents shall be made at least one hundred twenty days prior to 12337
the election at which the question is to be submitted. 12338

The superintendent of public instruction shall certify to the 12339
district the superintendent's and the tax commissioner's decisions 12340
within thirty days after receipt of the request for consents. 12341

If the electors do not approve the issuance of securities at 12342
the election for which the superintendent of public instruction 12343
and tax commissioner consented to the submission of the question, 12344
the school district may submit the same question to the electors 12345
on the date that the next special election may be held under 12346
section 3501.01 of the Revised Code without submitting a new 12347
request for consent. If the school district seeks to submit the 12348
same question at any other subsequent election, the district shall 12349
first submit a new request for consent in accordance with this 12350
division. 12351

(D) In calculating the net indebtedness of a school district, 12352
none of the following shall be considered: 12353

(1) Securities issued to acquire school buses and other 12354
equipment used in transporting pupils or issued pursuant to 12355
division (D) of section 133.10 of the Revised Code; 12356

(2) Securities issued under division (F) of this section, 12357
under section 133.301 of the Revised Code, and, to the extent in 12358
excess of the limitation stated in division (B) of this section, 12359
under division (E) of this section; 12360

(3) Indebtedness resulting from the dissolution of a joint 12361
vocational school district under section 3311.217 of the Revised 12362
Code, evidenced by outstanding securities of that joint vocational 12363
school district; 12364

(4) Loans, evidenced by any securities, received under 12365
sections 3313.483, 3317.0210, 3317.0211, and 3317.64 of the 12366

Revised Code;	12367
(5) Debt incurred under section 3313.374 of the Revised Code;	12368
(6) Debt incurred pursuant to division (B)(5) of section 3313.37 of the Revised Code to acquire computers and related hardware;	12369 12370 12371
(7) Debt incurred under section 3318.042 of the Revised Code.	12372
(E) A school district may become a special needs district as to certain securities as provided in division (E) of this section.	12373 12374
(1) A board of education, by resolution, may declare its school district to be a special needs district by determining both of the following:	12375 12376 12377
(a) The student population is not being adequately serviced by the existing permanent improvements of the district.	12378 12379
(b) The district cannot obtain sufficient funds by the issuance of securities within the limitation of division (B) of this section to provide additional or improved needed permanent improvements in time to meet the needs.	12380 12381 12382 12383
(2) The board of education shall certify a copy of that resolution to the superintendent of public instruction with a statistical report showing all of the following:	12384 12385 12386
(a) A history of and a projection of the growth of the student population;	12387 12388
(b) The history of and a projection of the growth of the tax valuation;	12389 12390
(c) The projected needs;	12391
(d) The estimated cost of permanent improvements proposed to meet such projected needs.	12392 12393
(3) The superintendent of public instruction shall certify the district as an approved special needs district if the	12394 12395

superintendent finds both of the following: 12396

(a) The district does not have available sufficient 12397
additional funds from state or federal sources to meet the 12398
projected needs. 12399

(b) The projection of the potential average growth of tax 12400
valuation during the next five years, according to the information 12401
certified to the superintendent and any other information the 12402
superintendent obtains, indicates a likelihood of potential 12403
average growth of tax valuation of the district during the next 12404
five years of an average of not less than three per cent per year. 12405
The findings and certification of the superintendent shall be 12406
conclusive. 12407

(4) An approved special needs district may incur net 12408
indebtedness by the issuance of securities in accordance with the 12409
provisions of this chapter in an amount that does not exceed an 12410
amount equal to the greater of the following: 12411

(a) Nine per cent of the sum of its tax valuation plus an 12412
amount that is the product of multiplying that tax valuation by 12413
the percentage by which the tax valuation has increased over the 12414
tax valuation on the first day of the sixtieth month preceding the 12415
month in which its board determines to submit to the electors the 12416
question of issuing the proposed securities; 12417

(b) Nine per cent of the sum of its tax valuation plus an 12418
amount that is the product of multiplying that tax valuation by 12419
the percentage, determined by the superintendent of public 12420
instruction, by which that tax valuation is projected to increase 12421
during the next ten years. 12422

(F) A school district may issue securities for emergency 12423
purposes, in a principal amount that does not exceed an amount 12424
equal to three per cent of its tax valuation, as provided in this 12425
division. 12426

(1) A board of education, by resolution, may declare an emergency if it determines both of the following:	12427 12428
(a) School buildings or other necessary school facilities in the district have been wholly or partially destroyed, or condemned by a constituted public authority, or that such buildings or facilities are partially constructed, or so constructed or planned as to require additions and improvements to them before the buildings or facilities are usable for their intended purpose, or that corrections to permanent improvements are necessary to remove or prevent health or safety hazards.	12429 12430 12431 12432 12433 12434 12435 12436
(b) Existing fiscal and net indebtedness limitations make adequate replacement, additions, or improvements impossible.	12437 12438
(2) Upon the declaration of an emergency, the board of education may, by resolution, submit to the electors of the district pursuant to section 133.18 of the Revised Code the question of issuing securities for the purpose of paying the cost, in excess of any insurance or condemnation proceeds received by the district, of permanent improvements to respond to the emergency need.	12439 12440 12441 12442 12443 12444 12445
(3) The procedures for the election shall be as provided in section 133.18 of the Revised Code, except that:	12446 12447
(a) The form of the ballot shall describe the emergency existing, refer to this division as the authority under which the emergency is declared, and state that the amount of the proposed securities exceeds the limitations prescribed by division (B) of this section;	12448 12449 12450 12451 12452
(b) The resolution required by division (B) of section 133.18 of the Revised Code shall be certified to the county auditor and the board of elections at least one hundred days prior to the election;	12453 12454 12455 12456
(c) The county auditor shall advise and, not later than	12457

ninety-five days before the election, confirm that advice by 12458
certification to, the board of education of the information 12459
required by division (C) of section 133.18 of the Revised Code; 12460

(d) The board of education shall then certify its resolution 12461
and the information required by division (D) of section 133.18 of 12462
the Revised Code to the board of elections not less than ninety 12463
days prior to the election. 12464

(4) Notwithstanding division (B) of section 133.21 of the 12465
Revised Code, the first principal payment of securities issued 12466
under this division may be set at any date not later than sixty 12467
months after the earliest possible principal payment otherwise 12468
provided for in that division. 12469

(G) The board of education may contract with an architect, 12470
professional engineer, or other person experienced in the design 12471
and implementation of energy conservation measures for an analysis 12472
and recommendations pertaining to installations, modifications of 12473
installations, or remodeling that would significantly reduce 12474
energy consumption in buildings owned by the district. The report 12475
shall include estimates of all costs of such installations, 12476
modifications, or remodeling, including costs of design, 12477
engineering, installation, maintenance, repairs, and debt service, 12478
forgone residual value of materials or equipment replaced by the 12479
energy conservation measure, as defined by the Ohio school 12480
facilities commission, a baseline analysis of actual energy 12481
consumption data for the preceding five years, and estimates of 12482
the amounts by which energy consumption and resultant operational 12483
and maintenance costs, as defined by the ~~Ohio school facilities~~ 12484
commission, would be reduced. 12485

If the board finds after receiving the report that the amount 12486
of money the district would spend on such installations, 12487
modifications, or remodeling is not likely to exceed the amount of 12488
money it would save in energy and resultant operational and 12489

maintenance costs over the ensuing fifteen years, the board may 12490
submit to the commission a copy of its findings and a request for 12491
approval to incur indebtedness to finance the making or 12492
modification of installations or the remodeling of buildings for 12493
the purpose of significantly reducing energy consumption. 12494

If the commission determines that the board's findings are 12495
reasonable, it shall approve the board's request. Upon receipt of 12496
the commission's approval, the district may issue securities 12497
without a vote of the electors in a principal amount not to exceed 12498
nine-tenths of one per cent of its tax valuation for the purpose 12499
of making such installations, modifications, or remodeling, but 12500
the total net indebtedness of the district without a vote of the 12501
electors incurred under this and all other sections of the Revised 12502
Code, except section 3318.052 of the Revised Code, shall not 12503
exceed one per cent of the district's tax valuation. 12504

So long as any securities issued under division (G) of this 12505
section remain outstanding, the board of education shall monitor 12506
the energy consumption and resultant operational and maintenance 12507
costs of buildings in which installations or modifications have 12508
been made or remodeling has been done pursuant to division (G) of 12509
this section and shall maintain and annually update a report 12510
documenting the reductions in energy consumption and resultant 12511
operational and maintenance cost savings attributable to such 12512
installations, modifications, or remodeling. The report shall be 12513
certified by an architect or engineer independent of any person 12514
that provided goods or services to the board in connection with 12515
the energy conservation measures that are the subject of the 12516
report. The resultant operational and maintenance cost savings 12517
shall be certified by the school district treasurer. The report 12518
shall be ~~made available~~ submitted annually to the commission ~~upon~~ 12519
~~request~~. 12520

(H) With the consent of the superintendent of public 12521

instruction, a school district may incur without a vote of the 12522
electors net indebtedness that exceeds the amounts stated in 12523
divisions (A) and (G) of this section for the purpose of paying 12524
costs of permanent improvements, if and to the extent that both of 12525
the following conditions are satisfied: 12526

(1) The fiscal officer of the school district estimates that 12527
receipts of the school district from payments made under or 12528
pursuant to agreements entered into pursuant to section 725.02, 12529
1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 5709.62, 12530
5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised 12531
Code, or distributions under division (C) of section 5709.43 of 12532
the Revised Code, or any combination thereof, are, after 12533
accounting for any appropriate coverage requirements, sufficient 12534
in time and amount, and are committed by the proceedings, to pay 12535
the debt charges on the securities issued to evidence that 12536
indebtedness and payable from those receipts, and the taxing 12537
authority of the district confirms the fiscal officer's estimate, 12538
which confirmation is approved by the superintendent of public 12539
instruction; 12540

(2) The fiscal officer of the school district certifies, and 12541
the taxing authority of the district confirms, that the district, 12542
at the time of the certification and confirmation, reasonably 12543
expects to have sufficient revenue available for the purpose of 12544
operating such permanent improvements for their intended purpose 12545
upon acquisition or completion thereof, and the superintendent of 12546
public instruction approves the taxing authority's confirmation. 12547

The maximum maturity of securities issued under division (H) 12548
of this section shall be the lesser of twenty years or the maximum 12549
maturity calculated under section 133.20 of the Revised Code. 12550

(I) A school district may incur net indebtedness by the 12551
issuance of securities in accordance with the provisions of this 12552
chapter in excess of the limit specified in division (B) or (C) of 12553

this section when necessary to raise the school district portion 12554
of the basic project cost and any additional funds necessary to 12555
participate in a project under Chapter 3318. of the Revised Code, 12556
including the cost of items designated by the Ohio school 12557
facilities commission as required locally funded initiatives and 12558
the cost for site acquisition. The school facilities commission 12559
shall notify the superintendent of public instruction whenever a 12560
school district will exceed either limit pursuant to this 12561
division. 12562

(J) A school district whose portion of the basic project cost 12563
of its classroom facilities project under sections 3318.01 to 12564
3318.20 of the Revised Code is greater than or equal to one 12565
hundred million dollars may incur without a vote of the electors 12566
net indebtedness in an amount up to two per cent of its tax 12567
valuation through the issuance of general obligation securities in 12568
order to generate all or part of the amount of its portion of the 12569
basic project cost if the controlling board has approved the 12570
school facilities commission's conditional approval of the project 12571
under section 3318.04 of the Revised Code. The school district 12572
board and the Ohio school facilities commission shall include the 12573
dedication of the proceeds of such securities in the agreement 12574
entered into under section 3318.08 of the Revised Code. No state 12575
moneys shall be released for a project to which this section 12576
applies until the proceeds of any bonds issued under this section 12577
that are dedicated for the payment of the school district portion 12578
of the project are first deposited into the school district's 12579
project construction fund. 12580

Sec. 133.18. (A) The taxing authority of a subdivision may by 12581
legislation submit to the electors of the subdivision the question 12582
of issuing any general obligation bonds, for one purpose, that the 12583
subdivision has power or authority to issue. 12584

(B) When the taxing authority of a subdivision desires or is required by law to submit the question of a bond issue to the electors, it shall pass legislation that does all of the following:

(1) Declares the necessity and purpose of the bond issue;

(2) States the date of the authorized election at which the question shall be submitted to the electors;

(3) States the amount, approximate date, estimated net average rate of interest, and maximum number of years over which the principal of the bonds may be paid;

(4) Declares the necessity of levying a tax outside the tax limitation to pay the debt charges on the bonds and any anticipatory securities.

The estimated net average interest rate shall be determined by the taxing authority based on, among other factors, then existing market conditions, and may reflect adjustments for any anticipated direct payments expected to be received by the taxing authority from the government of the United States relating to the bonds and the effect of any federal tax credits anticipated to be available to owners of all or a portion of the bonds. The estimated net average rate of interest, and any statutory or charter limit on interest rates that may then be in effect and that is subsequently amended, shall not be a limitation on the actual interest rate or rates on the securities when issued.

(C)(1) The taxing authority shall certify a copy of the legislation passed under division (B) of this section to the county auditor. The county auditor shall promptly calculate and advise and, not later than seventy-five days before the election, confirm that advice by certification to, the taxing authority the estimated average annual property tax levy, expressed in cents or dollars and cents for each one hundred dollars of tax valuation

and in mills for each one dollar of tax valuation, that the county auditor estimates to be required throughout the stated maturity of the bonds to pay the debt charges on the bonds. In calculating the estimated average annual property tax levy for this purpose, the county auditor shall assume that the bonds are issued in one series bearing interest and maturing in substantially equal principal amounts in each year over the maximum number of years over which the principal of the bonds may be paid as stated in that legislation, and that the amount of the tax valuation of the subdivision for the current year remains the same throughout the maturity of the bonds, except as otherwise provided in division (C)(2) of this section. If the tax valuation for the current year is not determined, the county auditor shall base the calculation on the estimated amount of the tax valuation submitted by the county auditor to the county budget commission. If the subdivision is located in more than one county, the county auditor shall obtain the assistance of the county auditors of the other counties, and those county auditors shall provide assistance, in establishing the tax valuation of the subdivision for purposes of certifying the estimated average annual property tax levy.

(2) When considering the tangible personal property component of the tax valuation of the subdivision, the county auditor shall take into account the assessment percentages prescribed in section 5711.22 of the Revised Code. The tax commissioner may issue rules, orders, or instructions directing how the assessment percentages must be utilized.

(D) After receiving the county auditor's advice under division (C) of this section, the taxing authority by legislation may determine to proceed with submitting the question of the issue of securities, and shall, not later than the seventy-fifth day before the day of the election, file the following with the board of elections:

(1) Copies of the legislation provided for in divisions (B) 12648
and (D) of this section; 12649

(2) The amount of the estimated average annual property tax 12650
levy, expressed in cents or dollars and cents for each one hundred 12651
dollars of tax valuation and in mills for each one dollar of tax 12652
valuation, as estimated and certified to the taxing authority by 12653
the county auditor. 12654

(E)(1) The board of elections shall prepare the ballots and 12655
make other necessary arrangements for the submission of the 12656
question to the electors of the subdivision. If the subdivision is 12657
located in more than one county, the board shall inform the boards 12658
of elections of the other counties of the filings with it, and 12659
those other boards shall if appropriate make the other necessary 12660
arrangements for the election in their counties. The election 12661
shall be conducted, canvassed, and certified in the manner 12662
provided in Title XXXV of the Revised Code. 12663

(2) The election shall be held at the regular places for 12664
voting in the subdivision. If the electors of only a part of a 12665
precinct are qualified to vote at the election the board of 12666
elections may assign the electors in that part to an adjoining 12667
precinct, including an adjoining precinct in another county if the 12668
board of elections of the other county consents to and approves 12669
the assignment. Each elector so assigned shall be notified of that 12670
fact prior to the election by notice mailed by the board of 12671
elections, in such manner as it determines, prior to the election. 12672

(3) The board of elections shall publish a notice of the 12673
election, ~~once in one or more newspapers~~ a newspaper of general 12674
circulation in the subdivision, ~~at least once~~ no later than ten 12675
days prior to the election. The notice shall state all of the 12676
following: 12677

(a) The principal amount of the proposed bond issue; 12678

(b) The stated purpose for which the bonds are to be issued;	12679		
(c) The maximum number of years over which the principal of the bonds may be paid;	12680 12681		
(d) The estimated additional average annual property tax levy, expressed in cents or dollars and cents for each one hundred dollars of tax valuation and in mills for each one dollar of tax valuation, to be levied outside the tax limitation, as estimated and certified to the taxing authority by the county auditor;	12682 12683 12684 12685 12686		
(e) The first calendar year in which the tax is expected to be due.	12687 12688		
(F)(1) The form of the ballot to be used at the election shall be substantially either of the following, as applicable:	12689 12690		
(a) "Shall bonds be issued by the (name of subdivision) for the purpose of (purpose of the bond issue) in the principal amount of (principal amount of the bond issue), to be repaid annually over a maximum period of (the maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the (as applicable, "ten-mill" or "...charter tax") limitation, estimated by the county auditor to average over the repayment period of the bond issue (number of mills) mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each one hundred dollars of tax valuation, commencing in (first year the tax will be levied), first due in calendar year (first calendar year in which the tax shall be due), to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?	12691 12692 12693 12694 12695 12696 12697 12698 12699 12700 12701 12702 12703 12704 12705 12706 12707 12708 12709		
<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td style="width: 50px; height: 20px;"></td><td style="padding: 2px 10px;">For the bond issue</td></tr></table>		For the bond issue	
	For the bond issue		

	Against the bond issue
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(b) In the case of an election held pursuant to legislation adopted under section 3375.43 or 3375.431 of the Revised Code:

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"Shall bonds be issued for (name of library) for the purpose of (purpose of the bond issue), in the principal amount of (amount of the bond issue) by (the name of the subdivision that is to issue the bonds and levy the tax) as the issuer of the bonds, to be repaid annually over a maximum period of (the maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the ten-mill limitation, estimated by the county auditor to average over the repayment period of the bond issue (number of mills) mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each one hundred dollars of tax valuation, commencing in (first year the tax will be levied), first due in calendar year (first calendar year in which the tax shall be due), to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?

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	For the bond issue
	Against the bond issue

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(2) The purpose for which the bonds are to be issued shall be printed in the space indicated, in boldface type.

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(G) The board of elections shall promptly certify the results of the election to the tax commissioner, the county auditor of each county in which any part of the subdivision is located, and

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the fiscal officer of the subdivision. The election, including the 12741
proceedings for and result of the election, is incontestable other 12742
than in a contest filed under section 3515.09 of the Revised Code 12743
in which the plaintiff prevails. 12744

(H) If a majority of the electors voting upon the question 12745
vote for it, the taxing authority of the subdivision may proceed 12746
under sections 133.21 to 133.33 of the Revised Code with the 12747
issuance of the securities and with the levy and collection of a 12748
property tax outside the tax limitation during the period the 12749
securities are outstanding sufficient in amount to pay the debt 12750
charges on the securities, including debt charges on any 12751
anticipatory securities required to be paid from that tax. If 12752
legislation passed under section 133.22 or 133.23 of the Revised 12753
Code authorizing those securities is filed with the county auditor 12754
on or before the last day of November, the amount of the voted 12755
property tax levy required to pay debt charges or estimated debt 12756
charges on the securities payable in the following year shall if 12757
requested by the taxing authority be included in the taxes levied 12758
for collection in the following year under section 319.30 of the 12759
Revised Code. 12760

(I)(1) If, before any securities authorized at an election 12761
under this section are issued, the net indebtedness of the 12762
subdivision exceeds that applicable to that subdivision or those 12763
securities, then and so long as that is the case none of the 12764
securities may be issued. 12765

(2) No securities authorized at an election under this 12766
section may be initially issued after the first day of the sixth 12767
January following the election, but this period of limitation 12768
shall not run for any time during which any part of the permanent 12769
improvement for which the securities have been authorized, or the 12770
issuing or validity of any part of the securities issued or to be 12771
issued, or the related proceedings, is involved or questioned 12772

before a court or a commission or other tribunal, administrative 12773
agency, or board. 12774

(3) Securities representing a portion of the amount 12775
authorized at an election that are issued within the applicable 12776
limitation on net indebtedness are valid and in no manner affected 12777
by the fact that the balance of the securities authorized cannot 12778
be issued by reason of the net indebtedness limitation or lapse of 12779
time. 12780

(4) Nothing in this division (I) shall be interpreted or 12781
applied to prevent the issuance of securities in an amount to fund 12782
or refund anticipatory securities lawfully issued. 12783

(5) The limitations of divisions (I)(1) and (2) of this 12784
section do not apply to any securities authorized at an election 12785
under this section if at least ten per cent of the principal 12786
amount of the securities, including anticipatory securities, 12787
authorized has theretofore been issued, or if the securities are 12788
to be issued for the purpose of participating in any federally or 12789
state-assisted program. 12790

(6) The certificate of the fiscal officer of the subdivision 12791
is conclusive proof of the facts referred to in this division. 12792

Sec. 133.20. (A) This section applies to bonds that are 12793
general obligation Chapter 133. securities. If the bonds are 12794
payable as to principal by provision for annual installments, the 12795
period of limitations on their last maturity, referred to as their 12796
maximum maturity, shall be measured from a date twelve months 12797
prior to the first date on which provision for payment of 12798
principal is made. If the bonds are payable as to principal by 12799
provision for semiannual installments, the period of limitations 12800
on their last maturity shall be measured from a date six months 12801
prior to the first date on which provision for payment of 12802
principal is made. 12803

(B) Bonds issued for the following permanent improvements or	12804
for permanent improvements for the following purposes shall have	12805
maximum maturities not exceeding the number of years stated:	12806
(1) Fifty years:	12807
(a) The clearance and preparation of real property for	12808
redevelopment as an urban redevelopment project;	12809
(b) Acquiring, constructing, widening, relocating, enlarging,	12810
extending, and improving a publicly owned railroad or line of	12811
railway or a light or heavy rail rapid transit system, including	12812
related bridges, overpasses, underpasses, and tunnels, but not	12813
including rolling stock or equipment;	12814
(c) Pursuant to section 307.675 of the Revised Code,	12815
constructing or repairing a bridge using long life expectancy	12816
material for the bridge deck, and purchasing, installing, and	12817
maintaining any performance equipment to monitor the physical	12818
condition of a bridge so constructed or repaired. Additionally,	12819
the average maturity of the bonds shall not exceed the expected	12820
useful life of the bridge deck as determined by the county	12821
engineer under that section.	12822
(2) Forty years:	12823
(a) General waterworks or water system permanent	12824
improvements, including buildings, water mains, or other	12825
structures and facilities in connection therewith;	12826
(b) Sewers or sewage treatment or disposal works or	12827
facilities, including fireproof buildings or other structures in	12828
connection therewith;	12829
(c) Storm water drainage, surface water, and flood prevention	12830
facilities.	12831
(3) Thirty-five years:	12832
(a) An arena, a convention center, or a combination of an	12833

arena and convention center under section 307.695 of the Revised Code;	12834 12835
(b) Sports facilities.	12836
(4) Thirty years:	12837
(a) Municipal recreation, excluding recreational equipment;	12838
(b) Urban redevelopment projects;	12839
(c) Acquisition of real property, except as provided in division (F) of this section;	12840 12841
(d) Street or alley lighting purposes or relocating overhead wires, cables, and appurtenant equipment underground.	12842 12843
(5) Twenty years: constructing, reconstructing, widening, opening, improving, grading, draining, paving, extending, or changing the line of roads, highways, expressways, freeways, streets, sidewalks, alleys, or curbs and gutters, and related bridges, viaducts, overpasses, underpasses, grade crossing eliminations, service and access highways, and tunnels.	12844 12845 12846 12847 12848 12849
(6) Fifteen years:	12850
(a) Resurfacing roads, highways, streets, or alleys;	12851
(b) Alarm, telegraph, or other communications systems for police or fire departments or other emergency services;	12852 12853
(c) Passenger buses used for mass transportation;	12854
(d) Energy conservation measures as authorized by section 133.06 of the Revised Code.	12855 12856
(7) Ten years:	12857
(a) Water meters;	12858
(b) Fire department apparatus and equipment;	12859
(c) Road rollers and other road construction and servicing vehicles;	12860 12861

(d) Furniture, equipment, and furnishings;	12862
(e) Landscape planting and other site improvements;	12863
(f) Playground, athletic, and recreational equipment and apparatus;	12864 12865
(g) Energy conservation measures as authorized by section 505.264 of the Revised Code.	12866 12867
(8) Five years: New motor vehicles other than those described in any other division of this section and those for which provision is made in other provisions of the Revised Code.	12868 12869 12870
(C) Bonds issued for any permanent improvements not within the categories set forth in division (B) of this section shall have maximum maturities of from five to thirty years as the fiscal officer estimates is the estimated life or period of usefulness of those permanent improvements. Bonds issued under section 133.51 of the Revised Code for purposes other than permanent improvements shall have the maturities, not to exceed forty years, that the taxing authority shall specify. Bonds issued for energy conservation measures under section 307.041 of the Revised Code shall have maximum maturities not exceeding the lesser of the average life of the energy conservation measures as detailed in the energy conservation report prepared under that section or thirty years.	12871 12872 12873 12874 12875 12876 12877 12878 12879 12880 12881 12882 12883
(D) Securities issued under section 505.265 of the Revised Code shall mature not later than December 31, 2035.	12884 12885
(E) A securities issue for one purpose may include permanent improvements within two or more categories under divisions (B) and (C) of this section. The maximum maturity of such a bond issue shall not exceed the average number of years of life or period of usefulness of the permanent improvements as measured by the weighted average of the amounts expended or proposed to be expended for the categories of permanent improvements.	12886 12887 12888 12889 12890 12891 12892

(F) Securities issued by a school district or county to 12893
acquire or construct real property shall have a maximum maturity 12894
longer than thirty years, but not longer than forty years, if the 12895
~~school district's~~ fiscal officer of the school district or county 12896
estimates the real property's useful life to be longer than thirty 12897
years, and certifies that estimate to the board of education or 12898
board of county commissioners, respectively. 12899

Sec. 133.55. Before adopting any reassessment provided for in 12900
section 133.54 of the Revised Code, the fiscal officer shall 12901
prepare and file for public inspection a list containing the names 12902
of the owners, a tax duplicate description of each parcel of land 12903
on which the reassessment will be levied, and the total amount to 12904
be reassessed, separately stated as to each parcel, and the taxing 12905
authority shall publish notice for two consecutive weeks in a 12906
newspaper of general circulation in the political subdivision, or 12907
as provided in section 7.16 of the Revised Code, that such 12908
reassessment has been prepared by the fiscal officer and that it 12909
is on file in ~~his~~ the fiscal officer's office for the inspection 12910
and examination of the persons interested therein. Sections 12911
727.13, 727.15, and 727.16 of the Revised Code do not apply to any 12912
such assessments, but any person may file objections in writing 12913
with the fiscal officer within one week after the expiration of 12914
such notice and the taxing authority shall hear and determine any 12915
such objections at its next meeting. Such objections shall be 12916
limited solely to matters of description of parcels and owners and 12917
of computations of amounts, and no matters concluded by any 12918
proceedings on the original assessments shall form the basis for 12919
any such objections. When the reassessment list is confirmed by 12920
the taxing authority, it shall be complete and final and shall be 12921
recorded in the office of the fiscal officer. 12922

Sec. 135.05. Each governing board shall, at least three weeks 12923

prior to the date when it is required by section 135.12 of the Revised Code to designate public depositories, by resolution, estimate the aggregate maximum amount of public moneys subject to its control to be awarded and be on deposit as inactive deposits. The state board of deposit shall cause a copy of such resolution, together with a notice of the date on which the meeting of the board for the designation of such depositories will be held and the period for which such inactive deposits will be awarded, to be published once a week for two consecutive weeks in two newspapers of general circulation in each of the three most populous counties. The governing board of each subdivision shall cause a copy of such resolution, together with a notice of the date on which the meeting of the board for the designation of such depositories will be held and the period for which such inactive deposits will be awarded, to be published once a week for two consecutive weeks in ~~two newspapers~~ a newspaper of ~~opposite politics and~~ of general circulation in the county or as provided in section 7.16 of the Revised Code. If a subdivision is located in more than one county, such publication shall be made in ~~newspapers published~~ a newspaper of general circulation in the county in which the major part of such subdivision is located, and of general circulation in the subdivision. A written notice stating the aggregate maximum amount to be awarded as inactive deposits of the subdivision shall be given to each eligible depository by the governing board at the time the first publication is made in the ~~newspapers~~ newspaper.

All deposits of the public moneys of the state or any subdivision made during the period covered by the designation in excess of the aggregate amount so estimated shall be active deposits or interim deposits. Inactive, interim, and active deposits shall be separately awarded, made, and administered as provided by sections 135.01 to 135.21, ~~inclusive~~, of the Revised Code.

Sec. 135.61. As used in sections 135.61 to 135.67 of the Revised Code:

(A) "Eligible small business" means any person, including, but not limited to a person engaged in agriculture, that has all of the following characteristics:

(1) Is headquartered in this state;

(2) Maintains offices and operating facilities exclusively in this state and transacts business in this state;

(3) Employs fewer than one hundred fifty employees, the majority of whom are residents of this state;

(4) Is organized for profit.

(B) "Eligible lending institution" means a financial institution that is eligible to make commercial loans, is a public depository of state funds under section 135.03 of the Revised Code, and agrees to participate in the linked deposit program.

(C) "Linked deposit" means a certificate of deposit or other financial institution instrument placed by the treasurer of state with an eligible lending institution at a rate below current market rates, as determined and calculated by the treasurer of state, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided in division (C) of section 135.65 of the Revised Code, to eligible small businesses at a rate that reflects an equal percentage rate reduction below the present borrowing rate applicable to each specific business at the time of the deposit of state funds in the institution.

(D) "Other financial institution instrument" has the same meaning as in section 135.81 of the Revised Code.

Sec. 135.65. (A) The treasurer of state may accept or reject

a linked deposit loan package or any portion thereof, based on the treasurer's evaluation of the eligible small businesses included in the package and the amount of state funds to be deposited. When evaluating the eligible small businesses, the treasurer shall give priority to the economic needs of the area where the business is located and the ratio of state funds to be deposited to jobs sustained or created and shall also consider any reports, statements, or plans applicable to the business, the overall financial need of the business, and such other factors as the treasurer considers appropriate.

(B) Upon acceptance of the linked deposit loan package or any portion thereof, the treasurer of state may place certificates of deposit or other financial institution instruments with the eligible lending institution at a rate below current market rates, as determined and calculated by the treasurer of state. When necessary, the treasurer may place certificates of deposit or other financial institution instruments prior to acceptance of a linked deposit loan package.

(C) The eligible lending institution shall enter into a deposit agreement with the treasurer of state, which shall include requirements necessary to carry out the purposes of sections 135.61 to 135.67 of the Revised Code. Such requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit or other financial institution instruments to be placed for any maturity considered appropriate by the treasurer of state not to exceed two years, and may be renewed for up to an additional two years at the option of the treasurer. Interest shall be paid at the times determined by the treasurer of state.

(D) Eligible lending institutions shall comply fully with 13018
Chapter 135. of the Revised Code. 13019

Sec. 135.66. (A) Upon the placement of a linked deposit with 13020
an eligible lending institution, such institution is required to 13021
lend such funds to each approved eligible small business listed in 13022
the linked deposit loan package required by division (D) of 13023
section 135.64 of the Revised Code and in accordance with the 13024
deposit agreement required by division (C) of section 135.65 of 13025
the Revised Code. The loan shall be at a rate that reflects a 13026
percentage rate reduction below the present borrowing rate 13027
applicable to each business that is equal to the percentage rate 13028
reduction below market rates at which the ~~certificate~~ certificates 13029
of ~~deposits~~ deposit or other financial institution instruments 13030
that constitute the linked deposit were placed. A certification of 13031
compliance with this section in the form and manner as prescribed 13032
by the treasurer of state shall be required of the eligible 13033
lending institution. 13034

(B) The treasurer of state shall take any and all steps 13035
necessary to implement the linked deposit program and monitor 13036
compliance of eligible lending institutions and eligible small 13037
businesses, including the development of guidelines as necessary. 13038
The treasurer of state and the department of development shall 13039
notify each other at least quarterly of the names of the 13040
businesses receiving financial assistance from their respective 13041
programs. 13042

Annually, by the first day of February, the treasurer of 13043
state shall report on the linked deposits program for the 13044
preceding calendar year to the governor, the speaker of the house 13045
of representatives, and the president of the senate. The speaker 13046
of the house shall transmit copies of this report to the 13047
chairpersons of the standing committees in the house which 13048

customarily consider legislation regarding agriculture and small 13049
business, and the president of the senate shall transmit copies of 13050
this report to the chairpersons of the standing committees in the 13051
senate which customarily consider legislation regarding 13052
agriculture and small business. The report shall set forth the 13053
linked deposits made by the treasurer of state under the program 13054
during the year and shall include information regarding the 13055
nature, terms, and amounts of the loans upon which the linked 13056
deposits were based and the eligible small businesses to which the 13057
loans were made. 13058

Sec. 145.27. (A)(1) As used in this division, "personal 13059
history record" means information maintained by the public 13060
employees retirement board on an individual who is a member, 13061
former member, contributor, former contributor, retirant, or 13062
beneficiary that includes the address, telephone number, social 13063
security number, record of contributions, correspondence with the 13064
public employees retirement system, or other information the board 13065
determines to be confidential. 13066

(2) The records of the board shall be open to public 13067
inspection, except that the following shall be excluded, except 13068
with the written authorization of the individual concerned: 13069

(a) The individual's statement of previous service and other 13070
information as provided for in section 145.16 of the Revised Code; 13071

(b) The amount of a monthly allowance or benefit paid to the 13072
individual; 13073

(c) The individual's personal history record. 13074

(B) All medical reports and recommendations required by this 13075
chapter are privileged, except as follows: 13076

(1) Copies of medical reports or recommendations shall be 13077
made available to the personal physician, attorney, or authorized 13078

agent of the individual concerned upon written release from the 13079
individual or the individual's agent, or when necessary for the 13080
proper administration of the fund, to the board assigned 13081
physician. 13082

(2) Documentation required by section 2929.193 of the Revised 13083
Code shall be provided to a court holding a hearing under that 13084
section. 13085

(C) Any person who is a member or contributor of the system 13086
shall be furnished with a statement of the amount to the credit of 13087
the individual's account upon written request. The board is not 13088
required to answer more than one such request of a person in any 13089
one year. The board may issue annual statements of accounts to 13090
members and contributors. 13091

(D) Notwithstanding the exceptions to public inspection in 13092
division (A)(2) of this section, the board may furnish the 13093
following information: 13094

(1) If a member, former member, contributor, former 13095
contributor, or retirant is subject to an order issued under 13096
section 2907.15 of the Revised Code or an order issued under 13097
division (A) or (B) of section 2929.192 of the Revised Code or is 13098
convicted of or pleads guilty to a violation of section 2921.41 of 13099
the Revised Code, on written request of a prosecutor as defined in 13100
section 2935.01 of the Revised Code, the board shall furnish to 13101
the prosecutor the information requested from the individual's 13102
personal history record. 13103

(2) Pursuant to a court or administrative order issued 13104
pursuant to Chapter 3119., 3121., 3123., or 3125. of the Revised 13105
Code, the board shall furnish to a court or child support 13106
enforcement agency the information required under that section. 13107

(3) At the written request of any person, the board shall 13108
provide to the person a list of the names and addresses of 13109

members, former members, contributors, former contributors, 13110
retirants, or beneficiaries. The costs of compiling, copying, and 13111
mailing the list shall be paid by such person. 13112

(4) Within fourteen days after receiving from the director of 13113
job and family services a list of the names and social security 13114
numbers of recipients of public assistance pursuant to section 13115
5101.181 of the Revised Code, the board shall inform the auditor 13116
of state of the name, current or most recent employer address, and 13117
social security number of each member whose name and social 13118
security number are the same as that of a person whose name or 13119
social security number was submitted by the director. The board 13120
and its employees shall, except for purposes of furnishing the 13121
auditor of state with information required by this section, 13122
preserve the confidentiality of recipients of public assistance in 13123
compliance with ~~division (A)~~ of section 5101.181 of the Revised 13124
Code. 13125

(5) The system shall comply with orders issued under section 13126
3105.87 of the Revised Code. 13127

On the written request of an alternate payee, as defined in 13128
section 3105.80 of the Revised Code, the system shall furnish to 13129
the alternate payee information on the amount and status of any 13130
amounts payable to the alternate payee under an order issued under 13131
section 3105.171 or 3105.65 of the Revised Code. 13132

(6) At the request of any person, the board shall make 13133
available to the person copies of all documents, including 13134
resumes, in the board's possession regarding filling a vacancy of 13135
an employee member or retirant member of the board. The person who 13136
made the request shall pay the cost of compiling, copying, and 13137
mailing the documents. The information described in division 13138
(D)(6) of this section is a public record. 13139

(7) The system shall provide the notice required by section 13140

145.573 of the Revised Code to the prosecutor assigned to the 13141
case. 13142

(E) A statement that contains information obtained from the 13143
system's records that is signed by the executive director or an 13144
officer of the system and to which the system's official seal is 13145
affixed, or copies of the system's records to which the signature 13146
and seal are attached, shall be received as true copies of the 13147
system's records in any court or before any officer of this state. 13148

Sec. 145.56. The right of an individual to a pension, an 13149
annuity, or a retirement allowance itself, the right of an 13150
individual to any optional benefit, any other right accrued or 13151
accruing to any individual, under this chapter, or under any 13152
municipal retirement system established subject to this chapter 13153
under the laws of this state or any charter, the various funds 13154
created by this chapter, or under such municipal retirement 13155
system, and all moneys, investments, and income from moneys or 13156
investments are exempt from any state tax, except the tax imposed 13157
by section 5747.02 of the Revised Code, and are exempt from any 13158
county, municipal, or other local tax, except income taxes imposed 13159
pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised 13160
Code, and, except as provided in sections 145.57, 145.572, 13161
145.573, 3105.171, 3105.65, and 3115.32 and Chapters 3119., 3121., 13162
3123., and 3125. of the Revised Code, shall not be subject to 13163
execution, garnishment, attachment, the operation of bankruptcy or 13164
insolvency laws, or other process of law whatsoever, and shall be 13165
unassignable except as specifically provided in this chapter and 13166
sections 3105.171, 3105.65, and 3115.32 and Chapters 3119., 3121., 13167
3123., and 3125. of the Revised Code. 13168

Sec. 149.01. Each elective state officer, the adjutant 13169
general, the adult parole authority, the department of 13170
agriculture, the director of administrative services, the public 13171

utilities commission, the superintendent of insurance, the 13172
superintendent of financial institutions, the superintendent of 13173
purchases and printing, the state commissioner of soldiers' 13174
claims, the fire marshal, the industrial commission, the 13175
administrator of workers' compensation, the state department of 13176
transportation, the department of health, the state medical board, 13177
the state dental board, the board of embalmers and funeral 13178
directors, the Ohio commission for the blind, the accountancy 13179
board of Ohio, the state council of uniform state laws, the board 13180
of commissioners of the sinking fund, the department of taxation, 13181
the board of tax appeals, ~~the clerk of the supreme court,~~ the 13182
division of liquor control, the director of state armories, the 13183
trustees of the Ohio state university, and every private or 13184
quasi-public institution, association, board, or corporation 13185
receiving state money for its use and purpose shall make annually, 13186
at the end of each fiscal year, in quadruplicate, a report of the 13187
transactions and proceedings of that office or department for that 13188
fiscal year, excepting receipts and disbursements unless otherwise 13189
specifically required by law. The report shall contain a summary 13190
of the official acts of the officer, board, council, commission, 13191
institution, association, or corporation and any suggestions and 13192
recommendations that are proper. On the first day of August of 13193
each year, one of the reports shall be filed with the governor, 13194
one with the secretary of state, and one with the state library, 13195
and one shall be kept on file in the office of the officer, board, 13196
council, commission, institution, association, or corporation. 13197

Sec. 149.091. (A) ~~Except as otherwise provided in division~~ 13198
~~(C) of this section, the~~ The secretary of state shall compile, 13199
publish, and distribute the session laws either annually or 13200
biennially in a paper or electronic format ~~a maximum of nine~~ 13201
~~hundred copies of the session laws.~~ The annual or biennial 13202
publication shall contain all enrolled acts and joint resolutions- 13203

~~The secretary of state shall cause to be printed with each 13204
compilation of enrolled acts and joint resolutions distributed, a 13205
subject index, a table indicating Revised Code sections affected, 13206
and the secretary of state's certificate that the laws, as 13207
compiled and distributed, are true copies of the original enrolled 13208
acts or joint resolutions in the secretary of state's office. 13209~~

~~(B)(1) The secretary of state shall may distribute the 13210
compilations paper or electronic format of the session laws in 13211
free of charge to the following manner persons or entities: 13212~~

~~(1) One shall be forwarded to each (a) Each county auditor. 13213~~

~~(2) One shall be forwarded to each (b) Each county law 13214
library. 13215~~

~~(3) Two hundred may be distributed, free of charge, to (c) 13216
Other public officials upon request of the public official. 13217~~

~~(4) Remaining compilations may be sold by the secretary of 13218
state at a price that shall not exceed the actual cost of 13219
publication and distribution. 13220~~

~~(B) Notwithstanding division (C) of this section, the 13221
secretary of state shall compile, publish, and distribute, either 13222
annually or biennially, in permanently bound volumes, a minimum of 13223
twenty five copies of the session laws. The annual or biennial 13224
volumes shall contain copies of all enrolled acts and joint 13225
resolutions. The secretary of state shall cause to be printed with 13226
each volume of enrolled acts and joint resolutions distributed a 13227
subject index, a table indicating Revised Code sections affected, 13228
and the secretary of state's certificate that the laws so 13229
assembled are true copies of the original enrolled acts or joint 13230
resolutions in the secretary of state's office. 13231~~

~~(2) The secretary of state shall distribute the permanently 13232
bound volumes paper or electronic format of the session laws in 13233
free of charge to the following manner persons or entities: 13234~~

(1) Five copies shall be forwarded to the	(a) The clerk of	13235
the house of representatives.		13236
(2) Five copies shall be forwarded to the	(b) The clerk of	13237
the senate.		13238
(3) Five copies shall be forwarded to the	(c) The legislative	13239
service commission.		13240
(4) Two copies shall be forwarded to the	(d) The Ohio supreme	13241
court.		13242
(5) Two copies shall be forwarded to the	(e) The document	13243
division of the library of congress.		13244
(6) Two copies shall be forwarded to the	(f) The state	13245
library.		13246
(7) Two copies shall be forwarded to the	(g) The Ohio	13247
historical society.		13248
(8) Two copies shall be retained by the	The secretary of	13249
state	shall retain a paper or electronic format of the session	13250
laws.		13251
(C) The secretary of state annually or biennially may		13252
compile, publish, and distribute the session laws in an electronic		13253
format instead of compiling and publishing the session laws as		13254
provided in division (A) of this section. If the secretary of		13255
state compiles and publishes the session laws in an electronic		13256
format, the following apply:		13257
(1) The session laws in electronic format shall include		13258
copies of all enrolled acts and joint resolutions and shall		13259
contain a subject index and a table indicating Revised Code		13260
sections affected.		13261
(2) Each compilation of the session laws in electronic format		13262
shall include the secretary of state's certificate that the laws		13263
so compiled and published are true copies of the original enrolled		13264

~~acts and joint resolutions in the secretary of state's office.~~ 13265

~~(3) The session laws may be distributed in an electronic~~ 13266
~~format to public officials free of charge.~~ 13267

~~(4) The session laws may be sold in an a paper or electronic~~ 13268
format to individuals or entities not specified in division ~~(A) or~~ 13269
(B) of this section. The price shall not exceed the actual cost of 13270
producing and distributing the session laws in ~~an~~ a paper or 13271
electronic format. 13272

Sec. 149.11. Any department, division, bureau, board, or 13273
commission of the state government issuing a report, pamphlet, 13274
document, or other publication intended for general public use and 13275
distribution, which publication is reproduced by duplicating 13276
processes such as mimeograph, multigraph, planograph, rotaprint, 13277
or multilith, or printed internally or through a contract awarded 13278
to any person, company, or the state printing division of the 13279
department of administrative services, shall cause to be delivered 13280
to the state library one hundred copies of the publication, 13281
subject to the provisions of section 125.42 of the Revised Code. 13282

The state library board shall distribute the publications so 13283
received as follows: 13284

(A) Retain two copies in the state library; 13285

(B) Send two copies to the document division of the library 13286
of congress; 13287

(C) Send one copy to the Ohio historical society and to each 13288
public or college library in the state designated by the state 13289
library board to be a depository for state publications. In 13290
designating which libraries shall be depositories, the board shall 13291
select those libraries that can best preserve those publications 13292
and that are so located geographically as will make the 13293
publications conveniently accessible to residents in all areas of 13294

the state. 13295

(D) Send one copy to each state in exchange for like 13296
publications of that state. 13297

The provisions of this section ~~shall~~ do not apply to any 13298
publication of the general assembly or to the publications 13299
described in sections 149.07, 149.08, 149.091, and 149.17 of the 13300
Revised Code, except that the secretary of state shall forward to 13301
the document division of the library of congress two copies of all 13302
journals, two copies of the session laws ~~in bound form~~ as provided 13303
for in section 149.091 of the Revised Code, and two copies of all 13304
appropriation laws in separate form. 13305

Sec. 149.308. There is hereby created in the state treasury 13306
the Ohio historical society income tax contribution fund, which 13307
shall consist of money contributed to it under section 5747.113 of 13308
the Revised Code for taxable years beginning on or after January 13309
1, 2011, and of contributions made directly to it. Any person may 13310
contribute directly to the fund in addition to or independently of 13311
the income tax refund contribution system established in section 13312
5747.113 of the Revised Code. 13313

The Ohio historical society shall use money credited to the 13314
fund in furtherance of the public functions with which the society 13315
is charged under section 149.30 of the Revised Code. 13316

Sec. 149.311. (A) As used in this section: 13317

(1) "Historic building" means a building, including its 13318
structural components, that is located in this state and that is 13319
either individually listed on the national register of historic 13320
places under 16 U.S.C. 470a, located in a registered historic 13321
district, and certified by the state historic preservation officer 13322
as being of historic significance to the district, or is 13323
individually listed as a historic landmark designated by a local 13324

government certified under 16 U.S.C. 470a(c). 13325

(2) "Qualified rehabilitation expenditures" means 13326
expenditures paid or incurred during the rehabilitation period, 13327
and before and after that period as determined under 26 U.S.C. 47, 13328
by an owner of a historic building to rehabilitate the building. 13329
"Qualified rehabilitation expenditures" includes architectural or 13330
engineering fees paid or incurred in connection with the 13331
rehabilitation, and expenses incurred in the preparation of 13332
nomination forms for listing on the national register of historic 13333
places. "Qualified rehabilitation expenditures" does not include 13334
any of the following: 13335

(a) The cost of acquiring, expanding, or enlarging a historic 13336
building; 13337

(b) Expenditures attributable to work done to facilities 13338
related to the building, such as parking lots, sidewalks, and 13339
landscaping; 13340

(c) New building construction costs. 13341

(3) "Owner" of a historic building means a person holding the 13342
fee simple interest in the building. "Owner" does not include the 13343
state or a state agency, or any political subdivision as defined 13344
in section 9.23 of the Revised Code. 13345

(4) "Certificate owner" means the owner of a historic 13346
building to which a rehabilitation tax credit certificate was 13347
issued under this section. 13348

(5) "Registered historic district" means a historic district 13349
listed in the national register of historic places under 16 U.S.C. 13350
470a, a historic district designated by a local government 13351
certified under 16 U.S.C. 470a(c), or a local historic district 13352
certified under 36 C.F.R. 67.8 and 67.9. 13353

(6) "Rehabilitation" means the process of repairing or 13354

altering a historic building or buildings, making possible an 13355
efficient use while preserving those portions and features of the 13356
building and its site and environment that are significant to its 13357
historic, architectural, and cultural values. 13358

(7) "Rehabilitation period" means one of the following: 13359

(a) If the rehabilitation initially was not planned to be 13360
completed in stages, a period chosen by the owner not to exceed 13361
twenty-four months during which rehabilitation occurs; 13362

(b) If the rehabilitation initially was planned to be 13363
completed in stages, a period chosen by the owner not to exceed 13364
sixty months during which rehabilitation occurs. Each stage shall 13365
be reviewed as a phase of a rehabilitation as determined under 36 13366
C.F.R. 67.7(b)(8) or a successor to that section. 13367

(8) "State historic preservation officer" or "officer" means 13368
the state historic preservation officer appointed by the governor 13369
under 16 U.S.C. 470a. 13370

~~(9) "Application period" means any of the following time 13371
periods for which an application for a rehabilitation tax credit 13372
certificate may be filed under this section: 13373~~

~~(a) July 1, 2007, through June 30, 2008; 13374~~

~~(b) July 1, 2009, through June 30, 2010; 13375~~

~~(c) July 1, 2010, through June 30, 2011. 13376~~

~~(B) For any application period, the The owner of a historic 13377
building may apply to the ~~state historic preservation officer~~ 13378
director of development for a rehabilitation tax credit 13379
certificate for qualified rehabilitation expenditures paid or 13380
incurred after April 4, 2007, for rehabilitation of a historic 13381
building. The form and manner of filing such applications shall be 13382
prescribed by rule of the director of development, ~~and, except as~~ 13383
~~otherwise provided in division (D) of this section, applications~~ 13384~~

~~expire at the end of each application period.~~ Each application 13385
shall state the amount of qualified rehabilitation expenditures 13386
the applicant estimates will be paid or incurred. The director may 13387
require applicants to furnish documentation of such estimates. 13388

The director, after consultation with the tax commissioner 13389
and in accordance with Chapter 119. of the Revised Code, shall 13390
adopt rules that establish all of the following: 13391

(1) Forms and procedures by which applicants may apply for 13392
rehabilitation tax credit certificates; 13393

(2) Criteria for reviewing, evaluating, and approving 13394
applications for certificates within the limitations under 13395
division (D) of this section, criteria for assuring that the 13396
certificates issued encompass a mixture of high and low qualified 13397
rehabilitation expenditures, and criteria for issuing certificates 13398
under division (C)(3)(b) of this section; 13399

(3) Eligibility requirements for obtaining a certificate 13400
under this section; 13401

(4) The form of rehabilitation tax credit certificates; 13402

(5) Reporting requirements and monitoring procedures; 13403

(6) Any other rules necessary to implement and administer 13404
this section. 13405

(C) ~~The state historic preservation officer shall accept~~ 13406
~~applications and forward them to the director of development, who~~ 13407
shall review the applications with the assistance of the state 13408
historic preservation officer and determine whether all of the 13409
following criteria are met: 13410

(1) That the building that is the subject of the application 13411
is a historic building and the applicant is the owner of the 13412
building; 13413

(2) That the rehabilitation will satisfy standards prescribed 13414

by the United States secretary of the interior under 16 U.S.C. 13415
470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to 13416
that section; 13417

(3) That receiving a rehabilitation tax credit certificate 13418
under this section is a major factor in: 13419

(a) The applicant's decision to rehabilitate the historic 13420
building; or 13421

(b) To increase the level of investment in such 13422
rehabilitation. 13423

An applicant shall demonstrate to the satisfaction of the 13424
state historic preservation officer and director of development 13425
that the rehabilitation will satisfy the standards described in 13426
division (C)(2) of this section before the applicant begins the 13427
physical rehabilitation of the historic building. 13428

(D)(1) The director of development may approve an application 13429
and issue a rehabilitation tax credit certificate to an applicant 13430
only if the director determines that the criteria in divisions 13431
(C)(1), (2), and (3) of this section are met. The director shall 13432
consider the potential economic impact and the regional 13433
distributive balance of the credits throughout the state. 13434

(2) A rehabilitation tax credit certificate shall not be 13435
issued before rehabilitation of a historic building is completed 13436
~~or. A rehabilitation tax credit certificate shall not be issued~~ 13437
for an amount greater than the estimated amount furnished by the 13438
applicant on the application for such certificate and approved by 13439
the director. The director shall not approve more than a total of 13440
~~sixty~~ twenty-five million dollars of rehabilitation tax credits 13441
~~for an application period per fiscal year but the director may~~ 13442
reallocate unused tax credits from a prior fiscal year for new 13443
applicants and such reallocated credits shall not apply toward the 13444
dollar limit of this division. 13445

~~(3) Of the sixty million dollars approved for application periods July 1, 2009, through June 30, 2010, and July 1, 2010, through June 30, 2011, forty five million dollars shall be reserved in each application period for the award of rehabilitation tax credit certificates to applicants who, as of March 1, 2008, had filed completed applications that met the criteria described in divisions (C)(1), (2), and (3) of this section, who have not withdrawn the application, and who have not yet been approved to receive a certificate. If the total amount of credits awarded for such applications is less than forty five million dollars in an application period, the remainder shall be made available for other qualifying applications for that application period.~~

For rehabilitations with a rehabilitation period not exceeding twenty-four months as provided in division (A)(7)(a) of this section, a rehabilitation tax credit certificate shall not be issued before the rehabilitation of the historic building is completed.

~~(4) For rehabilitations with a rehabilitation period not exceeding sixty months as provided in division (A)(7)(b) of this section, a rehabilitation tax credit certificate shall not be issued before a stage of rehabilitation is completed. After all stages of rehabilitation are completed, if the director cannot determine that the criteria in division (C) of this section are satisfied for all stages of rehabilitations, the director shall certify this finding to the tax commissioner, and any rehabilitation tax credits received by the applicant shall be repaid by the applicant and may be collected by assessment as unpaid tax by the commissioner.~~

(5) The director of development shall require the applicant to provide a third-party cost certification by a certified public accountant of the actual costs attributed to the rehabilitation of

the historic building when qualified rehabilitation expenditures 13478
exceed two hundred thousand dollars. 13479

If an applicant whose application is approved for receipt of 13480
a rehabilitation tax credit certificate fails to provide to the 13481
director of development sufficient evidence of reviewable 13482
progress, including a viable financial plan, copies of final 13483
construction drawings, and evidence that the applicant has 13484
obtained all historic approvals within twelve months after the 13485
date the applicant received notification of approval, ~~or~~ and if 13486
the applicant fails to provide evidence to the director of 13487
development that the applicant has secured and closed on financing 13488
for the rehabilitation within eighteen months after receiving 13489
notification of approval, the director may rescind the approval of 13490
the application. The director shall notify the applicant ~~that~~ if 13491
the approval has been rescinded. Credits that would have been 13492
available to an applicant whose approval was rescinded shall be 13493
available for other qualified applicants. Nothing in this division 13494
prohibits an applicant whose approval has been rescinded from 13495
submitting a new application for a rehabilitation tax credit 13496
certificate. 13497

(E) Issuance of a certificate represents a finding by the 13498
director of development of the matters described in divisions 13499
(C)(1), (2), and (3) of this section only; issuance of a 13500
certificate does not represent a verification or certification by 13501
the director of the amount of qualified rehabilitation 13502
expenditures for which a tax credit may be claimed under section 13503
5725.151, 5725.34, 5729.17, 5733.47, or 5747.76 of the Revised 13504
Code. The amount of qualified rehabilitation expenditures for 13505
which a tax credit may be claimed is subject to inspection and 13506
examination by the tax commissioner or employees of the 13507
commissioner under section 5703.19 of the Revised Code and any 13508
other applicable law. Upon the issuance of a certificate, the 13509

director shall certify to the tax commissioner, in the form and 13510
manner requested by the tax commissioner, the name of the 13511
applicant, the amount of qualified rehabilitation expenditures 13512
shown on the certificate, and any other information required by 13513
the rules adopted under this section. 13514

(F)(1) On or before the first day of ~~December in 2007, 2008,~~ 13515
~~2009, 2010, and 2011~~ April each year, the director of development 13516
and tax commissioner jointly shall submit to the president of the 13517
senate and the speaker of the house of representatives a report on 13518
the tax credit program established under this section and sections 13519
5725.151, 5725.34, 5729.17, 5733.47, and 5747.76 of the Revised 13520
Code. The report shall present an overview of the program and 13521
shall include information on the number of rehabilitation tax 13522
credit certificates issued under this section during ~~an~~ 13523
~~application period~~ the preceding fiscal year, an update on the 13524
status of each historic building for which an application was 13525
approved under this section, the dollar amount of the tax credits 13526
granted under sections 5725.151, 5725.34, 5729.17, 5733.47, and 13527
5747.76 of the Revised Code, and any other information the 13528
director and commissioner consider relevant to the topics 13529
addressed in the report. 13530

(2) On or before December 1, ~~2012~~ 2015, the director of 13531
development and tax commissioner jointly shall submit to the 13532
president of the senate and the speaker of the house of 13533
representatives a comprehensive report that includes the 13534
information required by division (F)(1) of this section and a 13535
detailed analysis of the effectiveness of issuing tax credits for 13536
rehabilitating historic buildings. The report shall be prepared 13537
with the assistance of an economic research organization jointly 13538
chosen by the director and commissioner. 13539

(G) There is hereby created in the state treasury the 13540
historic rehabilitation tax credit operating fund. The director of 13541

development is authorized to charge reasonable application and 13542
other fees in connection with the administration of tax credits 13543
authorized by this section and sections 5725.151, 5725.34, 13544
5729.17, 5733.44, and 5747.76 of the Revised Code. Any such fees 13545
collected shall be credited to the fund and used to pay reasonable 13546
costs incurred by the department of development in administering 13547
this section and sections 5725.151, 5725.34, 5729.17, 5733.44, and 13548
5747.76 of the Revised Code. 13549

The Ohio historic preservation office is authorized to charge 13550
reasonable fees in connection with its review and approval of 13551
applications under this section. Any such fees collected shall be 13552
credited to the fund and used to pay administrative costs incurred 13553
by the Ohio historic preservation office pursuant to this section. 13554

Sec. 149.38. (A) ~~There~~ Except as otherwise provided in 13555
section 307.847 of the Revised Code, there is hereby created in 13556
each county a county records commission, composed of a member of 13557
the board of county commissioners as chairperson, the prosecuting 13558
attorney, the auditor, the recorder, and the clerk of the court of 13559
common pleas. The commission shall appoint a secretary, who may or 13560
may not be a member of the commission and who shall serve at the 13561
pleasure of the commission. The commission may employ an archivist 13562
or records manager to serve under its direction. The commission 13563
shall meet at least once every six months and upon call of the 13564
chairperson. 13565

(B) The functions of the county records commission shall be 13566
to provide rules for retention and disposal of records of the 13567
county and to review applications for one-time disposal of 13568
obsolete records and schedules of records retention and 13569
disposition submitted by county offices. The commission may 13570
dispose of records pursuant to the procedure outlined in this 13571
section. The commission, at any time, may review any schedule it 13572

has previously approved and, for good cause shown, may revise that 13573
schedule, subject to division (D) of this section. 13574

(C) When the county records commission has approved any 13575
county application for one-time disposal of obsolete records or 13576
any schedule of records retention and disposition, the commission 13577
shall send that application or schedule to the Ohio historical 13578
society for its review. The Ohio historical society shall review 13579
the application or schedule within a period of not more than sixty 13580
days after its receipt of it. Upon completion of its review, the 13581
Ohio historical society shall forward the application for one-time 13582
disposal of obsolete records or the schedule of records retention 13583
and disposition to the auditor of state for the auditor's approval 13584
or disapproval. The auditor shall approve or disapprove the 13585
application or schedule within a period of not more than sixty 13586
days after receipt of it. Before public records are to be disposed 13587
of, the commission shall inform the Ohio historical society of the 13588
disposal through the submission of a certificate of records 13589
disposal and shall give the society the opportunity for a period 13590
of fifteen business days to select for its custody those records 13591
that it considers to be of continuing historical value. Upon the 13592
expiration of the fifteen-business-day period, the county records 13593
commission also shall notify the public libraries, county 13594
historical society, state universities, and other public or 13595
quasi-public institutions, agencies, or corporations in the county 13596
that have provided the commission with their name and address for 13597
these notification purposes, that the commission has informed the 13598
Ohio historical society of the records disposal and that the 13599
notified entities, upon written agreement with the Ohio historical 13600
society pursuant to section 149.31 of the Revised Code, may select 13601
records of continuing historical value, including records that may 13602
be distributed to any of the notified entities under section 13603
149.31 of the Revised Code. 13604

(D) The rules of the county records commission shall include 13605
a rule that requires any receipts, checks, vouchers, or other 13606
similar records pertaining to expenditures from ~~the~~ either 13607
delinquent tax and assessment collection fund created in section 13608
321.261 of the Revised Code, from the real estate assessment fund 13609
created in section 325.31 of the Revised Code, or from amounts 13610
allocated for the furtherance of justice to the county sheriff 13611
under section 325.071 of the Revised Code or to the prosecuting 13612
attorney under section 325.12 of the Revised Code to be retained 13613
for at least four years. 13614

(E) No person shall knowingly violate the rule adopted under 13615
division (D) of this section. Whoever violates that rule is guilty 13616
of a misdemeanor of the first degree. 13617

Sec. 149.43. (A) As used in this section: 13618

(1) "Public record" means records kept by any public office, 13619
including, but not limited to, state, county, city, village, 13620
township, and school district units, and records pertaining to the 13621
delivery of educational services by an alternative school in this 13622
state kept by the nonprofit or for-profit entity operating the 13623
alternative school pursuant to section 3313.533 of the Revised 13624
Code. "Public record" does not mean any of the following: 13625

(a) Medical records; 13626

(b) Records pertaining to probation and parole proceedings or 13627
to proceedings related to the imposition of community control 13628
sanctions and post-release control sanctions; 13629

(c) Records pertaining to actions under section 2151.85 and 13630
division (C) of section 2919.121 of the Revised Code and to 13631
appeals of actions arising under those sections; 13632

(d) Records pertaining to adoption proceedings, including the 13633
contents of an adoption file maintained by the department of 13634

health under section 3705.12 of the Revised Code;	13635
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	13636 13637 13638 13639 13640 13641
(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;	13642 13643 13644
(g) Trial preparation records;	13645
(h) Confidential law enforcement investigatory records;	13646
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	13647 13648
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	13649 13650
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	13651 13652 13653 13654
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	13655 13656 13657 13658
(m) Intellectual property records;	13659
(n) Donor profile records;	13660
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	13661 13662
(p) Peace officer, parole officer, prosecuting attorney,	13663

assistant prosecuting attorney, correctional employee, youth 13664
services employee, firefighter, EMT, or investigator of the bureau 13665
of criminal identification and investigation residential and 13666
familial information; 13667

(q) In the case of a county hospital operated pursuant to 13668
Chapter 339. of the Revised Code or a municipal hospital operated 13669
pursuant to Chapter 749. of the Revised Code, information that 13670
constitutes a trade secret, as defined in section 1333.61 of the 13671
Revised Code; 13672

(r) Information pertaining to the recreational activities of 13673
a person under the age of eighteen; 13674

(s) Records provided to, statements made by review board 13675
members during meetings of, and all work products of a child 13676
fatality review board acting under sections 307.621 to 307.629 of 13677
the Revised Code, and child fatality review data submitted by the 13678
child fatality review board to the department of health or a 13679
national child death review database, other than the report 13680
prepared pursuant to division (A) of section 307.626 of the 13681
Revised Code; 13682

(t) Records provided to and statements made by the executive 13683
director of a public children services agency or a prosecuting 13684
attorney acting pursuant to section 5153.171 of the Revised Code 13685
other than the information released under that section; 13686

(u) Test materials, examinations, or evaluation tools used in 13687
an examination for licensure as a nursing home administrator that 13688
the board of examiners of nursing home administrators administers 13689
under section 4751.04 of the Revised Code or contracts under that 13690
section with a private or government entity to administer; 13691

(v) Records the release of which is prohibited by state or 13692
federal law; 13693

(w) Proprietary information of or relating to any person that 13694

is submitted to or compiled by the Ohio venture capital authority	13695
created under section 150.01 of the Revised Code;	13696
(x) Information reported and evaluations conducted pursuant	13697
to section 3701.072 of the Revised Code;	13698
(y) Financial statements and data any person submits for any	13699
purpose to the Ohio housing finance agency or the controlling	13700
board in connection with applying for, receiving, or accounting	13701
for financial assistance from the agency, and information that	13702
identifies any individual who benefits directly or indirectly from	13703
financial assistance from the agency;	13704
(z) Records listed in section 5101.29 of the Revised Code; <u>i</u>	13705
(aa) Discharges recorded with a county recorder under section	13706
317.24 of the Revised Code, as specified in division (B)(2) of	13707
that section; <u>i</u>	13708
<u>(bb) Usage information including names and addresses of</u>	13709
<u>specific residential and commercial customers of a municipally</u>	13710
<u>owned or operated public utility.</u>	13711
(2) "Confidential law enforcement investigatory record" means	13712
any record that pertains to a law enforcement matter of a	13713
criminal, quasi-criminal, civil, or administrative nature, but	13714
only to the extent that the release of the record would create a	13715
high probability of disclosure of any of the following:	13716
(a) The identity of a suspect who has not been charged with	13717
the offense to which the record pertains, or of an information	13718
source or witness to whom confidentiality has been reasonably	13719
promised;	13720
(b) Information provided by an information source or witness	13721
to whom confidentiality has been reasonably promised, which	13722
information would reasonably tend to disclose the source's or	13723
witness's identity;	13724

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;	13725 13726
(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.	13727 13728 13729
(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.	13730 13731 13732 13733 13734
(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.	13735 13736 13737 13738 13739
(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.	13740 13741 13742 13743 13744 13745 13746 13747 13748
(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.	13749 13750 13751 13752
(7) "Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau	13753 13754 13755

of criminal identification and investigation residential and 13756
familial information" means any information that discloses any of 13757
the following about a peace officer, parole officer, prosecuting 13758
attorney, assistant prosecuting attorney, correctional employee, 13759
youth services employee, firefighter, EMT, or investigator of the 13760
bureau of criminal identification and investigation: 13761

(a) The address of the actual personal residence of a peace 13762
officer, parole officer, assistant prosecuting attorney, 13763
correctional employee, youth services employee, firefighter, EMT, 13764
or an investigator of the bureau of criminal identification and 13765
investigation, except for the state or political subdivision in 13766
which the peace officer, parole officer, assistant prosecuting 13767
attorney, correctional employee, youth services employee, 13768
firefighter, EMT, or investigator of the bureau of criminal 13769
identification and investigation resides; 13770

(b) Information compiled from referral to or participation in 13771
an employee assistance program; 13772

(c) The social security number, the residential telephone 13773
number, any bank account, debit card, charge card, or credit card 13774
number, or the emergency telephone number of, or any medical 13775
information pertaining to, a peace officer, parole officer, 13776
prosecuting attorney, assistant prosecuting attorney, correctional 13777
employee, youth services employee, firefighter, EMT, or 13778
investigator of the bureau of criminal identification and 13779
investigation; 13780

(d) The name of any beneficiary of employment benefits, 13781
including, but not limited to, life insurance benefits, provided 13782
to a peace officer, parole officer, prosecuting attorney, 13783
assistant prosecuting attorney, correctional employee, youth 13784
services employee, firefighter, EMT, or investigator of the bureau 13785
of criminal identification and investigation by the peace 13786
officer's, parole officer's, prosecuting attorney's, assistant 13787

prosecuting attorney's, correctional employee's, youth services 13788
employee's, firefighter's, EMT's, or investigator of the bureau of 13789
criminal identification and investigation's employer; 13790

(e) The identity and amount of any charitable or employment 13791
benefit deduction made by the peace officer's, parole officer's, 13792
prosecuting attorney's, assistant prosecuting attorney's, 13793
correctional employee's, youth services employee's, firefighter's, 13794
EMT's, or investigator of the bureau of criminal identification 13795
and investigation's employer from the peace officer's, parole 13796
officer's, prosecuting attorney's, assistant prosecuting 13797
attorney's, correctional employee's, youth services employee's, 13798
firefighter's, EMT's, or investigator of the bureau of criminal 13799
identification and investigation's compensation unless the amount 13800
of the deduction is required by state or federal law; 13801

(f) The name, the residential address, the name of the 13802
employer, the address of the employer, the social security number, 13803
the residential telephone number, any bank account, debit card, 13804
charge card, or credit card number, or the emergency telephone 13805
number of the spouse, a former spouse, or any child of a peace 13806
officer, parole officer, prosecuting attorney, assistant 13807
prosecuting attorney, correctional employee, youth services 13808
employee, firefighter, EMT, or investigator of the bureau of 13809
criminal identification and investigation; 13810

(g) A photograph of a peace officer who holds a position or 13811
has an assignment that may include undercover or plain clothes 13812
positions or assignments as determined by the peace officer's 13813
appointing authority. 13814

As used in divisions (A)(7) and (B)(9) of this section, 13815
"peace officer" has the same meaning as in section 109.71 of the 13816
Revised Code and also includes the superintendent and troopers of 13817
the state highway patrol; it does not include the sheriff of a 13818
county or a supervisory employee who, in the absence of the 13819

sheriff, is authorized to stand in for, exercise the authority of, 13820
and perform the duties of the sheriff. 13821

As used in divisions (A)(7) and (B)(5) of this section, 13822
"correctional employee" means any employee of the department of 13823
rehabilitation and correction who in the course of performing the 13824
employee's job duties has or has had contact with inmates and 13825
persons under supervision. 13826

As used in divisions (A)(7) and (B)(5) of this section, 13827
"youth services employee" means any employee of the department of 13828
youth services who in the course of performing the employee's job 13829
duties has or has had contact with children committed to the 13830
custody of the department of youth services. 13831

As used in divisions (A)(7) and (B)(9) of this section, 13832
"firefighter" means any regular, paid or volunteer, member of a 13833
lawfully constituted fire department of a municipal corporation, 13834
township, fire district, or village. 13835

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 13836
means EMTs-basic, EMTs-I, and paramedics that provide emergency 13837
medical services for a public emergency medical service 13838
organization. "Emergency medical service organization," 13839
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 13840
section 4765.01 of the Revised Code. 13841

As used in divisions (A)(7) and (B)(9) of this section, 13842
"investigator of the bureau of criminal identification and 13843
investigation" has the meaning defined in section 2903.11 of the 13844
Revised Code. 13845

(8) "Information pertaining to the recreational activities of 13846
a person under the age of eighteen" means information that is kept 13847
in the ordinary course of business by a public office, that 13848
pertains to the recreational activities of a person under the age 13849
of eighteen years, and that discloses any of the following: 13850

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person; 13851
13852
13853

(b) The social security number, birth date, or photographic image of a person under the age of eighteen; 13854
13855

(c) Any medical record, history, or information pertaining to a person under the age of eighteen; 13856
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(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office. 13858
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(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 13864
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(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code. 13866
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(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code. 13868
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(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code. 13872
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(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable 13874
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period of time. If a public record contains information that is 13881
exempt from the duty to permit public inspection or to copy the 13882
public record, the public office or the person responsible for the 13883
public record shall make available all of the information within 13884
the public record that is not exempt. When making that public 13885
record available for public inspection or copying that public 13886
record, the public office or the person responsible for the public 13887
record shall notify the requester of any redaction or make the 13888
redaction plainly visible. A redaction shall be deemed a denial of 13889
a request to inspect or copy the redacted information, except if 13890
federal or state law authorizes or requires a public office to 13891
make the redaction. 13892

(2) To facilitate broader access to public records, a public 13893
office or the person responsible for public records shall organize 13894
and maintain public records in a manner that they can be made 13895
available for inspection or copying in accordance with division 13896
(B) of this section. A public office also shall have available a 13897
copy of its current records retention schedule at a location 13898
readily available to the public. If a requester makes an ambiguous 13899
or overly broad request or has difficulty in making a request for 13900
copies or inspection of public records under this section such 13901
that the public office or the person responsible for the requested 13902
public record cannot reasonably identify what public records are 13903
being requested, the public office or the person responsible for 13904
the requested public record may deny the request but shall provide 13905
the requester with an opportunity to revise the request by 13906
informing the requester of the manner in which records are 13907
maintained by the public office and accessed in the ordinary 13908
course of the public office's or person's duties. 13909

(3) If a request is ultimately denied, in part or in whole, 13910
the public office or the person responsible for the requested 13911
public record shall provide the requester with an explanation, 13912

including legal authority, setting forth why the request was 13913
denied. If the initial request was provided in writing, the 13914
explanation also shall be provided to the requester in writing. 13915
The explanation shall not preclude the public office or the person 13916
responsible for the requested public record from relying upon 13917
additional reasons or legal authority in defending an action 13918
commenced under division (C) of this section. 13919

(4) Unless specifically required or authorized by state or 13920
federal law or in accordance with division (B) of this section, no 13921
public office or person responsible for public records may limit 13922
or condition the availability of public records by requiring 13923
disclosure of the requester's identity or the intended use of the 13924
requested public record. Any requirement that the requester 13925
disclose the requestor's identity or the intended use of the 13926
requested public record constitutes a denial of the request. 13927

(5) A public office or person responsible for public records 13928
may ask a requester to make the request in writing, may ask for 13929
the requester's identity, and may inquire about the intended use 13930
of the information requested, but may do so only after disclosing 13931
to the requester that a written request is not mandatory and that 13932
the requester may decline to reveal the requester's identity or 13933
the intended use and when a written request or disclosure of the 13934
identity or intended use would benefit the requester by enhancing 13935
the ability of the public office or person responsible for public 13936
records to identify, locate, or deliver the public records sought 13937
by the requester. 13938

(6) If any person chooses to obtain a copy of a public record 13939
in accordance with division (B) of this section, the public office 13940
or person responsible for the public record may require that 13941
person to pay in advance the cost involved in providing the copy 13942
of the public record in accordance with the choice made by the 13943
person seeking the copy under this division. The public office or 13944

the person responsible for the public record shall permit that 13945
person to choose to have the public record duplicated upon paper, 13946
upon the same medium upon which the public office or person 13947
responsible for the public record keeps it, or upon any other 13948
medium upon which the public office or person responsible for the 13949
public record determines that it reasonably can be duplicated as 13950
an integral part of the normal operations of the public office or 13951
person responsible for the public record. When the person seeking 13952
the copy makes a choice under this division, the public office or 13953
person responsible for the public record shall provide a copy of 13954
it in accordance with the choice made by the person seeking the 13955
copy. Nothing in this section requires a public office or person 13956
responsible for the public record to allow the person seeking a 13957
copy of the public record to make the copies of the public record. 13958

(7) Upon a request made in accordance with division (B) of 13959
this section and subject to division (B)(6) of this section, a 13960
public office or person responsible for public records shall 13961
transmit a copy of a public record to any person by United States 13962
mail or by any other means of delivery or transmission within a 13963
reasonable period of time after receiving the request for the 13964
copy. The public office or person responsible for the public 13965
record may require the person making the request to pay in advance 13966
the cost of postage if the copy is transmitted by United States 13967
mail or the cost of delivery if the copy is transmitted other than 13968
by United States mail, and to pay in advance the costs incurred 13969
for other supplies used in the mailing, delivery, or transmission. 13970

Any public office may adopt a policy and procedures that it 13971
will follow in transmitting, within a reasonable period of time 13972
after receiving a request, copies of public records by United 13973
States mail or by any other means of delivery or transmission 13974
pursuant to this division. A public office that adopts a policy 13975
and procedures under this division shall comply with them in 13976

performing its duties under this division. 13977

In any policy and procedures adopted under this division, a 13978
public office may limit the number of records requested by a 13979
person that the office will transmit by United States mail to ten 13980
per month, unless the person certifies to the office in writing 13981
that the person does not intend to use or forward the requested 13982
records, or the information contained in them, for commercial 13983
purposes. For purposes of this division, "commercial" shall be 13984
narrowly construed and does not include reporting or gathering 13985
news, reporting or gathering information to assist citizen 13986
oversight or understanding of the operation or activities of 13987
government, or nonprofit educational research. 13988

(8) A public office or person responsible for public records 13989
is not required to permit a person who is incarcerated pursuant to 13990
a criminal conviction or a juvenile adjudication to inspect or to 13991
obtain a copy of any public record concerning a criminal 13992
investigation or prosecution or concerning what would be a 13993
criminal investigation or prosecution if the subject of the 13994
investigation or prosecution were an adult, unless the request to 13995
inspect or to obtain a copy of the record is for the purpose of 13996
acquiring information that is subject to release as a public 13997
record under this section and the judge who imposed the sentence 13998
or made the adjudication with respect to the person, or the 13999
judge's successor in office, finds that the information sought in 14000
the public record is necessary to support what appears to be a 14001
justiciable claim of the person. 14002

(9)(a) Upon written request made and signed by a journalist 14003
on or after December 16, 1999, a public office, or person 14004
responsible for public records, having custody of the records of 14005
the agency employing a specified peace officer, parole officer, 14006
prosecuting attorney, assistant prosecuting attorney, correctional 14007
employee, youth services employee, firefighter, EMT, or 14008

investigator of the bureau of criminal identification and 14009
investigation shall disclose to the journalist the address of the 14010
actual personal residence of the peace officer, parole officer, 14011
prosecuting attorney, assistant prosecuting attorney, correctional 14012
employee, youth services employee, firefighter, EMT, or 14013
investigator of the bureau of criminal identification and 14014
investigation and, if the peace officer's, parole officer's, 14015
prosecuting attorney's, assistant prosecuting attorney's, 14016
correctional employee's, youth services employee's, firefighter's, 14017
EMT's, or investigator of the bureau of criminal identification 14018
and investigation's spouse, former spouse, or child is employed by 14019
a public office, the name and address of the employer of the peace 14020
officer's, parole officer's, prosecuting attorney's, assistant 14021
prosecuting attorney's, correctional employee's, youth services 14022
employee's, firefighter's, EMT's, or investigator of the bureau of 14023
criminal identification and investigation's spouse, former spouse, 14024
or child. The request shall include the journalist's name and 14025
title and the name and address of the journalist's employer and 14026
shall state that disclosure of the information sought would be in 14027
the public interest. 14028

(b) Division (B)(9)(a) of this section also applies to 14029
journalist requests for customer information maintained by a 14030
municipally owned or operated public utility, other than social 14031
security numbers and any private financial information such as 14032
credit reports, payment methods, credit card numbers, and bank 14033
account information. 14034

(c) As used in this division (B)(9) of this section, 14035
"journalist" means a person engaged in, connected with, or 14036
employed by any news medium, including a newspaper, magazine, 14037
press association, news agency, or wire service, a radio or 14038
television station, or a similar medium, for the purpose of 14039
gathering, processing, transmitting, compiling, editing, or 14040

disseminating information for the general public. 14041

(C)(1) If a person allegedly is aggrieved by the failure of a 14042
public office or the person responsible for public records to 14043
promptly prepare a public record and to make it available to the 14044
person for inspection in accordance with division (B) of this 14045
section or by any other failure of a public office or the person 14046
responsible for public records to comply with an obligation in 14047
accordance with division (B) of this section, the person allegedly 14048
aggrieved may commence a mandamus action to obtain a judgment that 14049
orders the public office or the person responsible for the public 14050
record to comply with division (B) of this section, that awards 14051
court costs and reasonable attorney's fees to the person that 14052
instituted the mandamus action, and, if applicable, that includes 14053
an order fixing statutory damages under division (C)(1) of this 14054
section. The mandamus action may be commenced in the court of 14055
common pleas of the county in which division (B) of this section 14056
allegedly was not complied with, in the supreme court pursuant to 14057
its original jurisdiction under Section 2 of Article IV, Ohio 14058
Constitution, or in the court of appeals for the appellate 14059
district in which division (B) of this section allegedly was not 14060
complied with pursuant to its original jurisdiction under Section 14061
3 of Article IV, Ohio Constitution. 14062

If a requestor transmits a written request by hand delivery 14063
or certified mail to inspect or receive copies of any public 14064
record in a manner that fairly describes the public record or 14065
class of public records to the public office or person responsible 14066
for the requested public records, except as otherwise provided in 14067
this section, the requestor shall be entitled to recover the 14068
amount of statutory damages set forth in this division if a court 14069
determines that the public office or the person responsible for 14070
public records failed to comply with an obligation in accordance 14071
with division (B) of this section. 14072

The amount of statutory damages shall be fixed at one hundred 14073
dollars for each business day during which the public office or 14074
person responsible for the requested public records failed to 14075
comply with an obligation in accordance with division (B) of this 14076
section, beginning with the day on which the requester files a 14077
mandamus action to recover statutory damages, up to a maximum of 14078
one thousand dollars. The award of statutory damages shall not be 14079
construed as a penalty, but as compensation for injury arising 14080
from lost use of the requested information. The existence of this 14081
injury shall be conclusively presumed. The award of statutory 14082
damages shall be in addition to all other remedies authorized by 14083
this section. 14084

The court may reduce an award of statutory damages or not 14085
award statutory damages if the court determines both of the 14086
following: 14087

(a) That, based on the ordinary application of statutory law 14088
and case law as it existed at the time of the conduct or 14089
threatened conduct of the public office or person responsible for 14090
the requested public records that allegedly constitutes a failure 14091
to comply with an obligation in accordance with division (B) of 14092
this section and that was the basis of the mandamus action, a 14093
well-informed public office or person responsible for the 14094
requested public records reasonably would believe that the conduct 14095
or threatened conduct of the public office or person responsible 14096
for the requested public records did not constitute a failure to 14097
comply with an obligation in accordance with division (B) of this 14098
section; 14099

(b) That a well-informed public office or person responsible 14100
for the requested public records reasonably would believe that the 14101
conduct or threatened conduct of the public office or person 14102
responsible for the requested public records would serve the 14103
public policy that underlies the authority that is asserted as 14104

permitting that conduct or threatened conduct. 14105

(2)(a) If the court issues a writ of mandamus that orders the 14106
public office or the person responsible for the public record to 14107
comply with division (B) of this section and determines that the 14108
circumstances described in division (C)(1) of this section exist, 14109
the court shall determine and award to the relator all court 14110
costs. 14111

(b) If the court renders a judgment that orders the public 14112
office or the person responsible for the public record to comply 14113
with division (B) of this section, the court may award reasonable 14114
attorney's fees subject to reduction as described in division 14115
(C)(2)(c) of this section. The court shall award reasonable 14116
attorney's fees, subject to reduction as described in division 14117
(C)(2)(c) of this section when either of the following applies: 14118

(i) The public office or the person responsible for the 14119
public records failed to respond affirmatively or negatively to 14120
the public records request in accordance with the time allowed 14121
under division (B) of this section. 14122

(ii) The public office or the person responsible for the 14123
public records promised to permit the relator to inspect or 14124
receive copies of the public records requested within a specified 14125
period of time but failed to fulfill that promise within that 14126
specified period of time. 14127

(c) Court costs and reasonable attorney's fees awarded under 14128
this section shall be construed as remedial and not punitive. 14129
Reasonable attorney's fees shall include reasonable fees incurred 14130
to produce proof of the reasonableness and amount of the fees and 14131
to otherwise litigate entitlement to the fees. The court may 14132
reduce an award of attorney's fees to the relator or not award 14133
attorney's fees to the relator if the court determines both of the 14134
following: 14135

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records as described in division (C)(2)(c)(i) of this section would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. In addition, all public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code.

Except as otherwise provided in this section, the policy may not 14168
limit the number of public records that the public office will 14169
make available to a single person, may not limit the number of 14170
public records that it will make available during a fixed period 14171
of time, and may not establish a fixed period of time before it 14172
will respond to a request for inspection or copying of public 14173
records, unless that period is less than eight hours. 14174

(2) The public office shall distribute the public records 14175
policy adopted by the public office under division (E)(1) of this 14176
section to the employee of the public office who is the records 14177
custodian or records manager or otherwise has custody of the 14178
records of that office. The public office shall require that 14179
employee to acknowledge receipt of the copy of the public records 14180
policy. The public office shall create a poster that describes its 14181
public records policy and shall post the poster in a conspicuous 14182
place in the public office and in all locations where the public 14183
office has branch offices. The public office may post its public 14184
records policy on the internet web site of the public office if 14185
the public office maintains an internet web site. A public office 14186
that has established a manual or handbook of its general policies 14187
and procedures for all employees of the public office shall 14188
include the public records policy of the public office in the 14189
manual or handbook. 14190

(F)(1) The bureau of motor vehicles may adopt rules pursuant 14191
to Chapter 119. of the Revised Code to reasonably limit the number 14192
of bulk commercial special extraction requests made by a person 14193
for the same records or for updated records during a calendar 14194
year. The rules may include provisions for charges to be made for 14195
bulk commercial special extraction requests for the actual cost of 14196
the bureau, plus special extraction costs, plus ten per cent. The 14197
bureau may charge for expenses for redacting information, the 14198
release of which is prohibited by law. 14199

(2) As used in division (F)(1) of this section: 14200

(a) "Actual cost" means the cost of depleted supplies, 14201
records storage media costs, actual mailing and alternative 14202
delivery costs, or other transmitting costs, and any direct 14203
equipment operating and maintenance costs, including actual costs 14204
paid to private contractors for copying services. 14205

(b) "Bulk commercial special extraction request" means a 14206
request for copies of a record for information in a format other 14207
than the format already available, or information that cannot be 14208
extracted without examination of all items in a records series, 14209
class of records, or data base by a person who intends to use or 14210
forward the copies for surveys, marketing, solicitation, or resale 14211
for commercial purposes. "Bulk commercial special extraction 14212
request" does not include a request by a person who gives 14213
assurance to the bureau that the person making the request does 14214
not intend to use or forward the requested copies for surveys, 14215
marketing, solicitation, or resale for commercial purposes. 14216

(c) "Commercial" means profit-seeking production, buying, or 14217
selling of any good, service, or other product. 14218

(d) "Special extraction costs" means the cost of the time 14219
spent by the lowest paid employee competent to perform the task, 14220
the actual amount paid to outside private contractors employed by 14221
the bureau, or the actual cost incurred to create computer 14222
programs to make the special extraction. "Special extraction 14223
costs" include any charges paid to a public agency for computer or 14224
records services. 14225

(3) For purposes of divisions (F)(1) and (2) of this section, 14226
"surveys, marketing, solicitation, or resale for commercial 14227
purposes" shall be narrowly construed and does not include 14228
reporting or gathering news, reporting or gathering information to 14229
assist citizen oversight or understanding of the operation or 14230

activities of government, or nonprofit educational research. 14231

Sec. 149.351. (A) All records are the property of the public 14232
office concerned and shall not be removed, destroyed, mutilated, 14233
transferred, or otherwise damaged or disposed of, in whole or in 14234
part, except as provided by law or under the rules adopted by the 14235
records commissions provided for under sections 149.38 to 149.42 14236
of the Revised Code or under the records programs established by 14237
the boards of trustees of state-supported institutions of higher 14238
education under section 149.33 of the Revised Code. ~~Such~~ Those 14239
records shall be delivered by outgoing officials and employees to 14240
their successors and shall not be otherwise removed, destroyed, 14241
mutilated, or transferred, ~~or destroyed~~ unlawfully. 14242

(B) Any person who is aggrieved by the removal, destruction, 14243
mutilation, or transfer of, or by other damage to or disposition 14244
of a record in violation of division (A) of this section, or by 14245
threat of such removal, destruction, mutilation, transfer, or 14246
other damage to or disposition of such a record, may commence 14247
either or both of the following in the court of common pleas of 14248
the county in which division (A) of this section allegedly was 14249
violated or is threatened to be violated: 14250

(1) A civil action for injunctive relief to compel compliance 14251
with division (A) of this section, and to obtain an award of the 14252
reasonable attorney's fees incurred by the person in the civil 14253
action; 14254

(2) A civil action to recover a forfeiture in the amount of 14255
one thousand dollars for each violation, but not to exceed a 14256
cumulative total of ten thousand dollars, regardless of the number 14257
of violations, and to obtain an award of the reasonable attorney's 14258
fees incurred by the person in the civil action not to exceed the 14259
forfeiture amount recovered. 14260

(C)(1) A person is not aggrieved by a violation of division 14261

(A) of this section if clear and convincing evidence shows that 14262
the request for a record was contrived as a pretext to create 14263
potential liability under this section. The commencement of a 14264
civil action under division (B) of this section waives any right 14265
under this chapter to decline to divulge the purpose for 14266
requesting the record, but only to the extent needed to evaluate 14267
whether the request was contrived as a pretext to create potential 14268
liability under this section. 14269

(2) In a civil action under division (B) of this section, if 14270
clear and convincing evidence shows that the request for a record 14271
was a pretext to create potential liability under this section, 14272
the court may award reasonable attorney's fees to any defendant or 14273
defendants in the action. 14274

(D) Once a person recovers a forfeiture in a civil action 14275
commenced under division (B)(2) of this section, no other person 14276
may recover a forfeiture under that division for a violation of 14277
division (A) of this section involving the same record, regardless 14278
of the number of persons aggrieved by a violation of division (A) 14279
of this section or the number of civil actions commenced under 14280
this section. 14281

(E) A civil action for injunctive relief under division 14282
(B)(1) of this section or a civil action to recover a forfeiture 14283
under division (B)(2) of this section shall be commenced within 14284
six years after the day in which division (A) of this section was 14285
allegedly violated or was threatened to be violated. 14286

Sec. 153.01. (A) Whenever any building or structure for the 14287
use of the state or any institution supported in whole or in part 14288
by the state or in or upon the public works of the state that is 14289
administered by the director of administrative services or by any 14290
other state officer or state agency authorized by law to 14291
administer a project, including an educational institution listed 14292

in section 3345.50 of the Revised Code, is to be erected or 14293
constructed, whenever additions, alterations, or structural or 14294
other improvements are to be made, or whenever heating, cooling, 14295
or ventilating plants or other equipment is to be installed or 14296
material supplied therefor, the ~~aggregate estimated~~ cost of which 14297
amounts to ~~fifty two hundred~~ thousand dollars or more, or the 14298
amount determined pursuant to section 153.53 of the Revised Code 14299
or more, each officer, board, or other authority upon which 14300
devolves the duty of constructing, erecting, altering, or 14301
installing the same, referred to in sections 153.01 to 153.60 of 14302
the Revised Code as the ~~owner~~ public authority, shall cause to be 14303
made, by an architect or engineer whose contract of employment 14304
shall be prepared and approved by the attorney general, the 14305
following: 14306

~~(A)~~(1) Full and accurate plans, suitable for the use of 14307
mechanics and other builders in the construction, improvement, 14308
addition, alteration, or installation; 14309

~~(B)~~(2) Details to scale and full-sized, so drawn and 14310
represented as to be easily understood; 14311

~~(C)~~ ~~Accurate bills showing the exact quantity of different~~ 14312
~~kinds of material necessary to the construction;~~ 14313

~~(D)~~(3) Definite and complete specifications of the work to be 14314
performed, together with directions that will enable a competent 14315
mechanic or other builder to carry them out and afford bidders all 14316
needful information; 14317

~~(E)~~(4) A full and accurate estimate of each item of expense 14318
and the aggregate cost of those items of expense; 14319

~~(F)~~(5) A life-cycle cost analysis; 14320

~~(G)~~(6) Further data as may be required by the department of 14321
administrative services. 14322

(B) The data described in divisions (A)(1) to (6) of this section shall not be required with respect to any work to be performed pursuant to a construction management contract entered into with a construction manager at risk as described in section 9.334 of the Revised Code or pursuant to a design-build contract entered into with a design-build firm as described in section 153.693 of the Revised Code.

Sec. 153.012. With respect to the award of any contract for the construction, reconstruction, improvement, enlargement, alteration, repair, painting, or decoration of a public improvement, including any highway improvement, made by the state or in whole or in part supported by the state and including any subcontract awarded pursuant to section 153.501 of the Revised Code, except for but excluding a contract for products produced or mined in Ohio or for a contract financed in whole or in part by contributions or loans from any agency of the United States government, preference shall be given to contractors or subcontractors having their ~~principle~~ principal place of business in Ohio over ~~contractors~~ contractors or subcontractors having their ~~principle~~ principal place of business in a state which provides a preference in that state in favor of contractors or subcontractors of that state for the same type of work. Where a preference is provided by another state for contractors or subcontractors of that state, contractors or subcontractors having their ~~principle~~ principal place of business in Ohio are to be granted in Ohio the same preference over them in the same manner and on the same basis and to the same extent as the preference is granted in letting contracts or subcontracts for the same type of work by the other state. If one party to a joint venture is a contractor or subcontractors having its ~~principle~~ principal place of business in Ohio, the joint venture shall be considered as having its ~~principle~~ principal place of business in Ohio.

Sec. 153.02. (A) The director of administrative services, on 14355
the director's own initiative or upon request of the Ohio school 14356
facilities commission, may debar a contractor from contract awards 14357
for public improvements as referred to in section 153.01 of the 14358
Revised Code or for projects as defined in section 3318.01 of the 14359
Revised Code, upon proof that the contractor has done any of the 14360
following: 14361

(1) Defaulted on a contract requiring the execution of a 14362
takeover agreement as set forth in division (B) of section 153.17 14363
of the Revised Code; 14364

(2) Knowingly failed during the course of a contract to 14365
maintain the coverage required by the bureau of workers' 14366
compensation; 14367

(3) Knowingly failed during the course of a contract to 14368
maintain the contractor's drug-free workplace program as required 14369
by the contract; 14370

(4) Knowingly failed during the course of a contract to 14371
maintain insurance required by the contract or otherwise by law, 14372
resulting in a substantial loss to the owner, as owner is referred 14373
to in section 153.01 of the Revised Code, or to the commission and 14374
school district board, as provided in division (F) of section 14375
3318.08 of the Revised Code; 14376

(5) Misrepresented the firm's qualifications in the selection 14377
process set forth in sections 153.65 to 153.71 or section 3318.10 14378
of the Revised Code; 14379

(6) Been convicted of a criminal offense related to the 14380
application for or performance of any public or private contract, 14381
including, but not limited to, embezzlement, theft, forgery, 14382
bribery, falsification or destruction of records, receiving stolen 14383
property, and any other offense that directly reflects on the 14384

contractor's business integrity;	14385
(7) Been convicted of a criminal offense under state or federal antitrust laws;	14386 14387
(8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract;	14388 14389 14390
(9) Been debarred from bidding on or participating in a contract with any state or federal agency.	14391 14392
(B) When the director reasonably believes that grounds for debarment exist, the director shall send the contractor a notice of proposed debarment indicating the grounds for the proposed debarment and the procedure for requesting a hearing on the proposed debarment. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code. If the contractor does not respond with a request for a hearing in the manner specified in Chapter 119. of the Revised Code, the director shall issue the debarment decision without a hearing and shall notify the contractor of the decision by certified mail, return receipt requested.	14393 14394 14395 14396 14397 14398 14399 14400 14401 14402 14403
(C) The director shall determine the length of the debarment period and may rescind the debarment at any time upon notification to the contractor. During the period of debarment, the contractor is not eligible to bid for or participate in any contract for a public improvement as referred to in section 153.01 of the Revised Code <u>or for a project as defined in section 3318.01 of the Revised Code</u> . After the debarment period expires, the contractor shall be eligible to bid for and participate in <u>such</u> contracts for a public improvement as referred to in section 153.01 of the Revised Code .	14404 14405 14406 14407 14408 14409 14410 14411 14412
(D) The director, through the office of the state architect, shall maintain a list of all contractors currently debarred under this section. Any governmental entity awarding a contract for	14413 14414 14415

construction of a public improvement or project may use a 14416
contractor's presence on the debarment list to determine whether a 14417
contractor is responsible or best under section 9.312 or any other 14418
section of the Revised Code in the award of a contract. 14419

Sec. 153.03. (A) As used in this section: 14420

(1) "Contracting authority" means any state agency or other 14421
state instrumentality that is authorized to award a public 14422
improvement contract. 14423

(2) "Bidder" means a person who submits a bid to a 14424
contracting authority to perform work under a public improvement 14425
contract. 14426

(3) "Contractor" means any person with whom a contracting 14427
authority has entered into a public improvement contract to 14428
provide labor for a public improvement and includes a construction 14429
manager at risk and a design-build firm. 14430

(4) "Subcontractor" means any person who undertakes to 14431
provide any part of the labor on the site of a public improvement 14432
under a contract with any person other than the contracting 14433
authority, including all such persons in any tier. 14434

(5) "Construction manager" ~~means a person with substantial~~ 14435
~~discretion and authority to plan, coordinate, manage, and direct~~ 14436
~~all phases of a project for the construction, demolition,~~ 14437
~~alteration, repair, or reconstruction of any public building,~~ 14438
~~structure, or other improvement~~ has the same meaning as in section 14439
9.33 of the Revised Code. 14440

(6) "Construction manager at risk" has the same meaning as in 14441
section 9.33 of the Revised Code. 14442

(7) "Design-build firm" has the same meaning as in section 14443
153.65 of the Revised Code. 14444

(8) "Labor" means any activity performed by a person that 14445

contributes to the direct installation of a product, component, or 14446
system, or that contributes to the direct removal of a product, 14447
component, or system. 14448

~~(7)~~(9) "Public improvement contract" means any contract that 14449
is financed in whole or in part with money appropriated by the 14450
general assembly, or that is financed in any manner by a 14451
contracting authority, and that is awarded by a contracting 14452
authority for the construction, alteration, or repair of any 14453
public building, public highway, or other public improvement. 14454

~~(8)~~(10) "State agency" means every organized body, office, or 14455
agency established by the laws of this state for the exercise of 14456
any function of state government. 14457

(B) A contracting authority shall not award a public 14458
improvement contract to a bidder, and a construction manager at 14459
risk or design-build firm shall not award a subcontract pursuant 14460
to section 153.501 of the Revised Code, unless the contract or 14461
subcontract contains both of the following: 14462

(1) The statements described in division (E) of this section; 14463

(2) Terms that require the contractor or subcontractor to be 14464
enrolled in and be in good standing in the drug-free workplace 14465
program of the bureau of workers' compensation or a comparable 14466
program approved by the bureau that requires an employer to do all 14467
of the following: 14468

(a) Develop, implement, and provide to all employees a 14469
written substance use policy that conveys full and fair disclosure 14470
of the employer's expectations that no employee be at work with 14471
alcohol or drugs in the employee's system, and specifies the 14472
consequences for violating the policy. 14473

(b) Conduct drug and alcohol tests on employees in accordance 14474
with division (B)(2)(c) of this section and under the following 14475
conditions: 14476

(i) Prior to an individual's employment or during an employee's probationary period for employment, which shall not exceed one hundred twenty days after the probationary period begins; 14477
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(ii) At random intervals while an employee provides labor or ~~onsite~~ on-site supervision of labor for a public improvement contract. The employer shall use the neutral selection procedures required by the United States department of transportation to determine which employees to test and when to test those employees. 14481
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(iii) After an accident at the site where labor is being performed pursuant to a public improvement contract. For purposes of this division, "accident" has the meaning established in rules the administrator of workers' compensation adopts pursuant to Chapters 4121. and 4123. of the Revised Code for the bureau's drug-free workplace program, as those rules exist on ~~the effective date of this section~~ March 30, 2007. 14487
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(iv) When the employer ~~or a~~ construction manager, ~~construction manager at risk, or design-build firm~~ has reasonable suspicion that prior to an accident an employee may be in violation of the employer's written substance use policy. For purposes of this division, "reasonable suspicion" has the meaning established in rules the administrator adopts pursuant to Chapters 4121. and 4123. of the Revised Code for the bureau's drug-free workplace program, as those rules exist on ~~the effective date of this section~~ March 30, 2007. 14494
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(v) Prior to an employee returning to a work site to provide labor for a public improvement contract after the employee tested positive for drugs or alcohol, and again after the employee returns to that site to provide labor under that contract, as required by either the employer, ~~the~~ construction manager, ~~construction manager at risk, design-build firm,~~ or conditions in 14503
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the contract. 14509

(c) Use the following types of tests when conducting a test 14510
on an employee under the conditions described in division 14511
(B)(2)(b) of this section: 14512

(i) Drug and alcohol testing that uses the federal testing 14513
model that the administrator has incorporated into the bureau's 14514
drug-free workplace program; 14515

(ii) Testing to determine whether the concentration of 14516
alcohol on an employee's breath is equal to or in excess of the 14517
level specified in division (A)(1)(d) or (h) of section 4511.19 of 14518
the Revised Code, which is obtained through an evidentiary breath 14519
test conducted by a breath alcohol technician using breath testing 14520
equipment that meets standards established by the United States 14521
department of transportation, or, if such technician and equipment 14522
are unavailable, a blood test may be used to determine whether the 14523
concentration of alcohol in an employee's blood is equal to or in 14524
excess of the level specified in division (A)(1)(b) or (f) of 14525
section 4511.19 of the Revised Code. 14526

(d) Require all employees to receive at least one hour of 14527
training that increases awareness of and attempts to deter 14528
substance abuse and supplies information about employee assistance 14529
to deal with substance abuse problems, and require all supervisors 14530
to receive one additional hour of training in skill building to 14531
teach a supervisor how to observe and document employee behavior 14532
and intervene when reasonable suspicion exists of substance use; 14533

(e) Require all supervisors and employees to receive the 14534
training described in division (B)(2)(d) of this section before 14535
work for a public improvement contract commences or during the 14536
term of a public improvement contract; 14537

(f) Require that the training described in division (B)(2)(d) 14538
of this section be provided using material prepared by an 14539

individual who has credentials or experience in substance abuse training; 14540
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(g) Assist employees by providing, at a minimum, a list of community resources from which an employee may obtain help with substance abuse problems, except that this requirement does not preclude an employer from having a policy that allows an employer to terminate an employee's employment the first time the employee tests positive for drugs or alcohol or if an employee refuses to be tested for drugs, alcohol, or both. 14542
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(C) Any time the United States department of health and human services changes the federal testing model that the administrator has incorporated into the bureau's drug-free workplace program in a manner that allows additional or new products, protocols, procedures, and standards in the model, the administrator may adopt rules establishing standards to allow employers to use those additional or new products, protocols, procedures, or standards to satisfy the requirements of division (B)(2)(c) of this section, and the bureau may approve an employer's drug-free workplace program that meets the administrator's standards and the other requirements specified in division (B)(2) of this section. 14549
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(D) A contracting authority shall ensure that money appropriated by the general assembly for the contracting authority's public improvement contract or, in the case of a state institution of higher education, the institution's financing for the public improvement contract, is not expended unless the contractor for that contract is enrolled in and in good standing in a drug-free workplace program described in division (B) of this section. Prior to awarding a contract to a bidder, a contracting authority shall verify that the bidder is enrolled in and in good standing in such a program. 14560
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(E) A contracting authority shall include all of the following statements in the public improvement contract entered 14570
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into between the contracting authority and a contractor for the 14572
public improvement: 14573

(1) "Each contractor shall require all subcontractors with 14574
whom the contractor is in contract for the public improvement to 14575
be enrolled in and be in good standing in the Bureau of Workers'
Compensation's Drug-Free Workplace Program or a comparable program 14576
approved by the Bureau that meets the requirements specified in 14577
section 153.03 of the Revised Code prior to a subcontractor 14578
providing labor at the project site of the public improvement." 14579
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(2) "Each subcontractor shall require all lower-tier 14581
subcontractors with whom the subcontractor is in contract for the 14582
public improvement to be enrolled in and be in good standing in 14583
the Bureau of Workers' Compensation's Drug-Free Workplace Program 14584
or a comparable program approved by the Bureau that meets the 14585
requirements specified in section 153.03 of the Revised Code prior 14586
to a lower-tier subcontractor providing labor at the project site 14587
of the public improvement." 14588

(3) "Failure of a contractor to require a subcontractor to be 14589
enrolled in and be in good standing in the Bureau of Workers'
Compensation's Drug-Free Workplace Program or a comparable program 14590
approved by the Bureau that meets the requirements specified in 14591
section 153.03 of the Revised Code prior to the time that the 14592
subcontractor provides labor at the project site will result in 14593
the contractor being found in breach of the contract and that 14594
breach shall be used in the responsibility analysis of that 14595
contractor or the subcontractor who was not enrolled in a program 14596
for future contracts with the state for five years after the date 14597
of the breach." 14598
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(4) "Failure of a subcontractor to require a lower-tier 14600
subcontractor to be enrolled in and be in good standing in the 14601
Bureau of Workers' Compensation's Drug-Free Workplace Program or a 14602
comparable program approved by the Bureau that meets the 14603

requirements specified in section 153.03 of the Revised Code prior 14604
to the time that the lower-tier subcontractor provides labor at 14605
the project site will result in the subcontractor being found in 14606
breach of the contract and that breach shall be used in the 14607
responsibility analysis of that subcontractor or the lower-tier 14608
subcontractor who was not enrolled in a program for future 14609
contracts with the state for five years after the date of the 14610
breach." 14611

(F) In the event a construction manager, construction manager 14612
at risk, or design-build firm intends and is authorized to provide 14613
labor for a public improvement contract, a contracting authority 14614
shall verify, prior to awarding a contract for construction 14615
management services or design-build services, that the 14616
construction manager, construction manager at risk, or 14617
design-build firm was enrolled in and in good standing in a 14618
drug-free workplace program described in division (B) of this 14619
section prior to entering into the public improvement contract. 14620
The contracting authority shall not award a contract for 14621
construction manager services ~~to a construction manager or~~ or 14622
design-build services if the construction manager, construction 14623
manager at risk, or design-build firm is not enrolled in or in 14624
good standing in such a program. 14625

Sec. 153.07. The notice provided for in section 153.06 of the 14626
Revised Code shall be published once each week for three 14627
consecutive weeks in a newspaper of general circulation, or as 14628
provided in section 7.16 of the Revised Code, in the county where 14629
the activity for which bids are submitted is to occur and in such 14630
other newspapers as ordered by the department of administrative 14631
services, the last publication to be at least eight days preceding 14632
the day for opening the bids, and in such form and with such 14633
phraseology as the department orders. Copies of the plans, 14634
details, ~~bills of material~~, estimates of cost, and specifications 14635

shall be open to public inspection at all business hours between 14636
the day of the first publication and the day for opening the bids, 14637
at the office of the department where the bids are received, and 14638
such other place as may be designated in such notice. 14639

Sec. 153.08. On the day and at the place named in the notice 14640
provided for in section 153.06 of the Revised Code, the owner 14641
referred to in section 153.01 of the Revised Code shall open the 14642
bids and shall publicly, with the assistance of the architect or 14643
engineer, immediately proceed to tabulate the bids upon duplicate 14644
sheets. The public bid opening may be broadcast by electronic 14645
means pursuant to rules established by the director of 14646
administrative services. A bid shall be invalid and not considered 14647
unless a bid guaranty meeting the requirements of section 153.54 14648
of the Revised Code and in the form approved by the department of 14649
administrative services is filed with such bid ~~and unless such,~~ 14650
For a bid that is not filed electronically, the bid and bid 14651
guaranty are shall be filed in one sealed envelope. If the bid and 14652
bid guaranty are filed electronically, they must be received 14653
electronically before the deadline published pursuant to section 14654
153.06 of the Revised Code. For all bids filed electronically, the 14655
original, unaltered bid guaranty shall be made available to the 14656
public authority after the public bid opening. After 14657
investigation, which shall be completed within thirty days, the 14658
contract shall be awarded by such owner to the lowest responsive 14659
and responsible bidder in accordance with section 9.312 of the 14660
Revised Code. 14661

No contract shall be entered into until the industrial 14662
commission has certified that the person so awarded the contract 14663
has complied with sections 4123.01 to 4123.94 of the Revised Code, 14664
until, if the bidder so awarded the contract is a foreign 14665
corporation, the secretary of state has certified that such 14666
corporation is authorized to do business in this state, until, if 14667

the bidder so awarded the contract is a person nonresident of this 14668
state, such person has filed with the secretary of state a power 14669
of attorney designating the secretary of state as its agent for 14670
the purpose of accepting service of summons in any action brought 14671
under section 153.05 of the Revised Code or under sections 4123.01 14672
to 4123.94 of the Revised Code, and until the contract and bond, 14673
if any, are submitted to the attorney general and the attorney 14674
general's approval certified thereon. 14675

No contract shall be entered into unless the bidder possesses 14676
a valid certificate of compliance with affirmative action programs 14677
issued pursuant to section 9.47 of the Revised Code and dated no 14678
earlier than one hundred eighty days prior to the date fixed for 14679
the opening of bids for a particular project. 14680

Sec. 153.50. (A) ~~An~~ As used in sections 153.50 to 153.52 of 14681
the Revised Code: 14682

(1) "Construction manager at risk" has the same meaning as in 14683
section 9.33 of the Revised Code. 14684

(2) "Design-assist" means monitoring and assisting in the 14685
completion of the plans and specifications. 14686

(3) "Design-assist firm" means a person capable of performing 14687
design-assist. 14688

(4) "Design-build firm" has the same meaning as in section 14689
153.65 of the Revised Code. 14690

(B) Except for contracts made with a construction manager at 14691
risk or with a design-build firm, an officer, board, or other 14692
authority of the state, a county, township, municipal corporation, 14693
or school district, or of any public institution belonging 14694
thereto, authorized to contract for the erection, repair, 14695
alteration, or rebuilding of a public building, institution, 14696
bridge, culvert, or improvement and required by law to advertise 14697

and receive bids for furnishing of materials and doing the work 14698
necessary for the erection thereof, shall require separate and 14699
distinct bids to be made for furnishing such materials or doing 14700
such work, or both, in their discretion, for each of the following 14701
branches or classes of work to be performed, and all work kindred 14702
thereto, entering into the improvement: 14703

(1) Plumbing and gas fitting; 14704

(2) Steam and hot-water heating, ventilating apparatus, and 14705
steam-power plant; 14706

(3) Electrical equipment. 14707

~~(B)~~(C) A public authority is not required to solicit separate 14708
bids for a branch or class of work specified in division (A) of 14709
this section for an improvement if the estimated cost for that 14710
branch or class of work is less than ~~five~~ twenty thousand dollars. 14711

Sec. 153.501. (A) A public authority may accept a subcontract 14712
awarded by a construction manager at risk, a design-build firm, or 14713
a general contracting firm, or may reject any such contract if the 14714
public authority determines that the bidder is not responsible. 14715

(B) A public authority may authorize a construction manager 14716
at risk or design-build firm to utilize a design-assist firm on 14717
any public improvement project. 14718

(C) If the construction manager at risk or design-build firm 14719
intends and is permitted by the public authority to self-perform a 14720
portion of the work to be performed for the project, the 14721
construction manager at risk or design-build firm shall submit a 14722
sealed bid to the public authority for the portion of the work not 14723
less than seventy-two hours prior to accepting and opening any 14724
bids for the same work. If a guaranteed maximum price has been 14725
established, the amount of the construction manager at risk or the 14726
design-build firm's bid shall not exceed the estimate for the cost 14727

of that portion of the work in the guaranteed maximum price. 14728

(D) The construction manager at risk or design-build firm 14729
shall determine the scope of work for separate and distinct bid 14730
packages and solicit bids from prequalified bidders, consistent 14731
with section 153.502 of the Revised Code. Bid packages for a 14732
subcontract shall be based on complete plans and specifications of 14733
the work to be performed, together with directions to enable a 14734
competent mechanic or other builder to carry out those directions 14735
and any other necessary information. Bids for subcontracts shall 14736
be opened publicly and subcontracts shall be awarded as determined 14737
by the construction manager at risk or design-build firm with 14738
notice to all bidders. The construction manager at risk or 14739
design-build firm shall make an estimate for each subcontract 14740
available to all prospective bidders at least ten days prior to 14741
the acceptance and opening of bids. If a guaranteed maximum price 14742
has been established for the project, the estimates shall be the 14743
estimates established in the guaranteed maximum price for the 14744
respective scopes of work. After a public bid opening, including 14745
any bid submitted in accordance with division (D) of this section, 14746
the construction manager at risk or design-build firm shall make 14747
recommendations to the public authority about the lowest 14748
responsive prequalified bidder. 14749

(E) Each subcontract awarded pursuant to this section shall 14750
be awarded to the lowest responsive prequalified bidder as 14751
determined by the construction manager at risk or design-build 14752
firm after a public bid opening, unless no bid is lower than the 14753
estimate for that subcontract. If no bid for a subcontract is 14754
lower than its estimate, the construction manager at risk or 14755
design-build firm may revise the scope of work and estimate for 14756
that subcontract and may seek new bids, or, subject to the terms 14757
of the contract for the project between the public authority and 14758
the construction manager at risk or design-build firm, use 14759

contingency funds in the guaranteed maximum price to pay the 14760
excess costs without any increase in the guaranteed maximum price. 14761
If a subcontract is awarded to the construction manager at risk or 14762
design-build firm, no contingency funds shall be used to pay any 14763
increase in the subcontract amount. 14764

Sec. 153.502. A contract or subcontract for a project with a 14765
public authority described in section 153.01 of the Revised Code 14766
that is an owner may be awarded only to a bidder on the contract 14767
or subcontract who has been prequalified to bid on contracts or 14768
subcontracts by the department of administrative services under 14769
rules adopted pursuant to section 153.503 of the Revised Code. 14770

Sec. 153.503. (A) The director of administrative services, 14771
pursuant to Chapter 119. of the Revised Code and not later than 14772
June 30, 2012, shall adopt rules for public authorities referred 14773
to in section 153.01 of the Revised Code that are owners to do the 14774
following: 14775

(1) Prescribe the procedures and criteria for determining the 14776
best value selection of a construction manager at risk or 14777
design-build firm; 14778

(2) Prescribe forms, consistent with the forms adopted 14779
pursuant to division (B) of this section, for the contract 14780
documents to be used by a public authority when entering into a 14781
contract with a construction manager at risk or design-build firm. 14782

(3) Establish a program under which the state architect 14783
certifies public authorities as eligible to enter into contracts 14784
with construction managers at risk under sections 9.33 to 9.336 of 14785
the Revised Code and contracts with design-build firms under 14786
sections 153.65 to 153.73 of the Revised Code. 14787

The rules shall include criteria for determining whether the 14788
use of a construction manager at risk or design-build firm is in 14789

the best interests of the public authority and procedures for 14790
administrating contracts with and monitoring the performance of a 14791
construction manager at risk or design-build firm. 14792

(4) Require public authorities to use contract documents that 14793
conform to rules adopted by the director under section 153.16 of 14794
the Revised Code for all subcontracts and that allow amendments 14795
only upon the approval of the state architect. 14796

(5) Establish a program for prequalifying bidders on 14797
subcontracts generally and for specific projects. The criteria for 14798
prequalification shall be consistent with the factors described in 14799
division (B) of section 9.312 of the Revised Code for determining 14800
whether a bidder is a responsible bidder. 14801

(6) Establish procedures for the review, in an expedited 14802
manner, of any denial of prequalification on a contract or 14803
subcontract. In adopting rules under this division, the department 14804
shall consult with public authorities and representatives of the 14805
design and construction industries. The rules shall require that 14806
any bidder that is denied prequalification to bid shall be 14807
notified in writing by the department or the relevant public 14808
authority by certified or registered mail, return receipt 14809
requested, or overnight courier service. The notice shall include 14810
the reasons for denial. 14811

The rules shall require that within seven days after receipt 14812
of the notice, the bidder may file a written notice of protest 14813
with the sender of the notice by certified or registered mail, 14814
return receipt requested, or overnight courier service. The rules 14815
shall require that if a notice of protest is received, the 14816
recipient, either the department or the relevant public authority, 14817
shall conduct an investigation, provide the bidder with an 14818
opportunity to be heard, and issue a written determination to the 14819
bidder upholding or overturning the denial and setting forth the 14820
reasons for the determination. If the bidder has been denied 14821

prequalification for a subcontract for a specific project, the 14822
rules shall provide that the subcontract shall not be awarded to 14823
another bidder until the determination has been issued. 14824

(7) Establish criteria for construction managers at risk and 14825
design-build firms to follow in determining the lowest responsive 14826
prequalified bidder. The rules shall be consistent with the 14827
factors described in divisions (A) and (B) of section 9.312 of the 14828
Revised Code and other applicable laws. The rules shall require 14829
that any rejection of a bidder made by a construction manager at 14830
risk or a design-build firm shall be in writing and shall state 14831
the reasons for the rejection. 14832

The rules adopted under this section shall prohibit the 14833
prequalification of, or awarding of a subcontract to, any bidder 14834
against whom a tax lien or workers' compensation delinquency 14835
exists and is unresolved. 14836

(B) The state architect shall adopt rules in accordance with 14837
Chapter 119. of the Revised Code to prescribe forms for the 14838
contract documents entered into by any public authority described 14839
in section 153.01 of the Revised Code that is an owner. The forms 14840
shall be uniform for all projects of such owners and shall provide 14841
that no contract shall be entered into until the contract and 14842
bond, if any, are submitted to the attorney general and the 14843
attorney general's approval is certified thereon. Any special 14844
provision added or change made on the form for a particular 14845
project shall be valid only if expressly approved in writing by 14846
the state architect. Any objection to a form that is not submitted 14847
to the owner in writing prior to the bid opening shall be 14848
considered waived. 14849

Sec. 153.504. Not later than three years after the director 14850
of administrative services adopts rules pursuant to section 14851
153.503 of the Revised Code, the director shall select a person 14852

that in the director's judgment would best perform an independent study of the prequalification program and commission that person to perform the study. On completion of the study, the person who performed it shall promptly submit the study's results to the governor, the speaker of the house of representatives, and the president of the senate.

Sec. 153.51. (A) When more than one branch or class of work specified in division (A) of section 153.50 of the Revised Code is required, no contract for the entire job, or for a greater portion thereof than is embraced in one such branch or class of work shall be awarded, unless the separate bids do not cover all the work and materials required or the bids for the whole or for two or more kinds of work or materials are lower than the separate bids in the aggregate.

(B)(1) The public authority referred to in section 153.50 of the Revised Code also may award a single, aggregate contract for the entire project pursuant to division (A) of this section. This award shall be made to the bidder who is the lowest responsive and responsible bidder or the lowest and best bidder, as applicable, as specified in section 153.52 of the Revised Code.

(2) The public authority referred to in section 153.50 of the Revised Code may assign all or any portion of its interest in the contract of the lowest responsive and responsible bidder or the lowest and best bidder, as applicable, to another successful bidder as an agreed condition for an award of the contract for the amount of its respective bid. Such assignment may include, but is not limited to, the duty to schedule, coordinate, and administer the contracts.

(C) A public authority referred to in division (A) of section 153.50 of the Revised Code is not required to award separate

contracts for a branch or class of work specified in division (A) 14883
of section 153.50 of the Revised Code entering into an improvement 14884
if the estimated cost for that branch or class of work is less 14885
than ~~five~~ twenty thousand dollars. 14886

Sec. 153.52. The contract for doing the work belonging to 14887
each separate branch or class of work specified in division ~~(A)~~(B) 14888
of section 153.50 of the Revised Code, or for the furnishing of 14889
materials therefor, or both, shall be awarded by the public 14890
authority referred to in section 153.50 of the Revised Code, in 14891
its discretion, to the lowest responsive and responsible separate 14892
bidder therefor, in accordance with section 9.312 of the Revised 14893
Code in the case of any public authority of the state or any 14894
public institution belonging thereto, and to the lowest and best 14895
separate bidder in the case of a county, township, or municipal 14896
corporation, ~~or school district~~, or any public institution 14897
belonging thereto, and to the lowest responsive, separate, and 14898
responsible bidder in the case of a school district, and shall be 14899
made directly with the bidder in the manner and upon the terms, 14900
conditions, and limitations as to giving bond or bid guaranties as 14901
prescribed by law, unless it is let as a whole, or to bidders for 14902
more than one kind of work or materials. Sections 153.50 to 153.52 14903
of the Revised Code do not apply to the erection of buildings and 14904
other structures which cost less than ~~fifty~~ two hundred thousand 14905
dollars. 14906

Sec. 153.53. (A) As used in this section, "rate of inflation" 14907
has the same meaning as in section 107.032 of the Revised Code. 14908
14909

(B) Five years after the effective date of this section and 14910
every five years thereafter, the director of administrative 14911
services shall evaluate the monetary threshold specified in 14912
section 153.01 of the Revised Code and adopt rules adjusting that 14913

amount based on the average rate of inflation during each of the 14914
previous five years immediately preceding such adjustment. 14915

Sec. 153.54. (A) Each person bidding for a contract, 14916
including a subcontract awarded pursuant to section 153.501 of the 14917
Revised Code, with the state or any political subdivision, 14918
district, institution, or other agency thereof, excluding 14919
therefrom the department of transportation, for any public 14920
improvement shall file with the bid, a bid guaranty in the form of 14921
either: 14922

(1) A bond in accordance with division (B) of this section 14923
for the full amount of the bid; 14924

(2) A certified check, cashier's check, or letter of credit 14925
pursuant to Chapter 1305. of the Revised Code, in accordance with 14926
division (C) of this section. Any such letter of credit is 14927
revocable only at the option of the beneficiary state, political 14928
subdivision, district, institution, or agency. The amount of the 14929
certified check, cashier's check, or letter of credit shall be 14930
equal to ten per cent of the bid. 14931

(B) A bid guaranty filed pursuant to division (A)(1) of this 14932
section shall be conditioned to: 14933

(1) Provide that, if the bid is accepted, the bidder, after 14934
the awarding or the recommendation for the award of the contract, 14935
whichever the contracting authority designates, will enter into a 14936
proper contract in accordance with the bid, plans, details, and 14937
specifications, and bills of material. If for any reason, other 14938
than as authorized by section 9.31 of the Revised Code or division 14939
(G) of this section, the bidder fails to enter into the contract, 14940
and the contracting authority awards the contract to the next 14941
lowest bidder, the bidder and the surety on the bidder's bond are 14942
liable to the state, political subdivision, district, institution, 14943
or agency for the difference between the bid and that of the next 14944

lowest bidder, or for a penal sum not to exceed ten per cent of 14945
the amount of the bond, whichever is less. If the state, political 14946
subdivision, district, institution, or agency does not award the 14947
contract to the next lowest bidder but resubmits the project for 14948
bidding, the bidder failing to enter into the contract and the 14949
surety on the bidder's bond, except as provided in division (G) of 14950
this section, are liable to the state, political subdivision, 14951
district, institution, or agency for a penal sum not to exceed ten 14952
per cent of the amount of the bid or the costs in connection with 14953
the resubmission of printing new contract documents, required 14954
advertising, and printing and mailing notices to prospective 14955
bidders, whichever is less. 14956

(2) Indemnify the state, political subdivision, district, 14957
institution, or agency against all damage suffered by failure to 14958
perform the contract according to its provisions and in accordance 14959
with the plans, details, and specifications, ~~and bills of material~~ 14960
therefor and to pay all lawful claims of subcontractors, material 14961
suppliers, and laborers for labor performed or material furnished 14962
in carrying forward, performing, or completing the contract; and 14963
agree and assent that this undertaking is for the benefit of any 14964
subcontractor, material supplier, or laborer having a just claim, 14965
as well as for the state, political subdivision, district, 14966
institution, or agency. 14967

(C)(1) A bid guaranty filed pursuant to division (A)(2) of 14968
this section shall be conditioned to provide that if the bid is 14969
accepted, the bidder, after the awarding or the recommendation for 14970
the award of the contract, whichever the contracting authority 14971
designates, will enter into a proper contract in accordance with 14972
the bid, plans, details, specifications, and bills of material. If 14973
for any reason, other than as authorized by section 9.31 of the 14974
Revised Code or division (G) of this section, the bidder fails to 14975
enter into the contract, and the contracting authority awards the 14976

contract to the next lowest bidder, the bidder is liable to the 14977
state, political subdivision, district, institution, or agency for 14978
the difference between the bidder's bid and that of the next 14979
lowest bidder, or for a penal sum not to exceed ten per cent of 14980
the amount of the bid, whichever is less. If the state, political 14981
subdivision, district, institution, or agency does not award the 14982
contract to the next lowest bidder but resubmits the project for 14983
bidding, the bidder failing to enter into the contract, except as 14984
provided in division (G) of this section, is liable to the state, 14985
political subdivision, district, institution, or agency for a 14986
penal sum not to exceed ten per cent of the amount of the bid or 14987
the costs in connection with the resubmission, of printing new 14988
contract documents, required advertising, and printing and mailing 14989
notices to prospective bidders, whichever is less. 14990

If the bidder enters into the contract, the bidder, at the 14991
time the contract is entered to, shall file a bond for the amount 14992
of the contract to indemnify the state, political subdivision, 14993
district, institution, or agency against all damage suffered by 14994
failure to perform the contract according to its provisions and in 14995
accordance with the plans, details, and specifications, ~~and bills~~ 14996
~~of material therefor~~ and to pay all lawful claims of 14997
subcontractors, material suppliers, and laborers for labor 14998
performed or material furnished in carrying forward, performing, 14999
or completing the contract; and agree and assent that this 15000
undertaking is for the benefit of any subcontractor, material 15001
supplier, or laborer having a just claim, as well as for the 15002
state, political subdivision, district, institution, or agency. 15003

(2) A construction manager who enters into a contract 15004
pursuant to sections 9.33 to 9.333 of the Revised Code, if 15005
required by the public ~~owner~~ authority at the time the 15006
construction manager enters into the contract, shall file a letter 15007
of credit pursuant to Chapter 1305. of the Revised Code, bond, 15008

certified check, or cashier's check, for the value of the 15009
construction management contract to indemnify the state, political 15010
subdivision, district, institution, or agency against all damage 15011
suffered by the construction manager's failure to perform the 15012
contract according to its provisions, and shall agree and assent 15013
that this undertaking is for the benefit of the state, political 15014
subdivision, district, institution, or agency. A letter of credit 15015
provided by the construction manager is revocable only at the 15016
option of the beneficiary state, political subdivision, district, 15017
institution, or agency. 15018

(D) Where the state, political subdivision, district, 15019
institution, or agency accepts a bid but the bidder fails or 15020
refuses to enter into a proper contract in accordance with the 15021
bid, plans, details, and specifications, ~~and bills of material~~ 15022
within ten days after the awarding of the contract, the bidder and 15023
the surety on any bond, except as provided in division (G) of this 15024
section, are liable for the amount of the difference between the 15025
bidder's bid and that of the next lowest bidder, but not in excess 15026
of the liability specified in division (B)(1) or (C) of this 15027
section. Where the state, political subdivision, district, 15028
institution, or agency then awards the bid to such next lowest 15029
bidder and such next lowest bidder also fails or refuses to enter 15030
into a proper contract in accordance with the bid, plans, details, 15031
and specifications, ~~and bills of material~~ within ten days after 15032
the awarding of the contract, the liability of such next lowest 15033
bidder, except as provided in division (G) of this section, is the 15034
amount of the difference between the bids of such next lowest 15035
bidder and the third lowest bidder, but not in excess of the 15036
liability specified in division (B)(1) or (C) of this section. 15037
Liability on account of an award to any lowest bidder beyond the 15038
third lowest bidder shall be determined in like manner. 15039

(E) Notwithstanding division (C) of this section, where the 15040

state, political subdivision, district, institution, or agency 15041
resubmits the project for bidding, each bidder whose bid was 15042
accepted but who failed or refused to enter into a proper 15043
contract, except as provided in division (G) of this section, is 15044
liable for an equal share of a penal sum in connection with the 15045
resubmission, of printing new contract documents, required 15046
advertising, and printing and mailing notices to prospective 15047
bidders, but no bidder's liability shall exceed the amount of the 15048
bidder's bid guaranty. 15049

(F) All bid guaranties filed pursuant to this section shall 15050
be payable to the state, political subdivision, district, 15051
institution, or agency, be for the benefit of the state, political 15052
subdivision, district, institution, or agency or any person having 15053
a right of action thereon, and be deposited with, and held by, the 15054
board, officer, or agent contracting on behalf of the state, 15055
political subdivision, district, institution, or agency. All bonds 15056
filed pursuant to this section shall be issued by a surety company 15057
authorized to do business in this state as surety approved by the 15058
board, officer, or agent awarding the contract on behalf of the 15059
state, political subdivision, district, institution, or agency. 15060

(G) A bidder for a contract with the state or any political 15061
subdivision, district, institution, or other agency thereof, 15062
excluding therefrom the Ohio department of transportation, for a 15063
public improvement costing less than one-half million dollars may 15064
withdraw the bid from consideration if the bidder's bid for some 15065
other contract with the state or any political subdivision, 15066
district, institution, or other agency thereof, excluding 15067
therefrom the department of transportation, for the public 15068
improvement costing less than one-half million dollars has already 15069
been accepted, if the bidder certifies in good faith that the 15070
total amount of all the bidder's current contracts is less than 15071
one-half million dollars, and if the surety certifies in good 15072

faith that the bidder is unable to perform the subsequent contract 15073
because to do so would exceed the bidder's bonding capacity. If a 15074
bid is withdrawn under authority of this division, the contracting 15075
authority may award the contract to the next lowest bidder or 15076
reject all bids and resubmit the project for bidding, and neither 15077
the bidder nor the surety on the bidder's bond are liable for the 15078
difference between the bidder's bid and that of the next lowest 15079
bidder, for a penal sum, or for the costs of printing new contract 15080
documents, required advertising, and printing and mailing notices 15081
to prospective bidders. 15082

(H) Bid guaranties filed pursuant to division (A) of this 15083
section shall be returned to all unsuccessful bidders immediately 15084
after the contract is executed. The bid guaranty filed pursuant to 15085
division (A)(2) of this section shall be returned to the 15086
successful bidder upon filing of the bond required in division (C) 15087
of this section. 15088

(I) For the purposes of this section, "next lowest bidder" 15089
means, in the case of a political subdivision that has adopted the 15090
model Ohio and United States preference requirements promulgated 15091
pursuant to division (E) of section 125.11 of the Revised Code, 15092
the next lowest bidder that qualifies under those preference 15093
requirements. 15094

(J) For the purposes of this section and sections 153.56, 15095
153.57, and 153.571 of the Revised Code, "public improvement," 15096
"subcontractor," "material supplier," "laborer," and "materials" 15097
have the same meanings as in section 1311.25 of the Revised Code. 15098

Sec. 153.55. (A) As used in this section, "public improvement 15099
project" means any construction, reconstruction, improvement, 15100
enlargement, alteration, demolition, engineering, or repair of a 15101
building, highway, drainage system, water system, road, street, 15102
alley, sewer, ditch, sewage disposal plant, water works, bridge, 15103

culvert, or any other structure or work of any nature by or for a 15104
public authority. 15105

(B) For purposes of calculating the amount of a public 15106
improvement project to determine whether it is subject to sections 15107
153.01, 153.50, 153.51, and 153.52 of the Revised Code, no 15108
officer, board, or other authority of the state or any institution 15109
supported by the state, county, township, municipal corporation, 15110
or school district, or of any public institution belonging thereto 15111
shall subdivide a public improvement project into component parts 15112
or separate projects in order to avoid the thresholds of those 15113
sections, unless the component parts or separate projects thus 15114
created are conceptually separate and unrelated to each other, or 15115
encompass independent or unrelated needs. 15116

(C) In calculating the project amount for purposes of the 15117
threshold in section 153.01 of the Revised Code, the following 15118
expenses shall be included as costs of the project: 15119

(1) Professional fees and expenses for services associated 15120
with the preparation of plans; 15121

(2) Permit costs, testing costs, and other fees associated 15122
with the work; 15123

(3) Project construction costs; 15124

(4) A contingency reserve fund. 15125

Sec. 153.56. (A) Any person to whom any money is due for 15126
labor or work performed or materials furnished in a public 15127
improvement as provided in section 153.54 of the Revised Code, at 15128
any time after performing the labor or work or furnishing the 15129
materials, but not later than ninety days after the completion of 15130
the contract by the principal contractor or design-build firm and 15131
the acceptance of the public improvement for which the bond was 15132
provided by the duly authorized board or officer, shall furnish 15133

the sureties on the bond, a statement of the amount due to the person. 15134
15135

(B) A suit shall not be brought against sureties on the bond 15136
until after sixty days after the furnishing of the statement 15137
described in division (A) of this section. If the indebtedness is 15138
not paid in full at the expiration of that sixty days, and if the 15139
person complies with division (C) of this section, the person may 15140
bring an action in the person's own name upon the bond, as 15141
provided in sections 2307.06 and 2307.07 of the Revised Code, that 15142
action to be commenced, notwithstanding section 2305.12 of the 15143
Revised Code, not later than one year from the date of acceptance 15144
of the public improvement for which the bond was provided. 15145

(C) To exercise rights under this section, a subcontractor or 15146
materials supplier supplying labor or materials that cost more 15147
than thirty thousand dollars, who is not in direct privity of 15148
contract with the principal contractor or design-build firm for 15149
the public improvement, shall serve a notice of furnishing upon 15150
the principal contractor or design-build firm in the form provided 15151
in section 1311.261 of the Revised Code. 15152

(D) A subcontractor or materials supplier who serves a notice 15153
of furnishing under division (C) of this section as required to 15154
exercise rights under this section has the right of recovery only 15155
as to amounts owed for labor and work performed and materials 15156
furnished during and after the twenty-one days immediately 15157
preceding service of the notice of furnishing. 15158

(E) For purposes of this section, ~~"principal:~~ 15159

(1) "Design-build firm" has the same meaning as in section 15160
153.65 of the Revised Code. 15161

(2) "Principal contractor" has the same meaning as in section 15162
1311.25 of the Revised Code, and may include a "construction 15163
manager" and a "construction manager at risk" as defined in 15164

section 9.33 of the Revised Code. 15165

Sec. 153.581. As used in sections 153.581 and 153.591 of the Revised Code: 15166
15167

(A) "Public works contract" means any contract awarded by a contracting authority for the construction, engineering, alteration, or repair of any public building, public highway, or other public work, and includes any subcontract awarded pursuant to section 153.501 of the Revised Code. 15168
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(B) "Contracting authority" means the state, any township, county, municipal corporation, school board, or other governmental entity empowered to award a public works contract, and any construction manager at risk as defined in section 9.33 of the Revised Code or design-build firm as defined in section 153.65 of the Revised Code awarding a subcontract. 15173
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(C) "Contractor" means any person, partnership, corporation, or association that has been awarded a public works contract. 15179
15180

Sec. 153.65. As used in sections 153.65 to ~~153.71~~ 153.73 of the Revised Code: 15181
15182

(A)(1) "Public authority" means the state, a state institution of higher education as defined in section 3345.011 of the Revised Code, a county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special purpose district of the state or of a ~~county, township, municipal corporation, school district, or other~~ political subdivision. 15183
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(2) "Public authority" does not include the Ohio turnpike commission. 15190
15191

(B) "Professional design firm" means any person legally engaged in rendering professional design services. 15192
15193

(C) "Professional design services" means services within the 15194
scope of practice of an architect or landscape architect 15195
registered under Chapter 4703. of the Revised Code or a 15196
professional engineer or surveyor registered under Chapter 4733. 15197
of the Revised Code. 15198

(D) "Qualifications" means all of the following: 15199

(1) ~~Competence of the~~ (a) For a professional design firm, 15200
competence to perform the required professional design services as 15201
indicated by the technical training, education, and experience of 15202
the firm's personnel, especially the technical training, 15203
education, and experience of the employees within the firm who 15204
would be assigned to perform the services; 15205

(b) For a design-build firm, competence to perform the 15206
required design-build services as indicated by the technical 15207
training, education, and experience of the design-build firm's 15208
personnel and key consultants, especially the technical training, 15209
education, and experience of the employees and consultants of the 15210
design-build firm who would be assigned to perform the services, 15211
including the proposed architect of record. 15212

(2) Ability of the firm in terms of its workload and the 15213
availability of qualified personnel, equipment, and facilities to 15214
perform the required professional design services or design-build 15215
services competently and expeditiously; 15216

(3) Past performance of the firm as reflected by the 15217
evaluations of previous clients with respect to such factors as 15218
control of costs, quality of work, and meeting of deadlines; 15219

(4) Any other relevant factors as determined by the public 15220
authority; 15221

(5) With respect to a design-build firm, compliance with 15222
sections 4703.182, 4703.332, and 4733.16 of the Revised Code, 15223
including the use of a licensed professional for all design 15224

<u>services.</u>	15225
<u>(E) "Design-build contract" means a contract between a public authority and another person that obligates the person to provide design-build services.</u>	15226 15227 15228
<u>(F) "Design-build firm" means a person capable of providing design-build services.</u>	15229 15230
<u>(G) "Design-build services" means services that form an integrated delivery system for which a person is responsible to a public authority for both the design and construction, demolition, alteration, repair, or reconstruction of a public improvement.</u>	15231 15232 15233 15234
<u>(H) "Architect of record" means the architect that serves as the final signatory on the plans and specifications for the design-build project.</u>	15235 15236 15237
<u>(I) "Criteria architect or engineer" means the architect or engineer retained by a public authority to prepare conceptual plans and specifications, to assist the public authority in connection with the establishment of the design criteria for a design-build project, and, if requested by the public authority, to serve as the representative of the public authority and provide, during the design-build project, other design and construction administration services on behalf of the public authority, including but not limited to, confirming that the design prepared by the design-build firm reflects the original design intent established in the design criteria package.</u>	15238 15239 15240 15241 15242 15243 15244 15245 15246 15247 15248
<u>(J) "Open book pricing method" means a method in which a design-build firm provides the public authority, at the public authority's request, all books, records, documents, contracts, subcontracts, purchase orders, and other data in its possession, other than trade secrets, pertaining to the bidding, pricing, or performance of a contract for design-build services awarded to the design-build firm.</u>	15249 15250 15251 15252 15253 15254 15255

Sec. 153.66. (A) Each public authority planning to contract 15256
for professional design services or design-build services shall 15257
encourage professional design firms and design-build firms to 15258
submit a statement of qualifications and update the statements at 15259
regular intervals. 15260

(B) Notwithstanding any contrary requirements in sections 15261
153.65 to 153.70 of the Revised Code, for every design-build 15262
contract, each public authority planning to contract for 15263
design-build services shall evaluate the statements of 15264
qualifications submitted by design-build firms for the project, 15265
including the qualifications of the design-build firm's proposed 15266
architect of record, in consultation with the criteria architect 15267
or engineer before selecting a design-build firm pursuant to 15268
section 153.693 of the Revised Code. 15269

Sec. 153.67. Each public authority planning to contract for 15270
professional design services or design-build services shall 15271
publicly announce all contracts available from it for such 15272
services. The announcements shall: 15273

(A) Be made in a uniform and consistent manner and shall be 15274
made sufficiently in advance of the time that responses must be 15275
received from qualified professional design firms or design-build 15276
firms for the firms to have an adequate opportunity to submit a 15277
statement of interest in the project; 15278

(B) Include a general description of the project, a statement 15279
of the specific professional design services or design-build 15280
services required, and a description of the qualifications 15281
required for the project; 15282

(C) Indicate how qualified professional design firms or 15283
design-build firms may submit statements of qualifications in 15284
order to be considered for a contract to design or design-build 15285

the project; 15286

(D) Include a statement of intent of the public authority to 15287
delegate specific authority to, or require a guaranteed maximum 15288
price from, the selected design-build firm; 15289

(E) Be sent to either any of the following that the public 15290
authority considers appropriate; 15291

(1) ~~Each professional design firm that has a current~~ 15292
~~statement of qualifications on file with the public authority and~~ 15293
~~is qualified to perform the required professional design services~~ 15294
Design-build firms, including contractors or other entities that 15295
seek to perform the work as a design-build firm; 15296

(2) Architect, landscape architect, engineer, and surveyor 15297
trade associations,~~the;~~ 15298

(3) The news media,~~and any;~~ 15299

(4) Any publications or other public media that the public 15300
authority considers appropriate, including electronic media. 15301

(F) Be made by electronic means pursuant to rules adopted by 15302
the public authority, or if the public authority is described in 15303
section 153.01 of the Revised Code and is an owner, by the 15304
department of administrative services. 15305

Sec. 153.69. For every professional design services contract, 15306
each public authority planning to contract for professional design 15307
services shall evaluate the statements of qualifications of 15308
~~professional design firms currently on file, together with those~~ 15309
~~that are~~ submitted by ~~other~~ professional design firms specifically 15310
regarding the project, and may hold discussions with individual 15311
firms to explore further the firms' statements of qualifications, 15312
the scope and nature of the services the firms would provide, and 15313
the various technical approaches the firms may take toward the 15314
project. Following this evaluation, the public authority shall: 15315

15316

(A) Select and rank no fewer than three firms which it 15317
considers to be the most qualified to provide the required 15318
professional design services, except when the public authority 15319
determines in writing that fewer than three qualified firms are 15320
available in which case the public authority shall select and rank 15321
those firms; 15322

(B) Negotiate a contract with the firm ranked most qualified 15323
to perform the required services at a compensation determined in 15324
writing to be fair and reasonable to the public authority. 15325
Contract negotiations shall be directed toward: 15326

(1) Ensuring that the professional design firm and the agency 15327
have a mutual understanding of the essential requirements involved 15328
in providing the required services; 15329

(2) Determining that the firm will make available the 15330
necessary personnel, equipment, and facilities to perform the 15331
services within the required time; 15332

(3) Agreeing upon compensation which is fair and reasonable, 15333
taking into account the estimated value, scope, complexity, and 15334
nature of the services. 15335

(C) If a contract is negotiated with the firm ranked to 15336
perform the required services most qualified, the public authority 15337
shall, if applicable under section 127.16 of the Revised Code, 15338
request approval of the board to make expenditures under the 15339
contract. 15340

(D) Upon failure to negotiate a contract with the firm ranked 15341
most qualified, the public authority shall inform the firm in 15342
writing of the termination of negotiations and may enter into 15343
negotiations with the firm ranked next most qualified. If 15344
negotiations again fail, the same procedure ~~shall~~ may be followed 15345
with each next most qualified firm selected and ranked pursuant to 15346

division (A) of this section, in order of ranking, until a contract is negotiated.

(E) Should the public authority fail to negotiate a contract with any of the firms selected pursuant to division (A) of this section, the public authority ~~shall~~ may select and rank additional firms, based on their qualifications, and negotiations ~~shall~~ may continue as with the firms selected and ranked initially until a contract is negotiated.

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

Sec. 153.692. (A) A public authority described in section 153.01 of the Revised Code that is an owner shall not contract for design-build services with a design-build firm unless the public authority is certified by the state architect as eligible to enter into such contracts under the program established under section 153.503 of the Revised Code.

A public authority described in section 153.01 of the Revised Code that is not an owner may seek to be certified by the state architect.

(B) For every design-build contract, the public authority planning to contract for design-build services shall first obtain the services of a criteria architect or engineer by doing either of the following:

(1) Contracting for the services consistent with sections 153.65 to 153.70 of the Revised Code;

(2) Obtaining the services through an architect or engineer who is an employee of the public authority and notifying the department of administrative services before the services are performed.

Sec. 153.693. (A) For every design-build contract, the public authority planning to contract for design-build services, in consultation with the criteria architect or engineer, shall evaluate the statements of qualifications submitted by design-build firms specifically regarding the project, including the design-build firm's proposed architect of record. Following this evaluation, the public authority shall:

(1) Select and rank not fewer than three firms which it considers to be the most qualified to provide the required design-build services, except that the public authority shall select and rank fewer than three firms when the public authority determines in writing that fewer than three qualified firms are available;

(2) Provide each selected design-build firm with all of the following:

(a) A description of the project and project delivery;

(b) The design criteria produced by the criteria architect or engineer under section 153.692 of the Revised Code;

(c) A preliminary project schedule;

(d) A description of any preconstruction services;

(e) A description of the proposed design services;

(f) A description of a guaranteed maximum price, including the estimated level of design on which such guaranteed maximum price is based;

(g) The form of the design-build services contract;

(h) A request for a pricing proposal that shall include a design services fee and a preconstruction and design-build services fee. The pricing proposal of each design-build firm shall include at least all of the following:

<u>(i) A list of key personnel and consultants for the project</u>	15406
<u>and the design-build firm's staffing chart;</u>	15407
<u>(ii) Design concepts adhering to the design criteria produced</u>	15408
<u>by the criteria architect or engineer under section 153.692 of the</u>	15409
<u>Revised Code;</u>	15410
<u>(iii) The design-build firm's statement of general conditions</u>	15411
<u>and estimated contingency requirements;</u>	15412
<u>(iv) A preliminary project schedule.</u>	15413
<u>(3) Evaluate the pricing proposal submitted by each selected</u>	15414
<u>firm and, at its discretion, hold discussions with each firm to</u>	15415
<u>further investigate its pricing proposal, including the scope and</u>	15416
<u>nature of the firm's proposed services and potential technical</u>	15417
<u>approaches;</u>	15418
<u>(4) Rank the selected firms based on the public authority's</u>	15419
<u>evaluation of the value of each firm's pricing proposal, with such</u>	15420
<u>evaluation considering each firm's proposed costs and</u>	15421
<u>qualifications;</u>	15422
<u>(5) Enter into contract negotiations for design-build</u>	15423
<u>services with the design-build firm whose pricing proposal the</u>	15424
<u>public authority determines to be the best value under this</u>	15425
<u>section.</u>	15426
<u>(B) In complying with division (A)(5) of this section,</u>	15427
<u>contract negotiations shall be directed toward:</u>	15428
<u>(1) Ensuring that the design-build firm and the public</u>	15429
<u>authority mutually understand the essential requirements involved</u>	15430
<u>in providing the required design-build services, the provisions</u>	15431
<u>for the use of contingency funds, and the terms of the contract;</u>	15432
<u>(2) Ensuring that the design-build firm shall be able to</u>	15433
<u>provide the necessary personnel, equipment, and facilities to</u>	15434
<u>perform the design-build services within the time required by the</u>	15435

design-build construction contract; 15436

(3) Agreeing that the design-build services contract will not 15437
provide for any bonus or other additional compensation to be paid 15438
to the design-build firm for completing the project by a specified 15439
date or achieving savings in the final costs of the project; 15440

(4) Agreeing upon a procedure and schedule for determining a 15441
guaranteed maximum price using an open book pricing method that 15442
shall represent the total maximum amount to be paid by the public 15443
authority to the design-build firm for the project and that shall 15444
include the costs of all work, the cost of its general conditions, 15445
the contingency, the fee payable to the design-build firm, and 15446
that shall permit adjustment of the guaranteed maximum price in 15447
the event of increased costs, including reasonable overhead and 15448
profit, related to matters that are not in the control of the 15449
design-build firm or the subcontractors. 15450

(C) If the public authority fails to negotiate a contract 15451
with the design-build firm whose pricing proposal the public 15452
authority determines to be the best value as determined under this 15453
section, the public authority shall inform the design-build firm 15454
in writing of the termination of negotiations. The public 15455
authority may then do the following: 15456

(1) Negotiate a contract with a design-build firm ranked next 15457
highest under this section following the negotiation procedure 15458
described in this section; 15459

(2) If negotiations fail with the design-build firm under 15460
division (C)(1) of this section, negotiate a contract with the 15461
design-build firm ranked next highest under this section following 15462
the negotiation procedure described in this section and continue 15463
negotiating with the design-build firms selected under this 15464
section in the order of their ranking until a contract is 15465
negotiated. 15466

(D) If the public authority fails to negotiate a contract with a design-build firm whose pricing proposal the public authority determines to be the best value as determined under this section, it may select additional design-build firms to provide pricing proposals to the public authority pursuant to this section or may select an alternative delivery method for the project.

(E) The public authority may provide a stipend for pricing proposals received from design-build firms.

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

Sec. 153.694. If a professional design firm selected as the criteria architect or engineer creates the preliminary criteria and design criteria for a project and provides professional design services to a public authority to assist that public authority in evaluating the design-build requirements provided to the public authority by a design-build firm pursuant to section 153.692 of the Revised Code, that professional design firm shall not provide any design-build services pursuant to a design-build contract under section 153.693 of the Revised Code.

Sec. 153.695. (A) A public authority may delegate to a design-build firm any of the duties, authorities, rights, and responsibilities of the public authority for a project under such terms of indemnity and recourse against the design-build firm as the public authority determines appropriate. Those duties, authorities, rights, and responsibilities include all of the following:

(1) Project design;

(2) Project scheduling;

(3) Bidding for the work on the project;

<u>(4) Awarding contracts for work on the project;</u>	15497
<u>(5) Construction fund management;</u>	15498
<u>(6) Payment under the contracts for the project;</u>	15499
<u>(7) Legal defense of the public authority.</u>	15500
<u>(B) A design-build firm shall not retain from a subcontractor</u>	15501
<u>a greater percentage of the subcontract price than the percentage</u>	15502
<u>of the contract price retained from the design-build firm by the</u>	15503
<u>public authority, if any. With the consent of the public</u>	15504
<u>authority, the design-build firm shall pay all amounts retained</u>	15505
<u>from a subcontractor when the subcontractor's work is completed</u>	15506
<u>and there exists no other reason to withhold the retainage.</u>	15507
Sec. 153.70. (A) Except for any person providing professional	15508
design services of a research or training nature, any person	15509
rendering professional design services to a public authority <u>or to</u>	15510
<u>a design-build firm, including a criteria architect or engineer</u>	15511
<u>and person performing architect of record services,</u> shall have and	15512
maintain, or be covered by, during the period the services are	15513
rendered, a professional liability insurance policy or policies	15514
with a company or companies that are authorized to do business in	15515
this state and that afford professional liability coverage for the	15516
professional design services rendered. The insurance shall be in	15517
amount considered sufficient by the public authority. <u>At the</u>	15518
<u>public authority's discretion, the design-build firm shall carry</u>	15519
<u>contractor's professional liability insurance and any other</u>	15520
<u>insurance the public authority considers appropriate.</u>	15521
	15522
(B) The requirement for professional liability insurance set	15523
forth in division (A) of this section may be waived by the public	15524
authority for good cause, or the public authority may allow the	15525
person providing the professional design services to provide other	15526

assurances of financial responsibility. 15527

(C) Before construction begins pursuant to a contract for 15528
design-build services with a design-build firm, the design-build 15529
firm shall provide a surety bond to the public authority in 15530
accordance with rules adopted by the director of administrative 15531
services under Chapter 119. of the Revised Code. 15532

Sec. 153.71. Any public authority referred to in section 15533
153.01 of the Revised Code that is an owner planning to contract 15534
for professional design services or design-build services may 15535
adopt, amend, or rescind rules, in accordance with Chapter 119. of 15536
the Revised Code, to implement sections 153.66 to 153.70 of the 15537
Revised Code. Sections 153.66 to 153.70 of the Revised Code do not 15538
apply to ~~any~~ either of the following: 15539

(A) Any project with an estimated professional design fee of 15540
less than ~~twenty-five~~ fifty thousand dollars; if both of the 15541
following requirements are met: 15542

(1) The public authority selects a single design professional 15543
or firm from among those that have submitted a current statement 15544
of qualifications within the immediately preceding year, as 15545
provided under section 153.68 of the Revised Code, based on the 15546
public authority's determination that the selected design 15547
professional or firm is the most qualified to provide the required 15548
professional design or design-build services; 15549

(2) The public authority and the selected design professional 15550
or firm comply with division (B) of section 153.69 of the Revised 15551
Code with respect to the negotiation of a contract. 15552

(B) Any project determined in writing by the public authority 15553
head to be an emergency requiring immediate action including, but 15554
not limited to, any projects requiring multiple contracts let as 15555
part of a program requiring a large number of professional design 15556

firms of the same type+	15557
(C) Any public authority that is not empowered by law to	15558
contract for professional design services.	15559
<u>Sec. 153.72. A design-build firm contracted for design-build</u>	15560
<u>services by a public authority may do either of the following:</u>	15561
<u>(A) Perform design, construction, demolition, alteration,</u>	15562
<u>repair, or reconstruction work pursuant to such contract;</u>	15563
<u>(B) Perform professional design services when contracted by a</u>	15564
<u>public authority for design-build services even if the</u>	15565
<u>design-build firm is not a professional design firm.</u>	15566
<u>Sec. 153.73. The requirements set forth in sections 153.65 to</u>	15567
<u>153.72 of the Revised Code for the bidding, selection, and award</u>	15568
<u>of a contract for professional design services or design-build</u>	15569
<u>services by a public authority prevail in the event of any</u>	15570
<u>conflict with any other provision of this chapter.</u>	15571
Sec. 153.80. (A) A contract for the construction, demolition,	15572
alteration, repair, or reconstruction of a public improvement	15573
entered into on or after the effective date of this section <u>April</u>	15574
<u>16, 1993,</u> shall be deemed to include the provisions contained in	15575
division (B) of this section.	15576
(B)(1) In regard to any bond filed by the contractor for the	15577
work contracted, the contracting authority, in its sole	15578
discretion, may reduce the bond required by twenty-five per cent	15579
of the total amount of the bond after at least fifty per cent of	15580
the work contracted for has been completed and by fifty per cent	15581
after at least seventy-five per cent of the work contracted for	15582
has been completed provided that all of the following conditions	15583
are met:	15584
(a) The contracting authority determines that the percentage	15585

of the work that has been completed at the time of determination 15586
has been satisfactorily performed and meets the terms of the 15587
contract, including a provision in regard to the time when the 15588
whole or any specified portion of work contemplated in the 15589
contract must be completed; 15590

(b) The contracting authority determines that no disputed 15591
claim caused by the contractor exists or remains unresolved; 15592

(c) The successful bid upon which the contract is based was 15593
not more than ten per cent below the next lowest bid or not more 15594
than ten per cent below a cost estimate for the work as published 15595
by the contracting authority. 15596

(2) In regard to the amount of any funds retained, the 15597
contracting authority, in its sole discretion, may reduce the 15598
amount of funds retained pursuant to ~~section~~ sections 153.12 and 15599
153.14 of the Revised Code for the faithful performance of work by 15600
fifty per cent of the amount of funds required to be retained 15601
pursuant to those sections, provided that the surety on the bond 15602
remains liable for all of the following that are caused due to 15603
default by the contractor: 15604

(a) Completion of the job; 15605

(b) All delay claims; 15606

(c) All liquidated damages; 15607

(d) All additional expenses incurred by the contracting 15608
authority. 15609

(C) As used in this section: 15610

(1) "Contracting authority" means an officer, board, or other 15611
authority of the state, a county, township, municipal corporation, 15612
or school district, or of any other political subdivision of the 15613
state, authorized to contract for the construction, demolition, 15614
alteration, repair, or reconstruction of a public improvement, and 15615

any construction manager at risk as defined in section 9.33 of the Revised Code or design-build firm as defined in section 153.65 of the Revised Code awarding a subcontract, but does not include an officer, board, or other authority of the department of transportation.

(2) "Delay claim" means a claim that arises due to default on provisions in a contract in regard to the time when the whole or any specified portion of work contemplated in the contract must be completed.

Sec. 154.02. (A) Pursuant to the provisions of Chapter 154. of the Revised Code, the issuing authority may issue obligations as from time to time authorized by or pursuant to act or resolution of the general assembly, consistent with such limitations thereon, subject to section 154.12 of the Revised Code, as the general assembly may thereby prescribe as to principal amount, bond service charges, or otherwise, and shall cause the proceeds thereof to be applied to those capital facilities designated by or pursuant to act of the general assembly for any of the following:

(1) Mental hygiene and retardation, including housing for mental hygiene and retardation patients under Section 16 of Article VIII, Ohio Constitution;

(2) State supported and assisted institutions of higher education, including community or technical education colleges;

(3) Parks and recreation;

(4) Ohio cultural facilities;

(5) Ohio sports facilities;

(6) Housing of branches and agencies of state government.

(B) The authority provided by Chapter 154. of the Revised Code is in addition to any other authority provided by law for the

same or similar purposes, except as may otherwise specifically be 15646
provided in Chapter 154. of the Revised Code. In case any section 15647
or provision of Chapter 154. of the Revised Code or in case any 15648
covenant, stipulation, obligation, resolution, trust agreement, 15649
indenture, lease agreement, act, or action, or part thereof, made, 15650
assumed, entered into, or taken under Chapter 154. of the Revised 15651
Code, or any application thereof, is for any reason held to be 15652
illegal or invalid, such illegality or invalidity shall not affect 15653
the remainder thereof or any other section or provision of Chapter 15654
154. of the Revised Code or any other covenant, stipulation, 15655
obligation, resolution, trust agreement, indenture, lease, 15656
agreement, act, or action, or part thereof, made, assumed, entered 15657
into, or taken under such chapter, which shall be construed and 15658
enforced as if such illegal or invalid portion were not contained 15659
therein, nor shall such illegality or invalidity or any 15660
application thereof affect any legal and valid application 15661
thereof, and each such section, provision, covenant, stipulation, 15662
obligation, resolution, trust agreement, indenture, lease, 15663
agreement, act, or action, or part thereof, shall be deemed to be 15664
effective, operative, made, entered into or taken in the manner 15665
and to the full extent permitted by law. 15666

Sec. 154.07. For the respective purposes provided in sections 15667
154.20, 154.21, 154.22, ~~and 154.23,~~ 154.24, and 154.25 of the 15668
Revised Code, the issuing authority may issue obligations of the 15669
state of Ohio as provided in Chapter 154. of the Revised Code, 15670
provided that the holders or owners of obligations shall have no 15671
right to have excises or taxes levied by the general assembly for 15672
the payment of the bond service charges. The right of holders and 15673
owners to payment of bond service charges shall be limited to the 15674
revenues or receipts and funds pledged thereto in accordance with 15675
Chapter 154. of the Revised Code, and each obligation shall bear 15676
on its face a statement to that effect. Chapter 154. of the 15677

Revised Code does not permit, and no provision of that chapter 15678
shall be applied to authorize or grant, a pledge of charges for 15679
the treatment or care of mental hygiene and retardation patients 15680
to bond service charges on obligations other than those issued for 15681
capital facilities for mental hygiene and retardation, or a pledge 15682
of any receipts of or on behalf of state supported or state 15683
assisted institutions of higher education to bond service charges 15684
on obligations other than those issued for capital facilities for 15685
state supported or state assisted institutions of higher 15686
education, or a pledge of receipts with respect to parks and 15687
recreation to bond service charges on obligations other than those 15688
issued for capital facilities for parks and recreation, or a 15689
pledge of revenues or receipts received by or on behalf of any 15690
state agency to bond service charges on obligations other than 15691
those issued for capital facilities which are in whole or in part 15692
useful to, constructed by, or financed by the state agency that 15693
receives the revenues or receipts so pledged. 15694

Sec. 154.11. The issuing authority may authorize and issue 15695
obligations for the refunding, including funding and retirement, 15696
of any obligations previously issued under this chapter and any 15697
bonds or notes previously issued under Chapter 152. of the Revised 15698
Code ~~to pay costs of capital facilities leased to the Ohio~~ 15699
~~cultural facilities commission, formerly known as the Ohio arts~~ 15700
~~and sports facilities commission.~~ Such obligations may be issued 15701
in amounts sufficient for payment of the principal amount of the 15702
prior obligations, any redemption premiums thereon, principal 15703
maturities of any such obligations maturing prior to the 15704
redemption of the remaining obligations on a parity therewith, 15705
interest accrued or to accrue to the maturity dates or dates of 15706
redemption of such obligations, and any expenses incurred or to be 15707
incurred in connection with such issuance and such refunding, 15708
funding, and retirement. Subject to the bond proceedings therefor, 15709

the portion of proceeds of the sale of obligations issued under 15710
this section to be applied to bond service charges on the prior 15711
obligations shall be credited to the bond service fund for those 15712
prior obligations. Obligations authorized under this section shall 15713
be deemed to be issued for those purposes for which those prior 15714
obligations were issued and are subject to the provisions of 15715
Chapter 154. of the Revised Code pertaining to other obligations, 15716
except as otherwise indicated by this section and except for 15717
division (A) of section 154.02 of the Revised Code, provided that, 15718
unless otherwise authorized by the general assembly, any 15719
limitations imposed by the general assembly pursuant to that 15720
division with respect to bond service charges applicable to the 15721
prior obligations shall be applicable to the obligations issued 15722
under this section to refund, fund, or retire those prior 15723
obligations. 15724

Sec. 154.24. (A) In addition to the definitions provided in 15725
section 154.01 of the Revised Code: 15726

(1) "Capital facilities" includes, for purposes of this 15727
section, storage and parking facilities related to such capital 15728
facilities. 15729

(2) "Costs of capital facilities" includes, for purposes of 15730
this section, the costs of assessing, planning, and altering 15731
capital facilities, and the financing thereof, all related direct 15732
administrative expenses and allocable portions of direct costs of 15733
lessee state agencies, and all other expenses necessary or 15734
incident to the assessment, planning, alteration, maintenance, 15735
equipment, or furnishing of capital facilities and the placing of 15736
the same in use and operation, including any one, part of, or 15737
combination of such classes of costs and expenses. 15738

(3) "Governmental agency" includes, for purposes of this 15739
section, any state of the United States or any department, 15740

division, or agency of any state. 15741

(4) "State agency" includes, for purposes of this section, 15742
branches, authorities, courts, the general assembly, counties, 15743
municipal corporations, and any other governmental entities of 15744
this state that enter into leases with the commission pursuant to 15745
this section or that are designated by law as state agencies for 15746
the purpose of performing a state function that is to be housed by 15747
a capital facility for which the issuing authority is authorized 15748
to issue revenue obligations pursuant to this section. 15749

(B) Subject to authorization by the general assembly under 15750
section 154.02 of the Revised Code, the issuing authority may 15751
issue obligations pursuant to this chapter to pay costs of capital 15752
facilities for housing branches and agencies of state government, 15753
including capital facilities for the purpose of housing personnel, 15754
equipment, or functions, or any combination thereof that a state 15755
agency is responsible for housing, including obligations to pay 15756
the costs of capital facilities described in section 307.021 of 15757
the Revised Code, and the costs of capital facilities in which one 15758
or more state agencies are participating with the federal 15759
government, municipal corporations, counties, or other 15760
governmental entities, or any one or more of them, and in which 15761
that portion of the facility allocated to the participating state 15762
agencies is to be used for the purpose of housing branches and 15763
agencies of state government including housing personnel, 15764
equipment, or functions, or any combination thereof. Such 15765
participation may be by grants, loans, or contributions to other 15766
participating governmental agencies for any of those capital 15767
facilities. 15768

(C) The commission may lease any capital facilities for 15769
housing branches and agencies of state government to, and make or 15770
provide for other agreements with respect to the use or purchase 15771
of such capital facilities with, any state agency or governmental 15772

agency having authority under law to operate such capital facilities. 15773
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(D)(1) For purposes of this division, "available receipts" means fees, charges, revenues, grants, subsidies, income from the investment of moneys, proceeds from the sale of goods or services, and all other revenues or receipts derived from the operation, leasing, or other disposition of capital facilities financed with obligations issued under this section or received by or on behalf of any state agency for which capital facilities are financed with obligations issued under this section or any state agency participating in or by which the capital facilities are constructed or financed; the proceeds of obligations issued under this section and sections 154.11 or 154.12 of the Revised Code; and any moneys appropriated by a governmental agency, and gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges on such obligations. 15775
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(2) The issuing authority may pledge all, or such portion as it determines, of the available receipts to the payment of bond service charges on obligations issued under this section and section 154.11 or 154.12 of the Revised Code and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to such available receipts as authorized by this chapter, which provisions shall be controlling notwithstanding any other provision of law pertaining thereto. 15789
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(E) There are hereby created in the custody of the treasurer of state, but separate and apart from and not a part of the state treasury, the administrative facilities bond service trust fund, the adult correctional facilities bond service trust fund, the juvenile correctional facilities bond service trust fund, and the public safety bond service trust fund. All money received by or on account of the issuing authority or the commission and required by 15798
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the applicable bond proceedings to be deposited, transferred, or 15805
credited to any of these funds, and all other money transferred or 15806
allocated to or received for the purposes of any of these funds, 15807
shall be deposited with the treasurer of state and credited to 15808
such fund, subject to applicable provisions of the bond 15809
proceedings, but without necessity for any act or appropriation. 15810
These bond service funds are trust funds and are hereby pledged to 15811
the payment of bond service charges on the applicable obligations 15812
issued pursuant to this section and section 154.11 or 154.12 of 15813
the Revised Code to the extent provided in the applicable bond 15814
proceedings, and payment thereof from such funds shall be made or 15815
provided for by the treasurer of state in accordance with such 15816
bond proceedings without necessity for any act or appropriation. 15817

(F) There are hereby created in the state treasury the 15818
administrative building fund, the adult correctional building 15819
fund, the juvenile correctional building fund, and the public 15820
safety building fund. Subject to the bond proceedings therefor, 15821
the proceeds of the sale of obligations pursuant to this section 15822
shall be credited to the appropriate fund, except that any accrued 15823
interest shall be credited to the appropriate bond service trust 15824
fund created pursuant to this section. These funds may also 15825
consist of gifts, grants, appropriated money, and other sums and 15826
securities received to the credit of such fund. All investment 15827
earnings of each fund shall be credited to the fund. The funds 15828
shall be applied to pay the costs of capital facilities as defined 15829
in this section and set forth in the bond proceedings. 15830

(G) This section is to be applied with other applicable 15831
provisions of this chapter. 15832

Sec. 154.25. (A) As used in this section: 15833

(1) "Available community or technical college receipts" means 15834
all money received by a community or technical college or 15835

community or technical college district, including income, 15836
revenues, and receipts from the operation, ownership, or control 15837
of facilities, grants, gifts, donations, and pledges and receipts 15838
therefrom, receipts from fees and charges, the allocated state 15839
share of instruction as defined in section 3333.90 of the Revised 15840
Code, and the proceeds of the sale of obligations, including 15841
proceeds of obligations issued to refund obligations previously 15842
issued, but excluding any special fee, and receipts therefrom, 15843
charged pursuant to division (D) of section 154.21 of the Revised 15844
Code. 15845

(2) "Community or technical college," "college," "community 15846
or technical college district," and "district" have the same 15847
meanings as in section 3333.90 of the Revised Code. 15848

(3) "Community or technical college capital facilities" means 15849
auxiliary facilities, education facilities, and housing and dining 15850
facilities, as those terms are defined in section 3345.12 of the 15851
Revised Code, to the extent permitted to be financed by the 15852
issuance of obligations under division (A)(2) of section 3357.112 15853
of the Revised Code, that are authorized by sections 3354.121, 15854
3357.112, and 3358.10 of the Revised Code to be financed by 15855
obligations issued by a community or technical college district, 15856
and for which the issuing authority is authorized to issue 15857
obligations pursuant to this section, and includes any one, part 15858
of, or any combination of the foregoing, and further includes site 15859
improvements, utilities, machinery, furnishings, and any separate 15860
or connected buildings, structures, improvements, sites, open 15861
space and green space areas, utilities, or equipment to be used 15862
in, or in connection with the operation or maintenance of, or 15863
supplementing or otherwise related to the services or facilities 15864
to be provided by, such facilities. 15865

(4) "Cost of community or technical college capital 15866
facilities" means the costs of acquiring, constructing, 15867

reconstructing, rehabilitating, remodeling, renovating, enlarging, 15868
improving, equipping, or furnishing community or technical college 15869
capital facilities, and the financing thereof, including the cost 15870
of clearance and preparation of the site and of any land to be 15871
used in connection with community or technical college capital 15872
facilities, the cost of any indemnity and surety bonds and 15873
premiums on insurance, all related direct administrative expenses 15874
and allocable portions of direct costs of the commission and the 15875
issuing authority, community or technical college or community or 15876
technical college district, cost of engineering, architectural 15877
services, design, plans, specifications and surveys, estimates of 15878
cost, legal fees, fees and expenses of trustees, depositories, 15879
bond registrars, and paying agents for obligations, cost of 15880
issuance of obligations and financing costs and fees and expenses 15881
of financial advisers and consultants in connection therewith, 15882
interest on obligations from the date thereof to the time when 15883
interest is to be covered by available receipts or other sources 15884
other than proceeds of those obligations, amounts necessary to 15885
establish reserves as required by the bond proceedings, costs of 15886
audits, the reimbursements of all moneys advanced or applied by or 15887
borrowed from the community or technical college, community or 15888
technical college district, or others, from whatever source 15889
provided, including any temporary advances from state 15890
appropriations, for the payment of any item or items of cost of 15891
community or technical college facilities, and all other expenses 15892
necessary or incident to planning or determining feasibility or 15893
practicability with respect to such facilities, and such other 15894
expenses as may be necessary or incident to the acquisition, 15895
construction, reconstruction, rehabilitation, remodeling, 15896
renovation, enlargement, improvement, equipment, and furnishing of 15897
community or technical college capital facilities, the financing 15898
thereof and the placing of them in use and operation, including 15899
any one, part of, or combination of such classes of costs and 15900

expenses. 15901

(5) "Capital facilities" includes community or technical college capital facilities. 15902
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(6) "Obligations" has the same meaning as in section 154.01 or 3345.12 of the Revised Code, as the context requires. 15904
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(B) The issuing authority is authorized to issue revenue obligations under Section 2i of Article VIII, Ohio Constitution, on behalf of a community or technical college district and shall cause the net proceeds thereof, after any deposits of accrued interest for the payment of bond service charges and after any deposit of all or such lesser portion as the issuing authority may direct of the premium received upon the sale of those obligations for the payment of the bond service charges, to be applied to the cost of community or technical college capital facilities, provided that the issuance of such obligations is subject to the execution of a written agreement in accordance with division (C) of section 3333.90 of the Revised Code for the withholding and depositing of funds otherwise due the district, or the college it operates, in respect of its allocated state share of instruction. 15906
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(C) The bond service charges and all other payments required to be made by the trust agreement or indenture securing the obligations shall be payable solely from available community or technical college receipts pledged thereto as provided in the resolution. The available community or technical college receipts pledged and thereafter received by the commission are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the authority, irrespective of whether those parties have notice thereof, and creates a perfected security interest for all purposes of Chapter 1309. of the Revised Code and a perfected lien for purposes of any real property interest, all without the 15920
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necessity for separation or delivery of funds or for the filing or 15933
recording of the resolution, trust agreement, indenture, or other 15934
agreement by which such pledge is created or any certificate, 15935
statement, or other document with respect thereto; and the pledge 15936
of such available community or technical college receipts is 15937
effective and the money therefrom and thereof may be applied to 15938
the purposes for which pledged. Every pledge, and every covenant 15939
and agreement made with respect to the pledge, made in the 15940
resolution may therein be extended to the benefit of the owners 15941
and holders of obligations authorized by this section, and to any 15942
trustee therefor, for the further securing of the payment of the 15943
bond service charges, and all or any rights under any agreement or 15944
lease made under this section may be assigned for such purpose. 15945

(D) This section is to be applied with other applicable 15946
provisions of this chapter. 15947

Sec. 166.02. (A) The general assembly finds that many local 15948
areas throughout the state are experiencing economic stagnation or 15949
decline, and that the economic development programs provided for 15950
in this chapter will constitute deserved, necessary reinvestment 15951
by the state in those areas, materially contribute to their 15952
economic revitalization, and result in improving the economic 15953
welfare of all the people of the state. Accordingly, it is 15954
declared to be the public policy of the state, through the 15955
operations of this chapter and other applicable laws adopted 15956
pursuant to Section 2p or 13 of Article VIII, Ohio Constitution, 15957
and other authority vested in the general assembly, to assist in 15958
and facilitate the establishment or development of eligible 15959
projects or assist and cooperate with any governmental agency in 15960
achieving such purpose. 15961

(B) In furtherance of such public policy and to implement 15962
such purpose, the director of development may: 15963

(1) After consultation with appropriate governmental agencies, enter into agreements with persons engaged in industry, commerce, distribution, or research and with governmental agencies to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, or furnish, or otherwise develop, eligible projects and make provision therein for project facilities and governmental actions, as authorized by this chapter and other applicable laws, subject to any required actions by the general assembly or the controlling board and subject to applicable local government laws and regulations;

(2) Provide for the guarantees and loans as provided for in sections 166.06 and 166.07 of the Revised Code;

(3) Subject to release of such moneys by the controlling board, contract for labor and materials needed for, or contract with others, including governmental agencies, to provide, project facilities the allowable costs of which are to be paid for or reimbursed from moneys in the facilities establishment fund, and contract for the operation of such project facilities;

(4) Subject to release thereof by the controlling board, from moneys in the facilities establishment fund acquire or contract to acquire by gift, exchange, or purchase, including the obtaining and exercise of purchase options, property, and convey or otherwise dispose of, or provide for the conveyance or disposition of, property so acquired or contracted to be acquired by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to and as the director determines to be appropriate to satisfy the objectives of sections 166.01 to 166.11 of the Revised Code;

(5) Retain the services of or employ financial consultants,

appraisers, consulting engineers, superintendents, managers, 15996
construction and accounting experts, attorneys, and employees, 15997
agents, and independent contractors as are necessary in the 15998
director's judgment and fix the compensation for their services; 15999

(6) Receive and accept from any person grants, gifts, and 16000
contributions of money, property, labor, and other things of 16001
value, to be held, used and applied only for the purpose for which 16002
such grants, gifts, and contributions are made; 16003

(7) Enter into appropriate arrangements and agreements with 16004
any governmental agency for the taking or provision by that 16005
governmental agency of any governmental action; 16006

(8) Do all other acts and enter into contracts and execute 16007
all instruments necessary or appropriate to carry out the 16008
provisions of this chapter; 16009

(9) Adopt rules to implement any of the provisions of this 16010
chapter applicable to the director. 16011

(C) The determinations by the director that facilities 16012
constitute eligible projects, that facilities are project 16013
facilities, that costs of such facilities are allowable costs, and 16014
all other determinations relevant thereto or to an action taken or 16015
agreement entered into shall be conclusive for purposes of the 16016
validity and enforceability of rights of parties arising from 16017
actions taken and agreements entered into under this chapter. 16018

(D) Except as otherwise prescribed in this chapter, all 16019
expenses and obligations incurred by the director in carrying out 16020
the director's powers and in exercising the director's duties 16021
under this chapter, shall be payable solely from, as appropriate, 16022
moneys in the facilities establishment fund, the loan guarantee 16023
fund, the innovation Ohio loan guarantee fund, the innovation Ohio 16024
loan fund, the research and development loan fund, the logistics 16025
and distribution infrastructure fund, the logistics and 16026

distribution infrastructure taxable bond fund, or moneys 16027
appropriated for such purpose by the general assembly. This 16028
chapter does not authorize the director or the issuing authority 16029
under section 166.08 of the Revised Code to incur bonded 16030
indebtedness of the state or any political subdivision thereof, or 16031
to obligate or pledge moneys raised by taxation for the payment of 16032
any bonds or notes issued or guarantees made pursuant to this 16033
chapter. 16034

~~(E) No financial assistance for project facilities shall be 16035
provided under this chapter unless the provisions of the agreement 16036
providing for such assistance specify that all wages paid to 16037
laborers and mechanics employed on such project facilities for 16038
which the assistance is granted shall be paid at the prevailing 16039
rates of wages of laborers and mechanics for the class of work 16040
called for by such project facilities, which wages shall be 16041
determined in accordance with the requirements of Chapter 4115. of 16042
the Revised Code for determination of prevailing wage rates, 16043
provided that the requirements of this division do not apply where 16044
the federal government or any of its agencies provides financing 16045
assistance as to all or any part of the funds used in connection 16046
with such project facilities and prescribes predetermined minimum 16047
wages to be paid to such laborers and mechanics; and provided 16048
further that should a nonpublic user beneficiary of the eligible 16049
project undertake, as part of the eligible project, construction 16050
to be performed by its regular bargaining unit employees who are 16051
covered under a collective bargaining agreement which was in 16052
existence prior to the date of the document authorizing such 16053
assistance then, in that event, the rate of pay provided under the 16054
collective bargaining agreement may be paid to such employees. 16055~~

~~(F) Any governmental agency may enter into an agreement with 16056
the director, any other governmental agency, or a person to be 16057
assisted under this chapter, to take or provide for the purposes 16058~~

of this chapter any governmental action it is authorized to take 16059
or provide, and to undertake on behalf and at the request of the 16060
director any action which the director is authorized to undertake 16061
pursuant to divisions (B)(3), (4), and (5) of this section or 16062
divisions (B)(3), (4), and (5) of section 166.12 of the Revised 16063
Code. Governmental agencies of the state shall cooperate with and 16064
provide assistance to the director of development and the 16065
controlling board in the exercise of their respective functions 16066
under this chapter. 16067

Sec. 167.081. A regional council may enter into a contract 16068
that establishes a unit price for, and provides upon a per unit 16069
basis, materials, labor, services, overhead, profit, and 16070
associated expenses for the repair, enlargement, improvement, or 16071
demolition of a building or structure if the contract is awarded 16072
pursuant to a competitive bidding procedure of a county, municipal 16073
corporation, or township or a special district, school district, 16074
or other political subdivision that is a council member; a 16075
statewide consortium of which the council is a member; or a 16076
multistate consortium of which the council is a member. 16077

A public notice requirement pertaining to the contract shall 16078
be considered as having been met if the public notice is given 16079
once a week for at least two consecutive weeks in a newspaper of 16080
general circulation within a county in this state in which the 16081
council has members and if the notice is posted on the council's 16082
internet web site for at least two consecutive weeks before the 16083
date specified for receiving bids. 16084

A county, municipal corporation, or township and a special 16085
district, school district, or other political subdivision that is 16086
a council member may participate in a contract entered into under 16087
this section. Purchases under a contract entered into under this 16088
section are exempt from any competitive selection or bidding 16089

requirements otherwise required by law. A county, municipal 16090
corporation, or township or a special district, school district, 16091
or other political subdivision that is a member of the council is 16092
not entitled to participate in a contract entered into under this 16093
section if it has received bids for the same work under another 16094
contract, unless participation in a contract under this section 16095
will enable the member to obtain the same work, upon the same 16096
terms, conditions, and specifications, at a lower price. 16097

Sec. 173.14. As used in sections 173.14 to 173.27 of the 16098
Revised Code: 16099

(A)(1) Except as otherwise provided in division (A)(2) of 16100
this section, "long-term care facility" includes any residential 16101
facility that provides personal care services for more than 16102
twenty-four hours for two or more unrelated adults, including all 16103
of the following: 16104

(a) A "nursing home," "residential care facility," or "home 16105
for the aging" as defined in section 3721.01 of the Revised Code; 16106

(b) A facility authorized to provide extended care services 16107
under Title XVIII of the "Social Security Act," 49 Stat. 620 16108
(1935), 42 U.S.C. 301, as amended, including a long-term acute 16109
care hospital that provides medical and rehabilitative care to 16110
patients who require an average length of stay greater than 16111
twenty-five days and is classified by the centers for medicare and 16112
medicaid services as a long-term care hospital pursuant to 42 16113
C.F.R. 412.23(e); 16114

(c) A county home or district home operated pursuant to 16115
Chapter 5155. of the Revised Code; 16116

(d) An "adult care facility" as defined in section ~~3722.01~~ 16117
5119.70 of the Revised Code; 16118

(e) A facility approved by the veterans administration under 16119

section 104(a) of the "Veterans Health Care Amendments of 1983,"	16120
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for	16121
the placement and care of veterans;	16122
(f) An adult foster home certified under section 173.36	16123
<u>5119.692</u> of the Revised Code.	16124
(2) "Long-term care facility" does not include a "residential	16125
facility" as defined in section 5119.22 of the Revised Code or a	16126
"residential facility" as defined in section 5123.19 of the	16127
Revised Code.	16128
(B) "Resident" means a resident of a long-term care facility	16129
and, where appropriate, includes a prospective, previous, or	16130
deceased resident of a long-term care facility.	16131
(C) "Community-based long-term care services" means health	16132
and social services provided to persons in their own homes or in	16133
community care settings, and includes any of the following:	16134
(1) Case management;	16135
(2) Home health care;	16136
(3) Homemaker services;	16137
(4) Chore services;	16138
(5) Respite care;	16139
(6) Adult day care;	16140
(7) Home-delivered meals;	16141
(8) Personal care;	16142
(9) Physical, occupational, and speech therapy;	16143
(10) Transportation;	16144
(11) Any other health and social services provided to persons	16145
that allow them to retain their independence in their own homes or	16146
in community care settings.	16147

(D) "Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services.

(E) "Sponsor" means an adult relative, friend, or guardian who has an interest in or responsibility for the welfare of a resident or a recipient.

(F) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(G) "Regional long-term care ombudsperson program" means an entity, either public or private and nonprofit, designated as a regional long-term care ombudsperson program by the state long-term care ombudsperson.

(H) "Representative of the office of the state long-term care ombudsperson program" means the state long-term care ombudsperson or a member of the ombudsperson's staff, or a person certified as a representative of the office under section 173.21 of the Revised Code.

(I) "Area agency on aging" means an area agency on aging established under the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C.A. 3001, as amended.

Sec. 173.21. (A) The office of the state long-term care ~~ombudsman~~ ombudsperson program, through the state long-term care ~~ombudsman~~ ombudsperson and the regional long-term care ~~ombudsman~~ ombudsperson programs, shall require each representative of the office to complete a training and certification program in accordance with this section and to meet the continuing education requirements established under this section.

(B) The department of aging shall adopt rules under Chapter 119. of the Revised Code specifying the content of training

programs for representatives of the office of the state long-term care ~~ombudsman~~ ombudsperson program. Training for representatives other than those who are volunteers providing services through regional long-term care ~~ombudsman~~ ombudsperson programs shall include instruction regarding federal, state, and local laws, rules, and policies on long-term care facilities and community-based long-term care services; investigative techniques; and other topics considered relevant by the department and shall consist of the following:

(1) A minimum of forty clock hours of basic instruction, which shall be completed before the trainee is permitted to handle complaints without the supervision of a representative of the office certified under this section;

(2) An additional sixty clock hours of instruction, which shall be completed within the first fifteen months of employment;

(3) An internship of twenty clock hours, which shall be completed within the first twenty-four months of employment, including instruction in, and observation of, basic nursing care and long-term care provider operations and procedures. The internship shall be performed at a site that has been approved as an internship site by the state long-term care ~~ombudsman~~ ombudsperson.

(4) One of the following, which shall be completed within the first twenty-four months of employment:

(a) Observation of a survey conducted by the director of health to certify a facility to receive funds under sections 5111.20 to 5111.32 of the Revised Code;

(b) Observation of an inspection conducted by the director of mental health to license an adult care facility under section ~~3722.04~~ 5119.73 of the Revised Code.

(5) Any other training considered appropriate by the

department. 16209

(C) Persons who for a period of at least six months prior to 16210
June 11, 1990, served as ombudsmen through the long-term care 16211
~~ombudsman~~ ombudsperson program established by the department of 16212
aging under division (M) of section 173.01 of the Revised Code 16213
shall not be required to complete a training program. These 16214
persons and persons who complete a training program shall take an 16215
examination administered by the department of aging. On attainment 16216
of a passing score, the person shall be certified by the 16217
department as a representative of the office. The department shall 16218
issue the person an identification card, which the representative 16219
shall show at the request of any person with whom ~~he~~ the 16220
representative deals while performing ~~his~~ the representative's 16221
duties and which ~~he~~ shall ~~surrender~~ be surrendered at the time ~~he~~ 16222
the representative separates from the office. 16223

(D) The state ~~ombudsman~~ ombudsperson and each regional 16224
program shall conduct training programs for volunteers on their 16225
respective staffs in accordance with the rules of the department 16226
of aging adopted under division (B) of this section. Training 16227
programs may be conducted that train volunteers to complete some, 16228
but not all, of the duties of a representative of the office. Each 16229
regional office shall bear the cost of training its 16230
representatives who are volunteers. On completion of a training 16231
program, the representative shall take an examination administered 16232
by the department of aging. On attainment of a passing score, ~~he~~ a 16233
volunteer shall be certified by the department as a representative 16234
authorized to perform services specified in the certification. The 16235
department shall issue an identification card, which the 16236
representative shall show at the request of any person with whom 16237
~~he~~ the representative deals while performing ~~his~~ the 16238
representative's duties and which ~~he~~ shall ~~surrender~~ be 16239
surrendered at the time ~~he~~ the representative separates from the 16240

office. Except as a supervised part of a training program, no 16241
volunteer shall perform any duty unless he is certified as a 16242
representative having received appropriate training for that duty. 16243

(E) The state ~~ombudsman~~ ombudsperson shall provide technical 16244
assistance to regional programs conducting training programs for 16245
volunteers and shall monitor the training programs. 16246

(F) Prior to scheduling an observation of a certification 16247
survey or licensing inspection for purposes of division (B)(4) of 16248
this section, the state ~~ombudsman~~ ombudsperson shall obtain 16249
permission to have the survey or inspection observed from both the 16250
director of health and the long-term care facility at which the 16251
survey or inspection is to take place. 16252

(G) The department of aging shall establish continuing 16253
education requirements for representatives of the office. 16254

Sec. 173.26. (A) Each of the following facilities shall 16255
annually pay to the department of aging six dollars for each bed 16256
maintained by the facility for use by a resident during any part 16257
of the previous year: 16258

(1) Nursing homes, residential care facilities, and homes for 16259
the aging as defined in section 3721.01 of the Revised Code; 16260

(2) Facilities authorized to provide extended care services 16261
under Title XVIII of the "Social Security Act," 49 Stat. 620 16262
(1935), 42 U.S.C. 301, as amended, including a long-term acute 16263
care hospital that provides medical and rehabilitative care to 16264
patients who require an average length of stay greater than 16265
twenty-five days and is classified by the centers for medicare and 16266
medicaid services as a long-term care hospital pursuant to 42 16267
C.F.R. 412.23(e); 16268

(3) County homes and district homes operated pursuant to 16269
Chapter 5155. of the Revised Code; 16270

(4) Adult care facilities as defined in section ~~3722.01~~ 16271
5119.70 of the Revised Code; 16272

(5) Facilities approved by the Veterans Administration under 16273
Section 104(a) of the "Veterans Health Care Amendments of 1983," 16274
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 16275
the placement and care of veterans. 16276

The department shall, by rule adopted in accordance with 16277
Chapter 119. of the Revised Code, establish deadlines for payments 16278
required by this section. A facility that fails, within ninety 16279
days after the established deadline, to pay a payment required by 16280
this section shall be assessed at two times the original invoiced 16281
payment. 16282

(B) All money collected under this section shall be deposited 16283
in the state treasury to the credit of the office of the state 16284
long-term care ombudsperson program fund, which is hereby created. 16285
Money credited to the fund shall be used solely to pay the costs 16286
of operating the regional long-term care ombudsperson programs. 16287

(C) The state long-term care ombudsperson and the regional 16288
programs may solicit and receive contributions to support the 16289
operation of the office or a regional program, except that no 16290
contribution shall be solicited or accepted that would interfere 16291
with the independence or objectivity of the office or program. 16292

Sec. 173.391. (A) The department of aging or its designee 16293
shall do all of the following in accordance with Chapter 119. of 16294
the Revised Code: 16295

(1) Certify a person or government entity to provide 16296
community-based long-term care services under a program the 16297
department administers if the person or government entity 16298
satisfies the requirements for certification established by rules 16299
adopted under division (B) of this section and pays the fee, if 16300

any, established by rules adopted under division (G) of this section; 16301
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(2) When required to do so by rules adopted under division (B) of this section, take one or more of the following disciplinary actions against a person or government entity ~~issued a certificate~~ certified under division (A)(1) of this section: 16303
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(a) Issue a written warning; 16307

(b) Require the submission of a plan of correction or evidence of compliance with requirements identified by the department; 16308
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(c) Suspend referrals; 16311

(d) Remove clients; 16312

(e) Impose a fiscal sanction such as a civil monetary penalty or an order that unearned funds be repaid; 16313
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(f) Suspend the certification; 16315

(g) Revoke the ~~certificate~~ certification; 16316

~~(g)~~(h) Impose another sanction. 16317

(3) ~~Hold~~ Except as provided in division (E) of this section, hold hearings when there is a dispute between the department or its designee and a person or government entity concerning actions the department or its designee takes ~~or does not take~~ regarding a decision not to certify the person or government entity under division (A)(1) of this section or a disciplinary action under division (A)~~(1)~~ or (2)~~(e)~~(e) to ~~(g)~~(h) of this section. 16318
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(B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and standards for determining which type of disciplinary action to take under division (A)(2) of this section in individual situations. The rules shall establish procedures for all of the following: 16325
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(1) Ensuring that community-based long-term care agencies comply with section 173.394 of the Revised Code;	16331 16332
(2) Evaluating the services provided <u>by the agencies</u> to ensure that they <u>the services</u> are provided in a quality manner advantageous to the individual receiving the services;	16333 16334 16335
(3) Determining when to take disciplinary action under division (A)(2) of this section and which disciplinary action to take;	16336 16337 16338
<u>(4) Determining what constitutes another sanction for purposes of division (A)(2)(h) of this section.</u>	16339 16340
(C) The procedures established in rules adopted under division (B)(2) of this section shall require that all of the following be considered as part of an evaluation <u>described in division (B)(2) of this section</u> :	16341 16342 16343 16344
(1) The service provider's <u>community-based long-term care agency's</u> experience and financial responsibility;	16345 16346
(2) The service provider's <u>agency's</u> ability to comply with standards for the community-based long-term care services that the provider <u>agency</u> provides under a program the department administers;	16347 16348 16349 16350
(3) The service provider's <u>agency's</u> ability to meet the needs of the individuals served;	16351 16352
(4) Any other factor the director considers relevant.	16353
(D) The rules adopted under division (B)(3) of this section shall specify that the reasons disciplinary action may be taken under division (A)(2) of this section include good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or other conduct the director determines is injurious, <u>or poses a threat</u> , to the health or safety of individuals being served.	16354 16355 16356 16357 16358 16359 16360

(E) Subject to division (F) of this section, the department is not required to hold hearings under division (A)(3) of this section if any of the following conditions apply: 16361
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(1) Rules adopted by the director of aging pursuant to this chapter require the community-based long-term care agency to be a party to a provider agreement; hold a license, certificate, or permit; or maintain a certification, any of which is required or issued by a state or federal government entity other than the department of aging, and either of the following is the case: 16364
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(a) The provider agreement has not been entered into or the license, certificate, permit, or certification has not been obtained or maintained. 16370
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(b) The provider agreement, license, certificate, permit, or certification has been denied, revoked, not renewed, or suspended or has been otherwise restricted. 16373
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(2) The agency's certification under this section has been denied, suspended, or revoked for any of the following reasons: 16376
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(a) A government entity of this state, other than the department of aging, has terminated or refused to renew any of the following held by, or has denied any of the following sought by, a community-based long-term care agency: a provider agreement, license, certificate, permit, or certification. Division (E)(2)(a) of this section applies regardless of whether the agency has entered into a provider agreement in, or holds a license, certificate, permit, or certification issued by, another state. 16378
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(b) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, or has been convicted of, an offense materially related to the medicaid program. 16386
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(c) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, or been 16390
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convicted of, an offense listed in division (C)(1)(a) of section 173.394 of the Revised Code, but only if none of the personal character standards established by the department in rules adopted under division (F) of section 173.394 of the Revised Code apply. 16392
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(d) The United States department of health and human services has taken adverse action against the agency and that action impacts the agency's participation in the medicaid program. 16396
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(e) The agency has failed to enter into or renew a provider agreement with the PASSPORT administrative agency, as that term is defined in section 173.42 of the Revised Code, that administers programs on behalf of the department of aging in the region of the state in which the agency is certified to provide services. 16399
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(f) The agency has not billed or otherwise submitted a claim to the department for payment under the medicaid program in at least two years. 16404
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(g) The agency denied or failed to provide the department or its designee access to the agency's facilities during the agency's normal business hours for purposes of conducting an audit or structural compliance review. 16407
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(h) The agency has ceased doing business. 16411

(i) The agency has voluntarily relinquished its certification for any reason. 16412
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(3) The agency's provider agreement with the department of job and family services has been suspended under division (C) of section 5111.031 of the Revised Code. 16414
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(4) The agency's provider agreement with the department of job and family services is denied or revoked because the agency or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended under section 5111.031 of the Revised 16417
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Code. 16422

(F) If the department does not hold hearings when any 16423
condition described in division (E) of this section applies, the 16424
department may send a notice to the agency describing a decision 16425
not to certify the agency under division (A)(1) of this section or 16426
the disciplinary action the department proposes to take under 16427
division (A)(2)(e) to (h) of this section. The notice shall be 16428
sent to the agency's address that is on record with the department 16429
and may be sent by regular mail. 16430

(G) The director of aging may adopt rules in accordance with 16431
Chapter 119. of the Revised Code establishing a fee to be charged 16432
by the department of aging or its designee for certification 16433
issued under this section. 16434

All fees collected by the department or its designee under 16435
this section shall be deposited in the state treasury to the 16436
credit of the provider certification fund, which is hereby 16437
created. Money credited to the fund shall be used to pay for 16438
community-based long-term care services, administrative costs 16439
associated with community-based long-term care agency 16440
certification under this section, and administrative costs related 16441
to the publication of the Ohio long-term care consumer guide. 16442

Sec. 173.40. (A) As used in sections 173.40 to 173.402 of the 16443
Revised Code, "PASSPORT: 16444

"Medicaid waiver component" has the same meaning as in 16445
section 5111.85 of the Revised Code. 16446

"PASSPORT program" means the program created under this 16447
section. 16448

"PASSPORT waiver" means the federal medicaid waiver granted 16449
by the United States secretary of health and human services that 16450
authorizes the medicaid-funded component of the PASSPORT program. 16451

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code. 16452
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(B) There is hereby created the preadmission screening system providing options and resources today program, or PASSPORT. The PASSPORT program shall provide home and community-based services as an alternative to nursing facility placement for individuals who are aged and disabled medicaid recipients and meet the program's applicable eligibility requirements. The Subject to division (C) of this section, the program shall have a medicaid-funded component and a state-funded component. 16455
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(C)(1) Unless the medicaid-funded component of the PASSPORT program is terminated under division (C)(2) of this section, all of the following apply: 16463
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(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. 16466
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(b) The medicaid-funded component shall be operated as a separate medicaid waiver component, as defined in section 5111.85 of the Revised Code, until the United States secretary of health and human services approves the consolidated federal medicaid waiver sought under section 5111.861 of the Revised Code. The program shall be part of the consolidated federal medicaid waiver sought under that section if the United States secretary approves the waiver. The department of aging shall administer the program through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. The 16470
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(c) For an individual to be eligible for the medicaid-funded component, the individual must be a medicaid recipient and meet the additional eligibility requirements applicable to the 16480
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individual established in rules adopted under division (C)(1)(d) 16483
of this section. 16484

(d) The director of job and family services shall adopt rules 16485
under section 5111.85 of the Revised Code and the director of 16486
aging shall adopt rules in accordance with Chapter 119. of the 16487
Revised Code to implement the ~~program~~ medicaid-funded component. 16488

(2) If the unified long-term services and support medicaid 16489
waiver component is created, the departments of aging and job and 16490
family services shall work together to determine whether the 16491
medicaid-funded component of the PASSPORT program should continue 16492
to operate as a separate medicaid waiver component or be 16493
terminated. If the departments determine that the medicaid-funded 16494
component of the PASSPORT program should be terminated, the 16495
medicaid-funded component shall cease to exist on a date the 16496
departments shall specify. 16497

(D)(1) The department of aging shall administer the 16498
state-funded component of the PASSPORT program. The state-funded 16499
component shall not be administered as part of the medicaid 16500
program. 16501

(2) For an individual to be eligible for the state-funded 16502
component, the individual must meet one of the following 16503
requirements and meet the additional eligibility requirements 16504
applicable to the individual established in rules adopted under 16505
division (D)(4) of this section: 16506

(a) The individual must have been enrolled in the 16507
state-funded component on September 1, 1991, (as the state-funded 16508
component was authorized by uncodified law in effect at that time) 16509
and have had one or more applications for enrollment in the 16510
medicaid-funded component (or, if the medicaid-funded component is 16511
terminated under division (C)(2) of this section, the unified 16512
long-term services and support medicaid waiver component) denied. 16513

(b) The individual must have had the individual's enrollment in the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) terminated and the individual must still need the home and community-based services provided under the PASSPORT program to protect the individual's health and safety. 16514
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(c) The individual must have an application for the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component). 16521
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(3) An individual who is eligible for the state-funded component because the individual meets the requirement of division (D)(2)(c) of this section may participate in the component for not more than three months. 16535
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(4) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component. The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (D)(2)(a), (b), and (c) of this section. 16539
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Sec. 173.401. (A) As used in this section: 16545

"Area agency on aging" has the same meaning as in section 16546
173.14 of the Revised Code. 16547

"Long-term care consultation program" means the program the 16548
department of aging is required to develop under section 173.42 of 16549
the Revised Code. 16550

"Long-term care consultation program administrator" or 16551
"administrator" means the department of aging or, if the 16552
department contracts with an area agency on aging or other entity 16553
to administer the long-term care consultation program for a 16554
particular area, that agency or entity. 16555

"Nursing facility" has the same meaning as in section 5111.20 16556
of the Revised Code. 16557

~~"PASSPORT waiver" means the federal medicaid waiver granted 16558
by the United States secretary of health and human services that 16559
authorizes the PASSPORT program. 16560~~

(B) The Subject to division (C)(2) of section 173.40 of the 16561
Revised Code, the department shall establish a home first 16562
component of the PASSPORT program under which eligible individuals 16563
may be enrolled in the medicaid-funded component of the PASSPORT 16564
program in accordance with this section. An individual is eligible 16565
for the PASSPORT program's home first component if ~~all~~ both of the 16566
following apply: 16567

(1) The individual ~~is~~ has been determined to be eligible for 16568
the medicaid-funded component of the PASSPORT program. 16569

(2) ~~The individual is on the unified waiting list established 16570
under section 173.404 of the Revised Code. 16571~~

~~(3)~~ At least one of the following applies: 16572

(a) The individual has been admitted to a nursing facility. 16573

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual is to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual should be admitted to a nursing facility.

(C) Each month, each area agency on aging shall identify individuals residing in the area that the agency serves who are eligible for the home first component of the PASSPORT program. When an area agency on aging identifies such an individual, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides. The administrator shall determine whether the PASSPORT program is appropriate for the individual and whether the individual would

rather participate in the PASSPORT program than continue or begin
to reside in a nursing facility. If the administrator determines
that the PASSPORT program is appropriate for the individual and
the individual would rather participate in the PASSPORT program
than continue or begin to reside in a nursing facility, the
administrator shall so notify the department of aging. On receipt
of the notice from the administrator, the department shall approve
the individual's enrollment in the medicaid-funded component of
the PASSPORT program regardless of the unified waiting list
established under section 173.404 of the Revised Code, unless the
enrollment would cause the PASSPORT program component to exceed
any limit on the number of individuals who may be enrolled in the
program component as set by the United States secretary of health
and human services in the PASSPORT waiver.

~~(D) Each quarter, the department of aging shall certify to
the director of budget and management the estimated increase in
costs of the PASSPORT program resulting from enrollment of
individuals in the PASSPORT program pursuant to this section.~~

Sec. 173.403. "Choices (A) As used in this section:

"Choices program" means the program created under this
section.

~~There "Medicaid waiver component" has the same meaning as in
section 5111.85 of the Revised Code.~~

"Unified long-term services and support medicaid waiver
component" means the medicaid waiver component authorized by
section 5111.864 of the Revised Code.

(B) Subject to division (C) of this section, there is hereby
created the choices program. The program shall provide home and
community-based services. ~~The choices program shall be operated as
a separate medicaid waiver component, as defined in section~~

~~5111.85 of the Revised Code, until the United States secretary of health and human services approves the consolidated federal medicaid waiver sought under section 5111.861 of the Revised Code.~~
The program shall be part of the consolidated federal medicaid waiver sought under that section if the United States secretary approves the waiver. The department of aging shall administer the program through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. Subject to federal approval, the program shall be available statewide.

(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the choices program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the choices program should be terminated, the program shall cease to exist on a date the departments shall specify.

Sec. 173.404. (A) As used in this section:

(1) "Department of aging-administered medicaid waiver component" means each of the following:

(a) The medicaid-funded component of the PASSPORT program created under section 173.40 of the Revised Code;

(b) The choices program created under section 173.403 of the Revised Code;

(c) The medicaid-funded component of the assisted living program created under section 5111.89 of the Revised Code.

(2) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.

(B) ~~The~~ If the department of aging determines that there are

insufficient funds to enroll all individuals who have applied and 16665
been determined eligible for department of aging-administered 16666
medicaid waiver components and the PACE program, the department of 16667
aging shall establish a unified waiting list for department of 16668
aging-administered medicaid waiver the components and the PACE 16669
program. Only individuals eligible for a department of 16670
aging-administered medicaid waiver component or the PACE program 16671
may be placed on the unified waiting list. An individual who may 16672
be enrolled in a department of aging-administered medicaid waiver 16673
component or the PACE program through a home first component 16674
established under section 173.401, 173.501, or 5111.894 of the 16675
Revised Code may be so enrolled without being placed on the 16676
unified waiting list. 16677

Sec. 173.41. (A) The department of aging shall promote the 16678
development of a statewide aging and disabilities resource network 16679
through which older adults, adults with disabilities, and their 16680
caregivers are provided with both of the following: 16681

(1) Information on any long-term care service options 16682
available to the individuals; 16683

(2) Streamlined access to long-term care services, both 16684
publicly funded services and services available through private 16685
payment. 16686

(B) Area agencies on aging shall establish the network 16687
throughout the state. In doing so, the agencies shall collaborate 16688
with centers for independent living and other locally funded 16689
organizations to establish a cost-effective and consumer-friendly 16690
network that builds on existing, local infrastructures of services 16691
that support consumers in their communities. 16692

Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the 16693
Revised Code: 16694

(1) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging.	16695 16696 16697
(2) "Department of aging-administered medicaid waiver component" means each of the following:	16698 16699
(a) The <u>medicaid-funded component of the</u> PASSPORT program created under section 173.40 of the Revised Code;	16700 16701
(b) The choices program created under section 173.403 of the Revised Code;	16702 16703
(c) The <u>medicaid-funded component of the</u> assisted living program created under section 5111.89 of the Revised Code;	16704 16705
(d) Any other medicaid waiver component, as defined in section 5111.85 of the Revised Code, that the department of aging administers pursuant to an interagency agreement with the department of job and family services under section 5111.91 of the Revised Code.	16706 16707 16708 16709 16710
(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following:	16711 16712 16713
(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component;	16714 16715
(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section 5111.02 of the Revised Code:	16716 16717 16718 16719
(i) Home health services;	16720
(ii) Private duty nursing services;	16721
(iii) Durable medical equipment;	16722
(iv) Services of a clinical nurse specialist;	16723

(v) Services of a certified nurse practitioner.	16724
(c) Services available to a participant of the PACE program.	16725
(4) "Long-term care consultation" or "consultation" means the consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section.	16726 16727 16728 16729
(5) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.	16730 16731
(6) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.	16732 16733
(7) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.	16734 16735 16736
(8) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program.	16737 16738 16739
(9) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.	16740 16741 16742 16743
(10) "Representative" means a person acting on behalf of an individual specified in division (G) of this section. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual.	16744 16745 16746 16747 16748
(B) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about	16749 16750 16751 16752 16753

factors to consider in making long-term care decisions. The 16754
long-term care consultations provided under the program may be 16755
provided at any appropriate time, as permitted or required under 16756
this section and the rules adopted under it, including either 16757
prior to or after the individual who is the subject of a 16758
consultation has been admitted to a nursing facility or granted 16759
assistance in receiving home and community-based services covered 16760
by medicaid components the department of aging administers. 16761

(C) The long-term care consultation program shall be 16762
administered by the department of aging, except that the 16763
department may have the program administered on a regional basis 16764
by one or more program administrators. The department and each 16765
program administrator shall administer the program in such a 16766
manner that all of the following are included: 16767

(1) Coordination and collaboration with respect to all 16768
available funding sources for long-term care services; 16769

(2) Assessments of individuals regarding their long-term care 16770
service needs; 16771

(3) Assessments of individuals regarding their on-going 16772
eligibility for long-term care services; 16773

(4) Procedures for assisting individuals in obtaining access 16774
to, and coordination of, health and supportive services, including 16775
department of aging-administered medicaid waiver components; 16776

(5) Priorities for using available resources efficiently and 16777
effectively. 16778

(D) The program's long-term care consultations shall be 16779
provided by individuals certified by the department under section 16780
173.422 of the Revised Code. 16781

(E) The information provided through a long-term care 16782
consultation shall be appropriate to the individual's needs and 16783

situation and shall address all of the following: 16784

(1) The availability of any long-term care options open to 16785
the individual; 16786

(2) Sources and methods of both public and private payment 16787
for long-term care services; 16788

(3) Factors to consider when choosing among the available 16789
programs, services, and benefits; 16790

(4) Opportunities and methods for maximizing independence and 16791
self-reliance, including support services provided by the 16792
individual's family, friends, and community. 16793

(F) An individual's long-term care consultation may include 16794
an assessment of the individual's functional capabilities. The 16795
consultation may incorporate portions of the determinations 16796
required under sections 5111.202, 5119.061, and 5123.021 of the 16797
Revised Code and may be provided concurrently with the assessment 16798
required under section 5111.204 of the Revised Code. 16799

(G)(1) Unless an exemption specified in division (I) of this 16800
section is applicable, each of the following shall be provided 16801
with a long-term care consultation: 16802

(a) An individual who applies or indicates an intention to 16803
apply for admission to a nursing facility, regardless of the 16804
source of payment to be used for the individual's care in a 16805
nursing facility; 16806

(b) An individual who requests a long-term care consultation; 16807

(c) An individual identified by the department or a program 16808
administrator as being likely to benefit from a long-term care 16809
consultation. 16810

(2) In addition to the individuals specified in division 16811
(G)(1) of this section, a long-term care consultation may be 16812
provided to a nursing facility resident regardless of the source 16813

of payment being used for the resident's care in the nursing 16814
facility. 16815

(H)(1) Except as provided in division (H)(2) or (3) of this 16816
section, a long-term care consultation provided pursuant to 16817
division (G) of this section shall be provided as follows: 16818

(a) If the individual for whom the consultation is being 16819
provided has applied for medicaid and the consultation is being 16820
provided concurrently with the assessment required under section 16821
5111.204 of the Revised Code, the consultation shall be completed 16822
in accordance with the applicable time frames specified in that 16823
section for providing a level of care determination based on the 16824
assessment. 16825

(b) In all other cases, the consultation shall be provided 16826
not later than five calendar days after the department or program 16827
administrator receives notice of the reason for which the 16828
consultation is to be provided pursuant to division (G) of this 16829
section. 16830

(2) An individual or the individual's representative may 16831
request that a long-term care consultation be provided on a date 16832
that is later than the date required under division (H)(1)(a) or 16833
(b) of this section. 16834

(3) If a long-term care consultation cannot be completed 16835
within the number of days required by division (H)(1) or (2) of 16836
this section, the department or program administrator may do any 16837
of the following: 16838

(a) In the case of an individual specified in division (G)(1) 16839
of this section, exempt the individual from the consultation 16840
pursuant to rules that may be adopted under division (L) of this 16841
section; 16842

(b) In the case of an applicant for admission to a nursing 16843
facility, provide the consultation after the individual is 16844

admitted to the nursing facility; 16845

(c) In the case of a resident of a nursing facility, provide 16846
the consultation as soon as practicable. 16847

(I) An individual is not required to be provided a long-term 16848
care consultation under division (G)(1) of this section if any of 16849
the following apply: 16850

(1) The department or program administrator has attempted to 16851
provide the consultation, but the individual or the individual's 16852
representative refuses to cooperate; 16853

(2) The individual is to receive care in a nursing facility 16854
under a contract for continuing care as defined in section 173.13 16855
of the Revised Code; 16856

(3) The individual has a contractual right to admission to a 16857
nursing facility operated as part of a system of continuing care 16858
in conjunction with one or more facilities that provide a less 16859
intensive level of services, including a residential care facility 16860
licensed under Chapter 3721. of the Revised Code, an adult care 16861
facility licensed under ~~Chapter 3722.~~ sections 5119.70 to 5119.88 16862
of the Revised Code, or an independent living arrangement; 16863

(4) The individual is to receive continual care in a home for 16864
the aged exempt from taxation under section 5701.13 of the Revised 16865
Code; 16866

(5) The individual is seeking admission to a facility that is 16867
not a nursing facility with a provider agreement under section 16868
5111.22, 5111.671, or 5111.672 of the Revised Code; 16869

(6) The individual is exempted from the long-term care 16870
consultation requirement by the department or the program 16871
administrator pursuant to rules that may be adopted under division 16872
(L) of this section. 16873

(J) As part of the long-term care consultation program, the 16874

department or program administrator shall assist an individual or 16875
individual's representative in accessing all sources of care and 16876
services that are appropriate for the individual and for which the 16877
individual is eligible, including all available home and 16878
community-based services covered by medicaid components the 16879
department of aging administers. The assistance shall include 16880
providing for the conduct of assessments or other evaluations and 16881
the development of individualized plans of care or services under 16882
section 173.424 of the Revised Code. 16883

(K) No nursing facility for which an operator has a provider 16884
agreement under section 5111.22, 5111.671, or 5111.672 of the 16885
Revised Code shall admit any individual as a resident, unless the 16886
nursing facility has received evidence that a long-term care 16887
consultation has been completed for the individual or division (I) 16888
of this section is applicable to the individual. 16889

(L) The director of aging may adopt any rules the director 16890
considers necessary for the implementation and administration of 16891
this section. The rules shall be adopted in accordance with 16892
Chapter 119. of the Revised Code and may specify any or all of the 16893
following: 16894

(1) Procedures for providing long-term care consultations 16895
pursuant to this section; 16896

(2) Information to be provided through long-term care 16897
consultations regarding long-term care services that are 16898
available; 16899

(3) Criteria and procedures to be used to identify and 16900
recommend appropriate service options for an individual receiving 16901
a long-term care consultation; 16902

(4) Criteria for exempting individuals from the long-term 16903
care consultation requirement; 16904

(5) Circumstances under which it may be appropriate to 16905

provide an individual's long-term care consultation after the 16906
individual's admission to a nursing facility rather than before 16907
admission; 16908

(6) Criteria for identifying nursing facility residents who 16909
would benefit from the provision of a long-term care consultation; 16910

(7) A description of the types of information from a nursing 16911
facility that is needed under the long-term care consultation 16912
program to assist a resident with relocation from the facility; 16913

(8) Standards to prevent conflicts of interest relative to 16914
the referrals made by a person who performs a long-term care 16915
consultation, including standards that prohibit the person from 16916
being employed by a provider of long-term care services; 16917

(9) Procedures for providing notice and an opportunity for a 16918
hearing under division (N) of this section. 16919

(M) To assist the department and each program administrator 16920
with identifying individuals who are likely to benefit from a 16921
long-term care consultation, the department and program 16922
administrator may ask to be given access to nursing facility 16923
resident assessment data collected through the use of the resident 16924
assessment instrument specified in rules adopted under section 16925
5111.02 of the Revised Code for purposes of the medicaid program. 16926
Except when prohibited by state or federal law, the department of 16927
health, department of job and family services, or nursing facility 16928
holding the data shall grant access to the data on receipt of the 16929
request from the department of aging or program administrator. 16930

(N)(1) The director of aging, after providing notice and an 16931
opportunity for a hearing, may fine a nursing facility an amount 16932
determined by rules the director shall adopt in accordance with 16933
Chapter 119. of the Revised Code for any of the following reasons: 16934

(a) The nursing facility admits an individual, without 16935
evidence that a long-term care consultation has been provided, as 16936

required by this section; 16937

(b) The nursing facility denies a person attempting to 16938
provide a long-term care consultation access to the facility or a 16939
resident of the facility; 16940

(c) The nursing facility denies the department of aging or 16941
program administrator access to the facility or a resident of the 16942
facility, as the department or administrator considers necessary 16943
to administer the program. 16944

(2) In accordance with section 5111.62 of the Revised Code, 16945
all fines collected under division (N)(1) of this section shall be 16946
deposited into the state treasury to the credit of the residents 16947
protection fund. 16948

Sec. 173.45. As used in this section and in sections 173.46 16949
to 173.49 of the Revised Code: 16950

(A) "Adult care facility" has the same meaning as in section 16951
5119.70 of the Revised Code. 16952

(B) "Community-based long-term care services" has the same 16953
meaning as in section 173.14 of the Revised Code. 16954

(C) "Long-term care facility" means a nursing home or 16955
residential care facility. 16956

~~(B)~~(D) "Nursing home" and "residential care facility" have 16957
the same meanings as in section 3721.01 of the Revised Code. 16958

~~(C)~~(E) "Nursing facility" has the same meaning as in section 16959
5111.20 of the Revised Code. 16960

Sec. 173.46. (A) The department of aging shall develop and 16961
publish a guide to long-term care facilities for use by 16962
individuals considering long-term care facility admission and 16963
their families, friends, and advisors. The guide, which shall be 16964
titled the Ohio long-term care consumer guide, may be published in 16965

printed form or in electronic form for distribution over the 16966
internet. The guide may be developed as a continuation or 16967
modification of the guide published by the department prior to ~~the~~ 16968
~~effective date of this section~~ September 29, 2005, under rules 16969
adopted under section 173.02 of the Revised Code. 16970

(B) The Ohio long-term care consumer guide shall include 16971
information on each long-term care facility in this state. For 16972
each facility, the guide shall include the following information, 16973
as applicable to the facility: 16974

(1) Information regarding the facility's compliance with 16975
state statutes and rules and federal statutes and regulations; 16976

(2) Information generated by the centers for medicare and 16977
medicaid services of the United States department of health and 16978
human services from the quality measures developed as part of its 16979
nursing home quality initiative; 16980

(3) Results of the customer satisfaction surveys conducted 16981
under section 173.47 of the Revised Code; 16982

(4) Any other information the department specifies in rules 16983
adopted under section 173.49 of the Revised Code. 16984

(C) The Ohio long-term care consumer guide may include 16985
information on adult care facilities and providers of 16986
community-based long-term care services. The department may adopt 16987
rules under section 173.49 of the Revised Code to specify the 16988
information to be included in the guide pursuant to this division. 16989

Sec. 173.47. (A) For purposes of publishing the Ohio 16990
long-term care consumer guide, the department of aging shall 16991
conduct or provide for the conduct of an annual customer 16992
satisfaction survey of each long-term care facility. The results 16993
of the surveys may include information obtained from long-term 16994
care facility residents, their families, or both. 16995

~~(B)(1) The department may charge fees for the conduct of annual customer satisfaction surveys. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with section 173.48 of the Revised Code.~~ 16996
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~~(2) The fees charged under this section shall not exceed the following amounts:~~ 17001
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~~(a) Four hundred dollars for the customer satisfaction survey of a long term care facility that is a nursing home;~~ 17003
17004

~~(b) Three hundred dollars for the customer satisfaction survey pertaining to a long term care facility that is a residential care facility.~~ 17005
17006
17007

~~(3) Fees paid by a long term care facility that is a nursing facility shall be reimbursed through the medicaid program operated under Chapter 5111. of the Revised Code.~~ 17008
17009
17010

~~(C) Each long-term care facility shall cooperate in the conduct of its annual customer satisfaction survey.~~ 17011
17012

Sec. 173.48. (A)(1) The department of aging may charge annual fees to long-term care facilities for the publication of the Ohio long-term care consumer guide. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with division (B) of this section. 17013
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(2) The annual fees charged under this section shall not exceed the following amounts: 17019
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(a) Four hundred dollars for each long-term care facility that is a nursing home; 17021
17022

(b) Three hundred dollars for each long-term care facility that is a residential care facility. 17023
17024

(3) Fees paid by a long-term care facility that is a nursing facility shall be reimbursed through the medicaid program operated under Chapter 5111. of the Revised Code. 17025
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(B) There is hereby created in the state treasury the long-term care consumer guide fund. Money collected from the fees charged for the ~~conduct of customer satisfaction surveys~~ publication of the Ohio long-term care consumer guide under division (A) of this section 173.47 of the Revised Code shall be credited to the fund. The department of ~~aging~~ shall use money in the fund for costs associated with publishing the Ohio long-term care consumer guide, including, but not limited to, costs incurred in conducting or providing for the conduct of customer satisfaction surveys. 17028
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Sec. 173.501. (A) As used in this section: 17038

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 17039
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"PACE provider" has the same meaning as in 42 U.S.C. 17041
1396u-4(a)(3). 17042

(B) The department of aging shall establish a home first component of the PACE program under which eligible individuals may be enrolled in the PACE program in accordance with this section. An individual is eligible for the PACE program's home first component if ~~all~~ both of the following apply: 17043
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(1) The individual ~~is~~ has been determined to be eligible for the PACE program. 17048
17049

(2) ~~The individual is on the unified waiting list established under section 173.404 of the Revised Code.~~ 17050
17051

~~(3)~~ At least one of the following applies: 17052

(a) The individual has been admitted to a nursing facility. 17053

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PACE program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PACE program, the individual is to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PACE program, the individual should be admitted to a nursing facility.

(C) Each month, the department of aging shall identify individuals who are eligible for the home first component of the PACE program. When the department identifies such an individual, the department shall notify the PACE provider serving the area in which the individual resides. The PACE provider shall determine whether the PACE program is appropriate for the individual and whether the individual would rather participate in the PACE program than continue or begin to reside in a nursing facility. If the PACE provider determines that the PACE program is appropriate

for the individual and the individual would rather participate in 17085
the PACE program than continue or begin to reside in a nursing 17086
facility, the PACE provider shall so notify the department of 17087
aging. On receipt of the notice from the PACE provider, the 17088
department of aging shall approve the individual's enrollment in 17089
the PACE program in accordance with priorities established in 17090
rules adopted under section 173.50 of the Revised Code. 17091

~~(D) Each quarter, the department of aging shall certify to 17092
the director of budget and management the estimated increase in 17093
costs of the PACE program resulting from enrollment of individuals 17094
in the PACE program pursuant to this section. 17095~~

Sec. 183.30. ~~(A) Except as provided in division (C) of this 17096
section, no more than five per cent of the total disbursements, 17097
encumbrances, and obligations of the southern Ohio agricultural 17098
and community development foundation in a fiscal year shall be for 17099
administrative expenses of the foundation in the same fiscal year. 17100~~

~~(B) Except as provided in division (C) of this section, no 17101
more than five per cent of the total disbursements, encumbrances, 17102
and obligations of the biomedical research and technology transfer 17103
trust fund in a fiscal year shall be for expenses relating to the 17104
administration of the trust fund by the third frontier commission 17105
in the same fiscal year. 17106~~

~~(C) This section's five per cent limitation on administrative 17107
expenses does not apply to any fiscal year for which the 17108
controlling board approves a spending plan that the foundation or 17109
commission submits to the board. 17110~~

Payments may be made from the biomedical research and 17111
technology transfer trust fund for third frontier commission 17112
expenses related to the administration of awards made from the 17113
fund prior to the effective date of this section. No such payments 17114
shall be made after June 30, 2013. 17115

Sec. 183.51. (A) As used in this section and in the	17116
applicable bond proceedings unless otherwise provided:	17117
(1) "Bond proceedings" means the resolutions, orders,	17118
indentures, purchase and sale and trust and other agreements	17119
including any amendments or supplements to them, and credit	17120
enhancement facilities, and amendments and supplements to them, or	17121
any one or more or combination of them, authorizing, awarding, or	17122
providing for the terms and conditions applicable to or providing	17123
for the security or liquidity of, the particular obligations, and	17124
the provisions contained in those obligations.	17125
(2) "Bond service fund" means the bond service fund created	17126
in the bond proceedings for the obligations.	17127
(3) "Capital facilities" means, as applicable, capital	17128
facilities or projects as referred to in section 151.03 or 151.04	17129
of the Revised Code.	17130
(4) "Consent decree" means the consent decree and final	17131
judgment entered November 25, 1998, in the court of common pleas	17132
of Franklin county, Ohio, as the same may be amended or	17133
supplemented from time to time.	17134
(5) "Cost of capital facilities" has the same meaning as in	17135
section 151.01 of the Revised Code, as applicable.	17136
(6) "Credit enhancement facilities," "financing costs," and	17137
"interest" or "interest equivalent" have the same meanings as in	17138
section 133.01 of the Revised Code.	17139
(7) "Debt service" means principal, including any mandatory	17140
sinking fund or redemption requirements for retirement of	17141
obligations, interest and other accreted amounts, interest	17142
equivalent, and any redemption premium, payable on obligations. If	17143
not prohibited by the applicable bond proceedings, "debt service"	17144
may include costs relating to credit enhancement facilities that	17145

are related to and represent, or are intended to provide a source of payment of or limitation on, other debt service.

(8) "Improvement fund" means, as applicable, the school building program assistance fund created in section 3318.25 of the Revised Code and the higher education improvement fund created in section 154.21 of the Revised Code.

(9) "Issuing authority" means the buckeye tobacco settlement financing authority created in section 183.52 of the Revised Code.

(10) "Net proceeds" means amounts received from the sale of obligations, excluding amounts used to refund or retire outstanding obligations, amounts required to be deposited into special funds pursuant to the applicable bond proceedings, and amounts to be used to pay financing costs.

(11) "Obligations" means bonds, notes, or other evidences of obligation of the issuing authority, including any appertaining interest coupons, issued by the issuing authority under this section and Section 2i of Article VIII, Ohio Constitution, for the purpose of providing funds to the state, in exchange for the assignment and sale described in division (B) of this section, for the purpose of paying costs of capital facilities for: (a) housing branches and agencies of state government limited to facilities for a system of common schools throughout the state and (b) state-supported or state-assisted institutions of higher education.

(12) "Pledged receipts" means, as and to the extent provided for in the applicable bond proceedings:

- (a) Pledged tobacco settlement receipts;
- (b) Accrued interest received from the sale of obligations;
- (c) Income from the investment of the special funds;
- (d) Additional or any other specific revenues or receipts

lawfully available to be pledged, and pledged, pursuant to the 17176
bond proceedings, including but not limited to amounts received 17177
under credit enhancement facilities, to the payment of debt 17178
service. 17179

(13) "Pledged tobacco settlement receipts" means all amounts 17180
received by the issuing authority pursuant to division (B) of this 17181
section. 17182

(14) "Principal amount" means the aggregate of the amount as 17183
stated or provided for in the applicable bond proceedings as the 17184
amount on which interest or interest equivalent on particular 17185
obligations is initially calculated. "Principal amount" does not 17186
include any premium paid to the issuing authority by the initial 17187
purchaser of the obligations. "Principal amount" of a capital 17188
appreciation bond, as defined in division (C) of section 3334.01 17189
of the Revised Code, means its original face amount and not its 17190
accreted value, and "principal amount" of a zero coupon bond, as 17191
defined in division (J) of section 3334.01 of the Revised Code, 17192
means the discounted offering price at which the bond is initially 17193
sold to the public, disregarding any purchase price discount to 17194
the original purchaser, if provided in or for pursuant to the bond 17195
proceedings. 17196

(15) "Special funds" or "funds," unless the context indicates 17197
otherwise, means the bond service fund, and any other funds, 17198
including any reserve funds, created under the bond proceedings 17199
and stated to be special funds in those proceedings, including 17200
moneys and investments, and earnings from investments, credited 17201
and to be credited to the particular fund. "Special funds" does 17202
not include any improvement fund or investment earnings on amounts 17203
in any improvement fund, or other funds created by the bond 17204
proceedings that are not stated by those proceedings to be special 17205
funds. 17206

(B) The state may assign and sell to the issuing authority, 17207

and the issuing authority may accept and purchase, all or a 17208
portion of the amounts to be received by the state under the 17209
tobacco master settlement agreement for a purchase price payable 17210
by the issuing authority to the state consisting of the net 17211
proceeds of obligations and any residual interest, if any. Any 17212
such assignment and sale shall be irrevocable in accordance with 17213
its terms during the period any obligations secured by amounts so 17214
assigned and sold are outstanding under the applicable bond 17215
proceedings, and shall constitute a contractual obligation to the 17216
holders or owners of those obligations. Any such assignment and 17217
sale shall also be treated as an absolute transfer and true sale 17218
for all purposes, and not as a pledge or other security interest. 17219
The characterization of any such assignment and sale as a true 17220
sale and absolute transfer shall not be negated or adversely 17221
affected by only a portion of the amounts to be received under the 17222
tobacco master settlement agreement being transferred, the 17223
acquisition or retention by the state of a residual interest, the 17224
participation of any state officer or employee as a member or 17225
officer of, or providing staff support to, the issuing authority, 17226
any responsibility of an officer or employee of the state for 17227
collecting the amounts to be received under the tobacco master 17228
settlement agreement or otherwise enforcing that agreement or 17229
retaining any legal title to or interest in any portion of the 17230
amounts to be received under that agreement for the purpose of 17231
these collection activities, any characterization of the issuing 17232
authority or its obligations for purposes of accounting, taxation, 17233
or securities regulation, or by any other factors whatsoever. A 17234
true sale shall exist under this section regardless of whether the 17235
issuing authority has any recourse against the state or any other 17236
term of the bond proceedings or the treatment or characterization 17237
of the transfer as a financing for any purpose. Upon and following 17238
the assignment and sale, the state shall not have any right, 17239
title, or interest in the portion of the receipts under the 17240

tobacco master settlement agreement so assigned and sold, other 17241
than any residual interest that may be described in the applicable 17242
bond proceedings for those obligations, and that portion, if any, 17243
shall be the property of the issuing authority and not of the 17244
state, and shall be paid directly to the issuing authority, and 17245
shall be owned, received, held, and disbursed by the issuing 17246
authority and not by the state. 17247

The state may covenant, pledge, and agree in the bond 17248
proceedings, with and for the benefit of the issuing authority, 17249
the holders and owners of obligations, and providers of any credit 17250
enhancement facilities, that it shall: (1) maintain statutory 17251
authority for, and cause to be collected and paid directly to the 17252
issuing authority or its assignee, the pledged receipts, (2) 17253
enforce the rights of the issuing authority to receive the 17254
receipts under the tobacco master settlement agreement assigned 17255
and sold to the issuing authority, (3) not materially impair the 17256
rights of the issuing authority to fulfill the terms of its 17257
agreements with the holders or owners of outstanding obligations 17258
under the bond proceedings, (4) not materially impair the rights 17259
and remedies of the holders or owners of outstanding obligations 17260
or materially impair the security for those outstanding 17261
obligations, and (5) enforce Chapter 1346. of the Revised Code, 17262
the tobacco master settlement agreement, and the consent decree to 17263
effectuate the collection of the pledged tobacco settlement 17264
receipts. The bond proceedings may provide or authorize the manner 17265
for determining material impairment of the security for any 17266
outstanding obligations, including by assessing and evaluating the 17267
pledged receipts in the aggregate. 17268

As further provided for in division (H) of this section, the 17269
bond proceedings may also include such other covenants, pledges, 17270
and agreements by the state to protect and safeguard the security 17271
and rights of the holders and owners of the obligations, and of 17272

the providers of any credit enhancement facilities, including, 17273
without limiting the generality of the foregoing, any covenant, 17274
pledge, or agreement customary in transactions involving the 17275
issuance of securities the debt service on which is payable from 17276
or secured by amounts received under the tobacco master settlement 17277
agreement. Notwithstanding any other provision of law, any 17278
covenant, pledge, and agreement of the state, if and when made in 17279
the bond proceedings, shall be controlling and binding upon, and 17280
enforceable against the state in accordance with its terms for so 17281
long as any obligations are outstanding under the applicable bond 17282
proceedings. The bond proceedings may also include limitations on 17283
the remedies available to the issuing authority, the holders and 17284
owners of the obligations, and the providers of any credit 17285
enhancement facilities, including, without limiting the generality 17286
of the foregoing, a provision that those remedies may be limited 17287
to injunctive relief in circumstances where there has been no 17288
prior determination by a court of competent jurisdiction that the 17289
state has not enforced Chapter 1346. of the Revised Code, the 17290
tobacco master settlement agreement, or the consent decree as may 17291
have been covenanted or agreed in the bond proceedings under 17292
division (B)(5) of this section. 17293

Nothing in this section or the bond proceedings shall 17294
preclude or limit, or be construed to preclude or limit, the state 17295
from regulating or authorizing or permitting the regulation of 17296
smoking or from taxing and regulating the sale of cigarettes or 17297
other tobacco products, or from defending or prosecuting cases or 17298
other actions relating to the sale or use of cigarettes or other 17299
tobacco products. Except as otherwise may be agreed in writing by 17300
the attorney general, nothing in this section or the bond 17301
proceedings shall modify or limit, or be construed to modify or 17302
limit, the responsibility, power, judgment, and discretion of the 17303
attorney general to protect and discharge the duties, rights, and 17304
obligations of the state under the tobacco master settlement 17305

agreement, the consent decree, or Chapter 1346. of the Revised Code. 17306
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The governor and the director of budget and management, in consultation with the attorney general, on behalf of the state, and any member or officer of the issuing authority as authorized by that issuing authority, on behalf of the issuing authority, may take any action and execute any documents, including any purchase and sale agreements, necessary to effect the assignment and sale and the acceptance of the assignment and title to the receipts including, providing irrevocable direction to the escrow agent acting under the tobacco master settlement agreement to transfer directly to the issuing authority the amounts to be received under that agreement that are subject to such assignment and sale. Any purchase and sale agreement or other bond proceedings may contain the terms and conditions established by the state and the issuing authority to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the state in favor of the issuing authority and its assignees and the owners of the obligations. Any such purchase and sale agreement shall be sufficient to effectuate such purchase and sale without regard to any other laws governing other property sales or financial transactions by the state. 17308
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Not later than two years following the date on which there are no longer any obligations outstanding under the bond proceedings, all assets of the issuing authority shall vest in the state, the issuing authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of amounts under the tobacco master settlement agreement, and the issuing authority shall be dissolved. 17328
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(C) The issuing authority is authorized to issue and to sell obligations as provided in this section. The aggregate principal 17336
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amount of obligations issued under this section shall not exceed 17338
six billion dollars, exclusive of obligations issued under 17339
division (M)(1) of this section to refund, renew, or advance 17340
refund other obligations issued or incurred. At least seventy-five 17341
per cent of the aggregate net proceeds of the obligations issued 17342
under the authority of this section, exclusive of obligations 17343
issued to refund, renew, or advance refund other obligations, 17344
shall be paid to the state for deposit into the school building 17345
program assistance fund created in section 3318.25 of the Revised 17346
Code. 17347

(D) Each issue of obligations shall be authorized by 17348
resolution or order of the issuing authority. The bond proceedings 17349
shall provide for or authorize the manner for determining the 17350
principal amount or maximum principal amount of obligations of an 17351
issue, the principal maturity or maturities, the interest rate or 17352
rates, the date of and the dates of payment of interest on the 17353
obligations, their denominations, and the place or places of 17354
payment of debt service which may be within or outside the state. 17355
Unless otherwise provided by law, the latest principal maturity 17356
may not be later than the earlier of the thirty-first day of 17357
December of the fiftieth calendar year after the year of issuance 17358
of the particular obligations or of the fiftieth calendar year 17359
after the year in which the original obligation to pay was issued 17360
or entered into. Sections 9.96, 9.98, 9.981, 9.982, and 9.983 of 17361
the Revised Code apply to the obligations. 17362

The purpose of the obligations may be stated in the bond 17363
proceedings in general terms, such as, as applicable, "paying 17364
costs of capital facilities for a system of common schools" and 17365
"paying costs of facilities for state-supported and state-assisted 17366
institutions of higher education." Unless otherwise provided in 17367
the bond proceedings or in division (C) of this section, the net 17368
proceeds from the issuance of the obligations shall be paid to the 17369

state for deposit into the applicable improvement fund. In 17370
addition to the investments authorized in Chapter 135. of the 17371
Revised Code, the net proceeds held in an improvement fund may be 17372
invested by the treasurer of state in guaranteed investment 17373
contracts with providers rated at the time of any investment in 17374
the three highest rating categories by two nationally recognized 17375
rating agencies, all subject to the terms and conditions set forth 17376
in those agreements or the bond proceedings. Notwithstanding 17377
~~division (B)(4) of section 3318.38 anything to the contrary in~~ 17378
Chapter 3318. of the Revised Code, net proceeds of obligations 17379
deposited into the school building program assistance fund created 17380
in section 3318.25 of the Revised Code may be used to pay basic 17381
project costs under ~~section 3318.38 of the Revised Code that~~ 17382
chapter at the times determined by the Ohio school facilities 17383
commission without regard to whether those expenditures are in 17384
proportion to the state's and the school district's respective 17385
shares of that basic project cost; provided that this shall not 17386
result in any change in the state or school district shares of the 17387
basic project costs ~~provided under Chapter 3318. of the Revised~~ 17388
~~Code as determined under that chapter.~~ As used in the preceding 17389
sentence, "Ohio school facilities commission" and "basic project 17390
costs" have the same meanings as in section 3318.01 of the Revised 17391
Code. 17392

(E) The issuing authority may, without need for any other 17393
approval, appoint or provide for the appointment of paying agents, 17394
bond registrars, securities depositories, credit enhancement 17395
providers or counterparties, clearing corporations, and transfer 17396
agents, and retain or contract for the services of underwriters, 17397
investment bankers, financial advisers, accounting experts, 17398
marketing, remarketing, indexing, and administrative agents, other 17399
consultants, and independent contractors, including printing 17400
services, as are necessary in the judgment of the issuing 17401
authority to carry out the issuing authority's functions under 17402

this section and section 183.52 of the Revised Code. The attorney 17403
general as counsel to the issuing authority shall represent the 17404
authority in the execution of its powers and duties, and shall 17405
institute and prosecute all actions on its behalf. The issuing 17406
authority, in consultation with the attorney general, shall select 17407
counsel, and the attorney general shall appoint the counsel 17408
selected, for the purposes of carrying out the functions under 17409
this section and related sections of the Revised Code. Financing 17410
costs are payable, as may be provided in the bond proceedings, 17411
from the proceeds of the obligations, from special funds, or from 17412
other moneys available for the purpose, including as to future 17413
financing costs, from the pledged receipts. 17414

(F) The issuing authority may irrevocably pledge and assign 17415
all, or such portion as the issuing authority determines, of the 17416
pledged receipts to the payment of the debt service charges on 17417
obligations issued under this section, and for the establishment 17418
and maintenance of any reserves, as provided in the bond 17419
proceedings, and make other provisions in the bond proceedings 17420
with respect to pledged receipts as authorized by this section, 17421
which provisions are controlling notwithstanding any other 17422
provisions of law pertaining to them. Any and all pledged receipts 17423
received by the issuing authority and required by the bond 17424
proceedings, consistent with this section, to be deposited, 17425
transferred, or credited to the bond service fund, and all other 17426
money transferred or allocated to or received for the purposes of 17427
that fund, shall be deposited and credited to the bond service 17428
fund created in the bond proceedings for the obligations, subject 17429
to any applicable provisions of those bond proceedings, but 17430
without necessity for any act of appropriation. Those pledged 17431
receipts shall immediately be subject to the lien of that pledge 17432
without any physical delivery thereof or further act, and shall 17433
not be subject to other court judgments. The lien of the pledge of 17434
those pledged receipts shall be valid and binding against all 17435

parties having claims of any kind against the issuing authority, 17436
irrespective of whether those parties have notice thereof. The 17437
pledge shall create a perfected security interest for all purposes 17438
of Chapter 1309. of the Revised Code and a perfected lien for 17439
purposes of any other interest, all without the necessity for 17440
separation or delivery of funds or for the filing or recording of 17441
the applicable bond proceedings by which that pledge is created or 17442
any certificate, statement, or other document with respect 17443
thereto. The pledge of the pledged receipts shall be effective and 17444
the money therefrom and thereof may be applied to the purposes for 17445
which pledged. 17446

(G) Obligations may be further secured, as determined by the 17447
issuing authority, by an indenture or a trust agreement between 17448
the issuing authority and a corporate trustee, which may be any 17449
trust company or bank having a place of business within the state. 17450
Any indenture or trust agreement may contain the resolution or 17451
order authorizing the issuance of the obligations, any provisions 17452
that may be contained in any bond proceedings, and other 17453
provisions that are customary or appropriate in an agreement of 17454
that type, including, but not limited to: 17455

(1) Maintenance of each pledge, indenture, trust agreement, 17456
or other instrument comprising part of the bond proceedings until 17457
the issuing authority has fully paid or provided for the payment 17458
of debt service on the obligations secured by it; 17459

(2) In the event of default in any payments required to be 17460
made by the bond proceedings, enforcement of those payments or 17461
agreements by mandamus, the appointment of a receiver, suit in 17462
equity, action at law, or any combination of them; 17463

(3) The rights and remedies of the holders or owners of 17464
obligations and of the trustee and provisions for protecting and 17465
enforcing them, including limitations on rights of individual 17466
holders and owners. 17467

(H) The bond proceedings may contain additional provisions 17468
customary or appropriate to the financing or to the obligations or 17469
to particular obligations including, but not limited to, 17470
provisions for: 17471

(1) The redemption of obligations prior to maturity at the 17472
option of the issuing authority or of the holder or upon the 17473
occurrence of certain conditions, and at a particular price or 17474
prices and under particular terms and conditions; 17475

(2) The form of and other terms of the obligations; 17476

(3) The establishment, deposit, investment, and application 17477
of special funds, and the safeguarding of moneys on hand or on 17478
deposit, in lieu of the applicability of provisions of Chapter 17479
131. or 135. of the Revised Code, but subject to any special 17480
provisions of this section with respect to the application of 17481
particular funds or moneys. Any financial institution that acts as 17482
a depository of any moneys in special funds or other funds under 17483
the bond proceedings may furnish indemnifying bonds or pledge 17484
securities as required by the issuing authority. 17485

(4) Any or every provision of the bond proceedings being 17486
binding upon the issuing authority and upon such governmental 17487
agency or entity, officer, board, authority, agency, department, 17488
institution, district, or other person or body as may from time to 17489
time be authorized to take actions as may be necessary to perform 17490
all or any part of the duty required by the provision; 17491

(5) The maintenance of each pledge or instrument comprising 17492
part of the bond proceedings until the issuing authority has fully 17493
paid or provided for the payment of the debt service on the 17494
obligations or met other stated conditions; 17495

(6) In the event of default in any payments required to be 17496
made by the bond proceedings, or by any other agreement of the 17497
issuing authority made as part of a contract under which the 17498

obligations were issued or secured, including a credit enhancement 17499
facility, the enforcement of those payments by mandamus, a suit in 17500
equity, an action at law, or any combination of those remedial 17501
actions; 17502

(7) The rights and remedies of the holders or owners of 17503
obligations or of book-entry interests in them, and of third 17504
parties under any credit enhancement facility, and provisions for 17505
protecting and enforcing those rights and remedies, including 17506
limitations on rights of individual holders or owners; 17507

(8) The replacement of mutilated, destroyed, lost, or stolen 17508
obligations; 17509

(9) The funding, refunding, or advance refunding, or other 17510
provision for payment, of obligations that will then no longer be 17511
outstanding for purposes of this section or of the applicable bond 17512
proceedings; 17513

(10) Amendment of the bond proceedings; 17514

(11) Any other or additional agreements with the owners of 17515
obligations, and such other provisions as the issuing authority 17516
determines, including limitations, conditions, or qualifications, 17517
relating to any of the foregoing or the activities of the issuing 17518
authority in connection therewith. 17519

The bond proceedings shall make provision for the payment of 17520
the expenses of the enforcement activity of the attorney general 17521
referred to in division (B) of this section from the amounts from 17522
the tobacco master settlement agreement assigned and sold to the 17523
issuing authority under that division or from the proceeds of 17524
obligations, or a combination thereof, which may include provision 17525
for both annual payments and a special fund providing reserve 17526
amounts for the payment of those expenses. 17527

The issuing authority shall not, and shall covenant in the 17528
bond proceedings that it shall not, be authorized to and shall not 17529

file a voluntary petition under the United States Bankruptcy Code, 17530
11 U.S.C. 101 et seq., as amended, or voluntarily commence any 17531
similar bankruptcy proceeding under state law including, without 17532
limitation, consenting to the appointment of a receiver or trustee 17533
or making a general or specific assignment for the benefit of 17534
creditors, and neither any public officer or any organization, 17535
entity, or other person shall authorize the issuing authority to 17536
be or become a debtor under the United States Bankruptcy Code or 17537
take any of those actions under the United States Bankruptcy Code 17538
or state law. The state hereby covenants, and the issuing 17539
authority shall covenant, with the holders or owners of the 17540
obligations, that the state shall not permit the issuing authority 17541
to file a voluntary petition under the United States Bankruptcy 17542
Code or take any of those actions under the United States 17543
Bankruptcy Code or state law during the period obligations are 17544
outstanding and for any additional period for which the issuing 17545
authority covenants in the bond proceedings, which additional 17546
period may, but need not, be a period of three hundred sixty-seven 17547
days or more. 17548

(I) The obligations requiring execution by or for the issuing 17549
authority shall be signed as provided in the bond proceedings, and 17550
may bear the official seal of the issuing authority or a facsimile 17551
thereof. Any obligation may be signed by the individual who, on 17552
the date of execution, is the authorized signer even though, on 17553
the date of the obligations, that individual is not an authorized 17554
signer. In case the individual whose signature or facsimile 17555
signature appears on any obligation ceases to be an authorized 17556
signer before delivery of the obligation, that signature or 17557
facsimile is nevertheless valid and sufficient for all purposes as 17558
if that individual had remained the authorized signer until 17559
delivery. 17560

(J) Obligations are investment securities under Chapter 1308. 17561

of the Revised Code. Obligations may be issued in bearer or in 17562
registered form, registrable as to principal alone or as to both 17563
principal and interest, or both, or in certificated or 17564
uncertificated form, as the issuing authority determines. 17565
Provision may be made for the exchange, conversion, or transfer of 17566
obligations and for reasonable charges for registration, exchange, 17567
conversion, and transfer. Pending preparation of final 17568
obligations, the issuing authority may provide for the issuance of 17569
interim instruments to be exchanged for the final obligations. 17570

(K) Obligations may be sold at public sale or at private 17571
sale, in such manner, and at such price at, above, or below par, 17572
all as determined by and provided by the issuing authority in the 17573
bond proceedings. 17574

(L) Except to the extent that rights are restricted by the 17575
bond proceedings, any owner of obligations or provider of or 17576
counterparty to a credit enhancement facility may by any suitable 17577
form of legal proceedings protect and enforce any rights relating 17578
to obligations or that facility under the laws of this state or 17579
granted by the bond proceedings. Those rights include the right to 17580
compel the performance of all applicable duties of the issuing 17581
authority and the state. Each duty of the issuing authority and 17582
that issuing authority's officers, staff, and employees, and of 17583
each state entity or agency, or using district or using 17584
institution, and its officers, members, staff, or employees, 17585
undertaken pursuant to the bond proceedings, is hereby established 17586
as a duty of the entity or individual having authority to perform 17587
that duty, specifically enjoined by law and resulting from an 17588
office, trust, or station within the meaning of section 2731.01 of 17589
the Revised Code. The individuals who are from time to time 17590
members of the issuing authority, or their designees acting 17591
pursuant to section 183.52 of the Revised Code, or the issuing 17592
authority's officers, staff, agents, or employees, when acting 17593

within the scope of their employment or agency, shall not be 17594
liable in their personal capacities on any obligations or 17595
otherwise under the bond proceedings, or for otherwise exercising 17596
or carrying out any purposes or powers of the issuing authority. 17597

(M)(1) Subject to any applicable limitations in division (C) 17598
of this section, the issuing authority may also authorize and 17599
provide for the issuance of: 17600

(a) Obligations in the form of bond anticipation notes, and 17601
may authorize and provide for the renewal of those notes from time 17602
to time by the issuance of new notes. The holders of notes or 17603
appertaining interest coupons have the right to have debt service 17604
on those notes paid solely from the moneys and special funds, and 17605
all or any portion of the pledged receipts, that are or may be 17606
pledged to that payment, including the proceeds of bonds or 17607
renewal notes or both, as the issuing authority provides in the 17608
bond proceedings authorizing the notes. Notes may be additionally 17609
secured by covenants of the issuing authority to the effect that 17610
the issuing authority will do all things necessary for the 17611
issuance of bonds or renewal notes in such principal amount and 17612
upon such terms as may be necessary to provide moneys to pay when 17613
due the debt service on the notes, and apply their proceeds to the 17614
extent necessary, to make full and timely payment of debt service 17615
on the notes as provided in the applicable bond proceedings. In 17616
the bond proceedings authorizing the issuance of bond anticipation 17617
notes the issuing authority shall set forth for the bonds 17618
anticipated an estimated schedule of annual principal payments the 17619
latest of which shall be no later than provided in division (D) of 17620
this section. While the notes are outstanding there shall be 17621
deposited, as shall be provided in the bond proceedings for those 17622
notes, from the sources authorized for payment of debt service on 17623
the bonds, amounts sufficient to pay the principal of the bonds 17624
anticipated as set forth in that estimated schedule during the 17625

time the notes are outstanding, which amounts shall be used solely 17626
to pay the principal of those notes or of the bonds anticipated. 17627

(b) Obligations for the refunding, including funding and 17628
retirement, and advance refunding, with or without payment or 17629
redemption prior to maturity, of any obligations previously issued 17630
under this section and any bonds or notes previously issued for 17631
the purpose of paying costs of capital facilities for: (i) 17632
state-supported or state-assisted institutions of higher education 17633
as authorized by sections 151.01 and 151.04 of the Revised Code, 17634
pursuant to Sections 2i and 2n of Article VIII, Ohio Constitution, 17635
and (ii) housing branches and agencies of state government limited 17636
to facilities for a system of common schools throughout the state 17637
as authorized by sections 151.01 and 151.03 of the Revised Code, 17638
pursuant to Sections 2i and 2n of Article VIII, Ohio Constitution. 17639
Refunding obligations may be issued in amounts sufficient to pay 17640
or to provide for repayment of the principal amount, including 17641
principal amounts maturing prior to the redemption of the 17642
remaining prior obligations or bonds or notes, any redemption 17643
premium, and interest accrued or to accrue to the maturity or 17644
redemption date or dates, payable on the prior obligations or 17645
bonds or notes, and related financing costs and any expenses 17646
incurred or to be incurred in connection with that issuance and 17647
refunding. Subject to the applicable bond proceedings, the portion 17648
of the proceeds of the sale of refunding obligations issued under 17649
division (M)(1)(b) of this section to be applied to debt service 17650
on the prior obligations or bonds or notes shall be credited to an 17651
appropriate separate account in the bond service fund and held in 17652
trust for the purpose by the issuing authority or by a corporate 17653
trustee, and may be invested as provided in the bond proceedings. 17654
Obligations authorized under this division shall be considered to 17655
be issued for those purposes for which the prior obligations or 17656
bonds or notes were issued. 17657

(2) The principal amount of refunding, advance refunding, or 17658
renewal obligations issued pursuant to division (M) of this 17659
section shall be in addition to the amount authorized in division 17660
(C) of this section. 17661

(N) Obligations are lawful investments for banks, savings and 17662
loan associations, credit union share guaranty corporations, trust 17663
companies, trustees, fiduciaries, insurance companies, including 17664
domestic for life and domestic not for life, trustees or other 17665
officers having charge of sinking and bond retirement or other 17666
special funds of the state and political subdivisions and taxing 17667
districts of this state, notwithstanding any other provisions of 17668
the Revised Code or rules adopted pursuant to those provisions by 17669
any state agency with respect to investments by them, and are also 17670
acceptable as security for the repayment of the deposit of public 17671
moneys. The exemptions from taxation in Ohio as provided for in 17672
particular sections of the Ohio Constitution and section 5709.76 17673
of the Revised Code apply to the obligations. 17674

(O)(1) Unless otherwise provided or provided for in any 17675
applicable bond proceedings, moneys to the credit of or in a 17676
special fund shall be disbursed on the order of the issuing 17677
authority. No such order is required for the payment, from the 17678
bond service fund or other special fund, when due of debt service 17679
or required payments under credit enhancement facilities. 17680

(2) Payments received by the issuing authority under interest 17681
rate hedges entered into as credit enhancement facilities under 17682
this section shall be deposited as provided in the applicable bond 17683
proceedings. 17684

(P) The obligations shall not be general obligations of the 17685
state and the full faith and credit, revenue, and taxing power of 17686
the state shall not be pledged to the payment of debt service on 17687
them or to any guarantee of the payment of that debt service. The 17688
holders or owners of the obligations shall have no right to have 17689

any moneys obligated or pledged for the payment of debt service 17690
except as provided in this section and in the applicable bond 17691
proceedings. The rights of the holders and owners to payment of 17692
debt service are limited to all or that portion of the pledged 17693
receipts, and those special funds, pledged to the payment of debt 17694
service pursuant to the bond proceedings in accordance with this 17695
section, and each obligation shall bear on its face a statement to 17696
that effect. 17697

(Q) Each bond service fund is a trust fund and is hereby 17698
pledged to the payment of debt service on the applicable 17699
obligations. Payment of that debt service shall be made or 17700
provided for by the issuing authority in accordance with the bond 17701
proceedings without necessity for any act of appropriation. The 17702
bond proceedings may provide for the establishment of separate 17703
accounts in the bond service fund and for the application of those 17704
accounts only to debt service on specific obligations, and for 17705
other accounts in the bond service fund within the general 17706
purposes of that fund. 17707

(R) Subject to the bond proceedings pertaining to any 17708
obligations then outstanding in accordance with their terms, the 17709
issuing authority may in the bond proceedings pledge all, or such 17710
portion as the issuing authority determines, of the moneys in the 17711
bond service fund to the payment of debt service on particular 17712
obligations, and for the establishment and maintenance of any 17713
reserves for payment of particular debt service. 17714

(S)(1) Unless otherwise provided in any applicable bond 17715
proceedings, moneys to the credit of special funds may be invested 17716
by or on behalf of the issuing authority only in one or more of 17717
the following: 17718

(a) Notes, bonds, or other direct obligations of the United 17719
States or of any agency or instrumentality of the United States, 17720
or in no-front-end-load money market mutual funds consisting 17721

exclusively of those obligations, or in repurchase agreements, 17722
including those issued by any fiduciary, secured by those 17723
obligations, or in collective investment funds consisting 17724
exclusively of those obligations; 17725

(b) Obligations of this state or any political subdivision of 17726
this state; 17727

(c) Certificates of deposit of any national bank located in 17728
this state and any bank, as defined in section 1101.01 of the 17729
Revised Code, subject to inspection by the superintendent of 17730
financial institutions; 17731

(d) The treasurer of state's pooled investment program under 17732
section 135.45 of the Revised Code; 17733

(e) Other investment agreements or repurchase agreements that 17734
are consistent with the ratings on the obligations. 17735

(2) The income from investments referred to in division 17736
(S)(1) of this section shall be credited to special funds or 17737
otherwise as the issuing authority determines in the bond 17738
proceedings. Those investments may be sold or exchanged at times 17739
as the issuing authority determines, provides for, or authorizes. 17740

(T) The treasurer of state shall have responsibility for 17741
keeping records, making reports, and making payments, relating to 17742
any arbitrage rebate requirements under the applicable bond 17743
proceedings. 17744

(U) The issuing authority shall make quarterly reports to the 17745
general assembly of the amounts in, and activities of, each 17746
improvement fund, including amounts and activities on the subfund 17747
level. Each report shall include a detailed description and 17748
analysis of the amount of proceeds remaining in each fund from the 17749
sale of obligations pursuant to this section, and any other 17750
deposits, credits, interest earnings, disbursements, expenses, 17751
transfers, or activities of each fund. 17752

(V) The costs of the annual audit of the authority conducted 17753
pursuant to section 117.112 of the Revised Code are payable, as 17754
may be provided in the bond proceedings, from the proceeds of the 17755
obligations, from special funds, or from other moneys available 17756
for the purpose, including as to future financing costs, from the 17757
pledged receipts. 17758

Sec. 185.01. As used in this chapter: 17759

(A) "Advanced practice nurse" has the same meaning as in 17760
section 4723.01 of the Revised Code. 17761

(B) "Collaboration" has the same meaning as in section 17762
4723.01 of the Revised Code. 17763

(C) ~~"Health care coverage and quality council" means the~~ 17764
~~entity established under section 3923.90 of the Revised Code.~~ 17765

~~(D)~~ "Patient centered medical home education advisory group" 17766
means the entity established under section 185.03 of the Revised 17767
Code to implement and administer the patient centered medical home 17768
education pilot project. 17769

~~(E)~~(D) "Patient centered medical home education pilot 17770
project" means the pilot project established under section 185.02 17771
of the Revised Code. 17772

Sec. 185.03. (A) The patient centered medical home education 17773
advisory group is hereby created for the purpose of implementing 17774
and administering the patient centered medical home pilot project. 17775
The advisory group shall develop a set of expected outcomes for 17776
the pilot project. 17777

(B) The advisory group shall consist of the following voting 17778
members: 17779

(1) One individual with expertise in the training and 17780
education of primary care physicians who is appointed by the dean 17781

of the university of Toledo college of medicine;	17782
(2) One individual with expertise in the training and education of primary care physicians who is appointed by the dean of the Boonshoft school of medicine at Wright state university;	17783 17784 17785
(3) One individual with expertise in the training and education of primary care physicians who is appointed by the president and dean of the northeast Ohio medical university;	17786 17787 17788
(4) One individual with expertise in the training and education of primary care physicians who is appointed by the dean of the Ohio university college of osteopathic medicine;	17789 17790 17791
(5) Two individuals appointed by the governing board of the Ohio academy of family physicians;	17792 17793
(6) One individual appointed by the governing board of the Ohio chapter of the American college of physicians;	17794 17795
(7) One individual appointed by the governing board of the American academy of pediatrics;	17796 17797
(8) One individual appointed by the governing board of the Ohio osteopathic association;	17798 17799
(9) One individual with expertise in the training and education of advanced practice nurses who is appointed by the governing board of the Ohio council of deans and directors of baccalaureate and higher degree programs in nursing;	17800 17801 17802 17803
(10) One individual appointed by the governing board of the Ohio nurses association;	17804 17805
(11) One individual appointed by the governing board of the Ohio association of advanced practice nurses;	17806 17807
(12) A member of the health care coverage and quality council, other than the advisory group member specified in division (C)(2) of this section, <u>One individual appointed by the governing board of the Ohio council for home care and hospice;</u>	17808 17809 17810 17811

(13) One individual appointed by the superintendent of insurance. 17812
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(C) The advisory group shall consist of the following nonvoting, ex officio members: 17814
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(1) The executive director of the state medical board, or the director's designee; 17816
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(2) The executive director of the board of nursing or the director's designee; 17818
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(3) The chancellor of the Ohio board of regents, or the chancellor's designee; 17820
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(4) The individual within the department of job and family services who serves as the director of medicaid, or the director's designee; 17822
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17824

(5) The director of health or the director's designee. 17825

(D) Advisory group members who are appointed shall serve at the pleasure of their appointing authorities. Terms of office of appointed members shall be three years, except that a member's term ends if the pilot project ceases operation during the member's term. 17826
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Vacancies shall be filled in the manner provided for original appointments. 17831
17832

Members shall serve without compensation, except to the extent that serving on the advisory group is considered part of their regular employment duties. 17833
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(E) The advisory group shall select from among its members a chairperson and vice-chairperson. The advisory group may select any other officers it considers necessary to conduct its business. 17836
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A majority of the members of the advisory group constitutes a quorum for the transaction of official business. A majority of a quorum is necessary for the advisory group to take any action, 17839
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17841

except that when one or more members of a quorum are required to 17842
abstain from voting as provided in division (C)(1)(d) or (C)(2)(c) 17843
of section 185.05 of the Revised Code, the number of members 17844
necessary for a majority of a quorum shall be reduced accordingly. 17845

The advisory group shall meet as necessary to fulfill its 17846
duties. The times and places for the meetings shall be selected by 17847
the chairperson. 17848

(F) Sections 101.82 to 101.87 of the Revised Code do not 17849
apply to the advisory group. 17850

Sec. 185.06. (A) To be eligible for inclusion in the patient 17851
centered medical home education pilot project, a physician 17852
practice shall meet all of the following requirements: 17853

(1) Consist of physicians who are board-certified in family 17854
medicine, general pediatrics, or internal medicine, as those 17855
designations are issued by a medical specialty certifying board 17856
recognized by the American board of medical specialties or 17857
American osteopathic association; 17858

(2) Be capable of adapting the practice during the period in 17859
which the practice receives funding from the patient centered 17860
medical home education advisory group in such a manner that the 17861
practice is fully compliant with the minimum standards for 17862
operation of a patient centered medical home, as those standards 17863
are established by the advisory group; 17864

~~(3) Comply with any reporting requirements recommended by the 17865
health care coverage and quality council under division (A)(12) of 17866
section 3923.91 of the Revised Code;~~ 17867

~~(4) Meet any other criteria established by the advisory group 17868
as part of the selection process. 17869~~

(B) To be eligible for inclusion in the pilot project, an 17870
advanced practice nurse primary care practice shall meet all of 17871

the following requirements:	17872
(1) Consist of advanced practice nurses who meet all of the following requirements:	17873
(a) Hold a certificate to prescribe issued under section 4723.48 of the Revised Code;	17874
(b) Are board-certified as a family nurse practitioner or adult nurse practitioner by the American academy of nurse practitioners or American nurses credentialing center, board-certified as a geriatric nurse practitioner or women's health nurse practitioner by the American nurses credentialing center, or is board-certified as a pediatric nurse practitioner by the American nurses credentialing center or pediatric nursing certification board;	17875
(c) Has a collaboration agreement with a physician with board certification as specified in division (A)(1) of this section and who is an active participant on the health care team.	17876
(2) Be capable of adapting the primary care practice during the period in which the practice receives funding from the advisory group in such a manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are established by the advisory group;	17877
(3) Comply with any reporting requirements recommended by the health care coverage and quality council under division (A)(12) of section 3923.91 of the Revised Code;	17878
(4) Meet any other criteria established by the advisory group as part of the selection process.	17879
Sec. 185.10. The patient centered medical home education advisory group shall seek funding sources for the patient centered medical home education pilot project. In doing so, the advisory	17880
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group may apply for grants, seek federal funds, seek private 17902
donations, or seek any other type of funding that may be available 17903
for the pilot project. ~~To ensure that appropriate sources of and~~ 17904
~~opportunities for funding are identified and pursued, the advisory~~ 17905
~~group may ask for assistance from the health care coverage and~~ 17906
~~quality council.~~ 17907

Sec. 301.02. Previous to the presentation of a petition to 17908
the general assembly praying that a new county be erected, or for 17909
the location or relocation of a county seat, notice of the 17910
intention to present such petition shall be given, at least thirty 17911
days before the ensuing session of the general assembly, by 17912
advertisement in a newspaper published of general circulation in 17913
each county from which such new county is intended to be taken. If 17914
no ~~paper~~ newspaper is ~~printed~~ of general circulation within the 17915
county, notice shall be given by advertisement affixed to the door 17916
of the house where courts are held for such county, for such 17917
period of thirty days. The notice shall set forth the boundary 17918
lines of the new county, or the place where it is proposed to 17919
locate such county seat. 17920

Sec. 301.15. Within sixty days after their appointment, the 17921
commissioners provided for by section 301.14 of the Revised Code, 17922
or any two of them, shall assemble at some convenient place in the 17923
new county. Twenty days' notice of the time, place, and purpose of 17924
such meeting shall be given by publication in a newspaper 17925
~~published in and circulated~~ of general circulation in ~~such the~~ 17926
county, or by being posted in three of the most public places in 17927
such county. When assembled, after having taken the oath of office 17928
prescribed by sections 3.22 and 3.23 of the Revised Code, such 17929
commissioners shall proceed to examine and select the most proper 17930
place as a seat of justice, as near the center of the county as 17931
possible, having regard to the situation, extent of population, 17932

quality of land, and the convenience and interest of the 17933
inhabitants. 17934

Sec. 301.28. (A) As used in this section: 17935

(1) "Financial transaction device" includes a credit card, 17936
debit card, charge card, or prepaid or stored value card, or 17937
automated clearinghouse network credit, debit, or e-check entry 17938
that includes, but is not limited to, accounts receivable and 17939
internet-initiated, point of purchase, and telephone-initiated 17940
applications or any other device or method for making an 17941
electronic payment or transfer of funds. 17942

(2) "County expenses" includes fees, costs, taxes, 17943
assessments, fines, penalties, payments, or any other expense a 17944
person owes to a county office under the authority of a county 17945
official other than dog registration and kennel fees required to 17946
be paid under Chapter 955. of the Revised Code. 17947

(3) "County official" includes the county auditor, county 17948
treasurer, county engineer, county recorder, county prosecuting 17949
attorney, county sheriff, county coroner, county park district and 17950
board of county commissioners, the clerk of the probate court, the 17951
clerk of the juvenile court, the clerks of court for all divisions 17952
of the courts of common pleas, and the clerk of the court of 17953
common pleas, the clerk of a county-operated municipal court, and 17954
the clerk of a county court. 17955

The term "county expenses" includes county expenses owed to 17956
the board of health of the general health district or a combined 17957
health district in the county. If the board of county 17958
commissioners authorizes county expenses to be paid by financial 17959
transaction devices under this section, then the board of health 17960
and the general health district and the combined health district 17961
may accept payments by financial transaction devices under this 17962
section as if the board were a "county official" and the district 17963

were a county office. However, in the case of a general health 17964
district formed by unification of general health districts under 17965
section 3709.10 of the Revised Code, this entitlement applies only 17966
if all the boards of county commissioners of all counties in the 17967
district have authorized payments to be accepted by financial 17968
transaction devices. 17969

(B) Notwithstanding any other section of the Revised Code and 17970
except as provided in division (D) of this section, a board of 17971
county commissioners may adopt a resolution authorizing the 17972
acceptance of payments by financial transaction devices for county 17973
expenses. The resolution shall include the following: 17974

(1) A specification of those county officials who, and of the 17975
county offices under those county officials that, are authorized 17976
to accept payments by financial transaction devices; 17977

(2) A list of county expenses that may be paid for through 17978
the use of a financial transaction device; 17979

(3) Specific identification of financial transaction devices 17980
that the board authorizes as acceptable means of payment for 17981
county expenses. Uniform acceptance of financial transaction 17982
devices among different types of county expenses is not required. 17983

(4) The amount, if any, authorized as a surcharge or 17984
convenience fee under division (E) of this section for persons 17985
using a financial transaction device. Uniform application of 17986
surcharges or convenience fees among different types of county 17987
expenses is not required. 17988

(5) A specific provision as provided in division (G) of this 17989
section requiring the payment of a penalty if a payment made by 17990
means of a financial transaction device is returned or dishonored 17991
for any reason. 17992

The board's resolution shall also designate the county 17993
treasurer as an administrative agent to solicit proposals, within 17994

guidelines established by the board in the resolution and in 17995
compliance with the procedures provided in division (C) of this 17996
section, from financial institutions, issuers of financial 17997
transaction devices, and processors of financial transaction 17998
devices, to make recommendations about those proposals to the 17999
board, and to assist county offices in implementing the county's 18000
financial transaction devices program. The county treasurer may 18001
decline this responsibility within thirty days after receiving a 18002
copy of the board's resolution by notifying the board in writing 18003
within that period. If the treasurer so notifies the board, the 18004
board shall perform the duties of the administrative agent. 18005

If the county treasurer is the administrative agent and fails 18006
to administer the county financial transaction devices program in 18007
accordance with the guidelines in the board's resolution, the 18008
board shall notify the treasurer in writing of the board's 18009
findings, explain the failures, and give the treasurer six months 18010
to correct the failures. If the treasurer fails to make the 18011
appropriate corrections within that six-month period, the board 18012
may pass a resolution declaring the board to be the administrative 18013
agent. The board may later rescind that resolution at its 18014
discretion. 18015

(C) The county shall follow the procedures provided in this 18016
division whenever it plans to contract with financial 18017
institutions, issuers of financial transaction devices, or 18018
processors of financial transaction devices for the purposes of 18019
this section. The administrative agent shall request proposals 18020
from at least three financial institutions, issuers of financial 18021
transaction devices, or processors of financial transaction 18022
devices, as appropriate in accordance with the resolution adopted 18023
under division (B) of this section. Prior to sending any financial 18024
institution, issuer, or processor a copy of any such request, the 18025
county shall advertise its intent to request proposals in a 18026

newspaper of general circulation in the county once a week for two 18027
consecutive weeks or as provided in section 7.16 of the Revised 18028
Code. The notice shall state that the county intends to request 18029
proposals; specify the purpose of the request; indicate the date, 18030
which shall be at least ten days after the second publication, on 18031
which the request for proposals will be mailed to financial 18032
institutions, issuers, or processors; and require that any 18033
financial institution, issuer, or processor, whichever is 18034
appropriate, interested in receiving the request for proposals 18035
submit written notice of this interest to the county not later 18036
than noon of the day on which the request for proposals will be 18037
mailed. 18038

Upon receiving the proposals, the administrative agent shall 18039
review them and make a recommendation to the board of county 18040
commissioners on which proposals to accept. The board of county 18041
commissioners shall consider the agent's recommendation and review 18042
all proposals submitted, and then may choose to contract with any 18043
or all of the entities submitting proposals, as appropriate. The 18044
board shall provide any financial institution, issuer, or 18045
processor that submitted a proposal, but with which the board does 18046
not enter into a contract, notice that its proposal is rejected. 18047
The notice shall state the reasons for the rejection, indicate 18048
whose proposals were accepted, and provide a copy of the terms and 18049
conditions of the successful bids. 18050

(D) A board of county commissioners adopting a resolution 18051
under this section shall send a copy of the resolution to each 18052
county official in the county who is authorized by the resolution 18053
to accept payments by financial transaction devices. After 18054
receiving the resolution and before accepting payments by 18055
financial transaction devices, a county official shall provide 18056
written notification to the board of county commissioners of the 18057
official's intent to implement the resolution within the 18058

official's office. Each county office subject to the board's 18059
resolution adopted under division (B) of this section may use only 18060
the financial institutions, issuers of financial transaction 18061
devices, and processors of financial transaction devices with 18062
which the board of county commissioners contracts, and each such 18063
office is subject to the terms of those contracts. 18064

If a county office under the authority of a county official 18065
is directly responsible for collecting one or more county expenses 18066
and the county official determines not to accept payments by 18067
financial transaction devices for one or more of those expenses, 18068
the office shall not be required to accept payments by financial 18069
transaction devices, notwithstanding the adoption of a resolution 18070
by the board of county commissioners under this section. 18071

Any office of a clerk of the court of common pleas that 18072
accepts financial transaction devices on or before July 1, 1999, 18073
and any other county office that accepted such devices before 18074
January 1, 1998, may continue to accept such devices without being 18075
subject to any resolution passed by the board of county 18076
commissioners under division (B) of this section, or any other 18077
oversight by the board of the office's financial transaction 18078
devices program. Any such office may use surcharges or convenience 18079
fees in any manner the county official in charge of the office 18080
determines to be appropriate, and, if the county treasurer 18081
consents, may appoint the county treasurer to be the office's 18082
administrative agent for purposes of accepting financial 18083
transaction devices. In order not to be subject to the resolution 18084
of the board of county commissioners adopted under division (B) of 18085
this section, a county office shall notify the board in writing 18086
within thirty days after March 30, 1999, that it accepted 18087
financial transaction devices prior to January 1, 1998, or, in the 18088
case of the office of a clerk of the court of common pleas, the 18089
clerk has accepted or will accept such devices on or before July 18090

1, 1999. Each such notification shall explain how processing costs 18091
associated with financial transaction devices are being paid and 18092
shall indicate whether surcharge or convenience fees are being 18093
passed on to consumers. 18094

(E) A board of county commissioners may establish a surcharge 18095
or convenience fee that may be imposed upon a person making 18096
payment by a financial transaction device. The surcharge or 18097
convenience fee shall not be imposed unless authorized or 18098
otherwise permitted by the rules prescribed by an agreement 18099
governing the use and acceptance of the financial transaction 18100
device. 18101

If a surcharge or convenience fee is imposed, every county 18102
office accepting payment by a financial transaction device, 18103
regardless of whether that office is subject to a resolution 18104
adopted by a board of county commissioners, shall clearly post a 18105
notice in that office and shall notify each person making a 18106
payment by such a device about the surcharge or fee. Notice to 18107
each person making a payment shall be provided regardless of the 18108
medium used to make the payment and in a manner appropriate to 18109
that medium. Each notice shall include all of the following: 18110

(1) A statement that there is a surcharge or convenience fee 18111
for using a financial transaction device; 18112

(2) The total amount of the charge or fee expressed in 18113
dollars and cents for each transaction, or the rate of the charge 18114
or fee expressed as a percentage of the total amount of the 18115
transaction, whichever is applicable; 18116

(3) A clear statement that the surcharge or convenience fee 18117
is nonrefundable. 18118

(F) If a person elects to make a payment to the county by a 18119
financial transaction device and a surcharge or convenience fee is 18120
imposed, the payment of the surcharge or fee shall be considered 18121

voluntary and the surcharge or fee is not refundable. 18122

(G) If a person makes payment by financial transaction device 18123
and the payment is returned or dishonored for any reason, the 18124
person is liable to the county for payment of a penalty over and 18125
above the amount of the expense due. The board of county 18126
commissioners shall determine the amount of the penalty, which may 18127
be either a fee not to exceed twenty dollars or payment of the 18128
amount necessary to reimburse the county for banking charges, 18129
legal fees, or other expenses incurred by the county in collecting 18130
the returned or dishonored payment. The remedies and procedures 18131
provided in this section are in addition to any other available 18132
civil or criminal remedies provided by law. 18133

(H) No person making any payment by financial transaction 18134
device to a county office shall be relieved from liability for the 18135
underlying obligation except to the extent that the county 18136
realizes final payment of the underlying obligation in cash or its 18137
equivalent. If final payment is not made by the financial 18138
transaction device issuer or other guarantor of payment in the 18139
transaction, the underlying obligation shall survive and the 18140
county shall retain all remedies for enforcement that would have 18141
applied if the transaction had not occurred. 18142

(I) A county official or employee who accepts a financial 18143
transaction device payment in accordance with this section and any 18144
applicable state or local policies or rules is immune from 18145
personal liability for the final collection of such payments. 18146

Sec. 305.171. The following applies until the department of 18147
administrative services implements for counties the health care 18148
plans under section 9.901 of the Revised Code. If those plans do 18149
not include or address any benefits listed in division (A) of this 18150
section, the following provisions continue in effect for those 18151
benefits. 18152

(A) The board of county commissioners of any county may 18153
contract for, purchase, or otherwise procure and pay all or any 18154
part of the cost of group insurance policies that may provide 18155
benefits including, but not limited to, hospitalization, surgical 18156
care, major medical care, disability, dental care, eye care, 18157
medical care, hearing aids, or prescription drugs, and that may 18158
provide sickness and accident insurance, group legal services, or 18159
group life insurance, or a combination of any of the foregoing 18160
types of insurance or coverage, for county officers and employees 18161
and their immediate dependents from the funds or budgets from 18162
which the county officers or employees are compensated for 18163
services, issued by an insurance company. 18164

(B) The board of county commissioners also may negotiate and 18165
contract for any plan or plans of health care services with health 18166
insuring corporations holding a certificate of authority under 18167
Chapter 1751. of the Revised Code, provided that each county 18168
officer or employee shall be permitted to do both of the 18169
following: 18170

(1) Exercise an option between a plan offered by an insurance 18171
company and a plan or plans offered by health insuring 18172
corporations under this division, on the condition that the county 18173
officer or employee shall pay any amount by which the cost of the 18174
plan chosen by the county officer or employee pursuant to this 18175
division exceeds the cost of the plan offered under division (A) 18176
of this section; 18177

(2) Change from one of the plans to another at a time each 18178
year as determined by the board. 18179

(C) Section 307.86 of the Revised Code does not apply to the 18180
purchase of benefits for county officers or employees under 18181
divisions (A) and (B) of this section when those benefits are 18182
provided through a jointly administered health and welfare trust 18183
fund in which the county or contracting authority and a collective 18184

bargaining representative of the county employees or contracting authority agree to participate. 18185
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(D) The board of trustees of a jointly administered trust fund that receives contributions pursuant to collective bargaining agreements entered into between the board of county commissioners of any county and a collective bargaining representative of the employees of the county may provide for self-insurance of all risk in the provision of fringe benefits, and may provide through the self-insurance method specific fringe benefits as authorized by the rules of the board of trustees of the jointly administered trust fund. The fringe benefits may include, but are not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services, or a combination of any of the foregoing types of insurance or coverage, for county employees and their dependents. 18187
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(E) The board of county commissioners may provide the benefits described in divisions (A) to (D) of this section through an individual self-insurance program or a joint self-insurance program as provided in section 9.833 of the Revised Code. 18202
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(F) When a board of county commissioners offers health benefits authorized under this section to a county officer or employee, the board may offer the benefits through a cafeteria plan meeting the requirements of section 125 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 125, as amended, and, as part of that plan, may offer the county officer or employee the option of receiving a cash payment in any form permissible under such cafeteria plans. A cash payment made to a county officer or employee under this division shall not exceed twenty-five per cent of the cost of premiums or payments that otherwise would be paid by the board for benefits for the county 18206
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officer or employee under a policy or plan. 18217

(G) The board of county commissioners may establish a policy 18218
authorizing any county appointing authority to make a cash payment 18219
to any county officer or employee in lieu of providing a benefit 18220
authorized under this section if the county officer or employee 18221
elects to take the cash payment instead of the offered benefit. A 18222
cash payment made to a county officer or employee under this 18223
division shall not exceed twenty-five per cent of the cost of 18224
premiums or payments that otherwise would be paid by the board for 18225
benefits for the county officer or employee under an offered 18226
policy or plan. 18227

(H) No cash payment in lieu of a health benefit shall be made 18228
to a county officer or employee under division (F) or (G) of this 18229
section unless the county officer or employee signs a statement 18230
affirming that the county officer or employee is covered under 18231
another health insurance or health care policy, contract, or plan, 18232
and setting forth the name of the employer, if any, that sponsors 18233
the coverage, the name of the carrier that provides the coverage, 18234
and the identifying number of the policy, contract, or plan. 18235

(I) The legislative authority of a county-operated municipal 18236
court, after consultation with the judges, or the clerk and deputy 18237
clerks, of the municipal court, shall negotiate and contract for, 18238
purchase, or otherwise procure, and pay the costs, premiums, or 18239
charges for, group health care coverage for the judges, and group 18240
health care coverage for the clerk and deputy clerks, in 18241
accordance with section 1901.111 or 1901.312 of the Revised Code. 18242

(J) As used in this section: 18243

(1) "County officer or employee" includes, but is not limited 18244
to, a member or employee of the county board of elections. 18245

(2) "County-operated municipal court" and "legislative 18246
authority" have the same meanings as in section 1901.03 of the 18247

Revised Code.	18248
(3) "Health care coverage" has the same meaning as in section 1901.111 of the Revised Code.	18249 18250
<u>Sec. 305.23.</u> (A) As used in this section:	18251
(1) <u>"County office" means the offices of the county commissioner, county auditor, county treasurer, county engineer, county recorder, county prosecuting attorney, county sheriff, county coroner, county park district, veterans service commission, clerk of the juvenile court, clerks of court for all divisions of the courts of common pleas, including the clerk of the court of common pleas, clerk of a county-operated municipal court, and clerk of a county court, and any agency, department, or division under the authority of, or receiving funding in whole or in part from, any of those county offices.</u>	18252 18253 18254 18255 18256 18257 18258 18259 18260 18261
(2) <u>"Human resources" means any and all functions relating to human resource management, including civil service, employee benefits administration, collective bargaining, labor relations, risk management, workers' compensation, unemployment compensation, and any human resource management function required by state or federal law, but "human resources" does not authorize a board of county commissioners to adopt a resolution establishing a centralized human resource service that requires any county office to conform to any classification and compensation plan, position descriptions, or organizational structure; to determine the rate of compensation of any employee appointed by the appointing authority of a county office or the salary ranges for positions of a county office within the aggregate limits set in the appropriation resolution of the board of county commissioners; to determine the number of or the terms of employment of any employee appointed by the appointing authority of a county office within the aggregate limits set in the board's appropriation resolution;</u>	18262 18263 18264 18265 18266 18267 18268 18269 18270 18271 18272 18273 18274 18275 18276 18277 18278

or to exercise powers relating to the hiring, qualifications, 18279
evaluation, suspension, demotion, disciplinary action, layoff, 18280
furloughing, establishment of a modified work-week schedule, or 18281
the termination of any employee appointed by the appointing 18282
authority of any county office. 18283

(B) Subject to division (C) of this section, a board of 18284
county commissioners may adopt a resolution establishing 18285
centralized purchasing, printing, transportation, vehicle 18286
maintenance, human resources, revenue collection, and mail 18287
operation services for a county office. Before adopting a 18288
resolution under this section, the board of county commissioners, 18289
in a written notice, shall inform any other county office that 18290
will be impacted by the resolution of the board's desire to 18291
establish a centralized service or services. The written notice 18292
shall include a statement that provides the rationale and the 18293
estimated savings anticipated for centralizing a service or 18294
services. In addition, the board may request any other county 18295
office to serve as the agent and responsible party for 18296
administering a centralized service or services. That county 18297
office may enter into an agreement with the board of county 18298
commissioners to administer the centralized service or services 18299
under such terms and conditions as are included in the agreement, 18300
but nothing in this section authorizes the board of county 18301
commissioners to require a county office to serve as the agent and 18302
responsible party for administering a centralized service or 18303
services at the board's request. 18304

A resolution establishing a centralized service or services 18305
shall specify all of the following: 18306

(1) The name of the county office that will be the agent and 18307
responsible party for administering a centralized service or 18308
services, and if the agent and responsible party is not the board 18309
of county commissioners, the designation of the county office that 18310

<u>has entered into an agreement under division (B) of this section</u>	18311
<u>with the board to be the agent and responsible party;</u>	18312
<u>(2) Which county offices are required to use the centralized</u>	18313
<u>services;</u>	18314
<u>(3) If not all of the centralized services, which centralized</u>	18315
<u>service each county office must use;</u>	18316
<u>(4) A list of rates and charges the county office shall pay</u>	18317
<u>for the centralized services;</u>	18318
<u>(5) The date upon which each county office specified in the</u>	18319
<u>resolution shall begin using the centralized services.</u>	18320
<u>Not later than ten days after a resolution is adopted under</u>	18321
<u>this section, the clerk of the board of county commissioners shall</u>	18322
<u>send a copy of the resolution to each county office that is</u>	18323
<u>specified in the resolution.</u>	18324
<u>(C) A board of county commissioners shall not adopt a</u>	18325
<u>resolution that establishes a centralized service or services</u>	18326
<u>regarding any of the following:</u>	18327
<u>(1) Purchases made with moneys from the special fund</u>	18328
<u>designated as "general fund moneys to supplement the equipment</u>	18329
<u>needs of the county recorder" under section 317.321 of the Revised</u>	18330
<u>Code, from the real estate assessment fund established under</u>	18331
<u>section 325.31 of the Revised Code, or from the funds that are</u>	18332
<u>paid out of the general fund of the county under sections 325.071</u>	18333
<u>and 325.12 of the Revised Code;</u>	18334
<u>(2) Purchases of financial software used by the county</u>	18335
<u>auditor;</u>	18336
<u>(3) The printing of county property tax bills;</u>	18337
<u>(4) The collection of any taxes, assessments, and fees the</u>	18338
<u>county treasurer is required by law to collect;</u>	18339
<u>(5) Purchases of computers, software, and micrographic</u>	18340

equipment used by the county recorder. 18341

(D) Nothing in this section authorizes the board of county 18342
commissioners to have control or authority over funds that are 18343
received directly by a county office under another section of the 18344
Revised Code, or to control, or have authority regarding, the 18345
expenditure or use of such funds. 18346

Sec. 306.322. (A) For any regional transit authority that 18347
levies a property tax and that includes in its membership 18348
political subdivisions that are located in a county having a 18349
population of at least four hundred thousand according to the most 18350
recent federal census, the procedures of this section apply until 18351
November 5, 2013, and are in addition to and an alternative to 18352
those established in sections 306.32 and 306.321 for joining to 18353
the regional transit authority additional counties, municipal 18354
corporations, or townships. 18355

(B) Any municipal corporation or township may adopt a 18356
resolution or ordinance proposing to join a regional transit 18357
authority described in division (A) of this section. In its 18358
resolution or ordinance, the political subdivision may propose 18359
joining the regional transit authority for a limited period of 18360
three years or without a time limit. 18361

(C) The political subdivision proposing to join the regional 18362
transit authority shall submit a copy of its resolution or 18363
ordinance to the legislative authority of each municipal 18364
corporation and the board of trustees of each township comprising 18365
the regional transit authority. Within thirty days of receiving 18366
the resolution or ordinance for inclusion in the regional transit 18367
authority, the legislative authority of each municipal corporation 18368
and the board of trustees of each township shall consider the 18369
question of whether to include the additional subdivision in the 18370
regional transit authority, shall adopt a resolution or ordinance 18371

approving or rejecting the inclusion of the additional 18372
subdivision, and shall present its resolution or ordinance to the 18373
board of trustees of the regional transit authority. 18374

(D) If a majority of the political subdivisions comprising 18375
the regional transit authority approve the inclusion of the 18376
additional political subdivision, the board of trustees of the 18377
regional transit authority, not later than the tenth day following 18378
the day on which the last ordinance or resolution is presented, 18379
shall notify the subdivision proposing to join the regional 18380
transit authority that it may certify the proposal to the board of 18381
elections for the purpose of having the proposal placed on the 18382
ballot at the next general election or at a special election 18383
conducted on the day of the next primary election that occurs not 18384
less than seventy-five days after the resolution or ordinance is 18385
certified to the board of elections. 18386

(E) Upon certification of a proposal to the board of 18387
elections pursuant to this section, the board of elections shall 18388
make the necessary arrangements for the submission of the question 18389
to the electors of the territory to be included in the regional 18390
transit authority qualified to vote on the question, and the 18391
election shall be held, canvassed, and certified in the same 18392
manner as regular elections for the election of officers of the 18393
subdivision proposing to join the regional transit authority, 18394
except that, if the resolution proposed the inclusion without a 18395
time limitation the question appearing on the ballot shall read: 18396

"Shall the territory within the 18397
(Name or names of political subdivisions to be joined) be added to 18398
..... (Name) regional transit 18399
authority?" and shall a(n) (here insert type of tax or 18400
taxes) at a rate of taxation not to exceed (here insert 18401
maximum tax rate or rates) be levied for all transit purposes?" 18402

If the resolution proposed the inclusion with a three-year 18403

time limitation, the question appearing on the ballot shall read: 18404

"Shall the territory within the 18405
(Name or names of political subdivisions to be joined) be added to 18406
..... (Name) regional transit 18407
authority?" for three years and shall a(n) (here insert 18408
type of tax or taxes) at a rate of taxation not to exceed 18409
(here insert maximum tax rate or rates) be levied for all transit 18410
purposes for three years?" 18411

(F) If the question is approved by at least a majority of the 18412
electors voting on the question, the addition of the new territory 18413
is effective six months from the date of the certification of its 18414
passage, and the regional transit authority may extend the levy of 18415
the tax against all the taxable property within the territory that 18416
was added. If the question is approved at a general election or at 18417
a special election occurring prior to the general election but 18418
after the fifteenth day of July, the regional transit authority 18419
may amend its budget and resolution adopted pursuant to section 18420
5705.34 of the Revised Code, and the levy shall be placed on the 18421
current tax list and duplicate and collected as other taxes are 18422
collected from all taxable property within the territorial 18423
boundaries of the regional transit authority, including the 18424
territory within the political subdivision added as a result of 18425
the election. If the budget of the regional transit authority is 18426
amended pursuant to this paragraph, the county auditor shall 18427
prepare and deliver an amended certificate of estimated resources 18428
to reflect the change in anticipated revenues of the regional 18429
transit authority. 18430

(G) If the question is approved by at least a majority of the 18431
electors voting on the question, the board of trustees of the 18432
regional transit authority immediately shall amend the resolution 18433
or ordinance creating the regional transit authority to include 18434
the additional political subdivision. 18435

(H) If the question approved by a majority of the electors voting on the question added the subdivision for three years, the territory of the additional municipal corporation or township in the regional transit authority shall be removed from the territory of the regional transit authority three years after the date the territory was added, as determined in the effective date of the election, and shall no longer be a part of that authority without any further action by either the political subdivisions that were included in the authority prior to submitting the question to the electors or of the political subdivision added to the authority as a result of the election. The regional transit authority reduced to its territory as it existed prior to the inclusion of the additional municipal corporation or township shall be entitled to levy and collect any property taxes that it was authorized to levy and collect prior to the enlargement of its territory and for which authorization has not expired, as if the enlargement had not occurred.

Sec. 306.35. Upon the creation of a regional transit authority as provided by section 306.32 of the Revised Code, and upon the qualifying of its board of trustees and the election of a president and a vice-president, the authority shall exercise in its own name all the rights, powers, and duties vested in and conferred upon it by sections 306.30 to 306.53 of the Revised Code. Subject to any reservations, limitations, and qualifications that are set forth in those sections, the regional transit authority:

(A) May sue or be sued in its corporate name;

(B) May make contracts in the exercise of the rights, powers, and duties conferred upon it;

(C) May adopt and at will alter a seal and use such seal by causing it to be impressed, affixed, reproduced, or otherwise

used, but failure to affix the seal shall not affect the validity of any instrument; 18467
18468

(D)(1) May adopt, amend, and repeal bylaws for the administration of its affairs and rules for the control of the administration and operation of transit facilities under its jurisdiction, and for the exercise of all of its rights of ownership in those transit facilities; 18469
18470
18471
18472
18473

(2) The regional transit authority also may adopt bylaws and rules for the following purposes: 18474
18475

(a) To prohibit selling, giving away, or using any beer or intoxicating liquor on transit vehicles or transit property; 18476
18477

(b) For the preservation of good order within or on transit vehicles or transit property; 18478
18479

(c) To provide for the protection and preservation of all property and life within or on transit vehicles or transit property; 18480
18481
18482

(d) To regulate and enforce the collection of fares. 18483

(3) Before a bylaw or rule adopted under division (D)(2) of this section takes effect, the regional transit authority shall provide for a notice of its adoption to be published once a week for two consecutive weeks in a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code. 18484
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(4) No person shall violate any bylaw or rule of a regional transit authority adopted under division (D)(2) of this section. 18490
18491

(E) May fix, alter, and collect fares, rates, and rentals and other charges for the use of transit facilities under its jurisdiction to be determined exclusively by it for the purpose of providing for the payment of the expenses of the regional transit authority, the acquisition, construction, improvement, extension, 18492
18493
18494
18495
18496

repair, maintenance, and operation of transit facilities under its 18497
jurisdiction, the payment of principal and interest on its 18498
obligations, and to fulfill the terms of any agreements made with 18499
purchasers or holders of any such obligations, or with any person 18500
or political subdivision; 18501

(F) Shall have jurisdiction, control, possession, and 18502
supervision of all property, rights, easements, licenses, moneys, 18503
contracts, accounts, liens, books, records, maps, or other 18504
property rights and interests conveyed, delivered, transferred, or 18505
assigned to it; 18506

(G) May acquire, construct, improve, extend, repair, lease, 18507
operate, maintain, or manage transit facilities within or without 18508
its territorial boundaries, considered necessary to accomplish the 18509
purposes of its organization and make charges for the use of 18510
transit facilities; 18511

(H) May levy and collect taxes as provided in sections 306.40 18512
and 306.49 of the Revised Code; 18513

(I) May issue bonds secured by its general credit as provided 18514
in section 306.40 of the Revised Code; 18515

(J) May hold, encumber, control, acquire by donation, by 18516
purchase for cash or by installment payments, by lease-purchase 18517
agreement, by lease with option to purchase, or by condemnation, 18518
and may construct, own, lease as lessee or lessor, use, and sell, 18519
real and personal property, or any interest or right in real and 18520
personal property, within or without its territorial boundaries, 18521
for the location or protection of transit facilities and 18522
improvements and access to transit facilities and improvements, 18523
the relocation of buildings, structures, and improvements situated 18524
on lands acquired by the regional transit authority, or for any 18525
other necessary purpose, or for obtaining or storing materials to 18526
be used in constructing, maintaining, and improving transit 18527

facilities under its jurisdiction; 18528

(K) May exercise the power of eminent domain to acquire 18529
property or any interest in property, within or without its 18530
territorial boundaries, that is necessary or proper for the 18531
construction or efficient operation of any transit facility or 18532
access to any transit facility under its jurisdiction in 18533
accordance with section 306.36 of the Revised Code; 18534

(L) May provide by agreement with any county, including the 18535
counties within its territorial boundaries, or any municipal 18536
corporation or any combination of counties or municipal 18537
corporations for the making of necessary surveys, appraisals, and 18538
examinations preliminary to the acquisition or construction of any 18539
transit facility and the amount of the expense for the surveys, 18540
appraisals, and examinations to be paid by each such county or 18541
municipal corporation; 18542

(M) May provide by agreement with any county, including the 18543
counties within its territorial boundaries, or any municipal 18544
corporation or any combination of those counties or municipal 18545
corporations for the acquisition, construction, improvement, 18546
extension, maintenance, or operation of any transit facility owned 18547
or to be owned and operated by it or owned or to be owned and 18548
operated by any such county or municipal corporation and the terms 18549
on which it shall be acquired, leased, constructed, maintained, or 18550
operated, and the amount of the cost and expense of the 18551
acquisition, lease, construction, maintenance, or operation to be 18552
paid by each such county or municipal corporation; 18553

(N) May issue revenue bonds for the purpose of acquiring, 18554
replacing, improving, extending, enlarging, or constructing any 18555
facility or permanent improvement that it is authorized to 18556
acquire, replace, improve, extend, enlarge, or construct, 18557
including all costs in connection with and incidental to the 18558
acquisition, replacement, improvement, extension, enlargement, or 18559

construction, and their financing, as provided by section 306.37 18560
of the Revised Code; 18561

(O) May enter into and supervise franchise agreements for the 18562
operation of a transit system; 18563

(P) May accept the assignment of and supervise an existing 18564
franchise agreement for the operation of a transit system; 18565

(Q) May exercise a right to purchase a transit system in 18566
accordance with the acquisition terms of an existing franchise 18567
agreement; and in connection with the purchase the regional 18568
transit authority may issue revenue bonds as provided by section 18569
306.37 of the Revised Code or issue bonds secured by its general 18570
credit as provided in section 306.40 of the Revised Code; 18571

(R) May apply for and accept grants or loans from the United 18572
States, the state, or any other public body for the purpose of 18573
providing for the development or improvement of transit 18574
facilities, mass transportation facilities, equipment, techniques, 18575
methods, or services, and grants or loans needed to exercise a 18576
right to purchase a transit system pursuant to agreement with the 18577
owner of those transit facilities, or for providing lawful 18578
financial assistance to existing transit systems; and may provide 18579
any consideration that may be required in order to obtain those 18580
grants or loans from the United States, the state, or other public 18581
body, either of which grants or loans may be evidenced by the 18582
issuance of revenue bonds as provided by section 306.37 of the 18583
Revised Code or general obligation bonds as provided by section 18584
306.40 of the Revised Code; 18585

(S) May employ and fix the compensation of consulting 18586
engineers, superintendents, managers, and such other engineering, 18587
construction, accounting and financial experts, attorneys, and 18588
other employees and agents necessary for the accomplishment of its 18589
purposes; 18590

(T) May procure insurance against loss to it by reason of 18591
damages to its properties resulting from fire, theft, accident, or 18592
other casualties or by reason of its liability for any damages to 18593
persons or property occurring in the construction or operation of 18594
transit facilities under its jurisdiction or the conduct of its 18595
activities; 18596

(U) May maintain funds that it considers necessary for the 18597
efficient performance of its duties; 18598

(V) May direct its agents or employees, when properly 18599
identified in writing, after at least five days' written notice, 18600
to enter upon lands within or without its territorial boundaries 18601
in order to make surveys and examinations preliminary to the 18602
location and construction of transit facilities, without liability 18603
to it or its agents or employees except for actual damage done; 18604

(W) On its own motion, may request the appropriate zoning 18605
board, as defined in section 4563.03 of the Revised Code, to 18606
establish and enforce zoning regulations pertaining to any transit 18607
facility under its jurisdiction in the manner prescribed by 18608
sections 4563.01 to 4563.21 of the Revised Code; 18609

(X) If it acquires any existing transit system, shall assume 18610
all the employer's obligations under any existing labor contract 18611
between the employees and management of the system. If the board 18612
acquires, constructs, controls, or operates any such facilities, 18613
it shall negotiate arrangements to protect the interests of 18614
employees affected by the acquisition, construction, control, or 18615
operation. The arrangements shall include, but are not limited to: 18616

(1) The preservation of rights, privileges, and benefits 18617
under existing collective bargaining agreements or otherwise, the 18618
preservation of rights and benefits under any existing pension 18619
plans covering prior service, and continued participation in 18620
social security in addition to participation in the public 18621

employees retirement system as required in Chapter 145. of the Revised Code;	18622 18623
(2) The continuation of collective bargaining rights;	18624
(3) The protection of individual employees against a worsening of their positions with respect to their employment;	18625 18626
(4) Assurances of employment to employees of those transit systems and priority reemployment of employees terminated or laid off;	18627 18628 18629
(5) Paid training or retraining programs;	18630
(6) Signed written labor agreements.	18631
The arrangements may include provisions for the submission of labor disputes to final and binding arbitration.	18632 18633
(Y) May provide for and maintain security operations, including a transit police department, subject to section 306.352 of the Revised Code. Regional transit authority police officers shall have the power and duty to act as peace officers within transit facilities owned, operated, or leased by the transit authority to protect the transit authority's property and the person and property of passengers, to preserve the peace, and to enforce all laws of the state and ordinances and regulations of political subdivisions in which the transit authority operates. Regional transit authority police officers also shall have the power and duty to act as peace officers when they render emergency assistance outside their jurisdiction to any other peace officer who is not a regional transit authority police officer and who has arrest authority under section 2935.03 of the Revised Code. Regional transit authority police officers may render emergency assistance if there is a threat of imminent physical danger to the peace officer, a threat of physical harm to another person, or any other serious emergency situation and if either the peace officer who is assisted requests emergency assistance or it appears that	18634 18635 18636 18637 18638 18639 18640 18641 18642 18643 18644 18645 18646 18647 18648 18649 18650 18651 18652

the peace officer who is assisted is unable to request emergency 18653
assistance and the circumstances observed by the regional transit 18654
authority police officer reasonably indicate that emergency 18655
assistance is appropriate. 18656

Before exercising powers of arrest and the other powers and 18657
duties of a peace officer, each regional transit authority police 18658
officer shall take an oath and give bond to the state in a sum 18659
that the board of trustees prescribes for the proper performance 18660
of the officer's duties. 18661

Persons employed as regional transit authority police 18662
officers shall complete training for the position to which they 18663
have been appointed as required by the Ohio peace officer training 18664
commission as authorized in section 109.77 of the Revised Code, or 18665
be otherwise qualified. The cost of the training shall be provided 18666
by the regional transit authority. 18667

(Z) May procure a policy or policies insuring members of its 18668
board of trustees against liability on account of damages or 18669
injury to persons and property resulting from any act or omission 18670
of a member in the member's official capacity as a member of the 18671
board or resulting solely out of the member's membership on the 18672
board; 18673

(AA) May enter into any agreement for the sale and leaseback 18674
or lease and leaseback of transit facilities, which agreement may 18675
contain all necessary covenants for the security and protection of 18676
any lessor or the regional transit authority including, but not 18677
limited to, indemnification of the lessor against the loss of 18678
anticipated tax benefits arising from acts, omissions, or 18679
misrepresentations of the regional transit authority. In 18680
connection with that transaction, the regional transit authority 18681
may contract for insurance and letters of credit and pay any 18682
premiums or other charges for the insurance and letters of credit. 18683
The fiscal officer shall not be required to furnish any 18684

certificate under section 5705.41 of the Revised Code in 18685
connection with the execution of any such agreement. 18686

(BB) In regard to any contract entered into on or after March 18687
19, 1993, for the rendering of services or the supplying of 18688
materials or for the construction, demolition, alteration, repair, 18689
or reconstruction of transit facilities in which a bond is 18690
required for the faithful performance of the contract, may permit 18691
the person awarded the contract to utilize a letter of credit 18692
issued by a bank or other financial institution in lieu of the 18693
bond; 18694

(CC) May enter into agreements with municipal corporations 18695
located within the territorial jurisdiction of the regional 18696
transit authority permitting regional transit authority police 18697
officers employed under division (Y) of this section to exercise 18698
full arrest powers, as provided in section 2935.03 of the Revised 18699
Code, for the purpose of preserving the peace and enforcing all 18700
laws of the state and ordinances and regulations of the municipal 18701
corporation within the areas that may be agreed to by the regional 18702
transit authority and the municipal corporation. 18703

Sec. 306.43. (A) The board of trustees of a regional transit 18704
authority or any officer or employee designated by such board may 18705
make any contract for the purchase of goods or services, the cost 18706
of which does not exceed one hundred thousand dollars. When an 18707
expenditure, other than for the acquisition of real estate, the 18708
discharge of claims, or the acquisition of goods or services under 18709
the circumstances described in division (H) of this section, is 18710
expected to exceed one hundred thousand dollars, such expenditure 18711
shall be made through full and open competition by the use of 18712
competitive procedures. The regional transit authority shall use 18713
the competitive procedure, as set forth in divisions (B), (C), 18714
(D), and (E) of this section, that is most appropriate under the 18715

circumstances of the procurement. 18716

(B) Competitive sealed bidding is the preferred method of 18717
procurement and a regional transit authority shall use that method 18718
if all of the following conditions exist: 18719

(1) A clear, complete and adequate description of the goods, 18720
services, or work is available; 18721

(2) Time permits the solicitation, submission, and evaluation 18722
of sealed bids; 18723

(3) The award will be made on the basis of price and other 18724
price-related factors; 18725

(4) It is not necessary to conduct discussions with 18726
responding offerors about their bids; 18727

(5) There is a reasonable expectation of receiving more than 18728
one sealed bid. 18729

A regional transit authority shall publish a notice calling 18730
for bids once a week for no less than two consecutive weeks in ~~at~~ 18731
~~least one~~ a newspaper of general circulation within the 18732
territorial boundaries of the regional transit authority, or as 18733
provided in section 7.16 of the Revised Code. A regional transit 18734
authority may require that a bidder for any contract other than a 18735
construction contract provide a bid guaranty in the form, quality, 18736
and amount considered appropriate by the regional transit 18737
authority. The board may let the contract to the lowest responsive 18738
and responsible bidder. Where fewer than two responsive bids are 18739
received, a regional transit authority may negotiate price with 18740
the sole responsive bidder or may rescind the solicitation and 18741
procure under division (H)(2) of this section. 18742

(C) A regional transit authority may use two-step competitive 18743
bidding, consisting of a technical proposal and a separate, 18744
subsequent sealed price bid from those submitting acceptable 18745

technical proposals, if both of the following conditions exist: 18746

(1) A clear, complete, and adequate description of the goods, 18747
services, or work is not available, but definite criteria exist 18748
for the evaluation of technical proposals; 18749

(2) It is necessary to conduct discussions with responding 18750
offerors. 18751

A regional transit authority shall publish a notice calling 18752
for technical proposals once a week for no less than two 18753
consecutive weeks in ~~at least one~~ a newspaper of general 18754
circulation within the territorial boundaries of the regional 18755
transit authority, or as provided in section 7.16 of the Revised 18756
Code. A regional transit authority may require a bid guaranty in 18757
the form, quality, and amount the regional transit authority 18758
considers appropriate. The board may let the contract to the 18759
lowest responsive and responsible bidder. Where fewer than two 18760
responsive and responsible bids are received, a regional transit 18761
authority may negotiate price with the sole responsive and 18762
responsible bidder or may rescind the solicitation and procure 18763
under division (H)(2) of this section. 18764

(D) A regional transit authority shall make a procurement by 18765
competitive proposals if competitive sealed bidding or two-step 18766
competitive bidding is not appropriate. 18767

A regional transit authority shall publish a notice calling 18768
for proposals once a week for no less than two consecutive weeks 18769
in ~~at least one~~ a newspaper of general circulation within the 18770
territorial boundaries of the regional transit authority, or as 18771
provided in section 7.16 of the Revised Code. A regional transit 18772
authority may require a proposal guaranty in the form, quality, 18773
and amount considered appropriate by the regional transit 18774
authority. The board may let the contract to the proposer making 18775
the offer considered most advantageous to the authority. Where 18776

fewer than two competent proposals are received, a regional transit authority may negotiate price and terms with the sole proposer or may rescind the solicitation and procure under division (H)(2) of this section.

(E)(1) A regional transit authority shall procure the services of an architect or engineer in the manner prescribed by the "Federal Mass Transportation Act of 1987," Public Law No. 100-17, section 316, 101 Stat. 227, 232-234, 49 U.S.C.A. app. 1608 and the services of a construction manager in the manner prescribed by sections 9.33 to 9.332 of the Revised Code.

(2) A regional transit authority may procure revenue rolling stock in the manner prescribed by division (B), (C), or (D) of this section.

(3) All contracts for construction in excess of one hundred thousand dollars shall be made only after the regional transit authority has published a notice calling for bids once a week for two consecutive weeks in ~~at least one~~ a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code. The board may award a contract to the lowest responsive and responsible bidder. Where only one responsive and responsible bid is received, the regional transit authority may negotiate price with the sole responsive bidder or may rescind the solicitation. The regional transit authority shall award construction contracts in accordance with sections 153.12 to 153.14 and 153.54 of the Revised Code. Divisions (B) and (C) of this section shall not apply to the award of contracts for construction.

(F) All contracts involving expenditures in excess of one hundred thousand dollars shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. The plans and specifications shall at all times be made and considered part of the contract. For all contracts

other than construction contracts, a regional transit authority 18809
may require performance, payment, or maintenance guaranties or any 18810
combination of such guaranties in the form, quality, and amount it 18811
considers appropriate. The contract shall be approved by the board 18812
and signed on behalf of the regional transit authority and by the 18813
contractor. 18814

(G) In making a contract, a regional transit authority may 18815
give preference to goods produced in the United States in 18816
accordance with the Buy America requirements in the "Surface 18817
Transportation Assistance Act of 1982," Public Law No. 97-424, 18818
section 165, 96 Stat. 2097, 23 U.S.C.A. 101 note, as amended, and 18819
the rules adopted thereunder. The regional transit authority also 18820
may give preference to providers of goods produced in and services 18821
provided in labor surplus areas as defined by the United States 18822
department of labor in 41 U.S.C.A. 401 note, Executive Order No. 18823
12073, August 16, 1978, 43 Fed. Reg. 36873, as amended. 18824

(H) Competitive procedures under this section are not 18825
required in any of the following circumstances: 18826

(1) The board of trustees of a regional transit authority, by 18827
a two-thirds affirmative vote of its members, determines that a 18828
real and present emergency exists under any of the following 18829
conditions, and the board enters its determination and the reasons 18830
for it in its proceedings: 18831

(a) Affecting safety, welfare, or the ability to deliver 18832
transportation services; 18833

(b) Arising out of an interruption of contracts essential to 18834
the provision of daily transit services; 18835

(c) Involving actual physical damage to structures, supplies, 18836
equipment, or property. 18837

(2) The purchase consists of goods or services, or any 18838
combination thereof, and after reasonable inquiry the board or any 18839

officer or employee the board designates finds that only one 18840
source of supply is reasonably available. 18841

(3) The expenditure is for a renewal or renegotiation of a 18842
lease or license for telecommunications or electronic data 18843
processing equipment, services, or systems, or for the upgrade of 18844
such equipment, services, or systems, or for the maintenance 18845
thereof as supplied by the original source or its successors or 18846
assigns. 18847

(4) The purchase of goods or services is made from another 18848
political subdivision, public agency, public transit system, 18849
regional transit authority, the state, or the federal government, 18850
or as a third-party beneficiary under a state or federal 18851
procurement contract, or as a participant in a department of 18852
administrative services contract under division (B) of section 18853
125.04 of the Revised Code. 18854

(5) The sale and leaseback or lease and leaseback of transit 18855
facilities is made as provided in division (AA) of section 306.35 18856
of the Revised Code. 18857

(6) The purchase substantially involves services of a 18858
personal, professional, highly technical, or scientific nature, 18859
including but not limited to the services of an attorney, 18860
physician, surveyor, appraiser, investigator, court reporter, 18861
adjuster, advertising consultant, or licensed broker, or involves 18862
the special skills or proprietary knowledge required for the 18863
servicing of specialized equipment owned by the regional transit 18864
authority. 18865

(7) Services or supplies are available from a qualified 18866
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 18867
Revised Code. 18868

(8) The purchase consists of the product or services of a 18869
public utility. 18870

(9) The purchase is for the services of individuals with 18871
disabilities to work in the authority's commissaries or 18872
cafeterias, and those individuals are supplied by a nonprofit 18873
corporation or association whose purpose is to assist individuals 18874
with disabilities, whether or not that corporation or association 18875
is funded entirely or in part by the federal government, or the 18876
purchase is for services provided by a nonprofit corporation or 18877
association whose purpose is to assist individuals with 18878
disabilities, whether or not that corporation or association is 18879
funded entirely or in part by the federal government. For purposes 18880
of division (H)(9) of this section, "disability" has the same 18881
meaning as in section 4112.01 of the Revised Code. 18882

(I) A regional transit authority may enter into blanket 18883
purchase agreements for purchases of maintenance, operating, or 18884
repair goods or services where the item cost does not exceed five 18885
hundred dollars and the annual expenditure does not exceed one 18886
hundred thousand dollars. 18887

(J) Nothing contained in this section prohibits a regional 18888
transit authority from participating in intergovernmental 18889
cooperative purchasing arrangements. 18890

(K) Except as otherwise provided in this chapter, a regional 18891
transit authority shall make a sale or other disposition of 18892
property through full and open competition. Except as provided in 18893
division (L) of this section, all dispositions of personal 18894
property and all grants of real property for terms exceeding five 18895
years shall be made by public auction or competitive procedure. 18896

(L) The competitive procedures required by division (K) of 18897
this section are not required in any of the following 18898
circumstances: 18899

(1) The grant is a component of a joint development between 18900
public and private entities and is intended to enhance or benefit 18901

public transit.	18902
(2) The grant of a limited use or of a license affecting land is made to an owner of abutting real property.	18903 18904
(3) The grant of a limited use is made to a public utility.	18905
(4) The grant or disposition is to a department of the federal or state government, to a political subdivision of the state, or to any other governmental entity.	18906 18907 18908
(5) Used equipment is traded on the purchase of equipment and the value of the used equipment is a price-related factor in the basis for award for the purchase.	18909 18910 18911
(6) The value of the personal property is such that competitive procedures are not appropriate and the property either is sold at its fair market value or is disposed of by gift to a nonprofit entity having the general welfare or education of the public as one of its principal objects.	18912 18913 18914 18915 18916
(M) The board of trustees of a regional transit authority, when making a contract funded exclusively by state or local moneys or any combination thereof, shall make a good faith effort to use disadvantaged business enterprise participation to the same extent required under Section 105(f) of the "Surface Transportation Assistance Act of 1982," Public Law No. 97-424, 96 Stat. 2100, and Section 106(c) of the "Surface Transportation and Uniform Relocation Assistance Act of 1987," Public Law No. 100-17, 101 Stat. 145, and the rules adopted thereunder.	18917 18918 18919 18920 18921 18922 18923 18924 18925
(N) As used in this section:	18926
(1) "Goods" means all things, including specially manufactured goods, that are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities, and things in action. "Goods" also includes other identified things attached to realty	18927 18928 18929 18930 18931

as described in section 1302.03 of the Revised Code. 18932

(2) "Services" means the furnishing of labor, time, or effort 18933
by a contractor, not involving the delivery of goods or reports 18934
other than goods or reports that are merely incidental to the 18935
required performance, including but not limited to insurance, 18936
bonding, or routine operation, routine repair, or routine 18937
maintenance of existing structures, buildings, real property, or 18938
equipment, but does not include employment agreements, collective 18939
bargaining agreements, or personal services. 18940

(3) "Construction" means the process of building, altering, 18941
repairing, improving, painting, decorating, or demolishing any 18942
structure or building, or other improvements of any kind to any 18943
real property owned or leased by a regional transit authority. 18944

(4) "Full and open competition" has the same meaning as in 18945
the "Office of Federal Procurement Policy Act," Public Law No. 18946
98-369, section 2731, 98 Stat. 1195 (1984), 41 U.S.C.A. 403. 18947

(5) A bidder is "responsive" if, applying the criteria of 18948
division (A) of section 9.312 of the Revised Code, the bidder is 18949
"responsive" as described in that section. 18950

(6) A bidder is "responsible" if, applying the criteria of 18951
division ~~(A)~~(B) of section 9.312 of the Revised Code and of the 18952
"Office of Federal Procurement Policy Act," Public Law No. 98-369, 18953
section 2731, 98 Stat. 1195 (1984), 41 U.S.C.A. 403, the bidder is 18954
"responsible" as described in those sections. 18955

Sec. 306.55. Beginning July 1, 2011 and until November 5, 18956
2013, any municipal corporation or township that has created or 18957
joined a regional transit authority that levies a property tax and 18958
that includes in its membership political subdivisions that are 18959
located in a county having a population of at least four hundred 18960
thousand according to the most recent federal census, may withdraw 18961

from the regional transit authority in the manner provided in this 18962
section. The legislative authority of the municipal corporation or 18963
board of township trustees of the township proposing to withdraw 18964
shall adopt a resolution to submit the question of withdrawing 18965
from the regional transit authority to the electors of the 18966
territory to be withdrawn and shall certify the proposal to the 18967
board of elections for the purpose of having the proposal placed 18968
on the ballot at the next general election or at a special 18969
election conducted on the day of the next primary election that 18970
occurs not less than seventy-five days after the resolution is 18971
certified to the board of elections. 18972

Upon certification of a proposal to the board of elections 18973
pursuant to this section, the board of elections shall make the 18974
necessary arrangements for the submission of the question to the 18975
electors of the territory to be withdrawn from the regional 18976
transit authority qualified to vote on the question, and the 18977
election shall be held, canvassed, and certified in the same 18978
manner as regular elections for the election of officers of the 18979
subdivision proposing to withdraw from the regional transit 18980
authority, except that the question appearing on the ballot shall 18981
read: 18982

"Shall the territory within the 18983
(Name of political subdivision to be withdrawn) be withdrawn from 18984
..... (Name) regional transit 18985
authority?" 18986

If the question is approved by at least a majority of the 18987
electors voting on the question, the withdrawal is effective six 18988
months from the date of the certification of its passage. 18989

The board of elections to which the resolution was certified 18990
shall certify the results of the election to the board or 18991
legislative authority of the subdivision that submitted the 18992
resolution to withdraw and to the board of trustees of the 18993

regional transit authority from which the subdivision proposed to 18994
withdraw. 18995

If the question of withdrawing from the regional transit 18996
authority is approved, the power of the regional transit authority 18997
to levy a tax on taxable property in the withdrawing subdivision 18998
terminates. 18999

Sec. 306.551. Any municipal corporation or township that 19000
withdraws from a regional transit authority under section 306.55 19001
of the Revised Code may enter into a contract with a regional 19002
transit authority or other provider of transit services to provide 19003
transportation service for handicapped, disabled, or elderly 19004
persons and for any other service the legislative authority of the 19005
municipal corporation or township may determine to be appropriate. 19006

Sec. 306.70. A tax proposed to be levied by a board of county 19007
commissioners or by the board of trustees of a regional transit 19008
authority pursuant to sections 5739.023 and 5741.022 of the 19009
Revised Code shall not become effective until it is submitted to 19010
the electors residing within the county or within the territorial 19011
boundaries of the regional transit authority and approved by a 19012
majority of the electors voting on it. Such question shall be 19013
submitted at a general election or at a special election on a day 19014
specified in the resolution levying the tax and occurring not less 19015
than ninety days after such resolution is certified to the board 19016
of elections, in accordance with section 3505.071 of the Revised 19017
Code. 19018

The board of elections of the county or of each county in 19019
which any territory of the regional transit authority is located 19020
shall make the necessary arrangements for the submission of such 19021
question to the electors of the county or regional transit 19022
authority, and the election shall be held, canvassed, and 19023

certified in the same manner as regular elections for the election 19024
of county officers. Notice of the election shall be published in 19025
~~one or more newspapers which in the aggregate are a newspaper~~ of 19026
general circulation in the territory of the county or of the 19027
regional transit authority once a week for two consecutive weeks 19028
prior to the election ~~and, if~~ or as provided in section 7.16 of 19029
the Revised Code. If the board of elections operates and maintains 19030
a web site, notice of the election also shall be posted on that 19031
web site for thirty days prior to the election. The notice shall 19032
state the type, rate, and purpose of the tax to be levied, the 19033
length of time during which the tax will be in effect, and the 19034
time and place of the election. 19035

More than one such question may be submitted at the same 19036
election. The form of the ballots cast at such election shall be: 19037

"Shall a(n) (sales and use) 19038
tax be levied for all transit purposes of the 19039
(here insert name of the county or regional transit authority) at 19040
a rate not exceeding (here insert percentage) 19041
per cent for (here insert number of years the tax 19042
is to be in effect, or that it is to be in effect for a continuing 19043
period of time)?" 19044

If the tax proposed to be levied is a continuation of an 19045
existing tax, whether at the same rate or at an increased or 19046
reduced rate, or an increase in the rate of an existing tax, the 19047
notice and ballot form shall so state. 19048

The board of elections to which the resolution was certified 19049
shall certify the results of the election to the county auditor of 19050
the county or secretary-treasurer of the regional transit 19051
authority levying the tax and to the tax commissioner of the 19052
state. 19053

Sec. 307.022. (A) The board of county commissioners of any 19054

county may do both of the following without following the 19055
competitive bidding requirements of section 307.86 of the Revised 19056
Code: 19057

(1) Enter into a lease, including a lease with an option to 19058
purchase, of correctional facilities for a term not in excess of 19059
forty years. Before entering into the lease, the board shall 19060
publish, once a week for three consecutive weeks in a newspaper of 19061
general circulation in the county or as provided in section 7.16 19062
of the Revised Code, a notice that the board is accepting 19063
proposals for a lease pursuant to this division. The notice shall 19064
state the date before which the proposals are required to be 19065
submitted in order to be considered by the board. 19066

(2) Subject to compliance with this section, grant leases, 19067
easements, and licenses with respect to, or sell, real property 19068
owned by the county if the real property is to be leased back by 19069
the county for use as correctional facilities. 19070

The lease under division (A)(1) of this section shall require 19071
the county to contract, in accordance with Chapter 153., sections 19072
307.86 to 307.92, and Chapter 4115. of the Revised Code, for the 19073
construction, improvement, furnishing, and equipping of 19074
correctional facilities to be leased pursuant to this section. 19075
Prior to the board's execution of the lease, it may require the 19076
lessor under the lease to cause sufficient money to be made 19077
available to the county to enable the county to comply with the 19078
certification requirements of division (D) of section 5705.41 of 19079
the Revised Code. 19080

A lease entered into pursuant to division (A)(1) of this 19081
section by a board may provide for the county to maintain and 19082
repair the correctional facility during the term of the leasehold, 19083
may provide for the county to make rental payments prior to or 19084
after occupation of the correctional facilities by the county, and 19085

may provide for the board to obtain and maintain any insurance 19086
that the lessor may require, including, but not limited to, public 19087
liability, casualty, builder's risk, and business interruption 19088
insurance. The obligations incurred under a lease entered into 19089
pursuant to division (A)(1) of this section shall not be 19090
considered to be within the debt limitations of section 133.07 of 19091
the Revised Code. 19092

(B) The correctional facilities leased under division (A)(1) 19093
of this section may include any or all of the following: 19094

(1) Facilities in which one or more other governmental 19095
entities are participating or in which other facilities of the 19096
county are included; 19097

(2) Facilities acquired, constructed, renovated, or financed 19098
by the Ohio building authority and leased to the county pursuant 19099
to section 307.021 of the Revised Code; 19100

(3) Correctional facilities that are under construction or 19101
have been completed and for which no permanent financing has been 19102
arranged. 19103

(C) As used in this section: 19104

(1) "Correctional facilities" includes, but is not limited 19105
to, jails, detention facilities, workhouses, community-based 19106
correctional facilities, and family court centers. 19107

(2) "Construction" has the same meaning as in division (B) of 19108
section 4115.03 of the Revised Code. 19109

Sec. 307.041. (A) As used in this section, "energy 19110
conservation measure" means an installation or modification of an 19111
installation in, or remodeling of, an existing building, to reduce 19112
energy consumption. "Energy conservation measure" includes the 19113
following: 19114

(1) Insulation of the building structure and of systems 19115

within the building;	19116
(2) Storm windows and doors, multiglazed windows and doors,	19117
heat-absorbing or heat-reflective glazed and coated window and	19118
door systems, additional glazing, reductions in glass area, and	19119
other window and door system modifications that reduce energy	19120
consumption;	19121
(3) Automatic energy control systems;	19122
(4) Heating, ventilating, or air conditioning system	19123
modifications or replacements;	19124
(5) Caulking and weatherstripping;	19125
(6) Replacement or modification of lighting fixtures to	19126
increase the energy efficiency of the system without increasing	19127
the overall illumination of a facility, unless such an increase in	19128
illumination is necessary to conform to the applicable state or	19129
local building code for the proposed lighting system;	19130
(7) Energy recovery systems;	19131
(8) Cogeneration systems that produce steam or forms of	19132
energy such as heat, as well as electricity, for use primarily	19133
within a building or complex of buildings;	19134
(9) Acquiring, constructing, furnishing, equipping, improving	19135
the site of, and otherwise improving a central utility plant to	19136
provide heating and cooling services to a building or buildings	19137
together with distribution piping and ancillary distribution	19138
controls, equipment, and related facilities from the central	19139
utility plant to the building or buildings;	19140
(10) Any other modification, installation, or remodeling	19141
approved by the board of county commissioners as an energy	19142
conservation measure.	19143
(B) For the purpose of evaluating county buildings for energy	19144
conservation measures, a county may contract with an architect,	19145

professional engineer, energy services company, contractor, or 19146
other person experienced in the design and implementation of 19147
energy conservation measures for an energy conservation report. 19148
The report shall include all of the following: 19149

(1) Analyses of the buildings' energy needs and 19150
recommendations for building installations, modifications of 19151
existing installations, or building remodeling that would 19152
significantly reduce energy consumption in the buildings owned by 19153
that county; 19154

(2) Estimates of all costs of those installations, those 19155
modifications, or that remodeling, including costs of design, 19156
engineering, installation, maintenance, and repairs; 19157

(3) Estimates of the amounts by which energy consumption 19158
could be reduced; 19159

(4) The interest rate used to estimate the costs of any 19160
energy conservation measures that are to be financed; 19161

(5) The average system life of the energy conservation 19162
measures; 19163

(6) Estimates of the likely savings that will result from the 19164
reduction in energy consumption over the average system life of 19165
the energy conservation measure, including the methods used to 19166
estimate the savings; 19167

(7) A certification under the seal of a registered 19168
professional engineer that the energy conservation report uses 19169
reasonable methods of analysis and estimation. 19170

(C)(1) A county desiring to implement energy conservation 19171
measures may proceed under either of the following methods: 19172

(a) Using a report or any part of an energy conservation 19173
report prepared under division (B) of this section, advertise for 19174
bids and, except as otherwise provided in this section, comply 19175

with sections 307.86 to 307.92 of the Revised Code; 19176

(b) Notwithstanding sections 307.86 to 307.92 of the Revised 19177
Code, request proposals from at least three vendors for the 19178
implementation of energy conservation measures. A request for 19179
proposals shall require the installer that is awarded a contract 19180
under division (C)(2)(b) of this section to prepare an energy 19181
conservation report in accordance with division (B) of this 19182
section. Prior to sending any installer of energy conservation 19183
measures a copy of any request for proposals, the county shall 19184
advertise its intent to request proposals for the installation of 19185
energy conservation measures in a newspaper of general circulation 19186
in the county once a week for two consecutive weeks or as provided 19187
in section 7.16 of the Revised Code. The notice shall state that 19188
the county intends to request proposals for the installation of 19189
energy conservation measures; indicate the date, which shall be at 19190
least ten days after the second publication, on which the request 19191
for proposals will be mailed to installers of energy conservation 19192
measures; and state that any installer of energy conservation 19193
measures interested in receiving the request for proposals shall 19194
submit written notice to the county not later than noon of the day 19195
on which the request for proposals will be mailed. 19196

19197

(2)(a) Upon receiving bids under division (C)(1)(a) of this 19198
section, the county shall analyze them and select the lowest and 19199
best bid or bids most likely to result in the greatest energy 19200
savings considering the cost of the project and the county's 19201
ability to pay for the improvements with current revenues or by 19202
financing the improvements. 19203

(b) Upon receiving proposals under division (C)(1)(b) of this 19204
section, the county shall analyze the proposals and the 19205
installers' qualifications and select the most qualified installer 19206
to prepare an energy conservation report in accordance with 19207

division (B) of this section. After receipt and review of the 19208
energy conservation report, the county may award a contract to the 19209
selected installer to install the energy conservation measures 19210
that are most likely to result in the greatest energy savings 19211
considering the cost of the project and the county's ability to 19212
pay for the improvements with current revenues or by financing the 19213
improvements. 19214

(c) The awarding of a contract to install energy conservation 19215
measures under division (C)(2)(a) or (b) of this section shall be 19216
conditioned upon a finding by the contracting authority that the 19217
amount of money spent on the energy conservation measures is not 19218
likely to exceed the amount of money the county would save in 19219
energy, operating, maintenance, and avoided capital costs over the 19220
average system life of the energy conservation measures as 19221
specified in the energy conservation report. In making such a 19222
finding, the contracting authority may take into account increased 19223
costs due to inflation as shown in the energy conservation report. 19224
Nothing in this division prohibits a county from rejecting all 19225
bids or proposals under division (C)(1)(a) or (b) of this section 19226
or from selecting more than one bid or proposal. 19227

(D) A board of county commissioners may enter into an 19228
installment payment contract for the purchase and installation of 19229
energy conservation measures. Provisions of installment payment 19230
contracts that deal with interest charges and financing terms 19231
shall not be subject to the competitive bidding requirements of 19232
section 307.86 of the Revised Code, and shall be on the following 19233
terms: 19234

(1) Not less than a specified percentage, as determined and 19235
approved by the board of county commissioners, of the costs of the 19236
contract shall be paid within two years from the date of purchase. 19237

(2) The remaining balance of the costs of the contract shall 19238
be paid within the lesser of the average system life of the energy 19239

conservation measures as specified in the energy conservation 19240
report or thirty years. 19241

(E) The board of county commissioners may issue the notes of 19242
the county specifying the terms of a purchase of energy 19243
conservation measures under this section and securing any deferred 19244
payments provided for in division (D) of this section. The notes 19245
shall be payable at the times provided and bear interest at a rate 19246
not exceeding the rate determined as provided in section 9.95 of 19247
the Revised Code. The notes may contain an option for prepayment 19248
and shall not be subject to Chapter 133. of the Revised Code. 19249
Revenues derived from local taxes or otherwise for the purpose of 19250
conserving energy or for defraying the current operating expenses 19251
of the county may be pledged and applied to the payment of 19252
interest and the retirement of the notes. The notes may be sold at 19253
private sale or given to the contractor under an installment 19254
payment contract authorized by division (D) of this section. 19255

(F) Debt incurred under this section shall not be included in 19256
the calculation of the net indebtedness of a county under section 19257
133.07 of the Revised Code. 19258

Sec. 307.10. (A) No sale of real property, or lease of real 19259
property used or to be used for the purpose of airports, landing 19260
fields, or air navigational facilities, or parts thereof, as 19261
provided by section 307.09 of the Revised Code shall be made 19262
unless it is authorized by a resolution adopted by a majority of 19263
the board of county commissioners. When a sale of real property as 19264
provided by section 307.09 of the Revised Code is authorized, the 19265
board may either deed the property to the highest responsible 19266
bidder, after advertisement once a week for four consecutive weeks 19267
in a newspaper of general circulation in the county or as provided 19268
in section 7.16 of the Revised Code, or offer the real property 19269
for sale at a public auction, after giving at least thirty days' 19270

notice of the auction by publication in a newspaper of general 19271
circulation in the county. The board may reject any and all bids. 19272
The board may, as it considers best, sell real property pursuant 19273
to this section as an entire tract or in parcels. The board, by 19274
resolution adopted by a majority of the board, may lease real 19275
property, in accordance with division (A) of section 307.09 of the 19276
Revised Code, without advertising for bids. 19277

(B) The board, by resolution, may transfer real property in 19278
fee simple belonging to the county and not needed for public use 19279
to the United States government, to the state or any department or 19280
agency thereof, to municipal corporations or other political 19281
subdivisions of the state, to the county board of developmental 19282
disabilities, or to a county land reutilization corporation 19283
organized under Chapter 1724. of the Revised Code for public 19284
purposes upon the terms and in the manner that it may determine to 19285
be in the best interests of the county, without advertising for 19286
bids. The board shall execute a deed or other proper instrument 19287
when such a transfer is approved. 19288

(C) The board, by resolution adopted by a majority of the 19289
board, may grant leases, rights, or easements to the United States 19290
government, to the state or any department or agency thereof, or 19291
to municipal corporations and other political subdivisions of the 19292
state, or to privately owned electric light and power companies, 19293
natural gas companies, or telephone or telegraph companies for 19294
purposes of rendering their several public utilities services, in 19295
accordance with division (B) of section 307.09 of the Revised 19296
Code, without advertising for bids. When such grant of lease, 19297
right, or easement is authorized, a deed or other proper 19298
instrument therefor shall be executed by the board. 19299

Sec. 307.12. (A) Except as otherwise provided in divisions 19300
(D), (E), and (G) of this section, when the board of county 19301

commissioners finds, by resolution, that the county has personal 19302
property, including motor vehicles acquired for the use of county 19303
officers and departments, and road machinery, equipment, tools, or 19304
supplies, that is not needed for public use, is obsolete, or is 19305
unfit for the use for which it was acquired, and when the fair 19306
market value of the property to be sold or donated under this 19307
division is, in the opinion of the board, in excess of two 19308
thousand five hundred dollars, the board may do either of the 19309
following: 19310

(1) Sell the property at public auction or by sealed bid to 19311
the highest bidder. Notice of the time, place, and manner of the 19312
sale shall be published in a newspaper of general circulation in 19313
the county at least ten days prior to the sale, and a typewritten 19314
or printed notice of the time, place, and manner of the sale shall 19315
be posted at least ten days before the sale in the offices of the 19316
county auditor and the board of county commissioners. 19317

If a board conducts a sale of property by sealed bid, the 19318
form of the bid shall be as prescribed by the board, and each bid 19319
shall contain the name of the person submitting it. Bids received 19320
shall be opened and tabulated at the time stated in the notice. 19321
The property shall be sold to the highest bidder, except that the 19322
board may reject all bids and hold another sale, by public auction 19323
or sealed bid, in the manner prescribed by this section. 19324

(2) Donate any motor vehicle that does not exceed four 19325
thousand five hundred dollars in value to a nonprofit organization 19326
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 19327
and (c)(3) for the purpose of meeting the transportation needs of 19328
participants in the Ohio works first program established under 19329
Chapter 5107. of the Revised Code and participants in the 19330
prevention, retention, and contingency program established under 19331
Chapter 5108. of the Revised Code. 19332

(B) When the board of county commissioners finds, by 19333

resolution, that the county has personal property, including motor 19334
vehicles acquired for the use of county officers and departments, 19335
and road machinery, equipment, tools, or supplies, that is not 19336
needed for public use, is obsolete, or is unfit for the use for 19337
which it was acquired, and when the fair market value of the 19338
property to be sold or donated under this division is, in the 19339
opinion of the board, two thousand five hundred dollars or less, 19340
the board may do either of the following: 19341

(1) Sell the property by private sale, without advertisement 19342
or public notification; 19343

(2) Donate the property to an eligible nonprofit organization 19344
that is located in this state and is exempt from federal income 19345
taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating 19346
any property under this division, the board shall adopt a 19347
resolution expressing its intent to make unneeded, obsolete, or 19348
unfit-for-use county personal property available to these 19349
organizations. The resolution shall include guidelines and 19350
procedures the board considers necessary to implement a donation 19351
program under this division and shall indicate whether the county 19352
will conduct the donation program or the board will contract with 19353
a representative to conduct it. If a representative is known when 19354
the resolution is adopted, the resolution shall provide contact 19355
information such as the representative's name, address, and 19356
telephone number. 19357

The resolution shall include within its procedures a 19358
requirement that any nonprofit organization desiring to obtain 19359
donated property under this division shall submit a written notice 19360
to the board or its representative. The written notice shall 19361
include evidence that the organization is a nonprofit organization 19362
that is located in this state and is exempt from federal income 19363
taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of 19364
the organization's primary purpose; a description of the type or 19365

types of property the organization needs; and the name, address, 19366
and telephone number of a person designated by the organization's 19367
governing board to receive donated property and to serve as its 19368
agent. 19369

After adoption of the resolution, the board shall publish, in 19370
a newspaper of general circulation in the county, notice of its 19371
intent to donate unneeded, obsolete, or unfit-for-use county 19372
personal property to eligible nonprofit organizations. The notice 19373
shall include a summary of the information provided in the 19374
resolution and shall be published ~~at least~~ twice or as provided in 19375
section 7.16 of the Revised Code. The second and any subsequent 19376
notice shall be published not less than ten nor more than twenty 19377
days after the previous notice. A similar notice also shall be 19378
posted continually in a conspicuous place in the offices of the 19379
county auditor and the board of county commissioners, ~~and, if.~~ If 19380
the county maintains a web site on the internet, the notice shall 19381
be posted continually at that web site. 19382

The board or its representative shall maintain a list of all 19383
nonprofit organizations that notify the board or its 19384
representative of their desire to obtain donated property under 19385
this division and that the board or its representative determines 19386
to be eligible, in accordance with the requirements set forth in 19387
this section and in the donation program's guidelines and 19388
procedures, to receive donated property. 19389

The board or its representatives also shall maintain a list 19390
of all county personal property the board finds to be unneeded, 19391
obsolete, or unfit for use and to be available for donation under 19392
this division. The list shall be posted continually in a 19393
conspicuous location in the offices of the county auditor and the 19394
board of county commissioners, and, if the county maintains a web 19395
site on the internet, the list shall be posted continually at that 19396
web site. An item of property on the list shall be donated to the 19397

eligible nonprofit organization that first declares to the board 19398
or its representative its desire to obtain the item unless the 19399
board previously has established, by resolution, a list of 19400
eligible nonprofit organizations that shall be given priority with 19401
respect to the item's donation. Priority may be given on the basis 19402
that the purposes of a nonprofit organization have a direct 19403
relationship to specific public purposes of programs provided or 19404
administered by the board. A resolution giving priority to certain 19405
nonprofit organizations with respect to the donation of an item of 19406
property shall specify the reasons why the organizations are given 19407
that priority. 19408

(C) Members of the board of county commissioners shall 19409
consult with the Ohio ethics commission, and comply with the 19410
provisions of Chapters 102. and 2921. of the Revised Code, with 19411
respect to any sale or donation under division (A) or (B) of this 19412
section to a nonprofit organization of which a county 19413
commissioner, any member of the county commissioner's family, or 19414
any business associate of the county commissioner is a trustee, 19415
officer, board member, or employee. 19416

(D) Notwithstanding anything to the contrary in division (A), 19417
(B), or (E) of this section and regardless of the property's 19418
value, the board of county commissioners may sell or donate county 19419
personal property, including motor vehicles, to the federal 19420
government, the state, any political subdivision of the state, or 19421
a county land reutilization corporation without advertisement or 19422
public notification. 19423

(E) Notwithstanding anything to the contrary in division (A), 19424
(B), or (G) of this section and regardless of the property's 19425
value, the board of county commissioners may sell personal 19426
property, including motor vehicles acquired for the use of county 19427
officers and departments, and road machinery, equipment, tools, or 19428
supplies, that is not needed for public use, is obsolete, or is 19429

unfit for the use for which it was acquired, by internet auction. 19430
The board shall adopt, during each calendar year, a resolution 19431
expressing its intent to sell that property by internet auction. 19432
The resolution shall include a description of how the auctions 19433
will be conducted and shall specify the number of days for bidding 19434
on the property, which shall be no less than ten days, including 19435
Saturdays, Sundays, and legal holidays. The resolution shall 19436
indicate whether the county will conduct the auction or the board 19437
will contract with a representative to conduct the auction and 19438
shall establish the general terms and conditions of sale. If a 19439
representative is known when the resolution is adopted, the 19440
resolution shall provide contact information such as the 19441
representative's name, address, and telephone number. 19442

After adoption of the resolution, the board shall publish, in 19443
a newspaper of general circulation in the county, notice of its 19444
intent to sell unneeded, obsolete, or unfit-for-use county 19445
personal property by internet auction. The notice shall include a 19446
summary of the information provided in the resolution and shall be 19447
published ~~at least~~ twice or as provided in section 7.16 of the 19448
Revised Code. The second and any subsequent notice shall be 19449
published not less than ten nor more than twenty days after the 19450
previous notice. A similar notice also shall be posted continually 19451
throughout the calendar year in a conspicuous place in the offices 19452
of the county auditor and the board of county commissioners,~~and,~~ 19453
~~if.~~ If the county maintains a web site on the internet, the notice 19454
shall be posted continually throughout the calendar year at that 19455
web site. 19456

When property is to be sold by internet auction, the board or 19457
its representative may establish a minimum price that will be 19458
accepted for specific items and may establish any other terms and 19459
conditions for the particular sale, including requirements for 19460
pick-up or delivery, method of payment, and sales tax. This type 19461

of information shall be provided on the internet at the time of 19462
the auction and may be provided before that time upon request 19463
after the terms and conditions have been determined by the board 19464
or its representative. 19465

(F) When a county officer or department head determines that 19466
county-owned personal property under the jurisdiction of the 19467
officer or department head, including motor vehicles, road 19468
machinery, equipment, tools, or supplies, is not of immediate 19469
need, the county officer or department head may notify the board 19470
of county commissioners, and the board may lease that personal 19471
property to any municipal corporation, township, other political 19472
subdivision of the state, or to a county land reutilization 19473
corporation. The lease shall require the county to be reimbursed 19474
under terms, conditions, and fees established by the board, or 19475
under contracts executed by the board. 19476

(G) If the board of county commissioners finds, by 19477
resolution, that the county has vehicles, equipment, or machinery 19478
that is not needed, or is unfit for public use, and the board 19479
desires to sell the vehicles, equipment, or machinery to the 19480
person or firm from which it proposes to purchase other vehicles, 19481
equipment, or machinery, the board may offer to sell the vehicles, 19482
equipment, or machinery to that person or firm, and to have the 19483
selling price credited to the person or firm against the purchase 19484
price of other vehicles, equipment, or machinery. 19485

(H) If the board of county commissioners advertises for bids 19486
for the sale of new vehicles, equipment, or machinery to the 19487
county, it may include in the same advertisement a notice of the 19488
willingness of the board to accept bids for the purchase of 19489
county-owned vehicles, equipment, or machinery that is obsolete or 19490
not needed for public use, and to have the amount of those bids 19491
subtracted from the selling price of the other vehicles, 19492
equipment, or machinery as a means of determining the lowest 19493

responsible bidder. 19494

(I) If a board of county commissioners determines that county 19495
personal property is not needed for public use, or is obsolete or 19496
unfit for the use for which it was acquired, and that the property 19497
has no value, the board may discard or salvage that property. 19498

(J) A county engineer, in the engineer's discretion, may 19499
dispose of scrap construction materials on such terms as the 19500
engineer determines reasonable, including disposal without 19501
recovery of costs, if the total value of the materials does not 19502
exceed twenty-five thousand dollars. The engineer shall maintain 19503
records of all dispositions made under this division, including 19504
identification of the origin of the materials, the final 19505
disposition, and copies of all receipts resulting from the 19506
dispositions. 19507

As used in division (I) of this section, "scrap construction 19508
materials" means construction materials that result from a road or 19509
bridge improvement, remain after the improvement is completed, and 19510
are not reusable. Construction material that is metal and that 19511
results from a road or bridge improvement and remains after the 19512
improvement is completed is scrap construction material only if it 19513
cannot be used in any other road or bridge improvement or other 19514
project in its current state. 19515

Sec. 307.676. (A) As used in this section: 19516

(1) "Food and beverages" means any raw, cooked, or processed 19517
edible substance used or intended for use in whole or in part for 19518
human consumption, including ice, water, spirituous liquors, wine, 19519
mixed beverages, beer, soft drinks, soda, and other beverages. 19520

(2) "Convention facilities authority" has the same meaning as 19521
in section 351.01 of the Revised Code. 19522

(3) "Convention center" has the same meaning as in section 19523

307.695 of the Revised Code. 19524

(B) The legislative authority of a county with a population 19525
of one million or more according to the most recent federal 19526
decennial census may, by resolution adopted on or before August 19527
30, 2004, by a majority of the members of the legislative 19528
authority and with the subsequent approval of a majority of the 19529
electors of the county voting upon it, levy a tax of not more than 19530
two per cent on every retail sale in the county of food and 19531
beverages to be consumed on the premises where sold to pay the 19532
expenses of administering the tax and to provide revenues for the 19533
county general fund. Such resolution shall direct the board of 19534
elections to submit the question of levying the tax to the 19535
electors of the county at the next primary or general election in 19536
the county occurring not less than ninety days after the 19537
resolution is certified to the board of elections, and such 19538
resolution may further direct the board of elections to include 19539
upon the ballot submitted to the electors any specific purposes 19540
for which the tax will be used. The legislative authority shall 19541
establish all regulations necessary to provide for the 19542
administration and allocation of the tax. The regulations may 19543
prescribe the time for payment of the tax and may provide for 19544
imposition of a penalty, interest, or both for late payments, 19545
provided that any such penalty may not exceed ten per cent of the 19546
amount of tax due and the rate at which interest accrues may not 19547
exceed the rate per annum required under section 5703.47 of the 19548
Revised Code. 19549

(C) A tax levied under this section shall remain in effect 19550
for the period of time specified in the resolution or ordinance 19551
levying the tax, but in no case for a longer period than forty 19552
years. 19553

(D) A tax levied under this section is in addition to any 19554
other tax levied under Chapter 307., 4301., 4305., 5739., 5741., 19555

or any other chapter of the Revised Code. "Price," as defined in 19556
sections 5739.01 and 5741.01 of the Revised Code, does not include 19557
any tax levied under this section and any tax levied under this 19558
section does not include any tax imposed under Chapter 5739. or 19559
5741. of the Revised Code. 19560

(E)(1) No amount collected from a tax levied under this 19561
section shall be contributed to a convention facilities authority, 19562
corporation, or other entity created after July 1, 2003, for the 19563
principal purpose of constructing, improving, expanding, 19564
equipping, financing, or operating a convention center unless the 19565
mayor of the municipal corporation in which the convention center 19566
is to be operated by that convention facilities authority, 19567
corporation, or other entity has consented to the creation of that 19568
convention facilities authority, corporation, or entity. 19569
Notwithstanding any contrary provision of section 351.04 of the 19570
Revised Code, if a tax is levied by a county under this section, 19571
the board of county commissioners of that county may determine the 19572
manner of selection, the qualifications, the number, and terms of 19573
office of the members of the board of directors of any convention 19574
facilities authority, corporation, or other entity described in 19575
division (E)(1) of this section. 19576

(2)(a) No amount collected from a tax levied under this 19577
section may be used for any purpose other than paying the direct 19578
and indirect costs of constructing, improving, expanding, 19579
equipping, financing, or operating a convention center and for the 19580
real and actual costs of administering the tax, unless, prior to 19581
the adoption of the resolution of the legislative authority of the 19582
county directing the board of elections to submit the question of 19583
the levy, extension, or increase to the electors of the county, 19584
the county and the mayor of the most populous municipal 19585
corporation in that county have entered into an agreement as to 19586
the use of such amounts, provided that such agreement has been 19587

approved by a majority of the mayors of the other municipal 19588
corporations in that county. The agreement shall provide that the 19589
amounts to be used for purposes other than paying the convention 19590
center or administrative costs described in division (E)(2)(a) of 19591
this section be used only for the direct and indirect costs of 19592
capital improvements in accordance with the agreement, including 19593
the financing of capital improvements. Immediately following the 19594
execution of the agreement, the county shall: 19595

(i) In accordance with section 7.12 of the Revised Code, 19596
cause the agreement to be published ~~at least~~ once in a newspaper 19597
of general circulation in that county; or 19598

(ii) Post the agreement in at least five public places in the 19599
county, as determined by the legislative authority, for a period 19600
not less than fifteen days. 19601

(b) If the county in which the tax is levied has an 19602
association of mayors and city managers, the approval of that 19603
association of an agreement described in division (E)(2)(a) of 19604
this section shall be considered to be the approval of the 19605
majority of the mayors of the other municipal corporations for 19606
purposes of that division. 19607

(F) Each year, the auditor of state shall conduct an audit of 19608
the uses of any amounts collected from taxes levied under this 19609
section and shall prepare a report of the auditor of state's 19610
findings. The auditor of state shall submit the report to the 19611
legislative authority of the county that has levied the tax, the 19612
speaker of the house of representatives, the president of the 19613
senate, and the leaders of the minority parties of the house of 19614
representatives and the senate. 19615

(G) The levy of any taxes under Chapter 5739. of the Revised 19616
Code on the same transactions subject to a tax under this section 19617
does not prevent the levy of a tax under this section. 19618

Sec. 307.70. In any county electing a county charter 19619
commission, the board of county commissioners shall appropriate 19620
money for the expenses of such commission in the preparation of a 19621
county charter, or charter amendment, and the study of problems 19622
involved. No appropriation shall be made for the compensation of 19623
members of the commission for their services. The board shall 19624
appropriate money for the printing and mailing or otherwise 19625
distributing to each elector in the county, as far as may be 19626
reasonably possible, a copy of a charter submitted to the electors 19627
of the county by a charter commission or by the board pursuant to 19628
petition as provided by Section 4 of Article X, Ohio Constitution. 19629
The copy of the charter shall be mailed or otherwise distributed 19630
at least thirty days prior to the election. The board shall 19631
appropriate money for the printing and distribution or publication 19632
of proposed amendments to a charter submitted by a charter 19633
commission pursuant to Section 4 of Article X, Ohio Constitution. 19634
Notice of amendments to a county charter shall be given by mailing 19635
or otherwise distributing a copy of each proposed amendment to 19636
each elector in the county, as far as may be reasonably possible, 19637
at least thirty days prior to the election or, if the board so 19638
determines, by publishing the full text of the proposed amendments 19639
once a week for at least two consecutive weeks in a newspaper 19640
~~published in the county. If no newspaper is published in the~~ 19641
~~county or the board is unable to obtain publication in a newspaper~~ 19642
~~published in the county, the proposed amendments may be published~~ 19643
~~in a newspaper~~ of general circulation within the county, or as 19644
provided in section 7.16 of the Revised Code. No public officer is 19645
precluded, because of being a public officer, from also holding 19646
office as a member of a county charter commission, except that not 19647
more than four officeholders may be elected to a county charter 19648
commission at the same time. No member of a county charter 19649
commission, because of charter commission membership, is precluded 19650

from seeking or holding other public office. 19651

Sec. 307.79. (A) The board of county commissioners may adopt, 19652
amend, and rescind rules establishing technically feasible and 19653
economically reasonable standards to achieve a level of management 19654
and conservation practices that will abate wind or water erosion 19655
of the soil or abate the degradation of the waters of the state by 19656
soil sediment in conjunction with land grading, excavating, 19657
filling, or other soil disturbing activities on land used or being 19658
developed for nonfarm commercial, industrial, residential, or 19659
other nonfarm purposes, and establish criteria for determination 19660
of the acceptability of those management and conservation 19661
practices. The rules shall be designed to implement the applicable 19662
areawide waste treatment management plan prepared under section 19663
208 of the "Federal Water Pollution Control Act," 86 Stat. 816 19664
(1972), 33 U.S.C.A. 1228, as amended, and to implement phase II of 19665
the storm water program of the national pollutant discharge 19666
elimination system established in 40 C.F.R. Part 122. The rules to 19667
implement phase II of the storm water program of the national 19668
pollutant discharge elimination system shall not be inconsistent 19669
with, more stringent than, or broader in scope than the rules or 19670
regulations adopted by the environmental protection agency under 19671
40 C.F.R. Part 122. The rules adopted under this section shall not 19672
apply inside the limits of municipal corporations or the limits of 19673
townships with a limited home rule government that have adopted 19674
rules under section 504.21 of the Revised Code, to lands being 19675
used in a strip mine operation as defined in section 1513.01 of 19676
the Revised Code, or to land being used in a surface mine 19677
operation as defined in section 1514.01 of the Revised Code. 19678

The rules adopted under this section may require persons to 19680
file plans governing erosion control, sediment control, and water 19681
management before clearing, grading, excavating, filling, or 19682

otherwise wholly or partially disturbing one or more contiguous 19683
acres of land owned by one person or operated as one development 19684
unit for the construction of nonfarm buildings, structures, 19685
utilities, recreational areas, or other similar nonfarm uses. If 19686
the rules require plans to be filed, the rules shall do all of the 19687
following: 19688

(1) Designate the board itself, its employees, or another 19689
agency or official to review and approve or disapprove the plans; 19690

(2) Establish procedures and criteria for the review and 19691
approval or disapproval of the plans; 19692

(3) Require the designated entity to issue a permit to a 19693
person for the clearing, grading, excavating, filling, or other 19694
project for which plans are approved and to deny a permit to a 19695
person whose plans have been disapproved; 19696

(4) Establish procedures for the issuance of the permits; 19697

(5) Establish procedures under which a person may appeal the 19698
denial of a permit. 19699

Areas of less than one contiguous acre shall not be exempt 19700
from compliance with other provisions of this section or rules 19701
adopted under this section. The rules adopted under this section 19702
may impose reasonable filing fees for plan review, permit 19703
processing, and field inspections. 19704

No permit or plan shall be required for a public highway, 19705
transportation, or drainage improvement or maintenance project 19706
undertaken by a government agency or political subdivision in 19707
accordance with a statement of its standard sediment control 19708
policies that is approved by the board or the chief of the 19709
division of soil and water resources in the department of natural 19710
resources. 19711

(B) Rules or amendments may be adopted under this section 19712

only after public hearings at not fewer than two regular sessions 19713
of the board. The board of county commissioners shall cause to be 19714
published, in a newspaper of general circulation in the county, 19715
notice of the public hearings, including time, date, and place, 19716
once a week for two weeks immediately preceding the hearings, or 19717
as provided in section 7.16 of the Revised Code. The proposed 19718
rules or amendments shall be made available by the board to the 19719
public at the board office or other location indicated in the 19720
notice. The rules or amendments shall take effect on the 19721
thirty-first day following the date of their adoption. 19722

(C) The board of county commissioners may employ personnel to 19723
assist in the administration of this section and the rules adopted 19724
under it. The board also, if the action does not conflict with the 19725
rules, may delegate duties to review sediment control and water 19726
management plans to its employees, and may enter into agreements 19727
with one or more political subdivisions, other county officials, 19728
or other government agencies, in any combination, in order to 19729
obtain reviews and comments on plans governing erosion control, 19730
sediment control, and water management or to obtain other services 19731
for the administration of the rules adopted under this section. 19732

(D) The board of county commissioners or any duly authorized 19733
representative of the board may, upon identification to the owner 19734
or person in charge, enter any land upon obtaining agreement with 19735
the owner, tenant, or manager of the land in order to determine 19736
whether there is compliance with the rules adopted under this 19737
section. If the board or its duly authorized representative is 19738
unable to obtain such an agreement, the board or representative 19739
may apply for, and a judge of the court of common pleas for the 19740
county where the land is located may issue, an appropriate 19741
inspection warrant as necessary to achieve the purposes of this 19742
chapter. 19743

(E)(1) If the board of county commissioners or its duly 19744

authorized representative determines that a violation of the rules 19745
adopted under this section exists, the board or representative may 19746
issue an immediate stop work order if the violator failed to 19747
obtain any federal, state, or local permit necessary for sediment 19748
and erosion control, earth movement, clearing, or cut and fill 19749
activity. In addition, if the board or representative determines 19750
such a rule violation exists, regardless of whether or not the 19751
violator has obtained the proper permits, the board or 19752
representative may authorize the issuance of a notice of 19753
violation. If, after a period of not less than thirty days has 19754
elapsed following the issuance of the notice of violation, the 19755
violation continues, the board or its duly authorized 19756
representative shall issue a second notice of violation. Except as 19757
provided in division (E)(3) of this section, if, after a period of 19758
not less than fifteen days has elapsed following the issuance of 19759
the second notice of violation, the violation continues, the board 19760
or its duly authorized representative may issue a stop work order 19761
after first obtaining the written approval of the prosecuting 19762
attorney of the county if, in the opinion of the prosecuting 19763
attorney, the violation is egregious. 19764

Once a stop work order is issued, the board or its duly 19765
authorize representative shall request, in writing, the 19766
prosecuting attorney of the county to seek an injunction or other 19767
appropriate relief in the court of common pleas to abate excessive 19768
erosion or sedimentation and secure compliance with the rules 19769
adopted under this section. If the prosecuting attorney seeks an 19770
injunction or other appropriate relief, then, in granting relief, 19771
the court of common pleas may order the construction of sediment 19772
control improvements or implementation of other control measures 19773
and may assess a civil fine of not less than one hundred or more 19774
than five hundred dollars. Each day of violation of a rule or stop 19775
work order issued under this section shall be considered a 19776
separate violation subject to a civil fine. 19777

(2) The person to whom a stop work order is issued under this section may appeal the order to the court of common pleas of the county in which it was issued, seeking any equitable or other appropriate relief from that order.

(3) No stop work order shall be issued under this section against any public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water resources in the department of natural resources.

(F) No person shall violate any rule adopted or order issued under this section. Notwithstanding division (E) of this section, if the board of county commissioners determines that a violation of any rule adopted or administrative order issued under this section exists, the board may request, in writing, the prosecuting attorney of the county to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules or order. In granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule adopted or administrative order issued under this section shall be considered a separate violation subject to a civil fine.

Sec. 307.791. The question of repeal of a county sediment control rule adopted under section 307.79 of the Revised Code may be initiated by filing with the board of elections of the county not less than ninety days before the general or primary election in any year a petition requesting that an election be held on such

question. Such petition shall be signed by qualified electors 19809
residing in the county equal in number to ten per cent of those 19810
voting for governor at the most recent gubernatorial election in 19811
the county. 19812

After determination by it that such petition is valid, the 19813
board of elections shall submit the question to the electors of 19814
the county at the next general or primary election. The election 19815
shall be conducted, canvassed, and certified in the same manner as 19816
regular elections for county offices in the county. Notice of the 19817
election shall be published in a newspaper of general circulation 19818
in the county once a week for two consecutive weeks prior to the 19819
election ~~and, if~~ or as provided in section 7.16 of the Revised 19820
Code. If the board of elections operates and maintains a web site, 19821
notice of the election also shall be posted on that web site for 19822
thirty days prior to the election. The notice shall state the 19823
purpose, time, and place of the election and ~~the complete text a~~ 19824
succinct summary of each rule sought to be repealed. The form of 19825
the ballot cast at such election shall be prescribed by the 19826
secretary of state. The question covered by such petition shall be 19827
submitted as a separate proposition, but it may be printed on the 19828
same ballot with any other proposition submitted at the same 19829
election other than the election of officers. If a majority of the 19830
qualified electors voting on the question of repeal approve the 19831
repeal, the result of the election shall be certified immediately 19832
after the canvass by the board of elections to the board of county 19833
commissioners, who shall thereupon rescind the rule. 19834

Sec. 307.80. The board of county commissioners of any county 19835
may, by resolution, establish a county microfilming board. The 19836
county microfilming board shall consist of the county treasurer or 19837
~~his~~ the treasurer's representative, the county auditor or ~~his~~ the 19838
auditor's representative, the clerk of the court of common pleas 19839
or ~~his~~ the clerk's representative, a member or representative of 19840

the board of county commissioners chosen by the board of county 19841
commissioners, and the county recorder or ~~his~~ the recorder's 19842
representative who shall serve as secretary. 19843

After the initial meeting of the county microfilming board, 19844
no county office shall purchase, lease, operate, or contract for 19845
the use of any microfilming or other image processing equipment, 19846
software, or services without prior approval of the board. 19847

As used in sections 307.80 to 307.806 of the Revised Code, 19848
"county office" means any officer, department, board, commission, 19849
agency, court, or other office of the county and the court of 19850
common pleas. The county hospital shall not be considered a 19851
"county office" when the county hospital uses microfilming to 19852
record and store for future access physical and psychiatric 19853
examinations or treatment records of its patients. The county 19854
hospital shall participate, at the request of the county 19855
microfilming board, in purchasing film and equipment and in 19856
entering into contracts for services for microfilming. 19857

Sec. 307.802. The county microfilming board shall coordinate 19858
the use of all microfilming or image processing equipment, 19859
software, or services in use throughout the county offices at the 19860
time the board is established. 19861

The board may, in writing, authorize any county office to 19862
contract for microfilming or image processing services, or operate 19863
or acquire microfilming or image processing equipment or software, 19864
where the board determines such action is desirable. The 19865
authorization shall be signed by a majority of the members of the 19866
board and shall be filed in the office of the board of county 19867
commissioners. 19868

The county microfilming board may establish a microfilming 19869
center which shall provide a centralized system for the use of 19870
microfilming or image processing equipment, software, or services 19871

for all county offices. 19872

Sec. 307.803. The board of county commissioners may purchase, 19873
lease, or otherwise acquire any microfilming or image processing 19874
equipment, software, or services that the board determines is 19875
necessary, or that the county microfilming board or county board 19876
of information services and records management authorizes, from 19877
funds budgeted and appropriated by the board of county 19878
commissioners for such purposes. 19879

Sec. 307.806. The county microfilming board may enter into a 19880
contract with the legislative authorities of any municipal 19881
corporation, township, port authority, water or sewer district, 19882
school district, library district, county law library association, 19883
health district, park district, soil and water conservation 19884
district, conservancy district, other taxing district, regional 19885
council established pursuant to Chapter 167. of the Revised Code, 19886
or otherwise, county land reutilization corporation organized 19887
under Chapter 1724. of the Revised Code, or with the board of 19888
county commissioners or the microfilming board of any other 19889
county, or with any other federal or state governmental agency, 19890
and such authorities may enter into contracts with the county 19891
microfilming board, to provide microfilming or image processing 19892
services to any of them. The board shall establish a schedule of 19893
charges upon which the cost of providing such services shall be 19894
based. All moneys collected by the board for services rendered 19895
pursuant to contracts entered into under this section shall be 19896
deposited in the county general fund; however, such moneys may be 19897
segregated into a special fund in the county treasury until the 19898
end of the calendar year. County offices may also be charged for 19899
such services and the appropriation so charged and the 19900
appropriation of the board so credited. 19901

Sec. 307.81. (A) Where lands have been dedicated to or for 19902
the use of the public for parks or park lands, and where such 19903
lands have remained unimproved and unused by the public and there 19904
appears to be little or no possibility that such lands will be 19905
improved and used by the public, the board of county commissioners 19906
of the county in which the lands are located may, by resolution, 19907
declare such parks or park lands vacated upon the petition of a 19908
majority of the abutting freeholders. No such parks or park lands 19909
shall be vacated unless notice of the pendency and prayer of the 19910
petition is given in a newspaper of general circulation in the 19911
county in which such lands are situated for three consecutive 19912
weeks preceding action on such petition or as provided in section 19913
7.16 of the Revised Code. No such lands shall be vacated prior to 19914
a public hearing had thereon. 19915

(B) Before the board of county commissioners may act on a 19916
petition to vacate unimproved and unused parks or park lands under 19917
division (A) of this section, the board shall offer such parks or 19918
park lands to all political subdivisions described in division (C) 19919
of this section. The board shall give notice to those political 19920
subdivisions by first class mail that the parks or park lands may 19921
be declared vacated unless the board of county commissioners 19922
accepts an offer from another political subdivision to buy or 19923
lease the lands. The failure of delivery of any such notice does 19924
not invalidate any proceedings for the disposition of parks or 19925
park lands under this division. Any such political subdivision 19926
that wishes to buy or lease the parks or park lands shall make an 19927
offer for the lands to the board in writing not later than ninety 19928
days after receiving the notice. The board may reject any offer, 19929
except that if it receives an offer in which the political 19930
subdivision agrees to use the lands for park purposes and in which 19931
the board finds all of the other terms acceptable, the board shall 19932
accept that offer. No offer shall be accepted until notice of the 19933

offer is published for three consecutive weeks in a newspaper of 19934
general circulation in the county in which the lands are situated 19935
or as provided in section 7.16 of the Revised Code, and a public 19936
hearing is held. Proceeds from the sale or lease of the lands 19937
shall be placed in the general fund of the county and be disbursed 19938
as prescribed in section 307.82 of the Revised Code. Any deed 19939
conveying the lands shall be executed as provided in that section. 19940

(C) In order to receive a notice or to make an offer 19941
regarding parks or park lands under division (B) of this section, 19942
a political subdivision must meet both of the following 19943
conditions: 19944

(1) Have the authority to acquire, develop, and maintain 19945
public parks or recreation areas; 19946

(2) Contain the parks or park lands in question within its 19947
boundaries, or adjoin a political subdivision that contains those 19948
parks or park lands within its boundaries. 19949

Sec. 307.82. Upon the vacation of parks or park lands, the 19950
board of county commissioners shall offer such lands for sale at a 19951
public auction at the courthouse of the county in which such lands 19952
are situated. No lands shall be sold until the board gives notice 19953
of intention to sell such lands. Such notice shall be published 19954
once a week for four consecutive weeks in a newspaper of general 19955
circulation in the county in which sale is to be had or as 19956
provided in section 7.16 of the Revised Code. The board shall sell 19957
such lands to the highest and best bidder, provided, the board may 19958
reject any and all bids made hereunder. 19959

When such sale is made, the auditor of the county in which 19960
sale is had and in which such lands are located, shall enter into 19961
a deed, conveying said lands to the purchaser thereof. At the time 19962
of sale, the auditor shall place the lands sold hereunder on the 19963
tax duplicate of the county at a value to be established by ~~him~~ 19964

the auditor as in cases where ~~he~~ the auditor re-enters property 19965
which has been tax exempt on the taxable list of the county. 19966

The proceeds from the sale of lands sold pursuant to this 19967
section shall be placed in the general fund of the county in which 19968
such lands are located and may be disbursed as other general fund 19969
moneys. 19970

Sec. 307.83. When real estate which has been dedicated to or 19971
for the use of the public for parks or park lands is vacated by 19972
the board of county commissioners pursuant to division (A) of 19973
section 307.81 of the Revised Code or is to be sold or leased for 19974
nonpark use under division (B) of that section, and where 19975
reversionary interests have been set up in the event of the 19976
non-use of such lands for the dedicated purpose, such reversionary 19977
interests shall accelerate and vest in the holders thereof upon 19978
such vacation, or prior to the acceptance of an offer to buy or 19979
lease the land. Thereupon the auditor of the county shall place 19980
the lands on the tax duplicate of the county in the names of such 19981
reversioners as are known to the board of county commissioners. If 19982
the board is unable to establish the names of such reversioners, 19983
it shall fix a date on or before which claims to such real estate 19984
may be asserted and after which such real estate shall be sold or 19985
leased. The board shall give notice of such date and of the sale 19986
or lease to be held thereafter, once each week for four 19987
consecutive weeks in a newspaper of general circulation in the 19988
county wherein such lands are located or as provided in section 19989
7.16 of the Revised Code. In the event that no claims to such 19990
lands are asserted or found to be valid, the lands shall be sold 19991
pursuant to section 307.82 of the Revised Code in the case of a 19992
vacation of the lands pursuant to division (A) of section 307.81 19993
of the Revised Code, or be sold or leased pursuant to division (B) 19994
of section 307.81 of the Revised Code if an agreement with a 19995
political subdivision is entered into under that division, and the 19996

title of any holders of reversionary interests shall be 19997
extinguished. 19998

Sec. 307.84. The board of county commissioners of any county 19999
may, by resolution, establish a county automatic data processing 20000
board. The board shall consist of the county treasurer or the 20001
county treasurer's representative, the county recorder or the 20002
county recorder's representative, the clerk of the court of common 20003
pleas or the clerk's representative, a member or representative of 20004
the board of county commissioners chosen by the board, two members 20005
or representatives of the board of elections chosen by the board 20006
of elections one of whom shall be a member of the political party 20007
receiving the greatest number of votes at the most recent general 20008
election for the office of governor and one of whom shall be a 20009
member of the political party receiving the second greatest number 20010
of votes at such an election, if the board of elections desires to 20011
participate, and the county auditor or the county auditor's 20012
representative who shall serve as secretary. The members of the 20013
county automatic data processing board may by majority vote add to 20014
the board any additional members whose officers use the facilities 20015
of the board. 20016

After the initial meeting of the county automatic data 20017
processing board, no county office shall purchase, lease, operate, 20018
or contract for the use of any automatic or electronic data 20019
processing or record-keeping equipment, software, or services 20020
without prior approval of the board. 20021

As used in sections 307.84 to 307.846 of the Revised Code, 20022
"county office" means any officer, department, board, commission, 20023
agency, court, or other office of the county, other than a board 20024
of county hospital trustees. 20025

Sec. 307.842. The county automatic data processing board 20026

shall coordinate the use of all automatic or electronic data 20027
processing or record-keeping equipment, software, or services in 20028
use throughout the county offices at the time the board is 20029
established. 20030

The board may, in writing, authorize any county office to 20031
contract for automatic or electronic data processing or 20032
record-keeping services, or operate or acquire automatic or 20033
electronic data processing or record-keeping equipment, where the 20034
board determines such action is desirable. The authorization shall 20035
be signed by a majority of the members of the board and shall be 20036
filed in the office of the board of county commissioners. 20037

The county automatic data processing board may establish an 20038
automatic data processing center which shall provide a centralized 20039
system for the use of automatic or electronic data processing or 20040
record-keeping equipment, software, or services for all county 20041
offices. 20042

Sec. 307.843. The board of county commissioners may purchase, 20043
lease, or otherwise acquire any automatic or electronic data 20044
processing or record-keeping equipment, software, or services that 20045
the board determines is necessary, or that the county automatic 20046
data processing board or county board of information services and 20047
records management recommends, from funds budgeted and 20048
appropriated by the board of county commissioners for such 20049
purposes. 20050

Sec. 307.846. The county automatic data processing board may 20051
enter into a contract with the legislative authorities of any 20052
municipal corporation, township, port authority, water or sewer 20053
district, school district, library district, county law library 20054
association, health district, park district, soil and water 20055
conservation district, conservancy district, other taxing 20056

district, regional council established pursuant to Chapter 167. of 20057
the Revised Code, county land reutilization corporation organized 20058
under Chapter 1724. of the Revised Code, or otherwise or with the 20059
board of county commissioners or the automatic data processing 20060
board of any other county, or with any other federal or state 20061
governmental agency, and such authorities or entities may enter 20062
into contracts with the county automatic data processing board, to 20063
provide automatic or electronic data processing or record-keeping 20064
services to any of them. The board shall establish a schedule of 20065
charges upon which the cost of providing such services shall be 20066
based. All moneys collected by the board for services rendered 20067
pursuant to contracts entered into under this section shall be 20068
deposited in the county general fund; however, such moneys may be 20069
segregated into a special fund in the county treasury until the 20070
end of the calendar year. County offices may also be charged for 20071
such services and the appropriation so charged and the 20072
appropriation of the board so credited. 20073

Sec. 307.847. (A) In lieu of having a county records 20074
commission, a county microfilming board, and a county automatic 20075
data processing board, a board of county commissioners may, by 20076
resolution, establish a county board of information services and 20077
records management to coordinate the management of information 20078
resources of the county, the records and information management 20079
operations of all county offices, and the various records and 20080
information technologies acquired and operated by county offices. 20081
The resolution establishing the board shall specify the date on 20082
which the county records commission, the county microfilming 20083
board, and the county automatic data processing board, if any, no 20084
longer exist and the county board of information services and 20085
records management is established. The county board of information 20086
services and records management shall consist of the county 20087
auditor, county treasurer, county recorder, clerk of the court of 20088

common pleas, prosecuting attorney, county engineer, county 20089
coroner, sheriff, a judge of the court of common pleas selected by 20090
a majority vote of all judges of the court, and a member of the 20091
board of county commissioners chosen by the board of county 20092
commissioners. Any member may designate a representative to serve 20093
on that member's behalf. All actions of the board shall be taken 20094
by a majority vote of all its members. 20095

Once a county board of information services and records 20096
management is created, no county office shall purchase, lease, 20097
operate, or contract for the use of any automatic data processing 20098
equipment, software, or services; microfilming equipment or 20099
services; records center or archives facilities; or any other 20100
image processing or electronic data processing or record-keeping 20101
equipment, software, or services without prior approval of the 20102
board. The board may adopt such rules as it considers necessary 20103
for its operation, but no rule shall derogate the authority or 20104
responsibility of any county elected official. The board's rules 20105
may include any regulations or standards the board wishes to 20106
impose. For purposes of this section, "county office" means any 20107
officer, department, board, commission, agency, court, or other 20108
office of the county and the court of common pleas, except that in 20109
the case of microfilming equipment, "county office" does not 20110
include the county hospital when the county hospital uses 20111
microfilming to record and store for future access physical and 20112
psychiatric examinations or treatment records of its patients. The 20113
county hospital shall participate, at the request of the county 20114
board of information services and records management, in 20115
purchasing film and equipment and in entering into contracts for 20116
services for microfilming. 20117

(B) On the effective date of the establishment of the county 20118
board of information services and records management as designated 20119
in the resolution establishing it, all equipment, records, files, 20120

effects, and other personal property; contractual obligations; and 20121
assets and liabilities of the county records commission, the 20122
county microfilming board, and the automatic data processing board 20123
shall be transferred to the county board of information services 20124
and records management. 20125

For purposes of succession of the functions, powers, duties, 20126
and obligations of the county records commission, the county 20127
microfilming board, and the county automatic data processing board 20128
transferred and assigned to, devolved upon, and assumed by the 20129
county board of information services and records management under 20130
this section, the county board of information services and records 20131
management shall be deemed to constitute the continuation of the 20132
county records commission, the county microfilming board, and the 20133
county automatic data processing board, as applicable. 20134

Any business, proceeding, or other matter undertaken or 20135
commenced by the county records commission, the county 20136
microfilming board, or the county automatic data processing board 20137
pertaining to or connected with the functions, powers, duties, and 20138
obligations transferred or assigned and pending on the date of the 20139
establishment of the county board of information services and 20140
records management shall be conducted, prosecuted or defended, and 20141
completed by the county board of information services and records 20142
management in the same manner and with the same effect as if 20143
conducted by the county records commission, the county 20144
microfilming board, or the county automatic data processing board. 20145
In all such actions and proceedings, the county board of 20146
information services and records management shall be substituted 20147
as a party. 20148

All rules, acts, determinations, approvals, and decisions of 20149
the county records commission, the county microfilming board, or 20150
the county automatic data processing board pertaining to the 20151
functions transferred and assigned under this section to the 20152

county board of information services and records management in 20153
force at the time of the transfer, assignment, assumption, or 20154
devolution shall continue in force as rules, acts, determinations, 20155
approvals, and decisions of the board until duly modified or 20156
repealed by the board. 20157

Wherever the functions, powers, duties, and obligations of 20158
the county records commission, the county microfilming board, or 20159
the county automatic data processing board are referred to or 20160
designated in any law, contract, or other document pertaining to 20161
those functions, powers, duties, and obligations, the reference or 20162
designation shall be deemed to refer to the county board of 20163
information services and records management, as appropriate. 20164

No existing right or remedy of any character shall be lost, 20165
impaired, or affected by reason of the establishment of the county 20166
board of information services and records management, except 20167
insofar as those rights and remedies are administered by the 20168
county board of information services and records management. 20169

(C) Except for provisions regarding the microfilming or 20170
automatic data processing centers, the county board of information 20171
services and records management shall have the powers, duties, and 20172
functions of the county records commission as provided in section 20173
149.38 of the Revised Code, the county microfilming board as 20174
provided in section 307.802 of the Revised Code, and the county 20175
automatic data processing board as provided in section 307.842 of 20176
the Revised Code. 20177

(D) The county board of information services and records 20178
management may establish an automatic data processing center, 20179
microfilming center, records center, archives, and any other 20180
centralized or decentralized facilities it considers necessary to 20181
fulfill its duties. Any such centralized facilities shall be used 20182
by all county offices. The establishment of either centralized or 20183
decentralized facilities shall be contingent on the appropriation 20184

of funds by the board of county commissioners. 20185

If more than one centralized center is established, the 20186
county board of information services and records management may 20187
appoint an administrator for each center or may appoint the same 20188
person to serve as administrator of more than one center. The 20189
board shall appoint or contract for such other staff as it 20190
considers appropriate. The administrator of any center shall be in 20191
the unclassified civil service. Subject to the approval of the 20192
board, the administrator shall fix the compensation of such 20193
persons other than the administrator as are necessary for the 20194
center's operation. Employee salaries and other expenses of the 20195
center shall be paid from funds budgeted and appropriated to the 20196
board by the board of county commissioners. 20197

The administrator, or if there is more than one administrator 20198
then all the administrators jointly, shall prepare an annual 20199
estimate of the revenues and expenditures of the county board of 20200
information services and records management for the ensuing fiscal 20201
year and submit it to the board of county commissioners as 20202
provided in section 5705.28 of the Revised Code. The estimate 20203
shall be sufficient to take care of all the needs of the county 20204
board of information services and records management, including, 20205
but not limited to, salaries, rental, and purchase of equipment. 20206
The board's funds shall be disbursed by the county auditor's 20207
warrant drawn on the county treasury five days after receipt of a 20208
voucher approved by a majority of that board and by a majority of 20209
the board of county commissioners. 20210

On the first Monday in April of each year the administrator 20211
of each center shall file with the county board of information 20212
services and records management and the board of county 20213
commissioners a report of the operations of the center and a 20214
statement of the center's receipts and expenditures during the 20215
preceding calendar year. 20216

(E) With the approval of the board of county commissioners, 20217
the county board of information services and records management 20218
may enter into a contract with the legislative authority of any 20219
municipal corporation, township, port authority, water or sewer 20220
district, school district, library district, county law library 20221
association, health district, park district, soil and water 20222
conservation district, conservancy district, other taxing 20223
district, or regional council established under Chapter 167. of 20224
the Revised Code, or with the board of county commissioners or the 20225
automatic data processing board or microfilming board of any other 20226
county, or with any other federal or state governmental agency, 20227
and such authorities may enter into contracts with the county 20228
board of information services and records management, to provide 20229
microfilming, automatic data processing, or other image processing 20230
or electronic data processing or record-keeping services to any of 20231
them. The board shall establish a schedule of charges upon which 20232
the cost of providing such services shall be based. All moneys 20233
collected by the board for services rendered pursuant to contracts 20234
entered into under this section shall be deposited in the county 20235
general fund, although these moneys may be segregated into a 20236
special fund in the county treasury until the end of the calendar 20237
year. County offices also may be charged for such services and the 20238
appropriations of those offices so charged and the appropriation 20239
of the county board of information services and records management 20240
so credited. 20241

Sec. 307.86. Anything to be purchased, leased, leased with an 20242
option or agreement to purchase, or constructed, including, but 20243
not limited to, any product, structure, construction, 20244
reconstruction, improvement, maintenance, repair, or service, 20245
except the services of an accountant, architect, attorney at law, 20246
physician, professional engineer, construction project manager, 20247
consultant, surveyor, or appraiser, by or on behalf of the county 20248

or contracting authority, as defined in section 307.92 of the Revised Code, at a cost in excess of twenty-five thousand dollars, except as otherwise provided in division (D) of section 713.23 and in sections 9.48, 125.04, 125.60 to 125.6012, 307.022, 307.041, 307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall be obtained through competitive bidding. However, competitive bidding is not required when any of the following applies:

(A) The board of county commissioners, by a unanimous vote of its members, makes a determination that a real and present emergency exists, and that determination and the reasons for it are entered in the minutes of the proceedings of the board, when either of the following applies:

(1) The estimated cost is less than fifty thousand dollars.

(2) There is actual physical disaster to structures, radio communications equipment, or computers.

For purposes of this division, "unanimous vote" means all three members of a board of county commissioners when all three members are present, or two members of the board if only two members, constituting a quorum, are present.

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding under division (A)(1) of this section because the estimated cost is less than fifty thousand dollars, but the estimated cost is twenty-five thousand dollars or more, the county or contracting authority shall solicit informal estimates from no fewer than three persons who could perform the contract, before awarding the contract. With regard to each such contract, the county or contracting authority shall maintain a record of such estimates, including the name of each person from whom an estimate is solicited. The county or contracting authority shall maintain the record for the longer of at least one year

after the contract is awarded or the amount of time the federal 20280
government requires. 20281

(B)(1) The purchase consists of supplies or a replacement or 20282
supplemental part or parts for a product or equipment owned or 20283
leased by the county, and the only source of supply for the 20284
supplies, part, or parts is limited to a single supplier. 20285

(2) The purchase consists of services related to information 20286
technology, such as programming services, that are proprietary or 20287
limited to a single source. 20288

(C) The purchase is from the federal government, the state, 20289
another county or contracting authority of another county, or a 20290
board of education, educational service center, township, or 20291
municipal corporation. 20292

(D) The purchase is made by a county department of job and 20293
family services under section 329.04 of the Revised Code and 20294
consists of family services duties or workforce development 20295
activities or is made by a county board of developmental 20296
disabilities under section 5126.05 of the Revised Code and 20297
consists of program services, such as direct and ancillary client 20298
services, child care, case management services, residential 20299
services, and family resource services. 20300

(E) The purchase consists of criminal justice services, 20301
social services programs, family services, or workforce 20302
development activities by the board of county commissioners from 20303
nonprofit corporations or associations under programs funded by 20304
the federal government or by state grants. 20305

(F) The purchase consists of any form of an insurance policy 20306
or contract authorized to be issued under Title XXXIX of the 20307
Revised Code or any form of health care plan authorized to be 20308
issued under Chapter 1751. of the Revised Code, or any combination 20309
of such policies, contracts, plans, or services that the 20310

contracting authority is authorized to purchase, and the	20311
contracting authority does all of the following:	20312
(1) Determines that compliance with the requirements of this	20313
section would increase, rather than decrease, the cost of the	20314
purchase;	20315
(2) Requests issuers of the policies, contracts, plans, or	20316
services to submit proposals to the contracting authority, in a	20317
form prescribed by the contracting authority, setting forth the	20318
coverage and cost of the policies, contracts, plans, or services	20319
as the contracting authority desires to purchase;	20320
(3) Negotiates with the issuers for the purpose of purchasing	20321
the policies, contracts, plans, or services at the best and lowest	20322
price reasonably possible.	20323
(G) The purchase consists of computer hardware, software, or	20324
consulting services that are necessary to implement a computerized	20325
case management automation project administered by the Ohio	20326
prosecuting attorneys association and funded by a grant from the	20327
federal government.	20328
(H) Child care services are purchased for provision to county	20329
employees.	20330
(I)(1) Property, including land, buildings, and other real	20331
property, is leased for offices, storage, parking, or other	20332
purposes, and all of the following apply:	20333
(a) The contracting authority is authorized by the Revised	20334
Code to lease the property.	20335
(b) The contracting authority develops requests for proposals	20336
for leasing the property, specifying the criteria that will be	20337
considered prior to leasing the property, including the desired	20338
size and geographic location of the property.	20339
(c) The contracting authority receives responses from	20340

prospective lessors with property meeting the criteria specified 20341
in the requests for proposals by giving notice in a manner 20342
substantially similar to the procedures established for giving 20343
notice under section 307.87 of the Revised Code. 20344

(d) The contracting authority negotiates with the prospective 20345
lessors to obtain a lease at the best and lowest price reasonably 20346
possible considering the fair market value of the property and any 20347
relocation and operational costs that may be incurred during the 20348
period the lease is in effect. 20349

(2) The contracting authority may use the services of a real 20350
estate appraiser to obtain advice, consultations, or other 20351
recommendations regarding the lease of property under this 20352
division. 20353

(J) The purchase is made pursuant to section 5139.34 or 20354
sections 5139.41 to 5139.46 of the Revised Code and is of programs 20355
or services that provide case management, treatment, or prevention 20356
services to any felony or misdemeanor delinquent, unruly youth, 20357
or status offender under the supervision of the juvenile court, 20358
including, but not limited to, community residential care, day 20359
treatment, services to children in their home, or electronic 20360
monitoring. 20361

(K) The purchase is made by a public children services agency 20362
pursuant to section 307.92 or 5153.16 of the Revised Code and 20363
consists of family services, programs, or ancillary services that 20364
provide case management, prevention, or treatment services for 20365
children at risk of being or alleged to be abused, neglected, or 20366
dependent children. 20367

(L) The purchase is to obtain the services of emergency 20368
medical service organizations under a contract made by the board 20369
of county commissioners pursuant to section 307.05 of the Revised 20370
Code with a joint emergency medical services district. 20371

(M) The county contracting authority determines that the use of competitive sealed proposals would be advantageous to the county and the contracting authority complies with section 307.862 of the Revised Code.

Any issuer of policies, contracts, plans, or services listed in division (F) of this section and any prospective lessor under division (I) of this section may have the issuer's or prospective lessor's name and address, or the name and address of an agent, placed on a special notification list to be kept by the contracting authority, by sending the contracting authority that name and address. The contracting authority shall send notice to all persons listed on the special notification list. Notices shall state the deadline and place for submitting proposals. The contracting authority shall mail the notices at least six weeks prior to the deadline set by the contracting authority for submitting proposals. Every five years the contracting authority may review this list and remove any person from the list after mailing the person notification of that action.

Any contracting authority that negotiates a contract under division (F) of this section shall request proposals and negotiate with issuers in accordance with that division at least every three years from the date of the signing of such a contract, unless the parties agree upon terms for extensions or renewals of the contract. Such extension or renewal periods shall not exceed six years from the date the initial contract is signed.

Any real estate appraiser employed pursuant to division (I) of this section shall disclose any fees or compensation received from any source in connection with that employment.

Sec. 308.13. (A) The board of trustees of a regional airport authority or any officer or employee designated by such board may make any contract for the purchase of supplies or material or for

labor for any work, under the supervision of the board, the cost 20403
of which shall not exceed fifteen thousand dollars. Except where 20404
the contract is for equipment, materials, or supplies available 20405
from a qualified nonprofit agency pursuant to sections 4115.31 to 20406
4115.35 of the Revised Code, when an expenditure, other than for 20407
the acquisition of real estate, the discharge of noncontractual 20408
claims, personal services, or for the product or services of 20409
public utilities, exceeds fifteen thousand dollars, such 20410
expenditure shall be made only after a notice calling for bids has 20411
been published once a week for three consecutive weeks in ~~at least~~ 20412
~~one~~ a newspaper of general circulation within the territorial 20413
boundaries of the regional airport authority, or as provided in 20414
section 7.16 of the Revised Code. If the bid is for a contract for 20415
the construction, demolition, alteration, repair, or 20416
reconstruction of an improvement, it shall meet the requirements 20417
of section 153.54 of the Revised Code. If the bid is for any other 20418
contract authorized by this section, it shall be accompanied by a 20419
good and approved bond with ample security conditioned on the 20420
carrying out of the contract. The board may let the contract to 20421
the lowest and best bidder. Such contract shall be in writing and 20422
shall be accompanied by or shall refer to plans and specifications 20423
for the work to be done, approved by the board. The plans and 20424
specifications shall at all times be made and considered part of 20425
the contract. Said contract shall be approved by the board and 20426
signed by its chief executive officer and by the contractor, and 20427
shall be executed in duplicate. 20428

(B) Whenever a board of trustees of a regional airport 20429
authority or any officer or employee designated by the board makes 20430
a contract for the purchase of supplies or material or for labor 20431
for any work, the cost of which is greater than one thousand 20432
dollars but no more than fifteen thousand dollars, the board or 20433
designated officer or employee shall solicit informal estimates 20434
from no fewer than three potential suppliers before awarding the 20435

contract. With regard to each such contract, the board shall 20436
maintain a record of such estimates, including the name of each 20437
person from whom an estimate is solicited, for no less than one 20438
year after the contract is awarded. 20439

Sec. 311.29. (A) As used in this section, "Chautauqua 20440
assembly" has the same meaning as in section 4511.90 of the 20441
Revised Code. 20442

(B) The sheriff may, from time to time, enter into contracts 20443
with any municipal corporation, township, township police 20444
district, joint police district, metropolitan housing authority, 20445
port authority, water or sewer district, school district, library 20446
district, health district, park district created pursuant to 20447
section 511.18 or 1545.01 of the Revised Code, soil and water 20448
conservation district, water conservancy district, or other taxing 20449
district or with the board of county commissioners of any 20450
contiguous county with the concurrence of the sheriff of the other 20451
county, and such subdivisions, authorities, and counties may enter 20452
into agreements with the sheriff pursuant to which the sheriff 20453
undertakes and is authorized by the contracting subdivision, 20454
authority, or county to perform any police function, exercise any 20455
police power, or render any police service in behalf of the 20456
contracting subdivision, authority, or county, or its legislative 20457
authority, that the subdivision, authority, or county, or its 20458
legislative authority, may perform, exercise, or render. 20459

Upon the execution of an agreement under this division and 20460
within the limitations prescribed by it, the sheriff may exercise 20461
the same powers as the contracting subdivision, authority, or 20462
county possesses with respect to such policing that by the 20463
agreement the sheriff undertakes to perform or render, and all 20464
powers necessary or incidental thereto, as amply as such powers 20465
are possessed and exercised by the contracting subdivision, 20466

authority, or county directly. 20467

Any agreement authorized by division (A), (B), or (C) of this 20468
section shall not suspend the possession by a contracting 20469
subdivision, authority, or county of any police power performed or 20470
exercised or police service rendered in pursuance to the agreement 20471
nor limit the authority of the sheriff. 20472

(C) The sheriff may enter into contracts with any Chautauqua 20473
assembly that has grounds located within the county, and the 20474
Chautauqua assembly may enter into agreements with the sheriff 20475
pursuant to which the sheriff undertakes to perform any police 20476
function, exercise any police power, or render any police service 20477
upon the grounds of the Chautauqua assembly that the sheriff is 20478
authorized by law to perform, exercise, or render in any other 20479
part of the county within the sheriff's territorial jurisdiction. 20480
Upon the execution of an agreement under this division, the 20481
sheriff may, within the limitations prescribed by the agreement, 20482
exercise such powers with respect to such policing upon the 20483
grounds of the Chautauqua assembly, provided that any limitation 20484
contained in the agreement shall not be construed to limit the 20485
authority of the sheriff. 20486

(D) Contracts entered into under division (A), (B), or (C) of 20487
this section shall provide for the reimbursement of the county for 20488
the costs incurred by the sheriff for such policing including, but 20489
not limited to, the salaries of deputy sheriffs assigned to such 20490
policing, the current costs of funding retirement pensions and of 20491
providing workers' compensation, the cost of training, and the 20492
cost of equipment and supplies used in such policing, to the 20493
extent that such equipment and supplies are not directly furnished 20494
by the contracting subdivision, authority, county, or Chautauqua 20495
assembly. Each such contract shall provide for the ascertainment 20496
of such costs and shall be of any duration, not in excess of four 20497
years, and may contain any other terms that may be agreed upon. 20498

All payments pursuant to any such contract in reimbursement of the 20499
costs of such policing shall be made to the treasurer of the 20500
county to be credited to a special fund to be known as the 20501
"sheriff's policing revolving fund," hereby created. Any moneys 20502
coming into the fund shall be used for the purposes provided in 20503
divisions (A) to (D) of this section and paid out on vouchers by 20504
the county commissioners as other funds coming into their 20505
possession. Any moneys credited to the fund and not obligated at 20506
the termination of the contract shall be credited to the county 20507
general fund. 20508

The sheriff shall assign the number of deputies as may be 20509
provided for in any contract made pursuant to division (A), (B), 20510
or (C) of this section. The number of deputies regularly assigned 20511
to such policing shall be in addition to and an enlargement of the 20512
sheriff's regular number of deputies. Nothing in divisions (A) to 20513
(D) of this section shall preclude the sheriff from temporarily 20514
increasing or decreasing the deputies so assigned as emergencies 20515
indicate a need for shifting assignments to the extent provided by 20516
the contracts. 20517

All such deputies shall have the same powers and duties, the 20518
same qualifications, and be appointed and paid and receive the 20519
same benefits and provisions and be governed by the same laws as 20520
all other deputy sheriffs. 20521

Contracts under division (A), (B), or (C) of this section may 20522
be entered into jointly with the board of county commissioners, 20523
and sections 307.14 to 307.19 of the Revised Code apply to this 20524
section insofar as they may be applicable. 20525

(E)(1) As used in division (E) of this section: 20526

(a) "Ohio prisoner" has the same meaning as in section 20527
5120.64 of the Revised Code. 20528

(b) "Out-of-state prisoner" and "private contractor" have the 20529

same meanings as in section 9.07 of the Revised Code. 20530

(2) The sheriff may enter into a contract with a private 20531
person or entity for the return of Ohio prisoners who are the 20532
responsibility of the sheriff from outside of this state to a 20533
location in this state specified by the sheriff, if there are 20534
adequate funds appropriated by the board of county commissioners 20535
and there is a certification pursuant to division (D) of section 20536
5705.41 of the Revised Code that the funds are available for this 20537
purpose. A contract entered into under this division is within the 20538
coverage of section 325.07 of the Revised Code. If a sheriff 20539
enters into a contract as described in this division, subject to 20540
division (E)(3) of this section, the private person or entity in 20541
accordance with the contract may return Ohio prisoners from 20542
outside of this state to locations in this state specified by the 20543
sheriff. A contract entered into under this division shall include 20544
all of the following: 20545

(a) Specific provisions that assign the responsibility for 20546
costs related to medical care of prisoners while they are being 20547
returned that is not covered by insurance of the private person or 20548
entity; 20549

(b) Specific provisions that set forth the number of days, 20550
not exceeding ten, within which the private person or entity, 20551
after it receives the prisoner in the other state, must deliver 20552
the prisoner to the location in this state specified by the 20553
sheriff, subject to the exceptions adopted as described in 20554
division (E)(2)(c) of this section; 20555

(c) Any exceptions to the specified number of days for 20556
delivery specified as described in division (E)(2)(b) of this 20557
section; 20558

(d) A requirement that the private person or entity 20559
immediately report all escapes of prisoners who are being returned 20560

to this state, and the apprehension of all prisoners who are being 20561
returned and who have escaped, to the sheriff and to the local law 20562
enforcement agency of this state or another state that has 20563
jurisdiction over the place at which the escape occurs; 20564

(e) A schedule of fines that the sheriff shall impose upon 20565
the private person or entity if the private person or entity fails 20566
to perform its contractual duties, and a requirement that, if the 20567
private person or entity fails to perform its contractual duties, 20568
the sheriff shall impose a fine on the private person or entity 20569
from the schedule of fines and, in addition, may exercise any 20570
other rights the sheriff has under the contract. 20571

(f) If the contract is entered into on or after the effective 20572
date of the rules adopted by the department of rehabilitation and 20573
correction under section 5120.64 of the Revised Code, specific 20574
provisions that comport with all applicable standards that are 20575
contained in those rules. 20576

(3) If the private person or entity that enters into the 20577
contract fails to perform its contractual duties, the sheriff 20578
shall impose upon the private person or entity a fine from the 20579
schedule, the money paid in satisfaction of the fine shall be paid 20580
into the county treasury, and the sheriff may exercise any other 20581
rights the sheriff has under the contract. If a fine is imposed 20582
under this division, the sheriff may reduce the payment owed to 20583
the private person or entity pursuant to any invoice in the amount 20584
of the fine. 20585

(4) Upon the effective date of the rules adopted by the 20586
department of rehabilitation and correction under section 5120.64 20587
of the Revised Code, notwithstanding the existence of a contract 20588
entered into under division (E)(2) of this section, in no case 20589
shall the private person or entity that is a party to the contract 20590
return Ohio prisoners from outside of this state into this state 20591
for a sheriff unless the private person or entity complies with 20592

all applicable standards that are contained in the rules. 20593

(5) Divisions (E)(1) to (4) of this section do not apply 20594
regarding any out-of-state prisoner who is brought into this state 20595
to be housed pursuant to section 9.07 of the Revised Code in a 20596
correctional facility in this state that is managed and operated 20597
by a private contractor. 20598

Sec. 311.31. (A) The board of county commissioners of a 20599
county may establish, by resolution, a voluntary motor vehicle 20600
decal registration program to be controlled and conducted by the 20601
sheriff within the unincorporated areas of the county. The board 20602
may establish a fee for participation in the program in an amount 20603
sufficient to cover the cost of administering the program and the 20604
cost of the decals. The board shall coordinate its program with 20605
any pre-existing program established by a township located within 20606
the county under section 505.67 of the Revised Code. 20607

(B) Any resident of the county may enroll a motor vehicle 20608
that ~~he~~ the resident owns in the program by signing a consent 20609
form, displaying the decal issued under this section, and paying 20610
the prescribed fee. The motor vehicle owner shall remove the decal 20611
to withdraw from the program and also prior to the sale or 20612
transfer of ownership of the vehicle. Any law enforcement officer 20613
may conduct, at any place within this state at which the officer 20614
would be permitted to arrest the person operating the vehicle, an 20615
investigatory stop of any motor vehicle displaying a decal issued 20616
under this section when the vehicle is being driven between the 20617
hours of one a.m. and five a.m. A law enforcement officer may 20618
conduct an investigatory stop under this division regardless of 20619
whether the officer observes a violation of law involving the 20620
vehicle or whether ~~he~~ the officer has probable cause to believe 20621
that any violation of law involving the vehicle has occurred. 20622

(C) The consent form required under division (B) of this 20623

section shall: 20624

(1) Describe the conditions for participation in the program, 20625
including a description of an investigatory stop and a statement 20626
that any law enforcement officer may conduct, at any place within 20627
this state at which the officer would be permitted to arrest the 20628
person operating the vehicle, an investigatory stop of the motor 20629
vehicle when it is being driven between the hours of one a.m. and 20630
five a.m. 20631

(2) Contain other information identifying the vehicle and 20632
owner as the sheriff considers necessary. 20633

(D) The state director of public safety, in accordance with 20634
Chapter 119. of the Revised Code, shall adopt rules governing the 20635
color, size, and design of decals issued under this section and 20636
the location where the decals shall be displayed on vehicles that 20637
are enrolled in the program. 20638

(E) Divisions (A) to (D) of this section do not require a law 20639
enforcement officer to conduct an investigatory stop of a vehicle 20640
displaying a decal issued under this section. 20641

(F) As used in this section: 20642

(1) "Investigatory stop" means a temporary stop of a motor 20643
vehicle and its operator and occupants for purposes of determining 20644
the identity of the person who is operating the vehicle and, if 20645
the person who is operating it is not its owner, whether any 20646
violation of law has occurred or is occurring. An "investigatory 20647
stop" is not an arrest, but, if an officer who conducts an 20648
investigatory stop determines that illegal conduct has occurred or 20649
is ~~occurring~~ occurring, an "investigatory stop" may be the basis 20650
for an arrest. 20651

(2) "Law enforcement officer" means a sheriff, deputy 20652
sheriff, constable, police officer of a township or joint ~~township~~ 20653
police district, marshal, deputy marshal, municipal police 20654

officer, or state highway patrol trooper. 20655

Sec. 317.06. (A) Each county recorder who is newly elected to 20656
a full term of office shall attend and successfully complete at 20657
least fifteen hours of continuing education courses during the 20658
first year of the recorder's term of office and complete at least 20659
another eight hours of such courses each year of the remaining 20660
term. Each county recorder who is elected to a subsequent term of 20661
office shall attend and successfully complete at least eight hours 20662
of such courses in each year of any subsequent term of office. To 20663
be counted toward the continuing education hours required by this 20664
section, a course must be approved by the Ohio recorders' 20665
association. Any county recorder who teaches an approved course 20666
shall be entitled to credit for the course in the same manner as 20667
if the county recorder had attended the course. 20668

The Ohio recorders' association shall record and, upon 20669
request, verify the completion of required course work for each 20670
county recorder and issue a statement to each county recorder of 20671
the number of hours of continuing education the county recorder 20672
has successfully completed. Each year the association shall send a 20673
list of the continuing education courses, and the number of hours 20674
each county recorder has successfully completed, to the auditor of 20675
state and shall provide a copy of this list to any other 20676
individual who requests it. 20677

The association shall issue a "failure to complete notice" to 20678
any county recorder required to complete continuing education 20679
courses under this section who fails to successfully complete at 20680
least fifteen hours of continuing education courses during the 20681
first year of the county recorder's first term of office or to 20682
complete a total of at least thirty-nine hours of such courses, 20683
including the fifteen hours completed in the first year of the 20684
first term, by the end of that term. The association shall issue a 20685

"failure to complete notice" to any county recorder required to 20686
complete continuing education courses under this section who fails 20687
to successfully complete at least eight hours of continuing 20688
education courses each year of any subsequent term of office or to 20689
complete a total of at least thirty-two hours of such courses, by 20690
the end of that subsequent term. The notice is for informational 20691
purposes only and does not affect any individual's ability to hold 20692
the office of county recorder. 20693

(B) Each board of county commissioners shall approve, from 20694
money appropriated to the county recorder, a reasonable amount 20695
requested by the county recorder of its county to cover the costs 20696
the county recorder must incur to meet the requirements of 20697
division (A) of this section, including registration fees, lodging 20698
and meal expenses, and travel expenses. 20699

Sec. 317.20. (A) When, in the opinion of the board of county 20700
commissioners, sectional indexes are needed and it so directs, in 20701
addition to the alphabetical indexes provided for in section 20702
317.18 of the Revised Code, the board may provide for making, in 20703
books prepared for that purpose, sectional indexes to the records 20704
of all real estate in the county beginning with some designated 20705
year and continuing through the period of years that the board 20706
specifies. The sectional indexes shall place under the heads of 20707
the original surveyed sections or surveys, parts of a section or 20708
survey, squares, subdivisions, permanent parcel numbers provided 20709
for under section 319.28 of the Revised Code, or lots, on the 20710
left-hand page or on the upper portion of that page of the index 20711
book, the name of the grantor, then the name of the grantee, then 20712
the number and page of the record in which the instrument is found 20713
recorded, then the character of the instrument, and then a 20714
pertinent description of the interest in property conveyed by the 20715
deed, lease, or assignment of lease and shall place under similar 20716
headings on the right-hand page or on the lower portion of that 20717

page of the index book, beginning at the bottom, all the 20718
mortgages, liens, notices provided for in sections 5301.51, 20719
5301.52, and 5301.56 of the Revised Code, or other encumbrances 20720
affecting the real estate. 20721

(B) The compensation for the services rendered under this 20722
section shall be paid from the general revenue fund of the county, 20723
and no additional levy shall be made in consequence of the 20724
services. 20725

(C) If the board of county commissioners decides to have 20726
sectional indexes made, it shall advertise for three consecutive 20727
weeks in one newspaper of general circulation in the county or as 20728
provided in section 7.16 of the Revised Code for sealed proposals 20729
to do the work provided for in this section, shall contract with 20730
the lowest and best bidder, and shall require the successful 20731
bidder to give a bond for the faithful performance of the contract 20732
in the sum that the board fixes. The work shall be done to the 20733
acceptance of the auditor of state upon allowance by the board. 20734
The board may reject any and all bids for the work, provided that 20735
no more than five cents shall be paid for each entry of each tract 20736
or lot of land. 20737

(D) When the sectional indexes are brought up and completed, 20738
the county recorder shall maintain the indexes and comply with 20739
division (E) of this section in connection with registered land. 20740

(E)(1) As used in division (E) of this section, "housing 20741
accommodations" and "restrictive covenant" have the same meanings 20742
as in section 4112.01 of the Revised Code. 20743

(2) In connection with any transfer of registered land that 20744
occurs on and after ~~the effective date of this amendment~~ March 30, 20745
1999, in accordance with Chapters 5309. and 5310. of the Revised 20746
Code, the county recorder shall delete from the sectional indexes 20747
maintained under this section all references to any restrictive 20748

covenant that appears to apply to the transferred registered land, 20749
if any inclusion of the restrictive covenant in a transfer, 20750
rental, or lease of housing accommodations, any honoring or 20751
exercising of the restrictive covenant, or any attempt to honor or 20752
exercise the restrictive covenant constitutes an unlawful 20753
discriminatory practice under division (H)(9) of section 4112.02 20754
of the Revised Code. 20755

Sec. 317.321. (A) Not later than the first day of October of 20756
any year, the county recorder may submit to the board of county 20757
commissioners a proposal for the acquisition or maintenance of 20758
micrographic or other equipment ~~or~~, for contract services, or for 20759
the general needs of the county recorder. The proposal shall be in 20760
writing and shall include at least the following: 20761

(1) A request that an amount not to exceed seven dollars of 20762
the fee collected for filing or recording a document for which a 20763
fee is charged as required by division (A) of section 317.32 of 20764
the Revised Code or by section 1309.525 or 5310.15 of the Revised 20765
Code be placed in the county treasury and designated as "general 20766
fund moneys ~~to supplement the equipment needs of~~ for the county 20767
recorder"; 20768

(2) The number of years, not to exceed five, for which the 20769
county recorder requests that the amount requested under division 20770
(A)(1) of this section be given the designation specified in that 20771
division; 20772

(3) An estimate of the total amount of fees that will be 20773
generated for filing or recording a document for which a fee is 20774
charged as required by division (A) of section 317.32 of the 20775
Revised Code or by section 1309.525 or 5310.15 of the Revised 20776
Code; 20777

(4) An estimate of the total amount of fees for filing or 20778
recording a document for which a fee is charged as required by 20779

division (A) of section 317.32 of the Revised Code or by section 20780
1309.525 or 5310.15 of the Revised Code that will be designated as 20781
"general fund moneys ~~to supplement the equipment needs of~~ for the 20782
county recorder" if the request submitted under division (A)(1) of 20783
this section is approved by the board of county commissioners. 20784

The proposal may include a description or summary of the 20785
micrographic or other equipment, or maintenance thereof, that the 20786
county recorder proposes to acquire, or the nature of contract 20787
services that the county recorder proposes to utilize. If the 20788
county recorder has no immediate plans for the acquisition of 20789
equipment or services, the proposal shall explain the general 20790
needs of the office ~~for equipment~~ and shall state that the intent 20791
of the proposal is to reserve funds for the office's future 20792
~~equipment~~ needs. 20793

(B) The board of county commissioners shall receive the 20794
proposal and the clerk shall enter it on the journal. At the same 20795
time, the board shall establish a date, not sooner than fifteen 20796
nor later than thirty days after the board's receipt of the 20797
proposal, on which to meet with the recorder to review the 20798
proposal. 20799

(C) Not later than the fifteenth day of December of any year 20800
in which a proposal is submitted under division (A) of this 20801
section, the board of county commissioners shall approve, reject, 20802
or modify the proposal and notify the county recorder of its 20803
action on the proposal. If the board rejects or modifies the 20804
proposal, it shall make a written finding that the ~~request is for~~ 20805
~~a purpose other than for acquiring, leasing, or otherwise~~ 20806
~~obtaining micrographic or other equipment or contracts for use by~~ 20807
~~the county recorder or that the amount requested is excessive as~~ 20808
determined by the board. If the board approves the proposal, it 20809
shall request the establishment of a special fund under section 20810
5705.12 of the Revised Code for any fees designated as "general 20811

fund moneys ~~to supplement the equipment needs of~~ for the county recorder." 20812
20813

(D) The acquisition or maintenance of micrographic or other equipment and the acquisition of contract services shall be specifically governed by sections 307.80 to 307.806, 307.84 to 307.846, 307.86 to 307.92, and 5705.38, and by division (D) of section 5705.41 of the Revised Code. 20814
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Sec. 319.11. The county auditor shall, on or before ninety days after the close of the fiscal year, prepare a financial report of the county for the preceding fiscal year in such form as prescribed by the auditor of state. Upon completing the report, the county auditor shall publish notice that the report has been completed and is available for public inspection at the office of the county auditor. The notice shall be published once in ~~two newspapers~~ a newspaper of general circulation ~~published~~ in the county, ~~except that if only one newspaper is published in the county, then publication in only one newspaper is required, and if.~~ If there are is no newspapers newspaper of general circulation in the county, then publication is required in the newspaper of general circulation in an adjoining county that has the largest circulation in ~~the~~ that adjoining county. The report shall contain at least the information required by section 117.38 of the Revised Code, and a copy shall be filed with the auditor of state. 20819
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No county auditor shall fail or neglect to prepare the report or publish notice of completion of the report as required by this section. 20835
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Sec. 319.301. (A) The reductions required by division (D) of this section do not apply to any of the following: 20838
20839

(1) Taxes levied at whatever rate is required to produce a specified amount of tax money, including a tax levied under 20840
20841

section 5705.199 ~~or~~, 5705.211, or 5748.09 of the Revised Code, or 20842
an amount to pay debt charges; 20843

(2) Taxes levied within the one per cent limitation imposed 20844
by Section 2 of Article XII, Ohio Constitution; 20845

(3) Taxes provided for by the charter of a municipal 20846
corporation. 20847

(B) As used in this section: 20848

(1) "Real property" includes real property owned by a 20849
railroad. 20850

(2) "Carryover property" means all real property on the 20851
current year's tax list except: 20852

(a) Land and improvements that were not taxed by the district 20853
in both the preceding year and the current year; 20854

(b) Land and improvements that were not in the same class in 20855
both the preceding year and the current year. 20856

(3) "Effective tax rate" means with respect to each class of 20857
property: 20858

(a) The sum of the total taxes that would have been charged 20859
and payable for current expenses against real property in that 20860
class if each of the district's taxes were reduced for the current 20861
year under division (D)(1) of this section without regard to the 20862
application of division (E)(3) of this section divided by 20863

(b) The taxable value of all real property in that class. 20864

(4) "Taxes charged and payable" means the taxes charged and 20865
payable prior to any reduction required by section 319.302 of the 20866
Revised Code. 20867

(C) The tax commissioner shall make the determinations 20868
required by this section each year, without regard to whether a 20869
taxing district has territory in a county to which section 5715.24 20870

of the Revised Code applies for that year. Separate determinations 20871
shall be made for each of the two classes established pursuant to 20872
section 5713.041 of the Revised Code. 20873

(D) With respect to each tax authorized to be levied by each 20874
taxing district, the tax commissioner, annually, shall do both of 20875
the following: 20876

(1) Determine by what percentage, if any, the sums levied by 20877
such tax against the carryover property in each class would have 20878
to be reduced for the tax to levy the same number of dollars 20879
against such property in that class in the current year as were 20880
charged against such property by such tax in the preceding year 20881
subsequent to the reduction made under this section but before the 20882
reduction made under section 319.302 of the Revised Code. In the 20883
case of a tax levied for the first time that is not a renewal of 20884
an existing tax, the commissioner shall determine by what 20885
percentage the sums that would otherwise be levied by such tax 20886
against carryover property in each class would have to be reduced 20887
to equal the amount that would have been levied if the full rate 20888
thereof had been imposed against the total taxable value of such 20889
property in the preceding tax year. A tax or portion of a tax that 20890
is designated a replacement levy under section 5705.192 of the 20891
Revised Code is not a renewal of an existing tax for purposes of 20892
this division. 20893

(2) Certify each percentage determined in division (D)(1) of 20894
this section, as adjusted under division (E) of this section, and 20895
the class of property to which that percentage applies to the 20896
auditor of each county in which the district has territory. The 20897
auditor, after complying with section 319.30 of the Revised Code, 20898
shall reduce the sum to be levied by such tax against each parcel 20899
of real property in the district by the percentage so certified 20900
for its class. Certification shall be made by the first day of 20901
September except in the case of a tax levied for the first time, 20902

in which case certification shall be made within fifteen days of 20903
the date the county auditor submits the information necessary to 20904
make the required determination. 20905

(E)(1) As used in division (E)(2) of this section, "pre-1982 20906
joint vocational taxes" means, with respect to a class of 20907
property, the difference between the following amounts: 20908

(a) The taxes charged and payable in tax year 1981 against 20909
the property in that class for the current expenses of the joint 20910
vocational school district of which the school district is a part 20911
after making all reductions under this section; 20912

(b) The following percentage of the taxable value of all real 20913
property in that class: 20914

(i) In 1987, five one-hundredths of one per cent; 20915

(ii) In 1988, one-tenth of one per cent; 20916

(iii) In 1989, fifteen one-hundredths of one per cent; 20917

(iv) In 1990 and each subsequent year, two-tenths of one per 20918
cent. 20919

If the amount in division (E)(1)(b) of this section exceeds 20920
the amount in division (E)(1)(a) of this section, the pre-1982 20921
joint vocational taxes shall be zero. 20922

As used in divisions (E)(2) and (3) of this section, "taxes 20923
charged and payable" has the same meaning as in division (B)(4) of 20924
this section and excludes any tax charged and payable in 1985 or 20925
thereafter under sections 5705.194 to 5705.197 or section 20926
5705.199, 5705.213, ~~or~~ 5705.219, or 5748.09 of the Revised Code. 20927

(2) If in the case of a school district other than a joint 20928
vocational or cooperative education school district any percentage 20929
required to be used in division (D)(2) of this section for either 20930
class of property could cause the total taxes charged and payable 20931
for current expenses to be less than two per cent of the taxable 20932

value of all real property in that class that is subject to 20933
taxation by the district, the commissioner shall determine what 20934
percentages would cause the district's total taxes charged and 20935
payable for current expenses against that class, after all 20936
reductions that would otherwise be made under this section, to 20937
equal, when combined with the pre-1982 joint vocational taxes 20938
against that class, the lesser of the following: 20939

(a) The sum of the rates at which those taxes are authorized 20940
to be levied; 20941

(b) Two per cent of the taxable value of the property in that 20942
class. The auditor shall use such percentages in making the 20943
reduction required by this section for that class. 20944

(3)(a) If in the case of a joint vocational school district 20945
any percentage required to be used in division (D)(2) of this 20946
section for either class of property could cause the total taxes 20947
charged and payable for current expenses for that class to be less 20948
than the designated amount, the commissioner shall determine what 20949
percentages would cause the district's total taxes charged and 20950
payable for current expenses for that class, after all reductions 20951
that would otherwise be made under this section, to equal the 20952
designated amount. The auditor shall use such percentages in 20953
making the reductions required by this section for that class. 20954

(b) As used in division (E)(3)(a) of this section, the 20955
designated amount shall equal the taxable value of all real 20956
property in the class that is subject to taxation by the district 20957
times the lesser of the following: 20958

(i) Two-tenths of one per cent; 20959

(ii) The district's effective rate plus the following 20960
percentage for the year indicated: 20961

WHEN COMPUTING THE	ADD THE FOLLOWING	20962
TAXES CHARGED FOR	PERCENTAGE:	20963

1987	0.025%	20964
1988	0.05%	20965
1989	0.075%	20966
1990	0.1%	20967
1991	0.125%	20968
1992	0.15%	20969
1993	0.175%	20970
1994 and thereafter	0.2%	20971

(F) No reduction shall be made under this section in the rate at which any tax is levied. 20972
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(G) The commissioner may order a county auditor to furnish any information the commissioner needs to make the determinations required under division (D) or (E) of this section, and the auditor shall supply the information in the form and by the date specified in the order. If the auditor fails to comply with an order issued under this division, except for good cause as determined by the commissioner, the commissioner shall withhold from such county or taxing district therein fifty per cent of state revenues to local governments pursuant to section 5747.50 of the Revised Code or shall direct the department of education to withhold therefrom fifty per cent of state revenues to school districts pursuant to ~~Chapters 3306.~~ and Chapter 3317. of the Revised Code. The commissioner shall withhold the distribution of such revenues until the county auditor has complied with this division, and the department shall withhold the distribution of such revenues until the commissioner has notified the department that the county auditor has complied with this division. 20974
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(H) If the commissioner is unable to certify a tax reduction factor for either class of property in a taxing district located in more than one county by the last day of November because information required under division (G) of this section is unavailable, the commissioner may compute and certify an estimated 20991
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tax reduction factor for that district for that class. The 20996
estimated factor shall be based upon an estimate of the 20997
unavailable information. Upon receipt of the actual information 20998
for a taxing district that received an estimated tax reduction 20999
factor, the commissioner shall compute the actual tax reduction 21000
factor and use that factor to compute the taxes that should have 21001
been charged and payable against each parcel of property for the 21002
year for which the estimated reduction factor was used. The amount 21003
by which the estimated factor resulted in an overpayment or 21004
underpayment in taxes on any parcel shall be added to or 21005
subtracted from the amount due on that parcel in the ensuing tax 21006
year. 21007

A percentage or a tax reduction factor determined or computed 21008
by the commissioner under this section shall be used solely for 21009
the purpose of reducing the sums to be levied by the tax to which 21010
it applies for the year for which it was determined or computed. 21011
It shall not be used in making any tax computations for any 21012
ensuing tax year. 21013

(I) In making the determinations under division (D)(1) of 21014
this section, the tax commissioner shall take account of changes 21015
in the taxable value of carryover property resulting from 21016
complaints filed under section 5715.19 of the Revised Code for 21017
determinations made for the tax year in which such changes are 21018
reported to the commissioner. Such changes shall be reported to 21019
the commissioner on the first abstract of real property filed with 21020
the commissioner under section 5715.23 of the Revised Code 21021
following the date on which the complaint is finally determined by 21022
the board of revision or by a court or other authority with 21023
jurisdiction on appeal. The tax commissioner shall account for 21024
such changes in making the determinations only for the tax year in 21025
which the change in valuation is reported. Such a valuation change 21026
shall not be used to recompute the percentages determined under 21027

division (D)(1) of this section for any prior tax year. 21028

Sec. 319.54. (A) On all moneys collected by the county 21029
treasurer on any tax duplicate of the county, other than estate 21030
tax duplicates, and on all moneys received as advance payments of 21031
personal property and classified property taxes, the county 21032
auditor, on settlement with the treasurer and tax commissioner, on 21033
or before the date prescribed by law for such settlement or any 21034
lawful extension of such date, shall be allowed as compensation 21035
for the county auditor's services the following percentages: 21036

(1) On the first one hundred thousand dollars, two and 21037
one-half per cent; 21038

(2) On the next two million dollars, eight thousand three 21039
hundred eighteen ten-thousandths of one per cent; 21040

(3) On the next two million dollars, six thousand six hundred 21041
fifty-five ten-thousandths of one per cent; 21042

(4) On all further sums, one thousand six hundred sixty-three 21043
ten-thousandths of one per cent. 21044

If any settlement is not made on or before the date 21045
prescribed by law for such settlement or any lawful extension of 21046
such date, the aggregate compensation allowed to the auditor shall 21047
be reduced one per cent for each day such settlement is delayed 21048
after the prescribed date. No penalty shall apply if the auditor 21049
and treasurer grant all requests for advances up to ninety per 21050
cent of the settlement pursuant to section 321.34 of the Revised 21051
Code. The compensation allowed in accordance with this section on 21052
settlements made before the dates prescribed by law, or the 21053
reduced compensation allowed in accordance with this section on 21054
settlements made after the date prescribed by law or any lawful 21055
extension of such date, shall be apportioned ratably by the 21056
auditor and deducted from the shares or portions of the revenue 21057

payable to the state as well as to the county, townships, 21058
municipal corporations, and school districts. 21059

(B) For the purpose of reimbursing county auditors for the 21060
expenses associated with the increased number of applications for 21061
reductions in real property taxes under sections 323.152 and 21062
4503.065 of the Revised Code that result from the amendment of 21063
those sections by Am. Sub. H.B. 119 of the 127th general assembly, 21064
there shall be paid from the state's general revenue fund to the 21065
county treasury, to the credit of the real estate assessment fund 21066
created by section 325.31 of the Revised Code, an amount equal to 21067
one per cent of the total annual amount of property tax relief 21068
reimbursement paid to that county under sections 323.156 and 21069
4503.068 of the Revised Code for the preceding tax year. Payments 21070
made under this division shall be made at the same times and in 21071
the same manner as payments made under section 323.156 of the 21072
Revised Code. 21073

(C) From all moneys collected by the county treasurer on any 21074
tax duplicate of the county, other than estate tax duplicates, and 21075
on all moneys received as advance payments of personal property 21076
and classified property taxes, there shall be paid into the county 21077
treasury to the credit of the real estate assessment fund created 21078
by section 325.31 of the Revised Code, an amount to be determined 21079
by the county auditor, which shall not exceed the percentages 21080
prescribed in divisions (C)(1) and (2) of this section. 21081

(1) For payments made after June 30, 2007, and before 2011, 21082
the following percentages: 21083

(a) On the first five hundred thousand dollars, four per 21084
cent; 21085

(b) On the next five million dollars, two per cent; 21086

(c) On the next five million dollars, one per cent; 21087

(d) On all further sums not exceeding one hundred fifty 21088

million dollars, three-quarters of one per cent;	21089
(e) On amounts exceeding one hundred fifty million dollars,	21090
five hundred eighty-five thousandths of one per cent.	21091
(2) For payments made in or after 2011, the following	21092
percentages:	21093
(a) On the first five hundred thousand dollars, four per	21094
cent;	21095
(b) On the next ten million dollars, two per cent;	21096
(c) On amounts exceeding ten million five hundred thousand	21097
dollars, three-fourths of one per cent.	21098
Such compensation shall be apportioned ratably by the auditor	21099
and deducted from the shares or portions of the revenue payable to	21100
the state as well as to the county, townships, municipal	21101
corporations, and school districts.	21102
(D) Each county auditor shall receive four per cent of the	21103
amount of tax collected and paid into the county treasury, on	21104
property omitted and placed by the county auditor on the tax	21105
duplicate.	21106
(E) On all estate tax moneys collected by the county	21107
treasurer, the county auditor, on settlement semiannually with the	21108
tax commissioner, shall be allowed, as compensation for the	21109
auditor's services under Chapter 5731. of the Revised Code, the	21110
following percentages:	21111
(1) Four per cent on the first one hundred thousand dollars;	21112
(2) One-half of one per cent on all additional sums.	21113
Such percentages shall be computed upon the amount collected	21114
and reported at each semiannual settlement, and shall be for the	21115
use of the general fund of the county.	21116
(F) On all cigarette license moneys collected by the county	21117

treasurer, the county auditor, on settlement semiannually with the 21118
treasurer, shall be allowed as compensation for the auditor's 21119
services in the issuing of such licenses one-half of one per cent 21120
of such moneys, to be apportioned ratably and deducted from the 21121
shares of the revenue payable to the county and subdivisions, for 21122
the use of the general fund of the county. 21123

(G) The county auditor shall charge and receive fees as 21124
follows: 21125

(1) For deeds of land sold for taxes to be paid by the 21126
purchaser, five dollars; 21127

(2) For the transfer or entry of land, lot, or part of lot, 21128
or the transfer or entry on or after January 1, 2000, of a used 21129
manufactured home or mobile home as defined in section 5739.0210 21130
of the Revised Code, fifty cents for each transfer or entry, to be 21131
paid by the person requiring it; 21132

(3) For receiving statements of value and administering 21133
section 319.202 of the Revised Code, one dollar, or ten cents for 21134
each one hundred dollars or fraction of one hundred dollars, 21135
whichever is greater, of the value of the real property 21136
transferred or, for sales occurring on or after January 1, 2000, 21137
the value of the used manufactured home or used mobile home, as 21138
defined in section 5739.0210 of the Revised Code, transferred, 21139
except no fee shall be charged when the transfer is made: 21140

(a) To or from the United States, this state, or any 21141
instrumentality, agency, or political subdivision of the United 21142
States or this state; 21143

(b) Solely in order to provide or release security for a debt 21144
or obligation; 21145

(c) To confirm or correct a deed previously executed and 21146
recorded or when a current owner on any record made available to 21147
the general public on the internet or a publicly accessible 21148

database and the general tax list of real and public utility	21149
property and the general duplicate of real and public utility	21150
property is a peace officer, parole officer, prosecuting attorney,	21151
assistant prosecuting attorney, correctional employee, youth	21152
services employee, firefighter, EMT, or investigator of the bureau	21153
of criminal identification and investigation and is changing the	21154
current owner name listed on any record made available to the	21155
general public on the internet or a publicly accessible database	21156
and the general tax list of real and public utility property and	21157
the general duplicate of real and public utility property to the	21158
initials of the current owner as prescribed in division (B)(1) of	21159
section 319.28 of the Revised Code;	21160
(d) To evidence a gift, in trust or otherwise and whether	21161
revocable or irrevocable, between husband and wife, or parent and	21162
child or the spouse of either;	21163
(e) On sale for delinquent taxes or assessments;	21164
(f) Pursuant to court order, to the extent that such transfer	21165
is not the result of a sale effected or completed pursuant to such	21166
order;	21167
(g) Pursuant to a reorganization of corporations or	21168
unincorporated associations or pursuant to the dissolution of a	21169
corporation, to the extent that the corporation conveys the	21170
property to a stockholder as a distribution in kind of the	21171
corporation's assets in exchange for the stockholder's shares in	21172
the dissolved corporation;	21173
(h) By a subsidiary corporation to its parent corporation for	21174
no consideration, nominal consideration, or in sole consideration	21175
of the cancellation or surrender of the subsidiary's stock;	21176
(i) By lease, whether or not it extends to mineral or mineral	21177
rights, unless the lease is for a term of years renewable forever;	21178
(j) When the value of the real property or the manufactured	21179

or mobile home or the value of the interest that is conveyed does 21180
not exceed one hundred dollars; 21181

(k) Of an occupied residential property, including a 21182
manufactured or mobile home, being transferred to the builder of a 21183
new residence or to the dealer of a new manufactured or mobile 21184
home when the former residence is traded as part of the 21185
consideration for the new residence or new manufactured or mobile 21186
home; 21187

(l) To a grantee other than a dealer in real property or in 21188
manufactured or mobile homes, solely for the purpose of, and as a 21189
step in, the prompt sale of the real property or manufactured or 21190
mobile home to others; 21191

(m) To or from a person when no money or other valuable and 21192
tangible consideration readily convertible into money is paid or 21193
to be paid for the real estate or manufactured or mobile home and 21194
the transaction is not a gift; 21195

(n) Pursuant to division (B) of section 317.22 of the Revised 21196
Code, or section 2113.61 of the Revised Code, between spouses or 21197
to a surviving spouse pursuant to section 5302.17 of the Revised 21198
Code as it existed prior to April 4, 1985, between persons 21199
pursuant to section 5302.17 or 5302.18 of the Revised Code on or 21200
after April 4, 1985, to a person who is a surviving, survivorship 21201
tenant pursuant to section 5302.17 of the Revised Code on or after 21202
April 4, 1985, or pursuant to section 5309.45 of the Revised Code; 21203

(o) To a trustee acting on behalf of minor children of the 21204
deceased; 21205

(p) Of an easement or right-of-way when the value of the 21206
interest conveyed does not exceed one thousand dollars; 21207

(q) Of property sold to a surviving spouse pursuant to 21208
section 2106.16 of the Revised Code; 21209

(r) To or from an organization exempt from federal income	21210
taxation under section 501(c)(3) of the "Internal Revenue Code of	21211
1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, provided such	21212
transfer is without consideration and is in furtherance of the	21213
charitable or public purposes of such organization;	21214
(s) Among the heirs at law or devisees, including a surviving	21215
spouse, of a common decedent, when no consideration in money is	21216
paid or to be paid for the real property or manufactured or mobile	21217
home;	21218
(t) To a trustee of a trust, when the grantor of the trust	21219
has reserved an unlimited power to revoke the trust;	21220
(u) To the grantor of a trust by a trustee of the trust, when	21221
the transfer is made to the grantor pursuant to the exercise of	21222
the grantor's power to revoke the trust or to withdraw trust	21223
assets;	21224
(v) To the beneficiaries of a trust if the fee was paid on	21225
the transfer from the grantor of the trust to the trustee or if	21226
the transfer is made pursuant to trust provisions which became	21227
irrevocable at the death of the grantor;	21228
(w) To a corporation for incorporation into a sports facility	21229
constructed pursuant to section 307.696 of the Revised Code;	21230
(x) Between persons pursuant to section 5302.18 of the	21231
Revised Code;	21232
(y) From a county land reutilization corporation organized	21233
under Chapter 1724. of the Revised Code to a third party.	21234
<u>(4) For the cost of publishing the delinquent manufactured</u>	21235
<u>home tax list, the delinquent tax list, and the delinquent vacant</u>	21236
<u>land tax list, a flat fee, as determined by the county auditor, to</u>	21237
<u>be charged to the owner of a home on the delinquent manufactured</u>	21238
<u>home tax list or the property owner of land on the delinquent tax</u>	21239

list or the delinquent vacant land tax list. 21240

The auditor shall compute and collect the fee. The auditor 21241
shall maintain a numbered receipt system, as prescribed by the tax 21242
commissioner, and use such receipt system to provide a receipt to 21243
each person paying a fee. The auditor shall deposit the receipts 21244
of the fees on conveyances in the county treasury daily to the 21245
credit of the general fund of the county, except that fees charged 21246
and received under division (G)(3) of this section for a transfer 21247
of real property to a county land reutilization corporation shall 21248
be credited to the county land reutilization corporation fund 21249
established under section 321.263 of the Revised Code. 21250

The real property transfer fee provided for in division 21251
(G)(3) of this section shall be applicable to any conveyance of 21252
real property presented to the auditor on or after January 1, 21253
1968, regardless of its time of execution or delivery. 21254

The transfer fee for a used manufactured home or used mobile 21255
home shall be computed by and paid to the county auditor of the 21256
county in which the home is located immediately prior to the 21257
transfer. 21258

Sec. 319.63. (A) During the first thirty days of each 21259
calendar quarter, the county auditor shall pay to the treasurer of 21260
state all amounts that the county recorder collected as housing 21261
trust fund fees pursuant to section 317.36 of the Revised Code 21262
during the previous calendar quarter. If payment is made to the 21263
treasurer of state within the first thirty days of the quarter, 21264
the county auditor may retain an administrative fee of ~~one~~ ten per 21265
cent of the amount of the trust fund fees collected during the 21266
previous calendar quarter. 21267

(B) The treasurer of state shall deposit the first fifty 21268
million dollars of housing trust fund fees received each year 21269
pursuant to this section into the low- and moderate-income housing 21270

trust fund, created under section 174.02 of the Revised Code, and 21271
shall deposit any amounts received each year in excess of fifty 21272
million dollars into the state general revenue fund. 21273

(C) The county auditor shall deposit the administrative fee 21274
that the auditor is permitted to retain pursuant to division (A) 21275
of this section into the county general fund to be used for the 21276
general needs of the county recorder ~~to use in administering the~~ 21277
~~trust fund fee.~~ 21278

Sec. 321.18. As soon as sufficient funds are in the county 21279
treasury to redeem the warrants drawn on the treasury, and on 21280
which interest is accruing, the county treasurer shall give notice 21281
in a newspaper ~~published in and circulating~~ of general circulation 21282
in ~~his~~ the county that ~~he~~ the treasurer is ready to redeem such 21283
warrants, and from the date of the notice the interest on such 21284
warrants shall cease. 21285

Sec. 321.261. (A) ~~Five~~ In each county treasury there shall be 21286
created the treasurer's delinquent tax and assessment collection 21287
fund and the prosecuting attorney's delinquent tax and assessment 21288
collection fund. Except as otherwise provided in this division, 21289
two and one-half per cent of all delinquent real property, 21290
personal property, and manufactured and mobile home taxes and 21291
assessments collected by the county treasurer shall be deposited 21292
in the treasurer's delinquent tax and assessment collection fund, 21293
~~which shall be created in the county treasury. Except as otherwise~~ 21294
~~provided in division (D) of this section, the moneys in the fund,~~ 21295
~~one half of which shall be appropriated by the board of county~~ 21296
~~commissioners to the treasurer and one half of which shall be~~ 21297
~~appropriated to the county prosecuting attorney, and two and~~ 21298
one-half per cent of such delinquent taxes and assessments shall 21299
be deposited in the prosecuting attorney's delinquent tax and 21300
assessment collection fund. The board of county commissioners 21301

shall appropriate to the county treasurer from the treasurer's delinquent tax and assessment collection fund, and shall appropriate to the prosecuting attorney from the prosecuting attorney's delinquent tax and assessment collection fund, money to the credit of the respective fund, and except as provided in division (D) of this section, the appropriation shall be used only for the following purposes: 21302
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(1) By the county treasurer ~~and~~ or the county prosecuting attorney in connection with the collection of delinquent real property, personal property, and manufactured and mobile home taxes and assessments, including proceedings related to foreclosure of the state's lien for such taxes against such property; 21309
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(2) With respect to any portion of the amount appropriated ~~to~~ the county treasurer from the treasurer's delinquent tax and assessment collection fund for the benefit of ~~the~~ a county land reutilization corporation organized under Chapter 1724. of the Revised Code, ~~whether by transfer to or other application on behalf of,~~ the county land reutilization corporation. Upon the deposit of amounts in the treasurer's delinquent tax and assessment collection fund ~~of the county~~, any amounts allocated at the direction of the treasurer to the support of the county land reutilization corporation shall be paid out of such fund to the corporation upon a warrant of the county auditor. 21315
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If the balance in the treasurer's or prosecuting attorney's delinquent tax and assessment collection fund exceeds three times the amount deposited into the fund in the preceding year, the treasurer or prosecuting attorney, on or before the twentieth day of October of the current year, may direct the county auditor to forgo the allocation of delinquent taxes and assessments to that officer's respective fund in the ensuing year. If the county auditor receives such direction, the auditor shall cause the 21326
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portion of taxes and assessments that otherwise would be credited 21334
to the fund under this section in that ensuing year to be 21335
allocated and distributed among taxing units' funds as otherwise 21336
provided in this chapter and other applicable law. 21337

(B) During the period of time that a county land 21338
reutilization corporation is functioning as such on behalf of a 21339
county, the board of county commissioners, upon the request of the 21340
county treasurer, may designate by resolution that an additional 21341
amount, not exceeding five per cent of all collections of 21342
delinquent real property, personal property, and manufactured and 21343
mobile home taxes and assessments, shall be deposited in the 21344
treasurer's delinquent tax and assessment collection fund and be 21345
available for appropriation by the board for the use of the 21346
corporation. Any such amounts so deposited and appropriated under 21347
this division shall be paid out of the treasurer's delinquent tax 21348
and assessment collection fund to the corporation upon a warrant 21349
of the county auditor. 21350

(C) Annually by the first day of December, the county 21351
treasurer and the prosecuting attorney each shall submit a report 21352
to the board of county commissioners regarding the use of the 21353
moneys appropriated ~~to~~ from their respective ~~offices from the~~ 21354
delinquent tax and assessment collection ~~fund funds~~. Each report 21355
shall specify the amount appropriated ~~to the office~~ from the fund 21356
during the current calendar year, an estimate of the amount so 21357
appropriated that will be expended by the end of the year, a 21358
summary of how the amount appropriated has been expended in 21359
connection with delinquent tax collection activities or land 21360
reutilization, and an estimate of the amount that will be credited 21361
to the fund during the ensuing calendar year. 21362

The annual report of a county land reutilization corporation 21363
required by section 1724.05 of the Revised Code shall include 21364
information regarding the amount and use of the moneys that the 21365

corporation received from the treasurer's delinquent tax and 21366
assessment collection fund ~~of the county.~~ 21367

(D)(1) In any county, if the county treasurer or prosecuting 21368
attorney determines that the ~~amount appropriated to the office~~ 21369
~~from the county's~~ balance to the credit of that officer's 21370
corresponding delinquent tax and assessment collection fund ~~under~~ 21371
~~division (A) of this section~~ exceeds the amount required to be 21372
used as prescribed by ~~that~~ division (A) of this section, the 21373
county treasurer or prosecuting attorney may expend the excess to 21374
prevent residential mortgage foreclosures in the county and to 21375
address problems associated with other foreclosed real property. 21376
The amount used for that purpose in any year may not exceed the 21377
amount that would cause the fund to have a reserve of less than 21378
twenty per cent of the amount expended in the preceding year for 21379
the purposes of division (A) of this section. The county treasurer 21380
or prosecuting attorney may not expend any money from the 21381
officer's fund for the purpose of land reutilization unless the 21382
county treasurer or prosecuting attorney obtains the approval of 21383
the county investment advisory committee established under section 21384
135.341 of the Revised Code. 21385

Money authorized to be expended under division (D)(1) of this 21386
section shall be used to provide financial assistance in the form 21387
of loans to borrowers in default on their home mortgages, 21388
including for the payment of late fees, to clear arrearage 21389
balances, and to augment moneys used in the county's foreclosure 21390
prevention program. The money also may be used to assist municipal 21391
corporations or townships in the county, upon their application to 21392
the county treasurer, prosecuting attorney, or the county 21393
department of development, in the nuisance abatement of 21394
deteriorated residential buildings in foreclosure, or vacant, 21395
abandoned, tax-delinquent, or blighted real property, including 21396
paying the costs of boarding up such buildings, lot maintenance, 21397

and demolition. 21398

(2) In a county having a population of more than one hundred 21399
thousand according to the department of development's 2006 census 21400
estimate, if the county treasurer or prosecuting attorney 21401
determines that the ~~amount appropriated to the office from the~~ 21402
~~county's~~ balance to the credit of that officer's corresponding 21403
~~delinquent tax and assessment collection fund under division (A)~~ 21404
~~of this section~~ exceeds the amount required to be used as 21405
prescribed by ~~that~~ division (A) of this section, the county 21406
treasurer or prosecuting attorney may expend the excess to assist 21407
townships or municipal corporations located in the county as 21408
provided in division (D)(2) of this section, provided that the 21409
combined amount so expended each year in a county shall not exceed 21410
three million dollars. Upon application for the funds by a 21411
township or municipal corporation, the county treasurer ~~and~~ or 21412
prosecuting attorney may assist the township or municipal 21413
corporation in abating foreclosed residential nuisances, including 21414
paying the costs of securing such buildings, lot maintenance, and 21415
demolition. At the prosecuting attorney's discretion, the 21416
prosecuting attorney also may apply the funds to costs of 21417
prosecuting alleged violations of criminal and civil laws 21418
governing real estate and related transactions, including fraud 21419
and abuse. 21420

Sec. 322.02. (A) For the purpose of paying the costs of 21421
enforcing and administering the tax and providing additional 21422
general revenue for the county, any county may levy and collect a 21423
tax to be known as the real property transfer tax on each deed 21424
conveying real property or any interest in real property located 21425
wholly or partially within the boundaries of the county at a rate 21426
not to exceed thirty cents per hundred dollars for each one 21427
hundred dollars or fraction thereof of the value of the real 21428
property or interest in real property located within the 21429

boundaries of the county granted, assigned, transferred, or 21430
otherwise conveyed by the deed. The tax shall be levied pursuant 21431
to a resolution adopted by the board of county commissioners of 21432
the county and, except as provided in division (A) of section 21433
322.07 of the Revised Code, shall be levied at a uniform rate upon 21434
all deeds as defined in division (D) of section 322.01 of the 21435
Revised Code. Prior to the adoption of any such resolution, the 21436
board of county commissioners shall conduct two public hearings 21437
thereon, the second hearing to be not less than three nor more 21438
than ten days after the first. Notice of the date, time, and place 21439
of the hearings shall be given by publication in a newspaper of 21440
general circulation in the county once a week on the same day of 21441
the week for two consecutive weeks, ~~the~~ or as provided in section 21442
7.16 of the Revised Code. The second publication ~~being~~ shall be 21443
not less than ten nor more than thirty days prior to the first 21444
hearing. The tax shall be levied upon the grantor named in the 21445
deed and shall be paid by the grantor for the use of the county to 21446
the county auditor at the time of the delivery of the deed as 21447
provided in section 319.202 of the Revised Code and prior to the 21448
presentation of the deed to the recorder of the county for 21449
recording. 21450

(B) No resolution levying a real property transfer tax 21451
pursuant to this section or a manufactured home transfer tax 21452
pursuant to section 322.06 of the Revised Code shall be effective 21453
sooner than thirty days following its adoption. Such a resolution 21454
is subject to a referendum as provided in sections 305.31 to 21455
305.41 of the Revised Code, unless the resolution is adopted as an 21456
emergency measure necessary for the immediate preservation of the 21457
public peace, health, or safety, in which case it shall go into 21458
immediate effect. An emergency measure must receive an affirmative 21459
vote of all of the members of the board of commissioners, and 21460
shall state the reasons for the necessity. A resolution may direct 21461
the board of elections to submit the question of levying the tax 21462

to the electors of the county at the next primary or general 21463
election in the county occurring not less than ninety days after 21464
the resolution is certified to the board. No such resolution shall 21465
go into effect unless approved by a majority of those voting upon 21466
it. 21467

Sec. 322.021. The question of a repeal of a county permissive 21468
tax adopted as an emergency measure pursuant to division (B) of 21469
section 322.02 of the Revised Code may be initiated by filing with 21470
the board of elections of the county not less than ninety days 21471
before the general election in any year a petition requesting that 21472
an election be held on such question. Such petition shall be 21473
signed by qualified electors residing in the county equal in 21474
number to ten per cent of those voting for governor at the most 21475
recent gubernatorial election. 21476

After determination by it that such petition is valid, the 21477
board of elections shall submit the question to the electors of 21478
the county at the next general election. The election shall be 21479
conducted, canvassed, and certified in the same manner as regular 21480
elections for county offices in the county. Notice of the election 21481
shall be published in a newspaper of general circulation in the 21482
district once a week for two consecutive weeks prior to the 21483
election ~~and, if~~ or as provided in section 7.16 of the Revised 21484
Code. If the board of elections operates and maintains a web site, 21485
notice of the election also shall be posted on that web site for 21486
thirty days prior to the election. The notice shall state the 21487
purpose, time, and place of the election. The form of the ballot 21488
cast at such election shall be prescribed by the secretary of 21489
state. The question covered by such petition shall be submitted as 21490
a separate proposition, but it may be printed on the same ballot 21491
with any other proposition submitted at the same election other 21492
than the election of officers. If a majority of the qualified 21493
electors voting on the question of repeal approve the repeal, the 21494

result of the election shall be certified immediately after the 21495
canvass by the board of elections to the board of county 21496
commissioners, who shall thereupon, after the current year, cease 21497
to levy the tax. 21498

Sec. 323.08. After certifying the tax list and duplicate 21499
pursuant to section 319.28 of the Revised Code, the county auditor 21500
shall deliver a list of the tax rates, tax reduction factors, and 21501
effective tax rates assessed and applied against each of the two 21502
classes of property of the county to the county treasurer, who 21503
shall immediately cause a schedule of such tax rates and effective 21504
rates to be published in a newspaper of ~~the type described in~~ 21505
~~section 5721.01 of the Revised Code having~~ general circulation in 21506
the county or, in lieu of such publication, the county treasurer 21507
may insert a copy of such schedule with each tax bill mailed. Such 21508
schedule shall specify particularly the rates and effective rates 21509
of taxation levied for all purposes on the tax list and duplicate 21510
for the support of the various taxing units within the county, 21511
expressed in dollars and cents for each one thousand dollars of 21512
valuation. The effective tax rates shall be printed in boldface 21513
type. 21514

The county treasurer shall publish notice of the date of the 21515
last date for payment of each installment of taxes once a week for 21516
two successive weeks prior to such date in ~~two newspapers a~~ 21517
newspaper of general circulation within the county or as provided 21518
in section 7.16 of the Revised Code. ~~If only one such newspaper~~ 21519
~~exists, the notice shall be published in it.~~ The notice shall be 21520
inserted in a conspicuous place in ~~each~~ the newspaper and shall 21521
also contain notice that any taxes paid after such date will 21522
accrue a penalty and interest and that failure to receive a tax 21523
bill will not avoid such penalty and interest. The notice shall 21524
contain a telephone number that may be called by taxpayers who 21525
have not received tax bills. 21526

As used in this section and section 323.131 of the Revised Code, "effective tax rate" means the effective rate after making the reduction required by section 319.301, but before making the reduction required by section 319.302 of the Revised Code.

Sec. 323.73. (A) Except as provided in division (G) of this section or section 323.78 of the Revised Code, a parcel of abandoned land that is to be disposed of under this section shall be disposed of at a public auction scheduled and conducted as described in this section. At least twenty-one days prior to the date of the public auction, the clerk of court or sheriff of the county shall advertise the public auction in a newspaper of general circulation that meets the requirements of section 7.12 of the Revised Code in the county in which the land is located. The advertisement shall include the date, time, and place of the auction, the permanent parcel number of the land if a permanent parcel number system is in effect in the county as provided in section 319.28 of the Revised Code or, if a permanent parcel number system is not in effect, any other means of identifying the parcel, and a notice stating that the abandoned land is to be sold subject to the terms of sections 323.65 to 323.79 of the Revised Code.

(B) The sheriff of the county or a designee of the sheriff shall conduct the public auction at which the abandoned land will be offered for sale. To qualify as a bidder, a person shall file with the sheriff on a form provided by the sheriff a written acknowledgment that the abandoned land being offered for sale is to be conveyed in fee simple to the successful bidder. At the auction, the sheriff of the county or a designee of the sheriff shall begin the bidding at an amount equal to the total of the impositions against the abandoned land, plus the costs apportioned to the land under section 323.75 of the Revised Code. The abandoned land shall be sold to the highest bidder. The county

sheriff or designee may reject any and all bids not meeting the 21559
minimum bid requirements specified in this division. 21560

(C) Except as otherwise permitted under section 323.74 of the 21561
Revised Code, the successful bidder at a public auction conducted 21562
under this section shall pay the sheriff of the county or a 21563
designee of the sheriff a deposit of at least ten per cent of the 21564
purchase price in cash, or by bank draft or official bank check, 21565
at the time of the public auction, and shall pay the balance of 21566
the purchase price within thirty days after the day on which the 21567
auction was held. Notwithstanding section 321.261 of the Revised 21568
Code, with respect to any proceedings initiated pursuant to 21569
sections 323.65 to 323.79 of the Revised Code, from the total 21570
proceeds arising from the sale, transfer, or redemption of 21571
abandoned land, twenty per cent of such proceeds shall be 21572
deposited to the credit of the county treasurer's delinquent tax 21573
and assessment collection fund to reimburse the fund for costs 21574
paid from the fund for the transfer, redemption, or sale of 21575
abandoned land at public auction. Not more than one-half of the 21576
twenty per cent may be used by the treasurer for community 21577
development, nuisance abatement, foreclosure prevention, 21578
demolition, and related services or distributed by the treasurer 21579
to a land reutilization corporation. The balance of the proceeds, 21580
if any, shall be distributed to the appropriate political 21581
subdivisions and other taxing units in proportion to their 21582
respective claims for taxes, assessments, interest, and penalties 21583
on the land. Upon the sale of foreclosed lands, the clerk of court 21584
shall hold any surplus proceeds in excess of the impositions until 21585
the clerk receives an order of priority and amount of distribution 21586
of the surplus that are adjudicated by a court of competent 21587
jurisdiction or receives a certified copy of an agreement between 21588
the parties entitled to a share of the surplus providing for the 21589
priority and distribution of the surplus. Any party to the action 21590
claiming a right to distribution of surplus shall have a separate 21591

cause of action in the county or municipal court of the 21592
jurisdiction in which the land reposes, provided the board 21593
confirms the transfer or regularity of the sale. Any dispute over 21594
the distribution of the surplus shall not affect or revive the 21595
equity of redemption after the board confirms the transfer or 21596
sale. 21597

(D) Upon the sale or transfer of abandoned land pursuant to 21598
this section, the owner's fee simple interest in the land shall be 21599
conveyed to the purchaser. A conveyance under this division is 21600
free and clear of any liens and encumbrances of the parties named 21601
in the complaint for foreclosure attaching before the sale or 21602
transfer, and free and clear of any liens for taxes, except for 21603
federal tax liens and covenants and easements of record attaching 21604
before the sale. 21605

(E) The county board of revision shall reject the sale of 21606
abandoned land to any person if it is shown by a preponderance of 21607
the evidence that the person is delinquent in the payment of taxes 21608
levied by or pursuant to Chapter 307., 322., 324., 5737., 5739., 21609
5741., or 5743. of the Revised Code or any real property taxing 21610
provision of the Revised Code. The board also shall reject the 21611
sale of abandoned land to any person if it is shown by a 21612
preponderance of the evidence that the person is delinquent in the 21613
payment of property taxes on any parcel in the county, or to a 21614
member of any of the following classes of parties connected to 21615
that person: 21616

(1) A member of that person's immediate family; 21617

(2) Any other person with a power of attorney appointed by 21618
that person; 21619

(3) A sole proprietorship owned by that person or a member of 21620
that person's immediate family; 21621

(4) A partnership, trust, business trust, corporation, 21622

association, or other entity in which that person or a member of 21623
that person's immediate family owns or controls directly or 21624
indirectly any beneficial or legal interest. 21625

(F) If the purchase of abandoned land sold pursuant to this 21626
section or section 323.74 of the Revised Code is for less than the 21627
sum of the impositions against the abandoned land and the costs 21628
apportioned to the land under division (A) of section 323.75 of 21629
the Revised Code, then, upon the sale or transfer, all liens for 21630
taxes due at the time the deed of the property is conveyed to the 21631
purchaser following the sale or transfer, and liens subordinate to 21632
liens for taxes, shall be deemed satisfied and discharged. 21633

(G) If the county board of revision finds that the total of 21634
the impositions against the abandoned land are greater than the 21635
fair market value of the abandoned land as determined by the 21636
auditor's then-current valuation of that land, the board, at any 21637
final hearing under section 323.70 of the Revised Code, may order 21638
the property foreclosed and, without an appraisal or public 21639
auction, order the sheriff to execute a deed to the certificate 21640
holder or county land reutilization corporation that filed a 21641
complaint under section 323.69 of the Revised Code, or to a 21642
community development organization, school district, municipal 21643
corporation, county, or township, whichever is applicable, as 21644
provided in section 323.74 of the Revised Code. Upon a transfer 21645
under this division, all liens for taxes due at the time the deed 21646
of the property is transferred to the certificate holder, 21647
community development organization, school district, municipal 21648
corporation, county, or township following the conveyance, and 21649
liens subordinate to liens for taxes, shall be deemed satisfied 21650
and discharged. 21651

Sec. 323.75. (A) The county treasurer or county prosecuting 21652
attorney shall apportion the costs of the proceedings with respect 21653

to abandoned lands offered for sale at a public auction held 21654
pursuant to section 323.73 or 323.74 of the Revised Code among 21655
those lands according to actual identified costs, equally, or in 21656
proportion to the fair market values of the lands. The costs of 21657
the proceedings include the costs of conducting the title search, 21658
notifying record owners or other persons required to be notified 21659
of the pending sale, advertising the sale, and any other costs 21660
incurred by the county board of revision, county treasurer, county 21661
auditor, clerk of court, prosecuting attorney, or county sheriff 21662
in performing their duties under sections 323.65 to 323.79 of the 21663
Revised Code. 21664

(B) All costs assessed in connection with proceedings under 21665
sections 323.65 to 323.79 of the Revised Code may be paid after 21666
they are incurred, as follows: 21667

(1) If the abandoned land in question is purchased at public 21668
auction, from the purchaser of the abandoned land; 21669

(2) In the case of abandoned land transferred to a community 21670
development organization, school district, municipal corporation, 21671
county, or township under section 323.74 of the Revised Code, from 21672
either of the following: 21673

(a) At the discretion of the county treasurer, in whole or in 21674
part from the delinquent tax and assessment collection ~~fund funds~~ 21675
created under section 321.261 of the Revised Code, ~~in which case~~ 21676
~~the amount shall be a prior charge to the fund before its equal~~ 21677
~~allocation between~~ allocated equally among the respective funds of 21678
the county treasurer and of the prosecuting attorney; 21679

(b) From the community development organization, school 21680
district, municipal corporation, county, or township, whichever is 21681
applicable. 21682

(3) If the abandoned land in question is transferred to a 21683

certificate holder, from the certificate holder. 21684

(C) If a parcel of abandoned land is sold or otherwise 21685
transferred pursuant to sections 323.65 to 323.79 of the Revised 21686
Code, the officer who conducted the sale or made the transfer, the 21687
prosecuting attorney, or the county treasurer may collect a 21688
recording fee from the purchaser or transferee of the parcel at 21689
the time of the sale or transfer and shall prepare the deed 21690
conveying title to the parcel or execute the deed prepared by the 21691
board for that purpose. That officer or the prosecuting attorney 21692
or treasurer is authorized to record on behalf of that purchaser 21693
or transferee the deed conveying title to the parcel, 21694
notwithstanding that the deed may not actually have been delivered 21695
to the purchaser or transferee prior to the recording of the deed. 21696
Receiving title to a parcel under sections 323.65 to 323.79 of the 21697
Revised Code constitutes the transferee's consent to an officer, 21698
prosecuting attorney, or county treasurer to file the deed to the 21699
parcel for recording. Nothing in this division shall be construed 21700
to require an officer, prosecuting attorney, or treasurer to file 21701
a deed or to relieve a transferee's obligation to file a deed. 21702
Upon confirmation of that sale or transfer, the deed shall be 21703
deemed delivered to the purchaser or transferee of the parcel. 21704

Sec. 324.02. For the purpose of providing additional general 21705
revenues for the county and paying the expense of administering 21706
such levy, any county may levy a county excise tax to be known as 21707
the utilities service tax on the charge for every utility service 21708
to customers within the county at a rate not to exceed two per 21709
cent of such charge. On utility service to customers engaged in 21710
business, the tax shall be imposed at a rate of one hundred fifty 21711
per cent of the rate imposed upon all other consumers within the 21712
county. The tax shall be levied pursuant to a resolution adopted 21713
by the board of county commissioners of the county and shall be 21714
levied at uniform rates required by this section upon all charges 21715

for utility service except as provided in section 324.03 of the Revised Code. The tax shall be levied upon the customer and shall be paid by the customer to the utility supplying the service at the time the customer pays the utility for the service. If the charge for utility service is billed to a person other than the customer at the request of such person, the tax commissioner of the state may, in accordance with section 324.04 of the Revised Code, provide for the levy of the tax against and the payment of the tax by such other person. Each utility furnishing a utility service the charge for which is subject to the tax shall set forth the tax as a separate item on each bill or statement rendered to the customer.

Prior to the adoption of any resolution levying a utilities service tax the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks, ~~the or as~~ provided in section 7.16 of the Revised Code. The second publication ~~being~~ shall be not less than ten nor more than thirty days prior to the first hearing. No resolution levying a utilities service tax pursuant to this section of the Revised Code shall be effective sooner than thirty days following its adoption and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless such resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. Such emergency measure must receive an affirmative vote of all of the members of the board of commissioners, and shall state the reasons for such necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the

next primary or general election in the county occurring not less 21749
than ninety days after such resolution is certified to the board. 21750
No such resolution shall go into effect unless approved by a 21751
majority of those voting upon it. The tax levied by such 21752
resolution shall apply to all bills rendered subsequent to the 21753
sixtieth day after the effective date of the resolution. No bills 21754
shall be rendered out of the ordinary course of business to avoid 21755
payment of the tax. 21756

Sec. 324.021. The question of repeal of a county permissive 21757
tax adopted as an emergency measure pursuant to section 324.02 of 21758
the Revised Code may be initiated by filing with the board of 21759
elections of the county not less than ninety days before the 21760
general election in any year a petition requesting that an 21761
election be held on such question. Such petition shall be signed 21762
by qualified electors residing in the county equal in number to 21763
ten per cent of those voting for governor at the most recent 21764
gubernatorial election. 21765

After determination by it that such petition is valid, the 21766
board of elections shall submit the question to the electors of 21767
the county at the next general election. The election shall be 21768
conducted, canvassed, and certified in the same manner as regular 21769
elections for county offices in the county. Notice of the election 21770
shall be published in a newspaper of general circulation in the 21771
district once a week for two consecutive weeks prior to the 21772
election ~~and, if~~ or as provided in section 7.16 of the Revised 21773
Code. If the board of elections operates and maintains a web site, 21774
notice of the election also shall be posted on that web site for 21775
thirty days prior to the election. The notice shall state the 21776
purpose, time, and place of the election. The form of the ballot 21777
cast at such election shall be prescribed by the secretary of 21778
state. The question covered by such petition shall be submitted as 21779
a separate proposition, but it may be printed on the same ballot 21780

with any other proposition submitted at the same election other 21781
than the election of officers. If a majority of the qualified 21782
electors voting on the question of repeal approve the repeal, the 21783
result of the election shall be certified immediately after the 21784
canvass by the board of elections to the board of county 21785
commissioners, who shall thereupon, after the current year, cease 21786
to levy the tax. 21787

Sec. 325.20. (A) Except as otherwise provided by law, no 21788
elected county officer and no deputy or employee of the county 21789
shall attend, at county expense, any association meeting, 21790
convention, or training sessions conducted pursuant to section 21791
901.10 of the Revised Code, unless authorized by the board of 21792
county commissioners. Before such allowance may be made, the head 21793
of the county office desiring it shall apply to the board in 21794
writing showing the necessity of such attendance and the probable 21795
costs to the county. If a majority of the members of the board 21796
approves the application, such expenses shall be paid from the 21797
moneys appropriated to such office for traveling expenses. 21798

(B) The board of county commissioners shall approve or 21799
disapprove any travel outside this state if the travel expenses 21800
will or may be in excess of one hundred dollars and will or may be 21801
paid for from funds in either of the delinquent tax and assessment 21802
collection ~~fund~~ funds created in section 321.261 of the Revised 21803
Code or the real estate assessment fund created in section 325.31 21804
of the Revised Code. The head of the county office seeking 21805
approval shall apply to the board in writing showing the necessity 21806
of the travel and the probable costs to the county from either ~~the~~ 21807
delinquent tax and assessment collection fund or from the real 21808
estate assessment fund. If the travel is requested by a county 21809
auditor, and the board does not approve the travel, the auditor 21810
may not apply to the tax commissioner pursuant to section 5713.01 21811
of the Revised Code for an additional allowance for such travel. 21812

Sec. 340.02. As used in this section, "mental health professional" means a person who is qualified to work with mentally ill persons, pursuant to standards established by the director of mental health under section 5119.611 of the Revised Code.

For each alcohol, drug addiction, and mental health service district, there shall be appointed a board of alcohol, drug addiction, and mental health services of eighteen members. Nine members shall be interested in mental health programs and facilities and nine other members shall be interested in alcohol or drug addiction programs. All members shall be residents of the service district. The membership shall, as nearly as possible, reflect the composition of the population of the service district as to race and sex.

The director of mental health shall appoint four members of the board, the director of alcohol and drug addiction services shall appoint four members, and the board of county commissioners shall appoint ten members. In a joint-county district, the county commissioners of each participating county shall appoint members in as nearly as possible the same proportion as that county's population bears to the total population of the district, except that at least one member shall be appointed from each participating county.

The director of mental health shall ensure that at least one member of the board is a psychiatrist and one member of the board is a mental health professional. If the appointment of a psychiatrist is not possible, as determined under rules adopted by the director, a licensed physician may be appointed in place of the psychiatrist. If the appointment of a licensed physician is not possible, the director of mental health may waive the requirement that the psychiatrist or licensed physician be a

resident of the service district and appoint a psychiatrist or 21844
licensed physician from a contiguous county. The director of 21845
mental health shall ensure that at least one member of the board 21846
is a person who has received or is receiving mental health 21847
services paid for by public funds and at least one member is a 21848
parent or other relative of such a person. 21849

The director of alcohol and drug addiction services shall 21850
ensure that at least one member of the board is a professional in 21851
the field of alcohol or drug addiction services and one member of 21852
the board is an advocate for persons receiving treatment for 21853
alcohol or drug addiction. Of the members appointed by the 21854
director of alcohol and drug addiction services, at least one 21855
shall be a person who has received or is receiving services for 21856
alcohol or drug addiction, and at least one shall be a parent or 21857
other relative of such a person. 21858

No member or employee of a board of alcohol, drug addiction, 21859
and mental health services shall serve as a member of the board of 21860
any agency with which the board of alcohol, drug addiction, and 21861
mental health services has entered into a contract for the 21862
provision of services or facilities. No member of a board of 21863
alcohol, drug addiction, and mental health services shall be an 21864
employee of any agency with which the board has entered into a 21865
contract for the provision of services or facilities, unless the 21866
board member's employment duties with the agency consist of 21867
providing, only outside the district the board serves, services 21868
for which the medicaid program pays. No person shall be an 21869
employee of a board and such an agency unless the board and agency 21870
both agree in writing. 21871

No person shall serve as a member of the board of alcohol, 21872
drug addiction, and mental health services whose spouse, child, 21873
parent, brother, sister, grandchild, stepparent, stepchild, 21874
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 21875

daughter-in-law, brother-in-law, or sister-in-law serves as a 21876
member of the board of any agency with which the board of alcohol, 21877
drug addiction, and mental health services has entered into a 21878
contract for the provision of services or facilities. No person 21879
shall serve as a member or employee of the board whose spouse, 21880
child, parent, brother, sister, stepparent, stepchild, 21881
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 21882
daughter-in-law, brother-in-law, or sister-in-law serves as a 21883
county commissioner of a county or counties in the alcohol, drug 21884
addiction, and mental health service district. 21885

Each year each board member shall attend at least one 21886
inservice training session provided or approved by the department 21887
of mental health or the department of alcohol and drug addiction 21888
services. Such training sessions shall not be considered to be 21889
regularly scheduled meetings of the board. 21890

Each member shall be appointed for a term of four years, 21891
commencing the first day of July, except that one-third of initial 21892
appointments to a newly established board, and to the extent 21893
possible to expanded boards, shall be for terms of two years, 21894
one-third of initial appointments shall be for terms of three 21895
years, and one-third of initial appointments shall be for terms of 21896
four years. No member shall serve more than two consecutive 21897
four-year terms. A member may serve for three consecutive terms 21898
only if one of the terms is for less than two years. A member who 21899
has served two consecutive four-year terms or three consecutive 21900
terms totaling less than ten years is eligible for reappointment 21901
one year following the end of the second or third term, 21902
respectively. 21903

When a vacancy occurs, appointment for the expired or 21904
unexpired term shall be made in the same manner as an original 21905
appointment. The appointing authority shall be notified by 21906
certified mail of any vacancy and shall fill the vacancy within 21907

sixty days following that notice. 21908

Any member of the board may be removed from office by the 21909
appointing authority for neglect of duty, misconduct, or 21910
malfeasance in office, and shall be removed by the appointing 21911
authority if the ~~member's spouse, child, parent, brother, sister,~~ 21912
~~stepparent, stepchild, stepbrother, stepsister, father-in-law,~~ 21913
~~mother-in-law, son-in-law, daughter-in-law, brother-in-law, or~~ 21914
~~sister-in-law serves as a county commissioner of a county or~~ 21915
~~counties in the service district or serves as a member or employee~~ 21916
~~of the board of an agency with which the board of alcohol, drug~~ 21917
~~addiction, and mental health services has entered a contract for~~ 21918
~~the provision of services or facilities~~ member is barred by this 21919
section from serving as a board member. The member shall be 21920
informed in writing of the charges and afforded an opportunity for 21921
a hearing. Upon the absence of a member within one year from 21922
either four board meetings or from two board meetings without 21923
prior notice, the board shall notify the appointing authority, 21924
which may vacate the appointment and appoint another person to 21925
complete the member's term. 21926

Members of the board shall serve without compensation, but 21927
shall be reimbursed for actual and necessary expenses incurred in 21928
the performance of their official duties, as defined by rules of 21929
the departments of mental health and alcohol and drug addiction 21930
services. 21931

Sec. 340.03. (A) Subject to rules issued by the director of 21932
mental health after consultation with relevant constituencies as 21933
required by division ~~(A)(11)~~(L) of section 5119.06 of the Revised 21934
Code, with regard to mental health services, the board of alcohol, 21935
drug addiction, and mental health services shall: 21936

(1) Serve as the community mental health planning agency for 21937
the county or counties under its jurisdiction, and in so doing it 21938

shall: 21939

(a) Evaluate the need for facilities and community mental health services; 21940
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(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, assess the community mental health needs, set priorities, and develop plans for the operation of facilities and community mental health services; 21942
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(c) In accordance with guidelines issued by the director of mental health after consultation with board representatives, annually develop and submit to the department of mental health, ~~no later than six months prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire,~~ a community mental health plan listing community mental health needs, including the needs of all residents of the district now residing in state mental institutions and severely mentally disabled adults, children, and adolescents; all children subject to a determination made pursuant to section 121.38 of the Revised Code; and all the facilities and community mental health services that are or will be in operation or provided during the period for which the plan will be in operation in the service district to meet such needs. 21947
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The plan shall include, but not be limited to, a statement of which of the services listed in section 340.09 of the Revised Code the board intends to make available. The board must include crisis intervention services for individuals in an emergency situation in the plan and explain how the board intends to make such services available. The plan must also include ~~an explanation of how the board intends to make any payments that it may be required to pay under section 5119.62 of the Revised Code,~~ a statement of the inpatient and community-based services the board proposes that the department operate, an assessment of the number and types of 21961
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residential facilities needed, such other information as the 21971
department requests, and a budget for moneys the board expects to 21972
receive. ~~The board shall also submit an allocation request for~~ 21973
~~state and federal funds. Within sixty days after the department's~~ 21974
~~determination that the plan and allocation request are complete,~~ 21975
the department shall approve or disapprove the plan ~~and request,~~ 21976
in whole or in part, according to the criteria developed pursuant 21977
to section 5119.61 of the Revised Code. The department's statement 21978
of approval or disapproval shall specify the inpatient and the 21979
community-based services that the department will operate for the 21980
board. Eligibility for state and federal funding shall be 21981
contingent upon an approved plan or relevant part of a plan. 21982

~~If the director disapproves all or part of any plan, the~~ 21983
~~director shall inform the board of the reasons for the disapproval~~ 21984
~~and of the criteria that must be met before the plan may be~~ 21985
~~approved. The director shall provide the board an opportunity to~~ 21986
~~present its case on behalf of the plan. The director shall give~~ 21987
~~the board a reasonable time in which to meet the criteria, and~~ 21988
~~shall offer the board technical assistance to help it meet the~~ 21989
~~criteria.~~ 21990

~~If the approval of a plan remains in dispute thirty days~~ 21991
~~prior to the conclusion of the fiscal year in which the board's~~ 21992
~~current plan is scheduled to expire, the board or the director may~~ 21993
~~request that the dispute be submitted to a mutually agreed upon~~ 21994
~~third party mediator with the cost to be shared by the board and~~ 21995
~~the department. The mediator shall issue to the board and the~~ 21996
~~department recommendations for resolution of the dispute. Prior to~~ 21997
~~the conclusion of the fiscal year in which the current plan is~~ 21998
~~scheduled to expire, the director, taking into consideration the~~ 21999
~~recommendations of the mediator, shall make a final determination~~ 22000
~~and approve or disapprove the plan, in whole or in part.~~ 22001

If a board determines that it is necessary to amend a plan or 22002

an allocation request that has been approved under division 22003
(A)(1)(c) of this section, the board shall submit a proposed 22004
amendment to the director. The director may approve or disapprove 22005
all or part of the amendment. ~~If the director does not approve all~~ 22006
~~or part of the amendment within thirty days after it is submitted,~~ 22007
~~the amendment or part of it shall be considered to have been~~ 22008
~~approved.~~ The director shall inform the board of the reasons for 22009
disapproval of all or part of an amendment and of the criteria 22010
that must be met before the amendment may be approved. The 22011
director shall provide the board an opportunity to present its 22012
case on behalf of the amendment. The director shall give the board 22013
a reasonable time in which to meet the criteria, and shall offer 22014
the board technical assistance to help it meet the criteria. 22015

The board shall implement the plan approved by the 22016
department. 22017

~~(d) Receive, compile, and transmit to the department of 22018~~
~~mental health applications for state reimbursement;~~ 22019

~~(e) Promote, arrange, and implement working agreements with 22020~~
social agencies, both public and private, and with judicial 22021
agencies. 22022

(2) Investigate, or request another agency to investigate, 22023
any complaint alleging abuse or neglect of any person receiving 22024
services from a community mental health agency as defined in 22025
section 5122.01 of the Revised Code, or from a residential 22026
facility licensed under section 5119.22 of the Revised Code. If 22027
the investigation substantiates the charge of abuse or neglect, 22028
the board shall take whatever action it determines is necessary to 22029
correct the situation, including notification of the appropriate 22030
authorities. Upon request, the board shall provide information 22031
about such investigations to the department. 22032

(3) For the purpose of section 5119.611 of the Revised Code, 22033

cooperate with the director of mental health in visiting and 22034
evaluating whether the services of a community mental health 22035
agency satisfy the certification standards established by rules 22036
adopted under that section; 22037

(4) In accordance with criteria established under division 22038
~~(G)~~(E) of section 5119.61 of the Revised Code, review and evaluate 22039
the quality, effectiveness, and efficiency of services provided 22040
through its community mental health plan and submit its findings 22041
and recommendations to the department of mental health; 22042

(5) In accordance with section 5119.22 of the Revised Code, 22043
review applications for residential facility licenses and 22044
recommend to the department of mental health approval or 22045
disapproval of applications; 22046

~~(6) Audit, in accordance with rules adopted by the auditor of 22047
state pursuant to section 117.20 of the Revised Code, at least 22048
annually all programs and services provided under contract with 22049
the board. In so doing, the board may contract for or employ the 22050
services of private auditors. A copy of the fiscal audit report 22051
shall be provided to the director of mental health, the auditor of 22052
state, and the county auditor of each county in the board's 22053
district. 22054~~

~~(7)~~ Recruit and promote local financial support for mental 22055
health programs from private and public sources; 22056

~~(8)~~(7)(a) Enter into contracts with public and private 22057
facilities for the operation of facility services included in the 22058
board's community mental health plan and enter into contracts with 22059
public and private community mental health agencies for the 22060
provision of community mental health services that are listed in 22061
section 340.09 of the Revised Code and included in the board's 22062
community mental health plan. The board may not contract with a 22063
community mental health agency to provide community mental health 22064

services included in the board's community mental health plan 22065
unless the services are certified by the director of mental health 22066
under section 5119.611 of the Revised Code. Section 307.86 of the 22067
Revised Code does not apply to contracts entered into under this 22068
division. In contracting with a community mental health agency, a 22069
board shall consider the cost effectiveness of services provided 22070
by that agency and the quality and continuity of care, and may 22071
review cost elements, including salary costs, of the services to 22072
be provided. A utilization review process shall be established as 22073
part of the contract for services entered into between a board and 22074
a community mental health agency. The board may establish this 22075
process in a way that is most effective and efficient in meeting 22076
local needs. ~~In the case of~~ Until July 1, 2012, a contract with a 22077
community mental health agency or facility, as defined in section 22078
5111.023 of the Revised Code, to provide services listed in 22079
division (B) of that section, ~~the contract~~ shall provide for the 22080
agency or facility to be paid in accordance with the contract 22081
entered into between the departments of job and family services 22082
and mental health under section 5111.91 of the Revised Code and 22083
any rules adopted under division (A) of section 5119.61 of the 22084
Revised Code. 22085

If either the board or a facility or community mental health 22086
agency with which the board contracts under division (A)~~(8)~~(7)(a) 22087
of this section proposes not to renew the contract or proposes 22088
substantial changes in contract terms, the other party shall be 22089
given written notice at least one hundred twenty days before the 22090
expiration date of the contract. During the first sixty days of 22091
this one hundred twenty-day period, both parties shall attempt to 22092
resolve any dispute through good faith collaboration and 22093
negotiation in order to continue to provide services to persons in 22094
need. If the dispute has not been resolved sixty days before the 22095
expiration date of the contract, either party may ~~notify the~~ 22096
~~department of mental health of the unresolved dispute. The~~ 22097

~~director may require request that both parties to submit the~~ 22098
~~dispute to a third party with the cost to be shared by the board~~ 22099
~~and the facility or community mental health agency. The third~~ 22100
~~party shall issue to the board, the and facility or agency, and~~ 22101
~~the department recommendations on how the dispute may be resolved~~ 22102
~~twenty days prior to the expiration date of the contract, unless~~ 22103
~~both parties agree to a time extension. The director shall adopt~~ 22104
~~rules establishing the procedures of this dispute resolution~~ 22105
~~process.~~ 22106

(b) With the prior approval of the director of mental health, 22107
a board may operate a facility or provide a community mental 22108
health service as follows, if there is no other qualified private 22109
or public facility or community mental health agency that is 22110
immediately available and willing to operate such a facility or 22111
provide the service: 22112

(i) In an emergency situation, any board may operate a 22113
facility or provide a community mental health service in order to 22114
provide essential services for the duration of the emergency; 22115

(ii) In a service district with a population of at least one 22116
hundred thousand but less than five hundred thousand, a board may 22117
operate a facility or provide a community mental health service 22118
for no longer than one year; 22119

(iii) In a service district with a population of less than 22120
one hundred thousand, a board may operate a facility or provide a 22121
community mental health service for no longer than one year, 22122
except that such a board may operate a facility or provide a 22123
community mental health service for more than one year with the 22124
prior approval of the director and the prior approval of the board 22125
of county commissioners, or of a majority of the boards of county 22126
commissioners if the district is a joint-county district. 22127

The director shall not give a board approval to operate a 22128

facility or provide a community mental health service under 22129
division (A)~~(8)~~(7)(b)(ii) or (iii) of this section unless the 22130
director determines that it is not feasible to have the department 22131
operate the facility or provide the service. 22132

The director shall not give a board approval to operate a 22133
facility or provide a community mental health service under 22134
division (A)~~(8)~~(7)(b)(iii) of this section unless the director 22135
determines that the board will provide greater administrative 22136
efficiency and more or better services than would be available if 22137
the board contracted with a private or public facility or 22138
community mental health agency. 22139

The director shall not give a board approval to operate a 22140
facility previously operated by a person or other government 22141
entity unless the board has established to the director's 22142
satisfaction that the person or other government entity cannot 22143
effectively operate the facility or that the person or other 22144
government entity has requested the board to take over operation 22145
of the facility. The director shall not give a board approval to 22146
provide a community mental health service previously provided by a 22147
community mental health agency unless the board has established to 22148
the director's satisfaction that the agency cannot effectively 22149
provide the service or that the agency has requested the board 22150
take over providing the service. 22151

The director shall review and evaluate a board's operation of 22152
a facility and provision of community mental health service under 22153
division (A)~~(8)~~(7)(b) of this section. 22154

Nothing in division (A)~~(8)~~(7)(b) of this section authorizes a 22155
board to administer or direct the daily operation of any facility 22156
or community mental health agency, but a facility or agency may 22157
contract with a board to receive administrative services or staff 22158
direction from the board under the direction of the governing body 22159
of the facility or agency. 22160

(9) (8) Approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for contract services provided by community mental health agencies in accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance;	22161 22162 22163 22164 22165 22166
(10) (9) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the programs under the jurisdiction of the board, including a fiscal accounting;	22167 22168 22169 22170
(11) (10) Establish, to the extent resources are available, a community support system, which provides for treatment, support, and rehabilitation services and opportunities. The essential elements of the system include, but are not limited to, the following components in accordance with section 5119.06 of the Revised Code:	22171 22172 22173 22174 22175 22176
(a) To locate persons in need of mental health services to inform them of available services and benefits mechanisms;	22177 22178
(b) Assistance for clients to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;	22179 22180 22181
(c) Mental health care, including, but not limited to, outpatient, partial hospitalization, and, where appropriate, inpatient care;	22182 22183 22184
(d) Emergency services and crisis intervention;	22185
(e) Assistance for clients to obtain vocational services and opportunities for jobs;	22186 22187
(f) The provision of services designed to develop social, community, and personal living skills;	22188 22189
(g) Access to a wide range of housing and the provision of	22190

residential treatment and support;	22191
(h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others;	22192 22193 22194
(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services;	22195 22196 22197 22198 22199
(j) Grievance procedures and protection of the rights of consumers of mental health services;	22200 22201
(k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.	22202 22203 22204
(12) <u>(11)</u> Designate the treatment program, agency, or facility for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code and authorize payment for such treatment. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the services listed in section 340.09 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for services, which may include prior authorization in appropriate circumstances. The board may provide for services directly to a severely mentally disabled person when life or safety is endangered and when no community mental health agency is available to provide the service.	22205 22206 22207 22208 22209 22210 22211 22212 22213 22214 22215 22216 22217 22218
(13) <u>(12)</u> Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate	22219 22220 22221

division of the court of common pleas in determining whether there 22222
is probable cause that a respondent is subject to involuntary 22223
hospitalization and what alternative treatment is available and 22224
appropriate, if any; 22225

~~(14)~~(13) Ensure that apartments or rooms built, subsidized, 22226
renovated, rented, owned, or leased by the board or a community 22227
mental health agency have been approved as meeting minimum fire 22228
safety standards and that persons residing in the rooms or 22229
apartments are receiving appropriate and necessary services, 22230
including culturally relevant services, from a community mental 22231
health agency. This division does not apply to residential 22232
facilities licensed pursuant to section 5119.22 of the Revised 22233
Code. 22234

~~(15)~~(14) Establish a mechanism for involvement of consumer 22235
recommendation and advice on matters pertaining to mental health 22236
services in the alcohol, drug addiction, and mental health service 22237
district; 22238

~~(16)~~(15) Perform the duties under section ~~3722.18~~ 5119.88 of 22239
the Revised Code required by rules adopted under section 5119.61 22240
of the Revised Code regarding referrals by the board or mental 22241
health agencies under contract with the board of individuals with 22242
mental illness or severe mental disability to adult care 22243
facilities and effective arrangements for ongoing mental health 22244
services for the individuals. The board is accountable in the 22245
manner specified in the rules for ensuring that the ongoing mental 22246
health services are effectively arranged for the individuals. 22247

(B) The board shall establish such rules, operating 22248
procedures, standards, and bylaws, and perform such other duties 22249
as may be necessary or proper to carry out the purposes of this 22250
chapter. 22251

(C) A board of alcohol, drug addiction, and mental health 22252

services may receive by gift, grant, devise, or bequest any 22253
moneys, lands, or property for the benefit of the purposes for 22254
which the board is established, and may hold and apply it 22255
according to the terms of the gift, grant, or bequest. All money 22256
received, including accrued interest, by gift, grant, or bequest 22257
shall be deposited in the treasury of the county, the treasurer of 22258
which is custodian of the alcohol, drug addiction, and mental 22259
health services funds to the credit of the board and shall be 22260
available for use by the board for purposes stated by the donor or 22261
grantor. 22262

(D) No board member or employee of a board of alcohol, drug 22263
addiction, and mental health services shall be liable for injury 22264
or damages caused by any action or inaction taken within the scope 22265
of the board member's official duties or the employee's 22266
employment, whether or not such action or inaction is expressly 22267
authorized by this section, section 340.033, or any other section 22268
of the Revised Code, unless such action or inaction constitutes 22269
willful or wanton misconduct. Chapter 2744. of the Revised Code 22270
applies to any action or inaction by a board member or employee of 22271
a board taken within the scope of the board member's official 22272
duties or employee's employment. For the purposes of this 22273
division, the conduct of a board member or employee shall not be 22274
considered willful or wanton misconduct if the board member or 22275
employee acted in good faith and in a manner that the board member 22276
or employee reasonably believed was in or was not opposed to the 22277
best interests of the board and, with respect to any criminal 22278
action or proceeding, had no reasonable cause to believe the 22279
conduct was unlawful. 22280

(E) The meetings held by any committee established by a board 22281
of alcohol, drug addiction, and mental health services shall be 22282
considered to be meetings of a public body subject to section 22283
121.22 of the Revised Code. 22284

Sec. 340.033. (A) The board of alcohol, drug addiction, and 22285
mental health services shall serve as the planning agency for 22286
alcohol and drug addiction services for the county or counties in 22287
its service district. In accordance with procedures and guidelines 22288
established by the department of alcohol and drug addiction 22289
services, the board shall do all of the following: 22290

(1) Assess alcohol and drug addiction service needs and 22291
evaluate the need for alcohol and drug addiction programs; 22292

(2) According to the needs determined under division (A)(1) 22293
of this section, set priorities and develop plans for the 22294
operation of alcohol and drug addiction programs in cooperation 22295
with other local and regional planning and funding bodies and with 22296
relevant ethnic organizations; 22297

(3) Submit the plan for alcohol and drug addiction services 22298
required by section 3793.05 of the Revised Code to the department 22299
and implement the plan as approved by the department; 22300

(4) Provide to the department information to be included in 22301
the information system or systems established by the department 22302
under section 3793.04 of the Revised Code; 22303

(5) Enter into contracts with alcohol and drug addiction 22304
programs for the provision of alcohol and drug addiction services; 22305

(6) Review and evaluate alcohol and drug addiction programs 22306
in the district, ~~and conduct program audits;~~ 22307

(7) Prepare and submit to the department an annual report of 22308
the alcohol and drug addiction programs in the district; 22309

(8) Receive, compile, and transmit to the department 22310
applications for funding; 22311

(9) Promote, arrange, and implement working agreements with 22312
public and private social agencies and with judicial agencies; 22313

(10) Investigate, or request another agency to investigate, 22314
any complaint alleging abuse or neglect of any person receiving 22315
services from an alcohol or drug addiction program; 22316

(11) Establish a mechanism for the involvement of persons 22317
receiving services in, and obtaining their advice on, matters 22318
pertaining to alcohol or drug addiction services; 22319

(12) Recruit and promote local financial support, from 22320
private and public sources, for alcohol and drug addiction 22321
programs; 22322

(13) Approve fee schedules and related charges, adopt a unit 22323
cost schedule, or adopt other methods of payment for services 22324
provided by programs under contract pursuant to division (A)(5) of 22325
this section, in accordance with guidelines established by the 22326
department under section 3793.04 of the Revised Code. 22327

~~(B) In accordance with rules adopted by the auditor of state 22328
pursuant to section 117.20 of the Revised Code, at least annually 22329
the board shall audit all alcohol and drug addiction programs 22330
provided under contract with the board. The board may contract 22331
with private auditors for the performance of these audits. A copy 22332
of the fiscal audit report shall be provided to the director of 22333
alcohol and drug addiction services, the auditor of state, and the 22334
county auditor of each county in the board's district. 22335~~

~~(C)~~ In contracting with a program under division (A)(5) of 22336
this section, a board shall consider the cost effectiveness of 22337
services provided by the program and the program's quality and 22338
continuity of care. The board may review cost elements, including 22339
salary costs, of the services provided by the program. 22340

A utilization review process shall be established as part of 22341
the contract for services. The board may establish this process in 22342
any way that it considers to be the most effective and efficient 22343
in meeting local needs. 22344

~~(D)~~(C) If either the board or a program with which it 22345
contracts pursuant to division (A)(5) of this section proposes not 22346
to renew the contract or proposes substantial changes in contract 22347
terms on renewal of the contract, it shall give the other party to 22348
the contract written notice at least one hundred twenty days 22349
before the expiration date of the contract. During the first sixty 22350
days of this period, both parties shall attempt to resolve any 22351
dispute through good faith collaboration and negotiation in order 22352
that services to persons in need will be continued. If the dispute 22353
is not resolved during this time, either party may notify the 22354
department of alcohol and drug addiction services. The department 22355
may require both parties to submit the dispute to a mutually 22356
agreed upon third party with the cost to be shared by the board 22357
and the program. At least twenty days before the expiration of the 22358
contract, unless the board and the program agree to an extension, 22359
the third party shall issue to the board, program, and department, 22360
its recommendations for resolution of the dispute. 22361

The department shall adopt rules pursuant to Chapter 119. of 22362
the Revised Code establishing procedures for this dispute 22363
resolution process. 22364

~~(E)~~(D) Section 307.86 of the Revised Code does not apply to 22365
contracts entered into pursuant to division (A)(5) of this 22366
section. 22367

~~(F)~~(E)(1) With the prior approval of the department, a board 22368
of alcohol, drug addiction, and mental health services may operate 22369
an alcohol or drug addiction program as follows if there is no 22370
qualified program that is immediately available, willing to 22371
provide services, and able to obtain certification under Chapter 22372
3793. of the Revised Code: 22373

(a) In an emergency situation, any board may operate a 22374
program in order to provide essential services for the duration of 22375
the emergency; 22376

(b) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a program for no longer than one year;

(c) In a service district with a population of less than one hundred thousand, a board may operate a program for no longer than one year, except that such a board may operate a program for longer than one year with the prior approval of the department and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

(2) The department shall not give a board its approval to operate a program under division ~~(F)~~(E)(1)(c) of this section unless it determines that the board's program will provide greater administrative efficiency and more or better services than would be available if the board contracted with a program for provision of the services.

(3) The department shall not give a board its approval to operate a program previously operated by a public or private entity unless the board has established to the department's satisfaction that the entity cannot effectively operate the program, or that the entity has requested the board to take over operation of the program.

(4) The department shall review and evaluate the operation of each program operated by a board under this division.

(5) Nothing in this division authorizes a board to administer or direct the daily operation of any program other than a program operated by the board under this division, but a program may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the program.

~~(G)~~(F) If an investigation conducted pursuant to division

(A)(10) of this section substantiates a charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. On request, the board shall provide information about such investigations to the department.

~~(H)~~(G) When the board sets priorities and develops plans for the operation of alcohol and drug addiction programs under division (A)(2) of this section, the board shall consult with the county commissioners of the counties in the board's service district regarding the services described in section 340.15 of the Revised Code and shall give a priority to those services, except that those services shall not have priority over services provided to pregnant women under programs developed in relation to the mandate established in section 3793.15 of the Revised Code. The plans shall identify funds the board and public children services agencies in the board's service district have available to fund jointly the services described in section 340.15 of the Revised Code.

Sec. 340.05. A community mental health agency that receives a complaint under section ~~3722.17~~ 5119.87 of the Revised Code alleging abuse or neglect of an individual with mental illness or severe mental disability who resides in an adult care facility shall report the complaint to the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the adult care facility is located. A board of alcohol, drug addiction, and mental health services that receives such a complaint or a report from a community mental health agency of such a complaint shall report the complaint to the director of mental health for the purpose of the director conducting an investigation under section ~~3722.17~~ 5119.87 of the Revised Code. The board may enter the adult care facility with or without the director and, if the health and

safety of a resident is in immediate danger, take any necessary 22440
action to protect the resident. The board's action shall not 22441
violate any resident's rights under section ~~3722.12~~ 5119.81 of the 22442
Revised Code and rules adopted by the ~~public health council~~ 22443
department of mental health under ~~that chapter~~ sections 5119.70 to 22444
5119.88 of the Revised Code. The board shall immediately report to 22445
the director regarding the board's actions under this section. 22446

Sec. 340.091. Each board of alcohol, drug addiction, and 22447
mental health services shall contract with a community mental 22448
health agency under division (A)~~(8)~~(7)(a) of section 340.03 of the 22449
Revised Code for the agency to do all of the following in 22450
accordance with rules adopted under section 5119.61 of the Revised 22451
Code for an individual referred to the agency under division 22452
(C)(2) of section ~~173.35~~ 5119.69 of the Revised Code: 22453

(A) Assess the individual to determine whether to recommend 22454
that a ~~PASSPORT~~ residential state supplement administrative agency 22455
designated under section 5119.69 of the Revised Code determine 22456
that the environment in which the individual will be living while 22457
receiving residential state supplement payments is appropriate for 22458
the individual's needs and, if it determines the environment is 22459
appropriate, issue the recommendation to the ~~PASSPORT~~ residential 22460
state supplement administrative agency; 22461

(B) Provide ongoing monitoring to ensure that services 22462
provided under section 340.09 of the Revised Code are available to 22463
the individual; 22464

(C) Provide discharge planning to ensure the individual's 22465
earliest possible transition to a less restrictive environment. 22466

Sec. 340.11. ~~(A)~~ A board of alcohol, drug addiction, and 22467
mental health services may procure a policy or policies of 22468
insurance insuring board members or employees of the board or 22469

agencies with which the board contracts against liability arising 22470
from the performance of their official duties. If the liability 22471
insurance is unavailable or the amount a board has procured or is 22472
able to procure is insufficient to cover the amount of a claim, 22473
the board may indemnify a board member or employee as follows: 22474

~~(1)~~(A) For any action or inaction in ~~his~~ the capacity ~~as a~~ of 22475
board member or employee or at the request of the board, whether 22476
or not the action or inaction is expressly authorized by this or 22477
any other section of the Revised Code, if: 22478

~~(a)~~(1) The board member or employee acted in good faith and 22479
in a manner that ~~he~~ the board member or employee reasonably 22480
believed was in or was not opposed to the best interests of the 22481
board; and 22482

~~(b)~~(2) With respect to any criminal action or proceeding, the 22483
board member or employee had no reason to believe ~~his~~ the board 22484
member's or employee's conduct was unlawful. 22485

~~(2)~~(B) Against any expenses, including attorneys' fees, the 22486
board member or employee actually and reasonably incurs as a 22487
result of a suit or other proceeding involving the defense of any 22488
action or inaction in ~~his~~ the capacity ~~as a~~ of board member or 22489
employee or at the request of the board, or in defense of any 22490
claim, issue, or matter raised in connection with the defense of 22491
such an action or inaction, to the extent that the board member or 22492
employee is successful on the merits or otherwise. 22493

~~(B) The board may utilize up to that per cent of its budget 22494
as approved by the department of mental health to purchase 22495
insurance and to pool with funds of other boards of alcohol, drug 22496
addiction, and mental health services, as provided in division (E) 22497
of section 5119.62 of the Revised Code, to pay expenditures for 22498
utilization of state hospital facilities that exceed the amount 22499
allocated to the board under the formula developed under that 22500~~

~~section.~~ 22501

Sec. 341.192. (A) As used in this section: 22502

(1) "Jail" means a county jail, or a multicounty, municipal-county, or multicounty-municipal correctional center. 22503
22504

(2) "Medical assistance program" has the same meaning as in 22505
section 2913.40 of the Revised Code. 22506

~~(2)~~(3) "Medical provider" means a physician, hospital, 22507
laboratory, pharmacy, or other health care provider that is not 22508
employed by or under contract to a county, municipal corporation, 22509
township, the department of youth services, or the department of 22510
rehabilitation and correction to provide medical services to 22511
persons confined in ~~the county~~ a jail or a state correctional 22512
institution, or is in the custody of a law enforcement officer. 22513

~~(3)~~(4) "Necessary care" means medical care of a nonelective 22514
nature that cannot be postponed until after the period of 22515
confinement of a person who is confined in a ~~county~~ jail or a 22516
state correctional institution, or is in the custody of a law 22517
enforcement officer without endangering the life or health of the 22518
person. 22519

(B) If a physician employed by or under contract to a county, 22520
municipal corporation, township, the department of youth services, 22521
or the department of rehabilitation and correction to provide 22522
medical services to persons confined in ~~the county~~ a jail or state 22523
correctional institution determines that a person who is confined 22524
in the ~~county~~ jail or a state correctional institution or who is 22525
in the custody of a law enforcement officer prior to the person's 22526
confinement in ~~the county~~ a jail or a state correctional 22527
institution requires necessary care that the physician cannot 22528
provide, the necessary care shall be provided by a medical 22529
provider. The county, municipal corporation, township, the 22530

department of youth services, or the department of rehabilitation 22531
and correction shall pay a medical provider for necessary care an 22532
amount not exceeding the authorized reimbursement rate for the 22533
same service established by the department of job and family 22534
services under the medical assistance program. 22535

Sec. 343.08. (A) The board of county commissioners of a 22536
county solid waste management district and the board of directors 22537
of a joint solid waste management district may fix reasonable 22538
rates or charges to be paid by every person, municipal 22539
corporation, township, or other political subdivision that owns 22540
premises to which solid waste collection, storage, transfer, 22541
disposal, recycling, processing, or resource recovery service is 22542
provided by the district and may change the rates or charges 22543
whenever it considers it advisable. Charges for collection, 22544
storage, transfer, disposal, recycling, processing, or resource 22545
recovery service shall be made only against lots or parcels that 22546
are improved, or in the process of being improved, with at least 22547
one permanent, portable, or temporary building. The rates or 22548
charges may be collected by either of the following means: 22549

(1) Periodic billings made by the district directly or in 22550
conjunction with billings for public utility rates or charges by a 22551
county water district established under section 6103.02 of the 22552
Revised Code, a county sewer district established under section 22553
6117.02 of the Revised Code, or a municipal corporation or other 22554
political subdivision authorized by law to provide public utility 22555
service. When any such charges that are so billed are not paid, 22556
the board shall certify them to the county auditor of the county 22557
where the lots or parcels are located, who shall place them upon 22558
the real property duplicate against the property served by the 22559
collection, storage, transfer, disposal, recycling, processing, or 22560
resource recovery service. The charges shall be a lien on the 22561
property from the date they are placed upon the real property 22562

duplicate by the auditor and shall be collected in the same manner 22563
as other taxes. 22564

(2) Certifying the rates or charges to the county auditor of 22565
the county where the lots or parcels are located, who shall place 22566
them on the real property duplicate against the lots or parcels. 22567
The rates or charges are a lien on the property from the date they 22568
are placed upon the real property duplicate by the auditor and 22569
shall be collected in the same manner as other taxes. 22570

The county or joint district need not fix a rate or charge 22571
against property if the district does not operate a collection 22572
system. 22573

Where a county or joint district owns or operates a solid 22574
waste facility, either without a collection system or in 22575
conjunction therewith, the board of county commissioners or board 22576
of directors may fix reasonable rates or charges for the use of 22577
the facility by persons, municipal corporations, townships, and 22578
other political subdivisions, may contract with any public 22579
authority or person for the collection of solid wastes in any part 22580
of any district for collection, storage, disposal, transfer, 22581
recycling, processing, or resource recovery in any solid waste 22582
facility, or may lease the facility to any public authority or 22583
person. The cost of collection, storage, transfer, disposal, 22584
recycling, processing, or resource recovery under such contracts 22585
may be paid by rates or charges fixed and collected under this 22586
section or by rates and charges fixed under those contracts and 22587
collected by the contractors. 22588

All moneys collected by or on behalf of a county or joint 22589
district as rates or charges for solid waste collection, storage, 22590
transfer, disposal, recycling, processing, or resource recovery 22591
service in any district shall be paid to the county treasurer in a 22592
county district or to the county treasurer or other official 22593
designated by the board of directors in a joint district and kept 22594

in a separate and distinct fund to the credit of the district. The 22595
fund shall be used for the payment of the cost of the management, 22596
maintenance, and operation of the solid waste collection or other 22597
solid waste facilities of the district and, if applicable, the 22598
payment of the cost of collecting the rates or charges of the 22599
district pursuant to division (A)(1) or (2) of this section. Prior 22600
to the approval of the district's initial solid waste management 22601
plan under section 3734.55 of the Revised Code or the issuance of 22602
an order under that section requiring the district to implement an 22603
initial plan prepared by the director, as appropriate, the fund 22604
also may be used for the purposes of division (G)(1) or (3) of 22605
section 3734.57 of the Revised Code. On and after the approval of 22606
the district's initial plan under section 3734.521 or 3734.55 of 22607
the Revised Code or the issuance of an order under either of those 22608
sections, as appropriate, requiring the district to implement an 22609
initial plan prepared by the director, the fund also may be used 22610
for the purposes of divisions (G)(1) to (10) of section 3734.57 of 22611
the Revised Code. Those uses may include, in accordance with a 22612
cost allocation plan adopted under division (B) of this section, 22613
the payment of all allowable direct and indirect costs of the 22614
district, the sanitary engineer or sanitary engineering 22615
department, or a federal or state grant program, incurred for the 22616
purposes of this chapter and sections 3734.52 to 3734.572 of the 22617
Revised Code. Any surplus remaining after those uses of the fund 22618
may be used for the enlargement, modification, or replacement of 22619
such facilities and for the payment of the interest and principal 22620
on bonds and bond anticipation notes issued pursuant to section 22621
343.07 of the Revised Code. In no case shall money so collected be 22622
expended otherwise than for the use and benefit of the district. 22623

A board of county commissioners or directors, instead of 22624
operating and maintaining solid waste collection or other solid 22625
waste facilities of the district with county or joint district 22626
personnel, may enter into a contract with a municipal corporation 22627

having territory within the district pursuant to which the 22628
operation and maintenance of the facilities will be performed by 22629
the municipal corporation. 22630

The products of any solid waste collection or other solid 22631
waste facility owned under this chapter shall be sold through 22632
competitive bidding in accordance with section 307.12 of the 22633
Revised Code, except when a board of county commissioners or 22634
directors determines by resolution that it is in the public 22635
interest to sell those products in a commercially reasonable 22636
manner without competitive bidding. 22637

(B) A board of county commissioners or directors may adopt a 22638
cost allocation plan that identifies, accumulates, and distributes 22639
allowable direct and indirect costs that may be paid from the fund 22640
of the district created in division (A) of this section and 22641
prescribes methods for allocating those costs. The plan shall 22642
authorize payment from the fund for only those costs incurred by 22643
the district, the sanitary engineer or sanitary engineering 22644
department, or a federal or state grant program, and those costs 22645
incurred by the general and other funds of the county for a common 22646
or joint purpose, that are necessary and reasonable for the proper 22647
and efficient administration of the district under this chapter 22648
and sections 3734.52 to 3734.572 of the Revised Code. The plan 22649
shall not authorize payment from the fund of any general 22650
government expense required to carry out the overall governmental 22651
responsibilities of a county. The plan shall conform to United 22652
States office of management and budget Circular A-87 "Cost 22653
Principles for State and Local Governments," published January 15, 22654
1983. 22655

(C) A board of county commissioners or directors shall fix 22656
rates or charges, or enter into contracts fixing the rates or 22657
charges to be collected by the contractor, for solid waste 22658
collection, storage, transfer, disposal, recycling, processing, or 22659

resource recovery services at a public meeting held in accordance 22660
with section 121.22 of the Revised Code. In addition to fulfilling 22661
the requirements of section 121.22 of the Revised Code, the board, 22662
before fixing or changing rates or charges for solid waste 22663
collection, storage, transfer, disposal, recycling, processing, or 22664
resource recovery services, or before entering into a contract 22665
that fixes rates or charges to be collected by the contractor 22666
providing the services, shall hold at least three public hearings 22667
on the proposed rates, charges, or contract. Prior to the first 22668
public hearing, the board shall publish notice of the public 22669
hearings as provided in section 7.16 of the Revised Code or once a 22670
week for three consecutive weeks in a newspaper of general 22671
circulation in the county or counties that would be affected by 22672
the proposed rates, charges, or contract. The notice shall include 22673
a listing of the proposed rates or charges to be fixed and 22674
collected by the board or fixed pursuant to the contract and 22675
collected by the contractor, and the dates, time, and place of 22676
each of the three hearings thereon. The board shall hear any 22677
person who wishes to testify on the proposed rates, charges, or 22678
contract. 22679

Sec. 345.03. A copy of any resolution adopted under section 22680
345.01 of the Revised Code shall be certified within five days by 22681
the taxing authority and not later than four p. m. of the 22682
ninetieth day before the day of the election, to the county board 22683
of elections, and such board shall submit the proposal to the 22684
electors of the subdivision at the succeeding general election. 22685
The board shall make the necessary arrangements for the submission 22686
of such question to the electors of the subdivision, and the 22687
election shall be conducted, canvassed, and certified in like 22688
manner as regular elections in such subdivision. 22689

Notice of the election shall be published once in a newspaper 22690
of general circulation in the subdivision, ~~at least once~~, not less 22691

than two weeks prior to such election. The notice shall set out 22692
the purpose of the proposed increase in rate, the amount of the 22693
increase expressed in dollars and cents for each one hundred 22694
dollars of valuation as well as in mills for each one dollar of 22695
property valuation, the number of years during which such increase 22696
will be in effect, and the time and place of holding such 22697
election. 22698

Sec. 349.03. (A) Proceedings for the organization of a new 22699
community authority shall be initiated by a petition filed by the 22700
developer in the office of the clerk of the board of county 22701
commissioners of one of the counties in which all or part of the 22702
proposed new community district is located. Such petition shall be 22703
signed by the developer and may be signed by each proximate city. 22704
The legislative authorities of each such proximate city shall act 22705
in behalf of such city. Such petition shall contain: 22706

(1) The name of the proposed new community authority; 22707

(2) The address where the principal office of the authority 22708
will be located or the manner in which the location will be 22709
selected; 22710

(3) A map and a full and accurate description of the 22711
boundaries of the new community district together with a 22712
description of the properties within such boundaries, if any, 22713
which will not be included in the new community district. Unless 22714
the district is wholly contained within municipalities, the total 22715
acreage included in such district shall not be less than one 22716
thousand acres, all of which acreage shall be owned by, or under 22717
the control through leases of at least seventy-five years' 22718
duration, options, or contracts to purchase, of the developer, if 22719
the developer is a private entity. Such acreage shall be 22720
developable as one functionally interrelated community. In the 22721
case of a new community authority established on or after the 22722

effective date of this amendment and before January 1, 2012, such 22723
leases may be of not less than forty years' duration, and the 22724
acreage may be developable so that the community is one 22725
functionally interrelated community. 22726

(4) A statement setting forth the zoning regulations proposed 22727
for zoning the area within the boundaries of the new community 22728
district for comprehensive development as a new community, and if 22729
the area has been zoned for such development, a certified copy of 22730
the applicable zoning regulations therefor; 22731

(5) A current plan indicating the proposed development 22732
program for the new community district, the land acquisition and 22733
land development activities, community facilities, services 22734
proposed to be undertaken by the new community authority under 22735
such program, the proposed method of financing such activities and 22736
services, including a description of the bases, timing, and manner 22737
of collecting any proposed community development charges, and the 22738
projected total residential population of, and employment within, 22739
the new community; 22740

(6) A suggested number of members, consistent with section 22741
349.04 of the Revised Code, for the board of trustees; 22742

(7) A preliminary economic feasibility analysis, including 22743
the area development pattern and demand, location and proposed new 22744
community district size, present and future socio-economic 22745
conditions, public services provision, financial plan, and the 22746
developer's management capability; 22747

(8) A statement that the development will comply with all 22748
applicable environmental laws and regulations. 22749

Upon the filing of such petition, the organizational board of 22750
commissioners shall determine whether such petition complies with 22751
the requirements of this section as to form and substance. The 22752
board in subsequent proceedings may at any time permit the 22753

petition to be amended in form and substance to conform to the 22754
facts by correcting any errors in the description of the proposed 22755
new community district or in any other particular. 22756

Upon the determination of the organizational board of 22757
commissioners that a sufficient petition has been filed in 22758
accordance with this section, the board shall fix the time and 22759
place of a hearing on the petition for the establishment of the 22760
proposed new community authority. Such hearing shall be held not 22761
less than ninety-five nor more than one hundred fifteen days after 22762
the petition filing date, except that if the petition has been 22763
signed by all proximate cities, such hearing shall be held not 22764
less than thirty nor more than forty-five days after the petition 22765
filing date. The clerk of the board of county commissioners with 22766
which the petition was filed shall give notice thereof by 22767
publication once each week for three consecutive weeks, or as 22768
provided in section 7.16 of the Revised Code, in a newspaper of 22769
general circulation in any county of which a portion is within the 22770
proposed new community district. Such clerk shall also give 22771
written notice of the date, time, and place of the hearing and 22772
furnish a certified copy of the petition to the clerk of the 22773
legislative authority of each proximate city which has not signed 22774
such petition. In the event that the legislative authority of a 22775
proximate city which did not sign the petition does not approve by 22776
ordinance, resolution, or motion the establishment of the proposed 22777
new community authority and does not deliver such ordinance, 22778
resolution, or motion to the clerk of the board of county 22779
commissioners with which the petition was filed within ninety days 22780
following the date of the first publication of the notice of the 22781
public hearing, the organizational board of commissioners shall 22782
cancel such public hearing and terminate the proceedings for the 22783
establishment of the new community authority. 22784

Upon the hearing, if the organizational board of 22785

commissioners determines by resolution that the proposed new 22786
community district will be conducive to the public health, safety, 22787
convenience, and welfare, and is intended to result in the 22788
development of a new community, the board shall by its resolution, 22789
entered of record in its journal and the journal of the board of 22790
county commissioners with which the petition was filed, declare 22791
the new community authority to be organized and a body politic and 22792
corporate with the corporate name designated in the resolution, 22793
and define the boundary of the new community district. In 22794
addition, the resolution shall provide the method of selecting the 22795
board of trustees of the new community authority and fix the 22796
surety for their bonds in accordance with section 349.04 of the 22797
Revised Code. 22798

If the organizational board of commissioners finds that the 22799
establishment of the district will not be conducive to the public 22800
health, safety, convenience, or welfare, or is not intended to 22801
result in the development of a new community, it shall reject the 22802
petition thereby terminating the proceedings for the establishment 22803
of the new community authority. 22804

(B) At any time after the creation of a new community 22805
authority, the developer may file an application with the clerk of 22806
the board of county commissioners of the county in which the 22807
original petition was filed, setting forth a general description 22808
of territory it desires to add or to delete from such district, 22809
that such change will be conducive to the public health, safety, 22810
convenience, and welfare, and will be consistent with the 22811
development of a new community and will not jeopardize the plan of 22812
the new community. If the developer is not a municipal 22813
corporation, port authority, or county, all of such an addition to 22814
such a district shall be owned by, or under the control through 22815
leases of at least seventy-five years' duration, options, or 22816
contracts to purchase, of the developer. In the case of a new 22817

community authority established on or after the effective date of 22818
this amendment and before January 1, 2012, such leases may be of 22819
not less than forty years' duration. Upon the filing of the 22820
application, the organizational board of commissioners shall 22821
follow the same procedure as required by this section in relation 22822
to the petition for the establishment of the proposed new 22823
community. 22824

(C) If all or any part of the new community district is 22825
annexed to one or more existing municipal corporations, their 22826
legislative authorities may appoint persons to replace any 22827
appointed citizen member of the board of trustees. The number of 22828
such trustees to be replaced by the municipal corporation shall be 22829
the number, rounded to the lowest integer, bearing the 22830
proportionate relationship to the number of existing appointed 22831
citizen members as the acreage of the new community district 22832
within such municipal corporation bears to the total acreage of 22833
the new community district. If any such municipal corporation 22834
chooses to replace an appointed citizen member, it shall do so by 22835
ordinance, the term of the trustee being replaced shall terminate 22836
thirty days from the date of passage of such ordinance, and the 22837
trustee to be replaced shall be determined by lot. Each newly 22838
appointed member shall assume the term of the member's 22839
predecessor. 22840

Sec. 501.07. Lands described in division (A) of section 22841
501.06 of the Revised Code shall continue to be leased under the 22842
terms granted until such time as the lease may expire. At the time 22843
of expiration, subject to section 501.04 of the Revised Code, the 22844
land may be leased again by the board of education of the school 22845
district for whose benefit the land has been allocated or be 22846
offered for sale by public auction or by the receipt of sealed 22847
bids with the sale awarded by the school board to the highest 22848
bidder. Prior to the offering of these lands for sale, the school 22849

board shall have an appraisal made of these lands by at least two 22850
disinterested appraisers. Notification of the sale of these lands, 22851
including the minerals in or on these or other lands, shall be 22852
advertised ~~at least~~ once a week for two consecutive weeks, or as 22853
provided in section 7.16 of the Revised Code, in a newspaper of 22854
general circulation in the county in which the land is located. No 22855
bids shall be accepted for less than the appraised value of the 22856
land. 22857

Sec. 503.05. When a boundary line between townships is in 22858
dispute, the board of county commissioners, upon application of 22859
the board of township trustees of one of such townships, and upon 22860
notice in writing to the board of township trustees of such civil 22861
township, and on thirty days' public notice printed in a newspaper 22862
~~published~~ of general circulation within the county, shall 22863
establish such boundary line and make a record thereof as provided 22864
by section 503.04 of the Revised Code. 22865

Sec. 503.162. (A) After certification of a resolution as 22866
provided in section 503.161 of the Revised Code, the board of 22867
elections shall submit the question of whether the township's name 22868
shall be changed to the electors of the unincorporated area of the 22869
township in accordance with division (C) of that section, and the 22870
ballot language shall be substantially as follows: 22871

"Shall the township of (name) change its name to 22872
..... (proposed name)? 22873

..... For name change 22874

..... Against name change" 22875

(B)(1) At least forty-five days before the election on this 22876
question, the board of township trustees shall provide notice of 22877
the election and an explanation of the proposed name change in a 22878
newspaper of general circulation in the township once a week for 22879

two consecutive weeks ~~and~~ or as provided in section 7.16 of the 22880
Revised Code. The board of township trustees shall post the notice 22881
and explanation in five conspicuous places in the unincorporated 22882
area of the township. 22883

(2) If the board of elections operates and maintains a web 22884
site, notice of the election and an explanation of the proposed 22885
name change shall be posted on that web site for at least thirty 22886
days before the election on this question. 22887

(C) If a majority of the votes cast on the proposition of 22888
changing the township's name is in the affirmative, the name 22889
change is adopted and becomes effective ninety days after the 22890
board of elections certifies the election results to the fiscal 22891
officer of the township. Upon receipt of the certification of the 22892
election results from the board of elections, the fiscal officer 22893
of the township shall send a copy of that certification to the 22894
secretary of state. 22895

(D) A change in the name of a township shall not alter the 22896
rights or liabilities of the township as previously named. 22897

Sec. 503.41. (A) A board of township trustees, by resolution, 22898
may regulate and require the registration of massage 22899
establishments and their employees within the unincorporated 22900
territory of the township. In accordance with sections 503.40 to 22901
503.49 of the Revised Code, for that purpose, the board, by a 22902
majority vote of all members, may adopt, amend, administer, and 22903
enforce regulations within the unincorporated territory of the 22904
township. 22905

(B) A board may adopt regulations and amendments under this 22906
section only after public hearing at not fewer than two regular 22907
sessions of the board. The board shall cause to be published in ~~at~~ 22908
~~least one~~ a newspaper of general circulation in the township, or 22909
as provided in section 7.16 of the Revised Code, notice of the 22910

public hearings, including the time, date, and place, once a week 22911
for two weeks immediately preceding the hearings. The board shall 22912
make available proposed regulations or amendments to the public at 22913
the office of the board. 22914

(C) Regulations or amendments adopted by the board are 22915
effective thirty days after the date of adoption unless, within 22916
thirty days after the adoption of the regulations or amendments, 22917
the township fiscal officer receives a petition, signed by a 22918
number of qualified electors residing in the unincorporated area 22919
of the township equal to not less than ten per cent of the total 22920
vote cast for all candidates for governor in the area at the most 22921
recent general election at which a governor was elected, 22922
requesting the board to submit the regulations or amendments to 22923
the electors of the area for approval or rejection at the next 22924
primary or general election occurring at least ninety days after 22925
the board receives the petition. 22926

No regulation or amendment for which the referendum vote has 22927
been requested is effective unless a majority of the votes cast on 22928
the issue is in favor of the regulation or amendment. Upon 22929
certification by the board of elections that a majority of the 22930
votes cast on the issue was in favor of the regulation or 22931
amendment, the regulation or amendment takes immediate effect. 22932

(D) The board shall make available regulations it adopts or 22933
amends to the public at the office of the board and shall cause to 22934
be published once a notice of the availability of the regulations 22935
in ~~at least one~~ a newspaper of general circulation in the township 22936
within ten days after their adoption or amendment. 22937

(E) Nothing in sections 503.40 to 503.49 of the Revised Code 22938
shall be construed to allow a board of township trustees to 22939
regulate the practice of any limited branch of medicine specified 22940
in section 4731.15 of the Revised Code or the practice of 22941
providing therapeutic massage by a licensed physician, a licensed 22942

chiropractor, a licensed podiatrist, a licensed nurse, or any 22943
other licensed health professional. As used in this division, 22944
"licensed" means licensed, certified, or registered to practice in 22945
this state. 22946

Sec. 504.02. (A) After certification of a resolution as 22947
provided in division (A) of section 504.01 of the Revised Code, 22948
the board of elections shall submit the question of whether to 22949
adopt a limited home rule government to the electors of the 22950
unincorporated area of the township, and the ballot language shall 22951
be substantially as follows: 22952

"Shall the township of (name) adopt a limited 22953
home rule government, under which government the board of township 22954
trustees, by resolution, may exercise limited powers of local 22955
self-government and limited police powers? 22956
..... For adoption of a limited home rule government 22957
..... Against adoption of a limited home rule government" 22958

(B)(1) At least forty-five days before the election on this 22959
question, the board of township trustees shall have notice of the 22960
election and a description of the proposed limited home rule 22961
government published in a newspaper of general circulation in the 22962
township once a week for two consecutive weeks or as provided in 22963
section 7.16 of the Revised Code, and shall have the notice and 22964
description posted in five conspicuous places in the 22965
unincorporated area of the township. 22966

(2) If a board of elections operates and maintains a web 22967
site, notice of the election and a description of the proposed 22968
limited home rule government shall be posted on that web site for 22969
at least thirty days before the election on this question. 22970

(C) If a majority of the votes cast on the proposition of 22971
adopting a limited home rule government is in the affirmative, 22972
that government is adopted and becomes the government of the 22973

township on the first day of January immediately following the election. 22974
22975

Sec. 504.03. (A)(1) If a limited home rule government is 22976
adopted pursuant to section 504.02 of the Revised Code, it shall 22977
remain in effect for at least three years except as otherwise 22978
provided in division (B) of this section. At the end of that 22979
period, if the board of township trustees determines that that 22980
government is not in the best interests of the township, it may 22981
adopt a resolution causing the board of elections to submit to the 22982
electors of the unincorporated area of the township the question 22983
of whether the township should continue the limited home rule 22984
government. The question shall be voted upon at the next general 22985
election occurring at least ninety days after the certification of 22986
the resolution to the board of elections. After certification of 22987
the resolution, the board of elections shall submit the question 22988
to the electors of the unincorporated area of the township, and 22989
the ballot language shall be substantially as follows: 22990

"Shall the township of (name) continue the 22991
limited home rule government under which it is operating? 22992
..... For continuation of the limited home rule government 22993
..... Against continuation of the limited home rule government" 22994

(2)(a) At least forty-five days before the election on the 22995
question of continuing the limited home rule government, the board 22996
of township trustees shall have notice of the election published 22997
in a newspaper of general circulation in the township once a week 22998
for two consecutive weeks or as provided in section 7.16 of the 22999
Revised Code, and shall have the notice posted in five conspicuous 23000
places in the unincorporated area of the township. 23001

(b) If a board of elections operates and maintains a web 23002
site, notice of the election shall be posted on that web site for 23003
at least thirty days before the election on the question of 23004

continuing the limited home rule government. 23005

(B) The electors of a township that has adopted a limited 23006
home rule government may propose at any time by initiative 23007
petition, in accordance with section 504.14 of the Revised Code, a 23008
resolution submitting to the electors in the unincorporated area 23009
of the township, in an election, the question set forth in 23010
division (A)(1) of this section. 23011

(C) If a majority of the votes cast under division (A) or (B) 23012
of this section on the proposition of continuing the limited home 23013
rule government is in the negative, that government is terminated 23014
effective on the first day of January immediately following the 23015
election, and a limited home rule government shall not be adopted 23016
in the unincorporated area of the township pursuant to section 23017
504.02 of the Revised Code for at least three years after that 23018
date. 23019

(D) If a limited home rule government is terminated under 23020
this section, the board of township trustees immediately shall 23021
adopt a resolution repealing all resolutions adopted pursuant to 23022
this chapter that are not authorized by any other section of the 23023
Revised Code outside this chapter, effective on the first day of 23024
January immediately following the election described in division 23025
(A) or (B) of this section. However, no resolution adopted under 23026
this division shall affect or impair the obligations of the 23027
township under any security issued or contracts entered into by 23028
the township in connection with the financing of any water supply 23029
facility or sewer improvement under sections 504.18 to 504.20 of 23030
the Revised Code or the authority of the township to collect or 23031
enforce any assessments or other revenues constituting security 23032
for or source of payments of debt service charges of those 23033
securities. 23034

(E) Upon the termination of a limited home rule government 23035
under this section, if the township had converted its board of 23036

township trustees to a five-member board before September 26, 23037
2003, the current board member who received the lowest number of 23038
votes of the current board members who were elected at the most 23039
recent election for township trustees, and the current board 23040
member who received the lowest number of votes of the current 23041
board members who were elected at the second most recent election 23042
for township trustees, shall cease to be township trustees on the 23043
date that the limited home rule government terminates. Their 23044
offices likewise shall cease to exist at that time, and the board 23045
shall continue as a three-member board as provided in section 23046
505.01 of the Revised Code. 23047

Sec. 504.12. No resolution and no section or numbered or 23048
lettered division of a section shall be revised or amended unless 23049
the new resolution contains the entire resolution, section, or 23050
division as revised or amended, and the resolution, section, or 23051
division so amended shall be repealed. This requirement does not 23052
prevent the amendment of a resolution by the addition of a new 23053
section, or division, and in this case the full text of the former 23054
resolution need not be set forth, nor does this section prevent 23055
repeals by implication. Except in the case of a codification or 23056
recodification of resolutions, a separate vote shall be taken on 23057
each resolution proposed to be amended. Resolutions that have been 23058
introduced and have received their first reading or their first 23059
and second readings, but have not been voted on for passage, may 23060
be amended or revised by a majority vote of the members of the 23061
board of township trustees, and the amended or revised resolution 23062
need not receive additional readings. 23063

The board of township trustees of a limited home rule 23064
township may revise, codify, and publish in book form the 23065
resolutions of the township in the same manner as provided in 23066
section 731.23 of the Revised Code for municipal corporations. 23067
Resolutions adopted by the board shall be published in the same 23068

manner as provided by sections 731.21, 731.22, 731.24, 731.25, and 23069
731.26 of the Revised Code for municipal corporations, except that 23070
they shall be published in ~~newspapers circulating~~ a newspaper of 23071
general circulation within the township. The fiscal officer of the 23072
township shall perform the duties that the clerk of the 23073
legislative authority of a municipal corporation is required to 23074
perform under those sections. 23075

The procedures provided in this section apply only to 23076
resolutions adopted pursuant to a township's limited home rule 23077
powers as authorized by this chapter. 23078

Sec. 504.16. (A) Each township that adopts a limited home 23079
rule government shall promptly do one of the following: 23080

(1) Establish a police district pursuant to section 505.48 of 23081
the Revised Code, except that the district shall include all of 23082
the unincorporated area of the township and no other territory; 23083

(2) Establish a joint ~~township~~ police district pursuant to 23084
section ~~505.481~~ 505.482 of the Revised Code; 23085

(3) Contract pursuant to section 311.29, 505.43, or 505.50 of 23086
the Revised Code to obtain police protection services, including 23087
the enforcement of township resolutions adopted under this 23088
chapter, on a regular basis. 23089

(B) A township that has taken an action described in division 23090
(A) of this section before adopting a limited home rule government 23091
need not take any other such action upon adopting that government. 23092

(C) The requirement that a township take one of the actions 23093
described in divisions (A)(1), (2), and (3) of this section does 23094
not prevent a township that acts under division (A)(1) or (2) of 23095
this section from contracting under division (A)(3) of this 23096
section to obtain additional police protection services on a 23097
regular basis. 23098

Sec. 504.21. (A) The board of township trustees of a township 23099
that has adopted a limited home rule government may, for the 23100
unincorporated territory in the township, adopt, amend, and 23101
rescind rules establishing technically feasible and economically 23102
reasonable standards to achieve a level of management and 23103
conservation practices that will abate wind or water erosion of 23104
the soil or abate the degradation of the waters of the state by 23105
soil sediment in conjunction with land grading, excavating, 23106
filling, or other soil disturbing activities on land used or being 23107
developed in the township for nonfarm commercial, industrial, 23108
residential, or other nonfarm purposes, and establish criteria for 23109
determination of the acceptability of those management and 23110
conservation practices. The rules shall be designed to implement 23111
the applicable areawide waste treatment management plan prepared 23112
under section 208 of the "Federal Water Pollution Control Act," 86 23113
Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement 23114
phase II of the storm water program of the national pollutant 23115
discharge elimination system established in 40 C.F.R. Part 122. 23116
The rules to implement phase II of the storm water program of the 23117
national pollutant discharge elimination system shall not be 23118
inconsistent with, more stringent than, or broader in scope than 23119
the rules or regulations adopted by the environmental protection 23120
agency under 40 C.F.R. Part 122. The rules adopted under this 23121
section shall not apply inside the limits of municipal 23122
corporations, to lands being used in a strip mine operation as 23123
defined in section 1513.01 of the Revised Code, or to land being 23124
used in a surface mine operation as defined in section 1514.01 of 23125
the Revised Code. 23126

The rules adopted under this section may require persons to 23127
file plans governing erosion control, sediment control, and water 23128
management before clearing, grading, excavating, filling, or 23129
otherwise wholly or partially disturbing one or more contiguous 23130

acres of land owned by one person or operated as one development 23131
unit for the construction of nonfarm buildings, structures, 23132
utilities, recreational areas, or other similar nonfarm uses. If 23133
the rules require plans to be filed, the rules shall do all of the 23134
following: 23135

(1) Designate the board itself, its employees, or another 23136
agency or official to review and approve or disapprove the plans; 23137

(2) Establish procedures and criteria for the review and 23138
approval or disapproval of the plans; 23139

(3) Require the designated entity to issue a permit to a 23140
person for the clearing, grading, excavating, filling, or other 23141
project for which plans are approved and to deny a permit to a 23142
person whose plans have been disapproved; 23143

(4) Establish procedures for the issuance of the permits; 23144

(5) Establish procedures under which a person may appeal the 23145
denial of a permit. 23146

Areas of less than one contiguous acre shall not be exempt 23147
from compliance with other provisions of this section or rules 23148
adopted under this section. The rules adopted under this section 23149
may impose reasonable filing fees for plan review, permit 23150
processing, and field inspections. 23151

No permit or plan shall be required for a public highway, 23152
transportation, or drainage improvement or maintenance project 23153
undertaken by a government agency or political subdivision in 23154
accordance with a statement of its standard sediment control 23155
policies that is approved by the board or the chief of the 23156
division of soil and water resources in the department of natural 23157
resources. 23158

(B) Rules or amendments may be adopted under this section 23159
only after public hearings at not fewer than two regular sessions 23160

of the board of township trustees. The board shall cause to be 23161
published, in a newspaper of general circulation in the township, 23162
notice of the public hearings, including time, date, and place, 23163
once a week for two weeks immediately preceding the hearings, or 23164
as provided in section 7.16 of the Revised Code. The proposed 23165
rules or amendments shall be made available by the board to the 23166
public at the board office or other location indicated in the 23167
notice. The rules or amendments shall take effect on the 23168
thirty-first day following the date of their adoption. 23169

(C) The board of township trustees may employ personnel to 23170
assist in the administration of this section and the rules adopted 23171
under it. The board also, if the action does not conflict with the 23172
rules, may delegate duties to review sediment control and water 23173
management plans to its employees, and may enter into agreements 23174
with one or more political subdivisions, other township officials, 23175
or other government agencies, in any combination, in order to 23176
obtain reviews and comments on plans governing erosion control, 23177
sediment control, and water management or to obtain other services 23178
for the administration of the rules adopted under this section. 23179

(D) The board of township trustees or any duly authorized 23180
representative of the board may, upon identification to the owner 23181
or person in charge, enter any land upon obtaining agreement with 23182
the owner, tenant, or manager of the land in order to determine 23183
whether there is compliance with the rules adopted under this 23184
section. If the board or its duly authorized representative is 23185
unable to obtain such an agreement, the board or representative 23186
may apply for, and a judge of the court of common pleas for the 23187
county where the land is located may issue, an appropriate 23188
inspection warrant as necessary to achieve the purposes of this 23189
section. 23190

(E)(1) If the board of township trustees or its duly 23191
authorized representative determines that a violation of the rules 23192

adopted under this section exists, the board or representative may 23193
issue an immediate stop work order if the violator failed to 23194
obtain any federal, state, or local permit necessary for sediment 23195
and erosion control, earth movement, clearing, or cut and fill 23196
activity. In addition, if the board or representative determines 23197
such a rule violation exists, regardless of whether or not the 23198
violator has obtained the proper permits, the board or 23199
representative may authorize the issuance of a notice of 23200
violation. If, after a period of not less than thirty days has 23201
elapsed following the issuance of the notice of violation, the 23202
violation continues, the board or its duly authorized 23203
representative shall issue a second notice of violation. Except as 23204
provided in division (E)(3) of this section, if, after a period of 23205
not less than fifteen days has elapsed following the issuance of 23206
the second notice of violation, the violation continues, the board 23207
or its duly authorized representative may issue a stop work order 23208
after first obtaining the written approval of the prosecuting 23209
attorney of the county in which the township is located if, in the 23210
opinion of the prosecuting attorney, the violation is egregious. 23211

Once a stop work order is issued, the board or its duly 23212
authorized representative shall request, in writing, the 23213
prosecuting attorney to seek an injunction or other appropriate 23214
relief in the court of common pleas to abate excessive erosion or 23215
sedimentation and secure compliance with the rules adopted under 23216
this section. If the prosecuting attorney seeks an injunction or 23217
other appropriate relief, then, in granting relief, the court of 23218
common pleas may order the construction of sediment control 23219
improvements or implementation of other control measures and may 23220
assess a civil fine of not less than one hundred or more than five 23221
hundred dollars. Each day of violation of a rule or stop work 23222
order issued under this section shall be considered a separate 23223
violation subject to a civil fine. 23224

(2) The person to whom a stop work order is issued under this section may appeal the order to the court of common pleas of the county in which it was issued, seeking any equitable or other appropriate relief from that order.

(3) No stop work order shall be issued under this section against any public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water resources in the department of natural resources.

(F) No person shall violate any rule adopted or order issued under this section. Notwithstanding division (E) of this section, if the board of township trustees determines that a violation of any rule adopted or administrative order issued under this section exists, the board may request, in writing, the prosecuting attorney of the county in which the township is located, to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules or order. In granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule adopted or administrative order issued under this section shall be considered a separate violation subject to a civil fine.

Sec. 505.101. The board of township trustees of any township may, by resolution, enter into a contract, without advertising or bidding, for the purchase or sale of materials, equipment, or supplies from or to any department, agency, or political subdivision of the state, for the purchase of services with a soil

and water conservation district established under Chapter 1515. of 23256
the Revised Code, ~~or~~ for the purchase of supplies, services, 23257
materials, and equipment with a regional planning commission 23258
pursuant to division (D) of section 713.23 of the Revised Code, or 23259
for the purchase of services from an educational service center 23260
under section 3313.846 of the Revised Code. The resolution shall: 23261

(A) Set forth the maximum amount to be paid as the purchase 23262
price for the materials, equipment, supplies, or services; 23263

(B) Describe the type of materials, equipment, supplies, or 23264
services that are to be purchased; 23265

(C) Appropriate sufficient funds to pay the purchase price 23266
for the materials, equipment, supplies, or services, except that 23267
no such appropriation is necessary if funds have been previously 23268
appropriated for the purpose and remain unencumbered at the time 23269
the resolution is adopted. 23270

Sec. 505.105. Stolen or other property recovered by members 23271
of an organized police department of a township, a township police 23272
district, a joint ~~township~~ police district, or the office of a 23273
township constable shall be deposited and kept in a place 23274
designated by the head of the department, district, or office. 23275
Each article of property shall be entered in a book kept for that 23276
purpose, with the name of its owner, if ascertained, the person 23277
from whom it was taken, the place where it was found with general 23278
circumstances, the date of its receipt, and the name of the 23279
officer receiving it. 23280

An inventory of all money or other property shall be given to 23281
the party from whom it was taken, and, if it is not claimed by 23282
some person within thirty days after arrest and seizure, it shall 23283
be delivered to the person from whom it was taken, and to no other 23284
person, either attorney, agent, factor, or clerk, except by 23285
special order of the head of the department, district, or office. 23286

Sec. 505.106. No officer, or other member of an organized 23287
police department of a township, a township police district, a 23288
joint ~~township~~ police district, or the office of a township 23289
constable shall neglect or refuse to deposit property taken or 23290
found by the officer or other member in possession of a person 23291
arrested. Any conviction for a violation of this section shall 23292
vacate the office of the person so convicted. 23293

Sec. 505.107. If, within thirty days, the money or property 23294
recovered under section 505.105 of the Revised Code is claimed by 23295
any other person, it shall be retained by its custodian until 23296
after the discharge or conviction of the person from whom it was 23297
taken and as long as it is required as evidence in any case in 23298
court. If that claimant establishes to the satisfaction of the 23299
court that the claimant is the rightful owner, the money or 23300
property shall be restored to the claimant; otherwise, it shall be 23301
returned to the accused person, personally, and not to any 23302
attorney, agent, factor, or clerk of the accused person, except 23303
upon special order of the head of the organized police department 23304
of the township, township police district, joint ~~township~~ police 23305
district, or office of a township constable, as the case may be, 23306
after all liens and claims in favor of the township have first 23307
been discharged and satisfied. 23308

Sec. 505.108. Except as otherwise provided in this section 23309
and unless the property involved is required to be disposed of 23310
pursuant to another section of the Revised Code, property that is 23311
unclaimed for ninety days or more shall be sold by the chief of 23312
police or other head of the organized police department of the 23313
township, township police district, joint ~~township~~ police 23314
district, or office of a township constable at public auction, 23315
after notice of the sale has been provided by publication once a 23316

week for three successive weeks in a newspaper of general 23317
circulation, or as provided in section 7.16 of the Revised Code, 23318
in the county, or counties, if appropriate, in the case of a joint 23319
~~township~~ police district. The proceeds of the sale shall be paid 23320
to the fiscal officer of the township and credited to the township 23321
general fund, except that, in the case of a joint ~~township~~ police 23322
district, the proceeds of a sale shall be paid to the ~~fiscal~~ 23323
~~officer~~ treasurer of the ~~most populous participating township~~ 23324
joint police district board and credited to the appropriate 23325
~~township general fund or funds~~ according to agreement of the 23326
participating townships and municipal corporations. 23327

If authorized to do so by a resolution adopted by the board 23328
of township trustees or, in the case of a joint ~~township~~ police 23329
district, ~~each participating~~ the joint police district board ~~of~~ 23330
~~township trustees~~, and if the property involved is not required to 23331
be disposed of pursuant to another section of the Revised Code, 23332
the head of the department, district, or office may contribute 23333
property that is unclaimed for ninety days or more to one or more 23334
public agencies, to one or more nonprofit organizations no part of 23335
the net income of which inures to the benefit of any private 23336
shareholder or individual and no substantial part of the 23337
activities of which consists of carrying on propaganda or 23338
otherwise attempting to influence legislation, or to one or more 23339
organizations satisfying section 501(c)(3) or (c)(19) of the 23340
Internal Revenue Code of 1986. 23341

Sec. 505.109. Upon the sale of any unclaimed property as 23342
provided in section 505.108 of the Revised Code, if any of the 23343
unclaimed property was ordered removed to a place of storage or 23344
stored, or both, by or under the direction of the head of the 23345
organized police department of the township, township police 23346
district, joint ~~township~~ police district, or office of a township 23347
constable, any expenses or charges for the removal or storage, or 23348

both, and costs of sale, provided they are approved by the head of 23349
the department, district, or office, shall first be paid from the 23350
proceeds of the sale. Notice shall be given by certified mail, 23351
thirty days before the date of the sale, to the owner and 23352
mortgagee, or other lienholder, at their last known addresses. 23353

Sec. 505.17. (A) Except in a township or portion of a 23354
township that is within the limits of a municipal corporation, the 23355
board of township trustees may make regulations and orders as are 23356
necessary to control passenger car, motorcycle, and internal 23357
combustion engine noise, as permitted under section 4513.221 of 23358
the Revised Code, and all vehicle parking in the township. This 23359
authorization includes, among other powers, the power to regulate 23360
parking on established roadways proximate to buildings on private 23361
property as necessary to provide access to the property by public 23362
safety vehicles and equipment, if the property is used for 23363
commercial purposes, the public is permitted to use the parking 23364
area, and accommodation for more than ten motor vehicles is 23365
provided, and the power to authorize the issuance of orders 23366
limiting or prohibiting parking on any township street or highway 23367
during a snow emergency declared pursuant to a snow-emergency 23368
authorization adopted under this division. All such regulations 23369
and orders shall be subject to the limitations, restrictions, and 23370
exceptions in sections 4511.01 to 4511.76 and 4513.02 to 4513.37 23371
of the Revised Code. 23372

A board of township trustees may adopt a general 23373
snow-emergency authorization, which becomes effective under 23374
division (B)(1) of this section, allowing the president of the 23375
board or some other person specified in the authorization to issue 23376
an order declaring a snow emergency and limiting or prohibiting 23377
parking on any township street or highway during the snow 23378
emergency. Any such order becomes effective under division (B)(2) 23379
of this section. Each general snow-emergency authorization adopted 23380

under this division shall specify the weather conditions under 23381
which a snow emergency may be declared in that township. 23382

(B)(1) All regulations and orders, including any 23383
snow-emergency authorization established by the board under this 23384
section, except for an order declaring a snow emergency as 23385
provided in division (B)(2) of this section, shall be posted by 23386
the township fiscal officer in five conspicuous public places in 23387
the township for thirty days before becoming effective, and shall 23388
be published in a newspaper of general circulation in the township 23389
for three consecutive weeks or as provided in section 7.16 of the 23390
Revised Code. In addition to these requirements, no general 23391
snow-emergency authorization shall become effective until 23392
permanent signs giving notice that parking is limited or 23393
prohibited during a snow emergency are properly posted, in 23394
accordance with any applicable standards adopted by the department 23395
of transportation, along streets or highways specified in the 23396
authorization. 23397

(2) Pursuant to the adoption of a snow-emergency 23398
authorization under this section, an order declaring a snow 23399
emergency becomes effective two hours after the president of the 23400
board or the other person specified in the general snow-emergency 23401
authorization makes an announcement of a snow emergency to the 23402
local news media. The president or other specified person shall 23403
request the local news media to announce that a snow emergency has 23404
been declared, the time the declaration will go into effect, and 23405
whether the snow emergency will remain in effect for a specified 23406
period of time or indefinitely until canceled by a subsequent 23407
announcement to the local news media by the president or other 23408
specified person. 23409

(C) Such regulations and orders may be enforced where traffic 23410
control devices conforming to section 4511.09 of the Revised Code 23411
are prominently displayed. Parking regulations authorized by this 23412

section do not apply to any state highway unless the parking 23413
regulations are approved by the director of transportation. 23414

(D) A board of township trustees or its designated agent may 23415
order into storage any vehicle parked in violation of a township 23416
parking regulation or order, if the violation is not one that is 23417
required to be handled pursuant to Chapter 4521. of the Revised 23418
Code. The owner or any lienholder of a vehicle ordered into 23419
storage may claim the vehicle upon presentation of proof of 23420
ownership, which may be evidenced by a certificate of title to the 23421
vehicle, and payment of all expenses, charges, and fines incurred 23422
as a result of the parking violation and removal and storage of 23423
the vehicle. 23424

(E) Whoever violates any regulation or order adopted pursuant 23425
to this section is guilty of a minor misdemeanor, unless the 23426
township has enacted a regulation pursuant to division (A) of 23427
section 4521.02 of the Revised Code, that specifies that the 23428
violation shall not be considered a criminal offense and shall be 23429
handled pursuant to Chapter 4521. of the Revised Code. Fines 23430
levied and collected under this section shall be paid into the 23431
township general revenue fund. 23432

Sec. 505.172. (A) As used in this section, "law enforcement 23433
officer" means a sheriff, deputy sheriff, constable, police 23434
officer of a township or joint ~~township~~ police district, marshal, 23435
deputy marshal, or municipal police officer. 23436

(B) Except as otherwise provided in this section and section 23437
505.17 of the Revised Code, a board of township trustees may adopt 23438
regulations and orders that are necessary to control noise within 23439
the unincorporated territory of the township that is generated at 23440
any premises to which a D permit has been issued by the division 23441
of liquor control or that is generated within any areas zoned for 23442
residential use. 23443

(C) Any person who engages in any of the activities described 23444
in section 1.61 of the Revised Code is exempt from any regulation 23445
or order adopted under division (B) of this section if the noise 23446
is attributed to an activity described in section 1.61 of the 23447
Revised Code. Any person who engages in coal mining and 23448
reclamation operations, as defined in division (B) of section 23449
1513.01 of the Revised Code, or surface mining, as defined in 23450
division (A) of section 1514.01 of the Revised Code, is exempt 23451
from any regulation or order adopted under division (B) of this 23452
section if the noise is attributed to coal mining and reclamation 23453
or surface mining activities. Noise resulting from the drilling, 23454
completion, operation, maintenance, or construction of any crude 23455
oil or natural gas wells or pipelines or any appurtenances to 23456
those wells or pipelines or from the distribution, transportation, 23457
gathering, or storage of crude oil or natural gas is exempt from 23458
any regulation or order adopted under division (B) of this 23459
section. 23460

(D)(1) Except as otherwise provided in division (C) ~~or (D)(2)~~ 23461
of this section, any regulation or order adopted under division 23462
(B) of this section shall apply to any business or industry ~~in~~ 23463
~~existence and operating on October 20, 1999, and a regulation or~~ 23464
~~order so adopted shall apply to any new operation or expansion of~~ 23465
~~that business or industry that results in substantially increased~~ 23466
~~noise levels from those generated by that business or industry on~~ 23467
~~that date.~~ 23468

~~(2) Any regulation or order adopted under division (B) of~~ 23469
~~this section applies or~~ to any premises to which a D permit has 23470
been issued by the division of liquor control regardless of 23471
~~whether the premises was in existence and operating on October 20,~~ 23472
~~1999, or whether when~~ it came into existence ~~and operation after~~ 23473
~~that date.~~ 23474

(E) Whoever violates any regulation or order adopted under 23475

division (B) of this section is guilty of a misdemeanor of the 23476
second degree. Fines levied and collected under this section shall 23477
be paid into the township general revenue fund. 23478

(F) Any person allegedly aggrieved by another person's 23479
violation of a regulation or order adopted under division (B) of 23480
this section may seek in a civil action a declaratory judgment, an 23481
injunction, or other appropriate relief against the other person 23482
committing the act or practice that violates that regulation or 23483
order. A board of township trustees that adopts a regulation or 23484
order under division (B) of this section ~~shall~~ may seek in a civil 23485
action an injunction against ~~each~~ any person that commits an act 23486
or practice that violates that regulation or order. The court 23487
involved in a civil action referred to in this division may award 23488
to the prevailing party reasonable attorney's fees limited to the 23489
work reasonably performed. 23490

(G) If any law enforcement officer with jurisdiction in a 23491
township that has adopted a regulation or order under division (B) 23492
of this section has reasonable cause to believe that any premises 23493
to which a D permit has been issued by the division of liquor 23494
control has violated the regulation or order and, as a result of 23495
the violation, has caused, is causing, or is about to cause 23496
substantial and material harm, the law enforcement officer may 23497
issue an order that the premises cease and desist from the 23498
activity violating the regulation or order. The cease-and-desist 23499
order shall be served personally upon the owner, operator, 23500
manager, or other person in charge of the premises immediately 23501
after its issuance by the officer. The township thereafter may 23502
publicize or otherwise make known to all interested persons that 23503
the cease-and-desist order has been issued. 23504

The cease-and-desist order shall specify the particular 23505
conduct that is subject to the order and shall inform the person 23506
upon whom it is served that the premises will be granted a hearing 23507

in the municipal court or county court with jurisdiction over the 23508
premises regarding the operation of the order and the possible 23509
issuance of an injunction or other appropriate relief. The 23510
premises shall comply with the cease-and-desist order immediately 23511
upon receipt of the order. Upon service of the cease-and-desist 23512
order upon the owner, operator, manager, or other person in charge 23513
of the premises, the township law director or, if the township 23514
does not have a law director, the prosecuting attorney of the 23515
county in which the township is located shall file in the 23516
municipal court or county court with jurisdiction over the 23517
premises a civil action seeking to confirm the cease-and-desist 23518
order and seeking an injunction or other appropriate relief 23519
against the premises. The owner, operator, manager, or other 23520
person in charge of the premises may file a motion in that civil 23521
action for a stay of the cease-and-desist order for good cause 23522
shown, pending the court's rendering its decision in the action. 23523
The court shall set a date for a hearing, hold the hearing, and 23524
render a decision in the action not more than ten days after the 23525
date of the cease-and-desist order, or the cease-and-desist order 23526
is terminated. Division (F) of this section applies regarding an 23527
action filed as described in this division. 23528

(H) Nothing in this section authorizes a township to enforce 23529
any regulation or order adopted under division (B) of this section 23530
against a premises to which a D permit has been issued by the 23531
division of liquor control if that premises is not located in the 23532
unincorporated territory of that township. 23533

Sec. 505.24. Each township trustee is entitled to 23534
compensation as follows: 23535

(A) Except as otherwise provided in division (B) of this 23536
section, an amount for each day of service in the business of the 23537
township, to be paid from the township treasury as follows: 23538

(1) In townships having a budget of fifty thousand dollars or less, twenty dollars per day for not more than two hundred days;	23539 23540
(2) In townships having a budget of more than fifty thousand but not more than one hundred thousand dollars, twenty-four dollars per day for not more than two hundred days;	23541 23542 23543
(3) In townships having a budget of more than one hundred thousand but not more than two hundred fifty thousand dollars, twenty-eight dollars and fifty cents per day for not more than two hundred days;	23544 23545 23546 23547
(4) In townships having a budget of more than two hundred fifty thousand but not more than five hundred thousand dollars, thirty-three dollars per day for not more than two hundred days;	23548 23549 23550
(5) In townships having a budget of more than five hundred thousand but not more than seven hundred fifty thousand dollars, thirty-five dollars per day for not more than two hundred days;	23551 23552 23553
(6) In townships having a budget of more than seven hundred fifty thousand but not more than one million five hundred thousand dollars, forty dollars per day for not more than two hundred days;	23554 23555 23556
(7) In townships having a budget of more than one million five hundred thousand but not more than three million five hundred thousand dollars, forty-four dollars per day for not more than two hundred days;	23557 23558 23559 23560
(8) In townships having a budget of more than three million five hundred thousand dollars but not more than six million dollars, forty-eight dollars per day for not more than two hundred days;	23561 23562 23563 23564
(9) In townships having a budget of more than six million dollars, fifty-two dollars per day for not more than two hundred days.	23565 23566 23567
(B) Beginning in calendar year 1999, the amounts paid as	23568

specified in division (A) of this section shall be replaced by the 23569
following amounts: 23570

(1) In calendar year 1999, the amounts specified in division 23571
(A) of this section increased by three per cent; 23572

(2) In calendar year 2000, the amounts determined under 23573
division (B)(1) of this section increased by three per cent; 23574

(3) In calendar year 2001, the amounts determined under 23575
division (B)(2) of this section increased by three per cent; 23576

(4) In calendar year 2002, except in townships having a 23577
budget of more than six million dollars, the amounts determined 23578
under division (B)(3) of this section increased by three per cent; 23579
in townships having a budget of more than six million but not more 23580
than ten million dollars, seventy dollars per day for not more 23581
than two hundred days; and in townships having a budget of more 23582
than ten million dollars, ninety dollars per day for not more than 23583
two hundred days; 23584

(5) In calendar years 2003 through 2008, the amounts 23585
determined under division (B) of this section for the immediately 23586
preceding calendar year increased by the lesser of the following: 23587

(a) Three per cent; 23588

(b) The percentage increase, if any, in the consumer price 23589
index over the twelve-month period that ends on the thirtieth day 23590
of September of the immediately preceding calendar year, rounded 23591
to the nearest one-tenth of one per cent; 23592

(6) In calendar year 2009 and thereafter, the amount 23593
determined under division (B) of this section for calendar year 23594
2008. 23595

As used in division (B) of this section, "consumer price 23596
index" has the same meaning as in section 325.18 of the Revised 23597
Code. 23598

(C) Whenever members of a board of township trustees are 23599
compensated per diem and not by annual salary, the board shall 23600
establish, by resolution, a method by which each member of the 23601
board shall periodically notify the township fiscal officer of the 23602
number of days spent in the service of the township and the kinds 23603
of services rendered on those days. The per diem compensation 23604
shall be paid from the township general fund or from other 23605
township funds in such proportions as the kinds of services 23606
performed may require. The notice shall be filed with the township 23607
fiscal officer and preserved for inspection by any persons 23608
interested. 23609

By unanimous vote, a board of township trustees may adopt a 23610
method of compensation consisting of an annual salary to be paid 23611
in equal monthly payments. If the office of trustee is held by 23612
more than one person during any calendar year, each person holding 23613
the office shall receive payments for only those months, and any 23614
fractions of those months, during which the person holds the 23615
office. The amount of the annual salary approved by the board 23616
shall be no more than the maximum amount that could be received 23617
annually by a trustee if the trustee were paid on a per diem basis 23618
as specified in this division, and shall be paid from the township 23619
general fund or from other township funds in such proportions as 23620
the board may specify by resolution. Each trustee shall certify 23621
the percentage of time spent working on matters to be paid from 23622
the township general fund and from other township funds in such 23623
proportions as the kinds of services performed. A board of 23624
township trustees that has adopted a salary method of compensation 23625
may return to a method of compensation on a per diem basis as 23626
specified in this division by a majority vote. Any change in the 23627
method of compensation shall be effective on the first day of 23628
January of the year following the year during which the board has 23629
voted to change the method of compensation. 23630

Sec. 505.264. (A) As used in this section, "energy	23631
conservation measure" means an installation or modification of an	23632
installation in, or remodeling of, an existing building, to reduce	23633
energy consumption. It includes the following:	23634
(1) Insulation of the building structure and of systems	23635
within the building;	23636
(2) Storm windows and doors, multiglazed windows and doors,	23637
heat-absorbing or heat-reflective glazed and coated window and	23638
door systems, additional glazing, reductions in glass area, and	23639
other window and door system modifications that reduce energy	23640
consumption;	23641
(3) Automatic energy control systems;	23642
(4) Heating, ventilating, or air conditioning system	23643
modifications or replacements;	23644
(5) Caulking and weatherstripping;	23645
(6) Replacement or modification of lighting fixtures to	23646
increase the energy efficiency of the system without increasing	23647
the overall illumination of a facility, unless an increase in	23648
illumination is necessary to conform to the applicable state or	23649
local building code for the proposed lighting system;	23650
(7) Energy recovery systems;	23651
(8) Cogeneration systems that produce steam or forms of	23652
energy such as heat, as well as electricity, for use primarily	23653
within a building or complex of buildings;	23654
(9) Any other modification, installation, or remodeling	23655
approved by the board of township trustees as an energy	23656
conservation measure.	23657
(B) For the purpose of evaluating township buildings for	23658
energy conservation measures, a township may contract with an	23659

architect, professional engineer, energy services company, 23660
contractor, or other person experienced in the design and 23661
implementation of energy conservation measures for a report that 23662
analyzes the buildings' energy needs and presents recommendations 23663
for building installations, modifications of existing 23664
installations, or building remodeling that would significantly 23665
reduce energy consumption in the buildings owned by that township. 23666
The report shall include estimates of all costs of the 23667
installations, modifications, or remodeling, including costs of 23668
design, engineering, installation, maintenance, and repairs, and 23669
estimates of the amounts by which energy consumption could be 23670
reduced. 23671

(C) A township desiring to implement energy conservation 23672
measures may proceed under either of the following methods: 23673

(1) Using a report or any part of a report prepared under 23674
division (B) of this section, advertise for bids and comply with 23675
the bidding procedures set forth in sections 307.86 to 307.92 of 23676
the Revised Code; 23677

(2) Request proposals from at least three vendors for the 23678
implementation of energy conservation measures. Prior to sending 23679
any installer of energy conservation measures a copy of any such 23680
request, the township shall advertise its intent to request 23681
proposals for the installation of energy conservation measures in 23682
a newspaper of general circulation in the township once a week for 23683
two consecutive weeks or as provided in section 7.16 of the 23684
Revised Code. The notice shall state that the township intends to 23685
request proposals for the installation of energy conservation 23686
measures; indicate the date, which shall be at least ten days 23687
after the second publication, on which the request for proposals 23688
will be mailed to installers of energy conservation measures; and 23689
state that any installer of energy conservation measures 23690
interested in receiving the request for proposal shall submit 23691

written notice to the township not later than noon of the day on 23692
which the request for proposal will be mailed. 23693

Upon receiving the proposals, the township shall analyze them 23694
and select the proposal or proposals most likely to result in the 23695
greatest energy savings considering the cost of the project and 23696
the township's ability to pay for the improvements with current 23697
revenues or by financing the improvements. The awarding of a 23698
contract to install energy conservation measures under division 23699
(C)(2) of this section shall be conditioned upon a finding by the 23700
township that the amount of money spent on energy savings measures 23701
is not likely to exceed the amount of money the township would 23702
save in energy and operating costs over ten years or a lesser 23703
period as determined by the township or, in the case of contracts 23704
for cogeneration systems, over five years or a lesser period as 23705
determined by the township. Nothing in this section prohibits a 23706
township from rejecting all proposals or from selecting more than 23707
one proposal. 23708

(D) A board of township trustees may enter into an 23709
installment payment contract for the purchase and installation of 23710
energy conservation measures. Any provisions of those installment 23711
payment contracts that deal with interest charges and financing 23712
terms shall not be subject to the competitive bidding procedures 23713
of section 307.86 of the Revised Code. Unless otherwise approved 23714
by a resolution of the board, an installment payment contract 23715
entered into by a board of township trustees under this section 23716
shall require the board to contract in accordance with the 23717
procedures set forth in section 307.86 of the Revised Code for the 23718
installation, modification, or remodeling of energy conservation 23719
measures pursuant to this section. 23720

(E) The board may issue securities of the township specifying 23721
the terms of the purchase and securing the deferred payments, 23722
payable at the times provided and bearing interest at a rate not 23723

exceeding the rate determined as provided in section 9.95 of the Revised Code. The maximum maturity of the securities shall be as provided in division (B)(7)(g) of section 133.20 of the Revised Code. The securities may contain an option for prepayment and shall not be subject to Chapter 133. of the Revised Code. Revenues derived from local taxes or otherwise, for the purpose of conserving energy or for defraying the current operating expenses of the township, may be applied to the payment of interest and the retirement of the securities. The securities may be sold at private sale or given to the contractor under the installment payment contract authorized by division (D) of this section.

(F) Debt incurred under this section shall not be included in the calculation of the net indebtedness of a township under section 133.09 of the Revised Code.

Sec. 505.267. (A) As used in this section:

(1) "Lease-purchase agreement" has the same meaning as a lease with an option to purchase.

(2) "Public obligation" has the same meaning as in section 133.01 of the Revised Code.

(B) For any purpose for which a board of township trustees, ~~or a board of trustees of a joint township~~ police district board, a township fire district, a joint fire district, or a fire and ambulance district is authorized to acquire real or personal property, that board may enter into a lease-purchase agreement in accordance with this section to acquire the property. The board's resolution authorizing the lease-purchase agreement may provide for the issuance of certificates of participation or other evidences of fractionalized interests in the lease-purchase agreement, for the purpose of financing, or refinancing or refunding, any public obligation that financed or refinanced the acquisition of the property. Sections 9.94, 133.03, and 133.30 of

the Revised Code shall apply to any such fractionalized interests. 23755

The lease-purchase agreement shall provide for a series of 23756
terms in which no term extends beyond the end of the fiscal year 23757
of the township or district in which that term commences. In 23758
total, the terms provided for in the agreement shall be for not 23759
more than the useful life of the real or personal property that is 23760
the subject of the agreement. A property's useful life shall be 23761
determined either by the maximum number of installment payments 23762
permitted under the statute that authorizes the board to acquire 23763
the property or, if there is no such provision, by the maximum 23764
number of years to maturity provided for the issuance of bonds in 23765
division (B) of section 133.20 of the Revised Code for that 23766
property. If the useful life cannot be determined under either of 23767
those statutes, it shall be estimated as provided in division (C) 23768
of section 133.20 of the Revised Code. 23769

The lease-purchase agreement shall provide that, at the end 23770
of the final term in the agreement, if all obligations of the 23771
township or district have been satisfied, the title to the leased 23772
property shall vest in the township or district executing the 23773
lease-purchase agreement, if that title has not vested in the 23774
township or district before or during the lease terms; except that 23775
the lease-purchase agreement may require the township or district 23776
to pay an additional lump sum payment as a condition of obtaining 23777
that title. 23778

(C) A board of trustees that enters into a lease-purchase 23779
agreement under this section may do any of the following with the 23780
property that is the subject of the agreement: 23781

(1) If the property is personal property, assign the board's 23782
rights to that property; 23783

(2) Grant the lessor a security interest in the property; 23784

(3) If the property is real property, grant leases, 23785

easements, or licenses for underlying land or facilities under the 23786
board's control for terms not exceeding five years beyond the 23787
final term of the lease-purchase agreement. 23788

(D) The authority granted in this section is in addition to, 23789
and not in derogation of, any other financing authority provided 23790
by law. 23791

Sec. 505.28. The board of township trustees may create a 23792
waste disposal district under sections 505.27 to 505.33 of the 23793
Revised Code, by a unanimous vote of the board and give notice 23794
thereof by a publication in ~~two newspapers~~ a newspaper of general 23795
circulation in the township. If, within thirty days after such 23796
publication, a protest petition is filed with the board, signed by 23797
at least fifty per cent of the electors residing in the district, 23798
the act of the board in creating such district shall be void. If a 23799
petition is filed with the board asking for the creation of such a 23800
district in the township, accompanied by a map clearly showing the 23801
boundaries of such district, and signed by at least sixty-five per 23802
cent of the electors residing therein, with addresses of such 23803
signers, the board shall, within sixty days, create such a 23804
district. 23805

Each district shall be given a name, and the entire cost of 23806
any necessary equipment and labor shall be apportioned against 23807
each district by the respective boards. 23808

Sec. 505.373. The board of township trustees may, by 23809
resolution, adopt by incorporation by reference a standard code 23810
pertaining to fire, fire hazards, and fire prevention prepared and 23811
promulgated by the state or any department, board, or other agency 23812
of the state, or any such code prepared and promulgated by a 23813
public or private organization that publishes a model or standard 23814
code. 23815

After the adoption of the code by the board, a notice clearly identifying the code, stating the purpose of the code, and stating that a complete copy of the code is on file with the township fiscal officer for inspection by the public and also on file in the law library of the county in which the township is located and that the fiscal officer has copies available for distribution to the public at cost, shall be posted by the fiscal officer in five conspicuous places in the township for thirty days before becoming effective. The notice required by this section shall also be published in a newspaper of general circulation in the township once a week for three consecutive weeks or as provided in section 7.16 of the Revised Code. If the adopting township amends or deletes any provision of the code, the notice shall contain a brief summary of the deletion or amendment.

If the agency that originally promulgated or published the code thereafter amends the code, any township that has adopted the code pursuant to this section may adopt the amendment or change by incorporation by reference in the same manner as provided for adoption of the original code.

Sec. 505.43. In order to obtain police protection, or to obtain additional police protection, any township may enter into a contract with one or more townships, municipal corporations, park districts created pursuant to section 511.18 or 1545.01 of the Revised Code, ~~or~~ county sheriffs, joint police districts, or with a governmental entity of an adjoining state upon any terms that are agreed to by them, for services of police departments or use of police equipment, or the interchange of the service of police departments or use of police equipment within the several territories of the contracting subdivisions, if the contract is first authorized by respective boards of township trustees or other legislative bodies. The cost of the contract may be paid for from the township general fund or from funds received pursuant to

the passage of a levy authorized pursuant to division (J) of 23848
section 5705.19 and section 5705.25 of the Revised Code. 23849

Chapter 2744. of the Revised Code, insofar as it is 23850
applicable to the operation of police departments, applies to the 23851
contracting political subdivisions and police department members 23852
when the members are rendering service outside their own 23853
subdivision pursuant to the contract. 23854

Police department members acting outside the subdivision in 23855
which they are employed may participate in any pension or 23856
indemnity fund established by their employer to the same extent as 23857
while acting within the employing subdivision, and are entitled to 23858
all the rights and benefits of Chapter 4123. of the Revised Code, 23859
to the same extent as while performing service within the 23860
subdivision. 23861

The contract may provide for a fixed annual charge to be paid 23862
at the times agreed upon and stipulated in the contract. 23863

Sec. 505.48. (A) The board of township trustees of any 23864
township may, by resolution adopted by two-thirds of the members 23865
of the board, create a township police district comprised of all 23866
or a portion of the unincorporated territory of the township as 23867
the resolution may specify. If the township police district does 23868
not include all of the unincorporated territory of the township, 23869
the resolution creating the district shall contain a complete and 23870
accurate description of the territory of the district and a 23871
separate and distinct name for the district. 23872

At any time not less than one hundred twenty days after a 23873
township police district is created and operative, the territorial 23874
limits of the district may be altered in the manner provided in 23875
division (B) of this section or, if applicable, as provided in 23876
section 505.482 of the Revised Code. 23877

(B) Except as otherwise provided in section ~~505.482~~ 505.481 23878
of the Revised Code, the territorial limits of a township police 23879
district may be altered by a resolution adopted by a two-thirds 23880
vote of the board of township trustees. If the township police 23881
district imposes a tax, any territory proposed for addition to the 23882
district shall become part of the district only after all of the 23883
following have occurred: 23884

(1) Adoption by two-thirds vote of the board of township 23885
trustees of a resolution approving the expansion of the 23886
territorial limits of the district; 23887

(2) Adoption by a two-thirds vote of the board of township 23888
trustees of a resolution recommending the extension of the tax to 23889
the additional territory; 23890

(3) Approval of the tax by the electors of the territory 23891
proposed for addition to the district. 23892

Each resolution of the board adopted under division (B)(2) of 23893
this section shall state the name of the township police district, 23894
a description of the territory to be added, and the rate and 23895
termination date of the tax, which shall be the rate and 23896
termination date of the tax currently in effect in the district. 23897

The board of trustees shall certify each resolution adopted 23898
under division (B)(2) of this section to the board of elections in 23899
accordance with section 5705.19 of the Revised Code. The election 23900
required under division (B)(3) of this section shall be held, 23901
canvassed, and certified in the manner provided for the submission 23902
of tax levies under section 5705.25 of the Revised Code, except 23903
that the question appearing on the ballot shall read: 23904

"Shall the territory within 23905
(description of the proposed territory to be added) be added to 23906
..... (name) township police district, and a property 23907
tax at a rate of taxation not exceeding (here insert 23908

tax rate) be in effect for (here insert the number of 23909
years the tax is to be in effect or "a continuing period of time," 23910
as applicable)?" 23911

If the question is approved by at least a majority of the 23912
electors voting on it, the joinder shall be effective as of the 23913
first day of January of the year following approval, and, on that 23914
date, the township police district tax shall be extended to the 23915
taxable property within the territory that has been added. 23916

Sec. ~~505.482~~ 505.481. (A) If a township police district does 23917
not include all the unincorporated territory of the township, the 23918
remaining unincorporated territory of the township may be added to 23919
the district by a resolution adopted by a unanimous vote of the 23920
board of township trustees to place the issue of expansion of the 23921
district on the ballot for the electors of the entire 23922
unincorporated territory of the township. The resolution shall 23923
state whether the proposed township police district initially will 23924
hire personnel as provided in section 505.49 of the Revised Code 23925
or contract for the provision of police protection services or 23926
additional police protection services as provided in section 23927
505.43 or 505.50 of the Revised Code. 23928

The ballot measure shall provide for the addition into a new 23929
district of all the unincorporated territory of the township not 23930
already included in the township police district and for the levy 23931
of any tax then imposed by the district throughout the 23932
unincorporated territory of the township. The measure shall state 23933
the rate of the tax, if any, to be imposed in the district 23934
resulting from approval of the measure, which need not be the same 23935
rate of any tax imposed by the existing district, and the last 23936
year in which the tax will be levied or that it will be levied for 23937
a continuous period of time. 23938

(B) The election on the measure shall be held, canvassed, and 23939

certified in the manner provided for the submission of tax levies 23940
under section 5705.25 of the Revised Code, except that the 23941
question appearing on the ballot shall read substantially as 23942
follows: 23943

"Shall the unincorporated territory within (name 23944
of the township) not already included within the (name 23945
of township police district) be added to the township police 23946
district to create the (name of new township police 23947
district) township police district?" 23948

The name of the proposed township police district shall be 23949
separate and distinct from the name of the existing township 23950
police district. 23951

If a tax is imposed in the existing township police district, 23952
the question shall be modified by adding, at the end of the 23953
question, the following: ", and shall a property tax be levied in 23954
the new township police district, replacing the tax in the 23955
existing township police district, at a rate not exceeding 23956
..... mills per dollar of taxable valuation, which amounts to 23957
..... (rate expressed in dollars and cents per one thousand 23958
dollars in taxable valuation), for (number of years the 23959
tax will be levied, or "a continuing period of time")." 23960

If the measure is not approved by a majority of the electors 23961
voting on it, the township police district shall continue to 23962
occupy its existing territory until altered as provided in this 23963
section or section 505.48 of the Revised Code, and any existing 23964
tax imposed under section 505.51 of the Revised Code shall remain 23965
in effect in the existing district at the existing rate and for as 23966
long as provided in the resolution under the authority of which 23967
the tax is levied. 23968

Sec. ~~505.481~~ 505.482. (A) The boards of township trustees of 23969
any two or more contiguous townships, or the boards of township 23970

trustees of one or more contiguous townships and the legislative 23971
authorities of one or more contiguous municipal corporations, 23972
whether or not within the same county, ~~may,~~ by adoption of a joint 23973
resolution by a ~~two-thirds~~ majority favorable vote of each such 23974
board and of the members of the legislative authority of each such 23975
municipal corporation, may form themselves into a joint ~~township~~ 23976
police district board, ~~and such townships shall be a part of a~~ 23977
~~joint township police district~~ comprising all or any part of the 23978
townships or municipal corporations as are mutually agreed upon. 23979
The governing body of the joint police district shall be a joint 23980
police district board, which shall include either all of the 23981
township trustees of each township and all of the members of the 23982
legislative authority of each municipal corporation in the 23983
district, as agreed to and established in the joint resolution 23984
creating the joint police district; or an odd number of members as 23985
agreed to and established in the joint resolution, as long as the 23986
members are representatives from each board of township trustees 23987
of each township and from the legislative authority of each 23988
municipal corporation in the joint police district. 23989

~~Such (B) The~~ joint ~~township~~ police district board shall 23990
organize within thirty days after the favorable vote by the last 23991
board of township trustees or the members of the legislative 23992
authority of the last municipal corporation joining itself into 23993
the joint ~~township~~ police district board. The president of the 23994
board of township trustees of the most populous participating 23995
township or the legislative authority of the most populous 23996
participating municipal corporation shall give notice of the time 23997
and place of organization to each pending member of the joint 23998
police district board ~~of township trustees of each participating~~ 23999
~~township,~~ as established in the joint resolution. Such notice 24000
shall be signed ~~by the president of the board of township trustees~~ 24001
~~of the most populous participating township,~~ and shall be sent by 24002
certified mail to each such pending member of the board ~~of~~ 24003

~~township trustees of each participating township, at least five~~ 24004
~~days prior to the organization meeting, which meeting shall be~~ 24005
~~held in one of the participating townships or municipal~~ 24006
~~corporations. All members of the boards of township trustees of~~ 24007
~~the participating townships constitute the joint township police~~ 24008
~~district board.~~ Two-thirds of all the ~~township trustees of the~~ 24009
~~participating townships joint police district board members~~ 24010
constitutes a quorum. ~~Such~~ The members of the ~~boards of township~~ 24011
~~trustees joint police district board~~ shall, at the organization 24012
meeting ~~of the joint township police district board,~~ proceed with 24013
the election of a president, a secretary, and a treasurer, and 24014
such other officers as they consider necessary and proper, and 24015
shall transact such other business as properly comes before the 24016
board. 24017

(C) In the formation of ~~such~~ a joint police district, such 24018
action may be taken by or on behalf of part of a township, by 24019
excluding that portion of the township lying within a municipal 24020
corporation. The joint ~~township~~ police district board may exercise 24021
the same powers as are granted to a board of township trustees in 24022
the operation of a township police district under sections 505.49 24023
to 505.55 of the Revised Code, including, but not limited to, the 24024
power to employ, train, and discipline personnel, to acquire 24025
equipment and buildings, to levy a tax, to issue bonds and notes, 24026
and to dissolve the district. 24027

Sec. 505.483. A township or municipal corporation, or parts 24028
thereof, may join an existing joint police district by the 24029
adoption of a resolution by the township or of an ordinance by the 24030
municipal corporation requesting participation in the district and 24031
upon approval of the existing joint police district board. 24032

Sec. 505.484. The treasurer of the joint police district 24033
board, before entering upon the duties of that office, shall 24034

execute a bond payable to the state, in the amount and with surety 24035
to be approved by the joint police district board, conditioned for 24036
the faithful performance of all the official duties required by 24037
the treasurer. The bond shall be deposited with the president of 24038
the joint police district board, and a copy thereof, certified by 24039
the president, shall be filed with the county auditor. 24040

Sec. 505.49. (A) As used in this section, "felony" has the 24041
same meaning as in section 109.511 of the Revised Code. 24042

(B)(1) The township trustees of a township police district, 24043
by a two-thirds vote of the board, or a joint police district 24044
board, by majority vote of its members, may adopt rules necessary 24045
for the operation of the township or joint police district, 24046
including a determination of the qualifications of the chief of 24047
police, patrol officers, and others to serve as members of the 24048
district police force. 24049

(2) Except as otherwise provided in division (E) of this 24050
section and subject to division (D) of this section, the township 24051
trustees of a township police district, by a two-thirds vote of 24052
the board or the joint police district board, by majority vote of 24053
its members, shall appoint a chief of police for the district, 24054
determine the number of patrol officers and other personnel 24055
required by the district, and establish salary schedules and other 24056
conditions of employment for the employees of the township or 24057
joint police district. The chief of police of the district shall 24058
serve at the pleasure of the township trustees or the joint police 24059
district board and shall appoint patrol officers and other 24060
personnel that the district may require, subject to division (D) 24061
of this section and to the rules and limits as to qualifications, 24062
salary ranges, and numbers of personnel established by the board 24063
of township trustees or the joint police district board. The 24064
township trustees may include in the township police district and 24065

under the direction and control of the chief of police any 24066
constable appointed pursuant to section 509.01 of the Revised 24067
Code, or may designate the chief of police or any patrol officer 24068
appointed by the chief of police as a constable, as provided for 24069
in section 509.01 of the Revised Code, for the township police 24070
district. 24071

(3) Except as provided in division (D) of this section, a 24072
patrol officer, other police district employee, or police 24073
constable, who has been awarded a certificate attesting to the 24074
satisfactory completion of an approved state, county, or municipal 24075
police basic training program, as required by section 109.77 of 24076
the Revised Code, may be removed or suspended only under the 24077
conditions and by the procedures in sections 505.491 to 505.495 of 24078
the Revised Code. Any other patrol officer, police district 24079
employee, or police constable shall serve at the pleasure of the 24080
township trustees or joint police district board. In case of 24081
removal or suspension of an appointee by the board of township 24082
trustees of a township police district or the joint police 24083
district board, that appointee may appeal the decision of ~~the~~ 24084
either board to the court of common pleas of the county in which 24085
the district is situated to determine the sufficiency of the cause 24086
of removal or suspension. The appointee shall take the appeal 24087
within ten days of written notice to the appointee of the decision 24088
of the board. 24089

(C)(1) Division (B) of this section does not apply to a 24090
township that has a population of ten thousand or more persons 24091
residing within the township and outside of any municipal 24092
corporation, that has its own police department employing ten or 24093
more full-time paid employees, and that has a civil service 24094
commission established under division (B) of section 124.40 of the 24095
Revised Code. The township shall comply with the procedures for 24096
the employment, promotion, and discharge of police personnel 24097

provided by Chapter 124. of the Revised Code, except as otherwise 24098
provided in divisions (C)(2) and (3) of this section. 24099

(2) The board of township trustees of the township may 24100
appoint the chief of police, and a person so appointed shall be in 24101
the unclassified service under section 124.11 of the Revised Code 24102
and shall serve at the pleasure of the board. A person appointed 24103
chief of police under these conditions who is removed by the board 24104
or who resigns from the position shall be entitled to return to 24105
the classified service in the township police department, in the 24106
position that person held previous to the person's appointment as 24107
chief of police. 24108

(3) The appointing authority of an urban township, as defined 24109
in section 504.01 of the Revised Code, may appoint to a vacant 24110
position any one of the three highest scorers on the eligible list 24111
for a promotional examination. 24112

(4) The board of township trustees of a township described in 24113
this division shall determine the number of personnel required and 24114
establish salary schedules and conditions of employment not in 24115
conflict with Chapter 124. of the Revised Code. 24116

(5) Persons employed as police personnel in a township 24117
described in this division on the date a civil service commission 24118
is appointed pursuant to division (B) of section 124.40 of the 24119
Revised Code, without being required to pass a competitive 24120
examination or a police training program, shall retain their 24121
employment and any rank previously granted them by action of the 24122
township trustees or otherwise, but those persons are eligible for 24123
promotion only by compliance with Chapter 124. of the Revised 24124
Code. 24125

(6) This division does not apply to constables appointed 24126
pursuant to section 509.01 of the Revised Code. This division is 24127
subject to division (D) of this section. 24128

(D)(1) The board of township trustees or a joint police 24129
district board shall not appoint or employ a person as a chief of 24130
police, and the chief of police shall not appoint or employ a 24131
person as a patrol officer or other peace officer of a township 24132
police district ~~or a~~ township police department, or joint police 24133
district on a permanent basis, on a temporary basis, for a 24134
probationary term, or on other than a permanent basis if the 24135
person previously has been convicted of or has pleaded guilty to a 24136
felony. 24137

(2)(a) The board of township trustees or joint police 24138
district board shall terminate the appointment or employment of a 24139
chief of police, patrol officer, or other peace officer of a 24140
township police district ~~or a~~ township police department, or joint 24141
police district who does either of the following: 24142

(i) Pleads guilty to a felony; 24143

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 24144
plea agreement as provided in division (D) of section 2929.43 of 24145
the Revised Code in which the chief of police, patrol officer, or 24146
other peace officer of a township police district ~~or a~~ township 24147
police department, or joint police district agrees to surrender 24148
the certificate awarded to that chief of police, patrol officer, 24149
or other peace officer under section 109.77 of the Revised Code. 24150

(b) The board shall suspend the appointment or employment of 24151
a chief of police, patrol officer, or other peace officer of a 24152
township police district ~~or a~~ township police department, or joint 24153
police district who is convicted, after trial, of a felony. If ~~the~~ 24154
such chief of police, patrol officer, or other peace officer ~~of a~~ 24155
~~township police district or township police department~~ files an 24156
appeal from that conviction and the conviction is upheld by the 24157
highest court to which the appeal is taken, or if no timely 24158
appeal is filed, the board shall terminate the appointment or 24159
employment of that chief of police, patrol officer, or other peace 24160

officer. If the chief of police, patrol officer, or other peace officer of a township police district ~~or~~, township police department, or joint police district files an appeal that results in that chief of police's, patrol officer's, or other peace officer's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the chief of police, patrol officer, or other peace officer, the board shall reinstate that chief of police, patrol officer, or other peace officer. A chief of police, patrol officer, or other peace officer ~~of a township police district or township police department~~ who is reinstated under division (D)(2)(b) of this section shall not receive any back pay unless the conviction of that chief of police, patrol officer, or other peace officer of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the chief of police, patrol officer, or other peace officer of the felony.

(3) Division (D) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or termination of the appointment or employment of a chief of police, patrol officer, or other peace officer under division (D)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

(E) The board of township trustees or the joint police district board may enter into a contract under section 505.43 or 505.50 of the Revised Code to obtain all police protection for the township police district or joint police district from one or more municipal corporations, county sheriffs, or other townships. If the board enters into such a contract, subject to division (D) of this section, it may, but is not required to, appoint a police chief for the district.

(F) The members of the police force of a township police district of a township, or of a joint police district board

comprised of a township, that adopts the limited self-government 24193
form of township government shall serve as peace officers for the 24194
township territory included in the district. 24195

(G) A chief of police or patrol officer of a township police 24196
district, ~~or of a township police department,~~ or joint police 24197
district may participate, as the director of an organized crime 24198
task force established under section 177.02 of the Revised Code or 24199
as a member of the investigatory staff of that task force, in an 24200
investigation of organized criminal activity in any county or 24201
counties in this state under sections 177.01 to 177.03 of the 24202
Revised Code. 24203

Sec. 505.491. Except as provided in division (D) of section 24204
505.49 or in division (C) of section 509.01 of the Revised Code 24205
for a board of township trustees, and except as provided in 24206
division (D) of section 505.49 of the Revised Code for a joint 24207
police district board, if the board ~~of trustees of a township~~ has 24208
reason to believe that a chief of police, patrol officer, or other 24209
township or joint police district employee appointed under 24210
division (B) of section 505.49 of the Revised Code or a police 24211
constable appointed under division (B) of section 509.01 of the 24212
Revised Code has been guilty, in the performance of the official 24213
duty of that chief of police, patrol officer, other township or 24214
joint police district employee, or police constable, of bribery, 24215
misfeasance, malfeasance, nonfeasance, misconduct in office, 24216
neglect of duty, gross immorality, habitual drunkenness, 24217
incompetence, or failure to obey orders given that person by the 24218
proper authority, the board immediately shall file written charges 24219
against that person, ~~setting.~~ The written charges shall set forth 24220
in detail a statement of the alleged guilt and, at the same time, 24221
or as soon thereafter as possible, serve a true copy of those 24222
charges upon the person against whom they are made. The service 24223
may be made on the person or by leaving a copy of the charges at 24224

the office or residence of that person. Return of the service 24225
shall be made to the board in the same manner that is provided for 24226
the return of the service of summons in a civil action. 24227

Sec. 505.492. Charges filed by the board of township trustees 24228
or joint police district board under section 505.491 of the 24229
Revised Code shall be heard at the next regular meeting thereof, 24230
unless the board extends the time for the hearing, which shall be 24231
done only on the application of the accused. The accused may 24232
appear in person and by counsel, examine all witnesses, and answer 24233
all charges against ~~him~~ the accused. 24234

Sec. 505.493. Pending any proceedings under sections 505.491 24235
and 505.492 of the Revised Code, an accused person may be 24236
suspended by the board of township trustees or joint police 24237
district board, but such suspension shall be for a period not 24238
longer than fifteen days, unless the hearing of such charges is 24239
extended upon the application of the accused, in which event the 24240
suspension shall not exceed thirty days. 24241

Sec. 505.494. For the purpose of investigating charges filed 24242
pursuant to section 505.491 of the Revised Code, the board of 24243
township trustees or joint police district board may issue 24244
subpoenas or compulsory process to compel the attendance of 24245
persons and the production of books and papers before it and 24246
provide by resolution for exercising and enforcing this section. 24247

Sec. 505.495. In all cases in which the attendance of 24248
witnesses may be compelled for an investigation, under section 24249
505.494 of the Revised Code, any member of the board of township 24250
trustees or of the joint police district board may administer the 24251
requisite oaths. The board has the same power to compel the giving 24252
of testimony by attending witnesses as is conferred upon courts. 24253

In all such cases, witnesses shall be entitled to the same 24254
privileges and immunities as are allowed witnesses in civil cases. 24255
Witnesses shall be paid the fees and mileage provided for under 24256
section 1901.26 of the Revised Code, and the costs of all such 24257
proceedings shall be payable from the general fund of the township 24258
or joint police district. 24259

Sec. 505.50. The board of township trustees of a township or 24260
of a township police district, or a joint police district board, 24261
may purchase, lease, lease with an option to purchase, or 24262
otherwise acquire any police apparatus, equipment, including a 24263
public communications system, or materials that the township ~~or,~~ 24264
township police district, or joint police district requires and 24265
may build, purchase, lease, or lease with an option to purchase 24266
any building or buildings and site of the building or buildings 24267
that are necessary for the police operations of the township or 24268
either district. 24269

The boards of trustees of any two or more contiguous 24270
townships, ~~may~~ or the boards of township trustees of one or more 24271
contiguous townships and the legislative authorities of one or 24272
more contiguous municipal corporations, by joint agreement, may 24273
unite in the joint purchase, lease, lease with an option to 24274
purchase, maintenance, use, and operation of police equipment for 24275
any other police purpose designated in sections 505.48 to 505.55 24276
of the Revised Code, and to prorate the expense of that joint 24277
action on terms mutually agreed upon by the trustees in each 24278
affected township and the legislative authorities of each affected 24279
municipal corporation. 24280

The board of trustees of a township or of a township police 24281
district, or a joint police district board, may enter into a 24282
contract with one or more townships, a municipal corporation, a 24283
park district created pursuant to section 511.18 or 1545.01 of the 24284

Revised Code, or the county sheriff upon any terms that are 24285
mutually agreed upon for the provision of police protection 24286
services or additional police protection services either on a 24287
regular basis or for additional protection in times of emergency. 24288
The contract shall be agreed to in each instance by the respective 24289
board or boards of township trustees, the board of county 24290
commissioners, the board of park commissioners, the joint police 24291
district board, or the legislative authority of the municipal 24292
corporation involved. The contract may provide for a fixed annual 24293
charge to be paid at the time agreed upon in the contract. 24294

Chapter 2744. of the Revised Code, insofar as it is 24295
applicable to the operation of police departments, applies to the 24296
contracting political subdivisions and police department members 24297
when the members are serving outside their own political 24298
subdivision pursuant to such a contract. Police department members 24299
acting outside the political subdivision in which they are 24300
employed may participate in any pension or indemnity fund 24301
established by their employer and are entitled to all the rights 24302
and benefits of Chapter 4123. of the Revised Code, to the same 24303
extent as while performing services within the political 24304
subdivision. 24305

Sec. 505.51. The board of trustees of a township police 24306
district or a joint police district board may levy a tax upon all 24307
of the taxable property in the township police district or joint 24308
police district, respectively, pursuant to sections 5705.19 and 24309
5705.25 of the Revised Code to defray all or a portion of expenses 24310
of the district in providing police protection. 24311

Sec. 505.511. (A) A board of township trustees that operates 24312
a township police department ~~or~~, the board of township trustees of 24313
a township police district, or a joint police district board may, 24314
after police constables, the township police, a law enforcement 24315

agency with which the township contracts for police services, the 24316
joint police district police, and the county sheriff or the 24317
sheriff's deputy have answered a combined total of three false 24318
alarms from the same commercial or residential security alarm 24319
system within the township in the same calendar year, cause the 24320
township fiscal officer to mail the manager of the commercial 24321
establishment or the occupant, lessee, agent, or tenant of the 24322
residence a bill for each subsequent false alarm from the same 24323
alarm system during that year, to defray the costs incurred. The 24324
bill's amount shall be as follows: 24325

(1) For the fourth false alarm of that year \$50.00; 24326

(2) For the fifth false alarm of that year \$100.00; 24327

(3) For all false alarms in that year occurring after the 24328
fifth false alarm \$150.00. 24329

If payment of the bill is not received within thirty days, 24330
the township fiscal officer or joint police district treasurer 24331
shall send a notice by certified mail to the manager and to the 24332
owner, if different, of the real estate of which the commercial 24333
establishment is a part, or to the occupant, lessee, agent, or 24334
tenant and to the owner, if different, of the real estate of which 24335
the residence is a part, indicating that failure to pay the bill 24336
within thirty days, or to show just cause why the bill should not 24337
be paid, will result in the assessment of a lien upon the real 24338
estate in the amount of the bill. If payment is not received 24339
within those thirty days or if just cause is not shown, the amount 24340
of the bill shall be entered upon the tax duplicate, shall be a 24341
lien upon the real estate from the date of the entry, and shall be 24342
collected as other taxes and returned to the township treasury to 24343
be earmarked for use for police services. 24344

The board of township trustees shall not cause the township 24345
fiscal officer, or the joint police district board shall not cause 24346

the joint police district treasurer, to send a bill pursuant to 24347
this division if a bill has already been sent pursuant to division 24348
(B) of this section for the same false alarm. 24349

(B) The county sheriff may, after the county sheriff or the 24350
sheriff's deputy, police constables, the township police, the 24351
joint police district police, and a law enforcement agency with 24352
which the township contracts for police services have answered a 24353
combined total of three false alarms from the same commercial or 24354
residential security alarm system within the unincorporated area 24355
of the county in the same calendar year, mail the manager of the 24356
commercial establishment or the occupant, lessee, agent, or tenant 24357
of the residence a bill for each subsequent false alarm from the 24358
same alarm system during that year, to defray the costs incurred. 24359
The bill's amount shall be as follows: 24360

(1) For the fourth false alarm of that year \$50.00; 24361

(2) For the fifth false alarm of that year \$100.00; 24362

(3) For all false alarms in that year occurring after the 24363
fifth false alarm \$150.00. 24364

If payment of the bill is not received within thirty days, 24365
the sheriff shall send a notice by certified mail to the manager 24366
and to the owner, if different, of the real estate of which the 24367
commercial establishment is a part, or to the occupant, lessee, 24368
agent, or tenant and to the owner, if different, of the real 24369
estate of which the residence is a part, indicating that failure 24370
to pay the bill within thirty days, or to show just cause why the 24371
bill should not be paid, will result in the assessment of a lien 24372
upon the real estate in the amount of the bill. If payment is not 24373
received within those thirty days or if just cause is not shown, 24374
the amount of the bill shall be entered upon the tax duplicate, 24375
shall be a lien upon the real estate from the date of the entry, 24376
and shall be collected as other taxes and returned to the county 24377

treasury. 24378

The sheriff shall not send a bill pursuant to this division 24379
if a bill has already been sent pursuant to division (A) of this 24380
section for the same false alarm. 24381

(C) As used in this section, "commercial establishment" has 24382
the same meaning as in section 505.391 of the Revised Code. 24383

Sec. 505.52. The board of trustees of a township police 24384
district or a joint police district board may issue bonds for the 24385
purpose of buying police equipment in the manner provided for in 24386
section 133.18 and pursuant to Chapter 133. of the Revised Code. 24387
The proceeds of the bonds issued under this section, other than 24388
any premium and accrued interest which is credited to the sinking 24389
fund, shall be placed in the township treasury or joint police 24390
district board treasury to the credit of a fund to be known as the 24391
"police equipment fund." Money from the police equipment fund 24392
shall be paid out only upon order of the township board of 24393
trustees of the township police district or of the joint police 24394
district board. 24395

Sec. 505.53. The board of trustees of a township police 24396
district or a joint police district board may issue notes for a 24397
period not to exceed three years for the purpose of buying police 24398
equipment or a building or site to house police equipment. 24399
One-third of the purchase price of the equipment, building, or 24400
site shall be paid at the time of purchase, and the remainder of 24401
the purchase price shall be covered by notes maturing in two and 24402
three years respectively. Notes may bear interest not to exceed 24403
the rate determined as provided in section 9.95 of the Revised 24404
Code, and shall not be subject to Chapter 133. of the Revised 24405
Code. Such notes shall be offered for sale on the open market or 24406
given to a vendor if no sale is made. 24407

Sec. 505.54. The board of trustees of the township or the 24408
joint police district board may, upon nomination by the chief of 24409
police, send one or more of the officers, ~~patrolmen~~ patrol 24410
officers, or other employees of the township police district or 24411
the joint police district to a school of instruction designed to 24412
provide additional training or skills related to the employees 24413
work assignment in the district. The trustees may make advance 24414
tuition payments for any employee so nominated and may defray all 24415
or a portion of the employee's expenses while receiving this 24416
instruction. 24417

Sec. 505.541. (A) The board of township trustees or a joint 24418
police district board, respectively, may establish, by resolution, 24419
a parking enforcement unit within a township police district or 24420
within a joint police district, and provide for the regulation of 24421
parking enforcement officers. The chief of police of the district 24422
shall be the executive head of the parking enforcement unit, shall 24423
make all appointments and removals of parking enforcement 24424
officers, subject to any general rules prescribed by the board of 24425
township trustees by resolution or joint police district board, as 24426
appropriate, and shall prescribe rules for the organization, 24427
training, administration, control, and conduct of the parking 24428
enforcement unit. The chief of police may appoint parking 24429
enforcement officers who agree to serve for nominal compensation, 24430
and persons with physical disabilities may receive appointments as 24431
parking enforcement officers. 24432

(B) The authority of the parking enforcement officers shall 24433
be limited to the enforcement of section 4511.69 of the Revised 24434
Code and any other parking laws specified in the resolution 24435
creating the parking enforcement unit. Parking enforcement 24436
officers shall have no other powers. 24437

(C) The training the parking enforcement officers shall 24438

receive shall include instruction in general administrative rules 24439
and procedures governing the parking enforcement unit, the role of 24440
the judicial system as it relates to parking regulation and 24441
enforcement, proper techniques and methods relating to the 24442
enforcement of parking laws, human interaction skills, and first 24443
aid. 24444

Sec. 505.55. In the event that need for a township police 24445
district ceases to exist, the township trustees by a two-thirds 24446
vote of the board shall adopt a resolution specifying the date 24447
that the township police district shall cease to exist and provide 24448
for the disposal of all property belonging to the district by 24449
public sale. Such sale must be by public auction and upon notice 24450
thereof being published once a week for three weeks in a newspaper 24451
~~published, or~~ of general circulation in such township, the or as 24452
provided in section 7.16 of the Revised Code. The last of such 24453
publications ~~to~~ shall be made at least five days before the date 24454
of the sale. Any moneys remaining after the dissolution of the 24455
district or received from the public sale of property shall be 24456
paid into the treasury of the township and may be expended for any 24457
public purpose when duly authorized by the township board of 24458
trustees. 24459

Sec. 505.551. (A) Any township or municipal corporation may 24460
withdraw from a joint police district created under section 24461
505.482 of the Revised Code by adopting a resolution or an 24462
ordinance, respectively, ordering withdrawal. On or after the 24463
first day of January of the year following the adoption of the 24464
resolution or ordinance of withdrawal, the township or municipal 24465
corporation withdrawing ceases to be a part of the district, and 24466
the power of the district to levy a tax upon the taxable property 24467
in the withdrawing township or municipal corporation terminates, 24468
except that the district shall continue to levy and collect taxes 24469

for the payment of indebtedness within the territory of the 24470
district as it was comprised at the time the indebtedness was 24471
incurred. 24472

(B) Upon the withdrawal of any township or municipal 24473
corporation from a joint police district, the county auditor shall 24474
ascertain, apportion, and order a division of the funds on hand 24475
and moneys and taxes in the process of collection, except for 24476
taxes levied for the payment of indebtedness, credits, and real 24477
and personal property, either in money or in kind, on the basis of 24478
the valuation of the respective tax duplicates of the withdrawing 24479
township or municipal corporation and the remaining territory of 24480
the joint police district. 24481

(C) When the number of townships or municipal corporations 24482
comprising a joint police district is reduced to one, the joint 24483
police district ceases to exist by operation of law, and the 24484
funds, credits, and property remaining after apportionments to 24485
withdrawing townships or municipal corporations shall be assumed 24486
by the one remaining township or municipal corporation. When a 24487
joint police district ceases to exist and an indebtedness remains 24488
unpaid, the board of county commissioners shall continue to levy 24489
and collect taxes for the payment of that indebtedness within the 24490
territory of the joint police district as it was comprised at the 24491
time the indebtedness was incurred. 24492

Sec. 505.60. The following applies until the department of 24493
administrative services implements for townships the health care 24494
plans under section 9.901 of the Revised Code. If those plans do 24495
not include or address any benefits listed in division (A) of this 24496
section, the following provisions continue in effect for those 24497
benefits. 24498

(A) As provided in this section and section 505.601 of the 24499

Revised Code, the board of township trustees of any township may 24500
procure and pay all or any part of the cost of insurance policies 24501
that may provide benefits for hospitalization, surgical care, 24502
major medical care, disability, dental care, eye care, medical 24503
care, hearing aids, prescription drugs, or sickness and accident 24504
insurance, or a combination of any of the foregoing types of 24505
insurance for township officers and employees. The board of 24506
township trustees of any township may negotiate and contract for 24507
the purchase of a policy of long-term care insurance for township 24508
officers and employees pursuant to section 124.841 of the Revised 24509
Code. 24510

If the board procures any insurance policies under this 24511
section, the board shall provide uniform coverage under these 24512
policies for township officers and full-time township employees 24513
and their immediate dependents, and may provide coverage under 24514
these policies for part-time township employees and their 24515
immediate dependents, from the funds or budgets from which the 24516
officers or employees are compensated for services, such policies 24517
to be issued by an insurance company duly authorized to do 24518
business in this state. 24519

(B) The board may also provide coverage for any or all of the 24520
benefits described in division (A) of this section by entering 24521
into a contract for group health care services with health 24522
insuring corporations holding certificates of authority under 24523
Chapter 1751. of the Revised Code for township officers and 24524
employees and their immediate dependents. If the board so 24525
contracts, it shall provide uniform coverage under any such 24526
contracts for township officers and full-time township employees 24527
and their immediate dependents, from the funds or budgets from 24528
which the officers or employees are compensated for services, and 24529
may provide coverage under such contracts for part-time township 24530
employees and their immediate dependents, from the funds or 24531

budgets from which the officers or employees are compensated for 24532
services, provided that each officer and employee so covered is 24533
permitted to: 24534

(1) Choose between a plan offered by an insurance company and 24535
a plan offered by a health insuring corporation, and provided 24536
further that the officer or employee pays any amount by which the 24537
cost of the plan chosen exceeds the cost of the plan offered by 24538
the board under this section; 24539

(2) Change the choice made under this division at a time each 24540
year as determined in advance by the board. 24541

An addition of a class or change of definition of coverage to 24542
the plan offered under this division by the board may be made at 24543
any time that it is determined by the board to be in the best 24544
interest of the township. If the total cost to the township of the 24545
revised plan for any trustee's coverage does not exceed that cost 24546
under the plan in effect during the prior policy year, the 24547
revision of the plan does not cause an increase in that trustee's 24548
compensation. 24549

(C) Any township officer or employee may refuse to accept any 24550
coverage authorized by this section without affecting the 24551
availability of such coverage to other township officers and 24552
employees. 24553

(D) If any township officer or employee is denied coverage 24554
under a health care plan procured under this section or if any 24555
township officer or employee elects not to participate in the 24556
township's health care plan, the township may reimburse the 24557
officer or employee for each out-of-pocket premium attributable to 24558
the coverage provided for the officer or employee for insurance 24559
benefits described in division (A) of this section that the 24560
officer or employee otherwise obtains, but not to exceed an amount 24561
equal to the average premium paid by the township for its officers 24562

and employees under any health care plan it procures under this 24563
section. 24564

(E) The board may provide the benefits authorized under this 24565
section, without competitive bidding, by contributing to a health 24566
and welfare trust fund administered through or in conjunction with 24567
a collective bargaining representative of the township employees. 24568

The board may also provide the benefits described in this 24569
section through an individual self-insurance program or a joint 24570
self-insurance program as provided in section 9.833 of the Revised 24571
Code. 24572

(F) If a board of township trustees fails to pay one or more 24573
premiums for a policy, contract, or plan of insurance or health 24574
care services authorized under this section and the failure causes 24575
a lapse, cancellation, or other termination of coverage under the 24576
policy, contract, or plan, it may reimburse a township officer or 24577
employee for, or pay on behalf of the officer or employee, any 24578
expenses incurred that would have been covered under the policy, 24579
contract, or plan. 24580

(G) As used in this section and section 505.601 of the 24581
Revised Code: 24582

(1) "Part-time township employee" means a township employee 24583
who is hired with the expectation that the employee will work not 24584
more than one thousand five hundred hours in any year. 24585

(2) "Premium" does not include any deductible or health care 24586
costs paid directly by a township officer or employee. 24587

Sec. 505.601. The following applies until the department of 24588
administrative services implements for townships the health care 24589
plans under section 9.901 of the Revised Code. 24590

If a board of township trustees does not procure an insurance 24591
policy or group health care services as provided in section 505.60 24592

of the Revised Code, the board of township trustees may reimburse 24593
any township officer or employee for each out-of-pocket premium 24594
attributable to the coverage provided for that officer or employee 24595
for insurance benefits described in division (A) of section 505.60 24596
of the Revised Code that the officer or employee otherwise 24597
obtains, if all of the following conditions are met: 24598

(A) The board of township trustees adopts a resolution that 24599
states that the township has chosen not to procure a health care 24600
plan under section 505.60 of the Revised Code and has chosen 24601
instead to reimburse its officers and employees for each 24602
out-of-pocket premium attributable to the coverage provided for 24603
them for insurance benefits described in division (A) of section 24604
505.60 of the Revised Code that they otherwise obtain. 24605

(B) That resolution provides for a uniform maximum monthly or 24606
yearly payment amount for each officer or employee to cover 24607
themselves and their immediate dependents, beyond which the 24608
township will not reimburse the officer or employee. 24609

(C) That resolution states the specific benefits listed in 24610
division (A) of section 505.60 of the Revised Code for which the 24611
township will reimburse all officers and employees of the 24612
township. The township may not reimburse officers and employees 24613
for benefits other than those listed in division (A) of section 24614
505.60 of the Revised Code. 24615

Sec. 505.603. The following applies until the department of 24616
administrative services implements for townships the health care 24617
plans under section 9.901 of the Revised Code. If those plans do 24618
not include or address any benefits incorporated in this section, 24619
the following provisions continue in effect for those benefits. 24620

In addition to or in lieu of providing benefits to township 24621
officers and employees under section 505.60, 505.601, or 505.602 24622
of the Revised Code, a board of township trustees may offer 24623

benefits to officers and employees through a cafeteria plan that 24624
meets the requirements of section 125 of the "Internal Revenue 24625
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 125, as amended, after 24626
first adopting a policy authorizing an officer or employee to 24627
receive a cash payment in lieu of a benefit otherwise offered to 24628
township officers or employees under any of those sections, but 24629
only if the cash payment does not exceed twenty-five per cent of 24630
the cost of premiums or payments that otherwise would be paid by 24631
the board for benefits for the officer or employee under an 24632
offered policy, contract, or plan. No cash payment in lieu of a 24633
benefit shall be made pursuant to this section unless the officer 24634
or employee signs a statement affirming that the officer or 24635
employee is covered under another health insurance or health care 24636
policy, contract, or plan in the case of a health benefit, or a 24637
life insurance policy in the case of a life insurance benefit, and 24638
setting forth the name of the employer, if any, that sponsors the 24639
coverage, the name of the carrier that provides the coverage, and 24640
an identifying number of the applicable policy, contract, or plan. 24641

Sec. 505.61. A board of township trustees may purchase a 24642
policy or policies of insurance to indemnify township constables 24643
appointed under Chapter 509. of the Revised Code or the chief of 24644
police, ~~patrolmen~~ patrol officers, and other employees of a 24645
township police district established under sections 505.48 to 24646
505.55 of the Revised Code against liability arising from the 24647
performance of their official duties. 24648

A joint police district board may purchase a policy or 24649
policies of insurance to indemnify the chief of police, patrol 24650
officers, and other employees of a joint police district 24651
established under section 505.482 of the Revised Code against 24652
liability arising from the performance of their duties. 24653

Sec. 505.67. (A) If the board of county commissioners of the 24654

county in which a township is located has not established a motor 24655
vehicle decal registration program under section 311.31 of the 24656
Revised Code, the board of township trustees may establish, by 24657
resolution, a voluntary motor vehicle decal registration program 24658
to be controlled and conducted by the chief law enforcement 24659
officer of the township within the unincorporated areas of the 24660
township. The board may establish a fee for participation in the 24661
program in an amount sufficient to cover the cost of administering 24662
the program and the cost of the decals. 24663

(B) Any resident of the township may enroll a motor vehicle 24664
that ~~he~~ the resident owns in the program by signing a consent 24665
form, displaying the decal issued under this section, and paying 24666
the prescribed fee. The motor vehicle owner shall remove the decal 24667
to withdraw from the program and also prior to the sale or 24668
transfer of ownership of the vehicle. Any law enforcement officer 24669
may conduct, at any place within this state at which the officer 24670
would be permitted to arrest the person operating the vehicle, an 24671
investigatory stop of any motor vehicle displaying a decal issued 24672
under this section when the vehicle is being driven between the 24673
hours of one a.m. and five a.m. A law enforcement officer may 24674
conduct an investigatory stop under this division regardless of 24675
whether the officer observes a violation of law involving the 24676
vehicle or whether ~~he~~ the officer has probable cause to believe 24677
that any violation of law involving the vehicle has occurred. 24678

(C) The consent form required under division (B) of this 24679
section shall: 24680

(1) Describe the conditions for participation in the program, 24681
including a description of an investigatory stop and a statement 24682
that any law enforcement officer may conduct, at any place within 24683
this state at which the officer would be permitted to arrest the 24684
person operating the vehicle, an investigatory stop of the motor 24685
vehicle when it is being driven between the hours of one a.m. and 24686

five a.m. 24687

(2) Contain other information identifying the vehicle and 24688
owner as the chief law enforcement officer of the township 24689
considers necessary. 24690

(D) The state director of public safety, in accordance with 24691
Chapter 119. of the Revised Code, shall adopt rules governing the 24692
color, size, and design of decals issued under this section and 24693
the location where the decals shall be displayed on vehicles that 24694
are enrolled in the program. 24695

(E) Divisions (A) to (D) of this section do not require a law 24696
enforcement officer to conduct an investigatory stop of a vehicle 24697
displaying a decal issued under this section. 24698

(F) As used in this section: 24699

(1) "Investigatory stop" means a temporary stop of a motor 24700
vehicle and its operator and occupants for purposes of determining 24701
the identity of the person who is operating the vehicle and, if 24702
the person who is operating it is not its owner, whether any 24703
violation of law has occurred or is occurring. An "investigatory 24704
stop" is not an arrest, but, if an officer who conducts an 24705
investigatory stop determines that illegal conduct has occurred or 24706
is ~~occurring~~ occurring, an "investigatory stop" may be the basis 24707
for an arrest. 24708

(2) "Law enforcement officer" means a sheriff, deputy 24709
sheriff, constable, police officer of a township or joint ~~township~~ 24710
police district, marshal, deputy marshal, municipal police 24711
officer, or state highway patrol trooper. 24712

Sec. 505.73. (A) The board of township trustees may, by 24713
resolution, adopt by incorporation by reference, administer, and 24714
enforce within the unincorporated area of the township an existing 24715
structures code pertaining to the repair and continued maintenance 24716

of structures and the premises of those structures. For that 24717
purpose, the board shall adopt any model or standard code prepared 24718
and promulgated by this state, any department, board, or agency of 24719
this state, or any public or private organization that publishes a 24720
recognized model or standard code on the subject. The board shall 24721
ensure that the code adopted governs subject matter not addressed 24722
by the state residential building code and that it is fully 24723
compatible with the state residential and nonresidential building 24724
codes the board of building standards adopts pursuant to section 24725
3781.10 of the Revised Code. 24726

(B) The board shall assign the duties of administering and 24727
enforcing the existing structures code to a township officer or 24728
employee who is trained and qualified for those duties and shall 24729
establish by resolution the minimum qualifications necessary to 24730
perform those duties. 24731

(C)(1) After the board adopts an existing structures code, 24732
the township fiscal officer shall post a notice that clearly 24733
identifies the code, states the code's purpose, and states that a 24734
complete copy of the code is on file for inspection by the public 24735
with the fiscal officer and in the county law library and that the 24736
fiscal officer has copies available for distribution to the public 24737
at cost. 24738

(2) The township fiscal officer shall post the notice in five 24739
conspicuous places in the township for thirty days before the code 24740
becomes effective and shall publish the notice in a newspaper of 24741
general circulation in the township for three consecutive weeks or 24742
as provided in section 7.16 of the Revised Code. If the adopting 24743
township amends or deletes any provision of the code, the notice 24744
shall contain a brief summary of the deletion or amendment. 24745

(D) If the agency that originally promulgated or published 24746
the existing structures code amends the code, the board may adopt 24747
the amendment or change by incorporation by reference in the 24748

manner provided for the adoption of the original code. 24749

Sec. 507.09. (A) Except as otherwise provided in division (D) 24750
of this section, the township fiscal officer shall be entitled to 24751
compensation as follows: 24752

(1) In townships having a budget of fifty thousand dollars or 24753
less, three thousand five hundred dollars; 24754

(2) In townships having a budget of more than fifty thousand 24755
but not more than one hundred thousand dollars, five thousand five 24756
hundred dollars; 24757

(3) In townships having a budget of more than one hundred 24758
thousand but not more than two hundred fifty thousand dollars, 24759
seven thousand seven hundred dollars; 24760

(4) In townships having a budget of more than two hundred 24761
fifty thousand but not more than five hundred thousand dollars, 24762
nine thousand nine hundred dollars; 24763

(5) In townships having a budget of more than five hundred 24764
thousand but not more than seven hundred fifty thousand dollars, 24765
eleven thousand dollars; 24766

(6) In townships having a budget of more than seven hundred 24767
fifty thousand but not more than one million five hundred thousand 24768
dollars, thirteen thousand two hundred dollars; 24769

(7) In townships having a budget of more than one million 24770
five hundred thousand but not more than three million five hundred 24771
thousand dollars, fifteen thousand four hundred dollars; 24772

(8) In townships having a budget of more than three million 24773
five hundred thousand dollars but not more than six million 24774
dollars, sixteen thousand five hundred dollars; 24775

(9) In townships having a budget of more than six million 24776
dollars, seventeen thousand six hundred dollars. 24777

(B) Any township fiscal officer may elect to receive less than the compensation the fiscal officer is entitled to under division (A) of this section. Any township fiscal officer electing to do this shall so notify the board of township trustees in writing, and the board shall include this notice in the minutes of its next board meeting.

(C) The compensation of the township fiscal officer shall be paid in equal monthly payments. If the office of township fiscal officer is held by more than one person during any calendar year, each person holding the office shall receive payments for only those months, and any fractions of those months, during which the person holds the office.

A township fiscal officer may be compensated from the township general fund or from other township funds based on the proportion of time the township fiscal officer spends providing services related to each fund. A township fiscal officer must document the amount of time the township fiscal officer spends providing services related to each fund by certification specifying the percentage of time spent working on matters to be paid from the township general fund or from other township funds in such proportions as the kinds of services performed.

(D) Beginning in calendar year 1999, the township fiscal officer shall be entitled to compensation as follows:

(1) In calendar year 1999, the compensation specified in division (A) of this section increased by three per cent;

(2) In calendar year 2000, the compensation determined under division (D)(1) of this section increased by three per cent;

(3) In calendar year 2001, the compensation determined under division (D)(2) of this section increased by three per cent;

(4) In calendar year 2002, except in townships having a budget of more than six million dollars, the compensation

determined under division (D)(3) of this section increased by 24809
three per cent; in townships having a budget of more than six 24810
million but not more than ten million dollars, nineteen thousand 24811
eight hundred ten dollars; and in townships having a budget of 24812
more than ten million dollars, twenty thousand nine hundred 24813
dollars; 24814

(5) In calendar year 2003, the compensation determined under 24815
division (D)(4) of this section increased by three per cent or the 24816
percentage increase in the consumer price index as described in 24817
division (D)(7)(b) of this section, whichever percentage is lower; 24818

(6) In calendar year 2004, except in townships having a 24819
budget of more than six million dollars, the compensation 24820
determined under division (D)(5) of this section for the calendar 24821
year 2003 increased by three per cent or the percentage increase 24822
in the consumer price index as described in division (D)(7)(b) of 24823
this section, whichever percentage is lower; in townships having a 24824
budget of more than six million but not more than ten million 24825
dollars, twenty-two thousand eighty-seven dollars; and in 24826
townships having a budget of more than ten million dollars, 24827
twenty-five thousand five hundred fifty-three dollars; 24828

(7) In calendar years 2005 through 2008, the compensation 24829
determined under division (D) of this section for the immediately 24830
preceding calendar year increased by the lesser of the following: 24831

(a) Three per cent; 24832

(b) The percentage increase, if any, in the consumer price 24833
index over the twelve-month period that ends on the thirtieth day 24834
of September of the immediately preceding calendar year, rounded 24835
to the nearest one-tenth of one per cent; 24836

(8) In calendar year 2009 and thereafter, the amount 24837
determined under division (D) of this section for calendar year 24838
2008. 24839

As used in this division, "consumer price index" has the same 24840
meaning as in section 325.18 of the Revised Code. 24841

Sec. 509.15. The following fees and expenses shall be taxed 24842
as costs, collected from the judgment debtor, and paid to the 24843
general fund of the appropriate township or district as 24844
compensation due for services rendered by township constables or 24845
members of the police force of a township police district or joint 24846
police district: 24847

(A) Serving and making return of each of the following: 24848

(1) Order to commit to jail, order on jailer for prisoner, or 24849
order of ejectment, including copies to complete service, one 24850
dollar for each defendant named therein; 24851

(2) Search warrant or warrant of arrest, for each person 24852
named in the writ, five dollars; 24853

(3) Writ of attachment of property, except for purpose of 24854
garnishment, twenty dollars; 24855

(4) Writ of attachment for the purpose of garnishment, five 24856
dollars; 24857

(5) Writ of possession or restitution, twenty dollars; 24858

(6) Attachment for contempt, for each person named in the 24859
writ, three dollars; 24860

(7) Writ of replevin, twenty dollars; 24861

(8) Summons and writs, subpoena, venire, and notice to 24862
garnishee, including copies to complete service, three dollars for 24863
each person named therein; 24864

(9) Execution against property or person, eighty cents, and 24865
six per cent of all money thus collected; 24866

(10) Any other writ, order, or notice required by law, for 24867
each person named therein, including copies to complete service, 24868

three dollars for the first name and fifty cents for each additional name.	24869 24870
(B) Mileage for the distance actually and necessarily traveled in serving and returning any of the preceding writs, orders, and notices, fifty cents for the first mile and for each additional mile, twenty cents;	24871 24872 24873 24874
(C) For attending a criminal case during the trial or hearing and having charge of prisoners, each case, two dollars and fifty cents, but, when so acting, such constable shall not be entitled to a witness fee if called upon to testify;	24875 24876 24877 24878
(D) For attending civil court during a jury trial, each case, two dollars;	24879 24880
(E) For attending civil court during a trial without jury, each case, one dollar and fifty cents;	24881 24882
(F) The actual amount paid solely for the transportation, meals, and lodging of prisoners, and for the moving and storage of goods and the care of animals taken on any legal process, such expense shall be specifically itemized on the back of the writs and sworn to;	24883 24884 24885 24886 24887
(G) For summoning and swearing appraisers, each case, two dollars;	24888 24889
(H) For advertising property for sale, by posting, taken on any legal process, one dollar;	24890 24891
(I) For taking and making return of any bond required by law, eighty cents.	24892 24893
Notwithstanding anything to the contrary in this section, if any comparable fee or expense specified under section 311.17 of the Revised Code is increased to an amount greater than that set forth in this section, the board of township trustees, board of trustees of the township police district, or joint township police	24894 24895 24896 24897 24898

district board, as appropriate, may require that the amount taxed 24899
as costs under this section equal the amount specified under 24900
section 311.17 of the Revised Code. 24901

Sec. 511.01. If, in a township, a town hall is to be built, 24902
improved, enlarged, or removed at a cost greater than ~~ten~~ fifty 24903
thousand dollars, the board of township trustees shall submit the 24904
question to the electors of such township and shall certify their 24905
resolution to the board of elections not later than four p.m. of 24906
the ninetieth day before the day of the election. 24907

Sec. 511.12. The board of township trustees may prepare plans 24908
and specifications and make contracts for the construction and 24909
erection of a memorial building, monument, statue, or memorial, 24910
for the purposes specified and within the amount authorized by 24911
section 511.08 of the Revised Code. If the total estimated cost of 24912
the construction and erection exceeds ~~twenty-five~~ fifty thousand 24913
dollars, the contract shall be let by competitive bidding. If the 24914
estimated cost is ~~twenty-five~~ fifty thousand dollars or less, 24915
competitive bidding may be required at the board's discretion. In 24916
making contracts under this section, the board shall be governed 24917
as follows: 24918

(A) Contracts for construction when competitive bidding is 24919
required shall be based upon detailed plans, specifications, forms 24920
of bids, and estimates of cost, adopted by the board. 24921

(B) Contracts shall be made in writing upon concurrence of a 24922
majority of the members of the board, and shall be signed by at 24923
least two of the members and by the contractor. If competitive 24924
bidding is required, no contract shall be made or signed until an 24925
advertisement has been placed in a newspaper, published or of 24926
general circulation in the township, at least twice. The board may 24927
also cause notice to be inserted in trade papers or other 24928

publications designated by it or to be distributed by electronic 24929
means, including posting the notice on the board's internet web 24930
site. If the board posts the notice on its web site, it may 24931
eliminate the second notice otherwise required to be published in 24932
a newspaper published or of general circulation in the township, 24933
provided that the first notice published in such newspaper meets 24934
all of the following requirements: 24935

(1) It is published at least two weeks before the opening of 24936
bids. 24937

(2) It includes a statement that the notice is posted on the 24938
board's internet web site. 24939

(3) It includes the internet address of the board's internet 24940
web site. 24941

(4) It includes instructions describing how the notice may be 24942
accessed on the board's internet web site. 24943

(C) No contract shall be let by competitive bidding except to 24944
the lowest and best bidder, who shall meet the requirements of 24945
section 153.54 of the Revised Code. 24946

(D) When, in the opinion of the board, it becomes necessary 24947
in the prosecution of such work to make alterations or 24948
modifications in any contract, the alterations or modifications 24949
shall be made only by order of the board, and that order shall be 24950
of no effect until the price to be paid for the work or materials 24951
under the altered or modified contract has been agreed upon in 24952
writing and signed by the contractor and at least two members of 24953
the board. 24954

(E) No contract or alteration or modification of it shall be 24955
valid unless made in the manner provided in this section. 24956

Sec. 511.23. (A) When the vote under section 511.22 of the 24957
Revised Code is in favor of establishing one or more public parks, 24958

the board of park commissioners shall constitute a board, to be 24959
called the board of park commissioners of that township park 24960
district, and they shall be a body politic and corporate. Their 24961
office is not a township office within the meaning of section 24962
703.22 of the Revised Code but is an office of the township park 24963
district. The members of the board shall serve without 24964
compensation but shall be allowed their actual and necessary 24965
expenses incurred in the performance of their duties. 24966

(B) The board may locate, establish, improve, maintain, and 24967
operate a public park or parks in accordance with division (B) of 24968
section 511.18 of the Revised Code, with or without recreational 24969
facilities. Any township park district that contains only 24970
unincorporated territory and that operated a public park or parks 24971
outside the township immediately prior to July 18, 1990, may 24972
continue to improve, maintain, and operate these parks outside the 24973
township, but further acquisitions of land shall not affect the 24974
boundaries of the park district itself or the appointing authority 24975
for the board of park commissioners. 24976

The board may lease, accept a conveyance of, or purchase 24977
suitable lands for cash, by purchase by installment payments with 24978
or without a mortgage, by lease or lease-purchase agreements, or 24979
by lease with option to purchase, may acquire suitable lands 24980
through an exchange under section 511.241 of the Revised Code, or 24981
may appropriate suitable lands and materials for park district 24982
purposes. The board also may lease facilities from other political 24983
subdivisions or private sources. The board shall have careful 24984
surveys and plats made of the lands acquired for park district 24985
purposes and shall establish permanent monuments on the boundaries 24986
of the lands. Those plats, when executed according to sections 24987
711.01 to 711.38 of the Revised Code, shall be recorded in the 24988
office of the county recorder, and those records shall be 24989
admissible in evidence for the purpose of locating and 24990

ascertaining the true boundaries of the park or parks. 24991

(C) In furtherance of the use and enjoyment of the lands 24992
controlled by it, the board may accept donations of money or other 24993
property or act as trustees of land, money, or other property, and 24994
may use and administer the land, money, or other property as 24995
stipulated by the donor or as provided in the trust agreement. 24996

The board may receive and expend grants for park purposes 24997
from agencies and instrumentalities of the United States and this 24998
state and may enter into contracts or agreements with those 24999
agencies and instrumentalities to carry out the purposes for which 25000
the grants were furnished. 25001

(D) In exercising any powers conferred upon the board under 25002
divisions (B) and (C) of this section and for other types of 25003
assistance that the board finds necessary in carrying out its 25004
duties, the board may hire and contract for professional, 25005
technical, consulting, and other special services and may purchase 25006
goods and award contracts. The procuring of goods and awarding of 25007
contracts shall be done in accordance with the procedures 25008
established for the board of county commissioners by sections 25009
307.86 to 307.91 of the Revised Code. 25010

(E) The board may appoint an executive for the park or parks 25011
and may designate the executive or another person as the clerk of 25012
the board. It may appoint all other necessary officers and 25013
employees, fix their compensation, and prescribe their duties, or 25014
it may require the executive to appoint all other necessary 25015
officers and employees, and to fix their compensation and 25016
prescribe their duties, in accordance with guidelines and policies 25017
adopted by the board. 25018

(F) The board may adopt bylaws and rules that it considers 25019
advisable for the following purposes: 25020

(1) To prohibit selling, giving away, or using any 25021

intoxicating liquors in the park or parks; 25022

(2) For the government and control of the park or parks and 25023
the operation of motor vehicles in the park or parks; 25024

(3) To provide for the protection and preservation of all 25025
property and natural life within its jurisdiction. 25026

Before the bylaws and rules take effect, the board shall 25027
provide for a notice of their adoption to be published once a week 25028
for two consecutive weeks or as provided in section 7.16 of the 25029
Revised Code, in a newspaper of general circulation in the county 25030
within which the park district is located. 25031

No person shall violate any of the bylaws or rules. Fines 25032
levied and collected for violations shall be paid into the 25033
treasury of the township park district. The board may use moneys 25034
collected from those fines for any purpose that is not 25035
inconsistent with sections 511.18 to 511.37 of the Revised Code. 25036

(G) The board may do either of the following: 25037

(1) Establish and charge fees for the use of any facilities 25038
and services of the park or parks regardless of whether the park 25039
or parks were acquired before, on, or after ~~the effective date of~~ 25040
~~this amendment~~ September 21, 2000; 25041

(2) Enter into a lease agreement with an individual or 25042
organization that provides for the exclusive use of a specified 25043
portion of the park or parks within the township park district by 25044
that individual or organization for the duration of an event 25045
produced by the individual or organization. The board, for the 25046
specific portion of the park or parks covered by the lease 25047
agreement, may charge a fee to, or permit the individual or 25048
organization to charge a fee to, participants in and spectators at 25049
the event covered by the agreement. 25050

(H) If the board finds that real or personal property owned 25051

by the township park district is not currently needed for park 25052
purposes, the board may lease that property to other persons or 25053
organizations during any period of time the board determines the 25054
property will not be needed. If the board finds that competitive 25055
bidding on a lease is not feasible, it may lease the property 25056
without taking bids. 25057

(I) The board may exchange property owned by the township 25058
park district for property owned by the state, another political 25059
subdivision, or the federal government on terms that it considers 25060
desirable, without the necessity of competitive bidding. 25061

(J) Any rights or duties established under this section may 25062
be modified, shared, or assigned by an agreement pursuant to 25063
section 755.16 of the Revised Code. 25064

Sec. 511.235. The board of park commissioners of a township 25065
park district may enter into contracts with one or more townships, 25066
township police districts, joint police districts, municipal 25067
corporations, or county sheriffs of this state, with one or more 25068
park districts created pursuant to section 1545.01 of the Revised 25069
Code or other township park districts, or with a contiguous 25070
political subdivision of an adjoining state, and a township, 25071
township police district, joint police district board, municipal 25072
corporation, county sheriff, park district, or other township park 25073
district of this state may enter into a contract with a township 25074
park district upon any terms that are agreed to by them, to allow 25075
the use of the township park district law enforcement officers 25076
designated under section 511.232 of the Revised Code to perform 25077
any police function, exercise any police power, or render any 25078
police service in behalf of the contracting political subdivision 25079
that the subdivision may perform, exercise, or render. 25080

Chapter 2744. of the Revised Code, insofar as it applies to 25081
the operation of police departments, shall apply to the 25082

contracting political subdivisions and to the members of their 25083
police force or law enforcement department when they are rendering 25084
service outside their own subdivisions pursuant to that contract. 25085

Any members of the police force or law enforcement department 25086
acting pursuant to that contract outside the political subdivision 25087
in which they are employed shall be entitled to participate in any 25088
indemnity fund established by their employer to the same extent as 25089
while acting within the employing subdivision. Those members shall 25090
be entitled to all the rights and benefits of Chapter 4123. of the 25091
Revised Code, to the same extent as while performing service 25092
within the subdivision. 25093

The contracts entered into pursuant to this section may 25094
provide for the following: 25095

(A) A fixed annual charge to be paid at the times agreed upon 25096
and stipulated in the contract; 25097

(B) Compensation based upon the following: 25098

(1) A stipulated price for each call or emergency; 25099

(2) The number of members or pieces of equipment employed; 25100

(3) The elapsed time of service required in each call or 25101
emergency. 25102

(C) Compensation for loss or damage to equipment while 25103
engaged in rendering police services outside the limits of the 25104
subdivision that owns and furnishes the equipment; 25105

(D) Reimbursement of the subdivision in which the police 25106
force or law enforcement department members are employed, for any 25107
indemnity award or premium contribution assessed against the 25108
employing subdivision for workers' compensation benefits for 25109
injuries or death to members of its police force or law 25110
enforcement department occurring while engaged in rendering 25111
service pursuant to the contract. 25112

Sec. 511.236. The police force or law enforcement department 25113
of any township park district may provide police protection to any 25114
county, municipal corporation, township, ~~or~~ township police 25115
district, or joint police district of this state, to any other 25116
township park district or any park district created pursuant to 25117
section 1545.01 of the Revised Code, or to a governmental entity 25118
of an adjoining state without a contract to provide police 25119
protection, upon the approval, by resolution, of the board of park 25120
commissioners of the township park district in which the police 25121
force or law enforcement department is located and upon 25122
authorization by an officer or employee of the police force or 25123
department providing the police protection who is designated by 25124
title of office or position, pursuant to the resolution of the 25125
board of park commissioners, to give the authorization. 25126

Chapter 2744. of the Revised Code, insofar as it applies to 25127
the operation of police departments, shall apply to any township 25128
park district and to members of its police force or law 25129
enforcement department when those members are rendering police 25130
services pursuant to this section outside the township park 25131
district by which they are employed. 25132

Police force or law enforcement department members acting, as 25133
provided in this section, outside the township park district by 25134
which they are employed shall be entitled to participate in any 25135
pension or indemnity fund established by their employer to the 25136
same extent as while acting within the township park district by 25137
which they are employed. Those members shall be entitled to all 25138
rights and benefits of Chapter 4123. of the Revised Code to the 25139
same extent as while performing services within the township park 25140
district by which they are employed. 25141

Sec. 511.25. If the board of park commissioners of a township 25142
park district finds that any lands that the board has acquired are 25143

not necessary for the purposes for which they were acquired, it 25144
may sell and dispose of those lands upon terms that the board 25145
considers advisable and may reject any purchase bid received under 25146
this section that the board determines does not meet its terms for 25147
sale. 25148

Except as otherwise provided in this section, no lands shall 25149
be sold without first giving notice of the board's intention to 25150
sell the lands by publication once a week for four consecutive 25151
weeks in a newspaper of general circulation in the township or as 25152
provided in section 7.16 of the Revised Code. The notice shall 25153
contain an accurate description of the lands being offered for 25154
sale and shall state the time and place at which sealed bids for 25155
the lands will be received. If the board rejects all of the 25156
purchase bids, it may reoffer the lands for sale in accordance 25157
with this section. 25158

The board also may sell park lands not necessary for district 25159
purposes to another political subdivision, the state, or the 25160
federal government without giving the notices or taking bids as 25161
otherwise required by this section. 25162

No lands acquired by a township park district may be sold 25163
without the approval of the court of common pleas of the county in 25164
which the park district is located, if the court appointed the 25165
board under section 511.18 of the Revised Code, or the approval of 25166
the board of township trustees, if the board of township trustees 25167
appointed the board of park commissioners under section 511.18 of 25168
the Revised Code. 25169

Sec. 511.28. A copy of any resolution for a tax levy adopted 25170
by the township board of park commissioners as provided in section 25171
511.27 of the Revised Code shall be certified by the clerk of the 25172
board of park commissioners to the board of elections of the 25173
proper county, together with a certified copy of the resolution 25174

approving the levy, passed by the board of township trustees if 25175
such a resolution is required by division (C) of section 511.27 of 25176
the Revised Code, not less than ninety days before a general or 25177
primary election in any year. The board of elections shall submit 25178
the proposal to the electors as provided in section 511.27 of the 25179
Revised Code at the succeeding general or primary election. A 25180
resolution to renew an existing levy may not be placed on the 25181
ballot unless the question is submitted at the general election 25182
held during the last year the tax to be renewed may be extended on 25183
the real and public utility property tax list and duplicate, or at 25184
any election held in the ensuing year. The board of park 25185
commissioners shall cause notice that the vote will be taken to be 25186
published once a week for two consecutive weeks prior to the 25187
election in a newspaper of general circulation, or as provided in 25188
section 7.16 of the Revised Code, in the county within which the 25189
park district is located. Additionally, if the board of elections 25190
operates and maintains a web site, the board of elections shall 25191
post that notice on its web site for thirty days prior to the 25192
election. The notice shall state the purpose of the proposed levy, 25193
the annual rate proposed expressed in dollars and cents for each 25194
one hundred dollars of valuation as well as in mills for each one 25195
dollar of valuation, the number of consecutive years during which 25196
the levy shall be in effect, and the time and place of the 25197
election. 25198

The form of the ballots cast at the election shall be: "An 25199
additional tax for the benefit of (name of township park district) 25200
..... for the purpose of (purpose stated in the order of the 25201
board) at a rate not exceeding mills for 25202
each one dollar of valuation, which amounts to (rate expressed in 25203
dollars and cents) for each one hundred dollars of 25204
valuation, for (number of years the levy is to run) 25205
25206

	FOR THE TAX LEVY	25207
	AGAINST THE TAX LEVY	25208

25209

If the levy submitted is a proposal to renew, increase, or 25210
decrease an existing levy, the form of the ballot specified in 25211
this section may be changed by substituting for the words "An 25212
additional" at the beginning of the form, the words "A renewal of 25213
a" in the case of a proposal to renew an existing levy in the same 25214
amount; the words "A renewal of mills and an increase 25215
of mills to constitute a" in the case of an increase; 25216
or the words "A renewal of part of an existing levy, being a 25217
reduction of mills, to constitute a" in the case of a 25218
decrease in the rate of the existing levy. 25219

If the tax is to be placed on the current tax list, the form 25220
of the ballot shall be modified by adding, after the statement of 25221
the number of years the levy is to run, the phrase ", commencing 25222
in (first year the tax is to be levied), first due in 25223
calendar year (first calendar year in which the tax 25224
shall be due)." 25225

The question covered by the order shall be submitted as a 25226
separate proposition, but may be printed on the same ballot with 25227
any other proposition submitted at the same election, other than 25228
the election of officers. More than one such question may be 25229
submitted at the same election. 25230

Sec. 511.34. In townships composed of islands, and on one of 25231
which islands lands have been conveyed in trust for the benefit of 25232
the inhabitants of the island for use as a park, and a board of 25233
park trustees has been provided for the control of the park, the 25234
board of township trustees may create a tax district of the island 25235
to raise funds by taxation as provided under divisions (A) and (B) 25236
of this section. 25237

(A) For the care and maintenance of parks on the island, the board of township trustees annually may levy a tax, not to exceed one mill, upon all the taxable property in the district. The tax shall be in addition to all other levies authorized by law, and subject to no limitation on tax rates except as provided in this division.

The proceeds of the tax levy shall be expended by the board of township trustees for the purpose of the care and maintenance of the parks, and shall be paid out of the township treasury upon the orders of the board of park trustees.

(B) For the purpose of acquiring additional land for use as a park, the board of township trustees may levy a tax in excess of the ten-mill limitation on all taxable property in the district. The tax shall be proposed by resolution adopted by two-thirds of the members of the board of township trustees. The resolution shall specify the purpose and rate of the tax and the number of years the tax will be levied, which shall not exceed five years, and which may include a levy on the current tax list and duplicate. The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election. The board of township trustees shall certify a copy of the resolution to the proper board of elections not later than ninety days before the primary or general election in the township, and the board of elections shall submit the question of the tax to the voters of the district at the succeeding primary or general election. The board of elections shall make the necessary arrangements for the submission of the question to the electors of the district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the township for the election of officers. Notice of the election shall be published in a newspaper of general circulation in the township once a week for

two consecutive weeks, or as provided in section 7.16 of the 25270
Revised Code prior to the election ~~and, if.~~ If the board of 25271
elections operates and maintains a web site, notice of the 25272
election also shall be posted on that web site for thirty days 25273
prior to the election. The notice shall state the purpose of the 25274
tax, the proposed rate of the tax expressed in dollars and cents 25275
for each one hundred dollars of valuation and mills for each one 25276
dollar of valuation, the number of years the tax will be in 25277
effect, the first year the tax will be levied, and the time and 25278
place of the election. 25279

The form of the ballots cast at an election held under this 25280
division shall be as follows: 25281

"An additional tax for the benefit of (name of the 25282
township) for the purpose of acquiring additional park land at a 25283
rate of mills for each one dollar of valuation, which 25284
amounts to (rate expressed in dollars and cents) for each 25285
one hundred dollars of valuation, for (number of years 25286
the levy is to run) beginning in (first year the tax 25287
will be levied). 25288

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

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25290
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The question shall be submitted as a separate proposition but 25293
may be printed on the same ballot with any other proposition 25294
submitted at the same election other than the election of 25295
officers. More than one such question may be submitted at the same 25296
election. 25297

If the levy is approved by a majority of electors voting on 25298
the question, the board of elections shall certify the result of 25299
the election to the tax commissioner. In the first year of the 25300

levy, the tax shall be extended on the tax lists after the 25301
February settlement following the election. If the tax is to be 25302
placed on the tax lists of the current year as specified in the 25303
resolution, the board of elections shall certify the result of the 25304
election immediately after the canvass to the board of township 25305
trustees, which shall forthwith make the necessary levy and 25306
certify the levy to the county auditor, who shall extend the levy 25307
on the tax lists for collection. After the first year of the levy, 25308
the levy shall be included in the annual tax budget that is 25309
certified to the county budget commission. 25310

Sec. 513.14. The board of elections shall advertise the 25311
proposed tax levy question mentioned in section 513.13 of the 25312
Revised Code in ~~two newspapers of opposite political faith, if two~~ 25313
~~such newspapers are published in the joint township hospital~~ 25314
~~district, or otherwise in one a newspaper, published or~~ of general 25315
circulation in the proposed township hospital district, once a 25316
week for two consecutive weeks, or as provided in section 7.16 of 25317
the Revised Code, prior to the election ~~and, if.~~ If the board 25318
operates and maintains a web site, the board also shall advertise 25319
that proposed tax levy question on its web site for thirty days 25320
prior to the election. 25321

Sec. 515.01. The board of township trustees may provide 25322
artificial lights for any road, highway, public place, or building 25323
under its supervision or control, or for any territory within the 25324
township and outside the boundaries of any municipal corporation, 25325
when the board determines that the public safety or welfare 25326
requires that the road, highway, public place, building, or 25327
territory shall be lighted. The lighting may be procured either by 25328
the township installing a lighting system or by contracting with 25329
any person or corporation to furnish lights. 25330

If lights are furnished under contract, the contract may 25331

provide that the equipment employed may be owned by the township 25332
or by the person or corporation supplying the lights. 25333

If the board determines to procure lighting by contract and 25334
the total estimated cost of the contract exceeds ~~twenty-five~~ fifty 25335
thousand dollars, the board shall prepare plans and specifications 25336
for the lighting equipment and shall, for two weeks, advertise for 25337
bids for furnishing the lighting equipment, either by posting the 25338
advertisement in three conspicuous places in the township or by 25339
publication of the advertisement once a week, for two consecutive 25340
weeks, in a newspaper of general circulation in the township. Any 25341
such contract for lighting shall be made with the lowest and best 25342
bidder. 25343

The board may also cause notice to be inserted in trade 25344
papers or other publications designated by it or to be distributed 25345
by electronic means, including posting the notice on the board's 25346
internet web site. If the board posts the notice on its web site, 25347
it may eliminate the second notice otherwise required to be 25348
published in a newspaper of general circulation in the township, 25349
provided that the first notice published in such newspaper meets 25350
all of the following requirements: 25351

(A) It is published at least two weeks before the opening of 25352
bids. 25353

(B) It includes a statement that the notice is posted on the 25354
board's internet web site. 25355

(C) It includes the internet address of the board's internet 25356
web site. 25357

(D) It includes instructions describing how the notice may be 25358
accessed on the board's internet web site. 25359

No lighting contract awarded by the board shall be made to 25360
cover a period of more than twenty years. The cost of installing 25361
and operating any lighting system or any light furnished under 25362

contract shall be paid from the general fund of the township 25363
treasury. 25364

Sec. 515.04. The township fiscal officer shall fix a day, not 25365
more than thirty days from the date of notice to the board of 25366
township trustees, for the hearing of the petition authorized by 25367
section 515.02 or 515.16 of the Revised Code. The township fiscal 25368
officer or the fiscal officer's designee shall prepare and deliver 25369
to any of the petitioners a notice in writing directed to the lot 25370
and land owners and to the corporations, either public or private, 25371
affected by the improvement. The notice shall set forth the 25372
substance, pendency, and prayer of the petition and the time and 25373
place of the hearing on it. 25374

A copy of the notice shall be served upon each lot or land 25375
owner or left at the lot or land owner's usual place of residence, 25376
and upon an officer or agent of each corporation having its place 25377
of business in the district or area, at least fifteen days before 25378
the date set for the hearing. On or before the day of the hearing, 25379
the person serving the notice shall make return on it, under oath, 25380
of the time and manner of service and shall file the return with 25381
the township fiscal officer. 25382

The township fiscal officer or the fiscal officer's designee 25383
shall give the notice to each nonresident lot or land owner, by 25384
publication once, in a newspaper ~~published in and~~ of general 25385
circulation in the county in which the district or area is 25386
situated, at least two weeks before the day set for hearing. The 25387
notice shall be verified by affidavit of the printer or other 25388
person knowing the fact and shall be filed with the township 25389
fiscal officer or the fiscal officer's designee on or before the 25390
day of hearing. No further notice of the petition or the 25391
proceedings under it shall thereafter be required. 25392

Sec. 515.07. If the total estimated cost of any lighting 25393
improvement provided for in section 515.06 of the Revised Code is 25394
~~twenty-five~~ fifty thousand dollars or less, the contract may be 25395
let without competitive bidding. When competitive bidding is 25396
required, the board of township trustees shall post, in three of 25397
the most conspicuous public places in the district, a notice 25398
specifying the number, candle power, and location of lights and 25399
the kind of supports for the lights as provided by section 515.06 25400
of the Revised Code, as well as the time, which shall not be less 25401
than thirty days from the posting of the notices, and the place 25402
the board will receive bids to furnish the lights. The board shall 25403
accept the lowest and best bid, if the successful bidder meets the 25404
requirements of section 153.54 of the Revised Code. The board may 25405
reject all bids. 25406

Sec. 517.06. The board of township trustees shall have the 25407
cemetery laid out in lots, avenues, and paths, shall number the 25408
lots, and shall have a suitable plat of the lots made, which plat 25409
shall be carefully kept by the township fiscal officer. The board 25410
shall make and enforce all needful rules and regulations for the 25411
division of the cemetery into lots, for the allotment of lots to 25412
families or individuals, and for the care, supervision, and 25413
improvement of the lots. The board also may make and enforce all 25414
needful rules and regulations for burial, interment, reinterment, 25415
or disinterment. The board shall require the grass and weeds in 25416
the cemetery to be cut and destroyed at least twice each year. 25417
Suitable provision shall be made in the cemetery for persons whose 25418
burial is at the expense of the township. 25419

Sec. 517.12. The board of township trustees may make rules 25420
specifying the times when cemeteries under its control shall be 25421
closed to the public. The board shall cause the rules to be 25422

published once a week for two consecutive weeks in a newspaper of 25423
general circulation within the township or as provided in section 25424
7.16 of the Revised Code, and may post appropriate notice in the 25425
township as considered necessary. 25426

The purposes of such rules shall be to assure a reasonable 25427
time of access to the cemeteries in view of the differences in 25428
attendance anticipated from past experience as to each, to exclude 25429
attendance at times when no proper purposes could normally be 25430
expected, to permit exceptions to the normal hours of access on 25431
reasonable request with adequate reason provided, and to 25432
facilitate the task of protecting the premises from vandalism, 25433
desecration, and other improper usage. 25434

Whoever violates these rules is guilty of a minor 25435
misdemeanor. 25436

Sec. 517.22. The board of township trustees or the trustees 25437
or directors of a cemetery association, after notice has first 25438
been given in ~~two newspapers~~ a newspaper of general circulation in 25439
the county, may dispose of, at public sale, and convey any 25440
cemetery under their control that they have determined to 25441
discontinue as burial grounds, but possession of the cemetery 25442
shall not be given to a grantee until after the remains buried in 25443
that cemetery, together with stones and monuments, have been 25444
removed as provided by section 517.21 of the Revised Code. 25445

Sec. 521.03. On receiving a petition filed under section 25446
521.02 of the Revised Code, or at the request of the board of 25447
township trustees, the township fiscal officer shall fix a time, 25448
not more than thirty days after the date of giving notice of the 25449
filing to the board or the date of receiving the request from the 25450
board, and place for a hearing on the issue of repair or 25451
maintenance of the tiles. The township fiscal officer shall 25452

prepare a notice in writing directed to the lot and land owners 25453
and to the corporations, either public or private, affected by the 25454
improvement. The notice shall set forth the substance of the 25455
petition or board request, and the time and place of the hearing 25456
on it. 25457

If the hearing is to be held in response to a petition, the 25458
township fiscal officer shall deliver a copy of the notice to any 25459
of the petitioners, who shall see that the notice is served on 25460
each lot or land owner or left at the lot or land owner's usual 25461
place of residence, and served on an officer or agent of each 25462
corporation affected by the improvement, at least fifteen days 25463
before the date set for the hearing. If the hearing is to be held 25464
at the request of the board, the board shall see that the notice 25465
is so served. On or before the day of the hearing, the person 25466
serving the notice shall certify, under oath, the time and manner 25467
of service, and shall file this certification with the township 25468
fiscal officer. 25469

The township fiscal officer shall give notice of the hearing 25470
to each nonresident lot or land owner, by publication once, in a 25471
newspaper ~~published in and~~ of general circulation in the county in 25472
which the township is situated, at least two weeks before the day 25473
set for the hearing. This notice shall be verified by affidavit of 25474
the printer or other person knowing the fact, and shall be filed 25475
with the township fiscal officer on or before the day of the 25476
hearing. No further notice of the petition or the proceedings 25477
under it shall thereafter be required. 25478

Sec. 521.05. (A) If the total estimated cost of any 25479
improvement provided for in section 521.04 of the Revised Code is 25480
~~twenty-five~~ fifty thousand dollars or less, the contract may be 25481
let without competitive bidding. When competitive bidding is 25482
required, the board of township trustees shall post, in three of 25483

the most conspicuous public places in the township, a notice 25484
specifying the improvement to be made and the time, which shall be 25485
at least thirty days after the posting of the notices, and the 25486
place the board will receive bids to make the improvement. The 25487
board shall accept the lowest and best bid, if the successful 25488
bidder meets the requirements of section 153.54 of the Revised 25489
Code. The board may reject all bids. 25490

(B) On accepting a bid, the board shall enter into a contract 25491
with the successful bidder for making the improvement according to 25492
specifications. The contract shall not be for a term longer than 25493
ten years. 25494

Sec. 523.01. The territory of one or more townships may be 25495
merged with that of a contiguous township to create a new 25496
township, in the manner provided under this chapter. The new 25497
township shall have all of, and only, the rights, powers, and 25498
responsibilities afforded by law to townships. 25499

Sec. 523.02. (A) A resolution for a merger under this chapter 25500
may be proposed by initiative petition by the electors of each 25501
township being proposed for merger, and adopted by election by 25502
these electors under the same circumstances, in the same manner, 25503
and subject to the same penalties as provided by sections 731.28 25504
to 731.40 and 731.99 of the Revised Code for municipal 25505
corporations, except that all of the following apply: 25506

(1) Each board of township trustees shall perform the duties 25507
imposed on the legislative authority of the municipal corporation 25508
under those sections; 25509

(2) Initiative petitions shall be filed with the township 25510
fiscal officer of each township proposed for merger, who shall 25511
perform the duties imposed under those sections upon the city 25512
auditor or village clerk; 25513

(3) Initiative petitions shall contain the signatures of not less than ten per cent of the total number of electors in a township proposed for merger who voted for the office of governor at the most recent general election in the township for that office; 25514
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(4) Each signer of an initiative petition shall be an elector of the township in which the election on the proposed resolution is to be held. 25519
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(B) The merger shall take effect one hundred twenty days after certification by the board or boards of elections that the merger has been approved by the electors of each township proposed for merger. 25522
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Sec. 523.03. (A) The boards of township trustees of two or more townships, by adopting resolutions by unanimous vote of the board of township trustees of each township, may cause the appropriate board of elections for each township to submit to the electors of each township the question of merger under section 523.01 of the Revised Code. The question shall be voted upon at the next general election occurring not less than ninety days after the certification of the resolutions to the appropriate board of elections. 25526
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(B) In submitting to the electors of each township the question of merger, the board of elections shall submit the question in language substantially as follows: 25535
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"Shall the townships of (Names of all of the townships to be merged) be merged to create the new township of (Name of the new township)?" 25538
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(C) The merger shall take effect one hundred twenty days after certification by the board or boards of elections that the merger has been approved by the electors of each township proposed 25541
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for merger. 25544

Sec. 523.04. (A) Within one hundred twenty days after 25545
approval of the merger by the electors under section 523.02 or 25546
523.03 of the Revised Code, each board of township trustees of the 25547
townships merged, by adopting a joint resolution approved by a 25548
majority of the members of each board, shall enter into a merger 25549
agreement that contains the specific terms and conditions of the 25550
merger. At a minimum, the merger agreement shall set forth all of 25551
the following: 25552

(1) The names of the former townships that were merged; 25553

(2) The name of the new township; 25554

(3) The place in which the principal office of the new 25555
township will be located or the manner in which it may be 25556
selected; 25557

(4) The territorial boundaries of the new township; 25558

(5) The date on which the merger took effect; 25559

(6) The governmental operations and organization for the new 25560
township, including a plan for electing officers at the next 25561
general election that is held not later than ninety days after the 25562
merger agreement is finalized; 25563

(7) A procedure for the efficient and timely transition of 25564
specific services, functions, and responsibilities from each 25565
township and its respective offices to the new township; 25566

(8) Terms for the disposition of the assets and property of 25567
each township, if necessary; 25568

(9) The liquidation of existing indebtedness for each 25569
township, if necessary; 25570

(10) A plan for the common administration and enforcement of 25571
resolutions of the townships merged, to be enforced uniformly 25572

<u>within the new township;</u>	25573
<u>(11) A provision that specifies whether there will be any zoning changes as a result of the merger, if applicable;</u>	25574
<u>(12) A plan to conform the boundaries of an existing special purpose district with the new township, to dissolve the special purpose district, or to absorb the special purpose district into the new township. As used in this division, "special purpose district" has the meaning in division (F) of section 523.06 of the Revised Code.</u>	25576
<u>(B) A copy of the joint resolution and the merger agreement adopted under this section shall be filed with the township fiscal officer of the new township. The merger agreement shall take effect on the day on which such filing is made.</u>	25577
<u>(C) If no merger agreement, or if only a partial merger agreement, is entered into within the time period prescribed by division (A) of this section, the new township shall comply with and operate under a merger agreement that contains the terms and conditions required by section 523.06 of the Revised Code.</u>	25578
<u>Sec. 523.05. (A) A new township created under this chapter shall succeed to the following interests of each township merged:</u>	25579
<u>(1) All money, taxes, and special assessments, whether in the township treasury or in the process of collection;</u>	25580
<u>(2) All property and interests in property, whether real or personal;</u>	25581
<u>(3) All rights and interests in contracts, or in securities, bonds, notes, or other instruments;</u>	25582
<u>(4) All accounts receivable and rights of action;</u>	25583
<u>(5) All other matters not included in this section that are not addressed in the merger agreement.</u>	25584
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(B) A new township created under this chapter is legally obligated for all outstanding franchises, contracts, debts, and other legally binding obligations for each township merged into the new township. A new township created under this chapter is legally responsible for maintaining, defending, or otherwise resolving any and all legal claims or actions of each township merged into the new township. 25602
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Sec. 523.06. If a merger agreement is entered into as required by section 523.04 of the Revised Code, this section does not apply. If a merger agreement is not entered into under section 523.04 of the Revised Code, the merger agreement shall contain all of the terms and conditions specified in this section. If a partial merger agreement is entered into under section 523.04 of the Revised Code, this section applies only to the extent any term or condition that is required by section 523.04 of the Revised Code to be addressed in the merger agreement is not addressed therein. 25609
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The terms and conditions of a merger agreement to which this section applies shall be as follows: 25619
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(A) All members of each board of township trustees shall serve as board members of the new township. At the first general election for township officers occurring not less than ninety days after a merger is approved, the electors of the new township shall elect three township trustees with staggered terms of office. The first terms of office following the election shall be modified to an even number of years not to exceed four to allow subsequent elections for the office to be held in the same year as other township officers. 25621
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(B) The township fiscal officer of the largest township, by population, shall be the township fiscal officer for the new township. At the first general election for township officers 25630
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occurring not less than ninety days after the merger, the electors 25633
shall elect a township fiscal officer, whose first term of office 25634
shall be modified to an even number of years not to exceed four to 25635
allow subsequent elections for that office to be held in the same 25636
year as other township fiscal officers. 25637

(C) Voted property tax levies shall remain in effect for the 25638
parcels of real property to which they applied prior to the 25639
merger, and the merger shall not affect the proceeds of a tax levy 25640
pledged for the retirement of any debt obligation. Upon expiration 25641
of a property tax levy, the levy may only be replaced or renewed 25642
by vote of the electors in the manner provided by law, to apply to 25643
real property within the boundaries of the new township. If the 25644
millage levied inside the ten-mill limitation of each township 25645
merged is different, the board of township trustees of the new 25646
township shall immediately equalize the millage for the entire new 25647
township. 25648

(D) For purposes of the retirement of all debt obligations of 25649
each township merged, the township fiscal officer shall continue 25650
to track parcels of real property and the tax revenue generated on 25651
those parcels by the tax districts that were in place prior to the 25652
merger, and shall provide that information on an annual basis to 25653
the board of township trustees of the new township. Debt 25654
obligations that existed at the time of the merger shall be 25655
retired from the revenue generated from the parcels of real 25656
property that made up the township that incurred the debt before 25657
the merger. 25658

(E)(1) With respect to any agreement entered into under 25659
Chapter 4117. of the Revised Code that covers any of the employees 25660
of the townships merged under this chapter, the state employment 25661
relations board, within one hundred twenty days after the date the 25662
merger is approved, shall designate the appropriate bargaining 25663
units for the employees of the new township in accordance with 25664

section 4117.06 of the Revised Code. Notwithstanding the 25665
recognition procedures prescribed in section 4117.05 and division 25666
(A) of section 4117.07 of the Revised Code, the board shall 25667
conduct a representation election with respect to each bargaining 25668
unit designated under this division in accordance with divisions 25669
(B) and (C) of section 4117.07 of the Revised Code. If an 25670
exclusive representative is selected through this election, the 25671
exclusive representative shall negotiate and enter into an 25672
agreement with the new township in accordance with Chapter 4117. 25673
of the Revised Code. Until the parties reach an agreement, any 25674
agreement in effect on the date of the merger shall apply to the 25675
employees that were in the bargaining unit that is covered by the 25676
agreement. An agreement in existence on the date of the merger is 25677
terminated on the effective date of an agreement negotiated under 25678
this division. 25679

(2) If an exclusive representative is not selected, any 25680
agreement in effect on the date of the merger shall apply to the 25681
employees that were in the bargaining unit that is covered by the 25682
agreement and shall expire on its terms. 25683

(3) Each agreement entered into under Chapter 4117. of the 25684
Revised Code on or after the effective date of this section 25685
involving a new township shall contain a provision regarding the 25686
designation of an exclusive representative and bargaining units 25687
for the new township as described in division (E) of this section. 25688

(4) In addition to the laws listed in division (A) of section 25689
4117.10 of the Revised Code that prevail over conflicting 25690
agreements between employee organizations and public employers, 25691
division (E) of this section prevails over any conflicting 25692
provisions of agreements between employee organizations and public 25693
employers that are entered into on or after the effective date of 25694
this section pursuant to Chapter 4117. of the Revised Code. 25695

(5) As used in division (E) of this section, "employee 25696

organization" and "exclusive representative" have the same 25697
meanings as in section 4117.01 of the Revised Code. 25698

(F)(1) If the boundaries of the new township are not 25699
coextensive with a special purpose district, the new township 25700
shall remain in the existing special purpose district as a 25701
successor to the original township, unless the special purpose 25702
district is dissolved. The board of township trustees of the new 25703
township may place a question on the ballot at the next general 25704
election held after the merger to conform the boundaries, dissolve 25705
the special purpose district, or absorb the special purpose 25706
district into the new township on the terms specified in the 25707
resolution that places the question on the ballot for approval of 25708
the electors of the new township. 25709

(2) As used in division (F) of this section, "special purpose 25710
district" means any geographic or political jurisdiction that is 25711
created under law by a township merged. 25712

(G) Zoning codes that existed at the time of the merger shall 25713
remain in effect after the merger, and the townships that existed 25714
before the merger shall be treated as administrative districts 25715
within the new township for the purposes of zoning. 25716

Sec. 523.09. If a merger is disapproved by a majority of 25717
those voting on it in the townships proposed to be merged, an 25718
identical merger shall not be considered for at least three years 25719
after the date of the disapproval. 25720

Sec. 705.16. (A) All ordinances or resolutions shall be in 25721
effect after thirty days from the date of their passage, except as 25722
provided in section 705.75 of the Revised Code. 25723

(B) ~~Notwithstanding any conflicting provision of section 7.12~~ 25724
~~of the Revised Code,~~ A succinct summary of each ordinance and 25725
resolution of a general nature, or providing for public 25726

improvements, or assessing property, ~~or a succinct summary of each~~ 25727
~~such ordinance or resolution,~~ shall, upon passage of the ordinance 25728
or resolution, be promptly published one time in ~~not more than two~~ 25729
~~newspapers~~ a newspaper of general circulation in the municipal 25730
corporation. Such publication shall be made in the body type of 25731
the paper under headlines in eighteen point type, which headlines 25732
shall specify the nature of such legislation. ~~If a summary of an~~ 25733
~~ordinance or resolution is published,~~ the The publication shall 25734
contain notice that the complete text of each such ordinance or 25735
resolution may be obtained or viewed at the office of the clerk of 25736
the legislative authority of the municipal corporation and may be 25737
viewed at any other location designated by the legislative 25738
authority of the municipal corporation. The city director of law, 25739
village solicitor, or other chief legal officer of the municipal 25740
corporation shall review ~~any~~ the summary of an ordinance or 25741
resolution published under this section prior to forwarding it to 25742
the clerk for publication, to ensure that the summary is legally 25743
accurate and sufficient. 25744

(C) Upon publication of a summary of an ordinance or 25745
resolution in accordance with this section, the clerk of the 25746
legislative authority shall supply a copy of the complete text of 25747
each such ordinance or resolution to any person, upon request, and 25748
may charge a reasonable fee, set by the legislative authority, for 25749
each copy supplied. The clerk shall post a copy of the text at ~~his~~ 25750
the clerk's office and at every other location designated by the 25751
legislative authority. 25752

(D) No newspaper shall be paid a higher price for the 25753
publication of summaries of ordinances than its ~~maximum bona fide~~ 25754
~~commercial~~ government rate established under section 7.10 of the 25755
Revised Code. 25756

Sec. 709.43. As used in sections 709.43 to 709.48 of the 25757

Revised Code, "merger" means the annexation, one to another, of 25758
existing municipal corporations or of the unincorporated area of a 25759
township with one or more municipal corporations, or the merger of 25760
one or more municipal corporations with the unincorporated area of 25761
a township. 25762

Sec. 709.44. (A) The territory of one or more municipal 25763
corporations, whether or not adjacent to one another, may be 25764
merged with that of an adjacent municipal corporation, and the 25765
unincorporated area of a township may be merged with one or more 25766
municipal corporations, or one or more municipal corporations, 25767
whether or not adjacent to one another, may be merged with that of 25768
an adjacent unincorporated area of a township, in the manner 25769
provided in sections 709.43 to 709.48 of the Revised Code. 25770

(B) The territory of one or more municipal corporations, 25771
whether or not adjacent to one another, may be merged with that of 25772
an adjacent unincorporated area of a township, in the manner 25773
provided in sections 709.451 or 709.452 of the Revised Code. 25774

Sec. 709.451. (A) In lieu of filing a petition under section 25775
709.45 of the Revised Code, if the legislative authorities of each 25776
political subdivision that may be merged as provided in section 25777
709.44 of the Revised Code agree to a merger and adopt, by a 25778
two-thirds vote of each legislative authority, an ordinance or 25779
resolution approving a merger, no election of a commission to draw 25780
up a statement of conditions for merger of the political 25781
subdivisions shall be held. Instead, the legislative authorities 25782
of those political subdivisions shall have one hundred twenty days 25783
to enter into a merger agreement that specifies the conditions of 25784
the proposed merger, in identical ordinances or a resolution 25785
adopted by a simple majority vote of each legislative authority. 25786
At a minimum, the proposed merger agreement shall include all of 25787
the following: 25788

<u>(1) The names of the municipal corporations and township, if</u>	25789
<u>any, agreeing to the merger;</u>	25790
<u>(2) The territorial boundaries of the resulting municipal</u>	25791
<u>corporation or township;</u>	25792
<u>(3) The date that the merger will take effect;</u>	25793
<u>(4) A procedure for the efficient and timely transition to</u>	25794
<u>the resulting municipal corporation or township of specified</u>	25795
<u>services, functions, and responsibilities from each municipal</u>	25796
<u>corporation or township and its respective departments and</u>	25797
<u>agencies;</u>	25798
<u>(5) A transition plan and schedule.</u>	25799
<u>(B) The merger shall become effective on the one hundred</u>	25800
<u>twentieth day after the adoption of the last ordinance or</u>	25801
<u>resolution supporting the proposed merger unless, prior to the</u>	25802
<u>expiration of the one hundred twenty-day period, a referendum</u>	25803
<u>petition is filed under division (C) of this section.</u>	25804
<u>(C)(1) A qualified elector of a municipal corporation or</u>	25805
<u>township proposed for merger, not later than one hundred twenty</u>	25806
<u>days after the last ordinance or resolution is adopted under</u>	25807
<u>division (B) of this section, may present to the legislative</u>	25808
<u>authority of that municipal corporation or township a referendum</u>	25809
<u>petition, signed by a number of qualified electors residing in the</u>	25810
<u>municipal corporation or township, equal in number to not less</u>	25811
<u>than ten per cent of the total vote cast in the municipal</u>	25812
<u>corporation or township for governor at the most recent general</u>	25813
<u>election at which a governor was elected, requesting the</u>	25814
<u>legislative authority to submit the question of the merger to the</u>	25815
<u>electors of the municipal corporation or township for approval or</u>	25816
<u>rejection at a special election to be held on the day of the next</u>	25817
<u>primary or general election occurring at least ninety days after</u>	25818
<u>the petition is submitted. The referendum petition shall be</u>	25819

governed by section 3501.38 of the Revised Code. 25820

(2) The referendum petition shall be filed with the clerk of 25821
the legislative authority of the municipal corporation that is the 25822
subject of the petition and the township clerk of the township 25823
that is the subject of the petition. The person presenting the 25824
petition shall be given a receipt containing the time of the day, 25825
the date, and the purpose of the petition. The clerk shall cause 25826
the appropriate board of elections to check the sufficiency of 25827
signatures on the referendum petition and if the signatures are 25828
found to be sufficient, shall present the petition to the 25829
legislative authority at a meeting of the legislative authority 25830
that occurs not later than thirty days following the filing of the 25831
petition. 25832

(3) Upon presentation to the legislative authority of a 25833
referendum petition, the legislative authority shall promptly 25834
certify the petition to the board of elections for the purpose of 25835
having the question of the merger placed on the ballot at a 25836
special election to be held on the day of the next general or 25837
primary election that occurs not less than ninety days after the 25838
date of the meeting of the legislative authority, the date of 25839
which shall be specified in the certification. 25840

(4) Signatures on a referendum petition may be withdrawn up 25841
to and including the meeting of the legislative authority 25842
certifying the proposal to the appropriate board of elections. 25843

(5) Upon certification of the referendum petition to the 25844
appropriate board of elections, the board of elections shall make 25845
the necessary arrangements for the submission of the question of 25846
merger to the qualified electors of the municipal corporation or 25847
township proposed for merger that is the subject of the petition. 25848
The election shall be conducted, canvassed, and certified in the 25849
same manner as regular elections in the municipal corporation or 25850
township for the election of officers. Notice of the election 25851

shall be published in a newspaper of general circulation in the 25852
municipal corporation or township once a week for two consecutive 25853
weeks prior to the election. If the board of elections operates 25854
and maintains a web site, the board shall post notice of the 25855
election on the web site for thirty days prior to the election. 25856
The notice shall state the necessity for merger, the municipal 25857
corporations and township, if any, that are proposed for merger, 25858
the boundaries of the entity created as the result of the merger, 25859
and the time and place of the election. The form of the ballots 25860
cast at the election shall read as follows: 25861

"Shall the municipal corporations or township of 25862
..... (Names of all municipal corporations or of the 25863
township to be merged) be merged into the (municipal 25864
corporation or township) of (Name of the municipal 25865
corporation or township into which the municipal corporations or 25866
township are to be merged), as provided in section 709.44 of the 25867
Revised Code?" 25868

(6) No merger for which a referendum vote has been requested 25869
shall be put into effect unless a majority of the votes cast on 25870
the issue in the municipal corporation or township that is the 25871
subject of the referendum petition is in favor of the merger. Upon 25872
certification by the board of elections that the merger has been 25873
approved by the electors, the merger shall take immediate effect. 25874

(D) On the effective date of the merger, a municipal 25875
corporation merging into a township only has the rights, powers, 25876
and responsibilities afforded by law to townships, and all other 25877
authority ceases to exist. 25878

(E) If an existing charter of a municipal corporation 25879
proposed for merger under this section conflicts with the 25880
processes and procedures specified in this section, the processes 25881
and procedures for merger addressed in the municipal corporation's 25882
charter apply. 25883

Sec. 709.452. (A) The legislative authority of each municipal corporation or township proposed for merger as provided in section 709.44 of the Revised Code that adopts a merger agreement under section 709.451 of the Revised Code may submit the question of merger to the electors of the municipal corporations and township proposed for merger. The legislative authorities may certify the ordinances or resolution that adopted the merger agreement to the board or boards of elections, if the territory proposed for merger is located in more than one county, directing the submission of the question of merger to the electors of the municipal corporations and township proposed for merger at a special election to be held on the day of the next primary or general election in the county or counties that occurs not less than ninety days after the ordinances or resolution are certified to the board or boards of elections. The question shall be put on the ballot and voted upon, separately, in each municipal corporation or township proposed for merger.

(B) The ordinances or resolution specifying the merger conditions agreed to by the municipal corporations and township proposed for merger shall be posted on the web sites of those municipal corporations and township, and shall be published in a newspaper of general circulation in the municipal corporations and township once a week for two consecutive weeks prior to the election.

(C) If the merger is approved by a majority of those voting on it in each municipal corporation or township proposed to be merged, the merger agreement shall take immediate effect.

(D) If an existing charter of a municipal corporation proposed for merger under this section conflicts with the processes and procedures specified in this section, the processes and procedures for merger addressed in the municipal corporation's

charter apply. 25915

Sec. 711.35. Upon the filing of the application provided for 25916
in section 711.34 of the Revised Code, the county auditor shall 25917
give notice of the filing, by publication, for two consecutive 25918
weeks in a newspaper ~~published and~~ of general circulation in the 25919
county, ~~of the filing thereof, and~~ or as provided in section 7.16 25920
of the Revised Code. The county auditor shall also notify the 25921
board of county commissioners of such filing. 25922

Sec. 715.011. Each municipal corporation may lease for a 25923
period not to exceed forty years, pursuant to a contract providing 25924
for the construction thereof under a lease-purchase plan, 25925
buildings, structures, and other improvements for any authorized 25926
municipal purpose, and in conjunction therewith, may grant leases, 25927
easements, or licenses for lands under the control of the 25928
municipal corporation for a period not to exceed forty years. The 25929
lease shall provide that at the end of the lease period the 25930
buildings, structures, and related improvements together with the 25931
land on which they are situate shall become the property of the 25932
municipal corporation without cost. 25933

Whenever any building, structure, or other improvement is to 25934
be so leased by a municipal corporation, the appropriate 25935
contracting officer of the municipal corporation shall file with 25936
the clerk of the council such basic plans, specifications, bills 25937
of materials, and estimates of cost with sufficient detail to 25938
afford bidders all needed information, or alternatively, shall 25939
file the following plans, details, bills of materials, and 25940
specifications: 25941

(A) Full and accurate plans, suitable for the use of 25942
mechanics and other builders in such construction, improvement, 25943
addition, alteration, or installation; 25944

(B) Details to scale and full sized, so drawn and represented	25945
as to be easily understood;	25946
(C) Accurate bills showing the exact quantity of different	25947
kinds of material necessary to the construction;	25948
(D) Definite and complete specifications of the work to be	25949
performed, together with such directions as will enable a	25950
competent mechanic or other builder to carry them out and afford	25951
bidders all needed information;	25952
(E) A full and accurate estimate of each item of expense and	25953
of the aggregate cost thereof.	25954
The council of the municipal corporation shall give public	25955
notice, in the <u>a newspaper of general circulation in the municipal</u>	25956
<u>corporation</u> , and in the form and with the phraseology as the	25957
council orders, published once each week for four consecutive	25958
weeks <u>or as provided in section 7.16 of the Revised Code</u> , of the	25959
time and place, when and where bids will be received for entering	25960
into an agreement to lease to the municipal corporation a	25961
building, structure, or other improvement, the last publication to	25962
be at least eight days preceding the day for opening the bids. The	25963
bids shall contain the terms upon which the builder would propose	25964
to lease the building, structure, or other improvement to the	25965
municipal corporation. The form of the bid approved by the council	25966
of the municipal corporation shall be used and a bid shall be	25967
invalid and not considered unless such form is used without	25968
change, alteration, or addition. Before submitting bids pursuant	25969
to this section, any builder shall have complied with sections	25970
153.50 to 153.52 of the Revised Code.	25971
On the day and at the place named for receiving bids for	25972
entering into lease agreements with the municipal corporation, the	25973
appropriate contracting officer of the municipal corporation shall	25974
open the bids, and shall publicly proceed immediately to tabulate	25975

the bids upon triplicate sheets, one of each of which sheets shall 25976
be filed with the clerk of the council. No lease agreement shall 25977
be entered into until the bureau of workers' compensation has 25978
certified that the corporation, partnership, or person to be 25979
awarded the lease agreement has complied with Chapter 4123. of the 25980
Revised Code, and until, if the builder submitting the lowest and 25981
best bid is a foreign corporation, the secretary of state has 25982
certified that the corporation is authorized to do business in 25983
this state, and until, if the builder submitting the lowest and 25984
best bid is a person or partnership nonresident of this state, the 25985
person or partnership has filed with the secretary of state a 25986
power of attorney designating the secretary of state as its agent 25987
for the purpose of accepting service of summons in any action 25988
brought under Chapter 4123. of the Revised Code, and until the 25989
agreement is submitted to the village solicitor or city director 25990
of law of the municipal corporation and ~~his~~ the solicitor's or 25991
director's approval is certified thereon. Within thirty days after 25992
the day on which the bids are received, the council shall 25993
investigate the bids received and shall determine that the bureau 25994
and the secretary of state have made the certifications required 25995
by this section of the builder who has submitted the lowest and 25996
best bid. Within ten days of the completion of the investigation 25997
of the bids the council may award the lease agreement to the 25998
builder who has submitted the lowest and best bid and who has been 25999
certified by the bureau and secretary of state as required by this 26000
section. If bidding for the lease agreement has been conducted 26001
upon the basis of basic plans, specifications, bills of materials, 26002
and estimates of costs, upon the award to the builder, the 26003
council, or the builder with the approval of the council, shall 26004
appoint an architect or engineer licensed in this state to prepare 26005
such further detailed plans, specifications, and bills of 26006
materials as are required to construct the building, structure, or 26007
improvement. 26008

The council may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

Sec. 715.47. A municipal corporation may fill or drain any lot or land within its limits on which water at any time becomes stagnant, remove all putrid substances from any lot, and remove all obstructions from culverts, covered drains, or private property, laid in any natural watercourse, creek, brook, or branch, which obstruct the water naturally flowing therein, causing it to flow back or become stagnant, in a way prejudicial to the health, comfort, or convenience of any of the citizens of the neighborhood. If such culverts or drains are of insufficient capacity, the municipal corporation may make them of such capacity as reasonably to accommodate the flow of such water at all times. The legislative authority of such municipal corporation may, by resolution, direct the owner to fill or drain such lot, remove such putrid substance or such obstructions, and if necessary, enlarge such culverts or covered drains to meet the requirements thereof.

After service of a copy of such resolution, or after a publication thereof, in a newspaper of general circulation in such municipal corporation or as provided in section 7.16 of the Revised Code, for two consecutive weeks, such owner, or ~~his~~ such owner's agent or attorney, shall comply with the directions of the resolution within the time therein specified.

In case of the failure or refusal of such owner to comply with the resolution, the work required thereby may be done at the expense of the municipal corporation, and the amount of money so expended shall be recovered from the owner before any court of competent jurisdiction. Such expense from the time of the adoption of the resolution shall be a lien on such lot, which may be

enforced by suit in the court of common pleas, and like 26040
proceedings may be had as directed in relation to the improvement 26041
of streets. 26042

The officers connected with the health department of every 26043
such municipal corporation shall see that this section is strictly 26044
and promptly enforced. 26045

Sec. 718.01. (A) As used in this chapter: 26046

(1) "Adjusted federal taxable income" means a C corporation's 26047
federal taxable income before net operating losses and special 26048
deductions as determined under the Internal Revenue Code, adjusted 26049
as follows: 26050

(a) Deduct intangible income to the extent included in 26051
federal taxable income. The deduction shall be allowed regardless 26052
of whether the intangible income relates to assets used in a trade 26053
or business or assets held for the production of income. 26054

(b) Add an amount equal to five per cent of intangible income 26055
deducted under division (A)(1)(a) of this section, but excluding 26056
that portion of intangible income directly related to the sale, 26057
exchange, or other disposition of property described in section 26058
1221 of the Internal Revenue Code; 26059

(c) Add any losses allowed as a deduction in the computation 26060
of federal taxable income if the losses directly relate to the 26061
sale, exchange, or other disposition of an asset described in 26062
section 1221 or 1231 of the Internal Revenue Code; 26063

(d)(i) Except as provided in division (A)(1)(d)(ii) of this 26064
section, deduct income and gain included in federal taxable income 26065
to the extent the income and gain directly relate to the sale, 26066
exchange, or other disposition of an asset described in section 26067
1221 or 1231 of the Internal Revenue Code; 26068

(ii) Division (A)(1)(d)(i) of this section does not apply to 26069

the extent the income or gain is income or gain described in 26070
section 1245 or 1250 of the Internal Revenue Code. 26071

(e) Add taxes on or measured by net income allowed as a 26072
deduction in the computation of federal taxable income; 26073

(f) In the case of a real estate investment trust and 26074
regulated investment company, add all amounts with respect to 26075
dividends to, distributions to, or amounts set aside for or 26076
credited to the benefit of investors and allowed as a deduction in 26077
the computation of federal taxable income; 26078

(g) ~~If Deduct, to the extent not otherwise deducted or~~ 26079
~~excluded in computing federal taxable income, any income derived~~ 26080
~~from providing public services under a contract through a project~~ 26081
~~owned by the state, as described in section 126.604 of the Revised~~ 26082
~~Code or derived from a transfer agreement or from the enterprise~~ 26083
~~transferred under that agreement under section 4313.02 of the~~ 26084
~~Revised Code.~~ 26085

If the taxpayer is not a C corporation and is not an 26086
individual, the taxpayer shall compute adjusted federal taxable 26087
income as if the taxpayer were a C corporation, except+ guaranteed 26088

~~(i) Guaranteed~~ payments and other similar amounts paid or 26089
accrued to a partner, former partner, member, or former member 26090
shall not be allowed as a deductible expense; ~~and~~ amounts 26091

~~(ii) Amounts~~ paid or accrued to a qualified self-employed 26092
retirement plan with respect to an owner or owner-employee of the 26093
taxpayer, amounts paid or accrued to or for health insurance for 26094
an owner or owner-employee, and amounts paid or accrued to or for 26095
life insurance for an owner or owner-employee shall not be allowed 26096
as a deduction. 26097

Nothing in division (A)(1) of this section shall be construed 26098
as allowing the taxpayer to add or deduct any amount more than 26099
once or shall be construed as allowing any taxpayer to deduct any 26100

amount paid to or accrued for purposes of federal self-employment tax. 26101
26102

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. 26103
26104
26105

(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 26106
26107

(3) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code. 26108
26109

(4) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code. 26110
26111

(5) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance. 26112
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(6) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year. 26123
26124
26125

(7) For taxable years beginning on or after January 1, 2004, "net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit required to be reported on schedule C, schedule E, or schedule F, other than any amount allowed as a deduction under division (E)(2) or (3) of this 26126
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section or amounts described in division (H) of this section. 26132

(8) "Taxpayer" means a person subject to a tax on income 26133
levied by a municipal corporation. Except as provided in division 26134
(L) of this section, "taxpayer" does not include any person that 26135
is a disregarded entity or a qualifying subchapter S subsidiary 26136
for federal income tax purposes, but "taxpayer" includes any other 26137
person who owns the disregarded entity or qualifying subchapter S 26138
subsidiary. 26139

(9) "Taxable year" means the corresponding tax reporting 26140
period as prescribed for the taxpayer under the Internal Revenue 26141
Code. 26142

(10) "Tax administrator" means the individual charged with 26143
direct responsibility for administration of a tax on income levied 26144
by a municipal corporation and includes: 26145

(a) The central collection agency and the regional income tax 26146
agency and their successors in interest, and other entities 26147
organized to perform functions similar to those performed by the 26148
central collection agency and the regional income tax agency; 26149

(b) A municipal corporation acting as the agent of another 26150
municipal corporation; and 26151

(c) Persons retained by a municipal corporation to administer 26152
a tax levied by the municipal corporation, but only if the 26153
municipal corporation does not compensate the person in whole or 26154
in part on a contingency basis. 26155

(11) "Person" includes individuals, firms, companies, 26156
business trusts, estates, trusts, partnerships, limited liability 26157
companies, associations, corporations, governmental entities, and 26158
any other entity. 26159

(12) "Schedule E" means internal revenue service schedule E 26160
filed by a taxpayer pursuant to the Internal Revenue Code. 26161

(13) "Schedule F" means internal revenue service schedule F 26162
 filed by a taxpayer pursuant to the Internal Revenue Code. 26163

(B) No municipal corporation shall tax income at other than a 26164
 uniform rate. 26165

(C) No municipal corporation shall levy a tax on income at a 26166
 rate in excess of one per cent without having obtained the 26167
 approval of the excess by a majority of the electors of the 26168
 municipality voting on the question at a general, primary, or 26169
 special election. The legislative authority of the municipal 26170
 corporation shall file with the board of elections at least ninety 26171
 days before the day of the election a copy of the ordinance 26172
 together with a resolution specifying the date the election is to 26173
 be held and directing the board of elections to conduct the 26174
 election. The ballot shall be in the following form: "Shall the 26175
 Ordinance providing for a ... per cent levy on income for (Brief 26176
 description of the purpose of the proposed levy) be passed? 26177

	FOR THE INCOME TAX	
	AGAINST THE INCOME TAX	"

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In the event of an affirmative vote, the proceeds of the levy 26182
 may be used only for the specified purpose. 26183

(D)(1) Except as otherwise provided in this section, no 26184
 municipal corporation shall exempt from a tax on income 26185
 compensation for personal services of individuals over eighteen 26186
 years of age or the net profit from a business or profession. 26187

(2)(a) For taxable years beginning on or after January 1, 26188
 2004, no municipal corporation shall tax the net profit from a 26189
 business or profession using any base other than the taxpayer's 26190
 adjusted federal taxable income. 26191

(b) Division (D)(2)(a) of this section does not apply to any taxpayer required to file a return under section 5745.03 of the Revised Code or to the net profit from a sole proprietorship.

(E)(1) The legislative authority of a municipal corporation may, by ordinance or resolution, exempt from withholding and from a tax on income the following:

(a) Compensation arising from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option; or

(b) Compensation attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code.

(2) The legislative authority of a municipal corporation may adopt an ordinance or resolution that allows a taxpayer who is an individual to deduct, in computing the taxpayer's municipal income tax liability, an amount equal to the aggregate amount the taxpayer paid in cash during the taxable year to a health savings account of the taxpayer, to the extent the taxpayer is entitled to deduct that amount on internal revenue service form 1040.

(3) The legislative authority of a municipal corporation may adopt an ordinance or resolution that allows a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship to deduct from that net profit the amount that the taxpayer paid during the taxable year for medical care insurance premiums for the taxpayer, the taxpayer's spouse, and dependents as defined in section 5747.01 of the Revised Code. The deduction shall be allowed to the same extent the taxpayer is entitled to deduct the premiums on internal revenue service form 1040. The deduction allowed under this division shall be net of any related premium refunds, related premium reimbursements, or

related insurance premium dividends received by the taxpayer 26223
during the taxable year. 26224

(F) If an individual's taxable income includes income against 26225
which the taxpayer has taken a deduction for federal income tax 26226
purposes as reportable on the taxpayer's form 2106, and against 26227
which a like deduction has not been allowed by the municipal 26228
corporation, the municipal corporation shall deduct from the 26229
taxpayer's taxable income an amount equal to the deduction shown 26230
on such form allowable against such income, to the extent not 26231
otherwise so allowed as a deduction by the municipal corporation. 26232

(G)(1) In the case of a taxpayer who has a net profit from a 26233
business or profession that is operated as a sole proprietorship, 26234
no municipal corporation may tax or use as the base for 26235
determining the amount of the net profit that shall be considered 26236
as having a taxable situs in the municipal corporation, an amount 26237
other than the net profit required to be reported by the taxpayer 26238
on schedule C or F from such sole proprietorship for the taxable 26239
year. 26240

(2) In the case of a taxpayer who has a net profit from 26241
rental activity required to be reported on schedule E, no 26242
municipal corporation may tax or use as the base for determining 26243
the amount of the net profit that shall be considered as having a 26244
taxable situs in the municipal corporation, an amount other than 26245
the net profit from rental activities required to be reported by 26246
the taxpayer on schedule E for the taxable year. 26247

(H) A municipal corporation shall not tax any of the 26248
following: 26249

(1) The military pay or allowances of members of the armed 26250
forces of the United States and of members of their reserve 26251
components, including the Ohio national guard; 26252

(2) The income of religious, fraternal, charitable, 26253

scientific, literary, or educational institutions to the extent 26254
that such income is derived from tax-exempt real estate, 26255
tax-exempt tangible or intangible property, or tax-exempt 26256
activities; 26257

(3) Except as otherwise provided in division (I) of this 26258
section, intangible income; 26259

(4) Compensation paid under section 3501.28 or 3501.36 of the 26260
Revised Code to a person serving as a precinct election official, 26261
to the extent that such compensation does not exceed one thousand 26262
dollars annually. Such compensation in excess of one thousand 26263
dollars may be subjected to taxation by a municipal corporation. A 26264
municipal corporation shall not require the payer of such 26265
compensation to withhold any tax from that compensation. 26266

(5) Compensation paid to an employee of a transit authority, 26267
regional transit authority, or regional transit commission created 26268
under Chapter 306. of the Revised Code for operating a transit bus 26269
or other motor vehicle for the authority or commission in or 26270
through the municipal corporation, unless the bus or vehicle is 26271
operated on a regularly scheduled route, the operator is subject 26272
to such a tax by reason of residence or domicile in the municipal 26273
corporation, or the headquarters of the authority or commission is 26274
located within the municipal corporation; 26275

(6) The income of a public utility, when that public utility 26276
is subject to the tax levied under section 5727.24 or 5727.30 of 26277
the Revised Code, except a municipal corporation may tax the 26278
following, subject to Chapter 5745. of the Revised Code: 26279

(a) Beginning January 1, 2002, the income of an electric 26280
company or combined company; 26281

(b) Beginning January 1, 2004, the income of a telephone 26282
company. 26283

As used in division (H)(6) of this section, "combined 26284

company," "electric company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;

(8) On and after January 1, 2001, compensation paid to a nonresident individual to the extent prohibited under section 718.011 of the Revised Code;

(9)(a) Except as provided in division (H)(9)(b) and (c) of this section, an S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.

(b) If, pursuant to division (H) of former section 718.01 of the Revised Code as it existed before March 11, 2004, a majority of the electors of a municipal corporation voted in favor of the question at an election held on November 4, 2003, the municipal corporation may continue after 2002 to tax an S corporation shareholder's distributive share of net profits of an S corporation.

(c) If, on December 6, 2002, a municipal corporation was imposing, assessing, and collecting a tax on an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated or apportioned to this state under divisions (B)(1) and (2) of section 5733.05 of the Revised Code if the S corporation were a corporation subject to taxes imposed under Chapter 5733. of the Revised Code, the municipal corporation may continue to impose the tax on such distributive shares to the extent such shares would be so allocated or apportioned to this state only until

December 31, 2004, unless a majority of the electors of the
municipal corporation voting on the question of continuing to tax
such shares after that date vote in favor of that question at an
election held November 2, 2004. If a majority of those electors
vote in favor of the question, the municipal corporation may
continue after December 31, 2004, to impose the tax on such
distributive shares only to the extent such shares would be so
allocated or apportioned to this state.

(d) For the purposes of division (D) of section 718.14 of the
Revised Code, a municipal corporation shall be deemed to have
elected to tax S corporation shareholders' distributive shares of
net profits of the S corporation in the hands of the shareholders
if a majority of the electors of a municipal corporation vote in
favor of a question at an election held under division (H)(9)(b)
or (c) of this section. The municipal corporation shall specify by
ordinance or rule that the tax applies to the distributive share
of a shareholder of an S corporation in the hands of the
shareholder of the S corporation.

(10) Employee compensation that is not "qualifying wages" as
defined in section 718.03 of the Revised Code;

(11) Beginning August 1, 2007, compensation paid to a person
employed within the boundaries of a United States air force base
under the jurisdiction of the United States air force that is used
for the housing of members of the United States air force and is a
center for air force operations, unless the person is subject to
taxation because of residence or domicile. If the compensation is
subject to taxation because of residence or domicile, municipal
income tax shall be payable only to the municipal corporation of
residence or domicile.

(I) Any municipal corporation that taxes any type of
intangible income on March 29, 1988, pursuant to Section 3 of
Amended Substitute Senate Bill No. 238 of the 116th general

assembly, may continue to tax that type of income after 1988 if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 vote in favor thereof at an election held on November 8, 1988.

(J) Nothing in this section or section 718.02 of the Revised Code shall authorize the levy of any tax on income that a municipal corporation is not authorized to levy under existing laws or shall require a municipal corporation to allow a deduction from taxable income for losses incurred from a sole proprietorship or partnership.

(K)(1) Nothing in this chapter prohibits a municipal corporation from allowing, by resolution or ordinance, a net operating loss carryforward.

(2) Nothing in this chapter requires a municipal corporation to allow a net operating loss carryforward.

(L)(1) A single member limited liability company that is a disregarded entity for federal tax purposes may elect to be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company;

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004;

(c) Not later than December 31, 2004, the limited liability company and its single member each make an election to be treated as a separate taxpayer under division (L) of this section;

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member;

(e) The Ohio municipal corporation that is the primary place of business of the sole member of the limited liability company consents to the election.

(2) For purposes of division (L)(1)(e) of this section, a municipal corporation is the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability is greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 is at least four hundred thousand dollars.

Sec. 718.09. (A) This section applies to either of the following:

(1) A municipal corporation that shares the same territory as a city, local, or exempted village school district, to the extent that not more than five per cent of the territory of the municipal corporation is located outside the school district and not more than five per cent of the territory of the school district is located outside the municipal corporation;

(2) A municipal corporation that shares the same territory as a city, local, or exempted village school district, to the extent that not more than five per cent of the territory of the municipal corporation is located outside the school district, more than five per cent but not more than ten per cent of the territory of the school district is located outside the municipal corporation, and that portion of the territory of the school district that is located outside the municipal corporation is located entirely

within another municipal corporation having a population of four 26409
hundred thousand or more according to the federal decennial census 26410
most recently completed before the agreement is entered into under 26411
division (B) of this section. 26412

(B) The legislative authority of a municipal corporation to 26413
which this section applies may propose to the electors an income 26414
tax, one of the purposes of which shall be to provide financial 26415
assistance to the school district through payment to the district 26416
of not less than twenty-five per cent of the revenue generated by 26417
the tax, except that the legislative authority may not propose to 26418
levy the income tax on the incomes of nonresident individuals. 26419
Prior to proposing the tax, the legislative authority shall 26420
negotiate and enter into a written agreement with the board of 26421
education of the school district specifying the tax rate, the 26422
percentage of tax revenue to be paid to the school district, the 26423
purpose for which the school district will use the money, the 26424
first year the tax will be levied, the date of the special 26425
election on the question of the tax, and the method and schedule 26426
by which the municipal corporation will make payments to the 26427
school district. The special election shall be held on a day 26428
specified in division (D) of section 3501.01 of the Revised Code, 26429
except that the special election may not be held on the day for 26430
holding a primary election as authorized by the municipal 26431
corporation's charter unless the municipal corporation is to have 26432
a primary election on that day. 26433

After the legislative authority and board of education have 26434
entered into the agreement, the legislative authority shall 26435
provide for levying the tax by ordinance. The ordinance shall 26436
state the tax rate, the percentage of tax revenue to be paid to 26437
the school district, the purpose for which the municipal 26438
corporation will use its share of the tax revenue, the first year 26439
the tax will be levied, and that the question of the income tax 26440

will be submitted to the electors of the municipal corporation. 26441
The legislative authority also shall adopt a resolution specifying 26442
the regular or special election date the election will be held and 26443
directing the board of elections to conduct the election. At least 26444
ninety days before the date of the election, the legislative 26445
authority shall file certified copies of the ordinance and 26446
resolution with the board of elections. 26447

(C) The board of elections shall make the necessary 26448
arrangements for the submission of the question to the electors of 26449
the municipal corporation, and shall conduct the election in the 26450
same manner as any other municipal income tax election. Notice of 26451
the election shall be published in a newspaper of general 26452
circulation in the municipal corporation once a week for four 26453
consecutive weeks, or as provided in section 7.16 of the Revised 26454
Code, prior to the election, and shall include statements of the 26455
rate and municipal corporation and school district purposes of the 26456
income tax, the percentage of tax revenue that will be paid to the 26457
school district, and the first year the tax will be levied. The 26458
ballot shall be in the following form: 26459

"Shall the ordinance providing for a per cent levy on 26460
income for (brief description of the municipal corporation and 26461
school district purposes of the levy, including a statement of the 26462
percentage of tax revenue that will be paid to the school 26463
district) be passed? The income tax, if approved, will not be 26464
levied on the incomes of individuals who do not reside in (the 26465
name of the municipal corporation). 26466

	For the income tax	
	Against the income tax	"

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(D) If the question is approved by a majority of the 26471

electors, the municipal corporation shall impose the income tax 26472
beginning in the year specified in the ordinance. The proceeds of 26473
the levy may be used only for the specified purposes, including 26474
payment of the specified percentage to the school district. 26475

Sec. 718.10. (A) This section applies to a group of two or 26476
more municipal corporations that, taken together, share the same 26477
territory as a single city, local, or exempted village school 26478
district, to the extent that not more than five per cent of the 26479
territory of the municipal corporations as a group is located 26480
outside the school district and not more than five per cent of the 26481
territory of the school district is located outside the municipal 26482
corporations as a group. 26483

(B) The legislative authorities of the municipal corporations 26484
in a group of municipal corporations to which this section applies 26485
each may propose to the electors an income tax, to be levied in 26486
concert with income taxes in the other municipal corporations of 26487
the group, except that a legislative authority may not propose to 26488
levy the income tax on the incomes of individuals who do not 26489
reside in the municipal corporation. One of the purposes of such a 26490
tax shall be to provide financial assistance to the school 26491
district through payment to the district of not less than 26492
twenty-five per cent of the revenue generated by the tax. Prior to 26493
proposing the taxes, the legislative authorities shall negotiate 26494
and enter into a written agreement with each other and with the 26495
board of education of the school district specifying the tax rate, 26496
the percentage of the tax revenue to be paid to the school 26497
district, the first year the tax will be levied, and the date of 26498
the election on the question of the tax, all of which shall be the 26499
same for each municipal corporation. The agreement also shall 26500
state the purpose for which the school district will use the 26501
money, and specify the method and schedule by which each municipal 26502
corporation will make payments to the school district. The special 26503

election shall be held on a day specified in division (D) of 26504
section 3501.01 of the Revised Code, including a day on which all 26505
of the municipal corporations are to have a primary election. 26506

After the legislative authorities and board of education have 26507
entered into the agreement, each legislative authority shall 26508
provide for levying its tax by ordinance. Each ordinance shall 26509
state the rate of the tax, the percentage of tax revenue to be 26510
paid to the school district, the purpose for which the municipal 26511
corporation will use its share of the tax revenue, and the first 26512
year the tax will be levied. Each ordinance also shall state that 26513
the question of the income tax will be submitted to the electors 26514
of the municipal corporation on the same date as the submission of 26515
questions of an identical tax to the electors of each of the other 26516
municipal corporations in the group, and that unless the electors 26517
of all of the municipal corporations in the group approve the tax 26518
in their respective municipal corporations, none of the municipal 26519
corporations in the group shall levy the tax. Each legislative 26520
authority also shall adopt a resolution specifying the regular or 26521
special election date the election will be held and directing the 26522
board of elections to conduct the election. At least ninety days 26523
before the date of the election, each legislative authority shall 26524
file certified copies of the ordinance and resolution with the 26525
board of elections. 26526

(C) For each of the municipal corporations, the board of 26527
elections shall make the necessary arrangements for the submission 26528
of the question to the electors, and shall conduct the election in 26529
the same manner as any other municipal income tax election. For 26530
each of the municipal corporations, notice of the election shall 26531
be published in a newspaper of general circulation in the 26532
municipal corporation once a week for four consecutive weeks, or 26533
as provided in section 7.16 of the Revised Code, prior to the 26534
election. The notice shall include a statement of the rate and 26535

municipal corporation and school district purposes of the income tax, the percentage of tax revenue that will be paid to the school district, and the first year the tax will be levied, and an explanation that the tax will not be levied unless an identical tax is approved by the electors of each of the other municipal corporations in the group. The ballot shall be in the following form:

"Shall the ordinance providing for a ... per cent levy on income for (brief description of the municipal corporation and school district purposes of the levy, including a statement of the percentage of income tax revenue that will be paid to the school district) be passed? The income tax, if approved, will not be levied on the incomes of individuals who do not reside in (the name of the municipal corporation). In order for the income tax to be levied, the voters of (the other municipal corporations in the group), which are also in the (name of the school district) school district, must approve an identical income tax and agree to pay the same percentage of the tax revenue to the school district.

	For the income tax	
	Against the income tax	"

(D) If the question is approved by a majority of the electors and identical taxes are approved by a majority of the electors in each of the other municipal corporations in the group, the municipal corporation shall impose the tax beginning in the year specified in the ordinance. The proceeds of the levy may be used only for the specified purposes, including payment of the specified percentage to the school district.

Sec. 719.012. In order to rehabilitate a building or structure that a municipal corporation determines to be a blighted

property as defined in section 1.08 of the Revised Code, a 26567
municipal corporation may appropriate, in the manner provided in 26568
sections 163.01 to 163.22 of the Revised Code, any such building 26569
or structure and the real property of which it is a part. The 26570
municipal corporation shall rehabilitate the building or structure 26571
or cause it to be rehabilitated within two years after the 26572
appropriation, so that the building or structure is no longer a 26573
public nuisance, insecure, unsafe, structurally defective, 26574
unhealthful, or unsanitary, or a threat to the public health, 26575
safety, or welfare, or in violation of a building code or 26576
ordinance adopted under section 731.231 of the Revised Code. Any 26577
building or structure appropriated pursuant to this section which 26578
is not rehabilitated within two years shall be demolished. 26579

If during the rehabilitation process the municipal 26580
corporation retains title to the building or structure and the 26581
real property of which it is a part, then within one hundred 26582
eighty days after the rehabilitation is complete, the municipal 26583
corporation shall appraise the rehabilitated building or structure 26584
and the real property of which it is a part, and shall sell the 26585
building or structure and property at public auction. The 26586
municipal corporation shall advertise the public auction in a 26587
newspaper of general circulation in the municipal corporation once 26588
a week for three consecutive weeks, or as provided in section 7.16 26589
of the Revised Code, prior to the date of sale. The municipal 26590
corporation shall sell the building or structure and real property 26591
to the highest and best bidder. No property that a municipal 26592
corporation acquires pursuant to this section shall be leased. 26593

Sec. 719.05. The mayor of a municipal corporation shall, 26594
immediately upon the passage of a resolution under section 719.04 26595
of the Revised Code, declaring an intent to appropriate property, 26596
for which but one reading is necessary, cause written notice to be 26597
given to the owner of, person in possession of, or person having 26598

an interest of record in, every piece of property sought to be 26599
appropriated, or to ~~his~~ the authorized agent of the owner or other 26600
such person. Such notice shall be served by a person designated 26601
for the purpose and return made in the manner provided for the 26602
service and return of summons in civil actions. If such owner, 26603
person, or agent cannot be found, notice shall be given by 26604
publication once a week for three consecutive weeks in a newspaper 26605
of general circulation in the municipal corporation or as provided 26606
in section 7.16 of the Revised Code, and the legislative authority 26607
may thereupon pass an ordinance by a two-thirds vote of all 26608
members elected thereto, directing such appropriation to proceed. 26609

Sec. 721.03. No contract, except as provided in section 26610
721.28 of the Revised Code, for the sale or lease of real estate 26611
belonging to a municipal corporation shall be made unless 26612
authorized by an ordinance, approved by a two-thirds vote of the 26613
members of the legislative authority of such municipal 26614
corporation, and by the board or officer having supervision or 26615
management of such real estate. When the contract is so 26616
authorized, it shall be made in writing by such board or officer, 26617
and, except as provided in section 721.27 of the Revised Code, 26618
only with the highest bidder, after advertisement once a week for 26619
five consecutive weeks in a newspaper of general circulation 26620
within the municipal corporation or as provided in section 7.16 of 26621
the Revised Code. Such board or officer may reject any bids and 26622
readvertise until all such real estate is sold or leased. 26623

Sec. 721.15. (A) Personal property not needed for municipal 26624
purposes, the estimated value of which is less than one thousand 26625
dollars, may be sold by the board or officer having supervision or 26626
management of that property. If the estimated value of that 26627
property is one thousand dollars or more, it shall be sold only 26628
when authorized by an ordinance of the legislative authority of 26629

the municipal corporation and approved by the board, officer, or 26630
director having supervision or management of that property. When 26631
so authorized, the board, officer, or director shall make a 26632
written contract with the highest and best bidder after 26633
advertisement for not less than two ~~or~~ nor more than four 26634
consecutive weeks in a newspaper of general circulation within the 26635
municipal corporation or as provided in section 7.16 of the 26636
Revised Code, or with a board of county commissioners upon such 26637
lawful terms as are agreed upon, as provided by division (B)(1) of 26638
section 721.27 of the Revised Code. 26639

(B) When the legislative authority finds, by resolution, that 26640
the municipal corporation has vehicles, equipment, or machinery 26641
which is obsolete, or is not needed or is unfit for public use, 26642
that the municipal corporation has need of other vehicles, 26643
equipment, or machinery of the same type, and that it will be in 26644
the best interest of the municipal corporation that the sale of 26645
obsolete, unneeded, or unfit vehicles, equipment, or machinery be 26646
made simultaneously with the purchase of the new vehicles, 26647
equipment, or machinery of the same type, the legislative 26648
authority may offer to sell, or authorize a board, officer, or 26649
director of the municipal corporation having supervision or 26650
management of the property to offer to sell, those vehicles, 26651
equipment, or machinery and to have the selling price credited 26652
against the purchase price of other vehicles, equipment, or 26653
machinery and to consummate the sale and purchase by a single 26654
contract with the lowest and best bidder to be determined by 26655
subtracting from the selling price of the vehicles, equipment, or 26656
machinery to be purchased by the municipal corporation the 26657
purchase price offered for the municipally-owned vehicles, 26658
equipment, or machinery. When the legislative authority or the 26659
authorized board, officer, or director of a municipal corporation 26660
advertises for bids for the sale of new vehicles, equipment, or 26661
machinery to the municipal corporation, they may include in the 26662

same advertisement a notice of willingness to accept bids for the 26663
purchase of municipally-owned vehicles, equipment, or machinery 26664
which is obsolete, or is not needed or is unfit for public use, 26665
and to have the amount of those bids subtracted from the selling 26666
price as a means of determining the lowest and best bidder. 26667

(C) If the legislative authority of the municipal corporation 26668
determines that municipal personal property is not needed for 26669
public use, or is obsolete or unfit for the use for which it was 26670
acquired, and that the property has no value, the legislative 26671
authority may discard or salvage that property. 26672

(D) Notwithstanding anything to the contrary in division (A) 26673
or (B) of this section and regardless of the property's value, the 26674
legislative authority of a municipal corporation may sell personal 26675
property, including motor vehicles acquired for the use of 26676
municipal officers and departments, and road machinery, equipment, 26677
tools, or supplies, which is not needed for public use, or is 26678
obsolete or unfit for the use for which it was acquired, by 26679
internet auction. The legislative authority shall adopt, during 26680
each calendar year, a resolution expressing its intent to sell 26681
that property by internet auction. The resolution shall include a 26682
description of how the auctions will be conducted and shall 26683
specify the number of days for bidding on the property, which 26684
shall be no less than ten days, including Saturdays, Sundays, and 26685
legal holidays. The resolution shall indicate whether the 26686
municipal corporation will conduct the auction or the legislative 26687
authority will contract with a representative to conduct the 26688
auction and shall establish the general terms and conditions of 26689
sale. If a representative is known when the resolution is adopted, 26690
the resolution shall provide contact information such as the 26691
representative's name, address, and telephone number. 26692

After adoption of the resolution, the legislative authority 26693
shall publish, in a newspaper of general circulation in the 26694

municipal corporation or as provided in section 7.16 of the 26695
Revised Code, notice of its intent to sell unneeded, obsolete, or 26696
unfit municipal personal property by internet auction. The notice 26697
shall include a summary of the information provided in the 26698
resolution and shall be published ~~at least~~ twice. The second ~~and~~ 26699
~~any subsequent~~ notice shall be published not less than ten nor 26700
more than twenty days after the previous notice. A similar notice 26701
also shall be posted continually throughout the calendar year in a 26702
conspicuous place in the offices of the village clerk or city 26703
auditor, and the legislative authority, ~~and, if.~~ If the municipal 26704
corporation maintains a ~~website~~ web site on the internet, the 26705
notice shall be posted continually throughout the calendar year at 26706
that ~~website~~ web site. 26707

When the property is to be sold by internet auction, the 26708
legislative authority or its representative may establish a 26709
minimum price that will be accepted for specific items and may 26710
establish any other terms and conditions for the particular sale, 26711
including requirements for pick-up or delivery, method of payment, 26712
and sales tax. This type of information shall be provided on the 26713
internet at the time of the auction and may be provided before 26714
that time upon request after the terms and conditions have been 26715
determined by the legislative authority or its representative. 26716

Sec. 721.20. Notice of the filing, pendency, and prayer of 26717
the petition provided for by section 721.19 of the Revised Code 26718
shall be published for four consecutive weeks or as provided in 26719
section 7.16 of the Revised Code, prior to the day of hearing, in 26720
a newspaper ~~published in the municipal corporation, or if there is~~ 26721
~~none, then in a newspaper published in the county, and~~ of general 26722
circulation in such municipal corporation. 26723

Sec. 723.07. No street or alley shall be vacated or narrowed 26724
unless notice of the pendency and prayer of the petition under 26725

section 723.04 of the Revised Code is given by publishing, in a newspaper ~~published or~~ of general circulation in such municipal corporation, for six consecutive weeks preceding action on such petition, ~~or, where~~ as provided in section 7.16 of the Revised Code preceding action on the petition. Where no newspaper is ~~published of general circulation~~ in the municipal corporation, notice shall be given by posting the notice in three public places therein six weeks preceding such action. Action thereon shall take place within three months after the completion of the notice.

Sec. 727.011. For the purpose of controlling the blight and disease of shade trees within public rights-of-way, and for planting, maintaining, trimming, and removing shade trees in and along the streets of a municipality, the legislative authority of such municipal corporation may establish one or more districts in the municipality designating the boundaries thereof, and may each year thereafter, by ordinance, designate the district in which such control, planting, care, and maintenance shall be effected, setting forth an estimate of the cost and providing for the levy of a special assessment upon all the real property in the district, in the amount and in the manner provided in section 727.01 of the Revised Code, for planting, maintaining, trimming, and removing shade trees. The ordinance shall be adopted ~~and published~~ as other ordinances and a succinct summary of the ordinance shall be published in the manner provided in section 731.21 of the Revised Code. Bonds and anticipatory notes may be issued in anticipation of the collection of such special assessments, under section 133.17 of the Revised Code.

Sec. 727.012. For the purpose of constructing, maintaining, repairing, cleaning, and enclosing ditches, the legislative authority of such municipal corporation may establish one or more districts in the municipality designating the boundaries thereof,

and may each year thereafter, by ordinance, designate the district 26757
in which such constructing, maintaining, repairing, cleaning, and 26758
enclosing of ditches shall be effected, setting forth an estimate 26759
of the cost and providing for the levying of a special assessment 26760
upon all the real property in the district, in the amount and in 26761
the manner provided in section 727.01 of the Revised Code, for 26762
constructing, maintaining, repairing, cleaning, and enclosing 26763
ditches. The ordinance shall be adopted ~~and published~~ as other 26764
ordinances and a succinct summary of the ordinance shall be 26765
published in the manner provided in section 731.21 of the Revised 26766
Code. Bonds and anticipatory notes may be issued in anticipation 26767
of the collection of such special assessments, under section 26768
133.17 of the Revised Code. 26769

Sec. 727.08. The cost of any public improvement to be paid 26770
for directly or indirectly, in whole or in part, by funds derived 26771
from special assessments may include but not be limited to: 26772

(A) The purchase price of real estate or any interest therein 26773
when acquired by purchase, or not more than fifty per cent of the 26774
cost of acquiring such real estate or any interest therein when 26775
acquired by appropriation; 26776

(B) The cost of preliminary and other surveys; 26777

(C) The cost of preparing plans, specifications, profiles, 26778
and estimates except, to the extent that costs of plans, 26779
specifications, and estimates of cost have been paid for by the 26780
levy of assessments under section 729.11 of the Revised Code, such 26781
costs shall not be included in determining the cost of the 26782
improvement under this section; 26783

(D) The cost of printing, serving, and publishing notices, 26784
and summaries of resolutions, and ordinances; 26785

(E) The cost of all special proceedings; 26786

(F) The cost of labor and material, whether furnished by contract or otherwise;	26787 26788
(G) Interest on securities issued in anticipation of the levy and collection of the special assessments or, if securities in anticipation of the levy of the special assessments are not issued, interest, at a rate to be determined by the legislative authority in the resolution of necessity adopted pursuant to section 727.12 of the Revised Code, on moneys advanced by the municipal corporation for the cost of the public improvement in anticipation of the levy of the special assessments;	26789 26790 26791 26792 26793 26794 26795 26796
(H) The total amount of damages, resulting from the improvement, assessed in favor of any owner of lands affected by the improvement, and interest thereon;	26797 26798 26799
(I) The cost incurred in connection with the preparation, levy, and collection of the special assessments, including legal expenses incurred by reason of the improvement;	26800 26801 26802
(J) Incidental costs directly connected with the improvement.	26803
Sec. 727.14. In lieu of the procedure provided in section 727.13 of the Revised Code, the legislative authority may provide for notice of the passage of a resolution of necessity providing for the lighting, sprinkling, sweeping, or cleaning of any street, alley, public road, or place, or parts thereof or for treating the surface of the same with dust-laying or preservative substances, or for the planting, maintaining, and removing of shade trees, or for the constructing, maintaining, repairing, cleaning, and enclosing of ditches, and the filing of the estimated assessment under section 727.12 of the Revised Code, to be given by publication of such notice once a week for two consecutive weeks in a newspaper of general circulation in the municipal corporation <u>or as provided in section 7.16 of the Revised Code</u> . When it appears from the estimated assessment filed as provided by section	26804 26805 26806 26807 26808 26809 26810 26811 26812 26813 26814 26815 26816 26817

727.12 of the Revised Code, that the assessment against the owner 26818
of any lot or parcel of land will exceed two hundred fifty 26819
dollars, such owner shall be notified of the assessment in the 26820
manner provided in section 727.13 of the Revised Code. 26821

Sec. 727.46. When a general plan has been prepared under 26822
section 727.44 of the Revised Code and reported to the legislative 26823
authority, it shall be filed with the clerk of the legislative 26824
authority and the legislative authority shall cause its clerk to 26825
publish, once a week for two consecutive weeks in a newspaper of 26826
general circulation in the municipal corporation or as provided in 26827
section 7.16 of the Revised Code, a notice stating that such 26828
general plan has been prepared and is on file in the office of the 26829
clerk of the legislative authority for examination by interested 26830
persons and that written objections to such plan may be filed in 26831
the office of such clerk before the date specified in the notice, 26832
which shall not be earlier than the seventeenth day following the 26833
date of the first publication in said newspaper. Any person having 26834
an objection to the general plan shall file such objection in 26835
writing, with the clerk of the legislative authority within the 26836
time specified. 26837

Sec. 729.08. The legislative authority of the municipal 26838
corporation shall cause a notice to be published for three 26839
consecutive weeks in a newspaper of general circulation in the 26840
municipal corporation or as provided in section 7.16 of the 26841
Revised Code, stating that such list of estimated assessments has 26842
been made and is on file in the office of the clerk of the 26843
legislative authority for the inspection and examination of 26844
persons interested therein. 26845

If any person objects to an assessment on such list, ~~he~~ the 26846
person shall file ~~his~~ the objection in writing with the clerk of 26847
the legislative authority within two weeks after the expiration of 26848

the notice provided in this section. 26849

Sec. 729.11. In addition to the power conferred upon 26850
municipal corporations under section 727.01 of the Revised Code to 26851
levy and collect special assessments, the legislative authority of 26852
a municipal corporation may, whenever it has determined by 26853
ordinance that it is necessary to construct, enlarge, or improve a 26854
system of storm or sanitary sewerage for the municipal corporation 26855
or any part thereof, including sewage disposal works, treatment 26856
plants, and sewage pumping stations, or a water supply system for 26857
the municipal corporation or any part thereof including mains, 26858
dams, reservoirs, wells, intakes, purification works, and pumping 26859
stations, and that any such improvement shall be constructed, 26860
enlarged, or improved, may levy upon property to be benefited in 26861
the municipal corporation or any designated part thereof, which 26862
property shall be described in the ordinance, a preliminary 26863
assessment upon the benefited lots and lands within the 26864
corporation or such part thereof, apportioned according to 26865
benefits or to the tax valuation or partly by one method and 26866
partly by the other, as the legislative authority determines for 26867
the purpose of paying the costs of general and detailed plans, 26868
specifications, estimates, preparation of the tentative 26869
assessment, financing, and legal services incident to the 26870
preparation of such plans, and a plan for financing the proposed 26871
improvements. 26872

Prior to the adoption of such ordinance, the legislative 26873
authority of such municipal corporation shall give notice of the 26874
pendency thereof and of the proposed determination of the 26875
necessity of the improvement therein generally described, which 26876
notice shall set forth the description of the benefited property 26877
as designated in the ordinance and the time and place of hearing 26878
of objections to and endorsements of the improvement. Such notice 26879
shall be given by publication in a newspaper of general 26880

circulation in the municipal corporation once a week for two 26881
consecutive weeks or as provided in section 7.16 of the Revised 26882
Code, the first publication to be at least two weeks prior to the 26883
date set for the hearing. At such hearing, or at any adjournment 26884
thereof, of which no further published notice need be given, the 26885
legislative authority shall hear all persons whose properties are 26886
proposed to be assessed, and such evidence as is deemed to be 26887
necessary, and shall then determine the necessity of the proposed 26888
improvement and in addition shall determine whether the 26889
improvement shall be made by the municipal corporation, and shall 26890
direct the preparation of tentative assessments upon the benefited 26891
properties and by whom they shall be prepared. 26892

Such assessments shall be in the amount determined to be 26893
necessary by the legislative authority to pay the costs of general 26894
and detailed plans, specifications, estimates of cost, preparation 26895
of the tentative assessment, financing and legal services incident 26896
to the preparation of such plans, and a plan of financing the 26897
proposed improvements, and shall be payable in such number of 26898
years as the legislative authority determines, not to exceed 26899
twenty, together with interest on any notes which may be issued in 26900
anticipation of the collection of such assessments. 26901

The legislative authority may at any time levy additional 26902
assessments according to benefits or to tax valuation or partly by 26903
one method and partly by the other as the legislative authority 26904
determines for such purposes upon such properties to complete the 26905
payment of such costs or to pay the cost of any additional plans, 26906
specifications, estimates of cost, tentative assessments, and the 26907
cost of financing and legal services incident to the preparation 26908
of such plans and such plan of financing, which additional 26909
assessments shall be payable in such number of years as the 26910
legislative authority determines, not to exceed twenty years, 26911
together with interest on any notes and bonds which may be issued 26912

in anticipation of the collection thereof. 26913

Upon completion of the tentative assessments or any 26914
additional assessments, they shall be filed with the clerk of the 26915
legislative authority and shall be and remain open to public 26916
inspection, and thereupon, the legislative authority shall give at 26917
least ten days' notice of the filing thereof in one newspaper of 26918
general circulation in the municipal corporation, or shall give 26919
notice as provided in section 7.16 of the Revised Code, which 26920
notice shall state the time and place when and where such 26921
tentative assessments shall be taken up for consideration. At such 26922
time and place or at any adjournment thereof, of which no further 26923
published notice need be given, the legislative authority shall 26924
hear all persons whose properties are proposed to be assessed, 26925
shall correct any errors and make any revisions that appear to be 26926
necessary or just, and may then pass an ordinance levying upon the 26927
properties determined to be benefited such assessments as so 26928
corrected and revised. 26929

The assessments levied by such ordinance shall be certified 26930
to the county auditor for collection as other taxes in the year or 26931
years in which they are payable; provided any such assessment in 26932
the amount of five dollars or less, or any unpaid balance of any 26933
such assessment which is five dollars or less, shall be paid in 26934
full, and not in installments, at the time the first or next 26935
installment would otherwise become due and payable. 26936

Upon the adoption of such ordinance levying assessments the 26937
legislative authority may authorize contracts to carry out the 26938
purposes for which such assessments have been levied without the 26939
prior issuance of notes and bonds; provided that the payments due 26940
by the municipal corporation do not fall due prior to the times in 26941
which such assessments shall be collected. The municipal 26942
corporation may also issue and sell its bonds with a maximum 26943
maturity of twenty years in anticipation of the collection of such 26944

assessments and may issue its notes in anticipation of the 26945
issuance of such bonds, which notes and bonds shall be issued and 26946
sold as provided in Chapter 133. of the Revised Code. 26947

Sec. 731.14. All contracts made by the legislative authority 26948
of a village shall be executed in the name of the village and 26949
signed on its behalf by the mayor and clerk. Except where the 26950
contract is for equipment, services, materials, or supplies to be 26951
purchased under division (D) of section 713.23 or section 125.04 26952
or 5513.01 of the Revised Code, available from a qualified 26953
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 26954
Revised Code, or required to be purchased from a qualified 26955
nonprofit agency under sections 125.60 to 125.6012 of the Revised 26956
Code, when any expenditure, other than the compensation of persons 26957
employed in the village, exceeds ~~twenty-five~~ fifty thousand 26958
dollars, such contracts shall be in writing and made with the 26959
lowest and best bidder after advertising once a week for not less 26960
than two consecutive weeks in a newspaper of general circulation 26961
within the village. The legislative authority may also cause 26962
notice to be inserted in trade papers or other publications 26963
designated by it or to be distributed by electronic means, 26964
including posting the notice on the legislative authority's 26965
internet web site. If the legislative authority posts the notice 26966
on its web site, it may eliminate the second notice otherwise 26967
required to be published in a newspaper of general circulation 26968
within the village, provided that the first notice published in 26969
such newspaper meets all of the following requirements: 26970

(A) It is published at least two weeks before the opening of 26971
bids. 26972

(B) It includes a statement that the notice is posted on the 26973
legislative authority's internet web site. 26974

(C) It includes the internet address of the legislative 26975

authority's internet web site. 26976

(D) It includes instructions describing how the notice may be 26977
accessed on the legislative authority's internet web site. 26978

The bids shall be opened and shall be publicly read by the 26979
clerk of the village or a person designated by the clerk at the 26980
time, date, and place specified in the advertisement to bidders or 26981
specifications. The time, date, and place of bid openings may be 26982
extended to a later date by the legislative authority of the 26983
village, provided that written or oral notice of the change shall 26984
be given to all persons who have received or requested 26985
specifications no later than ninety-six hours prior to the 26986
original time and date fixed for the opening. This section does 26987
not apply to those villages that have provided for the appointment 26988
of a village administrator under section 735.271 of the Revised 26989
Code. 26990

Sec. 731.141. In those villages that have established the 26991
position of village administrator, as provided by section 735.271 26992
of the Revised Code, the village administrator shall make 26993
contracts, purchase supplies and materials, and provide labor for 26994
any work under the administrator's supervision involving not more 26995
than twenty-five thousand dollars. When an expenditure, other than 26996
the compensation of persons employed by the village, exceeds 26997
twenty-five thousand dollars, the expenditure shall first be 26998
authorized and directed by ordinance of the legislative authority 26999
of the village. When so authorized and directed, except where the 27000
contract is for equipment, services, materials, or supplies to be 27001
purchased under division (D) of section 713.23 or section 125.04 27002
or 5513.01 of the Revised Code, available from a qualified 27003
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 27004
Revised Code, or required to be purchased from a qualified 27005
nonprofit agency under sections 125.60 to 125.6012 of the Revised 27006

Code, the village administrator shall make a written contract with 27007
the lowest and best bidder after advertisement for not less than 27008
two nor more than four consecutive weeks in a newspaper of general 27009
circulation within the village or as provided in section 7.16 of 27010
the Revised Code. The bids shall be opened and shall be publicly 27011
read by the village administrator or a person designated by the 27012
village administrator at the time, date, and place as specified in 27013
the advertisement to bidders or specifications. The time, date, 27014
and place of bid openings may be extended to a later date by the 27015
village administrator, provided that written or oral notice of the 27016
change shall be given to all persons who have received or 27017
requested specifications no later than ninety-six hours prior to 27018
the original time and date fixed for the opening. All contracts 27019
shall be executed in the name of the village and signed on its 27020
behalf by the village administrator and the clerk. 27021

The legislative authority of a village may provide, by 27022
ordinance, for central purchasing for all offices, departments, 27023
divisions, boards, and commissions of the village, under the 27024
direction of the village administrator, who shall make contracts, 27025
purchase supplies or materials, and provide labor for any work of 27026
the village in the manner provided by this section. 27027

Sec. 731.20. Ordinances, resolutions, and bylaws shall be 27028
authenticated by the signature of the presiding officer and clerk 27029
of the legislative authority of the municipal corporation. 27030
~~Ordinances~~ A succinct summary of ordinances of a general nature or 27031
providing for improvements shall be published as provided by 27032
sections 731.21 and 731.22 of the Revised Code before going into 27033
operation. No ordinance shall take effect until the expiration of 27034
ten days after the first publication of such notice. As soon as a 27035
bylaw, resolution, or ordinance is passed and signed, it shall be 27036
recorded by the clerk in a book furnished by the legislative 27037
authority for that purpose. 27038

~~Sec. 731.21. (A) Notwithstanding any conflicting provision of~~ 27039
~~section 7.12 of the Revised Code, A succinct summary of each~~ 27040
~~municipal ordinance or resolution, or a succinct summary of each~~ 27041
~~municipal ordinance and resolution, and all statements, orders,~~ 27042
~~proclamations, notices, and reports required by law or ordinance~~ 27043
~~to be published shall be published as follows:~~ 27044

~~(1) In two English language newspapers of opposite politics,~~ 27045
~~published and in a newspaper of general circulation in the~~ 27046
~~municipal corporation, if there are any such newspapers;~~ 27047

~~(2) If two English language newspapers of opposite politics~~ 27048
~~are not published and of general circulation in the municipal~~ 27049
~~corporation, then in one such political newspaper and one other~~ 27050
~~English language newspaper published and of general circulation~~ 27051
~~therein;~~ 27052

~~(3) If only one english language newspaper is published and~~ 27053
~~of general circulation in the municipal corporation, then in that~~ 27054
~~newspaper;~~ 27055

~~(4) If no english language newspaper is published and of~~ 27056
~~general circulation in the municipal corporation, then in any~~ 27057
~~English language newspaper of general circulation therein or by~~ 27058
~~posting as provided in section 731.25 of the Revised Code, at the~~ 27059
~~option of the legislative authority of such municipal corporation.~~ 27060
Proof of the publication and required circulation of any newspaper 27061
used as a medium of publication as provided by this section shall 27062
be made by affidavit of the proprietor of ~~either of such~~ 27063
~~newspapers~~ the newspaper, and shall be filed with the clerk of the 27064
legislative authority. 27065

~~(B) If a summary of an ordinance or resolution is published~~ 27066
~~under division (A) of this section, the The publication shall~~ 27067
contain notice that the complete text of each such ordinance or 27068
resolution may be obtained or viewed at the office of the clerk of 27069

the legislative authority of the municipal corporation and may be 27070
viewed at any other location designated by the legislative 27071
authority of the municipal corporation. The city director of law, 27072
village solicitor, or other chief legal officer of the municipal 27073
corporation shall review ~~any~~ the summary of an ordinance or 27074
resolution published under this section prior to forwarding it to 27075
the clerk for publication, to ensure that the summary is legally 27076
accurate and sufficient. 27077

(C) Upon publication of a summary of an ordinance or 27078
resolution in accordance with this section, the clerk of the 27079
legislative authority shall supply a copy of the complete text of 27080
each such ordinance or resolution to any person, upon request, and 27081
may charge a reasonable fee, set by the legislative authority, for 27082
each copy supplied. The clerk shall post a copy of the text at ~~his~~ 27083
the clerk's office and at every other location designated by the 27084
legislative authority. 27085

Sec. 731.211. In accordance with Section 9 of Article XVIII, 27086
Ohio Constitution, notice of proposed amendments to municipal 27087
charters shall be given in one of the following ways: 27088

(A) Not less than thirty days prior to the election at which 27089
the amendment is to be submitted to the electors, the clerk of the 27090
municipality shall mail a copy of the proposed charter amendment 27091
to each elector whose name appears upon the poll or registration 27092
books of the last regular or general election held therein. 27093

(B) The full text of the proposed charter amendment shall be 27094
published once a week for not less than two consecutive weeks in a 27095
newspaper ~~published~~ of general circulation in the municipal 27096
corporation or as provided in section 7.16 of the Revised Code, 27097
with the first publication being at least fifteen days prior to 27098
the election at which the amendment is to be submitted to the 27099
electors. ~~If no newspaper is published in the municipal~~ 27100

~~corporation, then such publication shall be made in a newspaper of~~ 27101
~~general circulation within the municipal corporation.~~ 27102

Sec. 731.22. The publication required in section 731.21 of 27103
the Revised Code shall be for the following times: 27104

(A) ~~Ordinances and resolutions, or summaries~~ Summaries of 27105
ordinances or resolutions, and proclamations of elections, once a 27106
week for two consecutive weeks or as provided in section 7.16 of 27107
the Revised Code; 27108

(B) Notices, not less than two nor more than four consecutive 27109
weeks or as provided in section 7.16 of the Revised Code; 27110

(C) All other matters shall be published once. 27111

Sec. 731.23. When ordinances are revised, codified, 27112
rearranged, published in book form, and certified as correct by 27113
the clerk of the legislative authority of a municipal corporation 27114
and the mayor, such publication shall be a sufficient publication, 27115
and the ordinances so published, under appropriate titles, 27116
chapters, and sections, shall be held the same in law as though 27117
they had been published in a newspaper. A new ordinance so 27118
published in book form, a summary of which has not been published 27119
as required by sections 731.21 and 731.22 of the Revised Code, and 27120
which contains entirely new matter, shall be published as required 27121
by such sections. If such revision or codification is made by a 27122
municipal corporation and contains new matter, it shall be a 27123
sufficient publication of such codification, including the new 27124
matter, to publish, in the manner required by such sections, a 27125
notice of the enactment of such codifying ordinance, containing 27126
the title of the ordinance and a summary of the new matters 27127
covered by it. Such revision and codification may be made under 27128
appropriate titles, chapters, and sections and in one ordinance 27129
containing one or more subjects. 27130

Except as provided by this section, a succinct summary of all 27131
ordinances, including emergency ordinances, shall be published in 27132
accordance with section 731.21 of the Revised Code. 27133

Sec. 731.24. Immediately after the expiration of the period 27134
of publication ~~for ordinances or~~ of summaries of ordinances 27135
required by section 731.22 of the Revised Code, the clerk of the 27136
legislative authority of a municipal corporation shall enter on 27137
the record of ordinances, in a blank to be left for such purpose 27138
under the recorded ordinance, a certificate stating in which 27139
newspaper and on what dates such publication was made, and shall 27140
sign ~~his~~ the clerk's name thereto officially. Such certificate 27141
shall be prima-facie evidence that legal publication of the 27142
~~ordinance or~~ summary of the ordinance was made. 27143

Sec. 731.25. ~~Notwithstanding any conflicting provision of~~ 27144
~~section 7.12 of the Revised Code, in~~ In municipal corporations in 27145
which no newspaper is published generally circulated, publication 27146
of ~~ordinances and resolutions, or~~ summaries of ordinances and 27147
resolutions, and publication of all statements, orders, 27148
proclamations, notices, and reports, required by law or ordinance 27149
to be published, shall be accomplished ~~in either of the following~~ 27150
~~methods, as determined by the legislative authority:~~ 27151

~~(A) By~~ by posting copies in not less than five of the most 27152
public places in the municipal corporation, as determined by the 27153
legislative authority, for a period of not less than fifteen days 27154
prior to the effective date thereof: 27155

~~(B) By publication in any newspaper printed in this state and~~ 27156
~~of general circulation in such municipal corporation.~~ 27157

Notices to bidders for the construction of public 27158
improvements and notices of the sale of bonds shall be published 27159
~~in not more than two newspapers, printed in this state and a~~ 27160

newspaper of general circulation in such municipal corporation, 27161
for the time prescribed in section 731.22 of the Revised Code. 27162

Where such publication is by posting, the clerk shall make a 27163
certificate as to such posting, and as to the times when and the 27164
places where such posting is done, in the manner provided in 27165
section 731.24 of the Revised Code, and such certificate shall be 27166
prima-facie evidence that the copies were posted as required. 27167

Sec. 735.05. The director of public service may make any 27168
contract, purchase supplies or material, or provide labor for any 27169
work under the supervision of the department of public service 27170
involving not more than twenty-five thousand dollars. When an 27171
expenditure within the department, other than the compensation of 27172
persons employed in the department, exceeds twenty-five thousand 27173
dollars, the expenditure shall first be authorized and directed by 27174
ordinance of the city legislative authority. When so authorized 27175
and directed, except where the contract is for equipment, 27176
services, materials, or supplies to be purchased under division 27177
(D) of section 713.23 or section 125.04 or 5513.01 of the Revised 27178
Code or available from a qualified nonprofit agency pursuant to 27179
sections 4115.31 to 4115.35 of the Revised Code, the director 27180
shall make a written contract with the lowest and best bidder 27181
after advertisement for not less than two nor more than four 27182
consecutive weeks in a newspaper of general circulation within the 27183
city or as provided in section 7.16 of the Revised Code. 27184

Sec. 735.20. When a whole plan, or any portion thereof, as 27185
provided in section 735.19 of the Revised Code is completed, or 27186
when the location of any avenue, street, roadway, or alley has 27187
been finally determined by the platting commissioner of a city, a 27188
plat of the plan, avenue, street, roadway, or alley shall be 27189
placed in the office of the city engineer for the inspection of 27190
persons interested, and notice that it is ready for inspection 27191

shall be published in ~~one or more newspapers~~, a newspaper of 27192
general circulation within the city, for six consecutive weeks, or 27193
as provided in section 7.16 of the Revised Code. 27194

Sec. 737.04. The legislative authority of any municipal 27195
corporation, in order to obtain police protection or to obtain 27196
additional police protection, or to allow its police officers to 27197
work in multijurisdictional drug, gang, or career criminal task 27198
forces, may enter into contracts with one or more municipal 27199
corporations, townships, township police districts, joint police 27200
districts, or county sheriffs in this state, with one or more park 27201
districts created pursuant to section 511.18 or 1545.01 of the 27202
Revised Code, with one or more port authorities, or with a 27203
contiguous municipal corporation in an adjoining state, upon any 27204
terms that are agreed upon, for services of police departments or 27205
the use of police equipment or for the interchange of services of 27206
police departments or police equipment within the several 27207
territories of the contracting subdivisions. 27208

Chapter 2744. of the Revised Code, insofar as it applies to 27209
the operation of police departments, shall apply to the 27210
contracting political subdivisions and to the police department 27211
members when they are rendering service outside their own 27212
subdivisions pursuant to the contracts. 27213

Police department members acting outside the subdivision in 27214
which they are employed, pursuant to a contract entered into under 27215
this section, shall be entitled to participate in any indemnity 27216
fund established by their employer to the same extent as while 27217
acting within the employing subdivision. Those members shall be 27218
entitled to all the rights and benefits of Chapter 4123. of the 27219
Revised Code, to the same extent as while performing service 27220
within the subdivision. 27221

The contracts may provide for: 27222

(A) A fixed annual charge to be paid at the times agreed upon	27223
and stipulated in the contract;	27224
(B) Compensation based upon:	27225
(1) A stipulated price for each call or emergency;	27226
(2) The number of members or pieces of equipment employed;	27227
(3) The elapsed time of service required in each call or emergency.	27228 27229
(C) Compensation for loss or damage to equipment while engaged in rendering police services outside the limits of the subdivision owning and furnishing the equipment;	27230 27231 27232
(D) Reimbursement of the subdivision in which the police department members are employed for any indemnity award or premium contribution assessed against the employing subdivision for workers' compensation benefits for injuries or death of its police department members occurring while engaged in rendering police services pursuant to the contract.	27233 27234 27235 27236 27237 27238
Sec. 737.041. The police department of any municipal corporation may provide police protection to any county, municipal corporation, township, or township police district, <u>or joint</u> <u>police district</u> of this state, to a park district created pursuant to section 511.18 or 1545.01 of the Revised Code, to a port authority, to any multijurisdictional drug, gang, or career criminal task force, or to a governmental entity of an adjoining state without a contract to provide police protection, upon the approval, by resolution, of the legislative authority of the municipal corporation in which the department is located and upon authorization by an officer or employee of the police department providing the police protection who is designated by title of office or position, pursuant to the resolution of the legislative authority of the municipal corporation, to give the authorization.	27239 27240 27241 27242 27243 27244 27245 27246 27247 27248 27249 27250 27251 27252

Chapter 2744. of the Revised Code, insofar as it applies to 27253
the operation of police departments, shall apply to any municipal 27254
corporation and to members of its police department when the 27255
members are rendering police services pursuant to this section 27256
outside the municipal corporation by which they are employed. 27257

Police department members acting, as provided in this 27258
section, outside the municipal corporation by which they are 27259
employed shall be entitled to participate in any pension or 27260
indemnity fund established by their employer to the same extent as 27261
while acting within the municipal corporation by which they are 27262
employed. Those members shall be entitled to all the rights and 27263
benefits of Chapter 4123. of the Revised Code to the same extent 27264
as while performing services within the municipal corporation by 27265
which they are employed. 27266

Sec. 737.32. Except as otherwise provided in this section and 27267
unless the property involved is required to be disposed of 27268
pursuant to another section of the Revised Code, property that is 27269
unclaimed for ninety days or more shall be sold by the chief of 27270
police of the municipal corporation, marshal of the village, or 27271
licensed auctioneer at public auction, after notice of the sale 27272
has been provided by publication once a week for three successive 27273
weeks in a newspaper of general circulation in the county or as 27274
provided in section 7.16 of the Revised Code. The proceeds of the 27275
sale shall be paid to the treasurer of the municipal corporation 27276
and shall be credited to the general fund of the municipal 27277
corporation. 27278

If authorized to do so by an ordinance adopted by the 27279
legislative authority of the municipal corporation and if the 27280
property involved is not required to be disposed of pursuant to 27281
another section of the Revised Code, the chief of police or 27282
marshal may contribute property that is unclaimed for ninety days 27283

or more to one or more public agencies, to one or more nonprofit 27284
organizations no part of the net income of which inures to the 27285
benefit of any private shareholder or individual and no 27286
substantial part of the activities of which consists of carrying 27287
on propaganda or otherwise attempting to influence legislation, or 27288
to one or more organizations satisfying section 501(c)(3) or 27289
(c)(19) of the Internal Revenue Code of 1986. 27290

Sec. 737.40. (A) The legislative authority of a municipal 27291
corporation may establish, by ordinance or resolution, a voluntary 27292
motor vehicle decal registration program to be controlled by the 27293
director of public safety of the municipal corporation and 27294
conducted by the police department of the municipal corporation. 27295
The legislative authority may establish a fee for participation in 27296
the program in an amount sufficient to cover the cost of 27297
administering the program and the cost of the decals. 27298

(B) Any resident of the municipal corporation may enroll a 27299
motor vehicle that he owns in the program by signing a consent 27300
form, displaying the decal issued under this section, and paying 27301
the prescribed fee. The motor vehicle owner shall remove the decal 27302
to withdraw from the program and also prior to the sale or 27303
transfer of ownership of the vehicle. Any law enforcement officer 27304
may conduct, at any place within this state at which the officer 27305
would be permitted to arrest the person operating the vehicle, an 27306
investigatory stop of any motor vehicle displaying a decal issued 27307
under this section when the vehicle is being driven between the 27308
hours of one a.m. and five a.m. A law enforcement officer may 27309
conduct an investigatory stop under this division regardless of 27310
whether the officer observes a violation of law involving the 27311
vehicle or whether he has probable cause to believe that any 27312
violation of law involving the vehicle has occurred. 27313

(C) The consent form required under division (B) of this 27314

section shall: 27315

(1) Describe the conditions for participation in the program, 27316
including a description of an investigatory stop and a statement 27317
that any law enforcement officer may conduct, at any place within 27318
this state at which the officer would be permitted to arrest the 27319
person operating the vehicle, an investigatory stop of the motor 27320
vehicle when it is being driven between the hours of one a.m. and 27321
five a.m. 27322

(2) Contain other information identifying the vehicle and 27323
owner as the director of public safety of the municipal 27324
corporation or the chief of police considers necessary. 27325

(D) The state director of public safety, in accordance with 27326
Chapter 119. of the Revised Code, shall adopt rules governing the 27327
color, size, and design of decals issued under this section and 27328
the location where the decals shall be displayed on vehicles that 27329
are enrolled in the program. 27330

(E) Divisions (A) to (D) and (G) of this section do not 27331
require a law enforcement officer to conduct an investigatory stop 27332
of a vehicle displaying a decal issued under this section or under 27333
a program described in division (G) of this section. 27334

(F) As used in this section: 27335

(1) "Investigatory stop" means a temporary stop of a motor 27336
vehicle and its operator and occupants for purposes of determining 27337
the identity of the person who is operating the vehicle and, if 27338
the person who is operating it is not its owner, whether any 27339
violation of law has occurred or is occurring. An "investigatory 27340
stop" is not an arrest, but, if an officer who conducts an 27341
investigatory stop determines that illegal conduct has occurred or 27342
is occurring, an "investigatory stop" may be the basis for an 27343
arrest. 27344

(2) "Law enforcement officer" means a sheriff, deputy 27345

sheriff, constable, police officer of a township or joint township 27346
police district, marshal, deputy marshal, municipal police 27347
officer, or state highway patrol trooper. 27348

(G) Any motor vehicle decal registration program that was in 27349
existence on June 1, 1993, and administered by a municipal 27350
corporation shall not be required to conform in any manner to this 27351
section and may continue to be administered in the manner in which 27352
it was administered on that date. 27353

Sec. 742.41. (A) As used in this section: 27354

(1) "Other system retirant" has the same meaning as in 27355
section 742.26 of the Revised Code. 27356

(2) "Personal history record" includes a member's, former 27357
member's, or other system retirant's name, address, telephone 27358
number, social security number, record of contributions, 27359
correspondence with the Ohio police and fire pension fund, status 27360
of any application for benefits, and any other information deemed 27361
confidential by the trustees of the fund. 27362

(B) The treasurer of state shall furnish annually to the 27363
board of trustees of the fund a sworn statement of the amount of 27364
the funds in the treasurer of state's custody belonging to the 27365
Ohio police and fire pension fund. The records of the fund shall 27366
be open for public inspection except for the following, which 27367
shall be excluded, except with the written authorization of the 27368
individual concerned: 27369

(1) The individual's personal history record; 27370

(2) Any information identifying, by name and address, the 27371
amount of a monthly allowance or benefit paid to the individual. 27372

(C) All medical reports and recommendations required are 27373
privileged, except as follows: 27374

(1) Copies of medical reports or recommendations shall be 27375

made available to the personal physician, attorney, or authorized 27376
agent of the individual concerned upon written release received 27377
from the individual or the individual's agent or, when necessary 27378
for the proper administration of the fund, to the board-assigned 27379
physician. 27380

(2) Documentation required by section 2929.193 of the Revised 27381
Code shall be provided to a court holding a hearing under that 27382
section. 27383

(D) Any person who is a member of the fund or an other system 27384
retirant shall be furnished with a statement of the amount to the 27385
credit of the person's individual account upon the person's 27386
written request. The fund need not answer more than one such 27387
request of a person in any one year. 27388

(E) Notwithstanding the exceptions to public inspection in 27389
division (B) of this section, the fund may furnish the following 27390
information: 27391

(1) If a member, former member, or other system retirant is 27392
subject to an order issued under section 2907.15 of the Revised 27393
Code or an order issued under division (A) or (B) of section 27394
2929.192 of the Revised Code or is convicted of or pleads guilty 27395
to a violation of section 2921.41 of the Revised Code, on written 27396
request of a prosecutor as defined in section 2935.01 of the 27397
Revised Code, the fund shall furnish to the prosecutor the 27398
information requested from the individual's personal history 27399
record. 27400

(2) Pursuant to a court order issued pursuant to Chapter 27401
3119., 3121., 3123., or 3125. of the Revised Code, the fund shall 27402
furnish to a court or child support enforcement agency the 27403
information required under that section. 27404

(3) At the request of any organization or association of 27405
members of the fund, the fund shall provide a list of the names 27406

and addresses of members of the fund and other system retirants. 27407
The fund shall comply with the request of such organization or 27408
association at least once a year and may impose a reasonable 27409
charge for the list. 27410

(4) Within fourteen days after receiving from the director of 27411
job and family services a list of the names and social security 27412
numbers of recipients of public assistance pursuant to section 27413
5101.181 of the Revised Code, the fund shall inform the auditor of 27414
state of the name, current or most recent employer address, and 27415
social security number of each member or other system retirant 27416
whose name and social security number are the same as that of a 27417
person whose name or social security number was submitted by the 27418
director. The fund and its employees shall, except for purposes of 27419
furnishing the auditor of state with information required by this 27420
section, preserve the confidentiality of recipients of public 27421
assistance in compliance with ~~division (A)~~ of section 5101.181 of 27422
the Revised Code. 27423

(5) The fund shall comply with orders issued under section 27424
3105.87 of the Revised Code. 27425

On the written request of an alternate payee, as defined in 27426
section 3105.80 of the Revised Code, the fund shall furnish to the 27427
alternate payee information on the amount and status of any 27428
amounts payable to the alternate payee under an order issued under 27429
section 3105.171 or 3105.65 of the Revised Code. 27430

(6) At the request of any person, the fund shall make 27431
available to the person copies of all documents, including 27432
resumes, in the fund's possession regarding filling a vacancy of a 27433
police officer employee member, firefighter employee member, 27434
police retirant member, or firefighter retirant member of the 27435
board of trustees. The person who made the request shall pay the 27436
cost of compiling, copying, and mailing the documents. The 27437
information described in this division is a public record. 27438

(7) The fund shall provide the notice required by section 27439
742.464 of the Revised Code to the prosecutor assigned to the 27440
case. 27441

(F) A statement that contains information obtained from the 27442
fund's records that is signed by the secretary of the board of 27443
trustees of the Ohio police and fire pension fund and to which the 27444
board's official seal is affixed, or copies of the fund's records 27445
to which the signature and seal are attached, shall be received as 27446
true copies of the fund's records in any court or before any 27447
officer of this state. 27448

Sec. 745.07. An ordinance passed pursuant to section 745.06 27449
of the Revised Code shall not take effect until submitted to the 27450
electors of the municipal corporation, at a special or general 27451
election held in the municipal corporation at such time as the 27452
legislative authority determines, and approved by a majority of 27453
the electors voting on it. The ordinance shall be passed by an 27454
affirmative vote of not less than a majority of the members of the 27455
legislative authority and shall be subject to the approval of the 27456
mayor as provided by law. The ordinance shall specify the form or 27457
phrasing of the question to be placed upon the ballot. Thirty 27458
days' notice of the election shall be given by publication once a 27459
week for two consecutive weeks in ~~two daily or weekly newspapers~~ 27460
~~published or circulated~~ a newspaper of general circulation in the 27461
municipal corporation ~~and, if~~ or as provided in section 7.16 of 27462
the Revised Code. If the board of elections operates and maintains 27463
a web site, notice of the election also shall be posted on that 27464
web site for thirty days prior to the election. The notice shall 27465
contain the full form or phrasing of the question to be submitted. 27466
The clerk of the legislative authority shall certify the passage 27467
of the ordinance to the officers having control of elections in 27468
the municipal corporation, who shall cause the question to be 27469
voted on at the general or special election as specified in the 27470

ordinance. 27471

Sec. 747.05. The board of rapid transit commissioners shall 27472
have control of the expenditure of all moneys appropriated by the 27473
legislative authority of the city, received from the sale of bonds 27474
provided for in sections 747.01 to 747.13, ~~inclusive,~~ of the 27475
Revised Code, or from any other source, for the purchase, 27476
construction, improvement, maintenance, equipment, or enjoyment of 27477
all such rapid transit property, but no liability shall be 27478
incurred or expenditure made unless the money required therefor is 27479
in the city treasury to the credit of the board of rapid transit 27480
commissioners' fund and not appropriated for any other purpose. 27481
Moneys to be derived from the sale of bonds, the issue of which 27482
has been authorized, shall be deemed to be in the treasury to the 27483
credit of such fund. 27484

All moneys expended for the construction and acquisition of 27485
parkways or boulevards, as authorized by such sections, shall be 27486
provided for partly by special appropriation or bond issue and 27487
partly by assessments, as specified in section 747.06 of the 27488
Revised Code, and such funds shall be separately accounted for, 27489
and such expenditure shall not be considered a part of the rapid 27490
transit expenditure authorized by this section. The board may let 27491
contracts for any part of the work to the lowest and best bidder 27492
after three weeks' advertisement in ~~two newspapers~~ a newspaper of 27493
general circulation in the city or as provided in section 7.16 of 27494
the Revised Code. 27495

The board may reject any bid, and the proceedings for such 27496
contracts and payment therefor shall be the same as provided for 27497
the director of public service except the requirement of the 27498
approval of the board of control. 27499

Sec. 747.11. The board of rapid transit commissioners may 27500

grant to any corporation organized for street or interurban 27501
railway purposes the right to operate, by lease or otherwise, the 27502
depots, terminals, and railways mentioned in section 747.08 of the 27503
Revised Code upon such terms as the board is authorized by 27504
ordinance to agree upon with such corporation, subject to the 27505
approval of a majority of the electors of the city voting on the 27506
question. 27507

The board of rapid transit commissioners shall certify such 27508
lease or agreement to the board of elections, which shall then 27509
submit the question of the approval of such lease or agreement to 27510
the qualified electors of the city at either a special or general 27511
election as the ordinance specifies. Thirty days' notice of the 27512
election shall be given by publication in ~~one or more of the~~ 27513
~~newspapers published~~ a newspaper of general circulation in the 27514
city once a week for two consecutive weeks prior to the election, 27515
~~and, if or as provided in section 7.16 of the Revised Code. If the~~ 27516
board of elections operates and maintains a web site, the board of 27517
elections shall post notice of the election for thirty days prior 27518
to the election on its web site. The notice shall set forth the 27519
terms of the lease or agreement and the time of holding the 27520
election. On the approval by a majority of the voters voting at 27521
the election, the corporation may operate such depots, terminals, 27522
and railways as provided in the lease or agreement, and 27523
corporations organized under the laws of this state for street or 27524
interurban railway purposes may lease and operate such depots, 27525
terminals, and railways. 27526

Sec. 747.12. Whenever the board of rapid transit 27527
commissioners of a city declares by resolution that real estate of 27528
the city acquired for rapid transit purposes is not needed for the 27529
proper conduct and maintenance of such rapid transit system, such 27530
real estate may be sold or leased by the board to the highest 27531
bidder after advertisement once a week for three consecutive weeks 27532

in a newspaper of general circulation within the city or as 27533
provided in section 7.16 of the Revised Code. The board may reject 27534
any bid and readvertise until all such property is sold or leased. 27535
When the board has twice so offered to sell or lease such 27536
property, and it is not sold or leased, the board may privately 27537
sell or lease it. 27538

Moneys arising from such sales or leases shall be deposited 27539
in the treasury of the city to the credit of the board of rapid 27540
transit commissioners' fund, and may be expended for the purchase, 27541
construction, improvement, maintenance, equipment, and enjoyment 27542
of the city's rapid transit property, as such board directs. 27543

Contracts, leases, deeds, bills of sale, or other instruments 27544
in writing pertaining to such sales or leases shall be executed on 27545
behalf of the city by the board, by its president and secretary. 27546

Sec. 755.16. (A) Any ~~municipal corporation, township,~~ 27547
~~township park district, county, or school district~~ contracting 27548
subdivision, jointly with one or more other ~~municipal~~ 27549
~~corporations, townships, township park districts, counties, or~~ 27550
~~school districts or with an educational service center~~ contracting 27551
subdivisions, in any combination, ~~and a joint recreation district,~~ 27552
may acquire property for, construct, operate, and maintain any 27553
parks, playgrounds, playfields, gymnasiums, public baths, swimming 27554
pools, indoor recreation centers, educational facilities, or 27555
community centers. Any school district ~~or~~ educational service 27556
~~center, or state institution of higher education~~ may provide by 27557
the erection of any school ~~or~~ educational service center, or 27558
state institution of higher education building or premises, or by 27559
the enlargement of, addition to, or reconstruction or improvement 27560
of any school ~~or~~ educational service center, or state institution 27561
of higher education building or premises, for the inclusion of any 27562
such parks, recreational facilities, educational facilities, and 27563

community centers to be jointly acquired, constructed, operated, 27564
and maintained. Any ~~municipal corporation, township, township park~~ 27565
~~district, county, or school district~~ contracting subdivision, 27566
jointly with one or more other ~~municipal corporations, townships,~~ 27567
~~township park districts, counties, or school districts~~ or with an 27568
~~educational service center~~ contracting subdivisions, in any 27569
combination, ~~and a joint recreation district,~~ may equip, operate, 27570
and maintain those parks, recreational facilities, educational 27571
facilities, and community centers and may appropriate money for 27572
them those purposes. ~~An educational service center also may~~ 27573
~~appropriate money for purposes of equipping, operating, and~~ 27574
~~maintaining those parks, recreational facilities, and community~~ 27575
~~centers.~~ 27576

Any ~~municipal corporation, township, township park district,~~ 27577
~~county, school district, or educational service center~~ contracting 27578
subdivision agreeing to jointly acquire, construct, operate, or 27579
maintain parks, recreational facilities, educational facilities, 27580
and community centers pursuant to this section may contribute 27581
lands, money, other personal property, or services to the joint 27582
venture, as may be agreed upon. Any agreement shall specify the 27583
rights of the parties in any lands or personal property 27584
contributed. 27585

Any lands acquired by a township park district pursuant to 27586
Chapter 511. of the Revised Code and established as a public park 27587
or parks may be contributed to a joint venture authorized by this 27588
section. Fees may be charged in connection with the use of any 27589
recreational facilities, educational facilities, and community 27590
centers that may be constructed on those lands. 27591

(B) Any township may, jointly with a private land owner, 27592
construct, operate, equip, and maintain free public playgrounds 27593
and playfields. Any equipment provided by a township pursuant to 27594
this division shall remain township property and shall be used 27595

subject to a right of removal by the township. 27596

(C) As used in this section and in sections 755.17 and 755.18 27597
of the Revised Code: 27598

(1) "Community centers" means facilities characterized by all 27599
of the following: 27600

(a) They are acquired, constructed, operated, or maintained 27601
by ~~political~~ contracting subdivisions ~~or an educational service~~ 27602
~~center~~ pursuant to division (A) of this section. 27603

(b) They may be used for governmental, civic, or educational 27604
operations or purposes, or recreational activities. 27605

(c) They may be used only by the ~~entities~~ contracting 27606
subdivisions that acquire, construct, operate, or maintain them or 27607
by any other person upon terms and conditions determined by those 27608
~~entities~~ contracting subdivisions. 27609

(2) "Educational service center" has the same meaning as in 27610
division (A) of section 3311.05 of the Revised Code. 27611

(3) "Contracting subdivision" means a municipal corporation, 27612
township, joint recreation district, township park district, 27613
county, school district, educational service center, or state 27614
institution of higher education. 27615

(4) "School district" means any of the school districts or 27616
joint vocational school districts referred to in section 3311.01 27617
of the Revised Code. 27618

(5) "State institution of higher education" has the same 27619
meaning as in section 3345.011 of the Revised Code. 27620

Sec. 755.29. The board of park trustees, before entering into 27621
any contract for the performance of any work, the cost of which 27622
exceeds ~~ten~~ twenty-five thousand dollars, shall cause plans and 27623
specifications and forms of bids to be prepared, and when adopted 27624

by the board, ~~it~~ shall have them printed for distribution among 27625
bidders. 27626

Sec. 755.41. When lands lying within the limits of a 27627
municipal corporation have been dedicated to or for the use of the 27628
public for parks or park lands, and where such lands have remained 27629
unimproved and unused by the public for a period of twenty-one 27630
years and there appears to be little or no possibility that such 27631
lands will be improved and used by the public, the legislative 27632
authority of a municipal corporation in which said lands are 27633
located may, by ordinance, declare such parks or park lands 27634
vacated upon the petition of a majority of the abutting 27635
freeholders. No such parks or park lands shall be vacated unless 27636
notice of the pendency and prayer of the petition is given, in a 27637
newspaper of general circulation in the municipal corporation in 27638
which such lands are situated for three consecutive weeks, or as 27639
provided in section 7.16 of the Revised Code, preceding action on 27640
such petition. No such lands shall be vacated prior to a public 27641
hearing had thereon. 27642

Sec. 755.42. Upon the vacation of parks or park lands as 27643
provided by section 755.41 of the Revised Code, the legislative 27644
authority of a municipal corporation shall offer such lands for 27645
sale at a public auction. No lands shall be sold until the 27646
legislative authority of such municipal corporation gives notice 27647
of intention to sell such lands. Such notice shall be published as 27648
provided in section 7.16 of the Revised Code or once a week for 27649
four consecutive weeks in a newspaper of general circulation in a 27650
municipal corporation in which the sale is to be had. The 27651
legislative authority of such municipal corporation or the board 27652
or officer having supervision or management of such real estate 27653
shall sell such lands to the highest and best bidder, provided 27654
that any and all bids made hereunder may be rejected. 27655

When such sale is made, the mayor or other officer of a 27656
municipal corporation in which sale is had and in which such lands 27657
are located, shall enter into a deed, conveying said lands to the 27658
purchaser thereof. At or after the time of sale, the auditor of 27659
the county shall place the lands sold hereunder on the tax 27660
duplicate of the county at a value to be established by ~~him~~ the 27661
auditor as in cases where ~~he~~ the auditor re-enters property which 27662
has been tax exempt on the taxable list of the county. 27663

The proceeds from the sale of lands sold pursuant to this 27664
section shall be placed in the general fund of the treasury of the 27665
municipal corporation in which such lands are located and may be 27666
disbursed as other general fund moneys. 27667

Sec. 755.43. When real estate ~~which~~ that has been dedicated 27668
to or for the use of the public for parks or park lands is vacated 27669
by the legislative authority of a municipal corporation pursuant 27670
to section 755.41 of the Revised Code, and where reversionary 27671
interests have been set up in the event of the non-use of such 27672
lands for the dedicated purpose, such reversionary interests shall 27673
accelerate and vest in the holders thereof upon such vacation. 27674
Thereupon, the auditor of the county shall place the lands on the 27675
tax duplicate of the county in the names of such reversionaries as 27676
are known to and supplied by the legislative authority of the 27677
municipal corporation or the board or officer having supervision 27678
or management of such real estate. If the legislative authority of 27679
such board or officer is unable to furnish the names of such 27680
reversioners, the legislative authority of a municipal corporation 27681
shall fix a date on or before which claims to such real estate may 27682
be asserted and after which such real estate shall be sold. Notice 27683
shall be given of such date and of the sale to be held thereafter, 27684
as provided in section 7.16 of the Revised Code or once each week 27685
for four consecutive weeks in a newspaper of general circulation 27686
in the municipal corporation wherein such lands are located. In 27687

the event that no claims to such lands are asserted or found to be 27688
valid, the lands shall be sold pursuant to section 755.42 of the 27689
Revised Code, and the title of any holders of reversionary 27690
interests shall be extinguished. 27691

Nothing contained in sections 755.41, 755.42, or 755.43 of 27692
the Revised Code shall be construed as limiting any of the home 27693
rule powers conferred upon municipalities by Article XVIII of the 27694
Constitution of the State of Ohio. 27695

Sec. 759.47. Land belonging to a public cemetery and used for 27696
an approach thereto, and which is, in the judgment of a majority 27697
of the officers having control or management thereof, unnecessary 27698
for cemetery purposes, may be sold by them at public sale to the 27699
highest bidder after advertisement as provided in section 7.16 of 27700
the Revised Code or once a week for five consecutive weeks in a 27701
newspaper of general circulation within the county in which the 27702
cemetery is situated. The board of township trustees or board of 27703
cemetery trustees of a municipal corporation making such sale 27704
shall execute in the name of the township or municipal corporation 27705
owning such cemetery proper conveyances for the land so sold. 27706
27707

Sec. 901.09. (A) The director of agriculture may employ and 27708
establish a compensation rate for seasonal produce graders and 27709
seasonal gypsy mothtrap tenders, who shall be in the unclassified 27710
civil service. 27711

(B) In lieu of employing seasonal gypsy moth tenders as 27712
provided in division (A) of this section, the director may 27713
contract with qualified individuals or entities to perform gypsy 27714
moth trapping. 27715

Sec. 918.221. The owner of an establishment that slaughters 27716
or otherwise prepares the meat of poultry may request the director 27717

of agriculture to provide supplemental inspection of the 27718
establishment beyond inspections otherwise required by this 27719
chapter. 27720

The director shall adopt rules in accordance with Chapter 27721
119. of the Revised Code establishing procedures and requirements 27722
for such supplemental inspections. In addition, the rules shall 27723
establish the amount of an inspection fee to be paid by an 27724
establishment requesting supplemental inspection. The fee shall be 27725
in an amount necessary to compensate the department of agriculture 27726
for the costs associated with supplemental inspections under this 27727
section. 27728

Sec. 924.52. (A) The Ohio grape industries committee may: 27729

(1) Conduct, and contract with others to conduct, research, 27730
including the study, analysis, dissemination, and accumulation of 27731
information obtained from the research or elsewhere, concerning 27732
the marketing and distribution of grapes and grape products, the 27733
storage, refrigeration, processing, and transportation of them, 27734
and the production and product development of grapes and grape 27735
products. The committee shall expend for these activities ~~no less~~ 27736
~~than thirty per cent~~ and no more than seventy per cent of all 27737
money it receives from the Ohio grape industries fund created 27738
under section 924.54 of the Revised Code. 27739

(2) Provide the wholesale and retail trade with information 27740
relative to proper methods of handling and selling grapes and 27741
grape products; 27742

(3) Make or contract for market surveys and analyses, 27743
undertake any other similar activities that it determines are 27744
appropriate for the maintenance and expansion of present markets 27745
and the creation of new and larger markets for grapes and grape 27746
products, and make, in the name of the committee, contracts to 27747

render service in formulating and conducting plans and programs 27748
and such other contracts or agreements as the committee considers 27749
necessary for the promotion of the sale of grapes and grape 27750
products. The committee shall expend for these activities ~~no less~~ 27751
~~than thirty per cent and~~ no more than seventy per cent of all 27752
money it receives from the fund. 27753

(4) Publish and distribute to producers and others 27754
information relating to the grape and grape product industries; 27755

(5) Propose to the director of agriculture for adoption, 27756
rescission, or amendment, pursuant to Chapter 119. of the Revised 27757
Code, rules necessary for the exercise of its powers and the 27758
performance of its duties; 27759

(6) Advertise for, post notices seeking, or otherwise solicit 27760
applicants to serve in administrative positions in the department 27761
of agriculture as employees who support the administrative 27762
functions of the committee. Applications shall be submitted to the 27763
committee. The committee shall select applicants that it wishes to 27764
recommend for employment and shall submit a list of the 27765
recommended applicants to the director. 27766

(B) The committee shall: 27767

(1) Promote the sale of grapes and grape products for the 27768
purpose of maintaining and expanding present markets and creating 27769
new and larger intrastate, interstate, and foreign markets for 27770
grapes and grape products, and inform the public of the uses and 27771
benefits of grapes and grape products; 27772

(2) Perform all acts and exercise all powers incidental to, 27773
in connection with, or considered reasonably necessary, proper, or 27774
advisable to effectuate the purposes of this section. 27775

Sec. 927.69. To effect the purpose of sections 927.51 to 27776
927.73 of the Revised Code, the director of agriculture or the 27777

director's authorized representative may: 27778

(A) Make reasonable inspection of any premises in this state 27779
and any property therein or thereon; 27780

(B) Stop and inspect in a reasonable manner, any means of 27781
conveyance moving within this state upon probable cause to believe 27782
it contains or carries any pest, host, commodity, or other article 27783
that is subject to sections 927.51 to 927.72 of the Revised Code; 27784

(C) Conduct inspections of agricultural products that are 27785
required by other states, the United States department of 27786
agriculture, other federal agencies, or foreign countries to 27787
determine whether the products are infested. If, upon making such 27788
an inspection, the director or the director's authorized 27789
representative determines that an agricultural product is not 27790
infested, the director or the director's authorized representative 27791
may issue a certificate, as required by other states, the United 27792
States department of agriculture, other federal agencies, or 27793
foreign countries, indicating that the product is not infested. 27794

If the director charges fees for any of the certificates, 27795
agreements, or inspections specified in this section, the fees 27796
shall be as follows: 27797

(1) ~~Phyto-sanitary~~ Phytosanitary certificates, twenty-five 27798
dollars for ~~those collectors or dealers that are licensed under~~ 27799
~~section 927.53 of the Revised Code~~ shipments comprised exclusively 27800
of nursery stock; 27801

(2) ~~Phyto-sanitary~~ Phytosanitary certificates, one hundred 27802
dollars for all others; 27803

(3) Phytosanitary certificates, twenty-five dollars for 27804
replacement of an issued certificate because of a mistake on the 27805
certificate or a change made by the shipper if no additional 27806
inspection is required; 27807

<u>(4)</u> Compliance agreements, forty dollars;	27808
(4) <u>(5)</u> Agricultural products and their conveyances	27809
inspections, an amount equal to the hourly rate of pay in the	27810
highest step in the pay range, including fringe benefits, of a	27811
plant pest control specialist multiplied by the number of hours	27812
worked by such a specialist in conducting an inspection.	27813
The director may adopt rules under section 927.52 of the	27814
Revised Code that define the certificates, agreements, and	27815
inspections.	27816
The fees shall be credited to the plant pest program fund	27817
created in section 927.54 of the Revised Code.	27818
Sec. 951.11. A person finding an animal at large in violation	27819
of section 951.01 or 951.02 of the Revised Code, may, and a law	27820
enforcement officer of a county, township, city, or village, on	27821
view or information, shall, take and confine such animal,	27822
forthwith giving notice thereof to the owner or keeper, if known,	27823
and, if not known, by publishing a notice describing such animal	27824
at least once in a newspaper of general circulation in the county,	27825
township, city, or village wherein the animal was found. If the	27826
owner or keeper does not appear and claim the animal and pay the	27827
compensation prescribed in section 951.13 of the Revised Code for	27828
so taking, advertising, and keeping it within ten days from the	27829
date of such notice, such person or the county shall have a lien	27830
therefor and the animal may be sold at public auction as provided	27831
in section 1311.49 of the Revised Code, and the residue of the	27832
proceeds of sale shall be paid and deposited by the treasurer in	27833
the general fund of the county.	27834
Sec. 955.011. (A) When an application is made for	27835
registration of an assistance dog and the owner can show proof by	27836
certificate or other means that the dog is an assistance dog, the	27837

owner of the dog shall be exempt from any fee for the 27838
registration. Registration for an assistance dog shall be 27839
permanent and not subject to annual renewal so long as the dog is 27840
an assistance dog. Certificates and tags stamped "Ohio Assistance 27841
Dog-Permanent Registration," with registration number, shall be 27842
issued upon registration of such a dog. Any certificate and tag 27843
stamped "Ohio Guide Dog-Permanent Registration" or "Ohio Hearing 27844
Dog-Permanent Registration," with registration number, that was 27845
issued for a dog in accordance with this section as it existed 27846
prior to July 4, 1984, any certificate and tag stamped "Ohio 27847
Handicapped Assistance Dog-Permanent Registration," with 27848
registration number, that was issued for a dog in accordance with 27849
this section as it existed on and after July 5, 1984, but prior to 27850
November 26, 2004, and any certificate and tag stamped "Ohio 27851
Service Dog-Permanent Registration," with registration number, 27852
that was issued for a dog in accordance with this section as it 27853
existed on and after November 26, 2004, but prior to ~~the effective~~ 27854
~~date of this amendment~~ June 30, 2006, shall remain in effect as 27855
valid proof of the registration of the dog on and after November 27856
26, 2004. Duplicate certificates and tags for a dog registered in 27857
accordance with this section, upon proper proof of loss, shall be 27858
issued and no fee required. Each duplicate certificate and tag 27859
that is issued shall be stamped "Ohio Assistance Dog-Permanent 27860
Registration." 27861

(B) As used in this section and in sections 955.16 and 955.43 27862
of the Revised Code: 27863

(1) "Mobility impaired person" means any person, regardless 27864
of age, who is subject to a physiological defect or deficiency 27865
regardless of its cause, nature, or extent that renders the person 27866
unable to move about without the aid of crutches, a wheelchair, or 27867
any other form of support, or that limits the person's functional 27868
ability to ambulate, climb, descend, sit, rise, or perform any 27869

related function. "Mobility impaired person" includes a person 27870
with a neurological or psychological disability that limits the 27871
person's functional ability to ambulate, climb, descend, sit, 27872
rise, or perform any related function. "Mobility impaired person" 27873
also includes a person with a seizure disorder and a person who is 27874
diagnosed with autism. 27875

(2) "Blind" means either of the following: 27876

(a) Vision twenty/two hundred or less in the better eye with 27877
proper correction; 27878

(b) Field defect in the better eye with proper correction 27879
that contracts the peripheral field so that the diameter of the 27880
visual field subtends an angle no greater than twenty degrees. 27881

(3) "Assistance dog" means a guide dog, hearing dog, or 27882
service dog that has been trained by a nonprofit special agency. 27883

(4) "Guide dog" means a dog that has been trained or is in 27884
training to assist a blind person. 27885

(5) "Hearing dog" means a dog that has been trained or is in 27886
training to assist a deaf or hearing-impaired person. 27887

(6) "Service dog" means a dog that has been trained or is in 27888
training to assist a mobility impaired person. 27889

Sec. 955.012. (A) As used in this section: 27890

(1) "Controlled substance" has the same meaning as in section 27891
3719.01 of the Revised Code. 27892

(2) "Law enforcement agency" means the state highway patrol, 27893
the office of a county sheriff, the police department of a 27894
municipal corporation or township, or a township or joint ~~township~~ 27895
police district. 27896

(3) "Law enforcement canine" means a dog regularly utilized 27897
by a law enforcement agency for general law enforcement purposes, 27898

tracking, or detecting the presence of a controlled substance or 27899
explosive. 27900

(B) Instead of obtaining an annual registration under section 27901
955.01 of the Revised Code, a law enforcement agency owning, 27902
keeping, or harboring a law enforcement canine may obtain an 27903
annual registration for the dog as a law enforcement canine under 27904
this section. The application for a law enforcement canine 27905
registration shall be submitted to the county auditor of the 27906
county in which the central office of the law enforcement agency 27907
that owns, keeps, or harbors the dog is located, except that for a 27908
dog owned, kept, or harbored by the state highway patrol, the 27909
application shall be submitted to the county auditor of the county 27910
in which is located the state highway patrol post to which the dog 27911
and its handler primarily are assigned. The application shall be 27912
submitted on or after the first day of December immediately 27913
preceding the beginning of the registration year and before the 27914
thirty-first day of January of that year. If the period for filing 27915
registration applications under division (A)(1) of section 955.01 27916
of the Revised Code is extended in the county in which a law 27917
enforcement canine is to be registered, an application for 27918
registration under this section shall be submitted to the county 27919
auditor not later than the registration deadline for that year, as 27920
so extended. 27921

The application for registration of a law enforcement canine 27922
shall state the age, sex, hair color, character of hair, whether 27923
short or long, and breed, if known, of the dog, the name and 27924
address of the owner of the dog, and, if the law enforcement 27925
agency keeping or harboring the dog is different from the owner, 27926
the name of that law enforcement agency. For a dog owned, kept, or 27927
harbored by the police department of a municipal corporation or 27928
township or by a township or joint ~~township~~ police district, the 27929
application shall be signed by the chief of the police department 27930

or district. For a dog owned, kept, or harbored by the office of a county sheriff, the application shall be signed by the sheriff. For a dog owned, kept, or harbored by the state highway patrol, the application shall be signed by the officer in charge of the post of the state highway patrol to which the dog and its handler primarily are assigned. The application shall include a certification by the chief of the police department or district, sheriff, or officer of the state highway patrol post, as applicable, that the dog described in the application has been properly trained to carry out one or more of the purposes described in division (A)(3) of this section and actually is used for one or more of those purposes by the law enforcement agency making the application.

No fee is required for issuance of a law enforcement canine registration. Upon proper proof of loss, a duplicate certificate and tag shall be issued for a dog registered under this section, and no fee shall be required.

If an application for registration of a law enforcement canine is not filed under this section on or before the thirty-first day of January of the registration year, or the extended registration deadline established under division (A)(1) of section 955.01 of the Revised Code, as applicable, the law enforcement canine shall be registered under that section, and the registration fee and late registration penalty applicable under divisions (A) and (B) of that section shall accompany the application.

(C) If a law enforcement agency becomes the owner, keeper, or harbinger of a law enforcement canine or brings a law enforcement canine into the state after the thirty-first day of January of a registration year or the extended registration deadline established under division (A)(1) of section 955.01 of the Revised Code, as applicable, the law enforcement agency, within thirty

days after becoming the owner, keeper, or harborer or bringing the 27963
dog into the state, may submit an application for registration of 27964
the dog under this section. Upon submission of the application, 27965
the law enforcement agency shall be issued such a registration in 27966
the manner provided in division (B) of this section. If such an 27967
application is not filed within the thirty-day period, the dog 27968
shall be registered under section 955.05 of the Revised Code, and 27969
the registration fee and late registration penalty applicable 27970
under that section or section 955.06 of the Revised Code shall 27971
accompany the application. 27972

Sec. 1309.528. ~~(A)~~ All fees collected by the secretary of 27973
state for filings under Title XIII or XVII of the Revised Code 27974
shall be deposited into the state treasury to the credit of the 27975
corporate and uniform commercial code filing fund, which is hereby 27976
created. All moneys credited to the fund, ~~subject to division (B)~~ 27977
~~of this section,~~ shall be used for the purpose of paying for the 27978
operations of the office of the secretary of state and for the 27979
purpose of paying for expenses relating to the processing of 27980
filings under Title XIII or XVII of the Revised Code. 27981

~~(B) There is hereby created in the state treasury the 27982
secretary of state business technology fund. One per cent of the 27983
money credited to the corporate and uniform commercial code filing 27984
fund created in division (A) of this section shall be transferred 27985
to the credit of this fund. All moneys credited to this fund shall 27986
be used only for the upkeep, improvement, or replacement of 27987
equipment, or for the purpose of training employees in the use of 27988
equipment, used to conduct business of the secretary of state's 27989
office under Title XIII or XVII of the Revised Code. 27990~~

Sec. 1327.46. ~~(A)~~ As used in sections 1327.46 to 1327.61 of 27991
the Revised Code: 27992

(A) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any such instruments and devices, except that ~~the term~~ "weights and measures" shall not be construed to include meters for the measurement of electricity, gas, whether natural or manufactured, or water when the same are operated in a public utility system. Such electricity, gas, and water meters, and appliances or accessories associated therewith, are specifically excluded from the purview of the weights and measures laws.

(B) "Intrastate commerce" means all commerce or trade that is begun, carried on, and completed wholly within the limits of this state, and "introduced into intrastate commerce" defines the time and place in which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(C) "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(D) "Consumer package" means a package that is customarily produced or distributed for sale through a retail sales agency for consumption by an individual or use by an individual.

(E) "Weight" as used in connection with any commodity means net weight.

(F) "Correct" as used in connection with weights and measures means conformity with all applicable requirements of sections 1327.46 to 1327.61 of the Revised Code and rules adopted pursuant to those sections.

(G) "Primary standards" means the physical standards of the state that serve as the legal reference from which all other

standards and weights and measures are derived. 28024

(H) "Secondary standards" means the physical standards that 28025
are traceable to the primary standards through comparisons, using 28026
acceptable laboratory procedures, and used in the enforcement of 28027
weights and measures laws and rules. 28028

(I) "Sale from bulk" means the sale of commodities when the 28029
quantity is determined at the time of sale. 28030

(J) "Net weight" means the weight of a commodity, excluding 28031
any materials, substances, or items not considered to be a part of 28032
the commodity. Materials, substances, or items not considered to 28033
be part of the commodity include, but are not limited to, 28034
containers, conveyances, bags, wrappers, packaging materials, 28035
labels, individual piece coverings, decorative accompaniments, and 28036
coupons. 28037

(K) "Random weight package" means a package that is one of a 28038
lot, shipment, or delivery of packages of the same commodity with 28039
no fixed pattern of weights. 28040

(L) "Sold" includes keeping, offering, or exposing for sale. 28041

(M) "Commercially used weighing and measuring device" means a 28042
device described in the national institute of standards and 28043
technology handbook 44 or its supplements and revisions and any 28044
other weighing and measuring device designated by rules adopted 28045
under division (C) of section 1327.50 of the Revised Code. 28046
"Commercially used weighing and measuring device" includes, but is 28047
not limited to, a livestock scale, vehicle scale, railway scale, 28048
vehicle tank meter, bulk rack meter, and LPG meter. 28049

(N) "Livestock scale" means a scale equipped with stock racks 28050
and gates that is adapted to weighing livestock standing on the 28051
scale platform. 28052

(O) "Vehicle scale" means a scale that is adapted to weighing 28053

highway, farm, or other large industrial vehicles other than 28054
railroad cars. 28055

(P) "Railway scale" means a rail scale that is designed to 28056
weigh railroad cars. 28057

(O) "Vehicle tank meter" means a vehicle mounted device that 28058
is designed for the measurement and delivery of liquid products 28059
from a tank. 28060

(R) "Bulk rack meter" means a wholesale device, usually 28061
mounted on a rack, that is designed for the measurement and 28062
delivery of liquid products. 28063

(S) "LPG meter" means a system, including a mechanism or 28064
machine of the meter type, that is designed to measure and deliver 28065
liquefied petroleum gas in the liquid state by a definite quantity 28066
whether installed in a permanent location or mounted on a vehicle. 28067

Sec. 1327.50. The director of agriculture shall: 28068

(A) Maintain traceability of the state standards to those of 28069
the national institute of standards and technology; 28070

(B) Enforce sections 1327.46 to 1327.61 of the Revised Code; 28071

(C) Issue reasonable rules for the uniform enforcement of 28072
sections 1327.46 to 1327.61 of the Revised Code, which rules shall 28073
have the force and effect of law; 28074

(D) Establish standards of weight, measure, or count, 28075
reasonable standards of fill, and standards for the voluntary 28076
presentation of cost per unit information for any package; 28077

(E) Grant any exemptions from sections 1327.46 to 1327.61 of 28078
the Revised Code, or any rules adopted under those sections, when 28079
appropriate to the maintenance of good commercial practices in the 28080
state; 28081

(F) Conduct investigations to ensure compliance with sections 28082

1327.46 to 1327.61 of the Revised Code;	28083
(G) Delegate to appropriate personnel any of these	28084
responsibilities for the proper administration of the director's	28085
office;	28086
(H) Test as often as is prescribed by rule the standards of	28087
weight and measure used by any municipal corporation or county	28088
within the state, and approve the same when found to be correct;	28089
(I) Inspect and test weights and measures kept, offered, or	28090
exposed for sale <u>that are sold</u> ;	28091
(J) Inspect and test to ascertain if they are correct,	28092
weights and measures commercially used either:	28093
(1) In determining the weight, measure, or count of	28094
commodities or things sold, or offered or exposed for sale, on the	28095
basis of weight, measure, or count;	28096
(2) In computing the basic charge or payment for goods or	28097
services rendered on the basis of weight, measure, or count.	28098
(K) Test all weights and measures used in checking the	28099
receipt or disbursement of supplies in every institution, for the	28100
maintenance of which funds are appropriated by the general	28101
assembly;	28102
(L) Approve for use, and may mark, such weights and measures	28103
as the director finds to be correct, and shall reject and mark as	28104
rejected such weights and measures as the director finds to be	28105
incorrect. Weights and measures that have been rejected may be	28106
seized if not corrected within the time specified or if used or	28107
disposed of in a manner not specifically authorized, and may be	28108
condemned and seized if found to be incorrect and not capable of	28109
being made correct.	28110
(M) Weigh, measure, or inspect packaged commodities kept,	28111
offered, or exposed for sale, <u>that are sold,</u> or in the process of	28112

delivery to determine whether they contain the amounts represented 28113
and whether they are ~~kept, offered, or exposed for sale~~ sold in 28114
accordance with sections 1327.46 to 1327.61 of the Revised Code or 28115
rules adopted under those sections. In carrying out this section, 28116
the director shall employ recognized sampling procedures, such as 28117
those designated in the national institute of standards and 28118
technology handbook 133 "checking the net contents of packaged 28119
goods." 28120

(N) Prescribe by rule the appropriate term or unit of weight 28121
or measure to be used, whenever the director determines in the 28122
case of a specific commodity that an existing practice of 28123
declaring the quantity by weight, measure, numerical count, or 28124
combination thereof, does not facilitate value comparisons by 28125
consumers, or offers an opportunity for consumer confusion; 28126

(O) Allow reasonable variations from the stated quantity of 28127
contents, which shall include those caused by unavoidable 28128
deviations in good manufacturing practice and by loss or gain of 28129
moisture during the course of good distribution practice, only 28130
after the commodity has entered intrastate commerce; 28131

(P) Provide for the weights and measures training of 28132
inspector personnel and establish minimum training requirements, 28133
which shall be met by all inspector personnel, whether county, 28134
municipal, or state; 28135

(Q) Prescribe the methods of tests and inspections to be 28136
employed in the enforcement of sections 1327.46 to 1327.61 of the 28137
Revised Code. The director may prescribe the official test and 28138
inspection forms to be used. 28139

(R) Provide by rule for voluntary registration with the 28140
director of private weighing and measuring device servicing 28141
agencies, and personnel; 28142

(S) In conjunction with the national institute of standards 28143

and technology, operate a type evaluation program for 28144
certification of weighing and measuring devices as part of the 28145
national type evaluation program. The director shall establish a 28146
schedule of fees for services rendered by the department of 28147
agriculture for type evaluation services. The director may require 28148
any weighing or measuring instrument or device to be traceable to 28149
a national type evaluation program certificate of conformance 28150
prior to use for commercial or law enforcement purposes. 28151

Sec. 1327.501. (A) No person shall operate in this state a 28152
commercially used weighing and measuring device, for which a fee 28153
is established in division (G) of this section unless the operator 28154
of the device obtains a permit issued by the director of 28155
agriculture or the director's designee. 28156

(B) An application for a permit shall be submitted to the 28157
director on a form that the director prescribes and provides. The 28158
applicant shall include with the application any information that 28159
is specified on the application form as well as the application 28160
fee established in this section. 28161

(C) Upon receipt of a completed application and the required 28162
fee from an applicant, the director or the director's designee 28163
shall issue or deny the permit to operate the commercially used 28164
weighing and measuring device that was the subject of the 28165
application. 28166

(D) A permit issued under this section expires on the 28167
thirtieth day of June of the year following its issuance and may 28168
be renewed annually on or before the first day of July of that 28169
year upon payment of a permit renewal fee established in this 28170
section. 28171

(E) If a permit renewal fee is more than sixty days past due, 28172
the director may assess a late penalty in an amount established 28173
under this section. 28174

<u>(F) The director shall do both of the following:</u>	28175
<u>(1) Establish procedures and requirements governing the issuance or denial of permits under this section;</u>	28176
<u>(2) Establish late penalties to be assessed for the late payment of a permit renewal fee and fees for the replacement of lost or destroyed permits.</u>	28177
<u>(2) Establish late penalties to be assessed for the late payment of a permit renewal fee and fees for the replacement of lost or destroyed permits.</u>	28178
<u>(2) Establish late penalties to be assessed for the late payment of a permit renewal fee and fees for the replacement of lost or destroyed permits.</u>	28179
<u>(2) Establish late penalties to be assessed for the late payment of a permit renewal fee and fees for the replacement of lost or destroyed permits.</u>	28180
<u>(G) An applicant for a permit to operate under this section shall pay an application fee in the following applicable amount:</u>	28181
<u>(G) An applicant for a permit to operate under this section shall pay an application fee in the following applicable amount:</u>	28182
<u>(1) Seventy-five dollars for a livestock scale;</u>	28183
<u>(2) Seventy-five dollars for a vehicle scale;</u>	28184
<u>(3) Seventy-five dollars for a railway scale;</u>	28185
<u>(4) Seventy-five dollars for a vehicle tank meter;</u>	28186
<u>(5) Seventy-five dollars for a bulk rack meter;</u>	28187
<u>(6) Seventy-five dollars for a LPG meter.</u>	28188
<u>A person who is issued a permit under this section and who seeks to renew that permit shall pay an annual permit renewal fee.</u>	28189
<u>A person who is issued a permit under this section and who seeks to renew that permit shall pay an annual permit renewal fee.</u>	28190
<u>The amount of a permit renewal fee shall be equal to the application fee for that permit established in this division.</u>	28191
<u>The amount of a permit renewal fee shall be equal to the application fee for that permit established in this division.</u>	28192
<u>(H) All money collected through the payment of fees and the imposition of penalties under this section shall be credited to the metrology and scale certification and device permitting fund created in section 1327.511 of the Revised Code.</u>	28193
<u>(H) All money collected through the payment of fees and the imposition of penalties under this section shall be credited to the metrology and scale certification and device permitting fund created in section 1327.511 of the Revised Code.</u>	28194
<u>(H) All money collected through the payment of fees and the imposition of penalties under this section shall be credited to the metrology and scale certification and device permitting fund created in section 1327.511 of the Revised Code.</u>	28195
<u>(H) All money collected through the payment of fees and the imposition of penalties under this section shall be credited to the metrology and scale certification and device permitting fund created in section 1327.511 of the Revised Code.</u>	28196
Sec. 1327.51. (A) When necessary for the enforcement of sections 1327.46 to 1327.61 of the Revised Code or rules adopted pursuant thereto, the director of agriculture and any weights and measures official acting under the authority of section 1327.52 of the Revised Code may do any of the following:	28197
Sec. 1327.51. (A) When necessary for the enforcement of sections 1327.46 to 1327.61 of the Revised Code or rules adopted pursuant thereto, the director of agriculture and any weights and measures official acting under the authority of section 1327.52 of the Revised Code may do any of the following:	28198
Sec. 1327.51. (A) When necessary for the enforcement of sections 1327.46 to 1327.61 of the Revised Code or rules adopted pursuant thereto, the director of agriculture and any weights and measures official acting under the authority of section 1327.52 of the Revised Code may do any of the following:	28199
Sec. 1327.51. (A) When necessary for the enforcement of sections 1327.46 to 1327.61 of the Revised Code or rules adopted pursuant thereto, the director of agriculture and any weights and measures official acting under the authority of section 1327.52 of the Revised Code may do any of the following:	28200
Sec. 1327.51. (A) When necessary for the enforcement of sections 1327.46 to 1327.61 of the Revised Code or rules adopted pursuant thereto, the director of agriculture and any weights and measures official acting under the authority of section 1327.52 of the Revised Code may do any of the following:	28201
Sec. 1327.51. (A) When necessary for the enforcement of sections 1327.46 to 1327.61 of the Revised Code or rules adopted pursuant thereto, the director of agriculture and any weights and measures official acting under the authority of section 1327.52 of the Revised Code may do any of the following:	28202
(1) Enter any commercial premises during normal business	28202

hours, except that in the event such premises are not open to the public, ~~he~~ the director or official shall first present ~~his~~ the director's or official's credentials and obtain consent before making entry thereto, unless a search warrant previously has been obtained;

(2) Issue stop-use, hold, and removal orders with respect to any weights and measures commercially used, and stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodity observed to be or believed to be ~~kept, offered, or exposed for sale~~ sold;

(3) Seize for use as evidence any incorrect or unapproved weight or measure or any package or commodity found to be used, retained, ~~offered or exposed for sale,~~ or sold in violation of sections 1327.46 to 1327.61 of the Revised Code or rules ~~promulgated~~ adopted pursuant thereto.

(B) The director shall afford an opportunity for a hearing in accordance with Chapter 119. of the Revised Code to any owner or operator whose property is seized by the ~~Ohio~~ department of agriculture.

Sec. 1327.511. All money collected under ~~section~~ sections 1327.50 and 1327.501 of the Revised Code from fees and for services rendered by the department of agriculture in operating the type evaluation program, a metrology laboratory program, and the device permitting program shall be deposited in the state treasury to the credit of the metrology and scale certification and device permitting fund, which is hereby created. Money credited to the fund shall be used to pay operating costs incurred by the department in administering the ~~program~~ programs.

Sec. 1327.54. No person shall misrepresent the price of any commodity or service sold, ~~offered, exposed,~~ or advertised for

sale by weight, measure, or count, nor represent the price in any 28233
manner calculated or tending to mislead or in any way deceive a 28234
person. 28235

Sec. 1327.57. (A) Except as otherwise provided by law, any 28236
consumer package or commodity in package form introduced or 28237
delivered for introduction into or received in intrastate 28238
commerce, ~~kept for the purpose of sale, or offered or exposed for~~ 28239
~~sale~~ sold in intrastate commerce shall bear on the outside of the 28240
package a definite, plain, and conspicuous declaration, as may be 28241
prescribed by rule adopted by the director of agriculture, of any 28242
of the following, as applicable: 28243

(1) The identity of the commodity in the package unless the 28244
same can easily be identified through the wrapper or container; 28245

(2) The net quantity of the contents in terms of weight, 28246
measure, or count; 28247

(3) In the case of any package ~~kept, or offered or exposed~~ 28248
~~for sale, or~~ sold at any place other than on the premises where 28249
packed, the name and place of business of the manufacturer, 28250
packer, or distributor. 28251

This section does not apply to beer or intoxicating liquor as 28252
defined in section 4301.01 of the Revised Code, or packages 28253
thereof, or to malt or brewer's wort, or packages thereof. 28254

(B) Under division (A)(2) of this section, neither the 28255
qualifying term "when packed" or any words of similar import, nor 28256
any term qualifying a unit of weight, measure, or count that tends 28257
to exaggerate the amount of commodity in a package, shall be used. 28258

(C) In addition to the declarations required by division (A) 28259
of this section, any package or commodity in package form, if the 28260
package is one of a lot containing random weights, measures, or 28261
counts of the same commodity and bears the total selling price of 28262

the package, shall bear on the outside of the package a plain and 28263
conspicuous declaration of the price per single unit of weight, 28264
measure, or count. 28265

(D) No package or commodity in package form shall be so 28266
wrapped, nor shall it be in a container so made, formed, or 28267
filled, as to mislead the purchaser as to the quantity of the 28268
contents of the package, and the contents of a container shall not 28269
fall below any reasonable standard of fill that may have been 28270
prescribed for the commodity in question by the director. 28271

Sec. 1327.62. Whenever the director of agriculture, or ~~his~~ 28272
the director's designee, has cause to believe that any person has 28273
violated, or is violating, ~~section~~ any provision of sections 28274
~~1327.54 or 1327.46~~ to 1327.61 of the Revised Code or a rule 28275
adopted under them, he the director, or his the director's 28276
designee, may conduct a hearing in accordance with Chapter 119. of 28277
the Revised Code to determine whether a violation has occurred. If 28278
the director or ~~his~~ the director's designee determines that the 28279
person has violated or is violating ~~section 1327.54 or any~~ 28280
provision of sections 1327.46 to 1327.61 of the Revised Code or a 28281
rule adopted under it, he the director or the director's designee 28282
may assess a civil penalty against the person. The person is 28283
liable for a civil penalty of not more than five hundred dollars 28284
for a first violation; for a second violation the person is liable 28285
for a civil penalty of not more than two thousand five hundred 28286
dollars; for each subsequent violation that occurs within five 28287
years after the second violation, the person is liable for a civil 28288
penalty of not more than ten thousand dollars. 28289

Any person assessed a civil penalty under this section shall 28290
pay the amount prescribed to the department of agriculture. The 28291
department shall remit all moneys collected under this section to 28292
the treasurer of state for deposit in the general revenue fund. 28293

Sec. 1327.99. Whoever violates section 1327.501 or 1327.54 or 28294
division (A), (B), (C), or (D) of section 1327.61 of the Revised 28295
Code or a rule adopted under sections 1327.46 to 1327.61 of the 28296
Revised Code is guilty of a misdemeanor of the second degree on a 28297
first offense; on each subsequent offense within seven years after 28298
the first offense, such person is guilty of a misdemeanor of the 28299
first degree. 28300

Sec. 1329.04. Registration of a trade name or report of a 28301
fictitious name, under sections 1329.01 to 1329.10 of the Revised 28302
Code, shall be effective for a term of five years from the date of 28303
registration or report. Upon application filed within six months 28304
prior to the expiration of such term, on a form furnished by the 28305
secretary of state, the registration or report may be renewed at 28306
the end of each five-year period for a like term, provided that a 28307
general partnership shall renew its registration or report 28308
whenever any partner named on its registration or report ceases to 28309
be a partner. Such a renewal shall extend the registration or 28310
report for five years, unless further changes occur in the 28311
interim. The renewal fee specified in division (S)(3) of section 28312
111.16 of the Revised Code, payable to the secretary of state, 28313
shall accompany the application for renewal of the registration or 28314
report. 28315

The secretary of state shall notify persons who have 28316
registered trade names or reported fictitious names, within the 28317
six months next preceding the expiration of the five years from 28318
the date of registration or report, of the necessity of renewal by 28319
writing ordinary or electronic mail to the last known physical or 28320
electronic mail address of such persons. 28321

Sec. 1329.42. A person who uses in this state a name, mark, 28322
or device to indicate ownership of articles or supplies may file 28323

in the office of the secretary of state, on a form to be 28324
prescribed by the secretary of state, a verified statement setting 28325
forth, but not limited to, the following information: 28326

(A) The name and business address of the person filing the 28327
statement; and, if a corporation, the state of incorporation; 28328

(B) The nature of the business of the applicant; 28329

(C) The type of articles or supplies in connection with which 28330
the name, mark, or device is used. 28331

The statement shall include or be accompanied by a specimen 28332
evidencing actual use of the name, mark, or device, together with 28333
the filing fee specified in division (U)(1) of section 111.16 of 28334
the Revised Code. The registration of a name, mark, or device 28335
pursuant to this section is effective for a ten-year period 28336
beginning on the date of registration. If an application for 28337
renewal is filed within six months prior to the expiration of the 28338
ten-year period on a form prescribed by the secretary of state, 28339
the registration may be renewed at the end of each ten-year period 28340
for an additional ten-year period. The renewal fee specified in 28341
division (U)(2) of section 111.16 of the Revised Code shall 28342
accompany the application for renewal. The secretary of state 28343
shall notify a registrant within the six months next preceding the 28344
expiration of ten years from the date of registration of the 28345
necessity of renewal by ~~writing~~ ordinary or electronic mail to the 28346
last known physical or electronic mail address of the registrant. 28347

Sec. 1332.24. (A)(1) In accordance with section 1332.25 of 28348
the Revised Code, the director of commerce may issue to any 28349
person, or renew, a video service authorization, which 28350
authorization confers on the person the authority, subject to 28351
sections 1332.21 to 1332.34 of the Revised Code, to provide video 28352
service in its video service area; construct and operate a video 28353
service network in, along, across, or on public rights-of-way for 28354

the provision of video service; and, when necessary to provide 28355
that service, exercise the power of a telephone company under 28356
section 4931.04 of the Revised Code. The term of a video service 28357
authorization or authorization renewal shall be ten years. 28358

(2) For the purposes of the "Cable Communications Policy Act 28359
of 1984," Pub. L. No. 98-549, 98 Stat. 2779, 47 U.S.C. 521 et 28360
seq., a video service authorization shall constitute a franchise 28361
under that law, and the director shall be the sole franchising 28362
authority under that law for video service authorizations in this 28363
state. 28364

(3) The director may impose upon and collect an annual 28365
assessment on video service providers. All money collected under 28366
division (A)(3) of this section shall be deposited in the state 28367
treasury to the credit of the ~~division of administration~~ video 28368
service authorization fund created under section ~~121.08~~ 1332.25 of 28369
the Revised Code. The total amount assessed in a fiscal year shall 28370
not exceed the lesser of four hundred fifty thousand dollars or, 28371
as shall be determined annually by the director, the department's 28372
actual, current fiscal year administrative costs in carrying out 28373
its duties under sections 1332.21 to 1332.34 of the Revised Code. 28374
The director shall allocate that total amount proportionately 28375
among the video service providers to be assessed, using a formula 28376
based on subscriber counts as of the thirty-first day of December 28377
of the preceding calendar year, which counts shall be submitted to 28378
the director not later than the thirty-first day of January of 28379
each year, via a notarized statement signed by an authorized 28380
officer. Any information submitted by a video service provider to 28381
the director for the purpose of determining subscriber counts 28382
shall be considered trade secret information, shall not be 28383
disclosed except by court order, and shall not constitute a public 28384
record under section 149.43 of the Revised Code. On or about the 28385
first day of June of each year, the director shall send to each 28386

video service provider to be assessed written notice of its 28387
proportional amount of the total assessment. The provider shall 28388
pay that amount on a quarterly basis not later than forty-five 28389
days after the end of each calendar quarter. After the initial 28390
assessment, the director annually shall reconcile the amount 28391
collected with the total, current amount assessed pursuant to this 28392
section, and either shall charge each assessed video service 28393
provider its respective proportion of any insufficiency or 28394
proportionately credit the provider's next assessment for any 28395
excess collected. 28396

(B)(1) The director may investigate alleged violations of or 28397
failures to comply with division (A) of section 1332.23, division 28398
(A) of this section, division (C) of section 1332.25, division (C) 28399
or (D) of section 1332.26, division (A), (B), or (C) of section 28400
1332.27, division (A) of section 1332.28, division (A) or (B) of 28401
section 1332.29, or section 1332.30 or 1332.31 of the Revised 28402
Code, or complaints concerning any such violation or failure. 28403
Except as provided in this section, the director has no authority 28404
to regulate video service in this state, including, but not 28405
limited to, the rates, terms, or conditions of that service. 28406

(2) In conducting an investigation under division (B)(1) of 28407
this section, the director, by subpoena, may compel witnesses to 28408
testify in relation to any matter over which the director has 28409
jurisdiction and may require the production of any book, record, 28410
or other document pertaining to that matter. If a person fails to 28411
file any statement or report, obey any subpoena, give testimony, 28412
produce any book, record, or other document as required by a 28413
subpoena, or permit photocopying of any book, record, or other 28414
document subpoenaed, the court of common pleas of any county in 28415
this state, upon application made to it by the director, shall 28416
compel obedience by attachment proceedings for contempt, as in the 28417
case of disobedience of the requirements of a subpoena issued from 28418

the court or a refusal to testify. 28419

(C)(1) If the director finds that a person has violated or 28420
failed to comply with division (A) of section 1332.23, division 28421
(A) of this section, division (C) of section 1332.25, division (C) 28422
or (D) of section 1332.26, division (A), (B), or (C) of section 28423
1332.27, division (A) of section 1332.28, division (A) or (B) of 28424
section 1332.29, or section 1332.30 or 1332.31 of the Revised 28425
Code, and the person has failed to cure the violation or failure 28426
after reasonable, written notice and reasonable time to cure, the 28427
director may do any of the following: 28428

(a) Apply to the court of common pleas of any county in this 28429
state for an order enjoining the activity or requiring compliance. 28430
Such an action shall be commenced not later than three years after 28431
the date the alleged violation or failure occurred or was 28432
reasonably discovered. Upon a showing by the director that the 28433
person has engaged in a violation or failure to comply, the court 28434
shall grant an injunction, restraining order, or other appropriate 28435
relief. 28436

(b) Enter into a written assurance of voluntary compliance 28437
with the person; 28438

(c) Pursuant to an adjudication under Chapter 119. of the 28439
Revised Code, assess a civil penalty in an amount determined by 28440
the director, including for any failure to comply with an 28441
assurance of voluntary compliance under division (C)(1)(b) of this 28442
section. The amount shall be not more than one thousand dollars 28443
for each day of violation or noncompliance, not to exceed a total 28444
of ten thousand dollars, counting all subscriber impacts as a 28445
single violation or act of noncompliance. In determining whether a 28446
civil penalty is appropriate under division (C)(1)(c) of this 28447
section, the director shall consider all of the following factors: 28448

(i) The seriousness of the noncompliance; 28449

- (ii) The good faith efforts of the person to comply; 28450
- (iii) The person's history of noncompliance; 28451
- (iv) The financial resources of the person; 28452
- (v) Any other matter that justice requires. 28453

Civil penalties collected pursuant to division (C)(1)(c) of 28454
this section shall be deposited to the credit of the video service 28455
enforcement fund in the state treasury, which is hereby created, 28456
to be used by the department of commerce in carrying out its 28457
duties under this section. 28458

(2) Pursuant to an adjudication under Chapter 119. of the 28459
Revised Code, the director may revoke, in whole or in part, the 28460
video service authorization of any person that has repeatedly and 28461
knowingly violated or failed to comply with division (A) of 28462
section 1332.23, division (A) of this section, division (C) of 28463
section 1332.25, division (C) or (D) of section 1332.26, division 28464
(A), (B), or (C) of section 1332.27, division (A) of section 28465
1332.28, division (A) or (B) of section 1332.29, or section 28466
1332.30 or 1332.31 of the Revised Code and that has failed to cure 28467
the violations or noncompliances after reasonable written notice 28468
and reasonable time to cure. Such person acts knowingly, 28469
regardless of the person's purpose, when the person is aware that 28470
the person's conduct will probably cause a certain result or will 28471
probably be of a certain nature. A person has knowledge of 28472
circumstances when the person is aware that such circumstances 28473
probably exist. 28474

(3) The court shall conduct a de novo review in any appeal 28475
from an adjudication under division (C)(1)(c) or (C)(2) of this 28476
section. 28477

(D) The public utilities commission has no authority over a 28478
video service provider in its offering of video service or a cable 28479
operator in its offering of cable or video service, or over any 28480

person in its offering of video service pursuant to a competitive 28481
video service agreement. 28482

Sec. 1345.73. ~~It~~ (A) Except as provided in division (B) of 28483
this section, it shall be presumed that a reasonable number of 28484
attempts have been undertaken by the manufacturer, its dealer, or 28485
its authorized agent to conform a motor vehicle to any applicable 28486
express warranty if, during the period of one year following the 28487
date of original delivery or during the first eighteen thousand 28488
miles of operation, whichever is earlier, any of the following 28489
apply: 28490

~~(A)(1)~~ Substantially the same nonconformity has been subject 28491
to repair three or more times and either continues to exist or 28492
recurs; 28493

~~(B)(2)~~ The vehicle is out of service by reason of repair for 28494
a cumulative total of thirty or more calendar days; 28495

~~(C)(3)~~ There have been eight or more attempts to repair any 28496
nonconformity; 28497

~~(D)(4)~~ There has been at least one attempt to repair a 28498
nonconformity that results in a condition that is likely to cause 28499
death or serious bodily injury if the vehicle is driven, and the 28500
nonconformity either continues to exist or recurs. 28501

(B)(1) Any period of time described in division (A) of this 28502
section shall be extended by any period of time during which the 28503
vehicle could not be reasonably repaired due to war, invasion, 28504
civil unrest, strike, fire, flood, or natural disaster. 28505

(2) If an extension of time is necessitated under division 28506
(B)(1) of this section due to the conditions described in that 28507
division, the manufacturer shall arrange for the use of a vehicle 28508
for the consumer whose vehicle is out of service at no cost to the 28509
consumer. If the manufacturer utilizes or contracts with a motor 28510

vehicle dealer or other third party to provide the vehicle, the 28511
manufacturer shall reimburse the motor vehicle dealer or other 28512
third party at a reasonable rate for the use of the vehicle. 28513

Sec. 1347.08. (A) Every state or local agency that maintains 28514
a personal information system, upon the request and the proper 28515
identification of any person who is the subject of personal 28516
information in the system, shall: 28517

(1) Inform the person of the existence of any personal 28518
information in the system of which the person is the subject; 28519

(2) Except as provided in divisions (C) and (E)(2) of this 28520
section, permit the person, the person's legal guardian, or an 28521
attorney who presents a signed written authorization made by the 28522
person, to inspect all personal information in the system of which 28523
the person is the subject; 28524

(3) Inform the person about the types of uses made of the 28525
personal information, including the identity of any users usually 28526
granted access to the system. 28527

(B) Any person who wishes to exercise a right provided by 28528
this section may be accompanied by another individual of the 28529
person's choice. 28530

(C)(1) A state or local agency, upon request, shall disclose 28531
medical, psychiatric, or psychological information to a person who 28532
is the subject of the information or to the person's legal 28533
guardian, unless a physician, psychiatrist, or psychologist 28534
determines for the agency that the disclosure of the information 28535
is likely to have an adverse effect on the person, in which case 28536
the information shall be released to a physician, psychiatrist, or 28537
psychologist who is designated by the person or by the person's 28538
legal guardian. 28539

(2) Upon the signed written request of either a licensed 28540

attorney at law or a licensed physician designated by the inmate, 28541
together with the signed written request of an inmate of a 28542
correctional institution under the administration of the 28543
department of rehabilitation and correction, the department shall 28544
disclose medical information to the designated attorney or 28545
physician as provided in division (C) of section 5120.21 of the 28546
Revised Code. 28547

(D) If an individual who is authorized to inspect personal 28548
information that is maintained in a personal information system 28549
requests the state or local agency that maintains the system to 28550
provide a copy of any personal information that the individual is 28551
authorized to inspect, the agency shall provide a copy of the 28552
personal information to the individual. Each state and local 28553
agency may establish reasonable fees for the service of copying, 28554
upon request, personal information that is maintained by the 28555
agency. 28556

(E)(1) This section regulates access to personal information 28557
that is maintained in a personal information system by persons who 28558
are the subject of the information, but does not limit the 28559
authority of any person, including a person who is the subject of 28560
personal information maintained in a personal information system, 28561
to inspect or have copied, pursuant to section 149.43 of the 28562
Revised Code, a public record as defined in that section. 28563

(2) This section does not provide a person who is the subject 28564
of personal information maintained in a personal information 28565
system, the person's legal guardian, or an attorney authorized by 28566
the person, with a right to inspect or have copied, or require an 28567
agency that maintains a personal information system to permit the 28568
inspection of or to copy, a confidential law enforcement 28569
investigatory record or trial preparation record, as defined in 28570
divisions (A)(2) and (4) of section 149.43 of the Revised Code. 28571

(F) This section does not apply to any of the following: 28572

(1) The contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;	28573 28574
(2) Information contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	28575 28576 28577 28578 28579 28580
(3) Papers, records, and books that pertain to an adoption and that are subject to inspection in accordance with section 3107.17 of the Revised Code;	28581 28582 28583
(4) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;	28584 28585 28586
(5) Records that identify an individual described in division (A) (B)(1) of section 3721.031 of the Revised Code, or that would tend to identify such an individual;	28587 28588 28589
(6) Files and records that have been expunged under division (D)(1) or (2) of section 3721.23 of the Revised Code;	28590 28591
(7) Records that identify an individual described in division (A)(1) of section 3721.25 of the Revised Code, or that would tend to identify such an individual;	28592 28593 28594
(8) Records that identify an individual described in division (A)(1) of section 5111.61 of the Revised Code, or that would tend to identify such an individual;	28595 28596 28597
(9) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;	28598 28599 28600 28601 28602

(10) Information contained in a database established and 28603
maintained pursuant to section 5101.13 of the Revised Code. 28604

Sec. 1501.022. There is hereby created in the state treasury 28605
the injection well review fund consisting of moneys transferred to 28606
it under section 6111.046 of the Revised Code. Moneys in the fund 28607
shall be used by the chiefs of the divisions of mineral resources 28608
management, oil and gas resources management, geological survey, 28609
and soil and water resources in the department of natural 28610
resources exclusively for the purpose of executing their duties 28611
under sections 6111.043 to 6111.047 of the Revised Code. 28612

Sec. 1501.40. The department of natural resources is the 28613
designated state agency responsible for the coordination and 28614
administration of sections 120 to 136 of the "National and 28615
Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C.A. 28616
12401 to 12456, as amended. With the assistance of the Ohio 28617
community commission on service council and volunteerism created 28618
in section 121.40 of the Revised Code, the director of natural 28619
resources shall coordinate with other state agencies to apply for 28620
funding under the act when appropriate and shall administer any 28621
federal funds the state receives under sections 120 to 136 of the 28622
act. 28623

Sec. 1503.05. (A) The chief of the division of forestry may 28624
sell timber and other forest products from the state forest and 28625
state forest nurseries whenever the chief considers such a sale 28626
desirable and, with the approval of the attorney general and the 28627
director of natural resources, may sell portions of the state 28628
forest lands when such a sale is advantageous to the state. 28629

(B) Except as otherwise provided in this section, a timber 28630
sale agreement shall not be executed unless the person or 28631
governmental entity bidding on the sale executes and files a 28632

surety bond conditioned on completion of the timber sale in 28633
accordance with the terms of the agreement in an amount equal to 28634
twenty-five per cent of the highest value cutting section. All 28635
bonds shall be given in a form prescribed by the chief and shall 28636
run to the state as obligee. 28637

The chief shall not approve any bond until it is personally 28638
signed and acknowledged by both principal and surety, or as to 28639
either by the attorney in fact thereof, with a certified copy of 28640
the power of attorney attached. The chief shall not approve the 28641
bond unless there is attached a certificate of the superintendent 28642
of insurance that the company is authorized to transact a fidelity 28643
and surety business in this state. 28644

In lieu of a bond, the bidder may deposit any of the 28645
following: 28646

(1) Cash in an amount equal to the amount of the bond; 28647

(2) United States government securities having a par value 28648
equal to or greater than the amount of the bond; 28649

(3) Negotiable certificates of deposit or irrevocable letters 28650
of credit issued by any bank organized or transacting business in 28651
this state having a par value equal to or greater than the amount 28652
of the bond. 28653

The cash or securities shall be deposited on the same terms 28654
as bonds. If one or more certificates of deposit are deposited in 28655
lieu of a bond, the chief shall require the bank that issued any 28656
of the certificates to pledge securities of the aggregate market 28657
value equal to the amount of the certificate or certificates that 28658
is in excess of the amount insured by the federal deposit 28659
insurance corporation. The securities to be pledged shall be those 28660
designated as eligible under section 135.18 of the Revised Code. 28661
The securities shall be security for the repayment of the 28662
certificate or certificates of deposit. 28663

Immediately upon a deposit of cash, securities, certificates
of deposit, or letters of credit, the chief shall deliver them to
the treasurer of state, who shall hold them in trust for the
purposes for which they have been deposited. The treasurer of
state is responsible for the safekeeping of the deposits. A bidder
making a deposit of cash, securities, certificates of deposit, or
letters of credit may withdraw and receive from the treasurer of
state, on the written order of the chief, all or any portion of
the cash, securities, certificates of deposit, or letters of
credit upon depositing with the treasurer of state cash, other
United States government securities, or other negotiable
certificates of deposit or irrevocable letters of credit issued by
any bank organized or transacting business in this state, equal in
par value to the par value of the cash, securities, certificates
of deposit, or letters of credit withdrawn.

A bidder may demand and receive from the treasurer of state
all interest or other income from any such securities or
certificates as it becomes due. If securities so deposited with
and in the possession of the treasurer of state mature or are
called for payment by their issuer, the treasurer of state, at the
request of the bidder who deposited them, shall convert the
proceeds of the redemption or payment of the securities into other
United States government securities, negotiable certificates of
deposit, or cash as the bidder designates.

When the chief finds that a person or governmental agency has
failed to comply with the conditions of the person's or
governmental agency's bond, the chief shall make a finding of that
fact and declare the bond, cash, securities, certificates, or
letters of credit forfeited. The chief thereupon shall certify the
total forfeiture to the attorney general, who shall proceed to
collect the amount of the bond, cash, securities, certificates, or
letters of credit.

In lieu of total forfeiture, the surety, at its option, may 28696
cause the timber sale to be completed or pay to the treasurer of 28697
state the cost thereof. 28698

All moneys collected as a result of forfeitures of bonds, 28699
cash, securities, certificates, and letters of credit under this 28700
section shall be credited to the state forest fund created in this 28701
section. 28702

(C) The chief may grant easements and leases on portions of 28703
the state forest lands and state forest nurseries under terms that 28704
are advantageous to the state, and the chief may grant mineral 28705
rights on a royalty basis on those lands and nurseries, with the 28706
approval of the attorney general and the director. 28707

(D) All moneys received from the sale of state forest lands, 28708
or in payment for easements or leases on or as rents from those 28709
lands or from state forest nurseries, shall be paid into the state 28710
treasury to the credit of the state forest fund, which is hereby 28711
created. In addition, all moneys received from federal grants, 28712
payments, and reimbursements, from the sale of reforestation tree 28713
stock, from the sale of forest products, other than standing 28714
timber, and from the sale of minerals taken from the state forest 28715
lands and state forest nurseries, together with royalties from 28716
mineral rights, shall be paid into the state treasury to the 28717
credit of the state forest fund. Any other revenues derived from 28718
the operation of the state forests and related facilities or 28719
equipment also shall be paid into the state treasury to the credit 28720
of the state forest fund, as shall contributions received for the 28721
issuance of Smokey Bear license plates under section 4503.574 of 28722
the Revised Code and any other moneys required by law to be 28723
deposited in the fund. 28724

The state forest fund shall not be expended for any purpose 28725
other than the administration, operation, maintenance, 28726
development, or utilization of the state forests, forest 28727

nurseries, and forest programs, for facilities or equipment 28728
incident to them, or for the further purchase of lands for state 28729
forest or forest nursery purposes and, in the case of 28730
contributions received pursuant to section 4503.574 of the Revised 28731
Code, for fire prevention purposes. 28732

All moneys received from the sale of standing timber taken 28733
from state forest lands and state forest nurseries shall be 28734
deposited into the state treasury to the credit of the forestry 28735
holding account redistribution fund, which is hereby created. The 28736
moneys shall remain in the fund until they are redistributed in 28737
accordance with this division. 28738

The redistribution shall occur at least once each year. To 28739
begin the redistribution, the chief first shall determine the 28740
amount of all standing timber sold from state forest lands and 28741
state forest nurseries, together with the amount of the total sale 28742
proceeds, in each county, in each township within the county, and 28743
in each school district within the county. The chief next shall 28744
determine the amount of the direct costs that the division of 28745
forestry incurred in association with the sale of that standing 28746
timber. The amount of the direct costs shall be subtracted from 28747
the amount of the total sale proceeds and shall be transferred 28748
from the forestry holding account redistribution fund to the state 28749
forest fund. 28750

The remaining amount of the total sale proceeds equals the 28751
net value of the standing timber that was sold. The chief shall 28752
determine the net value of standing timber sold from state forest 28753
lands and state forest nurseries in each county, in each township 28754
within the county, and in each school district within the county 28755
and shall send to each county treasurer a copy of the 28756
determination at the time that moneys are paid to the county 28757
treasurer under this division. 28758

~~Twenty-five~~ Thirty-five per cent of the net value of standing 28759

timber sold from state forest lands and state forest nurseries 28760
located in a county shall be transferred from the forestry holding 28761
account redistribution fund to the state forest fund. ~~Ten per cent~~ 28762
~~of that net value shall be transferred from the forestry holding~~ 28763
~~account redistribution fund to the general revenue fund.~~ The 28764
remaining sixty-five per cent of the net value shall be 28765
transferred from the forestry holding account redistribution fund 28766
and paid to the county treasurer for the use of the general fund 28767
of that county. 28768

The county auditor shall do all of the following: 28769

(1) Retain for the use of the general fund of the county 28770
one-fourth of the amount received by the county under division (D) 28771
of this section; 28772

(2) Pay into the general fund of any township located within 28773
the county and containing such lands and nurseries one-fourth of 28774
the amount received by the county from standing timber sold from 28775
lands and nurseries located in the township; 28776

(3) Request the board of education of any school district 28777
located within the county and containing such lands and nurseries 28778
to identify which fund or funds of the district should receive the 28779
moneys available to the school district under division (D)(3) of 28780
this section. After receiving notice from the board, the county 28781
auditor shall pay into the fund or funds so identified one-half of 28782
the amount received by the county from standing timber sold from 28783
lands and nurseries located in the school district, distributed 28784
proportionately as identified by the board. 28785

The division of forestry shall not supply logs, lumber, or 28786
other forest products or minerals, taken from the state forest 28787
lands or state forest nurseries, to any other agency or 28788
subdivision of the state unless payment is made therefor in the 28789
amount of the actual prevailing value thereof. This section is 28790

applicable to the moneys so received. 28791

(E) The chief may enter into a personal service contract for consulting services to assist the chief with the sale of timber or other forest products and related inventory. Compensation for consulting services shall be paid from the proceeds of the sale of timber or other forest products and related inventory that are the subject of the personal service contract. 28792
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Sec. 1503.141. There is hereby created in the state treasury 28798
the wildfire suppression fund. The fund shall consist of any 28799
federal moneys received for the purposes of this section and 28800
donations, gifts, bequests, and other moneys received for those 28801
purposes. In addition, the chief of the division of forestry 28802
annually may request that the director of budget and management 28803
transfer, and, if so requested, the director shall transfer, not 28804
more than one hundred thousand dollars to the wildfire suppression 28805
fund from the ~~general revenue~~ state forest fund created in section 28806
1503.05 of the Revised Code. The amount transferred shall consist 28807
only of money deposited into the ~~general revenue~~ state forest fund 28808
from the sale of standing timber taken from state forest lands as 28809
set forth in that ~~section 1503.05 of the Revised Code~~. 28810

The chief shall use moneys in the wildfire suppression fund 28811
to reimburse firefighting agencies and private fire companies for 28812
their costs incurred in the suppression of wildfires. The chief 28813
shall provide such reimbursement pursuant to agreements and 28814
contracts entered into under section 1503.14 of the Revised Code 28815
and in accordance with the following schedule: 28816

(A) For wildfire suppression on private land, an initial 28817
seventy-dollar payment to the firefighting agency or private fire 28818
company; 28819

(B) For wildfire suppression on land under the administration 28820
or care of the department of natural resources or on land that is 28821

part of any national forest administered by the United States 28822
department of agriculture forest service, an initial 28823
one-hundred-dollar payment to the firefighting agency or private 28824
fire company; 28825

(C) For any wildfire suppression on land specified in 28826
division (A) or (B) of this section lasting more than two hours, 28827
an additional payment of thirty-five dollars per hour. 28828

If at any time moneys in the fund exceed two hundred thousand 28829
dollars, the chief shall disburse the moneys that exceed that 28830
amount to the firefighting agencies and private fire companies in 28831
accordance with rules that the chief shall adopt in accordance 28832
with Chapter 119. of the Revised Code. The rules shall establish 28833
requirements and procedures that are similar in purpose and 28834
operation to the federal rural community fire protection program 28835
established under the "Cooperative Forestry Assistance Act of 28836
1978," 92 Stat. 365, 16 U.S.C.A. 2101, as amended. 28837

As used in this section, "firefighting agency" and "private 28838
fire company" have the same meanings as in section 9.60 of the 28839
Revised Code. 28840

Sec. 1505.01. The division of geological survey: 28841

(A) Shall collect, study, and interpret all available 28842
information pertaining to the geomorphology, stratigraphy, 28843
paleontology, mineralogy, and geologic structure of the state and 28844
shall publish reports on the same; 28845

(B) Shall collect, study, and interpret all available data 28846
pertaining to the origin, distribution, extent, use, and valuation 28847
of mineralogical and geological raw materials and natural 28848
resources such as: clays, coals, building stones, gypsum, salt, 28849
limestones and, dolomite, aggregates, sand, gravel, shales ~~for~~ 28850
~~cement and other uses, petroleum, oil, natural gas, brines, saline~~ 28851

~~deposits,~~ molding sands, and other natural substances of use and 28852
value, excluding only those pertaining to water usable as such for 28853
agricultural, industrial, commercial, and domestic purposes, but 28854
not excluding other rock fluids such as natural and artificial 28855
brines and oil-well fluids; 28856

(C) Shall make special studies and reports of resources of 28857
geological nature within the state ~~which~~ that in its discretion 28858
are of current or potential economic, environmental, or 28859
educational significance or of significance to the health, 28860
welfare, and safety of the public; 28861

(D) May examine the technological processes by which mining, 28862
quarrying, or other extracting processes may be improved, or by 28863
which materials now uneconomical to exploit may be extracted and 28864
used commercially for the public welfare; 28865

(E) Shall make, store, catalog, and have available ~~for~~ 28866
~~distribution~~ in perpetuity data, maps, diagrams, records, rock 28867
cores, samples, profiles, and geologic sections portraying the 28868
geological characteristics and topography of the state, both of 28869
general nature and of specific localities; 28870

(F) ~~May, or at the request of other agencies of the state~~ 28871
~~government shall,~~ advise and, consult, or collaborate with 28872
representatives of ~~these~~ agencies of the state, other state 28873
governments, or the United States government on problems or issues 28874
of a geological nature; 28875

(G) Shall advise, consult, or collaborate with 28876
representatives of agencies of the state, other state governments, 28877
or the United States government on problems or issues of a 28878
geological nature when requested by such an agency or government; 28879

(H) May create custom maps, custom data sets, or other custom 28880
products for government agencies, colleges and universities, and 28881
persons; 28882

(I) May provide information on the geological nature of the 28883
state to government agencies, colleges and universities, and 28884
persons. 28885

Sec. 1505.04. (A) Any person, firm, government agency, or 28886
corporation who, for hire, or by its own forces for economic use 28887
or exploration, drills, bores, or digs within the state a well for 28888
the production or extraction of any gas or liquid, excluding only 28889
water to be used as such, but including natural or artificial 28890
brines and oil-filled waters, or who drills wells, bores, or digs 28891
within the state a well to explore geological formations, shall 28892
keep a careful and accurate log of ~~such~~ the activity and report 28893
the same together with the results of any rock or fluid analyses 28894
or of any production test results or pressure tests in such form 28895
as is designated by the division of geological survey to the chief 28896
of the division of geological survey. 28897

(B) The division may file such well logs and establish and 28898
observe such regulations regarding their availability and use as 28899
will meet the legitimate requirements of the owner or lessee of 28900
the well. Personnel of the division ~~of~~ may examine any such well 28901
during its construction to confirm the accuracy of the log and to 28902
collect samples of the cores, chips, fluids, gases, or sludge. 28903

(C) No person, firm, agency, or corporation shall fail to 28904
keep an accurate log or file a report as required in division (A) 28905
of this section. 28906

Sec. 1505.05. (A) Notwithstanding any other provision of the 28907
Revised Code to the contrary, the chief of the division of 28908
geological survey shall adopt rules under Chapter 119. of the 28909
Revised Code that establish a fee schedule for requests for 28910
manipulated, interpreted, or analyzed data from the geologic 28911
records, data, maps, rock cores, and samples archived by the 28912

division. The fee schedule may include the cost of specialized storage requirements, programming, labor, research, retrieval, data manipulation, and copying and mailing of records requested from the archives. In addition, the rules shall establish procedures for the levying and collection of the fees in the fee schedule. 28913
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(B) For purposes of divisions (H) and (I) of section 1505.01 of the Revised Code, the chief shall adopt rules under Chapter 119. of the Revised Code that establish a fee schedule to be paid for creating custom maps, custom data sets, and other custom products and for providing geological information of the state. The fee schedule may include the costs of labor, research, analysis, equipment, and technology. In addition, the rules shall establish procedures for the levying and collection of the fees in the fee schedule. 28919
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(C) The chief may reduce or waive a fee in a fee schedule established in rules adopted under division (A) or (B) of this section for a student that is enrolled in an institution of higher education. 28928
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(D) Any revision to a fee schedule established in rules adopted under division (A) or (B) of this section shall be established in rules adopted under Chapter 119. of the Revised Code. A revision to a fee schedule is subject to review by the Ohio geology advisory council created in section 1505.11 of the Revised Code and to approval by the director of natural resources. 28932
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(E) All fees collected under this section shall be credited to the geological mapping fund created in section 1505.09 of the Revised Code. 28938
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Sec. 1505.06. The chief of the division of geological survey in the discharge of ~~his~~ official duties under ~~section~~ sections 28941
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1505.01 to 1505.08, ~~inclusive,~~ of the Revised Code, may call to 28943
~~his~~ the chief's assistance, temporarily, any engineers or other 28944
employees in any state department, or in the Ohio state 28945
university, or other educational institutions financed wholly or 28946
in part by the state, for the purpose of making studies, surveys, 28947
maps, and plans for ~~erosion~~ economic development or geologic 28948
hazards projects. 28949

Such engineers and employees shall not receive any additional 28950
compensation over that which they receive from the departments by 28951
which they are employed, but they shall be reimbursed for their 28952
actual necessary expenses incurred while working under the 28953
direction of the chief on ~~erosion~~ the projects. 28954

Sec. 1505.09. There is hereby created in the state treasury 28955
the geological mapping fund, to be administered by the chief of 28956
the division of geological survey. The fund shall be used 28957
~~exclusively~~ for the purposes of performing the necessary field, 28958
laboratory, and administrative tasks to map and make public 28959
reports on the geology, geologic hazards, and energy and mineral 28960
resources ~~of each county~~ of the state. The source of moneys for 28961
the fund shall include, but not be limited to, the mineral 28962
severance tax as specified in section 5749.02 of the Revised Code 28963
and the fees collected under rules adopted under section 1505.05 28964
of the Revised Code. The chief may seek federal or other moneys in 28965
addition to the mineral severance tax and fees to carry out the 28966
purposes of this section. If the chief receives federal moneys for 28967
the purposes of this section, ~~he~~ the chief shall deposit those 28968
moneys into the state treasury to the credit of a fund ~~which shall~~ 28969
~~be created at that time~~ by the controlling board to carry out 28970
those purposes. Other moneys received by the chief for the 28971
purposes of this section in addition to the mineral severance tax, 28972
fees, and federal moneys shall be credited to the geological 28973
mapping fund. 28974

Sec. 1505.11. There is hereby created in the department of 28975
natural resources the Ohio geology advisory council consisting of 28976
seven members to be appointed by the governor with the advice and 28977
consent of the senate. No more than four of the members shall be 28978
of the same political party. Members shall be persons who have a 28979
demonstrated interest in ~~Ohio~~ the geology and mineral resources of 28980
this state and whose expertise reflects the various 28981
responsibilities of the division of geological survey. The council 28982
shall include at least one representative from each of the 28983
following: the oil and gas industry, the industrial minerals 28984
industry, the coal industry, hydrogeology interests, environmental 28985
geology interests, and an institution of higher education in this 28986
state. The chief of the division of geological survey may 28987
participate in the deliberations of the council, but shall not 28988
vote. 28989

Within ninety days after ~~the effective date of this section~~ 28990
May 3, 1990, the governor shall make initial appointments to the 28991
council. Of the initial appointments, three shall be for a term 28992
ending one year after ~~the effective date of this section~~ May 3, 28993
1990, three shall be for a term ending two years after ~~the~~ 28994
~~effective date of this section~~ May 3, 1990, and one shall be for a 28995
term ending three years after ~~the effective date of this section~~ 28996
May 3, 1990. Thereafter, terms of office shall be for three years, 28997
with each term ending on the same day of the same month as did the 28998
term that it succeeds. Members may be reappointed. The governor 28999
may remove any member at any time for inefficiency, neglect of 29000
duty, or malfeasance in office. Vacancies shall be filled in the 29001
manner provided for original appointments. Any member appointed to 29002
fill a vacancy prior to the expiration date of the term for which 29003
~~his~~ the member's predecessor was appointed shall hold office as a 29004
member for the remainder of that term. A member shall continue in 29005
office subsequent to the expiration date of ~~his~~ the member's term 29006

until ~~his~~ the member's successor takes office or until a period of 29007
sixty days has elapsed, whichever occurs first. 29008

Serving as an appointed member on the council does not 29009
constitute holding a public office or position of employment under 29010
the laws of this state and does not constitute grounds for removal 29011
of public officers or employees from their offices or positions of 29012
employment. 29013

Members shall serve without compensation, but shall be 29014
reimbursed for their actual and necessary expenses incurred in the 29015
performance of their official duties from moneys appropriated to 29016
the division. 29017

The council annually shall select from its members a ~~chairman~~ 29018
chairperson and a ~~vice-chairman~~ vice-chairperson. The council 29019
shall hold at least one meeting each calendar quarter and shall 29020
keep a record of its proceedings, which shall be open to public 29021
inspection. Special meetings may be called by the ~~chairman~~ 29022
chairperson and shall be called upon the written request of two or 29023
more members. A majority of the members constitutes a quorum. The 29024
division shall furnish clerical, technical, legal, and other 29025
services required by the council in the performance of its duties. 29026

The council shall do all of the following: 29027

(A) Advise the chief ~~of the division of geological survey~~ in 29028
carrying out the duties of the division under this chapter; 29029

(B) Recommend policy and legislation with respect to geology, 29030
resource analysis, and management that will promote the economic 29031
and industrial development of the state while minimizing threats 29032
to the natural environment of the state; 29033

(C) Review and make recommendations on the development of 29034
plans and programs for long-term, comprehensive geologic mapping 29035
and analysis throughout the state; 29036

(D) Recommend ways to enhance cooperation among governmental agencies having an interest in ~~Ohio~~ the geology of the state to encourage wise use and management of the geology and mineral resources of the state. To this end, the council shall request nonvoting representation from appropriate governmental agencies.

(E) Review and make recommendations with respect to changes in the fee schedules established in rules adopted under section 1505.05 of the Revised Code.

Sec. 1505.99. (A) Whoever violates section 1505.07 of the Revised Code shall be fined not less than one thousand nor more than two thousand dollars on a first offense; on each subsequent offense, the person shall be fined not less than two thousand nor more than five thousand dollars.

(B) Whoever violates section 1505.04 or 1505.10 of the Revised Code shall be fined not less than one hundred nor more than one thousand dollars on a first offense; on each subsequent offense, the person shall be fined not less than one thousand nor more than two thousand dollars. Notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under this division shall be paid into the geological mapping fund created in section 1505.09 of the Revised Code.

Sec. 1506.21. (A) There is hereby created the Ohio Lake Erie commission, consisting of the directors of environmental protection, natural resources, health, agriculture, and transportation, or their designees, and five additional members appointed by the governor who shall serve at the pleasure of the governor. The members of the commission annually shall designate a chairperson, who shall preside at the meetings of the commission, and a secretary.

The commission shall hold at least one meeting every three months. The secretary of the commission shall keep a record of its proceedings. Special meetings shall be held at the call of the chairperson or upon the request of four members of the commission. All meetings and records of the commission shall be open to the public. ~~Three~~ Six members of the commission constitute a quorum. The agencies represented on the commission shall furnish clerical, technical, and other services required by the commission in the performance of its duties.

(B) The commission shall do all of the following:

(1) Ensure the coordination of state and local policies and programs pertaining to Lake Erie water quality, toxic pollution control, and resource protection;

(2) Review, and make recommendations concerning, the development and implementation of policies, programs, and issues for long-term, comprehensive protection of Lake Erie water resources and water quality that are consistent with the great lakes water quality agreement and the great lakes toxic substances control agreement;

(3) Recommend policies and programs to modify the coastal management program of this state;

(4) At each regular meeting, consider matters relating to the implementation of sections 1506.22 and 1506.23 of the Revised Code;

(5) Publish and submit the Lake Erie protection agenda in accordance with division (C) of section 1506.23 of the Revised Code;

(6) Ensure the implementation of a basinwide approach to Lake Erie issues;

(7) Increase representation of the interests of this state in

state, regional, national, and international forums pertaining to 29097
the resources and water quality of Lake Erie and the Lake Erie 29098
basin; 29099

(8) Promote education concerning the wise management of the 29100
resources of Lake Erie; 29101

(9) Establish public advisory councils as considered 29102
necessary to assist in programs established under this section and 29103
sections 1506.22 and 1506.23 of the Revised Code. Members of the 29104
public advisory councils shall represent a broad cross section of 29105
interests, shall have experience or expertise in the subject for 29106
which the advisory council was established, and shall serve 29107
without compensation. 29108

(10) Prepare and submit the report required under division 29109
(D) of section 1506.23 of the Revised Code. 29110

(C) Each state agency, upon the request of the commission, 29111
shall cooperate in the implementation of this section and sections 29112
1506.22 and 1506.23 of the Revised Code. 29113

Sec. 1509.01. As used in this chapter: 29114

(A) "Well" means any borehole, whether drilled or bored, 29115
within the state for production, extraction, or injection of any 29116
gas or liquid mineral, excluding potable water to be used as such, 29117
but including natural or artificial brines and oil field waters. 29118

(B) "Oil" means crude petroleum oil and all other 29119
hydrocarbons, regardless of gravity, that are produced in liquid 29120
form by ordinary production methods, but does not include 29121
hydrocarbons that were originally in a gaseous phase in the 29122
reservoir. 29123

(C) "Gas" means all natural gas and all other fluid 29124
hydrocarbons that are not oil, including condensate. 29125

(D) "Condensate" means liquid hydrocarbons that were 29126

originally in the gaseous phase in the reservoir.	29127
(E) "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both, but does not include a gas storage reservoir. Each zone of a geological structure that is completely separated from any other zone in the same structure may contain a separate pool.	29128 29129 29130 29131 29132
(F) "Field" means the general area underlaid by one or more pools.	29133 29134
(G) "Drilling unit" means the minimum acreage on which one well may be drilled, but does not apply to a well for injecting gas into or removing gas from a gas storage reservoir.	29135 29136 29137
(H) "Waste" includes all of the following:	29138
(1) Physical waste, as that term generally is understood in the oil and gas industry;	29139 29140
(2) Inefficient, excessive, or improper use, or the unnecessary dissipation, of reservoir energy;	29141 29142
(3) Inefficient storing of oil or gas;	29143
(4) Locating, drilling, equipping, operating, or producing an oil or gas well in a manner that reduces or tends to reduce the quantity of oil or gas ultimately recoverable under prudent and proper operations from the pool into which it is drilled or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;	29144 29145 29146 29147 29148 29149
(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused.	29150 29151
(I) "Correlative rights" means the reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under the person's tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense.	29152 29153 29154 29155 29156

(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.

(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others, except that a person ceases to be an owner with respect to a well when the well has been plugged in accordance with applicable rules adopted and orders issued under this chapter. "Owner" does not include a person who obtains a lease of the mineral rights for oil and gas on a parcel of land if the person does not attempt to produce or produce oil or gas from a well or obtain a permit under this chapter for a well or if the entire interest of a well is transferred to the person in accordance with division (B) of section 1509.31 of the Revised Code.

(L) "Royalty interest" means the fee holder's share in the production from a well.

(M) "Discovery well" means the first well capable of producing oil or gas in commercial quantities from a pool.

(N) "Prepared clay" means a clay that is plastic and is thoroughly saturated with fresh water to a weight and consistency great enough to settle through saltwater in the well in which it is to be used, except as otherwise approved by the chief of the division of ~~mineral~~ oil and gas resources management.

(O) "Rock sediment" means the combined cutting and residue from drilling sedimentary rocks and formation.

(P) "Excavations and workings," "mine," and "pillar" have the same meanings as in section 1561.01 of the Revised Code.

(Q) "Coal bearing township" means a township designated as such by the chief of the division of mineral resources management under section 1561.06 of the Revised Code.

(R) "Gas storage reservoir" means a continuous area of a subterranean porous sand or rock stratum or strata into which gas is or may be injected for the purpose of storing it therein and removing it therefrom and includes a gas storage reservoir as defined in section 1571.01 of the Revised Code.

(S) "Safe Drinking Water Act" means the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and regulations adopted under those acts.

(T) "Person" includes any political subdivision, department, agency, or instrumentality of this state; the United States and any department, agency, or instrumentality thereof; and any legal entity defined as a person under section 1.59 of the Revised Code.

(U) "Brine" means all saline geological formation water resulting from, obtained from, or produced in connection with exploration, drilling, well stimulation, production of oil or gas, or plugging of a well.

(V) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, springs, irrigation systems, drainage systems, and other bodies of water, surface or underground, natural or artificial, that are situated wholly or partially within this state or within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

(W) "Exempt Mississippian well" means a well that meets all of the following criteria:

(1) Was drilled and completed before January 1, 1980;

(2) Is located in an unglaciated part of the state;

(3) Was completed in a reservoir no deeper than the	29219
Mississippian Big Injun sandstone in areas underlain by	29220
Pennsylvanian or Permian stratigraphy, or the Mississippian Berea	29221
sandstone in areas directly underlain by Permian stratigraphy;	29222
(4) Is used primarily to provide oil or gas for domestic use.	29223
(X) "Exempt domestic well" means a well that meets all of the	29224
following criteria:	29225
(1) Is owned by the owner of the surface estate of the tract	29226
on which the well is located;	29227
(2) Is used primarily to provide gas for the owner's domestic	29228
use;	29229
(3) Is located more than two hundred feet horizontal distance	29230
from any inhabited private dwelling house other than an inhabited	29231
private dwelling house located on the tract on which the well is	29232
located;	29233
(4) Is located more than two hundred feet horizontal distance	29234
from any public building that may be used as a place of resort,	29235
assembly, education, entertainment, lodging, trade, manufacture,	29236
repair, storage, traffic, or occupancy by the public.	29237
(Y) "Urbanized area" means an area where a well or production	29238
facilities of a well are located within a municipal corporation or	29239
within a township that has an unincorporated population of more	29240
than five thousand in the most recent federal decennial census	29241
prior to the issuance of the permit for the well or production	29242
facilities.	29243
(Z) "Well stimulation" or "stimulation of a well" means the	29244
process of enhancing well productivity, including hydraulic	29245
fracturing operations.	29246
(AA) "Production operation" means <u>all operations and</u>	29247
<u>activities and all related equipment, facilities, and other</u>	29248

structures that may be used in or associated with the exploration 29249
and production of oil, gas, or other mineral resources that are 29250
regulated under this chapter, including operations and activities 29251
associated with site preparation, site construction, access ~~roads~~ 29252
road construction, well drilling, well completion, well 29253
stimulation, well ~~operation~~ site activities, ~~site~~ reclamation, and 29254
~~well~~ plugging. "Production operation" also includes all of the 29255
following: 29256

(1) The piping ~~and~~, equipment, and facilities used for the 29257
production and preparation of hydrocarbon gas or liquids for 29258
transportation or delivery; 29259

(2) The processes of extraction and recovery, lifting, 29260
stabilization, treatment, separation, production processing, 29261
storage, waste disposal, and measurement of hydrocarbon gas and 29262
liquids, including related equipment and facilities; 29263

(3) The processes and related equipment and facilities 29264
associated with production compression, gas lift, gas injection, 29265
~~and~~ fuel gas supply, well drilling, well stimulation, and well 29266
completion activities, including dikes, pits, and earthen and 29267
other impoundments used for the temporary storage of fluids and 29268
waste substances associated with well drilling, well stimulation, 29269
and well completion activities. 29270

(BB) "Annular overpressurization" means the accumulation of 29271
fluids within an annulus with sufficient pressure to allow 29272
migration of annular fluids into underground sources of drinking 29273
water. 29274

(CC) "Idle and orphaned well" means a well for which a bond 29275
has been forfeited or an abandoned well for which no money is 29276
available to plug the well in accordance with this chapter and 29277
rules adopted under it. 29278

(DD) "Temporarily inactive well" means a well that has been 29279

granted temporary inactive status under section 1509.062 of the Revised Code. 29280
29281

(EE) "Material and substantial violation" means any of the following: 29282
29283

(1) Failure to obtain a permit to drill, reopen, convert, plugback, or plug a well under this chapter; 29284
29285

(2) Failure to obtain or maintain insurance coverage that is required under this chapter; 29286
29287

(3) Failure to obtain or maintain a surety bond that is required under this chapter; 29288
29289

(4) Failure to plug an abandoned well or idle and orphaned well unless the well has been granted temporary inactive status under section 1509.062 of the Revised Code or the chief of the division of oil and gas resources management has approved another option concerning the abandoned well or idle and orphaned well; 29290
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29292
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(5) Failure to restore a disturbed land surface as required by section 1509.072 of the Revised Code; 29295
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(6) Failure to reimburse the oil and gas well fund pursuant to a final order issued under section 1509.071 of the Revised Code; 29297
29298
29299

(7) Failure to comply with a final nonappealable order of the chief issued under section 1509.04 of the Revised Code. 29300
29301

(FF) "Severer" has the same meaning as in section 5749.01 of the Revised Code. 29302
29303

Sec. 1509.02. There is hereby created in the department of natural resources the division of ~~mineral~~ oil and gas resources management, which shall be administered by the chief of the division of ~~mineral~~ oil and gas resources management. The division has sole and exclusive authority to regulate the permitting, 29304
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location, and spacing of oil and gas wells and production 29309
operations within the state. The regulation of oil and gas 29310
activities is a matter of general statewide interest that requires 29311
uniform statewide regulation, and this chapter and rules adopted 29312
under it constitute a comprehensive plan with respect to all 29313
aspects of the locating, drilling, well stimulation, completing, 29314
and operating of oil and gas wells within this state, including 29315
site construction and restoration, the permitting of discharges 29316
related to those activities, and the disposal of wastes from those 29317
wells. Nothing in this section affects the authority granted to 29318
the director of transportation and local authorities in section 29319
723.01 or 4513.34 of the Revised Code, provided that the authority 29320
granted under those sections shall not be exercised in a manner 29321
that discriminates against, unfairly impedes, or obstructs oil and 29322
gas activities and operations regulated under this chapter. 29323

29324

The chief shall not hold any other public office, nor shall 29325
the chief be engaged in any occupation or business that might 29326
interfere with or be inconsistent with the duties as chief. 29327

All moneys collected by the chief pursuant to sections 29328
1509.06, 1509.061, 1509.062, 1509.071, 1509.13, 1509.22, 1509.221, 29329
1509.222, 1509.34, and 1509.50 of the Revised Code, ninety per 29330
cent of moneys received by the treasurer of state from the tax 29331
levied in divisions (A)(5) and (6) of section 5749.02 of the 29332
Revised Code, all civil penalties paid under section 1509.33 of 29333
the Revised Code, and, notwithstanding any section of the Revised 29334
Code relating to the distribution or crediting of fines for 29335
violations of the Revised Code, all fines imposed under divisions 29336
(A) and (B) of section 1509.99 of the Revised Code and fines 29337
imposed under divisions (C) and (D) of section 1509.99 of the 29338
Revised Code for all violations prosecuted by the attorney general 29339
and for violations prosecuted by prosecuting attorneys that do not 29340

involve the transportation of brine by vehicle shall be deposited 29341
into the state treasury to the credit of the oil and gas well 29342
fund, which is hereby created. Fines imposed under divisions (C) 29343
and (D) of section 1509.99 of the Revised Code for violations 29344
prosecuted by prosecuting attorneys that involve the 29345
transportation of brine by vehicle and penalties associated with a 29346
compliance agreement entered into pursuant to this chapter shall 29347
be paid to the county treasury of the county where the violation 29348
occurred. 29349

The fund shall be used solely and exclusively for the 29350
purposes enumerated in division (B) of section 1509.071 of the 29351
Revised Code, for the expenses of the division associated with the 29352
administration of this chapter and Chapter 1571. of the Revised 29353
Code and rules adopted under them, and for expenses that are 29354
critical and necessary for the protection of human health and 29355
safety and the environment related to oil and gas production in 29356
this state. The expenses of the division in excess of the moneys 29357
available in the fund shall be paid from general revenue fund 29358
appropriations to the department. 29359

Sec. 1509.021. On and after ~~the effective date of this~~ 29360
~~section~~ June 30, 2010, all of the following apply: 29361

(A) The surface location of a new well or a tank battery of a 29362
well shall not be within one hundred fifty feet of an occupied 29363
dwelling that is located in an urbanized area unless the owner of 29364
the land on which the occupied dwelling is located consents in 29365
writing to the surface location of the well or tank battery of a 29366
well less than one hundred fifty feet from the occupied dwelling 29367
and the chief of the division of ~~mineral~~ oil and gas resources 29368
management approves the written consent of that owner. However, 29369
the chief shall not approve the written consent of such an owner 29370
when the surface location of a new well or a tank battery of a 29371

well will be within one hundred feet of an occupied dwelling that 29372
is located in an urbanized area. 29373

(B) The surface location of a new well shall not be within 29374
one hundred fifty feet from the property line of a parcel of land 29375
that is not in the drilling unit of the well if the parcel of land 29376
is located in an urbanized area and directional drilling will be 29377
used to drill the new well unless the owner of the parcel of land 29378
consents in writing to the surface location of the well less than 29379
one hundred fifty feet from the property line of the parcel of 29380
land and the chief approves the written consent of that owner. 29381
However, the chief shall not approve the written consent of such 29382
an owner when the surface location of a new well will be less than 29383
one hundred feet from the property line of the owner's parcel of 29384
land that is not in the drilling unit of the well if the parcel of 29385
land is located in an urbanized area and directional drilling will 29386
be used. 29387

(C) The surface location of a new well shall not be within 29388
two hundred feet of an occupied dwelling that is located in an 29389
urbanized area and that is located on land that has become part of 29390
the drilling unit of the well pursuant to a mandatory pooling 29391
order issued under section 1509.27 of the Revised Code unless the 29392
owner of the land on which the occupied dwelling is located 29393
consents in writing to the surface location of the well at a 29394
distance that is less than two hundred feet from the occupied 29395
dwelling. However, if the owner of the land on which the occupied 29396
dwelling is located provides such written consent, the surface 29397
location of the well shall not be within one hundred feet of the 29398
occupied dwelling. 29399

If an applicant cannot identify an owner of land or if an 29400
owner of land is not responsive to attempts by the applicant to 29401
contact the owner, the applicant may submit an affidavit to the 29402
chief attesting to such an unidentifiable owner or to such 29403

unresponsiveness of an owner and attempts by the applicant to 29404
contact the owner and include a written request to reduce the 29405
distance of the location of the well from the occupied dwelling to 29406
less than two hundred feet. If the chief receives such an 29407
affidavit and written request, the chief shall reduce the distance 29408
of the location of the well from the occupied dwelling to a 29409
distance of not less than one hundred feet. 29410

(D) Except as otherwise provided in division (L) of this 29411
section, the surface location of a new well shall not be within 29412
one hundred fifty feet of the property line of a parcel of land 29413
that is located in an urbanized area and that has become part of 29414
the drilling unit of the well pursuant to a mandatory pooling 29415
order issued under section 1509.27 of the Revised Code unless the 29416
owner of the land consents in writing to the surface location of 29417
the well at a distance that is less than one hundred fifty feet 29418
from the owner's property line. However, if the owner of the land 29419
provides such written consent, the surface location of the well 29420
shall not be within seventy-five feet of the property line of the 29421
owner's parcel of land. 29422

If an applicant cannot identify an owner of land or if an 29423
owner of land is not responsive to attempts by the applicant to 29424
contact the owner, the applicant may submit an affidavit to the 29425
chief attesting to such an unidentifiable owner or to such 29426
unresponsiveness of an owner and attempts by the applicant to 29427
contact the owner and include a written request to reduce the 29428
distance of the location of the well from the property line of the 29429
owner's parcel of land to less than one hundred fifty feet. If the 29430
chief receives such an affidavit and written request, the chief 29431
shall reduce the distance of the location of the well from the 29432
property line to a distance of not less than seventy-five feet. 29433

(E) The surface location of a new tank battery of a well 29434
shall not be within one hundred fifty feet of an occupied dwelling 29435

that is located in an urbanized area and that is located on land 29436
that has become part of the drilling unit of the well pursuant to 29437
a mandatory pooling order issued under section 1509.27 of the 29438
Revised Code unless the owner of the land on which the occupied 29439
dwelling is located consents in writing to the location of the 29440
tank battery at a distance that is less than one hundred fifty 29441
feet from the occupied dwelling. However, if the owner of the land 29442
on which the occupied dwelling is located provides such written 29443
consent, the location of the tank battery shall not be within one 29444
hundred feet of the occupied dwelling. 29445

If an applicant cannot identify an owner of land or if an 29446
owner of land is not responsive to attempts by the applicant to 29447
contact the owner, the applicant may submit an affidavit to the 29448
chief attesting to such an unidentifiable owner or to such 29449
unresponsiveness of an owner and attempts by the applicant to 29450
contact the owner and include a written request to reduce the 29451
distance of the location of the tank battery from the occupied 29452
dwelling to less than one hundred fifty feet. If the chief 29453
receives such an affidavit and written request, the chief shall 29454
reduce the distance of the location of the tank battery from the 29455
occupied dwelling to a distance of not less than one hundred feet. 29456

(F) Except as otherwise provided in division (L) of this 29457
section, the location of a new tank battery of a well shall not be 29458
within seventy-five feet of the property line of a parcel of land 29459
that is located in an urbanized area and that has become part of 29460
the drilling unit of the well pursuant to a mandatory pooling 29461
order issued under section 1509.27 of the Revised Code unless the 29462
owner of the land consents in writing to the location of the tank 29463
battery at a distance that is less than seventy-five feet from the 29464
owner's property line. However, if the owner of the land provides 29465
such written consent, the location of the tank battery shall not 29466
be within the property line of the owner's parcel of land. 29467

If an applicant cannot identify an owner of land or if an owner of land is not responsive to attempts by the applicant to contact the owner, the applicant may submit an affidavit to the chief attesting to such an unidentifiable owner or to such unresponsiveness of an owner and attempts by the applicant to contact the owner and include a written request to reduce the distance of the location of the tank battery from the property line of the owner's parcel of land to less than seventy-five feet. If the chief receives such an affidavit and written request, the chief shall reduce the distance of the location of the tank battery from the property line, provided that the tank battery shall not be within the property line of the owner's parcel of land.

(G) For purposes of divisions (C) to (F) of this section, written consent of an owner of land may be provided by any of the following:

(1) A copy of an original lease agreement as recorded in the office of the county recorder of the county in which the occupied dwelling or property is located that expressly provides for the reduction of the distance of the location of a well or a tank battery, as applicable, from an occupied dwelling or a property line;

(2) A copy of a deed severing the oil or gas mineral rights, as applicable, from the owner's parcel of land as recorded in the office of the county recorder of the county in which the property is located that expressly provides for the reduction of the distance of the location of a well or a tank battery, as applicable, from an occupied dwelling or a property line;

(3) A written statement that consents to the proposed location of a well or a tank battery, as applicable, and that is approved by the chief. For purposes of division (G)(3) of this section, an applicant shall submit a copy of a written statement

to the chief. 29500

(H) For areas that are not urbanized areas, the surface 29501
location of a new well shall not be within one hundred feet of an 29502
occupied private dwelling or of a public building that may be used 29503
as a place of assembly, education, entertainment, lodging, trade, 29504
manufacture, repair, storage, or occupancy by the public. This 29505
division does not apply to a building or other structure that is 29506
incidental to agricultural use of the land on which the building 29507
or other structure is located unless the building or other 29508
structure is used as an occupied private dwelling or for retail 29509
trade. 29510

(I) The surface location of a new well shall not be within 29511
one hundred feet of any other well. However, an applicant may 29512
submit a written statement to request the chief to authorize a new 29513
well to be located at a distance that is less than one hundred 29514
feet from another well. If the chief receives such a written 29515
statement, the chief may authorize a new well to be located within 29516
one hundred feet of another well if the chief determines that the 29517
applicant satisfactorily has demonstrated that the location of the 29518
new well at a distance that is less than one hundred feet from 29519
another well is necessary to reduce impacts to the owner of the 29520
land on which the well is to be located or to the surface of the 29521
land on which the well is to be located. 29522

(J) For areas that are not urbanized areas, the location of a 29523
new tank battery of a well shall not be within one hundred feet of 29524
an existing inhabited structure. 29525

(K) The location of a new tank battery of a well shall not be 29526
within fifty feet of any other well. 29527

(L) The location of a new well or a new tank battery of a 29528
well shall not be within fifty feet of a stream, river, 29529
watercourse, water well, pond, lake, or other body of water. 29530

However, the chief may authorize a new well or a new tank battery of a well to be located at a distance that is less than fifty feet from a stream, river, watercourse, water well, pond, lake, or other body of water if the chief determines that the reduction in the distance is necessary to reduce impacts to the owner of the land on which the well or tank battery of a well is to be located or to protect public safety or the environment.

(M) The surface location of a new well or a new tank battery of a well shall not be within fifty feet of a railroad track or of the traveled portion of a public street, road, or highway. This division applies regardless of whether the public street, road, or highway has become part of the drilling unit of the well pursuant to a mandatory pooling order issued under section 1509.27 of the Revised Code.

~~(M)~~(N) A new oil tank shall not be within three feet of another oil tank.

~~(N)~~(O) The surface location of a mechanical separator shall not be within any of the following:

- (1) Fifty feet of a well;
- (2) Ten feet of an oil tank;
- (3) One hundred feet of an existing inhabited structure.

~~(O)~~(P) A vessel that is equipped in such a manner that the contents of the vessel may be heated shall not be within any of the following:

- (1) Fifty feet of an oil production tank;
- (2) Fifty feet of a well;
- (3) One hundred feet of an existing inhabited structure;
- (4) If the contents of the vessel are heated by a direct fire heater, fifty feet of a mechanical separator.

Sec. 1509.022. Except as provided in section 1509.021 of the Revised Code, the surface location of a new well that will be drilled using directional drilling may be located on a parcel of land that is not in the drilling unit of the well.

Sec. 1509.03. (A) The chief of the division of ~~mineral oil~~ and gas resources management shall adopt, rescind, and amend, in accordance with Chapter 119. of the Revised Code, rules for the administration, implementation, and enforcement of this chapter. The rules shall include an identification of the subjects that the chief shall address when attaching terms and conditions to a permit with respect to a well and production facilities of a well that are located within an urbanized area. The subjects shall include all of the following:

- (1) Safety concerning the drilling or operation of a well;
- (2) Protection of the public and private water supply;
- (3) Fencing and screening of surface facilities of a well;
- (4) Containment and disposal of drilling and production wastes;
- (5) Construction of access roads for purposes of the drilling and operation of a well;
- (6) Noise mitigation for purposes of the drilling of a well and the operation of a well, excluding safety and maintenance operations.

No person shall violate any rule of the chief adopted under this chapter.

(B) Any order issuing, denying, or modifying a permit or notices required to be made by the chief pursuant to this chapter shall be made in compliance with Chapter 119. of the Revised Code, except that personal service may be used in lieu of service by

mail. Every order issuing, denying, or modifying a permit under 29589
this chapter and described as such shall be considered an 29590
adjudication order for purposes of Chapter 119. of the Revised 29591
Code. 29592

Where notice to the owners is required by this chapter, the 29593
notice shall be given as prescribed by a rule adopted by the chief 29594
to govern the giving of notices. The rule shall provide for notice 29595
by publication except in those cases where other types of notice 29596
are necessary in order to meet the requirements of the law. 29597

(C) The chief or the chief's authorized representative may at 29598
any time enter upon lands, public or private, for the purpose of 29599
administration or enforcement of this chapter, the rules adopted 29600
or orders made thereunder, or terms or conditions of permits or 29601
registration certificates issued thereunder and may examine and 29602
copy records pertaining to the drilling, conversion, or operation 29603
of a well for injection of fluids and logs required by division 29604
(C) of section 1509.223 of the Revised Code. No person shall 29605
prevent or hinder the chief or the chief's authorized 29606
representative in the performance of official duties. If entry is 29607
prevented or hindered, the chief or the chief's authorized 29608
representative may apply for, and the court of common pleas may 29609
issue, an appropriate inspection warrant necessary to achieve the 29610
purposes of this chapter within the court's territorial 29611
jurisdiction. 29612

(D) The chief may issue orders to enforce this chapter, rules 29613
adopted thereunder, and terms or conditions of permits issued 29614
thereunder. Any such order shall be considered an adjudication 29615
order for the purposes of Chapter 119. of the Revised Code. No 29616
person shall violate any order of the chief issued under this 29617
chapter. No person shall violate a term or condition of a permit 29618
or registration certificate issued under this chapter. 29619

(E) Orders of the chief denying, suspending, or revoking a 29620

registration certificate; approving or denying approval of an 29621
application for revision of a registered transporter's plan for 29622
disposal; or to implement, administer, or enforce division (A) of 29623
section 1509.224 and sections 1509.22, 1509.222, 1509.223, 29624
1509.225, and 1509.226 of the Revised Code pertaining to the 29625
transportation of brine by vehicle and the disposal of brine so 29626
transported are not adjudication orders for purposes of Chapter 29627
119. of the Revised Code. The chief shall issue such orders under 29628
division (A) or (B) of section 1509.224 of the Revised Code, as 29629
appropriate. 29630

Sec. 1509.04. (A) The chief of the division of ~~mineral oil~~ and gas 29631
resources management, or the chief's authorized 29632
representatives, shall enforce this chapter and the rules, terms 29633
and conditions of permits and registration certificates, and 29634
orders adopted or issued pursuant thereto, except that any peace 29635
officer, as defined in section 2935.01 of the Revised Code, may 29636
arrest for violations of this chapter involving transportation of 29637
brine by vehicle. The enforcement authority of the chief includes 29638
the authority to issue compliance notices and to enter into 29639
compliance agreements. 29640

(B)(1) The chief or the chief's authorized representative may 29641
issue an administrative order to an owner for a violation of this 29642
chapter or rules adopted under it, terms and conditions of a 29643
permit issued under it, a registration certificate that is 29644
required under this chapter, or orders issued under this chapter. 29645

(2) The chief may issue an order finding that an owner has 29646
committed a material and substantial violation. 29647

(C) The chief, by order, immediately may suspend drilling, 29648
operating, or plugging activities that are related to a material 29649
and substantial violation and suspend and revoke an unused permit 29650
after finding either of the following: 29651

(1) An owner has failed to comply with an order issued under division (B)(2) of this section that is final and nonappealable. 29652
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(2) An owner is causing, engaging in, or maintaining a condition or activity that the chief determines presents an imminent danger to the health or safety of the public or that results in or is likely to result in immediate substantial damage to the natural resources of this state. 29654
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(D)(1) The chief may issue an order under division (C) of this section without prior notification if reasonable attempts to notify the owner have failed or if the owner is currently in material breach of a prior order, but in such an event notification shall be given as soon thereafter as practical. 29659
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(2) Not later than five days after the issuance of an order under division (C) of this section, the chief shall provide the owner an opportunity to be heard and to present evidence that one of the following applies: 29664
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29667

(a) The condition or activity does not present an imminent danger to the public health or safety or is not likely to result in immediate substantial damage to natural resources. 29668
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(b) Required records, reports, or logs have been submitted. 29671

(3) If the chief, after considering evidence presented by the owner under division (D)(2)(a) of this section, determines that the activities do not present such a threat or that the required records, reports, or logs have been submitted under division (D)(2)(b) of this section, the chief shall revoke the order. The owner may appeal an order to the court of common pleas of the county in which the activity that is the subject of the order is located. 29672
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(E) The chief may issue a bond forfeiture order pursuant to section 1509.071 of the Revised Code for failure to comply with a final nonappealable order issued or compliance agreement entered 29680
29681
29682

into under this section. 29683

(F) The chief may notify drilling contractors, transporters, 29684
service companies, or other similar entities of the compliance 29685
status of an owner. 29686

If the owner fails to comply with a prior enforcement action 29687
of the chief, the chief may issue a suspension order without prior 29688
notification, but in such an event the chief shall give notice as 29689
soon thereafter as practical. Not later than five calendar days 29690
after the issuance of an order, the chief shall provide the owner 29691
an opportunity to be heard and to present evidence that required 29692
records, reports, or logs have been submitted. If the chief, after 29693
considering the evidence presented by the owner, determines that 29694
the requirements have been satisfied, the chief shall revoke the 29695
suspension order. The owner may appeal a suspension order to the 29696
court of common pleas of the county in which the activity that is 29697
the subject of the suspension order is located. 29698

(G) The prosecuting attorney of the county or the attorney 29699
general, upon the request of the chief, may apply to the court of 29700
common pleas in the county in which any of the provisions of this 29701
chapter or any rules, terms or conditions of a permit or 29702
registration certificate, or orders adopted or issued pursuant to 29703
this chapter are being violated for a temporary restraining order, 29704
preliminary injunction, or permanent injunction restraining any 29705
person from such violation. 29706

Sec. 1509.041. The chief of the division of ~~mineral oil and~~ 29707
gas resources management shall maintain a database on the division 29708
of ~~mineral oil and gas~~ resources management's web site that is 29709
accessible to the public. The database shall list each final 29710
nonappealable order issued for a material and substantial 29711
violation under this chapter. The list shall identify the 29712
violation, the date on which the violation occurred, and the date 29713

on which the violation was corrected. 29714

Sec. 1509.05. No person shall drill a new well, drill an 29715
existing well any deeper, reopen a well, convert a well to any use 29716
other than its original purpose, or plug back a well to a source 29717
of supply different from the existing pool, without having a 29718
permit to do so issued by the chief of the division of ~~mineral oil~~ 29719
and gas resources management, and until the original permit or a 29720
photostatic copy thereof is posted or displayed in a conspicuous 29721
and easily accessible place at the well site, with the name, 29722
current address, and telephone number of the permit holder and the 29723
telephone numbers for fire and emergency medical services 29724
maintained on the posted permit or copy. The permit or a copy 29725
shall be continuously displayed in that manner at all times during 29726
the work authorized by the permit. 29727

Sec. 1509.06. (A) An application for a permit to drill a new 29728
well, drill an existing well deeper, reopen a well, convert a well 29729
to any use other than its original purpose, or plug back a well to 29730
a different source of supply, including associated production 29731
operations, shall be filed with the chief of the division of 29732
~~mineral oil and gas~~ resources management upon such form as the 29733
chief prescribes and shall contain each of the following that is 29734
applicable: 29735

(1) The name and address of the owner and, if a corporation, 29736
the name and address of the statutory agent; 29737

(2) The signature of the owner or the owner's authorized 29738
agent. When an authorized agent signs an application, it shall be 29739
accompanied by a certified copy of the appointment as such agent. 29740

(3) The names and addresses of all persons holding the 29741
royalty interest in the tract upon which the well is located or is 29742
to be drilled or within a proposed drilling unit; 29743

(4) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county;	29744 29745 29746
(5) Designation of the well by name and number;	29747
(6) The geological formation to be tested or used and the proposed total depth of the well;	29748 29749
(7) The type of drilling equipment to be used;	29750
(8) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected;	29751 29752 29753
(9) For an application for a permit to drill a new well within an urbanized area, a sworn statement that the applicant has provided notice by regular mail of the application to the owner of each parcel of real property that is located within five hundred feet of the surface location of the well and to the executive authority of the municipal corporation or the board of township trustees of the township, as applicable, in which the well is to be located. In addition, the notice shall contain a statement that informs an owner of real property who is required to receive the notice under division (A)(9) of this section that within five days of receipt of the notice, the owner is required to provide notice under section 1509.60 of the Revised Code to each residence in an occupied dwelling that is located on the owner's parcel of real property. The notice shall contain a statement that an application has been filed with the division of mineral <u>oil and gas</u> resources management, identify the name of the applicant and the proposed well location, include the name and address of the division, and contain a statement that comments regarding the application may be sent to the division. The notice may be provided by hand delivery or regular mail. The identity of the owners of parcels of real property shall be determined using the tax records of the	29754 29755 29756 29757 29758 29759 29760 29761 29762 29763 29764 29765 29766 29767 29768 29769 29770 29771 29772 29773 29774

municipal corporation or county in which a parcel of real property 29775
is located as of the date of the notice. 29776

(10) A plan for restoration of the land surface disturbed by 29777
drilling operations. The plan shall provide for compliance with 29778
the restoration requirements of division (A) of section 1509.072 29779
of the Revised Code and any rules adopted by the chief pertaining 29780
to that restoration. 29781

(11) A description by name or number of the county, township, 29782
and municipal corporation roads, streets, and highways that the 29783
applicant anticipates will be used for access to and egress from 29784
the well site; 29785

(12) Such other relevant information as the chief prescribes 29786
by rule. 29787

Each application shall be accompanied by a map, on a scale 29788
not smaller than four hundred feet to the inch, prepared by an 29789
Ohio registered surveyor, showing the location of the well and 29790
containing such other data as may be prescribed by the chief. If 29791
the well is or is to be located within the excavations and 29792
workings of a mine, the map also shall include the location of the 29793
mine, the name of the mine, and the name of the person operating 29794
the mine. 29795

(B) The chief shall cause a copy of the weekly circular 29796
prepared by the division to be provided to the county engineer of 29797
each county that contains active or proposed drilling activity. 29798
The weekly circular shall contain, in the manner prescribed by the 29799
chief, the names of all applicants for permits, the location of 29800
each well or proposed well, the information required by division 29801
(A)(11) of this section, and any additional information the chief 29802
prescribes. In addition, the chief promptly shall transfer an 29803
electronic copy or facsimile, or if those methods are not 29804
available to a municipal corporation or township, a copy via 29805

regular mail, of a drilling permit application to the clerk of the 29806
legislative authority of the municipal corporation or to the clerk 29807
of the township in which the well or proposed well is or is to be 29808
located if the legislative authority of the municipal corporation 29809
or the board of township trustees has asked to receive copies of 29810
such applications and the appropriate clerk has provided the chief 29811
an accurate, current electronic mailing address or facsimile 29812
number, as applicable. 29813

(C)(1) Except as provided in division (C)(2) of this section, 29814
the chief shall not issue a permit for at least ten days after the 29815
date of filing of the application for the permit unless, upon 29816
reasonable cause shown, the chief waives that period or a request 29817
for expedited review is filed under this section. However, the 29818
chief shall issue a permit within twenty-one days of the filing of 29819
the application unless the chief denies the application by order. 29820

(2) If the location of a well or proposed well will be or is 29821
within an urbanized area, the chief shall not issue a permit for 29822
at least eighteen days after the date of filing of the application 29823
for the permit unless, upon reasonable cause shown, the chief 29824
waives that period or the chief at the chief's discretion grants a 29825
request for an expedited review. However, the chief shall issue a 29826
permit for a well or proposed well within an urbanized area within 29827
thirty days of the filing of the application unless the chief 29828
denies the application by order. 29829

(D) An applicant may file a request with the chief for 29830
expedited review of a permit application if the well is not or is 29831
not to be located in a gas storage reservoir or reservoir 29832
protective area, as "reservoir protective area" is defined in 29833
section 1571.01 of the Revised Code. If the well is or is to be 29834
located in a coal bearing township, the application shall be 29835
accompanied by the affidavit of the landowner prescribed in 29836
section 1509.08 of the Revised Code. 29837

In addition to a complete application for a permit that meets 29838
the requirements of this section and the permit fee prescribed by 29839
this section, a request for expedited review shall be accompanied 29840
by a separate nonrefundable filing fee of two hundred fifty 29841
dollars. Upon the filing of a request for expedited review, the 29842
chief shall cause the county engineer of the county in which the 29843
well is or is to be located to be notified of the filing of the 29844
permit application and the request for expedited review by 29845
telephone or other means that in the judgment of the chief will 29846
provide timely notice of the application and request. The chief 29847
shall issue a permit within seven days of the filing of the 29848
request unless the chief denies the application by order. 29849
Notwithstanding the provisions of this section governing expedited 29850
review of permit applications, the chief may refuse to accept 29851
requests for expedited review if, in the chief's judgment, the 29852
acceptance of the requests would prevent the issuance, within 29853
twenty-one days of their filing, of permits for which applications 29854
are pending. 29855

(E) A well shall be drilled and operated in accordance with 29856
the plans, sworn statements, and other information submitted in 29857
the approved application. 29858

(F) The chief shall issue an order denying a permit if the 29859
chief finds that there is a substantial risk that the operation 29860
will result in violations of this chapter or rules adopted under 29861
it that will present an imminent danger to public health or safety 29862
or damage to the environment, provided that where the chief finds 29863
that terms or conditions to the permit can reasonably be expected 29864
to prevent such violations, the chief shall issue the permit 29865
subject to those terms or conditions, including, if applicable, 29866
terms and conditions regarding subjects identified in rules 29867
adopted under section 1509.03 of the Revised Code. The issuance of 29868
a permit shall not be considered an order of the chief. 29869

(G) Each application for a permit required by section 1509.05 of the Revised Code, except an application to plug back an existing well that is required by that section and an application for a well drilled or reopened for purposes of section 1509.22 of the Revised Code, also shall be accompanied by a nonrefundable fee as follows:

(1) Five hundred dollars for a permit to conduct activities in a township with a population of fewer than ten thousand;

(2) Seven hundred fifty dollars for a permit to conduct activities in a township with a population of ten thousand or more, but fewer than fifteen thousand;

(3) One thousand dollars for a permit to conduct activities in either of the following:

(a) A township with a population of fifteen thousand or more;

(b) A municipal corporation regardless of population.

(4) If the application is for a permit that requires mandatory pooling, an additional five thousand dollars.

For purposes of calculating fee amounts, populations shall be determined using the most recent federal decennial census.

Each application for the revision or reissuance of a permit shall be accompanied by a nonrefundable fee of two hundred fifty dollars.

(H) Prior to the issuance of a permit to drill a proposed well that is to be located in an urbanized area, the division shall conduct a site review to identify and evaluate any site-specific terms and conditions that may be attached to the permit. At the site review, a representative of the division shall consider fencing, screening, and landscaping requirements, if any, for similar structures in the community in which the well is proposed to be located. The terms and conditions that are attached

to the permit shall include the establishment of fencing, 29900
screening, and landscaping requirements for the surface facilities 29901
of the proposed well, including a tank battery of the well. 29902

(I) A permit shall be issued by the chief in accordance with 29903
this chapter. A permit issued under this section for a well that 29904
is or is to be located in an urbanized area shall be valid for 29905
twelve months, and all other permits issued under this section 29906
shall be valid for twenty-four months. 29907

(J) A permittee or a permittee's authorized representative 29908
shall notify an inspector from the division of ~~mineral resources~~ 29909
~~management~~ at least twenty-four hours, or another time period 29910
agreed to by the chief's authorized representative, prior to the 29911
commencement of drilling, reopening, converting, well stimulation, 29912
or plugback operations. 29913

Sec. 1509.061. An owner of a well who has been issued a 29914
permit under section 1509.06 of the Revised Code may submit to the 29915
chief of the division of ~~mineral~~ oil and gas resources management, 29916
on a form prescribed by the chief, a request to revise an existing 29917
tract upon which exists a producing or idle well. The chief shall 29918
adopt, and may amend and rescind, rules under section 1509.03 of 29919
the Revised Code that are necessary for the administration of this 29920
section. The rules at least shall stipulate the information to be 29921
included on the request form and shall establish a fee to be paid 29922
by the person submitting the request, which fee shall not exceed 29923
two hundred fifty dollars. 29924

The chief shall approve a request submitted under this 29925
section unless it would result in a violation of this chapter or 29926
rules adopted under it, including provisions establishing spacing 29927
or minimum acreage requirements. 29928

Sec. 1509.062. (A)(1) The owner of a well that has not been 29929

completed, a well that has not produced within one year after 29930
completion, or an existing well that has no reported production 29931
for two consecutive reporting periods as reported in accordance 29932
with section 1509.11 of the Revised Code shall plug the well in 29933
accordance with section 1509.12 of the Revised Code, obtain 29934
temporary inactive well status for the well in accordance with 29935
this section, or perform another activity regarding the well that 29936
is approved by the chief of the division of ~~mineral~~ oil and gas 29937
resources management. 29938

(2) If a well has a reported annual production that is less 29939
than one hundred thousand cubic feet of natural gas or fifteen 29940
barrels of crude oil, or a combination thereof, the chief may 29941
require the owner of the well to submit an application for 29942
temporary inactive well status under this section for the well. 29943

(B) In order for the owner of a well to submit an application 29944
for temporary inactive well status for the well under this 29945
division, the owner and the well shall be in compliance with this 29946
chapter and rules adopted under it, any terms and conditions of 29947
the permit for the well, and applicable orders issued by the 29948
chief. An application for temporary inactive status for a well 29949
shall be submitted to the chief on a form prescribed and provided 29950
by the chief and shall contain all of the following: 29951

(1) The owner's name and address and, if the owner is a 29952
corporation, the name and address of the corporation's statutory 29953
agent; 29954

(2) The signature of the owner or of the owner's authorized 29955
agent. When an authorized agent signs an application, the 29956
application shall be accompanied by a certified copy of the 29957
appointment as such agent. 29958

(3) The permit number assigned to the well. If the well has 29959
not been assigned a permit number, the chief shall assign a permit 29960

number to the well. 29961

(4) A map, on a scale not smaller than four hundred feet to 29962
the inch, that shows the location of the well and the tank 29963
battery, that includes the latitude and longitude of the well, and 29964
that contains all other data that are required by the chief; 29965

(5) A demonstration that the well is of future utility and 29966
that the applicant has a viable plan to utilize the well within a 29967
reasonable period of time; 29968

(6) A demonstration that the well poses no threat to the 29969
health or safety of persons, property, or the environment; 29970

(7) Any other relevant information that the chief prescribes 29971
by rule. 29972

The chief may waive any of the requirements established in 29973
divisions (B)(1) to (6) of this section if the division of ~~mineral~~ 29974
oil and gas resources management possesses a current copy of the 29975
information or document that is required in the applicable 29976
division. 29977

(C) Upon receipt of an application for temporary inactive 29978
well status, the chief shall review the application and shall 29979
either deny the application by issuing an order or approve the 29980
application. The chief shall approve the application only if the 29981
chief determines that the well that is the subject of the 29982
application poses no threat to the health or safety of persons, 29983
property, or the environment. If the chief approves the 29984
application, the chief shall notify the applicant of the chief's 29985
approval. Upon receipt of the chief's approval, the owner shall 29986
shut in the well and empty all liquids and gases from all storage 29987
tanks, pipelines, and other equipment associated with the well. In 29988
addition, the owner shall maintain the well, other equipment 29989
associated with the well, and the surface location of the well in 29990
a manner that prevents hazards to the health and safety of people 29991

and the environment. The owner shall inspect the well at least 29992
every six months and submit to the chief within fourteen days 29993
after the inspection a record of inspection on a form prescribed 29994
and provided by the chief. 29995

(D) Not later than thirty days prior to the expiration of 29996
temporary inactive well status or a renewal of temporary inactive 29997
well status approved by the chief for a well, the owner of the 29998
well may submit to the chief an application for renewal of the 29999
temporary inactive well status on a form prescribed and provided 30000
by the chief. The application shall include a detailed plan that 30001
describes the ultimate disposition of the well, the time frames 30002
for that disposition, and any other information that the chief 30003
determines is necessary. The chief shall either deny an 30004
application by order or approve the application. If the chief 30005
approves the application, the chief shall notify the owner of the 30006
well of the chief's approval. 30007

(E) An application for temporary inactive well status shall 30008
be accompanied by a nonrefundable fee of one hundred dollars. An 30009
application for a renewal of temporary inactive well status shall 30010
be accompanied by a nonrefundable fee of two hundred fifty dollars 30011
for the first renewal and five hundred dollars for each subsequent 30012
renewal. 30013

(F) After a third renewal, the chief may require an owner to 30014
provide a surety bond in an amount not to exceed ten thousand 30015
dollars for each of the owner's wells that has been approved by 30016
the chief for temporary inactive well status. 30017

(G) Temporary inactive well status approved by the chief 30018
expires one year after the date of approval of the application for 30019
temporary inactive well status or production from the well 30020
commences, whichever occurs sooner. In addition, a renewal of a 30021
temporary inactive well status expires one year after the 30022
expiration date of the initial temporary inactive well status or 30023

one year after the expiration date of the previous renewal of the 30024
temporary inactive well status, as applicable, or production from 30025
the well commences, whichever occurs sooner. 30026

(H) The owner of a well that has been approved by the chief 30027
for temporary inactive well status may commence production from 30028
the well at any time. Not later than sixty days after the 30029
commencement of production from such a well, the owner shall 30030
notify the chief of the commencement of production. 30031

(I) This chapter and rules adopted under it, any terms and 30032
conditions of the permit for a well, and applicable orders issued 30033
by the chief apply to a well that has been approved by the chief 30034
for temporary inactive well status or renewal of that status. 30035

Sec. 1509.07. An owner of any well, except an exempt 30036
Mississippian well or an exempt domestic well, shall obtain 30037
liability insurance coverage from a company authorized to do 30038
business in this state in an amount of not less than one million 30039
dollars bodily injury coverage and property damage coverage to pay 30040
damages for injury to persons or damage to property caused by the 30041
drilling, operation, or plugging of all the owner's wells in this 30042
state. However, if any well is located within an urbanized area, 30043
the owner shall obtain liability insurance coverage in an amount 30044
of not less than three million dollars for bodily injury coverage 30045
and property damage coverage to pay damages for injury to persons 30046
or damage to property caused by the drilling, operation, or 30047
plugging of all of the owner's wells in this state. The owner 30048
shall maintain the coverage until all the owner's wells are 30049
plugged and abandoned or are transferred to an owner who has 30050
obtained insurance as required under this section and who is not 30051
under a notice of material and substantial violation or under a 30052
suspension order. The owner shall provide proof of liability 30053
insurance coverage to the chief of the division of ~~mineral oil and~~ 30054

gas resources management upon request. Upon failure of the owner 30055
to provide that proof when requested, the chief may order the 30056
suspension of any outstanding permits and operations of the owner 30057
until the owner provides proof of the required insurance coverage. 30058

Except as otherwise provided in this section, an owner of any 30059
well, before being issued a permit under section 1509.06 of the 30060
Revised Code or before operating or producing from a well, shall 30061
execute and file with the division of ~~mineral~~ oil and gas 30062
resources management a surety bond conditioned on compliance with 30063
the restoration requirements of section 1509.072, the plugging 30064
requirements of section 1509.12, the permit provisions of section 30065
1509.13 of the Revised Code, and all rules and orders of the chief 30066
relating thereto, in an amount set by rule of the chief. 30067

The owner may deposit with the chief, instead of a surety 30068
bond, cash in an amount equal to the surety bond as prescribed 30069
pursuant to this section or negotiable certificates of deposit or 30070
irrevocable letters of credit, issued by any bank organized or 30071
transacting business in this state or by any savings and loan 30072
association as defined in section 1151.01 of the Revised Code, 30073
having a cash value equal to or greater than the amount of the 30074
surety bond as prescribed pursuant to this section. Cash or 30075
certificates of deposit shall be deposited upon the same terms as 30076
those upon which surety bonds may be deposited. If certificates of 30077
deposit are deposited with the chief instead of a surety bond, the 30078
chief shall require the bank or savings and loan association that 30079
issued any such certificate to pledge securities of a cash value 30080
equal to the amount of the certificate that is in excess of the 30081
amount insured by any of the agencies and instrumentalities 30082
created under the "Federal Deposit Insurance Act," 64 Stat. 873 30083
(1950), 12 U.S.C. 1811, as amended, and regulations adopted under 30084
it, including at least the federal deposit insurance corporation, 30085
bank insurance fund, and savings association insurance fund. The 30086

securities shall be security for the repayment of the certificate 30087
of deposit. 30088

Immediately upon a deposit of cash, certificates of deposit, 30089
or letters of credit with the chief, the chief shall deliver them 30090
to the treasurer of state who shall hold them in trust for the 30091
purposes for which they have been deposited. 30092

Instead of a surety bond, the chief may accept proof of 30093
financial responsibility consisting of a sworn financial statement 30094
showing a net financial worth within this state equal to twice the 30095
amount of the bond for which it substitutes and, as may be 30096
required by the chief, a list of producing properties of the owner 30097
within this state or other evidence showing ability and intent to 30098
comply with the law and rules concerning restoration and plugging 30099
that may be required by rule of the chief. The owner of an exempt 30100
Mississippian well is not required to file scheduled updates of 30101
the financial documents, but shall file updates of those documents 30102
if requested to do so by the chief. The owner of a nonexempt 30103
Mississippian well shall file updates of the financial documents 30104
in accordance with a schedule established by rule of the chief. 30105
The chief, upon determining that an owner for whom the chief has 30106
accepted proof of financial responsibility instead of bond cannot 30107
demonstrate financial responsibility, shall order that the owner 30108
execute and file a bond or deposit cash, certificates of deposit, 30109
or irrevocable letters of credit as required by this section for 30110
the wells specified in the order within ten days of receipt of the 30111
order. If the order is not complied with, all wells of the owner 30112
that are specified in the order and for which no bond is filed or 30113
cash, certificates of deposit, or letters of credit are deposited 30114
shall be plugged. No owner shall fail or refuse to plug such a 30115
well. Each day on which such a well remains unplugged thereafter 30116
constitutes a separate offense. 30117

The surety bond provided for in this section shall be 30118

executed by a surety company authorized to do business in this 30119
state. 30120

The chief shall not approve any bond until it is personally 30121
signed and acknowledged by both principal and surety, or as to 30122
either by the principal's or surety's attorney in fact, with a 30123
certified copy of the power of attorney attached thereto. The 30124
chief shall not approve a bond unless there is attached a 30125
certificate of the superintendent of insurance that the company is 30126
authorized to transact a fidelity and surety business in this 30127
state. 30128

All bonds shall be given in a form to be prescribed by the 30129
chief and shall run to the state as obligee. 30130

An owner of an exempt Mississippian well or an exempt 30131
domestic well, in lieu of filing a surety bond, cash in an amount 30132
equal to the surety bond, certificates of deposit, irrevocable 30133
letters of credit, or a sworn financial statement, may file a 30134
one-time fee of fifty dollars, which shall be deposited in the oil 30135
and gas well plugging fund created in section 1509.071 of the 30136
Revised Code. 30137

An owner, operator, producer, or other person shall not 30138
operate a well or produce from a well at any time if the owner, 30139
operator, producer, or other person has not satisfied the 30140
requirements established in this section. 30141

Sec. 1509.071. (A) When the chief of the division of ~~mineral~~ 30142
oil and gas resources management finds that an owner has failed to 30143
comply with a final nonappealable order issued or compliance 30144
agreement entered into under section 1509.04, the restoration 30145
requirements of section 1509.072, plugging requirements of section 30146
1509.12, or permit provisions of section 1509.13 of the Revised 30147
Code, or rules and orders relating thereto, the chief shall make a 30148
finding of that fact and declare any surety bond filed to ensure 30149

compliance with those sections and rules forfeited in the amount 30150
set by rule of the chief. The chief thereupon shall certify the 30151
total forfeiture to the attorney general, who shall proceed to 30152
collect the amount of the forfeiture. In addition, the chief may 30153
require an owner, operator, producer, or other person who 30154
forfeited a surety bond to post a new surety bond in the amount of 30155
fifteen thousand dollars for a single well, thirty thousand 30156
dollars for two wells, or fifty thousand dollars for three or more 30157
wells. 30158

In lieu of total forfeiture, the surety or owner, at the 30159
surety's or owner's option, may cause the well to be properly 30160
plugged and abandoned and the area properly restored or pay to the 30161
treasurer of state the cost of plugging and abandonment. 30162

(B) All moneys collected because of forfeitures of bonds as 30163
provided in this section shall be deposited in the state treasury 30164
to the credit of the oil and gas well fund created in section 30165
1509.02 of the Revised Code. 30166

The chief annually shall spend not less than fourteen per 30167
cent of the revenue credited to the fund during the previous 30168
fiscal year for the following purposes: 30169

(1) In accordance with division (D) of this section, to plug 30170
idle and orphaned wells or to restore the land surface properly as 30171
required in section 1509.072 of the Revised Code; 30172

(2) In accordance with division (E) of this section, to 30173
correct conditions that the chief reasonably has determined are 30174
causing imminent health or safety risks at an idle and orphaned 30175
well or a well for which the owner cannot be contacted in order to 30176
initiate a corrective action within a reasonable period of time as 30177
determined by the chief. 30178

Expenditures from the fund shall be made only for lawful 30179
purposes. In addition, expenditures from the fund shall not be 30180

made to purchase real property or to remove a dwelling in order to 30181
access a well. 30182

(C)(1) Upon determining that the owner of a well has failed 30183
to properly plug and abandon it or to properly restore the land 30184
surface at the well site in compliance with the applicable 30185
requirements of this chapter and applicable rules adopted and 30186
orders issued under it or that a well is an abandoned well for 30187
which no funds are available to plug the well in accordance with 30188
this chapter, the chief shall do all of the following: 30189

(a) Determine from the records in the office of the county 30190
recorder of the county in which the well is located the identity 30191
of the owner of the land on which the well is located, the 30192
identity of the owner of the oil or gas lease under which the well 30193
was drilled or the identity of each person owning an interest in 30194
the lease, and the identities of the persons having legal title 30195
to, or a lien upon, any of the equipment appurtenant to the well; 30196

(b) Mail notice to the owner of the land on which the well is 30197
located informing the landowner that the well is to be plugged. If 30198
the owner of the oil or gas lease under which the well was drilled 30199
is different from the owner of the well or if any persons other 30200
than the owner of the well own interests in the lease, the chief 30201
also shall mail notice that the well is to be plugged to the owner 30202
of the lease or to each person owning an interest in the lease, as 30203
appropriate. 30204

(c) Mail notice to each person having legal title to, or a 30205
lien upon, any equipment appurtenant to the well, informing the 30206
person that the well is to be plugged and offering the person the 30207
opportunity to plug the well and restore the land surface at the 30208
well site at the person's own expense in order to avoid forfeiture 30209
of the equipment to this state. 30210

(2) If none of the persons described in division (C)(1)(c) of 30211

this section plugs the well within sixty days after the mailing of 30212
the notice required by that division, all equipment appurtenant to 30213
the well is hereby declared to be forfeited to this state without 30214
compensation and without the necessity for any action by the state 30215
for use to defray the cost of plugging and abandoning the well and 30216
restoring the land surface at the well site. 30217

(D) Expenditures from the fund for the purpose of division 30218
(B)(1) of this section shall be made in accordance with either of 30219
the following: 30220

(1) The expenditures may be made pursuant to contracts 30221
entered into by the chief with persons who agree to furnish all of 30222
the materials, equipment, work, and labor as specified and 30223
provided in such a contract for activities associated with the 30224
restoration or plugging of a well as determined by the chief. The 30225
activities may include excavation to uncover a well, geophysical 30226
methods to locate a buried well when clear evidence of leakage 30227
from the well exists, cleanout of wellbores to remove material 30228
from a failed plugging of a well, plugging operations, 30229
installation of vault and vent systems, including associated 30230
engineering certifications and permits, restoration of property, 30231
and repair of damage to property that is caused by such 30232
activities. Expenditures shall not be used for salaries, 30233
maintenance, equipment, or other administrative purposes, except 30234
for costs directly attributed to the plugging of an idle and 30235
orphaned well. Agents or employees of persons contracting with the 30236
chief for a restoration or plugging project may enter upon any 30237
land, public or private, on which the well is located for the 30238
purpose of performing the work. Prior to such entry, the chief 30239
shall give to the following persons written notice of the 30240
existence of a contract for a project to restore or plug a well, 30241
the names of the persons with whom the contract is made, and the 30242
date that the project will commence: the owner of the well, the 30243

owner of the land upon which the well is located, the owner or 30244
agents of adjoining land, and, if the well is located in the same 30245
township as or in a township adjacent to the excavations and 30246
workings of a mine and the owner or lessee of that mine has 30247
provided written notice identifying those townships to the chief 30248
at any time during the immediately preceding three years, the 30249
owner or lessee of the mine. 30250

(2)(a) The owner of the land on which a well is located who 30251
has received notice under division (C)(1)(b) of this section may 30252
plug the well and be reimbursed by the division of oil and gas 30253
resources management for the reasonable cost of plugging the well. 30254
In order to plug the well, the landowner shall submit an 30255
application to the chief on a form prescribed by the chief and 30256
approved by the technical advisory council on oil and gas created 30257
in section 1509.38 of the Revised Code. The application, at a 30258
minimum, shall require the landowner to provide the same 30259
information as is required to be included in the application for a 30260
permit to plug and abandon under section 1509.13 of the Revised 30261
Code. The application shall be accompanied by a copy of a proposed 30262
contract to plug the well prepared by a contractor regularly 30263
engaged in the business of plugging oil and gas wells. The 30264
proposed contract shall require the contractor to furnish all of 30265
the materials, equipment, work, and labor necessary to plug the 30266
well properly and shall specify the price for doing the work, 30267
including a credit for the equipment appurtenant to the well that 30268
was forfeited to the state through the operation of division 30269
(C)(2) of this section. Expenditures under division (D)(2)(a) of 30270
this section shall be consistent with the expenditures for 30271
activities described in division (D)(1) of this section. The 30272
application also shall be accompanied by the permit fee required 30273
by section 1509.13 of the Revised Code unless the chief, in the 30274
chief's discretion, waives payment of the permit fee. The 30275
application constitutes an application for a permit to plug and 30276

abandon the well for the purposes of section 1509.13 of the Revised Code. 30277
30278

(b) Within thirty days after receiving an application and accompanying proposed contract under division (D)(2)(a) of this section, the chief shall determine whether the plugging would comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it and whether the cost of the plugging under the proposed contract is reasonable. If the chief determines that the proposed plugging would comply with those requirements and that the proposed cost of the plugging is reasonable, the chief shall notify the landowner of that determination and issue to the landowner a permit to plug and abandon the well under section 1509.13 of the Revised Code. Upon approval of the application and proposed contract, the chief shall transfer ownership of the equipment appurtenant to the well to the landowner. The chief may disapprove an application submitted under division (D)(2)(a) of this section if the chief determines that the proposed plugging would not comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, that the cost of the plugging under the proposed contract is unreasonable, or that the proposed contract is not a bona fide, ~~arms~~ arm's length contract. 30279
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(c) After receiving the chief's notice of the approval of the application and permit to plug and abandon a well under division (D)(2)(b) of this section, the landowner shall enter into the proposed contract to plug the well. 30299
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(d) Upon determining that the plugging has been completed in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, the chief shall reimburse the landowner for the cost of the plugging as set forth in the proposed contract approved by the chief. The reimbursement shall be paid from the oil and gas well fund. If the 30303
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chief determines that the plugging was not completed in accordance 30309
with the applicable requirements, the chief shall not reimburse 30310
the landowner for the cost of the plugging, and the landowner or 30311
the contractor, as applicable, promptly shall transfer back to 30312
this state title to and possession of the equipment appurtenant to 30313
the well that previously was transferred to the landowner under 30314
division (D)(2)(b) of this section. If any such equipment was 30315
removed from the well during the plugging and sold, the landowner 30316
shall pay to the chief the proceeds from the sale of the 30317
equipment, and the chief promptly shall pay the moneys so received 30318
to the treasurer of state for deposit into the oil and gas well 30319
fund. 30320

The chief may establish an annual limit on the number of 30321
wells that may be plugged under division (D)(2) of this section or 30322
an annual limit on the expenditures to be made under that 30323
division. 30324

As used in division (D)(2) of this section, "plug" and 30325
"plugging" include the plugging of the well and the restoration of 30326
the land surface disturbed by the plugging. 30327

(E) Expenditures from the oil and gas well fund for the 30328
purpose of division (B)(2) of this section may be made pursuant to 30329
contracts entered into by the chief with persons who agree to 30330
furnish all of the materials, equipment, work, and labor as 30331
specified and provided in such a contract. The competitive bidding 30332
requirements of Chapter 153. of the Revised Code do not apply if 30333
the chief reasonably determines that correction of the applicable 30334
health or safety risk requires immediate action. The chief, 30335
designated representatives of the chief, and agents or employees 30336
of persons contracting with the chief under this division may 30337
enter upon any land, public or private, for the purpose of 30338
performing the work. 30339

(F) Contracts entered into by the chief under this section 30340

are not subject to either of the following: 30341

(1) Chapter 4115. of the Revised Code; 30342

(2) Section 153.54 of the Revised Code, except that the 30343
contractor shall obtain and provide to the chief as a bid guaranty 30344
a surety bond or letter of credit in an amount equal to ten per 30345
cent of the amount of the contract. 30346

(G) The owner of land on which a well is located who has 30347
received notice under division (C)(1)(b) of this section, in lieu 30348
of plugging the well in accordance with division (D)(2) of this 30349
section, may cause ownership of the well to be transferred to an 30350
owner who is lawfully doing business in this state and who has met 30351
the financial responsibility requirements established under 30352
section 1509.07 of the Revised Code, subject to the approval of 30353
the chief. The transfer of ownership also shall be subject to the 30354
landowner's filing the appropriate forms required under section 30355
1509.31 of the Revised Code and providing to the chief sufficient 30356
information to demonstrate the landowner's or owner's right to 30357
produce a formation or formations. That information may include a 30358
deed, a lease, or other documentation of ownership or property 30359
rights. 30360

The chief shall approve or disapprove the transfer of 30361
ownership of the well. If the chief approves the transfer, the 30362
owner is responsible for operating the well in accordance with 30363
this chapter and rules adopted under it, including, without 30364
limitation, all of the following: 30365

(1) Filing an application with the chief under section 30366
1509.06 of the Revised Code if the owner intends to drill deeper 30367
or produce a formation that is not listed in the records of the 30368
division for that well; 30369

(2) Taking title to and possession of the equipment 30370
appurtenant to the well that has been identified by the chief as 30371

having been abandoned by the former owner; 30372

(3) Complying with all applicable requirements that are 30373
necessary to drill deeper, plug the well, or plug back the well. 30374

(H) The chief shall issue an order that requires the owner of 30375
a well to pay the actual documented costs of a corrective action 30376
that is described in division (B)(2) of this section concerning 30377
the well. The chief shall transmit the money so recovered to the 30378
treasurer of state who shall deposit the money in the state 30379
treasury to the credit of the oil and gas well fund. 30380

Sec. 1509.072. No oil or gas well owner or agent of an oil or 30381
gas well owner shall fail to restore the land surface within the 30382
area disturbed in siting, drilling, completing, and producing the 30383
well as required in this section. 30384

(A) Within fourteen days after the date upon which the 30385
drilling of a well is completed to total depth in an urbanized 30386
area and within two months after the date upon which the drilling 30387
of a well is completed in all other areas, the owner or the 30388
owner's agent, in accordance with the restoration plan filed under 30389
division (A)(10) of section 1509.06 of the Revised Code, shall 30390
fill all the pits for containing brine and other waste substances 30391
resulting, obtained, or produced in connection with exploration or 30392
drilling for oil or gas that are not required by other state or 30393
federal law or regulation, and remove all drilling supplies and 30394
drilling equipment. Unless the chief of the division of ~~mineral~~ 30395
oil and gas resources management approves a longer time period, 30396
within three months after the date upon which the surface drilling 30397
of a well is commenced in an urbanized area and within six months 30398
after the date upon which the surface drilling of a well is 30399
commenced in all other areas, the owner or the owner's agent shall 30400
grade or terrace and plant, seed, or sod the area disturbed that 30401
is not required in production of the well where necessary to bind 30402

the soil and prevent substantial erosion and sedimentation. If the 30403
chief finds that a pit used for containing brine, other waste 30404
substances, or oil is in violation of section 1509.22 of the 30405
Revised Code or rules adopted or orders issued under it, the chief 30406
may require the pit to be emptied and closed before expiration of 30407
the fourteen-day or three-month restoration period. 30408

(B) Within three months after a well that has produced oil or 30409
gas is plugged in an urbanized area and within six months after a 30410
well that has produced oil or gas is plugged in all other areas, 30411
or after the plugging of a dry hole, unless the chief approves a 30412
longer time period, the owner or the owner's agent shall remove 30413
all production and storage structures, supplies, and equipment, 30414
and any oil, salt water, and debris, and fill any remaining 30415
excavations. Within that period the owner or the owner's agent 30416
shall grade or terrace and plant, seed, or sod the area disturbed 30417
where necessary to bind the soil and prevent substantial erosion 30418
and sedimentation. 30419

The owner shall be released from responsibility to perform 30420
any or all restoration requirements of this section on any part or 30421
all of the area disturbed upon the filing of a request for a 30422
waiver with and obtaining the written approval of the chief, which 30423
request shall be signed by the surface owner to certify the 30424
approval of the surface owner of the release sought. The chief 30425
shall approve the request unless the chief finds upon inspection 30426
that the waiver would be likely to result in substantial damage to 30427
adjoining property, substantial contamination of surface or 30428
underground water, or substantial erosion or sedimentation. 30429

The chief, by order, may shorten the time periods provided 30430
for under division (A) or (B) of this section if failure to 30431
shorten the periods would be likely to result in damage to public 30432
health or the waters or natural resources of the state. 30433

The chief, upon written application by an owner or an owner's 30434

agent showing reasonable cause, may extend the period within which 30435
restoration shall be completed under divisions (A) and (B) of this 30436
section, but not to exceed a further six-month period, except 30437
under extraordinarily adverse weather conditions or when essential 30438
equipment, fuel, or labor is unavailable to the owner or the 30439
owner's agent. 30440

If the chief refuses to approve a request for waiver or 30441
extension, the chief shall do so by order. 30442

Sec. 1509.073. A person that is issued a permit under this 30443
chapter to drill a new well or drill an existing well deeper in an 30444
urbanized area shall establish fluid drilling conditions prior to 30445
penetration of the Onondaga limestone and continue to use fluid 30446
drilling until total depth of the well is achieved unless the 30447
chief of the division of ~~mineral~~ oil and gas resources management 30448
authorizes such drilling without using fluid. 30449

Sec. 1509.08. Upon receipt of an application for a permit 30450
required by section 1509.05 of the Revised Code, or upon receipt 30451
of an application for a permit to plug and abandon under section 30452
1509.13 of the Revised Code, the chief of the division of ~~mineral~~ 30453
oil and gas resources management shall determine whether the well 30454
is or is to be located in a coal bearing township. 30455

Whether or not the well is or is to be located in a coal 30456
bearing township, the chief, by order, may refuse to issue a 30457
permit required by section 1509.05 of the Revised Code to any 30458
applicant who at the time of applying for the permit is in 30459
material or substantial violation of this chapter or rules adopted 30460
or orders issued under it. The chief shall refuse to issue a 30461
permit to any applicant who at the time of applying for the permit 30462
has been found liable by a final nonappealable order of a court of 30463
competent jurisdiction for damage to streets, roads, highways, 30464

bridges, culverts, or drainways pursuant to section 4513.34 or 30465
5577.12 of the Revised Code until the applicant provides the chief 30466
with evidence of compliance with the order. No applicant shall 30467
attempt to circumvent this provision by applying for a permit 30468
under a different name or business organization name, by 30469
transferring responsibility to another person or entity, by 30470
abandoning the well or lease, or by any other similar act. 30471

If the well is not or is not to be located in a coal bearing 30472
township, or if it is to be located in a coal bearing township, 30473
but the landowner submits an affidavit attesting to ownership of 30474
the property in fee simple, including the coal, and has no 30475
objection to the well, the chief shall issue the permit. 30476

If the application to drill, reopen, or convert concerns a 30477
well that is or is to be located in a coal bearing township, the 30478
chief shall transmit to the chief of the division of mineral 30479
resources management two copies of the application and three 30480
copies of the map required in section 1509.06 of the Revised Code, 30481
except that, when the affidavit with the waiver of objection 30482
described above is submitted, the chief of the division of oil and 30483
gas resources management shall not transmit the copies. 30484

The chief of the division of mineral resources management 30485
immediately shall notify the owner or lessee of any affected mine 30486
that the application has been filed and send to the owner or 30487
lessee two copies of the map accompanying the application setting 30488
forth the location of the well. 30489

If the owner or lessee objects to the location of the well or 30490
objects to any location within fifty feet of the original location 30491
as a possible site for relocation of the well, the owner or lessee 30492
shall notify the chief of the division of mineral resources 30493
management of the objection, giving the reasons for the objection 30494
and, if applicable, indicating on a copy of the map the particular 30495
location or locations within fifty feet of the original location 30496

to which the owner or lessee objects as a site for possible 30497
relocation of the well, within six days after the receipt of the 30498
notice. If the chief receives no objections from the owner or 30499
lessee of the mine within ten days after the receipt of the notice 30500
by the owner or lessee, or if in the opinion of the chief the 30501
objections offered by the owner or lessee are not sufficiently 30502
well founded, the chief immediately shall notify the owner or 30503
lessee of those findings. The owner or lessee may appeal the 30504
decision of the chief to the reclamation commission under section 30505
1513.13 of the Revised Code. The appeal shall be filed within 30506
fifteen days, notwithstanding provisions in divisions (A)(1) of 30507
section 1513.13 of the Revised Code, to the contrary, from the 30508
date on which the owner or lessee receives the notice. If the 30509
appeal is not filed within that time, the chief immediately shall 30510
approve the application ~~and~~, retain a copy of the application and 30511
map, and return a copy of the application to the chief of the 30512
division of oil and gas resources management with the approval 30513
noted on it. The chief of the division of oil and gas resources 30514
management then shall issue the permit if the provisions of this 30515
chapter pertaining to the issuance of such a permit have been 30516
complied with. 30517

If the chief of the division of mineral resources management 30518
receives an objection from the owner or lessee of the mine as to 30519
the location of the well within ten days after receipt of the 30520
notice by the owner or lessee, and if in the opinion of the chief 30521
the objection is well founded, the chief shall disapprove the 30522
application and ~~suggest~~ immediately return it to the chief of the 30523
division of oil and gas resources management together with the 30524
reasons for disapproval and a suggestion for a new location for 30525
the well, provided that the suggested new location shall not be a 30526
location within fifty feet of the original location to which the 30527
owner or lessee has objected as a site for possible relocation of 30528
the well if the chief of the division of mineral resources 30529

management has determined that the objection is well founded. The 30530
chief of the division of oil and gas resources management 30531
immediately shall notify the applicant for the permit of the 30532
disapproval and any suggestion made by the chief of the division 30533
of mineral resources management as to a new location for the well. 30534
The applicant may withdraw the application or amend the 30535
application to drill the well at the location suggested by the 30536
chief, or the applicant may appeal the disapproval of the 30537
application by the chief to the reclamation commission. 30538

If the chief of the division of mineral resources management 30539
receives no objection from the owner or lessee of a mine as to the 30540
location of the well, but does receive an objection from the owner 30541
or lessee as to one or more locations within fifty feet of the 30542
original location as possible sites for relocation of the well 30543
within ten days after receipt of the notice by the owner or 30544
lessee, and if in the opinion of the chief the objection is well 30545
founded, the chief nevertheless shall approve the application and 30546
shall return it immediately to the chief of the division of oil 30547
and gas resources management together with the reasons for 30548
disapproving any of the locations to which the owner or lessee 30549
objects as possible sites for the relocation of the well. The 30550
chief of the division of oil and gas resources management then 30551
shall issue a permit if the provisions of this chapter pertaining 30552
to the issuance of such a permit have been complied with, 30553
incorporating as a term or condition of the permit that the 30554
applicant is prohibited from commencing drilling at any location 30555
within fifty feet of the original location that has been 30556
disapproved by the chief of the division of mineral resources 30557
management. The applicant may appeal to the reclamation commission 30558
the terms and conditions of the permit prohibiting the 30559
commencement of drilling at any such location disapproved by the 30560
chief of the division of mineral resources management. 30561

Any such appeal shall be filed within fifteen days, 30562
notwithstanding provisions in division (A)(1) of section 1513.13 30563
of the Revised Code to the contrary, from the date the applicant 30564
receives notice of the disapproval of the application, any other 30565
location within fifty feet of the original location, or terms or 30566
conditions of the permit, or the owner or lessee receives notice 30567
of the chief's decision. No approval or disapproval of an 30568
application shall be delayed by the chief of the division of 30569
mineral resources management for more than fifteen days from the 30570
date of sending the notice of the application to the mine owner or 30571
lessee as required by this section. 30572

All appeals provided for in this section shall be treated as 30573
expedited appeals. The reclamation commission shall hear any such 30574
appeal in accordance with section 1513.13 of the Revised Code and 30575
issue a decision within thirty days of the filing of the notice of 30576
appeal. 30577

The chief of the division of oil and gas resources management 30578
shall not issue a permit to drill a new well or reopen a well that 30579
is or is to be located within three hundred feet of any opening of 30580
any mine used as a means of ingress, egress, or ventilation for 30581
persons employed in the mine, nor within one hundred feet of any 30582
building or inflammable structure connected with the mine and 30583
actually used as a part of the operating equipment of the mine, 30584
unless the chief of the division of mineral resources management 30585
determines that life or property will not be endangered by 30586
drilling and operating the well in that location. 30587

The chief of the division of mineral resources management may 30588
suspend the drilling or reopening of a well in a coal bearing 30589
township after determining that the drilling or reopening 30590
activities present an imminent and substantial threat to public 30591
health or safety or to miners' health or safety and having been 30592
unable to contact the chief of the division of oil and gas 30593

resources management to request an order of suspension under 30594
section 1509.06 of the Revised Code. Before issuing a suspension 30595
order for that purpose, the chief of the division of mineral 30596
resources management shall notify the owner in a manner that in 30597
the chief's judgment would provide reasonable notification that 30598
the chief intends to issue a suspension order. The chief may issue 30599
such an order without prior notification if reasonable attempts to 30600
notify the owner have failed, but in that event notification shall 30601
be given as soon thereafter as practical. Within five calendar 30602
days after the issuance of the order, the chief shall provide the 30603
owner an opportunity to be heard and to present evidence that the 30604
activities do not present an imminent and substantial threat to 30605
public health or safety or to miners' health or safety. If, after 30606
considering the evidence presented by the owner, the chief 30607
determines that the activities do not present such a threat, the 30608
chief shall revoke the suspension order. An owner may appeal a 30609
suspension order issued by the chief of the division of mineral 30610
resources management under this section to the reclamation 30611
commission in accordance with section 1513.13 of the Revised Code 30612
or may appeal the order directly to the court of common pleas of 30613
the county in which the well is located. 30614

Sec. 1509.09. A well may be drilled under a permit only at 30615
the location designated on the map required in section 1509.06 of 30616
the Revised Code. The location of a well may be changed after the 30617
issuance of a permit only with the approval of the chief of the 30618
division of ~~mineral~~ oil and gas resources management and, if the 30619
well is located in a coal bearing township, with the approval of 30620
the chief of the division of mineral resources management using 30621
the procedures required in section 1509.08 of the Revised Code for 30622
a permit to drill a well unless the permit holder requests the 30623
issuance of an emergency drilling permit under this section due to 30624
a lost hole under such circumstances that completion of the well 30625

is not feasible at the original location. If a permit holder 30626
requests a change of location, the permit holder shall return the 30627
original permit and file an amended map indicating the proposed 30628
new location. 30629

Drilling shall not be commenced at a new location until the 30630
original permit bearing a notation of approval by the chief or 30631
chiefs is posted at the well site. However, a permit holder may 30632
commence drilling at a new location without first receiving the 30633
prior approval required by this section, if all of the following 30634
conditions are met: 30635

(A) Within one working day after spudding the new well, the 30636
permit holder files a request for an emergency drilling permit and 30637
submits to the chief of the division of oil and gas resources 30638
management an application for a permit that meets the requirements 30639
of section 1509.06 of the Revised Code, including the permit fee 30640
required by that section, with an amended map showing the new 30641
location~~+~~. 30642

(B) ~~A mineral~~ An oil and gas resources inspector is present 30643
before spudding operations are commenced at the location~~+~~. 30644

(C) The original well is plugged prior to the skidding of the 30645
drilling rig to the new location, and the plugging is witnessed or 30646
verified by ~~a mineral~~ an oil and gas resources inspector or, if 30647
the well is located in a coal bearing township, both a deputy mine 30648
inspector and ~~a mineral~~ an oil and gas resources inspector unless 30649
the chief or the chief's authorized representative temporarily 30650
waives the requirement, but in any event the original well shall 30651
be plugged before the drilling rig is moved from the location~~+~~. 30652

(D) The new location is within fifty feet of the original 30653
location unless, upon request of the permit holder, the chief~~,~~ 30654
with the approval of the chief of the division of mineral 30655
resources management if the well is located in a coal bearing 30656

township, agrees to a new location farther than fifty feet from 30657
the original location~~+~~. 30658

(E) The new location meets all the distance and spacing 30659
requirements prescribed by rules adopted under sections 1509.23 30660
and 1509.24 of the Revised Code~~+~~. 30661

(F) If the well is located in a coal bearing township, use of 30662
the new well location has not been disapproved by the chief of the 30663
division of mineral resources management and has not been 30664
prohibited as a term or condition of the permit under section 30665
1509.08 of the Revised Code. 30666

If the chief of the division of oil and gas resources 30667
management approves the change of location, the chief shall issue 30668
an emergency permit within two working days after the filing of 30669
the request for the emergency permit. If the chief disapproves the 30670
change of location, the chief shall, by order, deny the request 30671
and may issue an appropriate enforcement order under section 30672
1509.03 of the Revised Code. 30673

Sec. 1509.10. (A) Any person drilling within the state shall, 30674
within sixty days after the completion of drilling operations to 30675
the proposed total depth or after a determination that a well is a 30676
dry or lost hole, file with the division of ~~mineral~~ oil and gas 30677
resources management all wireline electric logs and an accurate 30678
well completion record on a form that is approved by the chief of 30679
the division of ~~mineral~~ oil and gas resources management that 30680
designates: 30681

(1) The purpose for which the well was drilled; 30682

(2) The character, depth, and thickness of geological units 30683
encountered, including coal seams, mineral beds, associated fluids 30684
such as fresh water, brine, and crude oil, natural gas, and sour 30685
gas, if such seams, beds, fluids, or gases are known; 30686

(3) The dates on which drilling operations were commenced and completed;	30687 30688
(4) The types of drilling tools used and the name of the person that drilled the well;	30689 30690
(5) The length in feet of the various sizes of casing and tubing used in drilling the well, the amount removed after completion, the type and setting depth of each packer, all other data relating to cementing in the annular space behind such casing or tubing, and data indicating completion as a dry, gas, oil, combination oil and gas, brine injection, or artificial brine well or a stratigraphic test;	30691 30692 30693 30694 30695 30696 30697
(6) The number of perforations in the casing and the intervals of the perforations;	30698 30699
(7) The elevation above mean sea level of the point from which the depth measurements were made, stating also the height of the point above ground level at the well, the total depth of the well, and the deepest geological unit that was penetrated in the drilling of the well;	30700 30701 30702 30703 30704
(8) If applicable, the type, volume, and concentration of acid, and the date on which acid was used in acidizing the well;	30705 30706
(9) If applicable, the type and volume of fluid used to stimulate the reservoir of the well, the reservoir breakdown pressure, the method used for the containment of fluids recovered from the fracturing of the well, the methods used for the containment of fluids when pulled from the wellbore from swabbing the well, the average pumping rate of the well, and the name of the person that performed the well stimulation. In addition, the owner shall include a copy of the log from the stimulation of the well, a copy of the invoice for each of the procedures and methods described in division (A)(9) of this section that were used on a well, and a copy of the pumping pressure and rate graphs. However,	30707 30708 30709 30710 30711 30712 30713 30714 30715 30716 30717

the owner may redact from the copy of each invoice that is 30718
required to be included under division (A)(9) of this section the 30719
costs of and charges for the procedures and methods described in 30720
division (A)(9) of this section that were used on a well. 30721

(10) The name of the company that performed the logging of 30722
the well and the types of wireline electric logs performed on the 30723
well. 30724

The well completion record shall be submitted in duplicate. 30725
The first copy shall be retained as a permanent record in the 30726
files of the division, and the second copy shall be transmitted by 30727
the chief to the division of geological survey. 30728

(B)(1) Not later than sixty days after the completion of the 30729
drilling operations to the proposed total depth, the owner shall 30730
file all wireline electric logs with the division of ~~mineral oil~~ 30731
and gas resources management and the chief shall transmit such 30732
logs electronically, if available, to the division of geological 30733
survey. Such logs may be retained by the owner for a period of not 30734
more than six months, or such additional time as may be granted by 30735
the chief in writing, after the completion of the well 30736
substantially to the depth shown in the application required by 30737
section 1509.06 of the Revised Code. 30738

(2) If a well is not completed within sixty days after the 30739
completion of drilling operations, the owner shall file with the 30740
division of oil and gas resources management a supplemental well 30741
completion record that includes all of the information required 30742
under this section within sixty days after the completion of the 30743
well. 30744

(C) Upon request in writing by the chief of the division of 30745
geological survey prior to the beginning of drilling of the well, 30746
the person drilling the well shall make available a complete set 30747
of cuttings accurately identified as to depth. 30748

(D) The form of the well completion record required by this section shall be one that has been approved by the chief of the division of ~~mineral~~ oil and gas resources management and the chief of the division of geological survey. The filing of a log as required by this section fulfills the requirement of filing a log with the chief of the division of geological survey in section 1505.04 of the Revised Code.

(E) If there is a material listed on the invoice that is required by division (A)(9) of this section for which the division of ~~mineral~~ oil and gas resources management does not have a material safety data sheet, the chief shall obtain a copy of the material safety data sheet for the material and post a copy of the material safety data sheet on the division's web site.

Sec. 1509.11. The owner of any well producing or capable of producing oil or gas shall file with the chief of the division of ~~mineral~~ oil and gas resources management, on or before the thirty-first day of March, a statement of production of oil, gas, and brine for the last preceding calendar year in such form as the chief may prescribe. An owner that has more than one hundred wells in this state shall submit electronically the statement of production in a format that is approved by the chief. The chief shall include on the form, at the minimum, a request for the submittal of the information that a person who is regulated under this chapter is required to submit under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C.A. 11001, and regulations adopted under it, and that the division does not obtain through other reporting mechanisms.

Sec. 1509.12. (A) No owner of any well shall construct a well, or permit defective casing in a well to leak fluids or gases, that causes damage to other permeable strata, underground sources of drinking water, or the surface of the land or that

threatens the public health and safety or the environment. Upon 30780
the discovery that the casing in a well is defective or that a 30781
well was not adequately constructed, the owner of the well shall 30782
notify the chief of the division of ~~mineral~~ oil and gas resources 30783
management within twenty-four hours of the discovery, and the 30784
owner shall immediately repair the casing, correct the 30785
construction inadequacies, or plug and abandon the well. 30786

(B) When the chief finds that a well should be plugged, the 30787
chief shall notify the owner to that effect by order in writing 30788
and shall specify in the order a reasonable time within which to 30789
comply. No owner shall fail or refuse to plug a well within the 30790
time specified in the order. Each day on which such a well remains 30791
unplugged thereafter constitutes a separate offense. 30792

Where the plugging method prescribed by rules adopted 30793
pursuant to section 1509.15 of the Revised Code cannot be applied 30794
or if applied would be ineffective in carrying out the protection 30795
that the law is meant to give, the chief may designate a different 30796
method of plugging. The abandonment report shall show the manner 30797
in which the well was plugged. 30798

(C) In case of oil or gas wells abandoned prior to September 30799
1, 1978, the board of county commissioners of the county in which 30800
the wells are located may submit to the electors of the county the 30801
question of establishing a special fund, by general levy, by 30802
general bond issue, or out of current funds, which shall be 30803
approved by a majority of the electors voting upon that question 30804
for the purpose of plugging the wells. The fund shall be 30805
administered by the board and the plugging of oil and gas wells 30806
shall be under the supervision of the chief, and the board shall 30807
let contracts for that purpose, provided that the fund shall not 30808
be used for the purpose of plugging oil and gas wells that were 30809
abandoned subsequent to September 1, 1978. 30810

Sec. 1509.13. (A) No person shall plug and abandon a well 30811
without having a permit to do so issued by the chief of the 30812
division of ~~mineral~~ oil and gas resources management. The permit 30813
shall be issued by the chief in accordance with this chapter and 30814
shall be valid for a period of twenty-four months from the date of 30815
issue. 30816

(B) Application by the owner for a permit to plug and abandon 30817
shall be filed as many days in advance as will be necessary for a 30818
~~mineral~~ an oil and gas resources inspector or, if the well is 30819
located in a coal bearing township, both a deputy mine inspector 30820
and a ~~mineral~~ an oil and gas resources inspector to be present at 30821
the plugging. The application shall be filed with the chief upon a 30822
form that the chief prescribes and shall contain the following 30823
information: 30824

(1) The name and address of the owner; 30825

(2) The signature of the owner or the owner's authorized 30826
agent. When an authorized agent signs an application, it shall be 30827
accompanied by a certified copy of the appointment as that agent. 30828

(3) The location of the well identified by section or lot 30829
number, city, village, township, and county; 30830

(4) Designation of well by name and number; 30831

(5) The total depth of the well to be plugged; 30832

(6) The date and amount of last production from the well; 30833

(7) Other data that the chief may require. 30834

(C) If oil or gas has been produced from the well, the 30835
application shall be accompanied by a fee of two hundred fifty 30836
dollars. If a well has been drilled in accordance with law and the 30837
permit is still valid, the permit holder may receive approval to 30838
plug the well from a ~~mineral~~ an oil and gas resources inspector so 30839
that the well can be plugged and abandoned without undue delay. 30840

Unless waived by a ~~mineral~~ an oil and gas resources inspector, the 30841
owner of a well or the owner's authorized representative shall 30842
notify a ~~mineral~~ an oil and gas resources inspector at least 30843
twenty-four hours prior to the commencement of the plugging of a 30844
well. No well shall be plugged and abandoned without a ~~mineral~~ an 30845
oil and gas resources inspector present unless permission has been 30846
granted by the chief. The owner of a well that has produced oil or 30847
gas shall give written notice at the same time to the owner of the 30848
land upon which the well is located and to all lessors that 30849
receive gas from the well pursuant to a lease agreement. If the 30850
well penetrates or passes within one hundred feet of the 30851
excavations and workings of a mine, the owner of the well shall 30852
give written notice to the owner or lessee of that mine, of the 30853
well owner's intention to abandon the well and of the time when 30854
the well owner will be prepared to commence plugging it. 30855

(D) An applicant may file a request with the chief for 30856
expedited review of an application for a permit to plug and 30857
abandon a well. The chief may refuse to accept a request for 30858
expedited review if, in the chief's judgment, acceptance of the 30859
request will prevent the issuance, within twenty-one days of 30860
filing, of permits for which applications filed under section 30861
1509.06 of the Revised Code are pending. In addition to a complete 30862
application for a permit that meets the requirements of this 30863
section and the permit fee prescribed by this section, if 30864
applicable, a request shall be accompanied by a nonrefundable 30865
filing fee of five hundred dollars unless the chief has ordered 30866
the applicant to plug and abandon the well. When a request for 30867
expedited review is filed, the chief shall immediately begin to 30868
process the application and shall issue a permit within seven days 30869
of the filing of the request unless the chief, by order, denies 30870
the application. 30871

(E) This section does not apply to a well plugged or 30872

abandoned in compliance with section 1571.05 of the Revised Code. 30873

Sec. 1509.14. Any person who abandons a well, when written 30874
permission has been granted by the chief of the division of 30875
~~mineral oil and gas~~ resources management to abandon and plug the 30876
well without an inspector being present to supervise the plugging, 30877
shall make a written report of the abandonment to the chief. The 30878
report shall be submitted not later than thirty days after the 30879
date of abandonment and shall include all of the following: 30880

(A) The date of abandonment; 30881

(B) The name of the owner or operator of the well at the time 30882
of abandonment and the post-office address of the owner or 30883
operator; 30884

(C) The location of the well as to township and county and 30885
the name of the owner of the surface upon which the well is 30886
drilled, with the address thereof; 30887

(D) The date of the permit to drill; 30888

(E) The date when drilled; 30889

(F) The depth of the well; 30890

(G) The depth of the top of the formation to which the well 30891
was drilled; 30892

(H) The depth of each seam of coal drilled through, if known; 30893

(I) A detailed report as to how the well was plugged, giving 30894
in particular the manner in which the coal and various formations 30895
were plugged, and the date of the plugging of the well, including 30896
the names of those who witnessed the plugging of the well. 30897

The report shall be signed by the owner or operator, or the 30898
agent of the owner or operator, who abandons and plugs the well 30899
and verified by the oath of the party so signing. For the purposes 30900
of this section, the ~~mineral oil and gas~~ resources inspectors may 30901

take acknowledgments and administer oaths to the parties signing 30902
the report. 30903

Sec. 1509.15. When any well is to be abandoned, it shall 30904
first be plugged in accordance with a method of plugging adopted 30905
by rule by the chief of the division of ~~mineral~~ oil and gas 30906
resources management. The abandonment report shall show the manner 30907
in which the well was plugged. 30908

Sec. 1509.17. (A) A well shall be constructed in a manner 30909
that is approved by the chief of the division of ~~mineral~~ oil and 30910
gas resources management as specified in the permit using 30911
materials that comply with industry standards for the type and 30912
depth of the well and the anticipated fluid pressures that are 30913
associated with the well. In addition, a well shall be constructed 30914
using sufficient steel or conductor casing in a manner that 30915
supports unconsolidated sediments, that protects and isolates all 30916
underground sources of drinking water as defined by the Safe 30917
Drinking Water Act, and that provides a base for a blowout 30918
preventer or other well control equipment that is necessary to 30919
control formation pressures and fluids during the drilling of the 30920
well and other operations to complete the well. Using steel 30921
production casing with sufficient cement, an oil and gas reservoir 30922
shall be isolated during well stimulation and during the 30923
productive life of the well. In addition, sour gas zones and gas 30924
bearing zones that have sufficient pressure and volume to 30925
over-pressurize the surface production casing annulus resulting in 30926
annular overpressurization shall be isolated using approved 30927
cementing, casing, and well construction practices. However, 30928
isolating an oil and gas reservoir shall not exclude open-hole 30929
completion. A well shall not be perforated for purposes of well 30930
stimulation in any zone that is located around casing that 30931
protects underground sources of drinking water without written 30932

authorization from the chief in accordance with division (D) of 30933
this section. When the well penetrates the excavations of a mine, 30934
the casing shall remain intact as provided in section 1509.18 of 30935
the Revised Code and be plugged and abandoned in accordance with 30936
section 1509.15 of the Revised Code. 30937

(B) The chief may adopt rules in accordance with Chapter 119. 30938
of the Revised Code that are consistent with division (A) of this 30939
section and that establish standards for constructing a well, for 30940
evaluating the quality of well construction materials, and for 30941
completing remedial cementing. In addition, the standards 30942
established in the rules shall consider local geology and various 30943
drilling conditions and shall require the use of reasonable 30944
methods that are based on sound engineering principles. 30945

(C) An owner or an owner's authorized representative shall 30946
notify ~~a mineral~~ an oil and gas resources inspector each time that 30947
the owner or the authorized representative notifies a person to 30948
perform the cementing of the conductor casing, the surface casing, 30949
or the production casing. In addition, not later than sixty days 30950
after the completion of the cementing of the production casing, an 30951
owner shall submit to the chief a copy of the cement tickets for 30952
each cemented string of casing and a copy of all logs that were 30953
used to evaluate the quality of the cementing. 30954

(D) The chief shall grant an exemption from this section and 30955
rules adopted under it for a well if the chief determines that a 30956
cement bond log confirms zonal isolation and there is a minimum of 30957
five hundred feet between the uppermost perforation of the casing 30958
and the lowest depth of an underground source of drinking water. 30959

Sec. 1509.181. (A) The chief of the division of mineral 30960
resources management may order the immediate suspension of the 30961
drilling or reopening of a well in a coal bearing township after 30962
determining that the drilling or reopening activities present an 30963

imminent and substantial threat to public health or safety or to a miner's health or safety. 30964
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(B) Before issuing an order under division (A) of this section, the chief shall notify the chief of the division of oil and gas resources management and the owner in any manner that the chief of the division of mineral resources management determines would provide reasonable notification of the chief's intent to issue a suspension order. However, the chief may order the immediate suspension of the drilling or reopening of a well in a coal bearing township without prior notification to the owner if the chief has made reasonable attempts to notify the owner and the attempts have failed. If the chief orders the immediate suspension of such drilling or reopening, the chief shall provide the chief of the division of oil and gas resources management and the owner notice of the order as soon as practical. 30966
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(C) Not later than five days after the issuance of an order under division (A) of this section to immediately suspend the drilling or reopening of a well in a coal bearing township, the chief of the division of mineral resources management shall provide the owner an opportunity to be heard and to present evidence that the drilling or reopening activities will not likely result in an imminent and substantial threat to public health or safety or to a miner's health or safety, as applicable. If the chief, after considering all evidence presented by the owner, determines that the activities do not present such a threat, the chief shall revoke the suspension order. 30979
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(D) Notwithstanding any other provision of this chapter, an owner may appeal a suspension order issued under this section to the reclamation commission in accordance with section 1513.13 of the Revised Code. 30990
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Sec. 1509.19. An owner who elects to stimulate a well shall 30994
stimulate the well in a manner that will not endanger underground 30995
sources of drinking water. Not later than twenty-four hours before 30996
commencing the stimulation of a well, the owner or the owner's 30997
authorized representative shall notify ~~a mineral~~ an oil and gas 30998
resources inspector. If during the stimulation of a well damage to 30999
the production casing or cement occurs and results in the 31000
circulation of fluids from the annulus of the surface production 31001
casing, the owner shall immediately terminate the stimulation of 31002
the well and notify the chief of the division of ~~mineral oil and~~ 31003
gas resources management. If the chief determines that the casing 31004
and the cement may be remediated in a manner that isolates the oil 31005
and gas bearing zones of the well, the chief may authorize the 31006
completion of the stimulation of the well. If the chief determines 31007
that the stimulation of a well resulted in irreparable damage to 31008
the well, the chief shall order that the well be plugged and 31009
abandoned within thirty days of the issuance of the order. 31010

For purposes of determining the integrity of the remediation 31011
of the casing or cement of a well that was damaged during the 31012
stimulation of the well, the chief may require the owner of the 31013
well to submit cement evaluation logs, temperature surveys, 31014
pressure tests, or a combination of such logs, surveys, and tests. 31015

Sec. 1509.21. No person shall, without first having obtained 31016
a permit from the chief of the division of ~~mineral oil and gas~~ 31017
resources management, conduct secondary or additional recovery 31018
operations, including any underground injection of fluids or 31019
carbon dioxide for the secondary or tertiary recovery of oil or 31020
natural gas or for the storage of hydrocarbons that are liquid at 31021
standard temperature or pressure, unless a rule of the chief 31022
expressly authorizes such operations without a permit. The permit 31023
shall be in addition to any permit required by section 1509.05 of 31024

the Revised Code. Secondary or additional recovery operations 31025
shall be conducted in accordance with rules and orders of the 31026
chief and any terms or conditions of the permit authorizing such 31027
operations. In addition, the chief may authorize tests to evaluate 31028
whether fluids or carbon dioxide may be injected in a reservoir 31029
and to determine the maximum allowable injection pressure. The 31030
tests shall be conducted in accordance with methods prescribed in 31031
rules of the chief or conditions of the permit. Rules adopted 31032
under this section shall include provisions regarding applications 31033
for and the issuance of permits; the terms and conditions of 31034
permits; entry to conduct inspections and to examine records to 31035
ascertain compliance with this section and rules, orders, and 31036
terms and conditions of permits adopted or issued thereunder; the 31037
provision and maintenance of information through monitoring, 31038
recordkeeping, and reporting; and other provisions in furtherance 31039
of the goals of this section and the Safe Drinking Water Act. To 31040
implement the goals of the Safe Drinking Water Act, the chief 31041
shall not issue a permit for the underground injection of fluids 31042
for the secondary or tertiary recovery of oil or natural gas or 31043
for the storage of hydrocarbons that are liquid at standard 31044
temperature and pressure, unless the chief concludes that the 31045
applicant has demonstrated that the injection will not result in 31046
the presence of any contaminant in underground water that supplies 31047
or can be reasonably expected to supply any public water system, 31048
such that the presence of any such contaminant may result in the 31049
system's not complying with any national primary drinking water 31050
regulation or may otherwise adversely affect the health of 31051
persons. Rules, orders, and terms or conditions of permits adopted 31052
or issued under this section shall be construed to be no more 31053
stringent than required for compliance with the Safe Drinking 31054
Water Act, unless essential to ensure that underground sources of 31055
drinking water will not be endangered. 31056

Sec. 1509.22. (A) Except when acting in accordance with 31057
section 1509.226 of the Revised Code, no person shall place or 31058
cause to be placed brine, crude oil, natural gas, or other fluids 31059
associated with the exploration or development of oil and gas 31060
resources in surface or ground water or in or on the land in such 31061
quantities or in such manner as actually causes or could 31062
reasonably be anticipated to cause either of the following: 31063

(1) Water used for consumption by humans or domestic animals 31064
to exceed the standards of the Safe Drinking Water Act; 31065

(2) Damage or injury to public health or safety or the 31066
environment. 31067

(B) No person shall store or dispose of brine in violation of 31068
a plan approved under division (A) of section 1509.222 or section 31069
1509.226 of the Revised Code, in violation of a resolution 31070
submitted under section 1509.226 of the Revised Code, or in 31071
violation of rules or orders applicable to those plans or 31072
resolutions. 31073

(C) The chief of the division of ~~mineral oil and gas~~ 31074
resources management shall adopt rules and issue orders regarding 31075
storage and disposal of brine and other waste substances; however, 31076
the storage and disposal of brine and other waste substances and 31077
the chief's rules relating to storage and disposal are subject to 31078
all of the following standards: 31079

(1) Brine from any well except an exempt Mississippian well 31080
shall be disposed of only by injection into an underground 31081
formation, including annular disposal if approved by rule of the 31082
chief, which injection shall be subject to division (D) of this 31083
section; by surface application in accordance with section 31084
1509.226 of the Revised Code; in association with a method of 31085
enhanced recovery as provided in section 1509.21 of the Revised 31086
Code; or by other methods approved by the chief for testing or 31087

implementing a new technology or method of disposal. Brine from 31088
exempt Mississippian wells shall not be discharged directly into 31089
the waters of the state. 31090

(2) Muds, cuttings, and other waste substances shall not be 31091
disposed of in violation of any rule. 31092

(3) Pits or steel tanks shall be used as authorized by the 31093
chief for containing brine and other waste substances resulting 31094
from, obtained from, or produced in connection with drilling, well 31095
stimulation, reworking, reconditioning, plugging back, or plugging 31096
operations. The pits and steel tanks shall be constructed and 31097
maintained to prevent the escape of brine and other waste 31098
substances. 31099

(4) A dike or pit may be used for spill prevention and 31100
control. A dike or pit so used shall be constructed and maintained 31101
to prevent the escape of brine and crude oil, and the reservoir 31102
within such a dike or pit shall be kept reasonably free of brine, 31103
crude oil, and other waste substances. 31104

(5) Earthen impoundments constructed pursuant to the 31105
division's specifications may be used for the temporary storage of 31106
fluids used in the stimulation of a well. 31107

(6) No pit, earthen impoundment, or dike shall be used for 31108
the temporary storage of brine or other substances except in 31109
accordance with divisions (C)(3) to (5) of this section. 31110

(7) No pit or dike shall be used for the ultimate disposal of 31111
brine or other liquid waste substances. 31112

(D) No person, without first having obtained a permit from 31113
the chief, shall inject brine or other waste substances resulting 31114
from, obtained from, or produced in connection with oil or gas 31115
drilling, exploration, or production into an underground formation 31116
unless a rule of the chief expressly authorizes the injection 31117
without a permit. The permit shall be in addition to any permit 31118

required by section 1509.05 of the Revised Code, and the permit 31119
application shall be accompanied by a permit fee of one thousand 31120
dollars. The chief shall adopt rules in accordance with Chapter 31121
119. of the Revised Code regarding the injection into wells of 31122
brine and other waste substances resulting from, obtained from, or 31123
produced in connection with oil or gas drilling, exploration, or 31124
production. The rules may authorize tests to evaluate whether 31125
fluids or carbon dioxide may be injected in a reservoir and to 31126
determine the maximum allowable injection pressure, which shall be 31127
conducted in accordance with methods prescribed in the rules or in 31128
accordance with conditions of the permit. In addition, the rules 31129
shall include provisions regarding applications for and issuance 31130
of the permits required by this division; entry to conduct 31131
inspections and to examine and copy records to ascertain 31132
compliance with this division and rules, orders, and terms and 31133
conditions of permits adopted or issued under it; the provision 31134
and maintenance of information through monitoring, recordkeeping, 31135
and reporting; and other provisions in furtherance of the goals of 31136
this section and the Safe Drinking Water Act. To implement the 31137
goals of the Safe Drinking Water Act, the chief shall not issue a 31138
permit for the injection of brine or other waste substances 31139
resulting from, obtained from, or produced in connection with oil 31140
or gas drilling, exploration, or production unless the chief 31141
concludes that the applicant has demonstrated that the injection 31142
will not result in the presence of any contaminant in ground water 31143
that supplies or can reasonably be expected to supply any public 31144
water system, such that the presence of the contaminant may result 31145
in the system's not complying with any national primary drinking 31146
water regulation or may otherwise adversely affect the health of 31147
persons. This division and rules, orders, and terms and conditions 31148
of permits adopted or issued under it shall be construed to be no 31149
more stringent than required for compliance with the Safe Drinking 31150
Water Act unless essential to ensure that underground sources of 31151

drinking water will not be endangered. 31152

(E) The owner holding a permit, or an assignee or transferee 31153
who has assumed the obligations and liabilities imposed by this 31154
chapter and any rules adopted or orders issued under it pursuant 31155
to section 1509.31 of the Revised Code, and the operator of a well 31156
shall be liable for a violation of this section or any rules 31157
adopted or orders or terms or conditions of a permit issued under 31158
it. 31159

(F) An owner shall replace the water supply of the holder of 31160
an interest in real property who obtains all or part of the 31161
holder's supply of water for domestic, agricultural, industrial, 31162
or other legitimate use from an underground or surface source 31163
where the supply has been substantially disrupted by 31164
contamination, diminution, or interruption proximately resulting 31165
from the owner's oil or gas operation, or the owner may elect to 31166
compensate the holder of the interest in real property for the 31167
difference between the fair market value of the interest before 31168
the damage occurred to the water supply and the fair market value 31169
after the damage occurred if the cost of replacing the water 31170
supply exceeds this difference in fair market values. However, 31171
during the pendency of any order issued under this division, the 31172
owner shall obtain for the holder or shall reimburse the holder 31173
for the reasonable cost of obtaining a water supply from the time 31174
of the contamination, diminution, or interruption by the operation 31175
until the owner has complied with an order of the chief for 31176
compliance with this division or such an order has been revoked or 31177
otherwise becomes not effective. If the owner elects to pay the 31178
difference in fair market values, but the owner and the holder 31179
have not agreed on the difference within thirty days after the 31180
chief issues an order for compliance with this division, within 31181
ten days after the expiration of that thirty-day period, the owner 31182
and the chief each shall appoint an appraiser to determine the 31183

difference in fair market values, except that the holder of the 31184
interest in real property may elect to appoint and compensate the 31185
holder's own appraiser, in which case the chief shall not appoint 31186
an appraiser. The two appraisers appointed shall appoint a third 31187
appraiser, and within thirty days after the appointment of the 31188
third appraiser, the three appraisers shall hold a hearing to 31189
determine the difference in fair market values. Within ten days 31190
after the hearing, the appraisers shall make their determination 31191
by majority vote and issue their final determination of the 31192
difference in fair market values. The chief shall accept a 31193
determination of the difference in fair market values made by 31194
agreement of the owner and holder or by appraisers under this 31195
division and shall make and dissolve orders accordingly. This 31196
division does not affect in any way the right of any person to 31197
enforce or protect, under applicable law, the person's interest in 31198
water resources affected by an oil or gas operation. 31199

(G) In any action brought by the state for a violation of 31200
division (A) of this section involving any well at which annular 31201
disposal is used, there shall be a rebuttable presumption 31202
available to the state that the annular disposal caused the 31203
violation if the well is located within a one-quarter-mile radius 31204
of the site of the violation. 31205

Sec. 1509.221. (A) No person, without first having obtained a 31206
permit from the chief of the division of ~~mineral~~ oil and gas 31207
resources management, shall drill a well or inject a substance 31208
into a well for the exploration for or extraction of minerals or 31209
energy, other than oil or natural gas, including, but not limited 31210
to, the mining of sulfur by the Frasch process, the solution 31211
mining of minerals, the in situ combustion of fossil fuel, or the 31212
recovery of geothermal energy to produce electric power, unless a 31213
rule of the chief expressly authorizes the activity without a 31214
permit. The permit shall be in addition to any permit required by 31215

section 1509.05 of the Revised Code. The chief shall adopt rules 31216
in accordance with Chapter 119. of the Revised Code governing the 31217
issuance of permits under this section. The rules shall include 31218
provisions regarding the matters the applicant for a permit shall 31219
demonstrate to establish eligibility for a permit; the form and 31220
content of applications for permits; the terms and conditions of 31221
permits; entry to conduct inspections and to examine and copy 31222
records to ascertain compliance with this section and rules, 31223
orders, and terms and conditions of permits adopted or issued 31224
thereunder; provision and maintenance of information through 31225
monitoring, recordkeeping, and reporting; and other provisions in 31226
furtherance of the goals of this section and the Safe Drinking 31227
Water Act. To implement the goals of the Safe Drinking Water Act, 31228
the chief shall not issue a permit under this section, unless the 31229
chief concludes that the applicant has demonstrated that the 31230
drilling, injection of a substance, and extraction of minerals or 31231
energy will not result in the presence of any contaminant in 31232
underground water that supplies or can reasonably be expected to 31233
supply any public water system, such that the presence of the 31234
contaminant may result in the system's not complying with any 31235
national primary drinking water regulation or may otherwise 31236
adversely affect the health of persons. The chief may issue, 31237
without a prior adjudication hearing, orders requiring compliance 31238
with this section and rules, orders, and terms and conditions of 31239
permits adopted or issued thereunder. This section and rules, 31240
orders, and terms and conditions of permits adopted or issued 31241
thereunder shall be construed to be no more stringent than 31242
required for compliance with the Safe Drinking Water Act, unless 31243
essential to ensure that underground sources of drinking water 31244
will not be endangered. 31245

(B)(1) There is levied on the owner of an injection well who 31246
has been issued a permit under division (D) of section 1509.22 of 31247
the Revised Code the following fees: 31248

(a) Five cents per barrel of each substance that is delivered 31249
to a well to be injected in the well when the substance is 31250
produced within the division of ~~mineral~~ oil and gas resources 31251
management regulatory district in which the well is located or 31252
within an adjoining ~~mineral~~ oil and gas resources management 31253
regulatory district; 31254

(b) Twenty cents per barrel of each substance that is 31255
delivered to a well to be injected in the well when the substance 31256
is not produced within the division of ~~mineral~~ oil and gas 31257
resources management regulatory district in which the well is 31258
located or within an adjoining ~~mineral~~ oil and gas resources 31259
management regulatory district. 31260

(2) The maximum number of barrels of substance per injection 31261
well in a calendar year on which a fee may be levied under 31262
division (B) of this section is five hundred thousand. If in a 31263
calendar year the owner of an injection well receives more than 31264
five hundred thousand barrels of substance to be injected in the 31265
owner's well and if the owner receives at least one substance that 31266
is produced within the division's regulatory district in which the 31267
well is located or within an adjoining regulatory district and at 31268
least one substance that is not produced within the division's 31269
regulatory district in which the well is located or within an 31270
adjoining regulatory district, the fee shall be calculated first 31271
on all of the barrels of substance that are not produced within 31272
the division's regulatory district in which the well is located or 31273
within an adjoining district at the rate established in division 31274
(B)(2) of this section. The fee then shall be calculated on the 31275
barrels of substance that are produced within the division's 31276
regulatory district in which the well is located or within an 31277
adjoining district at the rate established in division (B)(1) of 31278
this section until the maximum number of barrels established in 31279
division (B)(2) of this section has been attained. 31280

(3) The owner of an injection well who is issued a permit 31281
under division (D) of section 1509.22 of the Revised Code shall 31282
collect the fee levied by division (B) of this section on behalf 31283
of the division of ~~mineral~~ oil and gas resources management and 31284
forward the fee to the division. The chief shall transmit all 31285
money received under division (B) of this section to the treasurer 31286
of state who shall deposit the money in the state treasury to the 31287
credit of the oil and gas well fund created in section 1509.02 of 31288
the Revised Code. The owner of an injection well who collects the 31289
fee levied by this division may retain up to three per cent of the 31290
amount that is collected. 31291

(4) The chief shall adopt rules in accordance with Chapter 31292
119. of the Revised Code establishing requirements and procedures 31293
for collection of the fee levied by division (B) of this section. 31294

(C) In an action under section 1509.04 or 1509.33 of the 31295
Revised Code to enforce this section, the court shall grant 31296
preliminary and permanent injunctive relief and impose a civil 31297
penalty upon the showing that the person against whom the action 31298
is brought has violated, is violating, or will violate this 31299
section or rules, orders, or terms or conditions of permits 31300
adopted or issued thereunder. The court shall not require, prior 31301
to granting such preliminary and permanent injunctive relief or 31302
imposing a civil penalty, proof that the violation was, is, or 31303
will be the result of intentional conduct or negligence. In any 31304
such action, any person may intervene as a plaintiff upon the 31305
demonstration that the person has an interest that is or may be 31306
adversely affected by the activity for which injunctive relief or 31307
a civil penalty is sought. 31308

Sec. 1509.222. (A)(1) Except as provided in section 1509.226 31309
of the Revised Code, no person shall transport brine by vehicle in 31310
this state unless the business entity that employs the person 31311

first registers with and obtains a registration certificate and 31312
identification number from the chief of the division of ~~mineral~~ 31313
oil and gas resources management. 31314

(2) No more than one registration certificate shall be 31315
required of any business entity. Registration certificates issued 31316
under this section are not transferable. An applicant shall file 31317
an application with the chief, containing such information in such 31318
form as the chief prescribes, but including a plan for disposal 31319
that provides for compliance with the requirements of this chapter 31320
and rules of the chief pertaining to the transportation of brine 31321
by vehicle and the disposal of brine so transported and that lists 31322
all disposal sites that the applicant intends to use, the bond 31323
required by section 1509.225 of the Revised Code, and a 31324
certificate issued by an insurance company authorized to do 31325
business in this state certifying that the applicant has in force 31326
a liability insurance policy in an amount not less than three 31327
hundred thousand dollars bodily injury coverage and three hundred 31328
thousand dollars property damage coverage to pay damages for 31329
injury to persons or property caused by the collecting, handling, 31330
transportation, or disposal of brine. The policy shall be 31331
maintained in effect during the term of the registration 31332
certificate. The policy or policies providing the coverage shall 31333
require the insurance company to give notice to the chief if the 31334
policy or policies lapse for any reason. Upon such termination of 31335
the policy, the chief may suspend the registration certificate 31336
until proper insurance coverage is obtained. Each application for 31337
a registration certificate shall be accompanied by a nonrefundable 31338
fee of five hundred dollars. 31339

(3) If a business entity that has been issued a registration 31340
certificate under this section changes its name due to a business 31341
reorganization or merger, the business entity shall revise the 31342
bond or certificates of deposit required by section 1509.225 of 31343

the Revised Code and obtain a new certificate from an insurance 31344
company in accordance with division (A)(2) of this section to 31345
reflect the change in the name of the business entity. 31346

(B) The chief shall issue an order denying an application for 31347
a registration certificate if the chief finds that either of the 31348
following applies: 31349

(1) The applicant, at the time of applying for the 31350
registration certificate, has been found liable by a final 31351
nonappealable order of a court of competent jurisdiction for 31352
damage to streets, roads, highways, bridges, culverts, or 31353
drainways pursuant to section 4513.34 or 5577.12 of the Revised 31354
Code until the applicant provides the chief with evidence of 31355
compliance with the order. 31356

(2) The applicant's plan for disposal does not provide for 31357
compliance with the requirements of this chapter and rules of the 31358
chief pertaining to the transportation of brine by vehicle and the 31359
disposal of brine so transported. 31360

(C) No applicant shall attempt to circumvent division (B) of 31361
this section by applying for a registration certificate under a 31362
different name or business organization name, by transferring 31363
responsibility to another person or entity, or by any similar act. 31364

(D) A registered transporter shall apply to revise a disposal 31365
plan under procedures that the chief shall prescribe by rule. 31366
However, at a minimum, an application for a revision shall list 31367
all sources and disposal sites of brine currently transported. The 31368
chief shall deny any application for a revision of a plan under 31369
this division if the chief finds that the proposed revised plan 31370
does not provide for compliance with the requirements of this 31371
chapter and rules of the chief pertaining to the transportation of 31372
brine by vehicle and the disposal of brine so transported. 31373
Approvals and denials of revisions shall be by order of the chief. 31374

(E) The chief may adopt rules, issue orders, and attach terms 31375
and conditions to registration certificates as may be necessary to 31376
administer, implement, and enforce sections 1509.222 to 1509.226 31377
of the Revised Code for protection of public health or safety or 31378
conservation of natural resources. 31379

Sec. 1509.223. (A) No permit holder or owner of a well shall 31380
enter into an agreement with or permit any person to transport 31381
brine produced from the well who is not registered pursuant to 31382
section 1509.222 of the Revised Code or exempt from registration 31383
under section 1509.226 of the Revised Code. 31384

(B) Each registered transporter shall file with the chief of 31385
the division of ~~mineral~~ oil and gas resources management, on or 31386
before the fifteenth day of April, a statement concerning brine 31387
transported, including quantities transported and source and 31388
delivery points, during the last preceding calendar year, and such 31389
other information in such form as the chief may prescribe. 31390

(C) Each registered transporter shall keep on each vehicle 31391
used to transport brine a daily log and have it available upon the 31392
request of the chief or an authorized representative of the chief 31393
or a peace officer. The log shall, at a minimum, include all of 31394
the following information: 31395

(1) The name of the owner or owners of the well or wells 31396
producing the brine to be transported; 31397

(2) The date and time the brine is loaded; 31398

(3) The name of the driver; 31399

(4) The amount of brine loaded at each collection point; 31400

(5) The disposal location; 31401

(6) The date and time the brine is disposed of and the amount 31402
of brine disposed of at each location. 31403

No registered transporter shall falsify or fail to keep or submit the log required by this division. 31404
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(D) Each registered transporter shall legibly identify with reflective paints all vehicles employed in transporting or disposing of brine. Letters shall be no less than four inches in height and shall indicate the identification number issued by the chief, the word "brine," and the name and telephone number of the transporter. 31406
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(E) The chief shall maintain and keep a current list of persons registered to transport brine under section 1509.222 of the Revised Code. The list shall be open to public inspection. It is an affirmative defense to a charge under division (A) of this section that at the time the permit holder or owner of a well entered into an agreement with or permitted a person to transport brine, the person was shown on the list as currently registered to transport brine. 31412
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Sec. 1509.224. (A) In addition to any other remedies provided in this chapter, if the chief of the division of ~~mineral oil and gas~~ resources management has reason to believe that a pattern of the same or similar violations of any requirements of ~~sections~~ section 1509.22, 1509.222, or 1509.223 of the Revised Code, or any rule adopted thereunder or term or condition of the registration certificate issued thereunder exists or has existed, and the violations are caused by the transporter's indifference, lack of diligence, or lack of reasonable care, or are willfully caused by the transporter, the chief shall immediately issue an order to the transporter to show cause why the certificate should not be suspended or revoked. After the issuance of the order, the chief shall provide the transporter an opportunity to be heard and to present evidence at an informal hearing conducted by the chief. If, at the conclusion of the hearing, the chief finds that such a 31420
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pattern of violations exists or has existed, the chief shall issue 31435
an order suspending or revoking the transporter's registration 31436
certificate. An order suspending or revoking a certificate under 31437
this section may be appealed under sections 1509.36 and 1509.37 of 31438
the Revised Code, or notwithstanding any other provision of this 31439
chapter, may be appealed directly to the court of common pleas of 31440
Franklin county. 31441

(B) Before issuing an order denying a registration 31442
certificate; approving or denying approval of an application for 31443
revision of a registered transporter's plan for disposal; or to 31444
implement, administer, or enforce section 1509.22, 1509.222, 31445
1509.223, 1509.225, or 1509.226 of the Revised Code and rules and 31446
terms and conditions of registration certificates adopted or 31447
issued thereunder pertaining to the transportation of brine by 31448
vehicle and the disposal of brine so transported, the chief shall 31449
issue a preliminary order indicating the chief's intent to issue a 31450
final order. The preliminary order shall clearly state the nature 31451
of the chief's proposed action and the findings on which it is 31452
based and shall state that the preliminary order becomes a final 31453
order thirty days after its issuance unless the person to whom the 31454
preliminary order is directed submits to the chief a written 31455
request for an informal hearing before the chief within that 31456
thirty-day period. At the hearing the person may present evidence 31457
as to why the preliminary order should be revoked or modified. 31458
Based upon the findings from the informal hearing, the chief shall 31459
revoke, issue, or modify and issue the preliminary order as a 31460
final order. A final order may be appealed under sections 1509.36 31461
and 1509.37 of the Revised Code. 31462

Sec. 1509.225. (A) Before being issued a registration 31463
certificate under section 1509.222 of the Revised Code, an 31464
applicant shall execute and file with the division of ~~mineral oil~~ 31465
and gas resources management a surety bond for fifteen thousand 31466

dollars to provide compensation for damage and injury resulting 31467
from transporters' violations of sections 1509.22, 1509.222, and 31468
1509.223 of the Revised Code, all rules and orders of the chief of 31469
the division of ~~mineral resource~~ oil and gas resources management 31470
relating thereto, and all terms and conditions of the registration 31471
certificate imposed thereunder. The applicant may deposit with the 31472
chief, in lieu of a surety bond, cash in an amount equal to the 31473
surety bond as prescribed in this section, or negotiable 31474
certificates of deposit issued by any bank organized or 31475
transacting business in this state, or certificates of deposit 31476
issued by any building and loan association as defined in section 31477
1151.01 of the Revised Code, having a cash value equal to or 31478
greater than the amount of the surety bond as prescribed in this 31479
section. Cash or certificates of deposit shall be deposited upon 31480
the same terms as those upon which surety bonds may be deposited. 31481
If certificates of deposit are deposited with the chief in lieu of 31482
a surety bond, the chief shall require the bank or building and 31483
loan association that issued any such certificate to pledge 31484
securities of a cash value equal to the amount of the certificate 31485
that is in excess of the amount insured by any of the agencies and 31486
instrumentalities created under the "Federal Deposit Insurance 31487
Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and 31488
regulations adopted under it, including at least the federal 31489
deposit insurance corporation, bank insurance fund, and savings 31490
association insurance fund. 31491

Such securities shall be security for the repayment of the 31492
certificate of deposit. Immediately upon a deposit of cash or 31493
certificates with the chief, the chief shall deliver it to the 31494
treasurer of state who shall hold it in trust for the purposes for 31495
which it has been deposited. 31496

(B) The surety bond provided for in this section shall be 31497
executed by a surety company authorized to do business in this 31498

state. The chief shall not approve any bond until it is personally 31499
signed and acknowledged by both principal and surety, or as to 31500
either by an attorney in fact, with a certified copy of the power 31501
of attorney attached thereto. The chief shall not approve the bond 31502
unless there is attached a certificate of the superintendent of 31503
insurance that the company is authorized to transact a fidelity 31504
and surety business in this state. All bonds shall be given in a 31505
form to be prescribed by the chief. 31506

(C) If a registered transporter is found liable for a 31507
violation of section 1509.22, 1509.222, or 1509.223 of the Revised 31508
Code or a rule, order, or term or condition of a certificate 31509
involving, in any case, damage or injury to persons or property, 31510
or both, the court may order the forfeiture of any portion of the 31511
bond, cash, or other securities required by this section in full 31512
or partial payment of damages to the person to whom the damages 31513
are due. The treasurer of state and the chief shall deliver the 31514
bond or any cash or other securities deposited in lieu of bond, as 31515
specified in the court's order, to the person to whom the damages 31516
are due; however, execution against the bond, cash, or other 31517
securities, if necessary, is the responsibility of the person to 31518
whom the damages are due. The chief shall not release the bond, 31519
cash, or securities required by this section except by court order 31520
or until the registration is terminated. 31521

Sec. 1509.226. (A) If a board of county commissioners, a 31522
board of township trustees, or the legislative authority of a 31523
municipal corporation wishes to permit the surface application of 31524
brine to roads, streets, highways, and other similar land surfaces 31525
it owns or has the right to control for control of dust or ice, it 31526
may adopt a resolution permitting such application as provided in 31527
this section. If a board or legislative authority does not adopt 31528
such a resolution, then no such surface application of brine is 31529
permitted on such roads, streets, highways, and other similar 31530

surfaces. If a board or legislative authority votes on a proposed 31531
resolution to permit such surface application of brine, but the 31532
resolution fails to receive the affirmative vote of a majority of 31533
the board or legislative authority, the board or legislative 31534
authority shall not adopt such a resolution for one year following 31535
the date on which the vote was taken. A board or legislative 31536
authority shall hold at least one public hearing on any proposal 31537
to permit surface application of brine under this division and may 31538
hold additional hearings. The board or legislative authority shall 31539
publish notice of the time and place of each such public hearing 31540
in a newspaper of general circulation in the political subdivision 31541
at least five days before the day on which the hearing is to be 31542
held. 31543

(B) If a board or legislative authority adopts a resolution 31544
permitting the surface application of brine to roads, streets, 31545
highways, and other similar land surfaces under division (A) of 31546
this section, the board or legislative authority shall, within 31547
thirty days after the adoption of the resolution, prepare and 31548
submit to the chief of the division of ~~mineral~~ oil and gas 31549
resources management a copy of the resolution. Any department, 31550
agency, or instrumentality of this state or the United States that 31551
wishes to permit the surface application of brine to roads, 31552
streets, highways, and other similar land surfaces it owns or has 31553
a right to control shall prepare and submit guidelines for such 31554
application, but need not adopt a resolution under division (A) of 31555
this section permitting such surface application. 31556

All resolutions and guidelines shall be subject to the 31557
following standards: 31558

- (1) Brine shall not be applied: 31559
 - (a) To a water-saturated surface; 31560
 - (b) Directly to vegetation near or adjacent to surfaces being 31561

treated;	31562
(c) Within twelve feet of structures crossing bodies of water or crossing drainage ditches;	31563 31564
(d) Between sundown and sunrise, except for ice control.	31565
(2) The discharge of brine through the spreader bar shall stop when the application stops.	31566 31567
(3) The applicator vehicle shall be moving at least five miles per hour at all times while the brine is being applied.	31568 31569
(4) The maximum spreader bar nozzle opening shall be three-quarters of an inch in diameter.	31570 31571
(5) The maximum uniform application rate of brine shall be three thousand gallons per mile on a twelve-foot-wide road or three gallons per sixty square feet on unpaved lots.	31572 31573 31574
(6) The applicator vehicle discharge valve shall be closed between the brine collection point and the specific surfaces that have been approved for brine application.	31575 31576 31577
(7) Any valves that provide for tank draining other than through the spreader bar shall be closed during the brine application and transport.	31578 31579 31580
(8) The angle of discharge from the applicator vehicle spreader bar shall not be greater than sixty degrees from the perpendicular to the unpaved surface.	31581 31582 31583
(9) Only the last twenty-five per cent of an applicator vehicle's contents shall be allowed to have a pressure greater than atmospheric pressure; therefore, the first seventy-five per cent of the applicator vehicle's contents shall be discharged under atmospheric pressure.	31584 31585 31586 31587 31588
(10) Only brine that is produced from a well shall be allowed to be spread on a road. Fluids from the drilling of a well, flowback from the stimulation of a well, and other fluids used to	31589 31590 31591

treat a well shall not be spread on a road. 31592

If a resolution or guidelines contain only the standards 31593
listed in ~~division~~ divisions (B)(1) to (10) of this section, 31594
without addition or qualification, the resolution or guidelines 31595
shall be deemed effective when submitted to the chief without 31596
further action by the chief. All other resolutions and guidelines 31597
shall comply with and be no less stringent than this chapter, 31598
rules concerning surface application that the chief shall adopt 31599
under division (C) of section 1509.22 of the Revised Code, and 31600
other rules of the chief. Within fifteen days after receiving such 31601
other resolutions and guidelines, the chief shall review them for 31602
compliance with the law and rules and disapprove them if they do 31603
not comply. 31604

The board, legislative authority, or department, agency, or 31605
instrumentality may revise and resubmit any resolutions or 31606
guidelines that the chief disapproves after each disapproval, and 31607
the chief shall again review and approve or disapprove them within 31608
fifteen days after receiving them. The board, legislative 31609
authority, or department, agency, or instrumentality may amend any 31610
resolutions or guidelines previously approved by the chief and 31611
submit them, as amended, to the chief. The chief shall receive, 31612
review, and approve or disapprove the amended resolutions or 31613
guidelines on the same basis and in the same time as original 31614
resolutions or guidelines. The board, legislative authority, or 31615
department, agency, or instrumentality shall not implement amended 31616
resolutions or guidelines until they are approved by the chief 31617
under this division. 31618

(C) Any person, other than a political subdivision required 31619
to adopt a resolution under division (A) of this section or a 31620
department, agency, or instrumentality of this state or the United 31621
States, who owns or has a legal right or obligation to maintain a 31622
road, street, highway, or other similar land surface may file with 31623

the board of county commissioners a written plan for the 31624
application of brine to the road, street, highway, or other 31625
surface. The board need not approve any such plans, but if it 31626
approves a plan, the plan shall comply with this chapter, rules 31627
adopted thereunder, and the board's resolutions, if any. 31628
Disapproved plans may be revised and resubmitted for the board's 31629
approval. Approved plans may also be revised and submitted to the 31630
board. A plan or revised plan shall do all of the following: 31631

(1) Identify the sources of brine to be used under the plan; 31632

(2) Identify by name, address, and registration certificate, 31633
if applicable, any transporters of the brine; 31634

(3) Specifically identify the places to which the brine will 31635
be applied; 31636

(4) Specifically describe the method, rate, and frequency of 31637
application. 31638

(D) The board may attach terms and conditions to approval of 31639
a plan, or revised plan, and may revoke approval for any violation 31640
of this chapter, rules adopted thereunder, resolutions adopted by 31641
the board, or terms or conditions attached by the board. The board 31642
shall conduct at least one public hearing before approving a plan 31643
or revised plan, publishing notice of the time and place of each 31644
such public hearing in a newspaper of general circulation in the 31645
county at least five days before the day on which the hearing is 31646
to be held. The board shall record the filings of all plans and 31647
revised plans in its journal. The board shall approve, disapprove, 31648
or revoke approval of a plan or revised plan by the adoption of a 31649
resolution. Upon approval of a plan or revised plan, the board 31650
shall send a copy of the plan to the chief. Upon revoking approval 31651
of a plan or revised plan, the board shall notify the chief of the 31652
revocation. 31653

(E) No person shall: 31654

(1) Apply brine to a water-saturated surface; 31655

(2) Apply brine directly to vegetation adjacent to the 31656
surface of roads, streets, highways, and other surfaces to which 31657
brine may be applied. 31658

(F) Each political subdivision that adopts a resolution under 31659
divisions (A) and (B) of this section, each department, agency, or 31660
instrumentality of this state or the United States that submits 31661
guidelines under division (B) of this section, and each person who 31662
files a plan under divisions (C) and (D) of this section shall, on 31663
or before the fifteenth day of April of each year, file a report 31664
with the chief concerning brine applied within the person's or 31665
governmental entity's jurisdiction, including the quantities 31666
transported and the sources and application points during the last 31667
preceding calendar year and such other information in such form as 31668
the chief requires. 31669

(G) Any political subdivision or department, agency, or 31670
instrumentality of this state or the United States that applies 31671
brine under this section may do so with its own personnel, 31672
vehicles, and equipment without registration under or compliance 31673
with section 1509.222 or 1509.223 of the Revised Code and without 31674
the necessity for filing the surety bond or other security 31675
required by section 1509.225 of the Revised Code. However, each 31676
such entity shall legibly identify vehicles used to apply brine 31677
with reflective paint in letters no less than four inches in 31678
height, indicating the word "brine" and that the vehicle is a 31679
vehicle of the political subdivision, department, agency, or 31680
instrumentality. Except as stated in this division, such entities 31681
shall transport brine in accordance with sections 1509.22 to 31682
1509.226 of the Revised Code. 31683

(H) A surface application plan filed for approval under 31684
division (C) of this section shall be accompanied by a 31685
nonrefundable fee of fifty dollars, which shall be credited to the 31686

general fund of the county. An approved plan is valid for one year 31687
from the date of its approval unless it is revoked before that 31688
time. An approved revised plan is valid for the remainder of the 31689
term of the plan it supersedes unless it is revoked before that 31690
time. Any person who has filed such a plan or revised plan and had 31691
it approved may renew it by refiling it in accordance with 31692
divisions (C) and (D) of this section within thirty days before 31693
any anniversary of the date on which the original plan was 31694
approved. The board shall notify the chief of renewals and 31695
nonrenewals of plans. Even if a renewed plan is approved under 31696
those divisions, the plan is not effective until notice is 31697
received by the chief, and until notice is received, the chief 31698
shall enforce this chapter and rules adopted thereunder with 31699
regard to the affected roads, streets, highways, and other similar 31700
land surfaces as if the plan had not been renewed. 31701

(I) A resolution adopted under division (A) of this section 31702
by a board or legislative authority shall be effective for one 31703
year following the date of its adoption and from month to month 31704
thereafter until the board or legislative authority, by 31705
resolution, terminates the authority granted in the original 31706
resolution. The termination shall be effective not less than seven 31707
days after enactment of the resolution, and a copy of the 31708
resolution shall be sent to the chief. 31709

Sec. 1509.23. (A) Rules of the chief of the division of 31710
~~mineral oil and gas~~ resources management may specify practices to 31711
be followed in the drilling and treatment of wells, production of 31712
oil and gas, and plugging of wells for protection of public health 31713
or safety or to prevent damage to natural resources, including 31714
specification of the following: 31715

(1) Appropriate devices; 31716

(2) Minimum distances that wells and other excavations, 31717

structures, and equipment shall be located from water wells, 31718
streets, roads, highways, rivers, lakes, streams, ponds, other 31719
bodies of water, railroad tracks, public or private recreational 31720
areas, zoning districts, and buildings or other structures. Rules 31721
adopted under division (A)(2) of this section shall not conflict 31722
with section 1509.021 of the Revised Code. 31723

(3) Other methods of operation; 31724

(4) Procedures, methods, and equipment and other requirements 31725
for equipment to prevent and contain discharges of oil and brine 31726
from oil production facilities and oil drilling and workover 31727
facilities consistent with and equivalent in scope, content, and 31728
coverage to section 311(j)(1)(c) of the "Federal Water Pollution 31729
Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, 31730
as amended, and regulations adopted under it. In addition, the 31731
rules may specify procedures, methods, and equipment and other 31732
requirements for equipment to prevent and contain surface and 31733
subsurface discharges of fluids, condensates, and gases. 31734

(5) Notifications. 31735

(B) The chief, in consultation with the emergency response 31736
commission created in section 3750.02 of the Revised Code, shall 31737
adopt rules in accordance with Chapter 119. of the Revised Code 31738
that specify the information that shall be included in an 31739
electronic database that the chief shall create and host. The 31740
information shall be that which the chief considers to be 31741
appropriate for the purpose of responding to emergency situations 31742
that pose a threat to public health or safety or the environment. 31743
At the minimum, the information shall include that which a person 31744
who is regulated under this chapter is required to submit under 31745
the "Emergency Planning and Community Right-To-Know Act of 1986," 31746
100 Stat. 1728, 42 U.S.C.A. 11001, and regulations adopted under 31747
it. 31748

In addition, the rules shall specify whether and to what extent the database and the information that it contains will be made accessible to the public. The rules shall ensure that the database will be made available via the internet or a system of computer disks to the emergency response commission and to every local emergency planning committee and fire department in this state.

Sec. 1509.24. (A) The chief of the division of ~~mineral oil~~ and gas resources management, with the approval of the technical advisory council on oil and gas created in section 1509.38 of the Revised Code, may adopt, amend, or rescind rules relative to minimum acreage requirements for drilling units and minimum distances from which a new well may be drilled or an existing well deepened, plugged back, or reopened to a source of supply different from the existing pool from boundaries of tracts, drilling units, and other wells for the purpose of conserving oil and gas reserves. The rules relative to minimum acreage requirements for drilling units shall require a drilling unit to be compact and composed of contiguous land.

(B) Rules adopted under this section and special orders made under section 1509.25 of the Revised Code shall apply only to new wells to be drilled or existing wells to be deepened, plugged back, or reopened to a source of supply different from the existing pool for the purpose of extracting oil or gas in their natural state.

Sec. 1509.25. The chief of the division of ~~mineral oil~~ and gas resources management, upon the chief's own motion or upon application of an owner, may hold a hearing to consider the need or desirability of adopting a special order for drilling unit requirements in a particular pool different from those established under section 1509.24 of the Revised Code. The chief shall notify

every owner of land within the area proposed to be included within 31780
the order, of the date, time, and place of the hearing and the 31781
nature of the order being considered at least thirty days prior to 31782
the date of the hearing. Each application for such an order shall 31783
be accompanied by such information as the chief may request. If 31784
the chief finds that the pool can be defined with reasonable 31785
certainty, that the pool is in the initial state of development, 31786
and that the establishment of such different requirements for 31787
drilling a well on a tract or drilling unit in ~~such~~ the pool is 31788
reasonably necessary to protect correlative rights or to provide 31789
effective development, use, or conservation of oil and gas, the 31790
chief, with the written approval of the technical advisory council 31791
on oil and gas created in section 1509.38 of the Revised Code, 31792
shall make a special order designating the area covered by the 31793
order, and specifying the acreage requirements for drilling a well 31794
on a tract or drilling unit in ~~such~~ the area, which acreage 31795
requirements shall be uniform for the entire pool. The order shall 31796
specify minimum distances from the boundary of the tract or 31797
drilling unit for the drilling of wells and minimum distances from 31798
other wells and allow exceptions for wells drilled or drilling in 31799
a particular pool at the time of the filing of the application. 31800
The chief may exempt the discovery well from minimum acreage and 31801
distance requirements in the order. After the date of the notice 31802
for a hearing called to make ~~such~~ the order, no additional well 31803
shall be commenced in the pool for a period of sixty days or until 31804
an order has been made pursuant to the application, whichever is 31805
earlier. The chief, upon the chief's own motion or upon 31806
application of an owner, after a hearing and with the approval of 31807
the technical advisory council on oil and gas, may include 31808
additional lands determined to be underlaid by a particular pool 31809
or to exclude lands determined not to be underlaid by a particular 31810
pool, and may modify the spacing and acreage requirements of the 31811
order. 31812

Nothing in this section permits the chief to establish 31813
drilling units in a pool by requiring the use of a survey grid 31814
coordinate system with fixed or established unit boundaries. 31815

Sec. 1509.26. The owners of adjoining tracts may agree to 31816
pool ~~such~~ the tracts to form a drilling unit that conforms to the 31817
minimum acreage and distance requirements of the division of 31818
~~mineral oil and gas~~ resources management under section 1509.24 or 31819
1509.25 of the Revised Code. ~~Such~~ The agreement shall be in 31820
writing, a copy of which shall be submitted to the division with 31821
the application for a permit required by section 1509.05 of the 31822
Revised Code. Parties to the agreement shall designate one of 31823
their number as the applicant for ~~such~~ the permit. 31824

Sec. 1509.27. If a tract of land is of insufficient size or 31825
shape to meet the requirements for drilling a well thereon as 31826
provided in section 1509.24 or 1509.25 of the Revised Code, 31827
whichever is applicable, and the owner of the tract who also is 31828
the owner of the mineral interest has been unable to form a 31829
drilling unit under agreement as provided in section 1509.26 of 31830
the Revised Code, on a just and equitable basis, such an owner may 31831
make application to the division of ~~mineral oil and gas~~ resources 31832
management for a mandatory pooling order. 31833

The application shall include information as shall be 31834
reasonably required by the chief of the division of ~~mineral oil~~ 31835
and gas resources management and shall be accompanied by an 31836
application for a permit as required by section 1509.05 of the 31837
Revised Code. The chief shall notify all owners of land within the 31838
area proposed to be included within the drilling unit of the 31839
filing of the application and of their right to a hearing. After 31840
the hearing or after the expiration of thirty days from the date 31841
notice of application was mailed to such owners, the chief, if 31842
satisfied that the application is proper in form and that 31843

mandatory pooling is necessary to protect correlative rights and 31844
to provide effective development, use, and conservation of oil and 31845
gas, shall issue a drilling permit and a mandatory pooling order 31846
complying with the requirements for drilling a well as provided in 31847
section 1509.24 or 1509.25 of the Revised Code, whichever is 31848
applicable. The mandatory pooling order shall: 31849

(A) Designate the boundaries of the drilling unit within 31850
which the well shall be drilled; 31851

(B) Designate the proposed production site; 31852

(C) Describe each separately owned tract or part thereof 31853
pooled by the order; 31854

(D) Allocate on a surface acreage basis a pro rata portion of 31855
the production to the owner of each tract pooled by the order. The 31856
pro rata portion shall be in the same proportion that the 31857
percentage of the owner's acreage is to the state minimum acreage 31858
requirements established in rules adopted under this chapter for a 31859
drilling unit unless the applicant demonstrates to the chief using 31860
geological evidence that the geologic structure containing the oil 31861
or gas is larger than the minimum acreage requirement in which 31862
case the pro rata portion shall be in the same proportion that the 31863
percentage of the owner's acreage is to the geologic structure. 31864

(E) Specify the basis upon which each owner of a tract pooled 31865
by the order shall share all reasonable costs and expenses of 31866
drilling and producing if the owner elects to participate in the 31867
drilling and operation of the well; 31868

(F) Designate the person to whom the permit shall be issued. 31869

A person shall not submit more than five applications for 31870
mandatory pooling orders per year under this section unless 31871
otherwise approved by the chief. 31872

No surface operations or disturbances to the surface of the 31873

land shall occur on a tract pooled by an order without the written 31874
consent of or a written agreement with the owner of the tract that 31875
approves the operations or disturbances. 31876

If an owner of a tract pooled by the order does not elect to 31877
participate in the risk and cost of the drilling and operation of 31878
a well, the owner shall be designated as a nonparticipating owner 31879
in the drilling and operation of the well on a limited or carried 31880
basis and is subject to terms and conditions determined by the 31881
chief to be just and reasonable. In addition, if an owner is 31882
designated as a nonparticipating owner, the owner is not liable 31883
for actions or conditions associated with the drilling or 31884
operation of the well. If the applicant bears the costs of 31885
drilling, equipping, and operating a well for the benefit of a 31886
nonparticipating owner, as provided for in the pooling order, then 31887
the applicant shall be entitled to the share of production from 31888
the drilling unit accruing to the interest of that 31889
nonparticipating owner, exclusive of the nonparticipating owner's 31890
proportionate share of the royalty interest until there has been 31891
received the share of costs charged to that nonparticipating owner 31892
plus such additional percentage of the share of costs as the chief 31893
shall determine. The total amount receivable hereunder shall in no 31894
event exceed two hundred per cent of the share of costs charged to 31895
that nonparticipating owner. After receipt of that share of costs 31896
by such an applicant, a nonparticipating owner shall receive a 31897
proportionate share of the working interest in the well in 31898
addition to a proportionate share of the royalty interest, if any. 31899

If there is a dispute as to costs of drilling, equipping, or 31900
operating a well, the chief shall determine those costs. 31901

Sec. 1509.28. (A) The chief of the division of ~~mineral oil~~ 31902
and gas resources management, upon the chief's own motion or upon 31903
application by the owners of sixty-five per cent of the land area 31904

overlying the pool, shall hold a hearing to consider the need for 31905
the operation as a unit of an entire pool or part thereof. An 31906
application by owners shall be accompanied by such information as 31907
the chief may request. 31908

The chief shall make an order providing for the unit 31909
operation of a pool or part thereof if the chief finds that such 31910
operation is reasonably necessary to increase substantially the 31911
ultimate recovery of oil and gas, and the value of the estimated 31912
additional recovery of oil or gas exceeds the estimated additional 31913
cost incident to conducting ~~such~~ the operation. The order shall be 31914
upon terms and conditions that are just and reasonable and shall 31915
prescribe a plan for unit operations that shall include: 31916

(1) A description of the unitized area, termed the unit area; 31917

(2) A statement of the nature of the operations contemplated; 31918

(3) An allocation to the separately owned tracts in the unit 31919
area of all the oil and gas that is produced from the unit area 31920
and is saved, being the production that is not used in the conduct 31921
of operations on the unit area or not unavoidably lost. The 31922
allocation shall be in accord with the agreement, if any, of the 31923
interested parties. If there is no such agreement, the chief shall 31924
determine the value, from the evidence introduced at the hearing, 31925
of each separately owned tract in the unit area, exclusive of 31926
physical equipment, for development of oil and gas by unit 31927
operations, and the production allocated to each tract shall be 31928
the proportion that the value of each tract so determined bears to 31929
the value of all tracts in the unit area. 31930

(4) A provision for the credits and charges to be made in the 31931
adjustment among the owners in the unit area for their respective 31932
investments in wells, tanks, pumps, machinery, materials, and 31933
equipment contributed to the unit operations; 31934

(5) A provision providing how the expenses of unit 31935

operations, including capital investment, shall be determined and 31936
charged to the separately owned tracts and how the expenses shall 31937
be paid; 31938

(6) A provision, if necessary, for carrying or otherwise 31939
financing any person who is unable to meet the person's financial 31940
obligations in connection with the unit, allowing a reasonable 31941
interest charge for such service; 31942

(7) A provision for the supervision and conduct of the unit 31943
operations, in respect to which each person shall have a vote with 31944
a value corresponding to the percentage of the expenses of unit 31945
operations chargeable against the interest of ~~such~~ that person; 31946

(8) The time when the unit operations shall commence, and the 31947
manner in which, and the circumstances under which, the unit 31948
operations shall terminate; 31949

(9) Such additional provisions as are found to be appropriate 31950
for carrying on the unit operations, and for the protection or 31951
adjustment of correlative rights. 31952

(B) No order of the chief providing for unit operations shall 31953
become effective unless and until the plan for unit operations 31954
prescribed by the chief has been approved in writing by those 31955
owners who, under the chief's order, will be required to pay at 31956
least sixty-five per cent of the costs of the unit operation, and 31957
also by the royalty or, with respect to unleased acreage, fee 31958
owners of sixty-five per cent of the acreage to be included in the 31959
unit. If the plan for unit operations has not been so approved by 31960
owners and royalty owners at the time the order providing for unit 31961
operations is made, the chief shall upon application and notice 31962
hold such supplemental hearings as may be required to determine if 31963
and when the plan for unit operations has been so approved. If the 31964
owners and royalty owners, or either, owning the required 31965
percentage of interest in the unit area do not approve the plan 31966

for unit operations within a period of six months from the date on 31967
which the order providing for unit operations is made, ~~such the~~ 31968
order shall cease to be of force and shall be revoked by the 31969
chief. 31970

An order providing for unit operations may be amended by an 31971
order made by the chief, in the same manner and subject to the 31972
same conditions as an original order providing for unit 31973
operations, provided that: 31974

(1) If such an amendment affects only the rights and 31975
interests of the owners, the approval of the amendment by the 31976
royalty owners shall not be required. 31977

(2) No such order of amendment shall change the percentage 31978
for allocation of oil and gas as established for any separately 31979
owned tract by the original order, except with the consent of all 31980
persons owning interest in ~~such the~~ tract. 31981

The chief, by an order, may provide for the unit operation of 31982
a pool or a part thereof that embraces a unit area established by 31983
a previous order of the chief. Such an order, in providing for the 31984
allocation of unit production, shall first treat the unit area 31985
previously established as a single tract, and the portion of the 31986
unit production so allocated thereto shall then be allocated among 31987
the separately owned tracts included in ~~such the~~ previously 31988
established unit area in the same proportions as those specified 31989
in the previous order. 31990

Oil and gas allocated to a separately owned tract shall be 31991
deemed, for all purposes, to have been actually produced from ~~such~~ 31992
the tract, and all operations, including, but not limited to, the 31993
commencement, drilling, operation of, or production from a well 31994
upon any portion of the unit area shall be deemed for all purposes 31995
the conduct of such operations and production from any lease or 31996
contract for lands any portion of which is included in the unit 31997

area. The operations conducted pursuant to the order of the chief 31998
shall constitute a fulfillment of all the express or implied 31999
obligations of each lease or contract covering lands in the unit 32000
area to the extent that compliance with such obligations cannot be 32001
had because of the order of the chief. 32002

Oil and gas allocated to any tract, and the proceeds from the 32003
sale thereof, shall be the property and income of the several 32004
persons to whom, or to whose credit, the same are allocated or 32005
payable under the order providing for unit operations. 32006

No order of the chief or other contract relating to the sale 32007
or purchase of production from a separately owned tract shall be 32008
terminated by the order providing for unit operations, but shall 32009
remain in force and apply to oil and gas allocated to ~~such~~ the 32010
tract until terminated in accordance with the provisions thereof. 32011

Except to the extent that the parties affected so agree, no 32012
order providing for unit operations shall be construed to result 32013
in a transfer of all or any part of the title of any person to the 32014
oil and gas rights in any tract in the unit area. All property, 32015
whether real or personal, that may be acquired for the account of 32016
the owners within the unit area shall be the property of such 32017
owners in the proportion that the expenses of unit operations are 32018
charged. 32019

Sec. 1509.29. Upon application by an owner of a tract for 32020
which a drilling permit may not be issued, and a showing by the 32021
owner that the owner is unable to enter a voluntary pooling 32022
agreement and that the owner would be unable to participate under 32023
a mandatory pooling order, the chief of the division of ~~mineral~~ 32024
oil and gas resources management shall issue a permit and order 32025
establishing the tract as an exception tract if the chief finds 32026
that ~~such~~ the owner would otherwise be precluded from producing 32027
oil or gas from the owner's tract because of minimum acreage or 32028

distance requirements. The order shall set a percentage of the 32029
maximum daily potential production at which the well may be 32030
produced. The percentage shall be the same as the percentage that 32031
the number of acres in the tract bears to the number of acres in 32032
the minimum acreage requirement that has been established under 32033
section 1509.24 or 1509.25 of the Revised Code, whichever is 32034
applicable, but if the well drilled on ~~such~~ the tract is located 32035
nearer to the boundary of the tract than the required minimum 32036
distance, the percentage may not exceed the percentage determined 32037
by dividing the distance from the well to the boundary by the 32038
minimum distance requirement. Within ten days after completion of 32039
the well, the maximum daily potential production of the well shall 32040
be determined by such drill stem, open flow, or other tests as may 32041
be required by the chief. The chief shall require such tests, at 32042
least once every three months, as are necessary to determine the 32043
maximum daily potential production at that time. 32044

Sec. 1509.31. (A) Whenever the entire interest of an oil and 32045
gas lease is assigned or otherwise transferred, the assignor or 32046
transferor shall notify the holders of the royalty interests, and, 32047
if a well or wells exist on the lease, the division of ~~mineral oil~~ 32048
and gas resources management, of the name and address of the 32049
assignee or transferee by certified mail, return receipt 32050
requested, not later than thirty days after the date of the 32051
assignment or transfer. When notice of any such assignment or 32052
transfer is required to be provided to the division, it shall be 32053
provided on a form prescribed and provided by the division and 32054
verified by both the assignor or transferor and by the assignee or 32055
transferee and shall be accompanied by a nonrefundable fee of one 32056
hundred dollars for each well. The notice form applicable to 32057
assignments or transfers of a well to the owner of the surface 32058
estate of the tract on which the well is located shall contain a 32059
statement informing the landowner that the well may require 32060

periodic servicing to maintain its productivity; that, upon 32061
assignment or transfer of the well to the landowner, the landowner 32062
becomes responsible for compliance with the requirements of this 32063
chapter and rules adopted under it, including, without limitation, 32064
the proper disposal of brine obtained from the well, the plugging 32065
of the well when it becomes incapable of producing oil or gas, and 32066
the restoration of the well site; and that, upon assignment or 32067
transfer of the well to the landowner, the landowner becomes 32068
responsible for the costs of compliance with the requirements of 32069
this chapter and rules adopted under it and the costs for 32070
operating and servicing the well. 32071

(B) When the entire interest of a well is proposed to be 32072
assigned or otherwise transferred to the landowner for use as an 32073
exempt domestic well, the owner who has been issued a permit under 32074
this chapter for the well shall submit to the chief of the 32075
division of oil and gas resources management an application for 32076
the assignment or transfer that contains all documents that the 32077
chief requires and a nonrefundable fee of one hundred dollars. The 32078
application for such an assignment or transfer shall be prescribed 32079
and provided by the chief. The chief may approve the application 32080
if the application is accompanied by a release of all of the oil 32081
and gas leases that are included in the applicable formation of 32082
the drilling unit, the release is in a form such that the well 32083
ownership merges with the fee simple interest of the surface 32084
tract, and the release is in a form that may be recorded. However, 32085
if the owner of the well does not release the oil and gas leases 32086
associated with the well that is proposed to be assigned or 32087
otherwise transferred or if the fee simple tract that results from 32088
the merger of the well ownership with the fee simple interest of 32089
the surface tract is less than five acres, the proposed exempt 32090
domestic well owner shall post a five thousand dollar bond with 32091
the division ~~of mineral resources management~~ prior to the 32092
assignment or transfer of the well to ensure that the well will be 32093

properly plugged. The chief, for good cause, may modify the 32094
requirements of this section governing the assignment or transfer 32095
of the interests of a well to the landowner. Upon the assignment 32096
or transfer of the well, the owner of an exempt domestic well is 32097
not subject to the severance tax levied under section 5749.02 of 32098
the Revised Code, but is subject to all applicable fees 32099
established in this chapter. 32100

(C) The owner holding a permit under section 1509.05 of the 32101
Revised Code is responsible for all obligations and liabilities 32102
imposed by this chapter and any rules, orders, and terms and 32103
conditions of a permit adopted or issued under it, and no 32104
assignment or transfer by the owner relieves the owner of the 32105
obligations and liabilities until and unless the assignee or 32106
transferee files with the division the information described in 32107
divisions (A)(1), (2), (3), (4), (5), (10), (11), and (12) of 32108
section 1509.06 of the Revised Code; obtains liability insurance 32109
coverage required by section 1509.07 of the Revised Code, except 32110
when none is required by that section; and executes and files a 32111
surety bond, negotiable certificates of deposit or irrevocable 32112
letters of credit, or cash, as described in that section. Instead 32113
of a bond, but only upon acceptance by the chief ~~of the division~~ 32114
~~of mineral resources management~~, the assignee or transferee may 32115
file proof of financial responsibility, described in section 32116
1509.07 of the Revised Code. Section 1509.071 of the Revised Code 32117
applies to the surety bond, cash, and negotiable certificates of 32118
deposit and irrevocable letters of credit described in this 32119
section. Unless the chief approves a modification, each assignee 32120
or transferee shall operate in accordance with the plans and 32121
information filed by the permit holder pursuant to section 1509.06 32122
of the Revised Code. 32123

(D) If a mortgaged property that is being foreclosed is 32124
subject to an oil or gas lease, pipeline agreement, or other 32125

instrument related to the production or sale of oil or natural gas 32126
and the lease, agreement, or other instrument was recorded 32127
subsequent to the mortgage, and if the lease, agreement, or other 32128
instrument is not in default, the oil or gas lease, pipeline 32129
agreement, or other instrument, as applicable, has priority over 32130
all other liens, claims, or encumbrances on the property so that 32131
the oil or gas lease, pipeline agreement, or other instrument is 32132
not terminated or extinguished upon the foreclosure sale of the 32133
mortgaged property. If the owner of the mortgaged property was 32134
entitled to oil and gas royalties before the foreclosure sale, the 32135
oil or gas royalties shall be paid to the purchaser of the 32136
foreclosed property. 32137

Sec. 1509.32. Any person adversely affected may file with the 32138
chief of the division of ~~mineral~~ oil and gas resources management 32139
a written complaint alleging failure to restore disturbed land 32140
surfaces in violation of section 1509.072 or 1509.22 of the 32141
Revised Code or a rule adopted thereunder. 32142

Upon receipt of a complaint, the chief shall cause an 32143
investigation to be made of the lands where the alleged violation 32144
has occurred and send copies of the investigation report to the 32145
person who filed the complaint and to the owner. Upon finding a 32146
violation the chief shall order the owner to eliminate the 32147
violation within a specified time. If the owner fails to eliminate 32148
the violation within the time specified, the chief may request the 32149
prosecuting attorney of the county in which the violation occurs 32150
or the attorney general to bring appropriate action to secure 32151
compliance with ~~such~~ those sections. If the chief fails to bring 32152
an appropriate action to secure compliance with ~~such~~ those 32153
sections within twenty days after the time specified, the person 32154
filing the complaint may request the prosecuting attorney of the 32155
county in which the violation occurs to bring an appropriate 32156
action to secure compliance with ~~such~~ those sections. The division 32157

of ~~mineral~~ oil and gas resources management may cooperate with any 32158
state or local agency to provide technical advice or minimum 32159
standards for the restoration of various soils and land surfaces 32160
or to assist in any investigation. 32161

Sec. 1509.33. (A) Whoever violates sections 1509.01 to 32162
1509.31 of the Revised Code, or any rules adopted or orders or 32163
terms or conditions of a permit or registration certificate issued 32164
pursuant to these sections for which no specific penalty is 32165
provided in this section, shall pay a civil penalty of not more 32166
than four thousand dollars for each offense. 32167

(B) Whoever violates section 1509.221 of the Revised Code or 32168
any rules adopted or orders or terms or conditions of a permit 32169
issued thereunder shall pay a civil penalty of not more than two 32170
thousand five hundred dollars for each violation. 32171

(C) Whoever violates division (D) of section 1509.22 or 32172
division (A)(1) of section 1509.222 of the Revised Code shall pay 32173
a civil penalty of not less than two thousand five hundred dollars 32174
nor more than twenty thousand dollars for each violation. 32175

(D) Whoever violates division (A) of section 1509.22 of the 32176
Revised Code shall pay a civil penalty of not less than two 32177
thousand five hundred dollars nor more than ten thousand dollars 32178
for each violation. 32179

(E) Whoever violates division (A) of section 1509.223 of the 32180
Revised Code shall pay a civil penalty of not more than ten 32181
thousand dollars for each violation. 32182

(F) Whoever violates section 1509.072 of the Revised Code or 32183
any rules adopted or orders issued to administer, implement, or 32184
enforce that section shall pay a civil penalty of not more than 32185
five thousand dollars for each violation. 32186

(G) In addition to any other penalties provided in this 32187

chapter, whoever violates division (B) of section 1509.22 or 32188
division (A)(1) of section 1509.222 or knowingly violates division 32189
(A) of section 1509.223 of the Revised Code is liable for any 32190
damage or injury caused by the violation and for the cost of 32191
rectifying the violation and conditions caused by the violation. 32192
If two or more persons knowingly violate one or more of ~~such~~ those 32193
divisions in connection with the same event, activity, or 32194
transaction, they are jointly and severally liable under this 32195
division. 32196

(H) The attorney general, upon the request of the chief of 32197
the division of ~~mineral oil and gas~~ resources management, shall 32198
commence an action under this section against any person who 32199
violates sections 1509.01 to 1509.31 of the Revised Code, or any 32200
rules adopted or orders or terms or conditions of a permit or 32201
registration certificate issued pursuant to these sections. Any 32202
action under this section is a civil action, governed by the Rules 32203
of Civil Procedure and other rules of practice and procedure 32204
applicable to civil actions. The remedy provided in this division 32205
is cumulative and concurrent with any other remedy provided in 32206
this chapter, and the existence or exercise of one remedy does not 32207
prevent the exercise of any other, except that no person shall be 32208
subject to both a civil penalty under division (A), (B), (C), or 32209
(D) of this section and a criminal penalty under section 1509.99 32210
of the Revised Code for the same offense. 32211

Sec. 1509.34. (A)(1) If an owner fails to pay the fees 32212
imposed by this chapter, or if the chief of the division of 32213
~~mineral oil and gas~~ resources management incurs costs under 32214
division (E) of section 1509.071 of the Revised Code to correct 32215
conditions associated with the owner's well that the chief 32216
reasonably has determined are causing imminent health or safety 32217
risks, the division of ~~mineral oil and gas~~ resources management 32218
shall have a priority lien against that owner's interest in the 32219

applicable well in front of all other creditors for the amount of 32220
any such unpaid fees and costs incurred. The chief shall file a 32221
statement in the office of the county recorder of the county in 32222
which the applicable well is located of the amount of the unpaid 32223
fees and costs incurred as described in this division. The 32224
statement shall constitute a lien on the owner's interest in the 32225
well as of the date of the filing. The lien shall remain in force 32226
so long as any portion of the lien remains unpaid or until the 32227
chief issues a certificate of release of the lien. If the chief 32228
issues a certificate of release of the lien, the chief shall file 32229
the certificate of release in the office of the applicable county 32230
recorder. 32231

(2) A lien imposed under division (A)(1) of this section 32232
shall be in addition to any lien imposed by the attorney general 32233
for failure to pay the assessment imposed by section 1509.50 of 32234
the Revised Code or the tax levied under division (A)(5) or (6) of 32235
section 5749.02 of the Revised Code, as applicable. 32236

(3) If the attorney general cannot collect from a severer or 32237
an owner for an outstanding balance of amounts due under section 32238
1509.50 of the Revised Code or of unpaid taxes levied under 32239
division (A)(5) or (6) of section 5749.02 of the Revised Code, as 32240
applicable, the tax commissioner may request the chief to impose a 32241
priority lien against the owner's interest in the applicable well. 32242
Such a lien has priority in front of all other creditors. 32243

(B) The chief promptly shall issue a certificate of release 32244
of a lien under either of the following circumstances: 32245

(1) Upon the repayment in full of the amount of unpaid fees 32246
imposed by this chapter or costs incurred by the chief under 32247
division (E) of section 1509.071 of the Revised Code to correct 32248
conditions associated with the owner's well that the chief 32249
reasonably has determined are causing imminent health or safety 32250

risks; 32251

(2) Any other circumstance that the chief determines to be in 32252
the best interests of the state. 32253

(C) The chief may modify the amount of a lien under this 32254
section. If the chief modifies a lien, the chief shall file a 32255
statement in the office of the county recorder of the applicable 32256
county of the new amount of the lien. 32257

(D) An owner regarding which the division has recorded a lien 32258
against the owner's interest in a well in accordance with this 32259
section shall not transfer a well, lease, or mineral rights to 32260
another owner or person until the chief issues a certificate of 32261
release for each lien against the owner's interest in the well. 32262

(E) All money from the collection of liens under this section 32263
shall be deposited in the state treasury to the credit of the oil 32264
and gas well fund created in section 1509.02 of the Revised Code. 32265

Sec. 1509.36. Any person adversely affected by an order by 32266
the chief of the division of ~~mineral~~ oil and gas resources 32267
management may appeal to the oil and gas commission for an order 32268
vacating or modifying the order. 32269

The person so appealing to the commission shall be known as 32270
appellant and the chief shall be known as appellee. Appellant and 32271
appellee shall be deemed to be parties to the appeal. 32272

The appeal shall be in writing and shall set forth the order 32273
complained of and the grounds upon which the appeal is based. The 32274
appeal shall be filed with the commission within thirty days after 32275
the date upon which the appellant received notice by certified 32276
mail and, for all other persons adversely affected by the order, 32277
within thirty days after the date of the order complained of. 32278
Notice of the filing of the appeal shall be filed with the chief 32279
within three days after the appeal is filed with the commission. 32280

Upon the filing of the appeal the commission promptly shall 32281
fix the time and place at which the hearing on the appeal will be 32282
held, and shall give the appellant and the chief at least ten 32283
days' written notice thereof by mail. The commission may postpone 32284
or continue any hearing upon its own motion or upon application of 32285
the appellant or of the chief. 32286

The filing of an appeal provided for in this section does not 32287
automatically suspend or stay execution of the order appealed 32288
from, but upon application by the appellant the commission may 32289
suspend or stay the execution pending determination of the appeal 32290
upon such terms as the commission considers proper. 32291

Either party to the appeal or any interested person who, 32292
pursuant to commission rules has been granted permission to 32293
appear, may submit such evidence as the commission considers 32294
admissible. 32295

For the purpose of conducting a hearing on an appeal, the 32296
commission may require the attendance of witnesses and the 32297
production of books, records, and papers, and it may, and at the 32298
request of any party it shall, issue subpoenas for witnesses or 32299
subpoenas duces tecum to compel the production of any books, 32300
records, or papers, directed to the sheriffs of the counties where 32301
the witnesses are found. The subpoenas shall be served and 32302
returned in the same manner as subpoenas in criminal cases are 32303
served and returned. The fees of sheriffs shall be the same as 32304
those allowed by the court of common pleas in criminal cases. 32305
Witnesses shall be paid the fees and mileage provided for under 32306
section 119.094 of the Revised Code. Such fees and mileage 32307
expenses incurred at the request of appellant shall be paid in 32308
advance by the appellant, and the remainder of those expenses 32309
shall be paid out of funds appropriated for the expenses of the 32310
division of ~~mineral~~ oil and gas resources management. 32311

In case of disobedience or neglect of any subpoena served on 32312

any person, or the refusal of any witness to testify to any matter 32313
regarding which the witness may be lawfully interrogated, the 32314
court of common pleas of the county in which the disobedience, 32315
neglect, or refusal occurs, or any judge thereof, on application 32316
of the commission or any member thereof, shall compel obedience by 32317
attachment proceedings for contempt as in the case of disobedience 32318
of the requirements of a subpoena issued from that court or a 32319
refusal to testify therein. Witnesses at such hearings shall 32320
testify under oath, and any member of the commission may 32321
administer oaths or affirmations to persons who so testify. 32322

At the request of any party to the appeal, a stenographic or 32323
electronic record of the testimony and other evidence submitted 32324
shall be taken by an official court ~~shorthand~~ reporter at the 32325
expense of the party making the request ~~therefor~~ for the record. 32326
The record shall include all of the testimony and other evidence 32327
and the rulings on the admissibility thereof presented at the 32328
hearing. The commission shall pass upon the admissibility of 32329
evidence, but any party may at the time object to the admission of 32330
any evidence and except to the rulings of the commission thereon, 32331
and if the commission refuses to admit evidence the party offering 32332
same may make a proffer thereof, and such proffer shall be made a 32333
part of the record of the hearing. 32334

If upon completion of the hearing the commission finds that 32335
the order appealed from was lawful and reasonable, it shall make a 32336
written order affirming the order appealed from; if the commission 32337
finds that the order was unreasonable or unlawful, it shall make a 32338
written order vacating the order appealed from and making the 32339
order that it finds the chief should have made. Every order made 32340
by the commission shall contain a written finding by the 32341
commission of the facts upon which the order is based. 32342

Notice of the making of the order shall be given forthwith to 32343
each party to the appeal by mailing a certified copy thereof to 32344

each such party by certified mail. 32345

The order of the commission is final unless vacated by the 32346
court of common pleas of Franklin county in an appeal as provided 32347
for in section 1509.37 of the Revised Code. Sections 1509.01 to 32348
1509.37 of the Revised Code, providing for appeals relating to 32349
orders by the chief or by the commission, or relating to rules 32350
adopted by the chief, do not constitute the exclusive procedure 32351
that any person who believes the person's rights to be unlawfully 32352
affected by those sections or any official action taken thereunder 32353
must pursue in order to protect and preserve those rights, nor do 32354
those sections constitute a procedure that that person must pursue 32355
before that person may lawfully appeal to the courts to protect 32356
and preserve those rights. 32357

Sec. 1509.38. There is hereby created in the division of 32358
~~mineral oil and gas~~ resources management a technical advisory 32359
council on oil and gas, which shall consist of eight members to be 32360
appointed by the governor with the advice and consent of the 32361
senate. Three members shall be independent oil or gas producers, 32362
operators, or their representatives, operating and producing 32363
primarily in this state, three members shall be oil or gas 32364
producers, operators, or their representatives having substantial 32365
oil and gas producing operations in this state and at least one 32366
other state, one member shall represent the public, and one member 32367
shall represent persons having landowners' royalty interests in 32368
oil and gas production. All members shall be residents of this 32369
state, and all members, except the members representing the public 32370
and persons having landowners' royalty interests, shall have at 32371
least five years of practical or technical experience in oil or 32372
gas drilling and production. Not more than one member may 32373
represent any one company, producer, or operator. 32374

Terms of office shall be for three years, commencing on the 32375

first day of February and ending on the thirty-first day of 32376
January. Each member shall hold office from the date of 32377
appointment until the end of the term for which the member was 32378
appointed. A vacancy in the office of a member shall be filled by 32379
the governor, with the advice and consent of the senate. Any 32380
member appointed to fill a vacancy occurring prior to the 32381
expiration of the term for which the member's predecessor was 32382
appointed shall hold office for the remainder of that term. Any 32383
member shall continue in office subsequent to the expiration date 32384
of the member's term until the member's successor takes office, or 32385
until a period of sixty days has elapsed, whichever occurs first. 32386

The council shall select from among its members a 32387
chairperson, a vice-chairperson, and a secretary. All members are 32388
entitled to their actual and necessary expenses incurred in the 32389
performance of their duties as members, payable from the 32390
appropriations for the division. 32391

The governor may remove any member for inefficiency, neglect 32392
of duty, or malfeasance in office. 32393

The council shall hold at least one regular meeting in each 32394
quarter of a calendar year and shall keep a record of its 32395
proceedings. Special meetings may be called by the chairperson and 32396
shall be called by the chairperson upon receipt of a written 32397
request signed by two or more members of the council. A written 32398
notice of the time and place of each meeting shall be sent to each 32399
member of the council. Five members constitute a quorum, and no 32400
action of the council is valid unless five members concur. 32401

The council, when requested by the chief of the division of 32402
~~mineral oil and gas~~ resources management, shall consult with and 32403
advise the chief and perform other duties that may be lawfully 32404
delegated to it by the chief. The council may participate in 32405
hearings held by the chief under this chapter and has powers of 32406
approval as provided in sections 1509.24 and 1509.25 of the 32407

Revised Code. The council shall conduct the activities required, 32408
and exercise the authority granted, under Chapter 1510. of the 32409
Revised Code. 32410

The council, upon receiving a request from the chairperson of 32411
the oil and gas commission under division (C) of section 1509.35 32412
of the Revised Code, immediately shall prepare and provide to the 32413
chairperson a list of its members who may serve as temporary 32414
members of the oil and gas commission as provided in that 32415
division. 32416

Sec. 1509.40. Except as provided in section 1509.29 of the 32417
Revised Code, no authority granted in this chapter shall be 32418
construed as authorizing a limitation on the amount that any well, 32419
leasehold, or field is permitted to produce under proration orders 32420
of the division of ~~mineral~~ oil and gas resources management. 32421

Sec. 1509.50. (A) An oil and gas regulatory cost recovery 32422
assessment is hereby imposed by this section on an owner. An owner 32423
shall pay the assessment in the same manner as a severer who is 32424
required to file a return under section 5749.06 of the Revised 32425
Code. However, an owner may designate a severer who shall pay the 32426
owner's assessment on behalf of the owner on the return that the 32427
severer is required to file under that section. If a severer so 32428
pays an owner's assessment, the severer may recoup from the owner 32429
the amount of the assessment. Except for an exempt domestic well, 32430
the assessment imposed shall be in addition to the taxes levied on 32431
the severance of oil and gas under section 5749.02 of the Revised 32432
Code. 32433

(B)(1) Except for an exempt domestic well, the oil and gas 32434
regulatory cost recovery assessment shall be calculated on a 32435
quarterly basis and shall be one of the following: 32436

(a) If the sum of ten cents per barrel of oil for all of the 32437

wells of the owner, one-half of one cent per one thousand cubic 32438
feet of natural gas for all of the wells of the owner, and the 32439
amount of the severance tax levied on each severer for all of the 32440
wells of the owner under divisions (A)(5) and (6) of section 32441
5749.02 of the Revised Code, as applicable, is greater than the 32442
sum of fifteen dollars for each well owned by the owner, the 32443
amount of the assessment is the sum of ten cents per barrel of oil 32444
for all of the wells of the owner and one-half of one cent per one 32445
thousand cubic feet of natural gas for all of the wells of the 32446
owner. 32447

(b) If the sum of ten cents per barrel of oil for all of the 32448
wells of the owner, one-half of one cent per one thousand cubic 32449
feet of natural gas for all of the wells of the owner, and the 32450
amount of the severance tax levied on each severer for all of the 32451
wells of the owner under divisions (A)(5) and (6) of section 32452
5749.02 of the Revised Code, as applicable, is less than the sum 32453
of fifteen dollars for each well owned by the owner, the amount of 32454
the assessment is the sum of fifteen dollars for each well owned 32455
by the owner less the amount of the tax levied on each severer for 32456
all of the wells of the owner under divisions (A)(5) and (6) of 32457
section 5749.02 of the Revised Code, as applicable. 32458

(2) The oil and gas regulatory cost recovery assessment for a 32459
well that becomes an exempt domestic well on and after ~~the~~ 32460
~~effective date of this section~~ June 30, 2010, shall be sixty 32461
dollars to be paid to the division of ~~mineral oil and gas~~ 32462
resources management on the first day of July of each year. 32463

(C) All money collected pursuant to this section shall be 32464
deposited in the state treasury to the credit of the oil and gas 32465
well fund created in section 1509.02 of the Revised Code. 32466

(D) Except for purposes of revenue distribution as specified 32467
in division (B) of section 5749.02 of the Revised Code, the oil 32468
and gas regulatory cost recovery assessment imposed by this 32469

section shall be treated the same and equivalent for all purposes 32470
as the taxes levied on the severance of oil and gas under that 32471
section. However, the assessment imposed by this section is not a 32472
tax under Chapter 5749. of the Revised Code. 32473

Sec. 1510.01. As used in this chapter: 32474

(A) "First purchaser" means: 32475

(1) With regard to crude oil, the person to whom title first 32476
is transferred beyond the gathering tank or tanks, beyond the 32477
facility from which the crude oil was first produced, or both; 32478

(2) With regard to natural gas, the person to whom title 32479
first is transferred beyond the inlet side of the measurement 32480
station from which the natural gas was first produced. 32481

(B) "Independent producer" means a person who complies with 32482
both of the following: 32483

(1) Produces oil or natural gas and is not engaged in 32484
refining either product; 32485

(2) Derives a majority of income from ownership in properties 32486
producing oil or natural gas. 32487

(C) "Qualified independent producer association" means an 32488
association that complies with all of the following: 32489

(1) It is in existence on December 18, 1997. 32490

(2) It is organized and operating within this state. 32491

(3) A majority of the members of its governing body are 32492
independent producers. 32493

(D) "Technical advisory council" or "council" means the 32494
technical advisory council created in the division of ~~mineral oil~~ 32495
and gas resources management under section 1509.38 of the Revised 32496
Code. 32497

Sec. 1510.08. (A)(1) Except as provided in division (A)(2) of 32498
this section, an operating committee may levy assessments on the 32499
production of oil and natural gas in this state for the purposes 32500
of a marketing program established under this chapter. 32501

(2) An operating committee shall not levy an assessment that 32502
was not approved by independent producers or that exceeds the 32503
amount authorized under division (B)(1) of section 1510.04 of the 32504
Revised Code. An operating committee shall not levy an assessment 32505
against an independent producer who is not eligible to vote in a 32506
referendum for the marketing program that the operating committee 32507
administers, as determined under division (C) of section 1510.02 32508
of the Revised Code. 32509

(B) The technical advisory council may require a first 32510
purchaser to withhold assessments from any amounts that the first 32511
purchaser owes to independent producers and, notwithstanding 32512
division (A)(2) of this section, to remit them to the chairperson 32513
of the council at the office of the division of ~~mineral~~ oil and 32514
gas resources management. A first purchaser who pays an assessment 32515
that is levied pursuant to this section for an independent 32516
producer may deduct the amount of the assessment from any moneys 32517
that the first purchaser owes the independent producer. 32518

(C) A marketing program shall require a refund of assessments 32519
collected under this section after receiving an application for a 32520
refund from an independent producer. An application for a refund 32521
shall be made on a form furnished by the council. The operating 32522
committee shall ensure that refund forms are available where 32523
assessments for its program are withheld. 32524

An independent producer who desires a refund shall submit a 32525
request for a refund not later than the thirty-first day of March 32526
of the year in which the request is submitted. The council shall 32527
refund the assessment to the independent producer not later than 32528

the thirtieth day of June of the year in which the request for the 32529
refund is submitted. 32530

(D) An operating committee shall not use moneys from any 32531
assessments that it levies for any political or legislative 32532
purpose or for preferential treatment of one person to the 32533
detriment of another person who is affected by the marketing 32534
program that the operating committee administers. 32535

Sec. 1515.08. The supervisors of a soil and water 32536
conservation district have the following powers in addition to 32537
their other powers: 32538

(A) To conduct surveys, investigations, and research relating 32539
to the character of soil erosion, floodwater and sediment damages, 32540
and the preventive and control measures and works of improvement 32541
for flood prevention and the conservation, development, 32542
utilization, and disposal of water needed within the district, and 32543
to publish the results of those surveys, investigations, or 32544
research, provided that no district shall initiate any research 32545
program except in cooperation or after consultation with the Ohio 32546
agricultural research and development center; 32547

(B) To develop plans for the conservation of soil resources, 32548
for the control and prevention of soil erosion, and for works of 32549
improvement for flood prevention and the conservation, 32550
development, utilization, and disposal of water within the 32551
district, and to publish those plans and information; 32552

(C) To implement, construct, repair, maintain, and operate 32553
preventive and control measures and other works of improvement for 32554
natural resource conservation and development and flood 32555
prevention, and the conservation, development, utilization, and 32556
disposal of water within the district on lands owned or controlled 32557
by this state or any of its agencies and on any other lands within 32558
the district, which works may include any facilities authorized 32559

under state or federal programs, and to acquire, by purchase or 32560
gift, to hold, encumber, or dispose of, and to lease real and 32561
personal property or interests in such property for those 32562
purposes; 32563

(D) To cooperate or enter into agreements with any occupier 32564
of lands within the district in the carrying on of natural 32565
resource conservation operations and works of improvement for 32566
flood prevention and the conservation, development, utilization, 32567
and management of natural resources within the district, subject 32568
to such conditions as the supervisors consider necessary; 32569

(E) To accept donations, gifts, grants, and contributions in 32570
money, service, materials, or otherwise, and to use or expend them 32571
according to their terms; 32572

(F) To adopt, amend, and rescind rules to carry into effect 32573
the purposes and powers of the district; 32574

(G) To sue and plead in the name of the district, and be sued 32575
and impleaded in the name of the district, with respect to its 32576
contracts and, as indicated in section 1515.081 of the Revised 32577
Code, certain torts of its officers, employees, or agents acting 32578
within the scope of their employment or official responsibilities, 32579
or with respect to the enforcement of its obligations and 32580
covenants made under this chapter; 32581

(H) To make and enter into all contracts, leases, and 32582
agreements and execute all instruments necessary or incidental to 32583
the performance of the duties and the execution of the powers of 32584
the district under this chapter, provided that all of the 32585
following apply: 32586

(1) Except as provided in section 307.86 of the Revised Code 32587
regarding expenditures by boards of county commissioners, when the 32588
cost under any such contract, lease, or agreement, other than 32589
compensation for personal services or rental of office space, 32590

involves an expenditure of more than the amount established in 32591
that section regarding expenditures by boards of county 32592
commissioners, the supervisors shall make a written contract with 32593
the lowest and best bidder after advertisement, for not less than 32594
two nor more than four consecutive weeks preceding the day of the 32595
opening of bids, in a newspaper of general circulation within the 32596
district or as provided in section 7.16 of the Revised Code and in 32597
such other publications as the supervisors determine. The notice 32598
shall state the general character of the work and materials to be 32599
furnished, the place where plans and specifications may be 32600
examined, and the time and place of receiving bids. 32601

(2) Each bid for a contract shall contain the full name of 32602
every person interested in it. 32603

(3) Each bid for a contract for the construction, demolition, 32604
alteration, repair, or reconstruction of an improvement shall meet 32605
the requirements of section 153.54 of the Revised Code. 32606

(4) Each bid for a contract, other than a contract for the 32607
construction, demolition, alteration, repair, or reconstruction of 32608
an improvement, at the discretion of the supervisors, may be 32609
accompanied by a bond or certified check on a solvent bank in an 32610
amount not to exceed five per cent of the bid, conditioned that, 32611
if the bid is accepted, a contract shall be entered into. 32612

(5) The supervisors may reject any and all bids. 32613

(I) To make agreements with the department of natural 32614
resources giving it control over lands of the district for the 32615
purpose of construction of improvements by the department under 32616
section 1501.011 of the Revised Code; 32617

(J) To charge, alter, and collect rentals and other charges 32618
for the use or services of any works of the district; 32619

(K) To enter, either in person or by designated 32620
representatives, upon lands, private or public, in the necessary 32621

discharge of their duties; 32622

(L) To enter into agreements or contracts with the department 32623
for the determination, implementation, inspection, and funding of 32624
agricultural pollution abatement and urban sediment pollution 32625
abatement measures whereby landowners, operators, managers, and 32626
developers may meet adopted state standards for a quality 32627
environment, except that failure of a district board of 32628
supervisors to negotiate an agreement or contract with the 32629
department shall authorize the division of soil and water 32630
resources to implement the required program; 32631

(M) To conduct demonstrations and provide information to the 32632
public regarding practices and methods for natural resource 32633
conservation, development, and utilization; 32634

(N) To enter into contracts or agreements with the chief of 32635
the division of soil and water resources to implement and 32636
administer a program for urban sediment pollution abatement and to 32637
receive and expend moneys provided by the chief for that purpose; 32638

(O) To develop operation and management plans, as defined in 32639
section 1511.01 of the Revised Code, as necessary; 32640

(P) To determine whether operation and management plans 32641
developed under division (A) of section 1511.021 of the Revised 32642
Code comply with the standards established under division (E)(1) 32643
of section 1511.02 of the Revised Code and to approve or 32644
disapprove the plans, based on such compliance. If an operation 32645
and management plan is disapproved, the board shall provide a 32646
written explanation to the person who submitted the plan. The 32647
person may appeal the plan disapproval to the chief, who shall 32648
afford the person a hearing. Following the hearing, the chief 32649
shall uphold the plan disapproval or reverse it. If the chief 32650
reverses the plan disapproval, the plan shall be deemed approved 32651
under this division. In the event that any person operating or 32652

owning agricultural land or a concentrated animal feeding 32653
operation in accordance with an approved operation and management 32654
plan who, in good faith, is following that plan, causes 32655
agricultural pollution, the plan shall be revised in a fashion 32656
necessary to mitigate the agricultural pollution, as determined 32657
and approved by the board of supervisors of the soil and water 32658
conservation district. 32659

(Q) With regard to composting conducted in conjunction with 32660
agricultural operations, to do all of the following: 32661

(1) Upon request or upon their own initiative, inspect 32662
composting at any such operation to determine whether the 32663
composting is being conducted in accordance with section 1511.022 32664
of the Revised Code; 32665

(2) If the board determines that composting is not being so 32666
conducted, request the chief to issue an order under division (G) 32667
of section 1511.02 of the Revised Code requiring the person who is 32668
conducting the composting to prepare a composting plan in 32669
accordance with rules adopted under division (E)(8)(c) of that 32670
section and to operate in accordance with that plan or to operate 32671
in accordance with a previously prepared plan, as applicable; 32672

(3) In accordance with rules adopted under division (E)(8)(c) 32673
of section 1511.02 of the Revised Code, review and approve or 32674
disapprove any such composting plan. If a plan is disapproved, the 32675
board shall provide a written explanation to the person who 32676
submitted the plan. 32677

As used in division (Q) of this section, "composting" has the 32678
same meaning as in section 1511.01 of the Revised Code. 32679

(R) With regard to conservation activities that are conducted 32680
in conjunction with agricultural operations, to assist the county 32681
auditor, upon request, in determining whether a conservation 32682
activity is a conservation practice for purposes of Chapter 929. 32683

or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code. 32684

As used in this division, "conservation practice" has the 32685
same meaning as in section 5713.30 of the Revised Code. 32686

(S) To do all acts necessary or proper to carry out the 32687
powers granted in this chapter. 32688

The director of natural resources shall make recommendations 32689
to reduce the adverse environmental effects of each project that a 32690
soil and water conservation district plans to undertake under 32691
division (A), (B), (C), or (D) of this section and that will be 32692
funded in whole or in part by moneys authorized under section 32693
1515.16 of the Revised Code and shall disapprove any such project 32694
that the director finds will adversely affect the environment 32695
without equal or greater benefit to the public. The director's 32696
disapproval or recommendations, upon the request of the district 32697
filed in accordance with rules adopted by the Ohio soil and water 32698
conservation commission, shall be reviewed by the commission, 32699
which may confirm the director's decision, modify it, or add 32700
recommendations to or approve a project the director has 32701
disapproved. 32702

Any instrument by which real property is acquired pursuant to 32703
this section shall identify the agency of the state that has the 32704
use and benefit of the real property as specified in section 32705
5301.012 of the Revised Code. 32706

Sec. 1515.14. Within the limits of funds appropriated to the 32707
department of natural resources and the soil and water 32708
conservation district assistance fund created in this section, 32709
there shall be paid in each calendar year to each local soil and 32710
water conservation district an amount not to exceed one dollar for 32711
each one dollar received in accordance with section 1515.10 of the 32712
Revised Code, received from tax levies in excess of the ten-mill 32713
levy limitation approved for the benefit of local soil and water 32714

conservation districts, or received from an appropriation by a 32715
municipal corporation or a township to a maximum of eight thousand 32716
dollars, provided that the Ohio soil and water conservation 32717
commission may approve payment to a district in an amount in 32718
excess of eight thousand dollars in any calendar year upon receipt 32719
of a request and justification from the district. The county 32720
auditor shall credit such payments to the special fund established 32721
pursuant to section 1515.10 of the Revised Code for the local soil 32722
and water conservation district. The department may make advances 32723
at least quarterly to each district on the basis of the estimated 32724
contribution of the state to each district. Moneys received by 32725
each district shall be expended for the purposes of the district. 32726

For the purpose of providing money to soil and water 32727
conservation districts under this section, there is hereby created 32728
in the state treasury the soil and water conservation district 32729
assistance fund consisting of money credited to it under sections 32730
3714.073 and 3734.901 and division (A)~~(5)~~(4) of section 3734.57 of 32731
the Revised Code. 32732

Sec. 1515.24. (A) Following receipt of a certification made 32733
by the supervisors of a soil and water conservation district 32734
pursuant to section 1515.19 of the Revised Code together with 32735
receipt of all plans, specifications, and estimates submitted 32736
under that section and upon completion of a schedule of estimated 32737
assessments in accordance with section 1515.211 of the Revised 32738
Code, the board of county commissioners may adopt a resolution 32739
levying upon the property within the project area an assessment at 32740
a uniform or varied rate based upon the benefit to the area 32741
certified by the supervisors, as necessary to pay the cost of 32742
construction of the improvement not otherwise funded and to repay 32743
advances made for purposes of the improvement from the fund 32744
created by section 1515.15 of the Revised Code. The board of 32745
county commissioners shall direct the person or authority 32746

preparing assessments to give primary consideration, in 32747
determining a parcel's estimated assessments relating to the 32748
disposal of water, to the potential increase in productivity that 32749
the parcel may experience as a result of the improvement and also 32750
to give consideration to the amount of water disposed of, the 32751
location of the property relative to the project, the value of the 32752
project to the watershed, and benefits. The part of the assessment 32753
that is found to benefit state, county, or township roads or 32754
highways or municipal streets shall be assessed against the state, 32755
county, township, or municipal corporation, respectively, payable 32756
from motor vehicle revenues. The part of the assessment that is 32757
found to benefit property owned by any public corporation, any 32758
political subdivision of the state, or the state shall be assessed 32759
against the public corporation, the political subdivision, or the 32760
state and shall be paid out of the general funds or motor vehicle 32761
revenues of the public corporation, the political subdivision of 32762
the state, or the state, except as otherwise provided by law. 32763

(B) The assessment shall be certified to the county auditor 32764
and by the county auditor to the county treasurer. The collection 32765
of the assessment shall conform in all matters to Chapter 323. of 32766
the Revised Code. 32767

(C) Any land owned and managed by the department of natural 32768
resources for wildlife, recreation, nature preserve, or forestry 32769
purposes is exempt from assessments if the director of natural 32770
resources determines that the land derives no benefit from the 32771
improvement. In making such a determination, the director shall 32772
consider the purposes for which the land is owned and managed and 32773
any relevant articles of dedication or existing management plans 32774
for the land. If the director determines that the land derives no 32775
benefit from the improvement, the director shall notify the board 32776
of county commissioners, within thirty days after receiving the 32777
assessment notification required by this section, indicating that 32778

the director has determined that the land is to be exempt and 32779
explaining the specific reason for making this determination. The 32780
board of county commissioners, within thirty days after receiving 32781
the director's exemption notification, may appeal the 32782
determination to the court of common pleas. If the court of common 32783
pleas finds in favor of the board of county commissioners, the 32784
department of natural resources shall pay all court costs and 32785
legal fees. 32786

(D)(1) The board shall give notice by first class mail to 32787
every public and private property owner whose property is subject 32788
to assessment, at the tax mailing or other known address of the 32789
owner. The notice shall contain a statement of the amount to be 32790
assessed against the property of the addressee, a description of 32791
the method used to determine the necessity for and the amount of 32792
the proposed assessment, a description of any easement on the 32793
property that is necessary for purposes of the improvement, and a 32794
statement that the addressee may file an objection in writing at 32795
the office of the board of county commissioners within thirty days 32796
after the mailing of notice. If the residence of any owner cannot 32797
be ascertained, or if any mailed notice is returned undelivered, 32798
the board shall publish the notice to all such owners in a 32799
newspaper of general circulation within the project area, ~~at least~~ 32800
once each week for three weeks, which or as provided in section 32801
7.16 of the Revised Code. The notice shall include the information 32802
contained in the mailed notice, but shall state that the owner may 32803
file an objection in writing at the office of the board of county 32804
commissioners within thirty days after the last publication of the 32805
notice. 32806

(2) Upon receipt of objections as provided in this section, 32807
the board shall proceed within thirty days to hold a final hearing 32808
on the objections by fixing a date and giving notice by first 32809
class mail to the objectors at the address provided in filing the 32810

objection. If any mailed notice is returned undelivered, the board 32811
shall give due notice to the objectors in a newspaper of general 32812
circulation in the project area or as provided in section 7.16 of 32813
the Revised Code, stating the time, place, and purpose of the 32814
hearing. Upon hearing the objectors, the board may adopt a 32815
resolution amending and approving the final schedule of 32816
assessments and shall enter it in the journal. 32817

(3) Any owner whose objection is not allowed may appeal 32818
within thirty days to the court of common pleas of the county in 32819
which the property is located. 32820

(4) The board of county commissioners shall make an order 32821
approving the levying of the assessment and shall proceed under 32822
section 6131.23 of the Revised Code after one of the following has 32823
occurred, as applicable: 32824

(a) Final notice is provided by mail or publication. 32825

(b) The imposition of assessments is upheld in the final 32826
disposition of an appeal that is filed pursuant to division (D)(3) 32827
of this section. 32828

(c) The resolution levying the assessments is approved in a 32829
referendum that is held pursuant to section 305.31 of the Revised 32830
Code. 32831

(5) The county treasurer shall deposit the proceeds of the 32832
assessment in the fund designated by the board and shall report to 32833
the county auditor the amount of money from the assessment that is 32834
collected by the treasurer. Moneys shall be expended from the fund 32835
for purposes of the improvement. 32836

(E) Any moneys collected in excess of the amount needed for 32837
construction of the improvement and the subsequent first year's 32838
maintenance may be maintained in a fund to be used for maintenance 32839
of the improvement. In any year subsequent to a year in which an 32840
assessment for construction of an improvement levied under this 32841

section has been collected, and upon determination by the board of 32842
county commissioners that funds are not otherwise available for 32843
maintenance or repair of the improvement, the board shall levy on 32844
the property within the project area an assessment for maintenance 32845
at a uniform percentage of all construction costs based upon the 32846
assessment schedule used in determining the construction 32847
assessment. The assessment is not subject to the provisions 32848
concerning notice and petition contained in this section. An 32849
assessment for maintenance shall not be levied in any year in 32850
which the unencumbered balance of funds available for maintenance 32851
of the improvement exceeds twenty per cent of the cost of 32852
construction of the improvement, except that the board may adjust 32853
the level of assessment within the twenty per cent limitation, or 32854
suspend temporarily the levying of an assessment, for maintenance 32855
purposes as maintenance funds are needed. 32856

For the purpose of levying an assessment for maintenance of 32857
an improvement, a board may use the procedures established in 32858
Chapter 6137. of the Revised Code regarding maintenance of 32859
improvements as defined in section 6131.01 of the Revised Code in 32860
lieu of using the procedures established under this section. 32861

(F) The board of county commissioners may issue bonds and 32862
notes as authorized by section 131.23 or 133.17 of the Revised 32863
Code. 32864

Sec. 1517.02. There is hereby created in the department of 32865
natural resources the division of natural areas and preserves, 32866
which shall be administered by the chief of the division of 32867
natural areas and preserves. The chief shall take an oath of 32868
office and shall file in the office of the secretary of state a 32869
bond signed by the chief and by a surety approved by the governor 32870
for a sum fixed pursuant to section 121.11 of the Revised Code. 32871

The chief shall administer a system of nature preserves. The 32872

chief shall establish a system of nature preserves through 32873
acquisition and dedication of natural areas of state or national 32874
significance, which shall include, but not be limited to, areas 32875
that represent characteristic examples of Ohio's natural landscape 32876
types and its natural vegetation and geological history. The chief 32877
shall encourage landowners to dedicate areas of unusual 32878
significance as nature preserves, and shall establish and maintain 32879
a registry of natural areas of unusual significance. 32880

The chief may participate in watershed planning activities 32881
with other states or federal agencies. 32882

The chief shall do the following: 32883

(A) Formulate policies and plans for the acquisition, use, 32884
management, and protection of nature preserves; 32885

(B) Formulate policies for the selection of areas suitable 32886
for registration; 32887

(C) Formulate policies for the dedication of areas as nature 32888
preserves; 32889

(D) Prepare and maintain surveys and inventories of natural 32890
areas, rare and endangered species of plants and animals, and 32891
other unique natural features. The information shall be ~~stored~~ 32892
entered in the Ohio natural heritage database, established 32893
~~pursuant to this division, and may be made available to any~~ 32894
~~individual or private or public agency for research, educational,~~ 32895
~~environmental, land management, or other similar purposes that are~~ 32896
~~not detrimental to the conservation of a species or feature.~~ 32897
~~Information regarding sensitive site locations of species that are~~ 32898
~~listed pursuant to section 1518.01 of the Revised Code and of~~ 32899
~~unique natural features that are included in the Ohio natural~~ 32900
~~heritage database is not subject to section 149.43 of the Revised~~ 32901
~~Code if the chief determines that the release of the information~~ 32902
~~could be detrimental to the conservation of a species or unique~~ 32903

~~natural feature under section 1531.04 of the Revised Code.~~ 32904

(E) Adopt rules for the use, visitation, and protection of 32905
nature preserves and natural areas owned or managed through 32906
easement, license, or lease by the department and administered by 32907
the division in accordance with Chapter 119. of the Revised Code; 32908

(F) Provide facilities and improvements within the state 32909
system of nature preserves that are necessary for their 32910
visitation, use, restoration, and protection and do not impair 32911
their natural character; 32912

(G) Provide interpretive programs and publish and disseminate 32913
information pertaining to nature preserves and natural areas for 32914
their visitation and use; 32915

(H) Conduct and grant permits to qualified persons for the 32916
conduct of scientific research and investigations within nature 32917
preserves; 32918

(I) Establish an appropriate system for marking nature 32919
preserves; 32920

(J) Publish and submit to the governor and the general 32921
assembly a biennial report of the status and condition of each 32922
nature preserve, activities conducted within each preserve, and 32923
plans and recommendations for natural area preservation. 32924

Sec. 1517.03. (A) There is hereby created the Ohio natural 32925
areas council to advise the ~~chief of the division~~ director of 32926
~~natural areas and preserves resources or the director's designee~~ 32927
on the administration of nature preserves and the preservation of 32928
natural areas. 32929

(B) The council shall ~~have no fewer than five members as~~ 32930
~~determined by the director of natural resources. The members shall~~ 32931
~~be appointed by the director.~~ 32932

~~Not later than thirty days after the effective date of this~~ 32933

~~section, the director shall make initial appointments to the~~ 32934
~~council. The director shall establish the terms of office of the~~ 32935
~~members of the council be composed of the following members~~ 32936
~~appointed by the governor with the advice and consent of the~~ 32937
~~senate:~~ 32938

(1) One member representing natural history museums; 32939

(2) One member representing metropolitan park districts; 32940

(3) One member representing colleges and universities; 32941

(4) One member representing outdoor education programs in 32942
primary and secondary education; 32943

(5) One member representing nature centers; 32944

(6) Two members representing the public. 32945

Each appointed member shall be active or interested in 32946
natural area preservation. Not more than four of the appointed 32947
members shall belong to the same political party. 32948

The director or the director's designee shall be a nonvoting 32949
ex officio member of the council. 32950

(C) Not later than thirty days after the effective date of 32951
this amendment, the governor shall make appointments to the 32952
council. Of the initial appointments, two shall be for terms 32953
ending on the first Monday in February 2012, two shall be for 32954
terms ending on the first Monday in February 2013, two shall be 32955
for terms ending on the first Monday in February 2014, and one 32956
shall be for a term ending on the first Monday in February 2015. 32957
Thereafter, terms of office shall be for four years, with each 32958
term ending on the same day of the same month as did the term that 32959
it succeeds. A member shall hold office from the date of 32960
appointment until the end of the term for which the member was 32961
appointed. Members may be reappointed. Vacancies shall be filled 32962
in the manner provided for original appointments. A member 32963

appointed to fill a vacancy occurring prior to the expiration date 32964
of the term for which the member's predecessor was appointed shall 32965
hold office for the remainder of that term. A member shall 32966
continue in office subsequent to the expiration date of the 32967
member's term until the member's successor takes office or until a 32968
period of sixty days has elapsed, whichever occurs first. 32969

(D) The council annually shall select from among its members 32970
a chairperson and a secretary. ~~Members~~ The department of natural 32971
resources shall furnish clerical, technical, legal, and other 32972
services required by the council in the performance of its duties. 32973

Members of the council shall receive no compensation and 32974
shall not be reimbursed for expenses incurred as members of the 32975
council. 32976

(E) The council shall hold at least one regular meeting ~~in~~ 32977
~~each calendar year~~ every three months. Special meetings may be 32978
called by the chairperson and shall be called by the chairperson 32979
upon written request by two or more members of the council. A 32980
written notice of the time and place of each meeting shall be sent 32981
to each member and to the director. A majority of the members of 32982
the council constitutes a quorum. The council shall keep a record 32983
of its proceedings at each meeting and shall send a copy of the 32984
record to the director. The record shall be open to the public for 32985
inspection. 32986

Sec. 1531.04. The division of wildlife, at the direction of 32987
the chief of the division, shall do all of the following: 32988

(A) Plan, develop, and institute programs and policies based 32989
on the best available information, including biological 32990
information derived from professionally accepted practices in 32991
wildlife and fisheries management, with the approval of the 32992
director of natural resources; 32993

(B) Have and take the general care, protection, and 32994
supervision of the wildlife in the state parks known as Lake St. 32995
Marys, The Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake, 32996
Guilford Lake, such part of Pymatuning reservoir as lies in this 32997
state, and all other state parks and lands owned by the state or 32998
in which it is interested or may acquire or become interested, 32999
except lands and lakes the care and supervision of which are 33000
vested in some other officer, body, board, association, or 33001
organization; 33002

(C) Enforce by proper legal action or proceeding the laws of 33003
the state and division rules for the protection, preservation, 33004
propagation, and management of wild animals and sanctuaries and 33005
refuges for the propagation of those wild animals, and adopt and 33006
carry into effect such measures as it considers necessary in the 33007
performance of its duties; 33008

(D) Promote, educate, and inform the citizens of the state 33009
about conservation and the values of fishing, hunting, and 33010
trapping, with the approval of the director; 33011

(E) Prepare and maintain surveys and inventories of rare and 33012
endangered species of plants and animals and other unique natural 33013
features. The information shall be stored in the Ohio natural 33014
heritage database, established pursuant to this division, and may 33015
be made available to any individual or private or public agency 33016
for research, educational, environmental, land management, or 33017
other similar purposes that are not detrimental to the 33018
conservation of a species or feature. Information regarding 33019
sensitive site locations of species that are listed pursuant to 33020
section 1518.01 of the Revised Code and of unique natural features 33021
that are included in the Ohio natural heritage database is not 33022
subject to section 149.43 of the Revised Code if the chief 33023
determines that the release of the information could be 33024
detrimental to the conservation of a species or unique natural 33025

feature. 33026

Sec. 1533.10. Except as provided in this section or division 33027
(A)(2) of section 1533.12 of the Revised Code, no person shall 33028
hunt any wild bird or wild quadruped without a hunting license. 33029
Each day that any person hunts within the state without procuring 33030
such a license constitutes a separate offense. Except as otherwise 33031
provided in this section, every applicant for a hunting license 33032
who is a resident of the state and eighteen years of age or more 33033
shall procure a resident hunting license or an apprentice resident 33034
hunting license, the fee for which shall be eighteen dollars 33035
unless the rules adopted under division (B) of section 1533.12 of 33036
the Revised Code provide for issuance of a resident hunting 33037
license to the applicant free of charge. Except as provided in 33038
rules adopted under division (B)(2) of that section, each 33039
applicant who is a resident of this state and who at the time of 33040
application is sixty-six years of age or older shall procure a 33041
special senior hunting license, the fee for which shall be 33042
one-half of the regular hunting license fee. Every applicant who 33043
is under the age of eighteen years shall procure a special youth 33044
hunting license or an apprentice youth hunting license, the fee 33045
for which shall be one-half of the regular hunting license fee. 33046
~~The owner of~~ 33047

A resident of this state who owns lands in the state and the 33048
owner's children of any age and grandchildren under eighteen years 33049
of age may hunt on the lands without a hunting license. If the 33050
owner of land in this state is a limited liability company or a 33051
limited liability partnership that consists of three or fewer 33052
individual members or partners, as applicable, an individual 33053
member or partner who is a resident of this state and the member's 33054
or partner's children of any age and grandchildren under eighteen 33055
years of age may hunt on the land owned by the limited liability 33056
company or limited liability partnership without a hunting 33057

license. In addition, if the owner of land in this state is a 33058
trust that has a total of three or fewer trustees and 33059
beneficiaries, an individual who is a trustee or beneficiary and 33060
who is a resident of this state and the individual's children of 33061
any age and grandchildren under eighteen years of age may hunt on 33062
the land owned by the trust without a hunting license. The tenant 33063
and children of the tenant, residing on lands in the state, may 33064
hunt on them without a hunting license. ~~Except~~ 33065

Except as otherwise provided in division (A)(1) of section 33066
1533.12 of the Revised Code, every applicant for a hunting license 33067
who is a nonresident of the state and who is eighteen years of age 33068
or older shall procure a nonresident hunting license or an 33069
apprentice nonresident hunting license, the fee for which shall be 33070
one hundred twenty-four dollars unless the applicant is a resident 33071
of a state that is a party to an agreement under section 1533.91 33072
of the Revised Code, in which case the fee shall be eighteen 33073
dollars. Apprentice resident hunting licenses, apprentice youth 33074
hunting licenses, and apprentice nonresident hunting licenses are 33075
subject to the requirements established under section 1533.102 of 33076
the Revised Code and rules adopted pursuant to it. 33077

The chief of the division of wildlife may issue a small game 33078
hunting license expiring three days from the effective date of the 33079
license to a nonresident of the state, the fee for which shall be 33080
thirty-nine dollars. No person shall take or possess deer, wild 33081
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 33082
animal while possessing only a small game hunting license. A small 33083
game hunting license or an apprentice nonresident hunting license 33084
does not authorize the taking or possessing of ducks, geese, or 33085
brant without having obtained, in addition to the small game 33086
hunting license or the apprentice nonresident hunting license, a 33087
wetlands habitat stamp as provided in section 1533.112 of the 33088
Revised Code. A small game hunting license or an apprentice 33089

nonresident hunting license does not authorize the taking or 33090
possessing of deer, wild turkeys, or fur-bearing animals. A 33091
nonresident of the state who wishes to take or possess deer, wild 33092
turkeys, or fur-bearing animals in this state shall procure, 33093
respectively, a deer or wild turkey permit as provided in section 33094
1533.11 of the Revised Code or a fur taker permit as provided in 33095
section 1533.111 of the Revised Code in addition to a nonresident 33096
hunting license, an apprentice nonresident hunting license, a 33097
special youth hunting license, or an apprentice youth hunting 33098
license, as applicable, as provided in this section. 33099

No person shall procure or attempt to procure a hunting 33100
license by fraud, deceit, misrepresentation, or any false 33101
statement. 33102

This section does not authorize the taking and possessing of 33103
deer or wild turkeys without first having obtained, in addition to 33104
the hunting license required by this section, a deer or wild 33105
turkey permit as provided in section 1533.11 of the Revised Code 33106
or the taking and possessing of ducks, geese, or brant without 33107
first having obtained, in addition to the hunting license required 33108
by this section, a wetlands habitat stamp as provided in section 33109
1533.112 of the Revised Code. 33110

This section does not authorize the hunting or trapping of 33111
fur-bearing animals without first having obtained, in addition to 33112
a hunting license required by this section, a fur taker permit as 33113
provided in section 1533.111 of the Revised Code. 33114

No hunting license shall be issued unless it is accompanied 33115
by a written explanation of the law in section 1533.17 of the 33116
Revised Code and the penalty for its violation, including a 33117
description of terms of imprisonment and fines that may be 33118
imposed. 33119

No hunting license, other than an apprentice hunting license, 33120

shall be issued unless the applicant presents to the agent 33121
authorized to issue the license a previously held hunting license 33122
or evidence of having held such a license in content and manner 33123
approved by the chief, a certificate of completion issued upon 33124
completion of a hunter education and conservation course approved 33125
by the chief, or evidence of equivalent training in content and 33126
manner approved by the chief. A previously held apprentice hunting 33127
license does not satisfy the requirement concerning the 33128
presentation of a previously held hunting license or evidence of 33129
it. 33130

No person shall issue a hunting license, except an apprentice 33131
hunting license, to any person who fails to present the evidence 33132
required by this section. No person shall purchase or obtain a 33133
hunting license, other than an apprentice hunting license, without 33134
presenting to the issuing agent the evidence required by this 33135
section. Issuance of a hunting license in violation of the 33136
requirements of this section is an offense by both the purchaser 33137
of the illegally obtained hunting license and the clerk or agent 33138
who issued the hunting license. Any hunting license issued in 33139
violation of this section is void. 33140

The chief, with approval of the wildlife council, shall adopt 33141
rules prescribing a hunter education and conservation course for 33142
first-time hunting license buyers, other than buyers of apprentice 33143
hunting licenses, and for volunteer instructors. The course shall 33144
consist of subjects including, but not limited to, hunter safety 33145
and health, use of hunting implements, hunting tradition and 33146
ethics, the hunter and conservation, the law in section 1533.17 of 33147
the Revised Code along with the penalty for its violation, 33148
including a description of terms of imprisonment and fines that 33149
may be imposed, and other law relating to hunting. Authorized 33150
personnel of the division or volunteer instructors approved by the 33151
chief shall conduct such courses with such frequency and at such 33152

locations throughout the state as to reasonably meet the needs of 33153
license applicants. The chief shall issue a certificate of 33154
completion to each person who successfully completes the course 33155
and passes an examination prescribed by the chief. 33156

Sec. 1533.11. (A) Except as provided in this section, no 33157
person shall hunt deer on lands of another without first obtaining 33158
an annual deer permit. Except as provided in this section, no 33159
person shall hunt wild turkeys on lands of another without first 33160
obtaining an annual wild turkey permit. Each applicant for a deer 33161
or wild turkey permit shall pay an annual fee of twenty-three 33162
dollars for each permit unless the rules adopted under division 33163
(B) of section 1533.12 of the Revised Code provide for issuance of 33164
a deer or wild turkey permit to the applicant free of charge. 33165
Except as provided in rules adopted under division (B)(2) of that 33166
section, each applicant who is a resident of this state and who at 33167
the time of application is sixty-six years of age or older shall 33168
procure a senior deer or wild turkey permit, the fee for which 33169
shall be one-half of the regular deer or wild turkey permit fee. 33170
Each applicant who is under the age of eighteen years shall 33171
procure a youth deer or wild turkey permit, the fee for which 33172
shall be one-half of the regular deer or wild turkey permit fee. 33173
Except as provided in division (A)(2) of section 1533.12 of the 33174
Revised Code, a deer or wild turkey permit shall run concurrently 33175
with the hunting license. The money received shall be paid into 33176
the state treasury to the credit of the wildlife fund, created in 33177
section 1531.17 of the Revised Code, exclusively for the use of 33178
the division of wildlife in the acquisition and development of 33179
land for deer or wild turkey management, for investigating deer or 33180
wild turkey problems, and for the stocking, management, and 33181
protection of deer or wild turkey. Every person, while hunting 33182
deer or wild turkey on lands of another, shall carry the person's 33183
deer or wild turkey permit and exhibit it to any enforcement 33184

officer so requesting. Failure to so carry and exhibit such a 33185
permit constitutes an offense under this section. The chief of the 33186
division of wildlife shall adopt any additional rules the chief 33187
considers necessary to carry out this section and section 1533.10 33188
of the Revised Code. 33189

The An owner who is a resident of this state and the children 33190
of the owner of lands in this state may hunt deer or wild turkey 33191
thereon without a deer or wild turkey permit. If the owner of land 33192
in this state is a limited liability company or a limited 33193
liability partnership that consists of three or fewer individual 33194
members or partners, as applicable, an individual member or 33195
partner who is a resident of this state and the member's or 33196
partner's children of any age may hunt deer or wild turkey on the 33197
land owned by the limited liability company or limited liability 33198
partnership without a deer or wild turkey permit. In addition, if 33199
the owner of land in this state is a trust that has a total of 33200
three or fewer trustees and beneficiaries, an individual who is a 33201
trustee or beneficiary and who is a resident of this state and the 33202
individual's children of any age may hunt deer or wild turkey on 33203
the land owned by the trust without a deer or wild turkey permit. 33204
The tenant and children of the tenant may hunt deer or wild turkey 33205
on lands where they reside without a deer or wild turkey permit. 33206

(B) A deer or wild turkey permit is not transferable. No 33207
person shall carry a deer or wild turkey permit issued in the name 33208
of another person. 33209

(C) The wildlife refunds fund is hereby created in the state 33210
treasury. The fund shall consist of money received from 33211
application fees for deer permits that are not issued. Money in 33212
the fund shall be used to make refunds of such application fees. 33213

(D) If the division establishes a system for the electronic 33214
submission of information regarding deer or wild turkey that are 33215
taken, the division shall allow the owner and the children of the 33216

owner of lands in this state to use the owner's name or address 33217
for purposes of submitting that information electronically via 33218
that system. 33219

Sec. 1533.111. Except as provided in this section or division 33220
(A)(2) of section 1533.12 of the Revised Code, no person shall 33221
hunt or trap fur-bearing animals on land of another without first 33222
obtaining some type of an annual fur taker permit. Each applicant 33223
for a fur taker permit or an apprentice fur taker permit shall pay 33224
an annual fee of fourteen dollars for the permit, except as 33225
otherwise provided in this section or unless the rules adopted 33226
under division (B) of section 1533.12 of the Revised Code provide 33227
for issuance of a fur taker permit to the applicant free of 33228
charge. Except as provided in rules adopted under division (B)(2) 33229
of that section, each applicant who is a resident of this state 33230
and who at the time of application is sixty-six years of age or 33231
older shall procure a special senior fur taker permit, the fee for 33232
which shall be one-half of the regular fur taker permit fee. Each 33233
applicant under the age of eighteen years shall procure a special 33234
youth fur taker permit or an apprentice youth fur taker permit, 33235
the fee for which shall be one-half of the regular fur taker 33236
permit fee. Each type of fur taker permit shall run concurrently 33237
with the hunting license. The money received shall be paid into 33238
the state treasury to the credit of the fund established in 33239
section 1533.15 of the Revised Code. Apprentice fur taker permits 33240
and apprentice youth fur taker permits are subject to the 33241
requirements established under section 1533.102 of the Revised 33242
Code and rules adopted pursuant to it. 33243

No fur taker permit shall be issued unless it is accompanied 33244
by a written explanation of the law in section 1533.17 of the 33245
Revised Code and the penalty for its violation, including a 33246
description of terms of imprisonment and fines that may be 33247
imposed. 33248

No fur taker permit, other than an apprentice fur taker 33249
permit or an apprentice youth fur taker permit, shall be issued 33250
unless the applicant presents to the agent authorized to issue a 33251
fur taker permit a previously held hunting license or trapping or 33252
fur taker permit or evidence of having held such a license or 33253
permit in content and manner approved by the chief of the division 33254
of wildlife, a certificate of completion issued upon completion of 33255
a trapper education course approved by the chief, or evidence of 33256
equivalent training in content and manner approved by the chief. A 33257
previously held apprentice hunting license, apprentice fur taker 33258
permit, or apprentice youth fur taker permit does not satisfy the 33259
requirement concerning the presentation of a previously held 33260
hunting license or fur taker permit or evidence of such a license 33261
or permit. 33262

No person shall issue a fur taker permit, other than an 33263
apprentice fur taker permit or an apprentice youth fur taker 33264
permit, to any person who fails to present the evidence required 33265
by this section. No person shall purchase or obtain a fur taker 33266
permit, other than an apprentice fur taker permit or an apprentice 33267
youth fur taker permit, without presenting to the issuing agent 33268
the evidence required by this section. Issuance of a fur taker 33269
permit in violation of the requirements of this section is an 33270
offense by both the purchaser of the illegally obtained permit and 33271
the clerk or agent who issued the permit. Any fur taker permit 33272
issued in violation of this section is void. 33273

The chief, with approval of the wildlife council, shall adopt 33274
rules prescribing a trapper education course for first-time fur 33275
taker permit buyers, other than buyers of apprentice fur taker 33276
permits or apprentice youth fur taker permits, and for volunteer 33277
instructors. The course shall consist of subjects that include, 33278
but are not limited to, trapping techniques, animal habits and 33279
identification, trapping tradition and ethics, the trapper and 33280

conservation, the law in section 1533.17 of the Revised Code along 33281
with the penalty for its violation, including a description of 33282
terms of imprisonment and fines that may be imposed, and other law 33283
relating to trapping. Authorized personnel of the division of 33284
wildlife or volunteer instructors approved by the chief shall 33285
conduct the courses with such frequency and at such locations 33286
throughout the state as to reasonably meet the needs of permit 33287
applicants. The chief shall issue a certificate of completion to 33288
each person who successfully completes the course and passes an 33289
examination prescribed by the chief. 33290

Every person, while hunting or trapping fur-bearing animals 33291
on lands of another, shall carry the person's fur taker permit 33292
with the person's signature written on the permit. Failure to 33293
carry such a signed permit constitutes an offense under this 33294
section. The chief shall adopt any additional rules the chief 33295
considers necessary to carry out this section. 33296

The An owner who is a resident of this state and the children 33297
of the owner of lands in this state may hunt or trap fur-bearing 33298
animals thereon without a fur taker permit. If the owner of land 33299
in this state is a limited liability company or a limited 33300
liability partnership that consists of three or fewer individual 33301
members or partners, as applicable, an individual member or 33302
partner who is a resident of this state and the member's or 33303
partner's children of any age may hunt or trap fur-bearing animals 33304
on the land owned by the limited liability company or limited 33305
liability partnership without a fur taker permit. In addition, if 33306
the owner of land in this state is a trust that has a total of 33307
three or fewer trustees and beneficiaries, an individual who is a 33308
trustee or beneficiary and who is a resident of this state and the 33309
individual's children of any age may hunt or trap fur-bearing 33310
animals on the land owned by the trust without a fur taker permit. 33311
The tenant and children of the tenant may hunt or trap fur-bearing 33312

animals on lands where they reside without a fur taker permit. 33313

A fur taker permit is not transferable. No person shall carry 33314
a fur taker permit issued in the name of another person. 33315

A fur taker permit entitles a nonresident to take from this 33316
state fur-bearing animals taken and possessed by the nonresident 33317
as provided by law or division rule. 33318

Sec. 1533.32. Except as provided in this section or division 33319
(A)(2) or (C) of section 1533.12 of the Revised Code, no person, 33320
including nonresidents, shall take or catch any fish by angling in 33321
any of the waters in the state or engage in fishing in those 33322
waters without a license. No person shall take or catch frogs or 33323
turtles without a valid fishing license, except as provided in 33324
this section. Persons fishing in privately owned ponds, lakes, or 33325
reservoirs to or from which fish are not accustomed to migrate are 33326
exempt from the license requirements set forth in this section. 33327
Persons fishing in privately owned ponds, lakes, or reservoirs 33328
that are open to public fishing through an agreement or lease with 33329
the division of wildlife shall comply with the license 33330
requirements set forth in this section. 33331

The fee for an annual license shall be thirty-nine dollars 33332
for a resident of a state that is not a party to an agreement 33333
under section 1533.91 of the Revised Code. The fee for an annual 33334
license shall be eighteen dollars for a resident of a state that 33335
is a party to such an agreement. The fee for an annual license for 33336
residents of this state shall be eighteen dollars unless the rules 33337
adopted under division (B) of section 1533.12 of the Revised Code 33338
provide for issuance of a resident fishing license to the 33339
applicant free of charge. Except as provided in rules adopted 33340
under division (B)(2) of that section, each applicant who is a 33341
resident of this state and who at the time of application is 33342
sixty-six years of age or older shall procure a special senior 33343

fishing license, the fee for which shall be one-half of the annual 33344
resident fishing license fee. 33345

Any person under the age of sixteen years may take or catch 33346
frogs and turtles and take or catch fish by angling without a 33347
license. 33348

The chief of the division of wildlife may issue a tourist's 33349
license expiring three days from the effective date of the license 33350
to a resident of a state that is not a party to an agreement under 33351
section 1533.91 of the Revised Code. The fee for a tourist's 33352
license shall be eighteen dollars. 33353

The chief shall adopt rules under section 1531.10 of the 33354
Revised Code providing for the issuance of a one-day fishing 33355
license to a resident of this state or of any other state. The fee 33356
for such a license shall be fifty-five per cent of the amount 33357
established under this section for a tourist's license, rounded up 33358
to the nearest whole dollar. A one-day fishing license shall allow 33359
the holder to take or catch fish by angling in the waters in the 33360
state, engage in fishing in those waters, or take or catch frogs 33361
or turtles in those waters for one day without obtaining an annual 33362
license or a tourist's license under this section. At the request 33363
of a holder of a one-day fishing license who wishes to obtain an 33364
annual license, a clerk or agent authorized to issue licenses 33365
under section 1533.13 of the Revised Code, not later than the last 33366
day on which the one-day license would be valid if it were an 33367
annual license, shall credit the amount of the fee paid for the 33368
one-day license toward the fee charged for the annual license if 33369
so authorized by the chief. The clerk or agent shall issue the 33370
annual license upon presentation of the one-day license and 33371
payment of a fee in an amount equal to the difference between the 33372
fee for the annual license and the fee for the one-day license. 33373

Unless otherwise provided by division rule, each annual 33374
license shall begin on the first day of March of the current year 33375

and expire on the last day of February of the following year. 33376

No person shall alter a fishing license or possess a fishing 33377
license that has been altered. 33378

No person shall procure or attempt to procure a fishing 33379
license by fraud, deceit, misrepresentation, or any false 33380
statement. 33381

~~Owners of~~ A resident of this state who owns land over, 33382
through, upon, or along which any water flows or stands, except 33383
where the land is in or borders on state parks or state-owned 33384
lakes, together with the members of the immediate families of such 33385
owners, may take frogs and turtles and may take or catch fish of 33386
the kind permitted to be taken or caught therefrom without 33387
procuring a license provided for in this section. This exemption 33388
extends to tenants actually residing upon such lands and to the 33389
members of the immediate families of the tenants. If the owner of 33390
such land in this state is a limited liability company or a 33391
limited liability partnership that consists of three or fewer 33392
individual members or partners, as applicable, an individual 33393
member or partner who is a resident of this state and the member's 33394
or partner's children of any age may take frogs and turtles and 33395
may take or catch fish of the kind permitted to be taken or caught 33396
therefrom without procuring a license provided for in this 33397
section. In addition, if the owner of such land in this state is a 33398
trust that has a total of three or fewer trustees and 33399
beneficiaries, an individual who is a trustee or beneficiary and 33400
who is a resident of this state and the individual's children of 33401
any age may take frogs and turtles and may take or catch fish of 33402
the kind permitted to be taken or caught therefrom without 33403
procuring a license provided for in this section. Residents of 33404
state or county institutions, charitable institutions, and 33405
military homes in this state may take frogs and turtles without 33406
procuring the required license, provided that a member of the 33407

institution or home has an identification card, which shall be 33408
carried on that person when fishing. 33409

Every fisher required to be licensed, while fishing or taking 33410
or attempting to take frogs or turtles, shall carry the license 33411
and exhibit it to any person. Failure to so carry and exhibit the 33412
license constitutes an offense under this section. 33413

Sec. 1533.731. (A) No wild animal hunting preserve shall be 33414
less than eighty acres in area. Each such preserve shall be in one 33415
continuous block of land, except that the block of land may be 33416
intersected by highways or roads. No wild animal hunting preserve 33417
shall be located within ~~three~~ one thousand five hundred feet of 33418
another such preserve or of a commercial bird shooting preserve 33419
licensed under section 1533.72 of the Revised Code. 33420

The boundaries of each wild animal hunting preserve shall be 33421
clearly defined by posting, at intervals of not more than ~~two~~ four 33422
hundred feet, with signs prescribed by the division of wildlife. 33423
Each wild animal hunting preserve shall be surrounded by a fence 33424
at least six feet in height that is constructed of a woven wire 33425
mesh, or such other enclosure approved by the chief of the 33426
division of wildlife. 33427

(B)(1) Except as provided in divisions (B)(2) and (3) of this 33428
section, game and nonnative wildlife that have been approved by 33429
the chief for such use, that have been legally acquired or 33430
propagated under the authority of a propagating license issued 33431
under section 1533.71 of the Revised Code, and that are marked and 33432
tagged as provided in division (C) of this section may be released 33433
and hunted within the confines of the licensed wild animal hunting 33434
preserve between sunrise and sunset, without regard to sex, bag 33435
limit, or open season, by licensed hunters authorized by the 33436
holder of the wild animal hunting preserve license to hunt on 33437
those lands. The chief shall establish, by rule, the allowable 33438

methods of taking game and nonnative wildlife in a wild animal 33439
hunting preserve. 33440

(2) No game or nonnative wildlife on the federal endangered 33441
species list established in accordance with the "Endangered 33442
Species Act of 1973," 87 Stat. 884, 16 U.S.C.A. 1531, as amended, 33443
or the state endangered species list established in rules adopted 33444
under section 1531.25 of the Revised Code, no bears native to 33445
North America, and no large carnivores of the family Felidae shall 33446
be released for hunting or hunted in any wild animal hunting 33447
preserve in this state. 33448

(3) No person shall release for hunting or hunt within a wild 33449
animal hunting preserve any game or nonnative wildlife not listed 33450
in the application for a license for that preserve. 33451

(C) All game and nonnative wildlife released on a wild animal 33452
hunting preserve shall be identified with a tag that shall bear 33453
upon it a symbol identifying the preserve. 33454

(D) For the purposes of division (B) of section 1533.02 of 33455
the Revised Code, the owner or operator of a wild animal hunting 33456
preserve shall furnish each person who takes any game or nonnative 33457
wildlife from the preserve a certificate bearing a description of 33458
the animal, the date the animal was taken, and the name of the 33459
preserve. 33460

(E) The chief shall adopt rules under section 1531.10 of the 33461
Revised Code that provide for the safety of the public and for the 33462
protection of the game and nonnative wildlife to be hunted in a 33463
wild animal hunting preserve prior to their release in the 33464
preserve. 33465

(F) No holder of a wild animal hunting preserve license shall 33466
violate Chapter 1531. or this chapter of the Revised Code or any 33467
division rule. 33468

(G) This section does not authorize the hunting of game birds 33469

in a licensed wild animal hunting preserve. 33470

Sec. 1533.83. As used in sections 1533.83 to 1533.85 of the 33471
Revised Code: 33472

(A) "Political subdivision" means a municipal corporation, 33473
township, county, or other body corporate and politic responsible 33474
for governmental activities in a geographic area smaller than that 33475
of the state. 33476

(B) "Shooting range" means a facility operated for the 33477
purpose of shooting with firearms or archery equipment, whether 33478
publicly or privately owned and whether or not operated for 33479
profit, including, but not limited to, commercial bird shooting 33480
preserves and wild animal hunting preserves established pursuant 33481
to this chapter. "Shooting range" does not include a facility 33482
owned or operated by a municipal corporation, county, ~~or~~ township 33483
police district, or joint police district. 33484

(C) "Harm" means injury, death, or loss to person or 33485
property. 33486

(D) "The chief's noise rules" means the rules of the chief of 33487
the division of wildlife that are adopted pursuant to section 33488
1533.84 of the Revised Code and that pertain to the limitation or 33489
suppression of noise at a shooting range or to the hours of 33490
operation of shooting ranges. 33491

(E) "The chief's public safety rules" means the rules of the 33492
chief of the division of wildlife that are adopted pursuant to 33493
section 1533.84 of the Revised Code and that pertain to public 33494
safety, including standards for the reconstruction, enlargement, 33495
remodeling, or repair of any structure or facility that is part of 33496
a shooting range. 33497

Sec. 1541.03. All lands and waters dedicated and set apart 33498
for state park purposes shall be under the control and management 33499

of the division of parks and recreation, which shall protect, 33500
maintain, and keep them in repair. The division shall have the 33501
following powers over all such lands and waters: 33502

(A) To make alterations and improvements; 33503

(B) To construct and maintain dikes, wharves, landings, 33504
docks, dams, and other works; 33505

(C) To construct and maintain roads and drives in, around, 33506
upon, and to the lands and waters to make them conveniently 33507
accessible and useful to the public; 33508

(D) Except as otherwise provided in this section, to adopt, 33509
amend, and rescind, in accordance with Chapter 119. of the Revised 33510
Code, rules necessary for the proper management of state parks, 33511
bodies of water, and the lands adjacent to them under its 33512
jurisdiction and control, including the following: 33513

(1) Governing opening and closing times and dates of the 33514
parks; 33515

(2) Establishing fees and charges for use of facilities in 33516
state parks; 33517

(3) Governing camps, camping, and fees for camps and camping; 33518

(4) Governing the application for and rental of, rental fees 33519
for, and the use of cottages; 33520

(5) Relating to public use of state park lands, and governing 33521
the operation of motor vehicles, including speeds, and parking on 33522
those lands; 33523

(6) Governing all advertising within state parks and the 33524
requirements for the operation of places selling tangible personal 33525
property and control of food service sales on lands and waters 33526
under the control of the division, which rules shall establish 33527
uniform requirements; 33528

(7) Providing uniform standards relating to the size, type, 33529

location, construction, and maintenance of structures and devices 33530
used for fishing or moorage of watercraft, rowboats, sailboats, 33531
and powercraft, as those terms are defined in section 1547.01 of 33532
the Revised Code, over waters under the control of the division 33533
and establishing reasonable fees for the construction of and 33534
annual use permits for those structures and devices; 33535

(8) Governing state beaches, swimming, inflatable devices, 33536
and fees for them; 33537

(9) Governing the removal and disposition of any watercraft, 33538
rowboat, sailboat, or powercraft, as those terms are defined in 33539
section 1547.01 of the Revised Code, left unattended for more than 33540
seven days on any lands or waters under the control of the 33541
division; 33542

(10) Governing the establishment and collection of check 33543
collection charges for checks that are returned to the division or 33544
dishonored for any reason. 33545

(E) To coordinate and plan trails in accordance with section 33546
1519.03 of the Revised Code; 33547

(F) To cooperate with the United States and agencies of it 33548
and with political subdivisions in administering federal 33549
recreation moneys under the "Land and Water Conservation Fund Act 33550
of 1965," 78 Stat. 897, 16 U.S.C. 4601-8, as amended; prepare and 33551
distribute the statewide comprehensive outdoor recreation plan; 33552
and administer the state recreational vehicle fund created in 33553
section 4519.11 of the Revised Code; 33554

(G) To administer any state or federally funded grant program 33555
that is related to natural resources and recreation as considered 33556
necessary by the director of natural resources; 33557

(H) To assist the department of natural resources and its 33558
divisions by providing department-wide planning, capital 33559
improvements planning, and special purpose planning. 33560

With the approval of the director, the chief of the division 33561
of parks and recreation may enter into contracts or agreements 33562
with any agency of the United States government, any other public 33563
agency, or any private entity or organization for the performance 33564
of the duties of the division. 33565

The chief may sell, lease, or transfer minerals or mineral 33566
rights, with the approval of the director of natural resources, 33567
when the chief and the director determine it to be in the best 33568
interest of the state. Upon approval of the director, the chief 33569
may make, execute, and deliver contracts, including leases, to 33570
drill for oil and natural gas on and under lands owned by the 33571
state and administered by the division to any person who complies 33572
with the terms of such a contract. No such contract shall be valid 33573
for more than fifty years from its effective date. Consideration 33574
for minerals and mineral rights shall be by rental or royalty 33575
basis as prescribed by the chief and payable as prescribed by 33576
contract. Money collected from rentals shall be paid into the 33577
state treasury to the credit of the state park fund created in 33578
section 1541.22 of the Revised Code. Money collected from 33579
royalties shall be paid into the parks mineral royalties trust 33580
fund created in section 1541.25 of the Revised Code. 33581

The division shall adopt rules under this section 33582
establishing a discount program for all persons who are issued a 33583
golden buckeye card under section 173.06 of the Revised Code. The 33584
discount program shall provide a discount for all park services 33585
and rentals, but shall not provide a discount for the purchase of 33586
merchandise. 33587

The division shall not adopt rules establishing fees or 33588
charges for parking a motor vehicle in a state park or for 33589
admission to a state park. 33590

Every resident of this state with a disability that has been 33591
determined by the veterans administration to be permanently and 33592

totally disabling, who receives a pension or compensation from the 33593
veterans administration, and who received an honorable discharge 33594
from the armed forces of the United States, and every veteran to 33595
whom the registrar of motor vehicles has issued a set of license 33596
plates under section 4503.41 of the Revised Code, shall be exempt 33597
from the fees for camping, provided that the resident or veteran 33598
carries in the state park such evidence of the resident's or 33599
veteran's disability as the chief prescribes by rule. 33600

Unless otherwise provided by division rule, every resident of 33601
this state who is sixty-five years of age or older or who is 33602
permanently and totally disabled and who furnishes evidence of 33603
that age or disability in a manner prescribed by division rule 33604
shall be charged one-half of the regular fee for camping, except 33605
on the weekends and holidays designated by the division, and shall 33606
not be charged more than ninety per cent of the regular charges 33607
for state recreational facilities, equipment, services, and food 33608
service operations utilized by the person at any time of year, 33609
whether maintained or operated by the state or leased for 33610
operation by another entity. 33611

As used in this section, "food service operations" means 33612
restaurants that are owned by the department of natural resources 33613
at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state 33614
parks or are part of a state park lodge. "Food service operations" 33615
does not include automatic vending machines, concession stands, or 33616
snack bars. 33617

As used in this section, "prisoner of war" means any 33618
regularly appointed, enrolled, enlisted, or inducted member of the 33619
military forces of the United States who was captured, separated, 33620
and incarcerated by an enemy of the United States. Any person who 33621
has been a prisoner of war, was honorably discharged from the 33622
military forces, and is a resident of this state is exempt from 33623
the fees for camping. To claim this exemption, the person shall 33624

present written evidence in the form of a record of separation, a 33625
letter from one of the military forces of the United States, or 33626
such other evidence as the chief prescribes by rule that satisfies 33627
the eligibility criteria established by this section. 33628

Sec. 1541.05. (A) The chief of the division of parks and 33629
recreation, with the approval of the director of natural 33630
resources, may dispose of any of the following by sale, donation, 33631
trade, trade-in, recycling, or any other lawful means, in a manner 33632
that will benefit the division: 33633

(1) Standing timber that as a result of wind, storm, 33634
pestilence, or any other natural occurrence may present a hazard 33635
to life or property, timber that has weakened or fallen on lands 33636
under the control and management of the division, or any timber or 33637
other forest products that ~~requires~~ require management to improve 33638
wildlife habitat, protect against wildfires, provide access to 33639
recreational facilities, implement sustainable forestry practices, 33640
or improve the safety, quality, or appearance of any state park 33641
area; 33642

(2) Spoils of a dredging operation conducted by the division 33643
in waters under the control and management of the division. Prior 33644
to the disposition of any spoils under this division, the chief 33645
shall notify the director of environmental protection of the 33646
chief's intent so that the director may determine if the spoils 33647
constitute solid wastes or hazardous waste, as those terms are 33648
defined in section 3734.01 of the Revised Code, that must be 33649
disposed of in accordance with Chapter 3734. of the Revised Code. 33650
If the director does not notify the chief within thirty days after 33651
receiving notice of the disposition that the spoils must be 33652
disposed of in accordance with Chapter 3734. of the Revised Code, 33653
the chief may proceed with the disposition. 33654

(3) Notwithstanding sections 125.12 to 125.14 of the Revised 33655

Code, excess supplies and surplus supplies, as those terms are 33656
defined in section 125.12 of the Revised Code; 33657

(4) Agricultural products that are grown or raised by the 33658
division. As used in this division, "agricultural products" 33659
includes products of apiculture, animal husbandry, or poultry 33660
husbandry, field crops, fruits, and vegetables. 33661

(5) Abandoned personal property, including golf balls that 33662
are found on property under the control and management of the 33663
division. 33664

(B) In accordance with Chapter 119. of the Revised Code, the 33665
chief shall adopt, and may amend and rescind, such rules as are 33666
necessary to administer this section. 33667

(C) Proceeds Except as provided in division (D) of this 33668
section, proceeds from the disposition of items under this section 33669
shall be deposited in the state treasury to the credit of the 33670
state park fund created in section 1541.22 of the Revised Code. 33671

(D) The chief of the division of parks and recreation may 33672
enter into a memorandum of understanding with the chief of the 33673
division of forestry to allow the division of forestry to 33674
administer the sale of timber and forest products on lands that 33675
are owned or controlled by the division of parks and recreation. 33676
Proceeds from the sale of timber or forest products pursuant to 33677
the memorandum of understanding shall be apportioned as follows: 33678

(1) Seventy-five per cent of the proceeds shall be deposited 33679
in the state treasury to the credit of the state park fund. 33680

(2) Twenty-five per cent of the proceeds shall be deposited 33681
in the state treasury to the credit of the state forest fund 33682
created in section 1503.05 of the Revised Code. 33683

Sec. 1541.25. There is hereby created the parks mineral 33684
royalties trust fund, which shall be in the custody of the 33685

treasurer of state and shall not be a part of the state treasury. 33686
The fund shall consist of royalties paid to the division of parks 33687
and recreation pursuant to the sale, lease, or transfer of 33688
minerals or mineral rights as provided in section 1541.03 of the 33689
Revised Code. Money in the fund shall be used by the division to 33690
facilitate capital improvements, maintenance, repairs, and 33691
renovations on properties that are owned by the state and 33692
administered by the division. 33693

Investment earnings of the fund shall be credited to the 33694
parks mineral royalties fund created in section 1541.26 of the 33695
Revised Code. Quarterly each fiscal year, the investment earnings 33696
of the parks mineral royalties trust fund shall be transferred to 33697
the parks mineral royalties fund. 33698

Upon the request of the director of natural resources, the 33699
director of budget and management annually may transfer an amount 33700
not to exceed ten per cent of the principal of the parks mineral 33701
royalties trust fund to the parks mineral royalties fund. 33702

Sec. 1541.26. There is hereby created in the state treasury 33703
the parks mineral royalties fund. The fund shall consist of all 33704
investment earnings of the parks mineral royalties trust fund 33705
created in section 1541.25 of the Revised Code and any principal 33706
transferred from the trust fund as authorized by that section. 33707

Money in the parks mineral royalties fund shall be used by 33708
the division of parks and recreation to facilitate capital 33709
improvements, maintenance, repairs, and renovations on properties 33710
that are owned by the state and administered by the division. All 33711
expenditures from the fund shall be approved by the director of 33712
natural resources. 33713

Sec. 1545.071. The following applies until the department of 33714
administrative services implements for park districts the health 33715

care plans under section 9.901 of the Revised Code. If those plans 33716
do not include or address any benefits listed in this section, the 33717
following provisions continue in effect for those benefits. 33718

The board of park commissioners of any park district may 33719
procure and pay all or any part of the cost of group insurance 33720
policies that may provide benefits for hospitalization, surgical 33721
care, major medical care, disability, dental care, eye care, 33722
medical care, hearing aids, or prescription drugs, or sickness and 33723
accident insurance or a combination of any of the foregoing types 33724
of insurance or coverage for park district officers and employees 33725
and their immediate dependents issued by an insurance company duly 33726
authorized to do business in this state. 33727

The board may procure and pay all or any part of the cost of 33728
group life insurance to insure the lives of park district 33729
employees. 33730

The board also may contract for group health care services 33731
with health insuring corporations holding a certificate of 33732
authority under Chapter 1751. of the Revised Code provided that 33733
each officer or employee is permitted to: 33734

(A) Choose between a plan offered by an insurance company and 33735
a plan offered by a health insuring corporation and provided 33736
further that the officer or employee pays any amount by which the 33737
cost of the plan chosen by the officer or employee exceeds the 33738
cost of the plan offered by the board under this section; 33739

(B) Change the choice made under division (A) of this section 33740
at a time each year as determined in advance by the board. 33741

Any appointed member of the board of park commissioners and 33742
the spouse and dependent children of the member may be covered, at 33743
the option and expense of the member, as a noncompensated employee 33744
of the park district under any benefit plan described in division 33745
(A) of this section. The member shall pay to the park district the 33746

amount certified to it by the benefit provider as the provider's 33747
charge for the coverage the member has chosen under division (A) 33748
of this section. Payments for coverage shall be made, in advance, 33749
in a manner prescribed by the board. The member's exercise of an 33750
option to be covered under this section shall be in writing, 33751
announced at a regular public meeting of the board, and recorded 33752
as a public record in the minutes of the board. 33753

The board may provide the benefits authorized in this section 33754
by contributing to a health and welfare trust fund administered 33755
through or in conjunction with a collective bargaining 33756
representative of the park district employees. 33757

The board may provide the benefits described in this section 33758
through an individual self-insurance program or a joint 33759
self-insurance program as provided in section 9.833 of the Revised 33760
Code. 33761

Sec. 1545.09. (A) The board of park commissioners shall adopt 33762
such bylaws and rules as the board considers advisable for the 33763
preservation of good order within and adjacent to parks and 33764
reservations of land, and for the protection and preservation of 33765
the parks, parkways, and other reservations of land under its 33766
jurisdiction and control and of property and natural life therein. 33767
The board shall also adopt bylaws or rules establishing a 33768
procedure for contracting for professional, technical, consulting, 33769
and other special services. Any competitive bidding procedures of 33770
the board do not apply to the purchase of benefits for park 33771
district officers or employees when such benefits are provided 33772
through a health and welfare trust fund administered through or in 33773
conjunction with a collective bargaining representative of the 33774
park district employees, as authorized in section 1545.071 of the 33775
Revised Code. The Summaries of the bylaws and rules shall be 33776
published as provided in the case of ordinances of municipal 33777

corporations under section 731.21 of the Revised Code before 33778
taking effect. 33779

(B)(1) As used in division (B)(2) of this section, "similar 33780
violation under state law" means a violation of any section of the 33781
Revised Code, other than division (C) of this section, that is 33782
similar to a violation of a bylaw or rule adopted under division 33783
(A) of this section. 33784

(2) The board of park commissioners may adopt by bylaw a 33785
penalty for a violation of any bylaw or rule adopted under 33786
division (A) of this section, and any penalty so adopted shall not 33787
exceed in severity whichever of the following is applicable: 33788

(a) The penalty designated under the Revised Code for a 33789
violation of the state law that is similar to the bylaw or rule 33790
for which the board adopted the penalty; 33791

(b) For a violation of a bylaw or rule adopted under division 33792
(A) of this section for which the similar violation under state 33793
law does not bear a penalty or for which there is no similar 33794
violation under state law, a fine of not more than one hundred 33795
fifty dollars for a first offense and not more than one thousand 33796
dollars for each subsequent offense. 33797

(3) ~~Any~~ A summary of any bylaw adopted under division (B)(2) 33798
of this section shall be published as provided in the case of 33799
ordinances of municipal corporations under section 731.21 of the 33800
Revised Code before taking effect. 33801

(C) No person shall violate any bylaws or rules adopted under 33802
division (A) of this section. All fines collected for any 33803
violation of this section shall be paid into the treasury of such 33804
park board. 33805

Sec. 1545.12. (A) Except as provided in division (B) of this 33806
section, if the board of park commissioners finds that any lands 33807

that it has acquired are not necessary for the purposes for which 33808
they were acquired by the board, it may sell and dispose of the 33809
lands upon terms the board considers advisable. The board also may 33810
lease or permit the use of any lands for purposes not inconsistent 33811
with the purposes for which the lands were acquired, and upon 33812
terms the board considers advisable. No lands shall be sold 33813
pursuant to this division without first giving notice of the 33814
board's intention to sell the lands by publication once a week for 33815
four consecutive weeks in ~~not less than two English newspapers a~~ 33816
newspaper of general circulation in the district or as provided in 33817
section 7.16 of the Revised Code. The notice shall contain an 33818
accurate description of the lands and shall state the time and 33819
place at which sealed bids will be received for the purchase of 33820
the lands, and the lands shall not thereafter be sold at private 33821
sale for less than the best and highest bid received without 33822
giving further notice as specified in this division. 33823

(B)(1) After compliance with division (B)(2) of this section, 33824
the board of park commissioners may sell land upon terms the board 33825
considers advisable to any park district established under section 33826
511.18 or Chapter 1545. of the Revised Code, any political 33827
subdivision of the state, the state or any department or agency of 33828
the state, or any department or agency of the federal government 33829
for conservation uses or for park or recreation purposes without 33830
the necessity of having to comply with division (A) of this 33831
section. 33832

(2) Before the board of park commissioners may sell land 33833
under division (B)(1) of this section, the board shall offer the 33834
land for sale to each of the following public agencies that is 33835
authorized to acquire, develop, and maintain land for conservation 33836
uses or for park or recreation purposes: each park district 33837
established under section 511.18 or Chapter 1545. of the Revised 33838
Code or political subdivision in which the land is located, each 33839

park district that is so established and that adjoins or each 33840
political subdivision that adjoins a park district so established 33841
or political subdivision in which the land is located, and each 33842
agency or department of the state or of the federal government 33843
that operates parks or conservation or recreation areas near the 33844
land. The board shall make the offer by giving a written notice 33845
that the land is available for sale, by first class mail, to these 33846
public agencies. A failure of delivery of the written notice to 33847
any of these public agencies does not invalidate any proceedings 33848
for the sale of land under this division. Any public agency that 33849
is so notified and that wishes to purchase the land shall make an 33850
offer to the board in writing not later than sixty days after 33851
receiving the written notice. 33852

If there is only one offer to purchase the land made in that 33853
sixty-day period, the board need not hold a public hearing on the 33854
offer. The board shall accept the offer only if it determines that 33855
acceptance of the offer will result in the best public use of the 33856
land. 33857

If there is more than one offer to purchase the land made in 33858
that sixty-day period, the board shall not accept any offer until 33859
the board holds a public hearing on the offers. If, after the 33860
hearing, the board decides to accept an offer, it shall accept the 33861
offer that it determines will result in the best public use of the 33862
land. 33863

(C) No lands shall be sold under this section at either 33864
public or private sale without the approval of the probate court 33865
of the county in which the lands are situated. 33866

Sec. 1545.131. The board of park commissioners of a park 33867
district may enter into contracts with one or more townships, 33868
township police districts, joint police districts, municipal 33869
corporations, or county sheriffs of this state, with one or more 33870

township park districts created pursuant to section 511.18 of the Revised Code or other park districts, with one or more state universities or colleges, as defined in section 3345.12 of the Revised Code, or with a contiguous political subdivision of an adjoining state, and a township, township police district, joint police district, municipal corporation, county sheriff, township park district, other park district, or state university or college may enter into a contract with a park district upon any terms that are agreed to by them, to allow the use of the park district police or law enforcement officers designated under section 1545.13 of the Revised Code to perform any police function, exercise any police power, or render any police service on behalf of the contracting entity that the entity may perform, exercise, or render.

Chapter 2744. of the Revised Code, insofar as it applies to the operation of police departments, applies to the contracting entities and to the members of the police force or law enforcement department when they are rendering service outside their own subdivisions pursuant to that contract.

Members of the police force or law enforcement department acting outside the political subdivision in which they are employed, pursuant to that contract, shall be entitled to participate in any indemnity fund established by their employer to the same extent as while acting within the employing subdivision. Those members shall be entitled to all the rights and benefits of Chapter 4123. of the Revised Code, to the same extent as while performing service within the subdivision.

The contracts entered into pursuant to this section may provide for the following:

(A) A fixed annual charge to be paid at the times agreed upon and stipulated in the contract;

(B) Compensation based upon the following:	33902
(1) A stipulated price for each call or emergency;	33903
(2) The number of members or pieces of equipment employed;	33904
(3) The elapsed time of service required in each call or emergency.	33905 33906
(C) Compensation for loss or damage to equipment while engaged in rendering police services outside the limits of the subdivision that owns and furnishes the equipment;	33907 33908 33909
(D) Reimbursement of the subdivision in which the police force or law enforcement department members are employed for any indemnity award or premium contribution assessed against the employing subdivision for workers' compensation benefits for injuries or death of its police force or law enforcement department members occurring while engaged in rendering police services pursuant to the contract.	33910 33911 33912 33913 33914 33915 33916
Sec. 1545.132. The police force or law enforcement department of any park district may provide police protection to any county, municipal corporation, township, or township police district, <u>or</u> <u>joint police district</u> of this state, to any other park district or any township park district created pursuant to section 511.18 of the Revised Code, or to a governmental entity of an adjoining state without a contract to provide police protection, upon the approval, by resolution, of the board of park commissioners of the park district in which the police force or law enforcement department is located and upon authorization by an officer or employee of the police force or department providing the police protection who is designated by title of office or position, pursuant to the resolution of the board of park commissioners, to give the authorization.	33917 33918 33919 33920 33921 33922 33923 33924 33925 33926 33927 33928 33929 33930
Chapter 2744. of the Revised Code, insofar as it applies to	33931

the operation of police departments, shall apply to any park 33932
district and to members of its police force or law enforcement 33933
department when those members are rendering police services 33934
pursuant to this section outside the park district by which they 33935
are employed. 33936

Police force or law enforcement department members acting, as 33937
provided in this section, outside the park district by which they 33938
are employed shall be entitled to participate in any pension or 33939
indemnity fund established by their employer to the same extent as 33940
while acting within the park district by which they are employed. 33941
Those members shall be entitled to all rights and benefits of 33942
Chapter 4123. of the Revised Code to the same extent as while 33943
performing services within the park district by which they are 33944
employed. 33945

Sec. 1547.30. (A) As used in this section and sections 33946
1547.301, 1547.302, and 1547.304 of the Revised Code: 33947

(1) "Vessel or outboard motor" excludes an abandoned junk 33948
vessel or outboard motor, as defined in section 1547.303 of the 33949
Revised Code, or any watercraft or outboard motor under section 33950
4585.31 of the Revised Code. 33951

(2) "Law enforcement agency" means any organization or unit 33952
comprised of law enforcement officers, as defined in section 33953
2901.01 of the Revised Code. 33954

(B)(1) The sheriff of a county, chief of police of a 33955
municipal corporation, township, ~~or~~ township police district, or 33956
joint police district, or other chief of a law enforcement agency, 33957
within the sheriff's or chief's respective territorial 33958
jurisdiction, upon complaint of any person adversely affected, may 33959
order into storage any vessel or outboard motor that has been left 33960
on private property, other than a private dock or mooring facility 33961
or structure, for at least seventy-two hours without the 33962

permission of the person having the right to the possession of the 33963
property. The sheriff or chief, upon complaint of the owner of a 33964
marine repair facility or place of storage, may order into storage 33965
any vessel or outboard motor that has been left at the facility or 33966
place of storage for a longer period than that agreed upon. The 33967
place of storage shall be designated by the sheriff or chief. When 33968
ordering a vessel or motor into storage under division (B)(1) of 33969
this section, a sheriff or chief, whenever possible, shall arrange 33970
for the removal of the vessel or motor by a private tow truck 33971
operator or towing company. 33972

(2)(a) Except as provided in division (B)(2)(d) of this 33973
section, no person, without the consent of the owner or other 33974
person authorized to give consent, shall moor, anchor, or tie a 33975
vessel or outboard motor at a private dock or mooring facility or 33976
structure owned by another person if the owner has posted, in a 33977
conspicuous manner, a prohibition against the mooring, anchoring, 33978
or tying of vessels or outboard motors at the dock, facility, or 33979
structure by any person not having the consent of the owner or 33980
other person authorized to give consent. 33981

(b) If the owner of a private dock or mooring facility or 33982
structure has posted at the dock, facility, or structure, in a 33983
conspicuous manner, conditions and regulations under which the 33984
mooring, anchoring, or tying of vessels or outboard motors is 33985
permitted at the dock, facility, or structure, no person, except 33986
as provided in division (B)(2)(d) of this section, shall moor, 33987
anchor, or tie a vessel or outboard motor at the dock, facility, 33988
or structure in violation of the posted conditions and 33989
regulations. 33990

(c) The owner of a private dock or mooring facility or 33991
structure may order towed into storage any vessel or outboard 33992
motor found moored, anchored, or tied in violation of division 33993
(B)(2)(a) or (b) of this section, provided that the owner of the 33994

dock, facility, or structure posts on it a sign that states that 33995
the dock, facility, or structure is private, is visible from all 33996
entrances to the dock, facility, or structure, and contains all of 33997
the following information: 33998

(i) The information specified in division (B)(2)(a) or (b) of 33999
this section, as applicable; 34000

(ii) A notice that violators will be towed and that violators 34001
are responsible for paying the cost of the towing; 34002

(iii) The telephone number of the person from whom a towed 34003
vessel or outboard motor may be recovered, and the address of the 34004
place to which the vessel or outboard motor will be taken and the 34005
place from which it may be recovered. 34006

(d) Divisions (B)(2)(a) and (b) of this section do not 34007
prohibit a person from mooring, anchoring, or tying a vessel or 34008
outboard motor at a private dock or mooring facility or structure 34009
if either of the following applies: 34010

(i) The vessel or outboard motor is disabled due to a 34011
mechanical or structural malfunction, provided that the person 34012
immediately removes the vessel or outboard motor from the dock, 34013
facility, or structure when the malfunction is corrected or when a 34014
reasonable attempt has been made to correct it; 34015

(ii) Weather conditions are creating an imminent threat to 34016
safe operation of the vessel or outboard motor, provided that the 34017
person immediately removes the vessel or outboard motor from the 34018
dock, facility, or structure when the weather conditions permit 34019
safe operation of the vessel or outboard motor. 34020

(e) A person whose vessel or outboard motor is towed into 34021
storage under division (B)(2)(c) of this section either shall pay 34022
the costs of the towing of the vessel or outboard motor or shall 34023
reimburse the owner of the dock or mooring facility or structure 34024
for the costs that the owner incurs in towing the vessel or 34025

outboard motor. 34026

(3) Subject to division (C) of this section, the owner of a 34027
vessel or motor that has been removed under division (B) of this 34028
section may recover the vessel or motor only in accordance with 34029
division (F) of this section. 34030

(C) If the owner or operator of a vessel or outboard motor 34031
that has been ordered into storage under division (B) of this 34032
section arrives after the vessel or motor has been prepared for 34033
removal, but prior to its actual removal from the property, the 34034
owner or operator shall be given the opportunity to pay a fee of 34035
not more than one-half of the charge for the removal of vessels or 34036
motors under division (B) of this section that normally is 34037
assessed by the person who has prepared the vessel or motor for 34038
removal, in order to obtain release of the vessel or motor. Upon 34039
payment of that fee, the vessel or motor shall be released to the 34040
owner or operator, and upon its release, the owner or operator 34041
immediately shall move it so that it is not on the private 34042
property without the permission of the person having the right to 34043
possession of the property, or is not at the facility or place of 34044
storage without the permission of the owner, whichever is 34045
applicable. 34046

(D) Each county sheriff, each chief of police of a municipal 34047
corporation, township, ~~or~~ township police district, or joint 34048
police district, and each other chief of a law enforcement agency 34049
shall maintain a record of vessels or outboard motors that are 34050
ordered into storage under division (B)(1) of this section. The 34051
record shall include an entry for each such vessel or motor that 34052
identifies the vessel's hull identification number or serial 34053
number, if any, the vessel's or motor's make, model, and color, 34054
the location from which it was removed, the date and time of its 34055
removal, the telephone number of the person from whom it may be 34056
recovered, and the address of the place to which it has been taken 34057

and from which it may be recovered. Any information in the record 34058
that pertains to a particular vessel or motor shall be provided to 34059
any person who, pursuant to a statement the person makes either in 34060
person or by telephone, is identified as the owner or operator of 34061
the vessel or motor and requests information pertaining to its 34062
location. 34063

(E) Any person who registers a complaint that is the basis of 34064
a sheriff's or chief's order for the removal and storage of a 34065
vessel or outboard motor under division (B)(1) of this section 34066
shall provide the identity of the law enforcement agency with 34067
which the complaint was registered to any person who, pursuant to 34068
a statement the person makes, is identified as the owner or 34069
operator of the vessel or motor and requests information 34070
pertaining to its location. 34071

(F)(1) The owner of a vessel or outboard motor that is 34072
ordered into storage under division (B) of this section may 34073
reclaim it upon payment of any expenses or charges incurred in its 34074
removal, in an amount not to exceed two hundred dollars, and 34075
storage, in an amount not to exceed five dollars per 34076
twenty-four-hour period, and upon presentation of proof of 34077
ownership, which may be evidenced by a certificate of title to the 34078
vessel or motor, certificate of United States coast guard 34079
documentation, or certificate of registration if the vessel or 34080
motor is not subject to titling under section 1548.01 of the 34081
Revised Code. 34082

(2) If a vessel or outboard motor that is ordered into 34083
storage under division (B)(1) of this section remains unclaimed by 34084
the owner for thirty days, the procedures established by sections 34085
1547.301 and 1547.302 of the Revised Code shall apply. 34086

(3) If a vessel or outboard motor ordered into storage under 34087
division (B)(2) of this section remains unclaimed for seventy-two 34088
hours after being stored, the tow truck operator or towing company 34089

that removed the vessel or outboard motor shall provide notice of 34090
the removal and storage to the sheriff of a county, chief of 34091
police of a municipal corporation, township, ~~or~~ township police 34092
district, or joint police district, or other chief of a law 34093
enforcement agency within whose territorial jurisdiction the 34094
vessel or outboard motor had been moored, anchored, or tied in 34095
violation of division (B)(2) of this section. The notice shall be 34096
in writing and include the vessel's hull identification number or 34097
serial number, if any, the vessel's or outboard motor's make, 34098
model, and color, the location from which it was removed, the date 34099
and time of its removal, the telephone number of the person from 34100
whom it may be recovered, and the address of the place to which it 34101
has been taken and from which it may be recovered. 34102

Upon receipt of the notice, the sheriff or chief immediately 34103
shall cause a search to be made of the records of the division of 34104
watercraft to ascertain the owner and any lienholder of the vessel 34105
or outboard motor, and, if known, shall send notice to the owner 34106
and lienholder, if any, at the owner's and lienholder's last known 34107
address by certified mail, return receipt requested, that the 34108
vessel or outboard motor will be declared a nuisance and disposed 34109
of if not claimed not later than thirty days after the date of the 34110
mailing of the notice. 34111

If the owner or lienholder makes no claim to the vessel or 34112
outboard motor within thirty days of the date of the mailing of 34113
the notice, the sheriff or chief shall file with the clerk of 34114
courts of the county in which the place of storage is located an 34115
affidavit showing compliance with the requirements of division 34116
(F)(3) of this section, and the vessel or outboard motor shall be 34117
disposed of in accordance with section 1547.302 of the Revised 34118
Code. 34119

(G) No person shall remove, or cause the removal of, any 34120
vessel or outboard motor from private property other than in 34121

accordance with division (B) of this section or section 1547.301 34122
of the Revised Code. 34123

Sec. 1547.301. The sheriff of a county, chief of police of a 34124
municipal corporation, township, ~~or~~ township police district, or 34125
joint police district, or other chief of a law enforcement agency, 34126
within ~~his~~ the sheriff's or chief's respective territorial 34127
jurisdiction, or a state highway patrol trooper, upon notification 34128
to the sheriff or chief of such action and of the location of the 34129
place of storage, may order into storage any vessel or outboard 34130
motor that has been left in a sunken, beached, or drifting 34131
condition for any period of time, or in a docked condition, on a 34132
public street or other property open to the public, or upon or 34133
within the right-of-way of any waterway, road, or highway, for 34134
forty-eight hours or longer without notification to the sheriff or 34135
chief of the reasons for leaving the vessel or motor in any such 34136
place or condition. The sheriff or chief shall designate the place 34137
of storage of any vessel or motor ordered removed by ~~him~~ the 34138
sheriff or chief. 34139

The sheriff or chief shall immediately cause a search to be 34140
made of the records of the division of watercraft to ascertain the 34141
owner and any lienholder of a vessel or outboard motor ordered 34142
into storage by the sheriff or chief, and, if known, shall send 34143
notice to the owner and lienholder, if any, at ~~his~~ the owner's or 34144
lienholder's last known address by certified mail, return receipt 34145
requested, that the vessel or motor will be declared a nuisance 34146
and disposed of if not claimed within ten days of the date of 34147
mailing of the notice. The owner or lienholder of the vessel or 34148
motor may reclaim it upon payment of any expenses or charges 34149
incurred in its removal and storage, and presentation of proof of 34150
ownership, which may be evidenced by a certificate of title to the 34151
vessel or motor, certificate of United States coast guard 34152
documentation, or certificate of registration if the vessel or 34153

motor is not subject to titling under section 1548.01 of the Revised Code. 34154
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If the owner or lienholder makes no claim to the vessel or outboard motor within ten days of the date of mailing of the notice, and if the vessel or motor is to be disposed of at public auction as provided in section 1547.302 of the Revised Code, the sheriff or chief shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the clerk of courts shall without charge issue a salvage certificate of title, free and clear of all liens and encumbrances, to the sheriff or chief and shall send a copy of the affidavit to the chief of the division of watercraft. If the vessel or motor is to be disposed of to a marine salvage dealer or other facility as provided in section 1547.302 of the Revised Code, the sheriff or chief shall execute in triplicate an affidavit, as prescribed by the chief of the division of watercraft, describing the vessel or motor and the manner in which it was disposed of, and that all requirements of this section have been complied with. The sheriff or chief shall retain the original of the affidavit for ~~his~~ the sheriff's or chief's records and shall furnish two copies to the marine salvage dealer or other facility. Upon presentation of a copy of the affidavit by the marine salvage dealer or other facility, the clerk of courts shall issue to such owner a salvage certificate of title, free and clear of all liens and encumbrances. 34156
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Whenever the marine salvage dealer or other facility receives an affidavit for the disposal of a vessel or outboard motor as provided in this section, such owner shall not be required to obtain an Ohio certificate of title to the vessel or motor in ~~his~~ the owner's own name if the vessel or motor is dismantled or destroyed and both copies of the affidavit are delivered to the 34180
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clerk of courts. Upon receipt of such an affidavit, the clerk of 34186
courts shall send one copy of it to the chief of the division of 34187
watercraft. 34188

Sec. 1547.302. (A) Unclaimed vessels or outboard motors 34189
ordered into storage under division (B) of section 1547.30 or 34190
section 1547.301 of the Revised Code shall be disposed of at the 34191
order of the sheriff of the county, the chief of police of the 34192
municipal corporation, township, or township police district, or 34193
another chief of a law enforcement agency in any of the following 34194
ways: 34195

(1) To a marine salvage dealer; 34196

(2) To any other facility owned, operated, or under contract 34197
with the state or the county, municipal corporation, township, or 34198
other political subdivision; 34199

(3) To a charitable organization, religious organization, or 34200
similar organization not used and operated for profit; 34201

(4) By sale at public auction by the sheriff, the chief, or 34202
an auctioneer licensed under Chapter 4707. of the Revised Code, 34203
after giving notice of the auction by advertisement, published 34204
once a week for two consecutive weeks in a newspaper of general 34205
circulation in the county or as provided in section 7.16 of the 34206
Revised Code. 34207

(B) Any moneys accruing from the disposition of an unclaimed 34208
vessel or motor that are in excess of the expenses resulting from 34209
the removal and storage of the vessel or motor shall be credited 34210
to the general revenue fund or to the general fund of the county, 34211
municipal corporation, township, or other political subdivision, 34212
as appropriate. 34213

(C) As used in this section, "charitable organization" has 34214
the same meaning as in section 1716.01 of the Revised Code. 34215

Sec. 1547.303. (A) As used in this section and section 34216
1547.304 of the Revised Code: 34217

(1) "Abandoned junk vessel or outboard motor" means any 34218
vessel or outboard motor meeting all of the following 34219
requirements: 34220

(a) It has been left on private property for at least 34221
seventy-two hours without the permission of the person having the 34222
right to the possession of the property; left in a sunken, 34223
beached, or drifting condition for any period of time; or left in 34224
a docked condition, on a public street or other property open to 34225
the public, or upon or within the right-of-way of any waterway, 34226
road, or highway, for forty-eight hours or longer without 34227
notification to the sheriff of the county, the chief of police of 34228
the municipal corporation, township, ~~or~~ township police district, 34229
or joint police district, or other chief of a law enforcement 34230
agency, having territorial jurisdiction with respect to the 34231
location of the vessel or motor, of the reasons for leaving the 34232
vessel or motor in any such place or condition; 34233

(b) It is three years old, or older; 34234

(c) It is extensively damaged, such damage including but not 34235
limited to any of the following: missing deck, hull, transom, 34236
gunwales, motor, or outdrive; 34237

(d) It is apparently inoperable; 34238

(e) It has a fair market value of two hundred dollars or 34239
less. 34240

(2) "Law enforcement agency" means any organization or unit 34241
comprised of law enforcement officers, as defined in section 34242
2901.01 of the Revised Code. 34243

(B) The sheriff of a county, chief of police of a municipal 34244
corporation, township, ~~or~~ township police district, or joint 34245

police district, or other chief of a law enforcement agency, 34246
within the sheriff's or chief's respective territorial 34247
jurisdiction, or a state highway patrol trooper, upon notification 34248
to the sheriff or chief of such action, shall order any abandoned 34249
junk vessel or outboard motor to be photographed by a law 34250
enforcement officer. The officer shall record the make of vessel 34251
or motor, the hull identification number or serial number when 34252
available, and shall also detail the damage or missing equipment 34253
to substantiate the value of two hundred dollars or less. The 34254
sheriff or chief shall thereupon immediately dispose of the 34255
abandoned junk vessel or outboard motor to a marine salvage dealer 34256
or other facility owned, operated, or under contract to the state, 34257
the county, township, or municipal corporation for the destruction 34258
of such vessels or motors. The records and photographs relating to 34259
the abandoned junk vessel or outboard motor shall be retained by 34260
the law enforcement agency ordering the disposition of the vessel 34261
or motor for a period of at least two years. The law enforcement 34262
agency shall execute in quadruplicate an affidavit, as prescribed 34263
by the chief of the division of watercraft, describing the vessel 34264
or motor and the manner in which it was disposed of, and that all 34265
requirements of this section have been complied with, and shall 34266
sign and file the same with the clerk of courts of the county in 34267
which the vessel or motor was abandoned. The clerk of courts shall 34268
retain the original of the affidavit for the clerk's files, shall 34269
furnish one copy thereof to the chief of the division of 34270
watercraft, one copy to the marine salvage dealer or other 34271
facility handling the disposal of the vessel or motor, and one 34272
copy to the law enforcement agency ordering the disposal, who 34273
shall file such copy with the records and photographs relating to 34274
the disposal. Any moneys arising from the disposal of an abandoned 34275
junk vessel or outboard motor shall be credited to the general 34276
revenue fund, or to the general fund of the county, township, 34277
municipal corporation, or other political subdivision, as 34278

appropriate. 34279

Notwithstanding section 1547.301 of the Revised Code, any 34280
vessel or outboard motor meeting the requirements of divisions 34281
(A)(1)(c) to (e) of this section which has remained unclaimed by 34282
the owner or lienholder for a period of ten days or longer 34283
following notification as provided in section 1547.301 of the 34284
Revised Code may be disposed of as provided in this section. 34285

Sec. 1547.304. No person shall purposely leave an abandoned 34286
junk vessel or outboard motor on private property for more than 34287
seventy-two hours without the permission of the person having the 34288
right to the possession of the property; in a sunken, beached, or 34289
drifting condition for any period of time; or in a docked 34290
condition, on a public street or other property open to the 34291
public, or upon or within the right-of-way of any waterway, road, 34292
or highway, for forty-eight hours or longer without notification 34293
to the sheriff of the county, chief of police of the municipal 34294
corporation, township, ~~or~~ township police district, or joint 34295
police district, or other chief of a law enforcement agency, 34296
having territorial jurisdiction with respect to the location of 34297
the vessel or motor, of the reasons for leaving the vessel or 34298
motor in any such place or condition. 34299

For purposes of this section, the fact that an abandoned junk 34300
vessel or outboard motor has been so left without permission or 34301
notification is prima-facie evidence of abandonment. 34302

Nothing in sections 1547.30, 1547.301, and 1547.303 of the 34303
Revised Code invalidates the provisions of any ordinance of a 34304
municipal corporation regulating or prohibiting the abandonment of 34305
vessels or outboard motors on waterways, beaches, docks, streets, 34306
highways, public property, or private property within the 34307
boundaries of the municipal corporation. 34308

Sec. 1551.311. The general assembly hereby finds and declares 34309
that the future of the Ohio coal industry lies in the development 34310
of clean coal technology and that the disproportionate economic 34311
impact on the state under Title IV of the "Clean Air Act 34312
Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, warrants 34313
maximum federal assistance to this state for such development. It 34314
is therefore imperative that the ~~Ohio air quality department of~~ 34315
~~development authority created under Chapter 3706. of the Revised~~ 34316
~~Code,~~ its Ohio coal development office, the Ohio coal industry, 34317
the Ohio Washington office in the office of the governor, and the 34318
state's congressional delegation make every effort to acquire any 34319
federal assistance available for the development of clean coal 34320
technology, including assisting entities eligible for grants in 34321
their acquisition. The Ohio coal development agenda required by 34322
section 1551.34 of the Revised Code shall include, in addition to 34323
the other information required by that section, a description of 34324
such efforts and a description of the current status of the 34325
development of clean coal technology in this state and elsewhere. 34326

Sec. 1551.32. (A) There is hereby established within the ~~Ohio~~ 34327
~~air quality department of~~ development ~~authority~~ the Ohio coal 34328
development office whose purposes are to do all of the following: 34329

(1) Encourage, promote, and support siting, financing, 34330
construction, and operation of commercially available or scaled 34331
facilities and technologies, including, without limitation, 34332
commercial-scale demonstration facilities and, when necessary or 34333
appropriate to demonstrate the commercial acceptability of a 34334
specific technology, up to three installations within this state 34335
utilizing the specific technology, to more efficiently produce, 34336
beneficiate, market, or use Ohio coal; 34337

(2) Encourage, promote, and support the market acceptance and 34338
increased market use of Ohio coal through technology and market 34339

development;	34340
(3) Assist in the financing of coal development facilities;	34341
(4) Encourage, promote, and support, in state-owned buildings, facilities, and operations, use of Ohio coal and electricity sold by utilities and others in this state that use Ohio coal for generation;	34342 34343 34344 34345
(5) Improve environmental quality, particularly through cleaner use of Ohio coal;	34346 34347
(6) Assist and cooperate with governmental agencies, universities and colleges, coal producers, coal miners, electric utilities and other coal users, public and private sector coal development interests, and others in achieving these purposes.	34348 34349 34350 34351
(B) The office shall give priority to improvement or reconstruction of existing facilities and equipment when economically feasible, to construction and operation of commercial-scale facilities, and to technologies, equipment, and other techniques that enable maximum use of Ohio coal in an environmentally acceptable, cost-effective manner.	34352 34353 34354 34355 34356 34357
Sec. 1551.33. (A) The Ohio air quality director of development authority, by the affirmative vote of a majority of its members, shall appoint and fix the compensation of the director of the Ohio coal development office. The director shall serve at the pleasure of the authority <u>director of development</u> .	34358 34359 34360 34361 34362
(B) The director of the office shall do all of the following:	34363
(1) Biennially prepare and maintain the Ohio coal development agenda required under section 1551.34 of the Revised Code;	34364 34365
(2) Propose and support policies for the office consistent with the Ohio coal development agenda and develop means to implement the agenda;	34366 34367 34368

- (3) Initiate, undertake, and support projects to carry out the office's purposes and ensure that the projects are consistent with and meet the selection criteria established by the Ohio coal development agenda; 34369
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- (4) Actively encourage joint participation in and, when feasible, joint funding of the office's projects with governmental agencies, electric utilities, universities and colleges, other public or private interests, or any other person; 34373
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- (5) Establish a table of organization for and employ such employees and agents as are necessary for the administration and operation of the office. Any such employees shall be in the unclassified service and shall serve at the pleasure of the authority director of development. 34377
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- (6) Appoint specified members of and convene the technical advisory committee established under section 1551.35 of the Revised Code; 34382
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- (7) Review, with the assistance of the technical advisory committee, proposed coal research and development projects as defined in section 1555.01 of the Revised Code, and coal development projects, submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code. If the director and the advisory committee determine that any such facility or project has as its purpose the enhanced use of Ohio coal in an environmentally acceptable, cost effective manner, promotes energy conservation, is cost effective, and is environmentally sound, the director shall submit to the public utilities commission a report recommending that the commission allow the recovery of costs associated with the facility or project under section 4905.304 of the Revised Code and including the reasons for the recommendation. 34385
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- (8) Establish such policies, procedures, and guidelines as 34399

are necessary to achieve the office's purposes. 34400

(C) ~~By the affirmative vote of a majority of the members of~~ 34401
~~the Ohio air quality development authority, the~~ The director of 34402
the office may exercise any of the powers and duties ~~of the~~ 34403
~~director of development as the authority and that~~ the director of 34404
the office ~~consider~~ considers appropriate or desirable to achieve 34405
the office's purposes, including, but not limited to, the powers 34406
and duties enumerated in sections 1551.11, 1551.12, ~~1551.13~~, and 34407
1551.15 of the Revised Code. 34408

Additionally, the director of the office may make loans to 34409
governmental agencies or persons for projects to carry out the 34410
office's purposes. Fees, charges, rates of interest, times of 34411
payment of interest and principal, and other terms, conditions, 34412
and provisions of the loans shall be such as the director of the 34413
office determines to be appropriate and in furtherance of the 34414
purposes for which the loans are made. The mortgage lien securing 34415
any moneys lent by the director of the office may be subordinate 34416
to the mortgage lien securing any moneys lent or invested by a 34417
financial institution, but shall be superior to that securing any 34418
moneys lent or expended by any other person. The moneys used in 34419
making the loans shall be disbursed upon order of the director of 34420
the office. 34421

Sec. 1551.35. (A) There is hereby established a technical 34422
advisory committee to assist the director of the Ohio coal 34423
development office in achieving the office's purposes. The 34424
director shall appoint to the committee one member of the public 34425
utilities commission and one representative each of coal 34426
production companies, the united mine workers of America, electric 34427
utilities, manufacturers that use Ohio coal, and environmental 34428
organizations, as well as two people with a background in coal 34429
research and development technology, one of whom is employed at 34430

the time of the member's appointment by a state university, as 34431
defined in section 3345.011 of the Revised Code. In addition, the 34432
committee shall include four legislative members. The speaker and 34433
minority leader of the house of representatives each shall appoint 34434
one member of the house of representatives, and the president and 34435
minority leader of the senate each shall appoint one member of the 34436
senate, to the committee. The director of environmental protection 34437
~~and the director of development~~ shall serve on the committee as an 34438
ex officio ~~members~~ member. Any member of the committee may 34439
designate in writing a substitute to serve in the member's absence 34440
on the committee. The director of environmental protection may 34441
designate in writing the chief of the air pollution control 34442
division of the agency to represent the agency. Members shall 34443
serve on the committee at the pleasure of their appointing 34444
authority. Members of the committee appointed by the director of 34445
the office and, notwithstanding section 101.26 of the Revised 34446
Code, legislative members of the committee, when engaged in their 34447
official duties as members of the committee, shall be compensated 34448
on a per diem basis in accordance with division (J) of section 34449
124.15 of the Revised Code, except that the member of the public 34450
utilities commission and, while employed by a state university, 34451
the member with a background in coal research, shall not be so 34452
compensated. Members shall receive their actual and necessary 34453
expenses incurred in the performance of their duties. 34454

(B) The technical advisory committee shall review and make 34455
recommendations concerning the Ohio coal development agenda 34456
required under section 1551.34 of the Revised Code, project 34457
proposals, research and development projects submitted to the 34458
office by public utilities for the purpose of section 4905.304 of 34459
the Revised Code, proposals for grants, loans, and loan guarantees 34460
for purposes of sections 1555.01 to 1555.06 of the Revised Code, 34461
and such other topics as the director of the office considers 34462
appropriate. 34463

(C) The technical advisory committee may hold an executive session at any regular or special meeting for the purpose of considering research and development project proposals or applications for assistance submitted to the Ohio coal development office under section 1551.33, or sections 1555.01 to 1555.06, of the Revised Code, to the extent that the proposals or applications consist of trade secrets or other proprietary information.

Any materials or data submitted to, made available to, or received by the ~~Ohio air quality~~ department of development ~~authority~~ or the director of the Ohio coal development office in connection with agreements for assistance entered into under this chapter or Chapter 1555. of the Revised Code, or any information taken from those materials or data for any purpose, to the extent that the materials or data consist of trade secrets or other proprietary information, are not public records for the purposes of section 149.43 of the Revised Code.

As used in this division, "trade secrets" has the same meaning as in section 1333.61 of the Revised Code.

Sec. 1555.02. It is hereby declared to be the public policy of this state through the operations of the Ohio coal development office under this chapter to contribute toward one or more of the following: to provide for the comfort, health, safety, and general welfare of all employees and other inhabitants of this state through research and development directed toward the discovery of new technologies or the demonstration or application of existing technologies to enable the conversion or use of Ohio coal as a fuel or chemical feedstock in an environmentally acceptable manner thereby enhancing the marketability and fostering the use of this state's vast reserves of coal, to assist in the financing of coal research and development and coal research and development projects or facilities for persons doing business in this state

and educational and scientific institutions located in this state, 34495
to create or preserve jobs and employment opportunities or improve 34496
the economic welfare of the people of this state, or to assist and 34497
cooperate with such persons and educational and scientific 34498
institutions in conducting coal research and development. In 34499
furtherance of this public policy, the Ohio coal development 34500
office, with the advice of the technical advisory committee 34501
created in section 1551.35 of the Revised Code ~~and the affirmative~~ 34502
~~vote of a majority of the members of the Ohio air quality~~ 34503
~~development authority~~, may make loans, guarantee loans, and make 34504
grants to persons doing business in this state or to educational 34505
or scientific institutions located in this state for coal research 34506
and development projects by such persons or educational or 34507
scientific institutions; may, with the advice of the technical 34508
advisory committee ~~and the affirmative vote of a majority of the~~ 34509
~~members of the Ohio air quality development authority~~, request the 34510
issuance of coal research and development general obligations 34511
under section 151.07 of the Revised Code to provide funds for 34512
making such loans, loan guarantees, and grants; and may, with the 34513
advice of the technical advisory committee ~~and the affirmative~~ 34514
~~vote of a majority of the members of the Ohio air quality~~ 34515
~~development authority~~, expend moneys credited to the coal research 34516
and development fund created in section 1555.15 of the Revised 34517
Code for the purpose of making such loans, loan guarantees, and 34518
grants. Determinations by the director of the Ohio coal 34519
development office that coal research and development or a coal 34520
research and development facility is a coal research and 34521
development project under this chapter and is consistent with the 34522
purposes of Section 15 of Article VIII, Ohio Constitution, and 34523
this chapter shall be conclusive as to the validity and 34524
enforceability of the coal research and development general 34525
obligations issued to finance such project and of the 34526
authorizations, trust agreements or indentures, loan agreements, 34527

loan guarantee agreements, or grant agreements, and other 34528
agreements made in connection therewith, all in accordance with 34529
their terms. 34530

Sec. 1555.03. For the purposes of this chapter, the director 34531
of the Ohio coal development office may: 34532

(A) With the advice of the technical advisory committee 34533
created in section 1551.35 of the Revised Code ~~and the affirmative~~ 34534
~~vote of a majority of the members of the Ohio air quality~~ 34535
~~development authority~~, make loans, guarantee loans, and make 34536
grants to persons doing business in this state or to educational 34537
or scientific institutions located in this state for coal research 34538
and development projects by any such person or educational or 34539
scientific institution and adopt rules under Chapter 119. of the 34540
Revised Code for making such loans, guarantees, and grants. 34541

(B) In making loans, loan guarantees, and grants under 34542
division (A) of this section and section 1555.04 of the Revised 34543
Code, the director of the office shall ensure that an adequate 34544
portion of the total amount of those loans, loan guarantees, and 34545
grants, as determined by the director with the advice of the 34546
technical advisory committee, is used for conducting research on 34547
fundamental scientific problems related to the utilization of Ohio 34548
coal and shall ensure, to the maximum feasible extent, joint 34549
financial participation by the federal government or other 34550
investors or interested parties in conjunction with any such loan, 34551
loan guarantee, or grant. The director, in each grant agreement or 34552
contract under division (A) of this section, loan contract or 34553
agreement under this division or section 1555.04 of the Revised 34554
Code, and contract of guarantee under section 1555.05 of the 34555
Revised Code, shall require that the facility or project be 34556
maintained and kept in good condition and repair by the person or 34557
educational or scientific institution to whom the grant or loan 34558

was made or for whom the guarantee was made. 34559

(C) From time to time, with the advice of the technical 34560
advisory committee ~~and the affirmative vote of a majority of the~~ 34561
~~members of the Ohio air quality development authority,~~ request the 34562
issuance of coal research and development general obligations 34563
under section 151.07 of the Revised Code, for any of the purposes 34564
set forth in Section 15 of Article VIII, Ohio Constitution, and 34565
subject to the limitations therein upon the aggregate total amount 34566
of obligations that may be outstanding at any time. 34567

(D) Include as a condition of any loan, loan guarantee, or 34568
grant contract or agreement with any such person or educational or 34569
scientific institution that the director of the office receive, in 34570
addition to payments of principal and interest on any such loan or 34571
service charges for any such guarantee, as appropriate, as 34572
authorized by Section 15, Article VIII, Ohio Constitution, a 34573
reasonable royalty or portion of the income or profits arising out 34574
of the developments, discoveries, or inventions, including patents 34575
or copyrights, that result in whole or in part from coal research 34576
and development projects conducted under any such contract or 34577
agreement, in such amounts and for such period of years as may be 34578
negotiated and provided by the contract or agreement in advance of 34579
the making of the grant, loan, or loan guarantee. Moneys received 34580
by the director of the office under this section may be credited 34581
to the coal research and development bond service fund or used to 34582
make additional loans, loan guarantees, grants, or agreements 34583
under this section. 34584

(E) Employ managers, superintendents, and other employees and 34585
retain or contract with consulting engineers, financial 34586
consultants, accounting experts, architects, and such other 34587
consultants and independent contractors as are necessary in the 34588
judgment of the director of the office to carry out this chapter, 34589
and fix the compensation thereof. 34590

(F) Receive and accept from any federal agency, subject to 34591
the approval of the governor, grants for or in aid of the 34592
construction or operation of any coal research and development 34593
project or for coal research and development, and receive and 34594
accept aid or contributions from any source of money, property, 34595
labor, or other things of value, to be held, used, and applied 34596
only for the purposes for which such grants and contributions are 34597
made. 34598

(G) Purchase fire and extended coverage and liability 34599
insurance for any coal research and development project, insurance 34600
protecting the office and its officers and employees against 34601
liability for damage to property or injury to or death of persons 34602
arising from its operations, and any other insurance the director 34603
of the office determines necessary or proper under this chapter. 34604
Any moneys received by the director from the proceeds of any such 34605
insurance with respect to a coal research and development project 34606
and any moneys received by the director from the proceeds of any 34607
settlement, judgment, foreclosure, or other insurance with respect 34608
to a coal research and development project or facility shall be 34609
credited to the coal research and development bond service fund. 34610

(H) In the exercise of the powers of the director of the 34611
office under this chapter, call to the director's assistance, 34612
temporarily, from time to time, any engineers, technical experts, 34613
financial experts, and other employees in any state department, 34614
agency, or commission, or in the Ohio state university, or other 34615
educational institutions financed wholly or partially by this 34616
state for purposes of assisting the director of the office with 34617
reviewing and evaluating applications for financial assistance 34618
under this chapter, monitoring performance of coal research and 34619
development projects receiving financial assistance under this 34620
chapter, and reviewing and evaluating the progress and findings of 34621
those projects. Such engineers, experts, and employees shall not 34622

receive any additional compensation over that which they receive 34623
from the department, agency, commission, or educational 34624
institution by which they are employed, but they shall be 34625
reimbursed for their actual and necessary expenses incurred while 34626
working under the direction of the director. 34627

(I) Do all acts necessary or proper to carry out the powers 34628
expressly granted in this chapter. 34629

Sec. 1555.04. (A) With respect to coal research and 34630
development projects financed wholly or partially from a loan or 34631
loan guarantee under this chapter, the director of the Ohio coal 34632
development office, in addition to other powers under this 34633
chapter, with the advice of the technical advisory committee 34634
created in section 1551.35 of the Revised Code ~~and the affirmative~~ 34635
~~vote of a majority of the members of the Ohio air quality~~ 34636
~~development authority~~, may enter into loan agreements, accept 34637
notes and other forms of obligation to evidence such indebtedness 34638
and mortgages, liens, pledges, assignments, or other security 34639
interests to secure such indebtedness, which may be prior or 34640
subordinate to or on a parity with other indebtedness, 34641
obligations, mortgages, pledges, assignments, other security 34642
interests, or liens or encumbrances, and take such actions as the 34643
director of the office considers appropriate to protect such 34644
security and safeguard against losses, including, without 34645
limitation, foreclosure and the bidding upon and purchase of 34646
property upon foreclosure or other sale. 34647

(B) The authority granted by this section is cumulative and 34648
supplementary to all other authority granted in this chapter. The 34649
authority granted by this section does not alter or impair any 34650
similar authority granted elsewhere in this chapter with respect 34651
to other projects. 34652

Sec. 1555.05. (A) Subject to any limitations as to aggregate 34653
amounts thereof that may from time to time be prescribed by the 34654
general assembly and to other applicable provisions of this 34655
chapter, and subject to the one-hundred-million-dollar limitation 34656
provided in Section 15 of Article VIII, Ohio Constitution, the 34657
director of the Ohio coal development office, on behalf of this 34658
state, with the advice of the technical advisory committee created 34659
in section 1551.35 of the Revised Code ~~and the affirmative vote of~~ 34660
~~a majority of the members of the Ohio air quality development~~ 34661
~~authority~~, may enter into contracts to guarantee the repayment or 34662
payment of the unpaid principal amount of loans made to pay the 34663
costs of coal research and development projects. 34664

(B) The contract of guarantee may make provision for the 34665
conditions of, time for, and manner of fulfillment of the 34666
guarantee commitment, subrogation of this state to the rights of 34667
the parties guaranteed and exercise of such parties' rights by the 34668
state, giving the state the option of making payment of the 34669
principal amount guaranteed in one or more installments and, if 34670
deferred, to pay interest thereon from the source specified in 34671
division (A) of this section, and any other terms or conditions 34672
customary to such guarantees and as the director of the office may 34673
approve, and may contain provisions for securing the guarantee in 34674
the manner consistent with this section, covenants on behalf of 34675
this state to issue obligations under section 1555.08 of the 34676
Revised Code to provide moneys to fulfill such guarantees and 34677
covenants, and covenants restricting the aggregate amount of 34678
guarantees that may be contracted under this section and 34679
obligations that may be issued under section 151.07 of the Revised 34680
Code, and terms pertinent to either, to better secure the parties 34681
guaranteed. 34682

(C) The director of the office may fix service charges for 34683
making a guarantee. Such charges shall be payable at such times 34684

and place and in such amounts and manner as may be prescribed by 34685
the director. Moneys received from such charges shall be credited 34686
to the coal research and development bond service fund. 34687

(D) Any guaranteed parties under this section, by any 34688
suitable form of legal proceedings and except to the extent that 34689
their rights are restricted by the guarantee documents, may 34690
protect and enforce any rights under the laws of this state or 34691
granted by such guarantee or guarantee documents. Such rights 34692
include the right to compel the performance of all duties of the 34693
office required by this section or the guarantee or guarantee 34694
documents; and in the event of default with respect to the payment 34695
of any guarantees, to apply to a court having jurisdiction of the 34696
cause to appoint a receiver to receive and administer the moneys 34697
pledged to such guarantee with full power to pay, and to provide 34698
for payment of, such guarantee, and with such powers, subject to 34699
the direction of the court, as are accorded receivers in general 34700
equity cases, excluding any power to pledge or apply additional 34701
revenues or receipts or other income or moneys of this state. Each 34702
duty of the office and its director and employees required or 34703
undertaken under this section or a guarantee made under this 34704
section is hereby established as a duty of the office and of its 34705
director and each such employee having authority to perform such 34706
duty, specifically enjoined by the law resulting from an office, 34707
trust, or station within the meaning of section 2731.01 of the 34708
Revised Code. The persons who are at the time the director of the 34709
office, or its employees, are not liable in their personal 34710
capacities on any guarantees or contracts to make guarantees by 34711
the director. 34712

Sec. 1555.06. Upon application by the director of the Ohio 34713
coal development office ~~with the affirmative vote of a majority of~~ 34714
~~the members of the Ohio air quality development authority,~~ the 34715
controlling board, from appropriations available to the board, may 34716

provide funds for surveys or studies by the office of any proposed 34717
coal research and development project subject to repayment by the 34718
office from funds available to it, within the time fixed by the 34719
board. Funds to be repaid shall be charged by the office to the 34720
appropriate coal research and development project and the amount 34721
thereof shall be a cost of the project. This section does not 34722
abrogate the authority of the controlling board to otherwise 34723
provide funds for use by the office in the exercise of the powers 34724
granted to it by this chapter. 34725

Sec. 1555.08. (A) Subject to the limitations provided in 34726
Section 15 of Article VIII, Ohio Constitution, the commissioners 34727
of the sinking fund, upon certification by the director of the 34728
Ohio coal development office of the amount of moneys or additional 34729
moneys needed in the coal research and development fund for the 34730
purpose of making grants or loans for allowable costs, or needed 34731
for capitalized interest, for funding reserves, and for paying 34732
costs and expenses incurred in connection with the issuance, 34733
carrying, securing, paying, redeeming, or retirement of the 34734
obligations or any obligations refunded thereby, including payment 34735
of costs and expenses relating to letters of credit, lines of 34736
credit, insurance, put agreements, standby purchase agreements, 34737
indexing, marketing, remarketing and administrative arrangements, 34738
interest swap or hedging agreements, and any other credit 34739
enhancement, liquidity, remarketing, renewal, or refunding 34740
arrangements, all of which are authorized by this section, or 34741
providing moneys for loan guarantees, shall issue obligations of 34742
the state under this section in amounts authorized by the general 34743
assembly; provided that such obligations may be issued to the 34744
extent necessary to satisfy the covenants in contracts of 34745
guarantee made under section 1555.05 of the Revised Code to issue 34746
obligations to meet such guarantees, notwithstanding limitations 34747
otherwise applicable to the issuance of obligations under this 34748

section except the one-hundred-million-dollar limitation provided 34749
in Section 15 of Article VIII, Ohio Constitution. The proceeds of 34750
such obligations, except for the portion to be deposited in the 34751
coal research and development bond service fund as may be provided 34752
in the bond proceedings, shall as provided in the bond proceedings 34753
be deposited in the coal research and development fund. The 34754
commissioners of the sinking fund may appoint trustees, paying 34755
agents, and transfer agents and may retain the services of 34756
financial advisors, accounting experts, and attorneys, and retain 34757
or contract for the services of marketing, remarketing, indexing, 34758
and administrative agents, other consultants, and independent 34759
contractors, including printing services, as are necessary in 34760
their judgment to carry out this section. 34761

(B) The full faith and credit of the state of Ohio is hereby 34762
pledged to obligations issued under this section. The right of the 34763
holders and owners to payment of bond service charges is limited 34764
to all or that portion of the moneys pledged thereto pursuant to 34765
the bond proceedings in accordance with this section, and each 34766
such obligation shall bear on its face a statement to that effect. 34767

(C) Obligations shall be authorized by resolution of the 34768
commissioners of the sinking fund on request of the director of 34769
the Ohio coal development office as provided in section 1555.02 of 34770
the Revised Code and the bond proceedings shall provide for the 34771
purpose thereof and the principal amount or amounts, and shall 34772
provide for or authorize the manner or agency for determining the 34773
principal maturity or maturities, not exceeding forty years from 34774
the date of issuance, the interest rate or rates or the maximum 34775
interest rate, the date of the obligations and the dates of 34776
payment of interest thereon, their denomination, and the 34777
establishment within or without the state of a place or places of 34778
payment of bond service charges. Sections 9.98 to 9.983 of the 34779
Revised Code apply to obligations issued under this section. The 34780

purpose of such obligations may be stated in the bond proceedings 34781
in terms describing the general purpose or purposes to be served. 34782
The bond proceedings shall also provide, subject to the provisions 34783
of any other applicable bond proceedings, for the pledge of all, 34784
or such part as the commissioners of the sinking fund may 34785
determine, of the moneys credited to the coal research and 34786
development bond service fund to the payment of bond service 34787
charges, which pledges may be made either prior or subordinate to 34788
other expenses, claims, or payments and may be made to secure the 34789
obligations on a parity with obligations theretofore or thereafter 34790
issued, if and to the extent provided in the bond proceedings. The 34791
moneys so pledged and thereafter received by the state are 34792
immediately subject to the lien of such pledge without any 34793
physical delivery thereof or further act, and the lien of any such 34794
pledges is valid and binding against all parties having claims of 34795
any kind against the state or any governmental agency of the 34796
state, irrespective of whether such parties have notice thereof, 34797
and shall create a perfected security interest for all purposes of 34798
Chapter 1309. of the Revised Code, without the necessity for 34799
separation or delivery of funds or for the filing or recording of 34800
the bond proceedings by which such pledge is created or any 34801
certificate, statement, or other document with respect thereto; 34802
and the pledge of such moneys is effective and the money therefrom 34803
and thereof may be applied to the purposes for which pledged 34804
without necessity for any act of appropriation. Every pledge, and 34805
every covenant and agreement made with respect thereto, made in 34806
the bond proceedings may therein be extended to the benefit of the 34807
owners and holders of obligations authorized by this section, and 34808
to any trustee therefor, for the further security of the payment 34809
of the bond service charges. 34810

(D) The bond proceedings may contain additional provisions as 34811
to: 34812

(1) The redemption of obligations prior to maturity at the option of the commissioners of the sinking fund at such price or prices and under such terms and conditions as are provided in the bond proceedings;	34813 34814 34815 34816
(2) Other terms of the obligations;	34817
(3) Limitations on the issuance of additional obligations;	34818
(4) The terms of any trust agreement or indenture securing the obligations or under which the obligations may be issued;	34819 34820
(5) The deposit, investment, and application of the coal research and development bond service fund, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this chapter, with respect to particular moneys; provided, that any bank or trust company which acts as depository of any moneys in the fund may furnish such indemnifying bonds or may pledge such securities as required by the commissioners of the sinking fund;	34821 34822 34823 34824 34825 34826 34827 34828
(6) Any other provision of the bond proceedings being binding upon the commissioners of the sinking fund, or such other body or person as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;	34829 34830 34831 34832 34833
(7) Any provision which may be made in a trust agreement or indenture;	34834 34835
(8) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security obtained or to be obtained for loans under this chapter.	34836 34837 34838 34839 34840
(E) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The	34841 34842

obligations shall be signed by such members of the commissioners 34843
of the sinking fund as are designated in the resolution 34844
authorizing the obligations or bear the facsimile signatures of 34845
such members. Any coupons attached to the obligations shall bear 34846
the facsimile signature of the treasurer of state. Any obligations 34847
may be executed by the persons who, on the date of execution, are 34848
the commissioners although on the date of such bonds the persons 34849
were not the commissioners. Any coupons may be executed by the 34850
person who, on the date of execution, is the treasurer of state 34851
although on the date of such coupons the person was not the 34852
treasurer of state. In case any officer or commissioner whose 34853
signature or a facsimile of whose signature appears on any such 34854
obligations or any coupons ceases to be such officer or 34855
commissioner before delivery thereof, such signature or facsimile 34856
is nevertheless valid and sufficient for all purposes as if the 34857
individual had remained such officer or commissioner until such 34858
delivery; and in case the seal to be affixed to obligations has 34859
been changed after a facsimile of the seal has been imprinted on 34860
such obligations, such facsimile seal shall continue to be 34861
sufficient as to such obligations and obligations issued in 34862
substitution or exchange therefor. 34863

(F) All obligations except loan guarantees are negotiable 34864
instruments and securities under Chapter 1308. of the Revised 34865
Code, subject to the provisions of the bond proceedings as to 34866
registration. The obligations may be issued in coupon or in 34867
registered form, or both, as the commissioners of the sinking fund 34868
determine. Provision may be made for the registration of any 34869
obligations with coupons attached thereto as to principal alone or 34870
as to both principal and interest, their exchange for obligations 34871
so registered, and for the conversion or reconversion into 34872
obligations with coupons attached thereto of any obligations 34873
registered as to both principal and interest, and for reasonable 34874
charges for such registration, exchange, conversion, and 34875

reconversion.	34876
(G) Obligations may be sold at public sale or at private sale, as determined in the bond proceedings.	34877 34878
(H) Pending preparation of definitive obligations, the commissioners of the sinking fund may issue interim receipts or certificates which shall be exchanged for such definitive obligations.	34879 34880 34881 34882
(I) In the discretion of the commissioners of the sinking fund, obligations may be secured additionally by a trust agreement or indenture between the commissioners and a corporate trustee, which may be any trust company or bank having a place of business within the state. Any such agreement or indenture may contain the resolution authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions that are customary or appropriate in an agreement or indenture of such type, including, but not limited to:	34883 34884 34885 34886 34887 34888 34889 34890 34891
(1) Maintenance of each pledge, trust agreement, indenture, or other instrument comprising part of the bond proceedings until the state has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;	34892 34893 34894 34895
(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the commissioners of the sinking fund made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;	34896 34897 34898 34899 34900 34901 34902
(3) The rights and remedies of the holders of obligations and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations;	34903 34904 34905 34906

(4) The replacement of any obligations that become mutilated 34907
or are destroyed, lost, or stolen; 34908

(5) Such other provisions as the trustee and the 34909
commissioners of the sinking fund agree upon, including 34910
limitations, conditions, or qualifications relating to any of the 34911
foregoing. 34912

(J) Any holder of obligations or a trustee under the bond 34913
proceedings, except to the extent that the holder's rights are 34914
restricted by the bond proceedings, may by any suitable form of 34915
legal proceedings protect and enforce any rights under the laws of 34916
this state or granted by such bond proceedings. Such rights 34917
include the right to compel the performance of all duties of the 34918
commissioners of the sinking fund, the ~~Ohio air quality~~ department 34919
of development authority, or the Ohio coal development office 34920
required by this chapter and Chapter 1551. of the Revised Code or 34921
the bond proceedings; to enjoin unlawful activities; and in the 34922
event of default with respect to the payment of any bond service 34923
charges on any obligations or in the performance of any covenant 34924
or agreement on the part of the commissioners, the ~~authority~~ 34925
department, or the office in the bond proceedings, to apply to a 34926
court having jurisdiction of the cause to appoint a receiver to 34927
receive and administer the moneys pledged, other than those in the 34928
custody of the treasurer of state, that are pledged to the payment 34929
of the bond service charges on such obligations or that are the 34930
subject of the covenant or agreement, with full power to pay, and 34931
to provide for payment of bond service charges on, such 34932
obligations, and with such powers, subject to the direction of the 34933
court, as are accorded receivers in general equity cases, 34934
excluding any power to pledge additional revenues or receipts or 34935
other income or moneys of the commissioners of the sinking fund or 34936
the state or governmental agencies of the state to the payment of 34937
such principal and interest and excluding the power to take 34938

possession of, mortgage, or cause the sale or otherwise dispose of 34939
any project. 34940

Each duty of the commissioners of the sinking fund and their 34941
employees, and of each governmental agency and its officers, 34942
members, or employees, undertaken pursuant to the bond proceedings 34943
or any grant, loan, or loan guarantee agreement made under 34944
authority of this chapter, and in every agreement by or with the 34945
commissioners, is hereby established as a duty of the 34946
commissioners, and of each such officer, member, or employee 34947
having authority to perform such duty, specifically enjoined by 34948
the law resulting from an office, trust, or station within the 34949
meaning of section 2731.01 of the Revised Code. 34950

The persons who are at the time the commissioners of the 34951
sinking fund, or their employees, are not liable in their personal 34952
capacities on any obligations issued by the commissioners or any 34953
agreements of or with the commissioners. 34954

(K) Obligations issued under this section are lawful 34955
investments for banks, societies for savings, savings and loan 34956
associations, deposit guarantee associations, trust companies, 34957
trustees, fiduciaries, insurance companies, including domestic for 34958
life and domestic not for life, trustees or other officers having 34959
charge of sinking and bond retirement or other special funds of 34960
political subdivisions and taxing districts of this state, the 34961
commissioners of the sinking fund of the state, the administrator 34962
of workers' compensation, the state teachers retirement system, 34963
the public employees retirement system, the school employees 34964
retirement system, and the Ohio police and fire pension fund, 34965
notwithstanding any other provisions of the Revised Code or rules 34966
adopted pursuant thereto by any governmental agency of the state 34967
with respect to investments by them, and are also acceptable as 34968
security for the deposit of public moneys. 34969

(L) If the law or the instrument creating a trust pursuant to 34970

division (I) of this section expressly permits investment in 34971
direct obligations of the United States or an agency of the United 34972
States, unless expressly prohibited by the instrument, such moneys 34973
also may be invested in no-front-end-load money market mutual 34974
funds consisting exclusively of obligations of the United States 34975
or an agency of the United States and in repurchase agreements, 34976
including those issued by the fiduciary itself, secured by 34977
obligations of the United States or an agency of the United 34978
States; and in collective investment funds established in 34979
accordance with section 1111.14 of the Revised Code and consisting 34980
exclusively of any such securities, notwithstanding division 34981
(A)(1)(c) of that section. The income from such investments shall 34982
be credited to such funds as the commissioners of the sinking fund 34983
determine, and such investments may be sold at such times as the 34984
commissioners determine or authorize. 34985

(M) Provision may be made in the applicable bond proceedings 34986
for the establishment of separate accounts in the bond service 34987
fund and for the application of such accounts only to the 34988
specified bond service charges on obligations pertinent to such 34989
accounts and bond service fund and for other accounts therein 34990
within the general purposes of such fund. Moneys to the credit of 34991
the bond service fund shall be disbursed on the order of the 34992
treasurer of state; provided, that no such order is required for 34993
the payment from the bond service fund when due of bond service 34994
charges on obligations. 34995

(N) The commissioners of the sinking fund may pledge all, or 34996
such portion as they determine, of the receipts of the bond 34997
service fund to the payment of bond service charges on obligations 34998
issued under this section, and for the establishment and 34999
maintenance of any reserves, as provided in the bond proceedings, 35000
and make other provisions therein with respect to pledged receipts 35001
as authorized by this chapter, which provisions control 35002

notwithstanding any other provisions of law pertaining thereto. 35003

(O) The commissioners of the sinking fund may covenant in the 35004
bond proceedings, and any such covenants control notwithstanding 35005
any other provision of law, that the state and applicable officers 35006
and governmental agencies of the state, including the general 35007
assembly, so long as any obligations are outstanding, shall: 35008

(1) Maintain statutory authority for and cause to be levied 35009
and collected taxes so that the pledged receipts are sufficient in 35010
amount to meet bond service charges, and the establishment and 35011
maintenance of any reserves and other requirements provided for in 35012
the bond proceedings, and, as necessary, to meet covenants 35013
contained in any loan guarantees made under this chapter; 35014

(2) Take or permit no action, by statute or otherwise, that 35015
would impair the exemption from federal income taxation of the 35016
interest on the obligations. 35017

(P) All moneys received by or on account of the state and 35018
required by the applicable bond proceedings, consistent with this 35019
section, to be deposited, transferred, or credited to the coal 35020
research and development bond service fund, and all other moneys 35021
transferred or allocated to or received for the purposes of the 35022
fund, shall be credited to such fund and to any separate accounts 35023
therein, subject to applicable provisions of the bond proceedings, 35024
but without necessity for any act of appropriation. During the 35025
period beginning with the date of the first issuance of 35026
obligations and continuing during such time as any such 35027
obligations are outstanding, and so long as moneys in the bond 35028
service fund are insufficient to pay all bond service charges on 35029
such obligations becoming due in each year, a sufficient amount of 35030
moneys of the state are committed and shall be paid to the bond 35031
service fund in each year for the purpose of paying the bond 35032
service charges becoming due in that year without necessity for 35033
further act of appropriation for such purpose. The bond service 35034

fund is a trust fund and is hereby pledged to the payment of bond 35035
service charges to the extent provided in the applicable bond 35036
proceedings, and payment thereof from such fund shall be made or 35037
provided for by the treasurer of state in accordance with such 35038
bond proceedings without necessity for any act of appropriation. 35039
All investment earnings of the fund shall be credited to the fund. 35040

(Q) For purposes of establishing the limitations contained in 35041
Section 15 of Article VIII, Ohio Constitution, the "principal 35042
amount" refers to the aggregate of the offering price of the bonds 35043
or notes. "Principal amount" does not refer to the aggregate value 35044
at maturity or redemption of the bonds or notes. 35045

(R) This section applies only with respect to obligations 35046
issued and delivered prior to September 30, 2000. 35047

Sec. 1555.17. All final actions of the director of the Ohio 35048
coal development office shall be journalized and such journal 35049
shall be open to inspection of the public at all reasonable times. 35050
Any materials or data, to the extent that they consist of trade 35051
secrets, as defined in section 1333.61 of the Revised Code, or 35052
other proprietary information, that are submitted or made 35053
available to, or received by, the ~~Ohio air quality department of~~ 35054
development ~~authority~~ or the director of the Ohio coal development 35055
office, in connection with agreements for assistance entered into 35056
under this chapter or Chapter 1551. of the Revised Code, or any 35057
information taken from those materials or data, are not public 35058
records for the purposes of section 149.43 of the Revised Code. 35059

Sec. 1561.06. The chief of the division of mineral resources 35060
management shall designate the townships in which mineable or 35061
quarryable coal or other mineral is or may be mined or quarried, 35062
which townships shall be considered coal or mineral bearing 35063
townships. The chief shall divide the coal or other mineral 35064

bearing townships into such districts as the chief deems best for 35065
inspection purposes, and the chief may change such districts 35066
whenever, in the chief's judgment, the best interests of the 35067
service require. 35068

The chief shall designate as provided in this section as coal 35069
or mineral bearing townships those townships in which coal is 35070
being mined or in which coal is found in such thickness as to make 35071
the mining of ~~such~~ the coal or mineral probable at some future 35072
time, and shall designate ~~such~~ the township as a unit. As used in 35073
this chapter and Chapters 1563., 1565., and 1567. of the Revised 35074
Code, "coal or mineral bearing township" means a township that has 35075
been so designated by the chief under this section. 35076

The chief shall also designate the townships in which coal is 35077
being mined or in which coal is found in such thickness as to make 35078
the mining of ~~such~~ the coal probable at some future time as "coal 35079
bearing townships" as ~~such~~ that term is used in Chapter 1509. of 35080
the Revised Code. The chief shall certify to the chief of the 35081
division of oil and gas resources management the townships that 35082
are designated as coal bearing townships. 35083

Sec. 1561.12. An applicant for any examination or certificate 35084
under this section shall, before being examined, register the 35085
applicant's name with the chief of the division of mineral 35086
resources management and file with the chief an affidavit as to 35087
all matters of fact establishing the applicant's right to receive 35088
the examination, a certificate of good character and temperate 35089
habits signed by at least three reputable citizens of the 35090
community in which the applicant resides, and a certificate from a 35091
reputable and disinterested physician as to the physical condition 35092
of ~~such~~ the applicant showing that the applicant is physically 35093
capable of performing the duties of the office or position. 35094
35095

Each applicant for examination for any of the following 35096
positions shall present evidence satisfactory to the chief that 35097
the applicant has been a resident and citizen of this state for 35098
two years next preceding the date of application: 35099

(A) An applicant for the position of deputy mine inspector of 35100
underground mines shall have had actual practical experience of 35101
not less than six years, at least two of which shall have been in 35102
the underground workings of mines in this state. In the case of an 35103
applicant who would inspect underground coal mines, the two years 35104
shall consist of actual practical experience in underground coal 35105
mines. In the case of an applicant who would inspect noncoal 35106
mines, the two years shall consist of actual practical experience 35107
in noncoal mines. In lieu of two years of the actual practical 35108
experience required, the chief may accept as the equivalent 35109
thereof a certificate evidencing graduation from an accredited 35110
school of mines or mining, after a four-year course of study, but 35111
such credit shall not apply as to the two years' actual practical 35112
experience required in the mines in this state. 35113

The applicant shall pass an examination as to the applicant's 35114
practical and technological knowledge of mine surveying, mining 35115
machinery, and appliances; the proper development and operation of 35116
mines; the best methods of working and ventilating mines; the 35117
nature, properties, and powers of noxious, poisonous, and 35118
explosive gases, particularly methane; the best means and methods 35119
of detecting, preventing, and removing the accumulation of such 35120
gases; the use and operation of gas detecting devices and 35121
appliances; first aid to the injured; and the uses and dangers of 35122
electricity as applied and used in, at, and around mines. ~~Such~~ The 35123
applicant shall also hold a certificate for foreperson of gaseous 35124
mines issued by the chief. 35125

(B) An applicant for the position of deputy mine inspector of 35126
surface mines shall have had actual practical mining experience of 35127

not less than six years, at least two of which shall have been in 35128
surface mines in this state. In lieu of two years of the actual 35129
practical experience required, the chief may accept as the 35130
equivalent thereof a certificate evidencing graduation from an 35131
accredited school of mines or mining, after a four-year course of 35132
study, but that credit shall not apply as to the two years' actual 35133
practical experience required in the mines in this state. The 35134
applicant shall pass an examination as to the applicant's 35135
practical and technological knowledge of surface mine surveying, 35136
machinery, and appliances; the proper development and operations 35137
of surface mines; first aid to the injured; and the use and 35138
dangers of explosives and electricity as applied and used in, at, 35139
and around surface mines. The applicant shall also hold a surface 35140
mine foreperson certificate issued by the chief. 35141

(C) An applicant for the position of electrical inspector 35142
shall have had at least five years' practical experience in the 35143
installation and maintenance of electrical circuits and equipment 35144
in mines, and the applicant shall be thoroughly familiar with the 35145
principles underlying the safety features of permissible and 35146
approved equipment as authorized and used in mines. 35147

The applicant shall be required to pass the examination 35148
required for deputy mine inspectors and an examination testing and 35149
determining the applicant's qualification and ability to 35150
competently inspect and administer the mining law that relates to 35151
electricity used in and around mines and mining in this state. 35152

(D) An applicant for the position of superintendent or 35153
assistant superintendent of rescue stations shall possess the same 35154
qualifications as those required for a deputy mine inspector. In 35155
addition, the applicant shall present evidence satisfactory to the 35156
chief that the applicant is sufficiently qualified and trained to 35157
organize, supervise, and conduct group training classes in first 35158
aid, safety, and rescue work. 35159

The applicant shall pass the examination required for deputy mine inspectors and shall be tested as to the applicant's practical and technological experience and training in first aid, safety, and mine rescue work.

(E) An applicant for the position of mine chemist shall have such educational training as is represented by the degree MS in chemistry from a university of recognized standing, and at least five years of actual practical experience in research work in chemistry or as an assistant chemist. The chief may provide that an equivalent combination of education and experience together with a wide knowledge of the methods of and skill in chemical analysis and research may be accepted in lieu of the above qualifications. It is preferred that ~~such~~ the chemist shall have had actual experience in mineralogy and metallurgy.

~~(F) An applicant for the position of gas storage well inspector shall possess the same qualifications as an applicant for the position of deputy mine inspector and shall have a practical knowledge and experience of and in the operation, location, drilling, maintenance, and abandonment of oil and gas wells, especially in coal or mineral bearing townships, and shall have a thorough knowledge of the latest and best method of plugging and sealing abandoned oil and gas wells.~~

~~Such applicant for gas storage well inspector shall pass an examination conducted by the chief to determine the applicant's fitness to act as a gas storage well inspector before being eligible for appointment.~~

Sec. 1561.13. The chief of the division of mineral resources management shall conduct examinations for offices and positions in the division of mineral resources management, and for mine forepersons, mine electricians, shot firers, surface mine blasters, and fire bosses, as follows:

(A) Division of mineral resources management:	35191
(1) Deputy mine inspectors of underground mines;	35192
(2) Deputy mine inspectors of surface mines;	35193
(3) Electrical inspectors;	35194
(4) Superintendent of rescue stations;	35195
(5) Assistant superintendents of rescue stations;	35196
(6) Mine chemists at a division laboratory if the chief chooses to operate a laboratory+	35197 35198
(7) Gas storage well inspector.	35199
(B) Mine forepersons:	35200
(1) Mine foreperson of gaseous mines;	35201
(2) Mine foreperson of nongaseous mines;	35202
(3) Mine foreperson of surface mines.	35203
(C) Forepersons:	35204
(1) Foreperson of gaseous mines;	35205
(2) Foreperson of nongaseous mines;	35206
(3) Foreperson of surface maintenance facilities at underground or surface mines;	35207 35208
(4) Foreperson of surface mines.	35209
(D) Fire bosses.	35210
(E) Mine electricians.	35211
(F) Surface mine blasters.	35212
(G) Shot firers.	35213
The chief annually shall provide for the examination of	35214
candidates for appointment or promotion as deputy mine inspectors	35215
and such other positions and offices set forth in division (A) of	35216
this section as are necessary. Special examinations may be held	35217

whenever it becomes necessary to make appointments to any of those 35218
positions. 35219

The chief shall provide for the examination of persons 35220
seeking certificates of competency as mine forepersons, 35221
forepersons, mine electricians, shot firers, surface mine 35222
blasters, and fire bosses quarterly or more often as required, at 35223
such times and places within the state as shall, in the judgment 35224
of the chief, afford the best facilities to the greatest number of 35225
applicants. Public notice shall be given through the press or 35226
otherwise, not less than ten days in advance, announcing the time 35227
and place at which examinations under this section are to be held. 35228

The examinations provided for in this section shall be 35229
conducted under rules adopted under section 1561.05 of the Revised 35230
Code and conditions prescribed by the chief. Any rules that relate 35231
to particular candidates shall, upon application of any candidate, 35232
be furnished to the candidate by the chief; they shall also be of 35233
uniform application to all candidates in the several groups. 35234

Sec. 1561.35. If the deputy mine inspector finds that any 35235
matter, thing, or practice connected with any mine and not 35236
prohibited specifically by law is dangerous or hazardous, or that 35237
from a rigid enforcement of this chapter and Chapters ~~1509.7~~ 35238
1563., 1565., and 1567. and applicable provisions of Chapter 1509. 35239
of the Revised Code, the matter, thing, or practice would become 35240
dangerous and hazardous so as to tend to the bodily injury of any 35241
person, the deputy mine inspector forthwith shall give notice in 35242
writing to the owner, lessee, or agent of the mine of the 35243
particulars in which the deputy mine inspector considers the mine 35244
or any matter, thing, or practice connected therewith is dangerous 35245
or hazardous and recommend changes that the conditions require, 35246
and forthwith shall mail a copy of the report and the deputy mine 35247
inspector's recommendations to the chief of the division of 35248

mineral resources management. Upon receipt of the report and 35249
recommendations, the chief forthwith shall make a finding thereon 35250
and mail a copy to the owner, operator, lessee, or agent of the 35251
mine, and to the deputy mine inspector; a copy of the finding of 35252
the chief shall be posted upon the bulletin board of the mine. 35253
Where the miners have a mine safety committee, one additional copy 35254
shall be posted on the bulletin board for the use and possession 35255
of the committee. 35256

The owner, operator, lessee, or agent of the mine, or the 35257
authorized representative of the workers of the mine, within ten 35258
days may appeal to the reclamation commission for a review and 35259
redetermination of the finding of the chief in the matter in 35260
accordance with section 1513.13 of the Revised Code, 35261
notwithstanding division (A)(1) of that section, which provides 35262
for appeals within thirty days. A copy of the decision of the 35263
commission shall be mailed as required by this section for the 35264
mailing of the finding by the chief on the deputy mine inspector's 35265
report. 35266

Sec. 1561.49. The chief of the division of mineral resources 35267
management may designate not more than thirty deputy mine 35268
inspectors, at least one of whom shall be classified and appointed 35269
as electrical inspector provided for in division (B) of section 35270
1561.12 of the Revised Code; ~~one gas storage well inspector;~~ one 35271
superintendent of rescue stations; three assistant superintendents 35272
of rescue stations; three chemists; and such clerks, 35273
stenographers, and other employees as are necessary for the 35274
administration of this chapter and Chapters 1563., 1565., and 35275
1567.7 and applicable provisions of Chapter 1509. of the Revised 35276
Code. 35277

Such officers, employees, and personnel shall be appointed 35278
and employed under such conditions and qualifications as set forth 35279

in ~~such~~ those chapters. 35280

Sec. 1563.06. For the purpose of making the examinations 35281
provided for in this chapter and Chapters ~~1509.7~~, 1561., 1565., and 35282
1567. and applicable provisions of Chapter 1509. of the Revised 35283
Code, the chief of the division of mineral resources management, 35284
and each deputy mine inspector, may enter any mine at a reasonable 35285
time, by day or by night, but in such manner as will not 35286
necessarily impede the working of the mine, and the owner, lessee, 35287
or agent thereof shall furnish the means necessary for such entry 35288
and examination. 35289

Sec. 1563.24. In all mines generating methane in such 35290
quantities as to be considered a gaseous mine under section 35291
1563.02 of the Revised Code, the mine foreperson of such a mine 35292
shall: 35293

(A) Employ a sufficient number of competent persons holding 35294
foreperson of gaseous mines or fire boss certificates, except as 35295
provided in section 1565.02 of the Revised Code, to examine the 35296
working places whether they are in actual course of working or 35297
not, and the traveling ways and entrances to old workings with 35298
approved flame safety lamps, all of which shall be done not more 35299
than three hours prior to the time fixed for the employees to 35300
enter ~~such~~ the mine; 35301

(B) Have all old parts of the mine not in the actual course 35302
of working, but that are open and safe to travel, examined not 35303
less than once each three days by a competent person who holds a 35304
foreperson of gaseous mines or a fire boss certificate; 35305

(C) See that all parts of the mine not sealed off as provided 35306
in section 1563.41 of the Revised Code are kept free from standing 35307
gas, and upon the discovery of any standing gas, see that the 35308
entrance to the place where the gas is so discovered is fenced off 35309

and marked with a sign upon which is written the word "danger," 35310
and ~~such~~ the sign shall so remain until ~~such~~ the gas has been 35311
removed; 35312

(D) Have the mine examined on all idle days, holidays, and 35313
Sundays on which employees are required to work therein; 35314

(E) If more than three hours elapse between shifts, have the 35315
places in which the succeeding shift works examined by a competent 35316
person who holds a foreperson of gaseous mines or fire boss 35317
certificate; 35318

(F) See that this chapter and Chapters ~~1509.,~~ 1561., 1565., 35319
and 1567. and applicable provisions of Chapter 1509. of the 35320
Revised Code, with regard to examination of working places, 35321
removal of standing gas, and fencing off of dangerous places, are 35322
complied with before the employees employed by the mine foreperson 35323
for this particular work are permitted to do any other work; 35324

(G) Have a report made on the blackboard provided for in 35325
section 1567.06 of the Revised Code, which report shall show the 35326
condition of the mine as to the presence of gas and the place 35327
where such gas is present, if there is any, before the mine 35328
foreperson permits the employees to enter the mine; 35329

(H) Have reports of the duties and activities enumerated in 35330
this section signed by the person who makes ~~such~~ the examination. 35331
The reports so signed shall be sent once each week to the deputy 35332
mine inspector of the district in which the mine is located on 35333
blanks furnished by the division of mineral resources management 35334
for that purpose, and a copy of ~~such~~ the report shall be kept on 35335
file at the mine. 35336

(I) Have the fire boss record a report after each 35337
examination, in ink, in the fire boss' record book, which book 35338
shall show the time taken in making the examination and also 35339
clearly state the nature and location of any danger that was 35340

discovered in any room, entry, or other place in the mine, and, if 35341
any danger was discovered, the fire boss shall immediately report 35342
the location thereof to the mine foreperson. 35343

No person shall enter the mine until the fire bosses return 35344
to the mine office on the surface, or to a station located in the 35345
mine, where a record book as provided for in this section shall be 35346
kept and signed by the person making the examination, and report 35347
to the oncoming mine foreperson that the mine is in safe condition 35348
for the employees to enter. When a station is located in any mine, 35349
the fire bosses shall sign also the report entered in the record 35350
book in the mine office on the surface. The record books of the 35351
fire bosses shall at all times during working hours be accessible 35352
to the deputy mine inspector and the employees of the mine. 35353

In every mine generating explosive gas in quantities 35354
sufficient to be detected by an approved flame safety lamp, when 35355
the working portions are one mile or more from the entrance to the 35356
mine or from the bottom of the shaft or slope, a permanent station 35357
of suitable dimensions may be erected by the mine foreperson, 35358
provided that the location is approved by the deputy mine 35359
inspector, for the use of the fire bosses, and a fireproof vault 35360
of ample strength shall be erected in ~~such~~ the station of brick, 35361
stone, or concrete, in which the temporary record book of the fire 35362
bosses, as described in this section, shall be kept. No person, 35363
except a mine foreperson of gaseous mines, and in case of 35364
necessity such other persons as are designated by the mine 35365
foreperson, shall pass beyond the permanent station and danger 35366
signal until the mine has been examined by a fire boss, and the 35367
mine or certain portions thereof reported by the fire boss to be 35368
safe. 35369

This section does not prevent a mine foreperson or foreperson 35370
of gaseous mines from being qualified to act and acting in the 35371
capacity of fire boss. The record book shall be supplied by the 35372

division and purchased by the operator. 35373

No mine foreperson or person delegated by the mine 35374
foreperson, or any operator of a mine, or other person, shall 35375
refuse or neglect to comply with this section. 35376

Sec. 1563.28. The ~~man~~ worker performing the duties of fire 35377
boss shall, in an approved manner, use a flame safety lamp when 35378
making examinations under this chapter and Chapters ~~1509.7~~, 1561., 35379
1565., and 1567. and applicable provisions of Chapter 1509. of the 35380
Revised Code. As evidence of such examinations ~~he~~ the fire boss 35381
shall mark with chalk, upon the face of the coal or in some other 35382
conspicuous place, ~~his~~ the fire boss's initials and the date of 35383
the month that ~~such~~ the examination is made, and shall fully 35384
comply with all the law relating to gas and ~~his~~ the fire boss's 35385
duties as to making such examinations. After making ~~his~~ such an 35386
examination and report, prior to employees entering the mine for 35387
the oncoming shift, ~~he~~ the fire boss who made the examination or 35388
another fire boss shall return to the working places with the 35389
employees at the starting time of the oncoming shift. 35390

No person shall refuse or neglect to comply with this 35391
section. 35392

Sec. 1571.01. As used in this chapter, unless other meaning 35393
is clearly indicated in the context: 35394

(A) "Gas storage reservoir" or "storage reservoir" or 35395
"reservoir" means a continuous area of a subterranean porous sand 35396
or rock stratum or strata, any part of which or of the protective 35397
area of which, is within a coal bearing township, into which gas 35398
is or may be injected for the purpose of storing it therein and 35399
removing it therefrom, or for the purpose of testing whether such 35400
stratum is suitable for such storage purposes. 35401

(B) "Gas" means any natural, manufactured, or by-product gas 35402

or any mixture thereof. 35403

(C) "Reservoir operator" or "operator," when used in 35404
referring to the operator of a gas storage reservoir, means a 35405
person who is engaged in the work of preparing to inject, or who 35406
injects gas into, or who stores gas in, or who removes gas from, a 35407
gas storage reservoir, and who owns the right to do so. 35408

(D)(1) "Boundary," when used in referring to the boundary of 35409
a gas storage reservoir, means the boundary of such reservoir as 35410
shown on the map or maps thereof on file in the division of 35411
~~mineral oil and gas~~ resources management as required by this 35412
chapter. 35413

(2) "Boundary," when used in referring to the boundary of a 35414
reservoir protective area, means the boundary of such reservoir 35415
protective area as shown on the map or maps thereof on file in the 35416
division as required by this chapter. 35417

(E) "Reservoir protective area" or "reservoir's protective 35418
area" means the area of land outside the boundary of a gas storage 35419
reservoir shown as such on the map or maps thereof on file in the 35420
division as required by this chapter. The area of land shown on 35421
such map or maps as such reservoir protective area shall be 35422
outside the boundary of such reservoir, and shall encircle such 35423
reservoir and touch all parts of the boundary of such reservoir, 35424
and no part of the outside boundary of such protective area shall 35425
be less than two thousand nor more than five thousand linear feet 35426
distant from the boundary of such reservoir. 35427

(F) "Coal bearing township" means a township designated as a 35428
coal bearing township by the chief of the division of mineral 35429
resources management as required by section 1561.06 of the Revised 35430
Code. 35431

(G) "Coal mine" means the underground excavations of a mine 35432
that are being used or are usable or are being developed for use 35433

in connection with the extraction of coal from its natural deposit 35434
in the earth. "Underground excavations," when used in referring to 35435
the underground excavations of a coal mine, includes the abandoned 35436
underground excavations of such mine. It also includes the 35437
underground excavations of an abandoned coal mine if such 35438
abandoned mine is connected with underground excavations of a coal 35439
mine. "Coal mine" does not mean or include: 35440

(1) A mine in which coal is extracted from its natural 35441
deposit in the earth by strip or open pit mining methods or by 35442
other methods by which individuals are not required to go 35443
underground in connection with the extraction of coal from its 35444
natural deposit in the earth; 35445

(2) A mine in which not more than fourteen individuals are 35446
regularly employed underground. 35447

(H) "Operator," when used in referring to the operator of a 35448
coal mine, means a person who engages in the work of developing 35449
such mine for use in extracting coal from its natural deposit in 35450
the earth, or who so uses such mine, and who owns the right to do 35451
so. 35452

(I) "Boundary," when used in referring to the boundary of a 35453
coal mine, means the boundary of the underground excavations of 35454
such mine as shown on the maps of such mine on file in the 35455
division of mineral resources management as required by sections 35456
1563.03 to 1563.05 and 1571.03 of the Revised Code. 35457

(J) "Mine protective area" or "mine's protective area" means 35458
the area of land that the operator of a coal mine designates and 35459
shows as such on the map or maps of such coal mine filed with the 35460
division as required by sections 1563.03 to 1563.05 and 1571.03 of 35461
the Revised Code. Such area of land shall be outside of the 35462
boundary of such coal mine, but some part of the boundary of such 35463
area of land shall abut upon a part of the boundary of such coal 35464

mine. Such area of land shall be comprised of such tracts of land 35465
in which such coal mine operator owns the right to extract coal 35466
therefrom by underground mining methods and in which underground 35467
excavations of such coal mine are likely to be made within the 35468
ensuing year for use in connection with the extraction of coal 35469
therefrom. 35470

(K) "Pillar" means a solid block of coal or other material 35471
left unmined to support the overlying strata in a coal mine, or to 35472
protect a well. 35473

(L) "Retreat mining" means the removal of pillars and ribs 35474
and stumps and other coal remaining in a section of a coal mine 35475
after the development mining has been completed in such section. 35476

(M) "Linear feet," when used to indicate distance between two 35477
points that are not in the same plane, means the length in feet of 35478
the shortest horizontal line that connects two lines projected 35479
vertically upward or downward from the two points. 35480

(N) "Map" means a graphic representation of the location and 35481
size of the existing or proposed items it is made to represent, 35482
accurately drawn according to a given scale. 35483

(O) "Well" means any hole, drilled or bored, or being drilled 35484
or bored, into the earth, whether for the purpose of, or whether 35485
used for: 35486

(1) Producing or extracting any gas or liquid mineral, or 35487
natural or artificial brines, or oil field waters; 35488

(2) Injecting gas into or removing gas from an underground 35489
gas storage reservoir; 35490

(3) Introducing water or other liquid pressure into an oil 35491
bearing sand to recover oil contained in such sand, provided that 35492
"well" does not mean a hole drilled or bored, or being drilled or 35493
bored, into the earth, whether for the purpose of, or whether used 35494

for, producing or extracting potable water to be used as such. 35495

(P) "Testing" means injecting gas into, or storing gas in or 35496
removing gas from, a gas storage reservoir for the sole purpose of 35497
determining whether such reservoir is suitable for use as a gas 35498
storage reservoir. 35499

(Q) "Casing" means a string or strings of pipe commonly 35500
placed in a well. 35501

(R) "Inactivate" means to shut off temporarily all flow of 35502
gas from a well at a point below the horizon of the coal mine that 35503
might be affected by such flow of gas, by means of a plug or other 35504
suitable device or by injecting water, bentonite, or some other 35505
equally nonporous material into the well, or any other method 35506
approved by ~~the mineral~~ an oil and gas resources inspector. 35507

(S) "Gas storage well inspector" means the gas storage well 35508
inspector in the division. 35509

(T) The verb "open" or the noun "opening," when used in 35510
clauses relating to the time when a coal mine operator intends to 35511
open a new coal mine, or the time when a new coal mine is opened, 35512
or the time of the opening of a new coal mine, or when used in 35513
other similar clauses to convey like meanings, means that time and 35514
condition in the initial development of a new coal mine when the 35515
second opening required by section 1563.14 of the Revised Code is 35516
completed in such mine. 35517

Sec. 1571.012. An applicant for the position of gas storage 35518
well inspector shall register the applicant's name with the chief 35519
of the division of oil and gas resources management and file with 35520
the chief an affidavit as to all matters of fact establishing the 35521
applicant's right to take the examination for that position, a 35522
certificate of good character and temperate habits signed by at 35523
least three reputable citizens of the community in which the 35524

applicant resides, and a certificate from a reputable and 35525
disinterested physician as to the physical condition of the 35526
applicant showing that the applicant is physically capable of 35527
performing the duties of the position. The applicant also shall 35528
present evidence satisfactory to the chief that the applicant has 35529
been a resident and citizen of this state for at least two years 35530
next preceding the date of application. 35531

An applicant shall possess the same qualifications as an 35532
applicant for the position of deputy mine inspector established in 35533
section 1561.12 of the Revised Code. In addition, the applicant 35534
shall have practical knowledge and experience of and in the 35535
operation, location, drilling, maintenance, and abandonment of oil 35536
and gas wells, especially in coal or mineral bearing townships, 35537
and shall have a thorough knowledge of the latest and best method 35538
of plugging and sealing abandoned oil and gas wells. 35539

An applicant for gas storage well inspector shall pass an 35540
examination conducted by the chief to determine the applicant's 35541
fitness to act as gas storage well inspector before being eligible 35542
for appointment. 35543

Sec. 1571.013. (A) The chief of the division of oil and gas 35544
resources management shall conduct examinations for the position 35545
of gas storage well inspector. The chief annually shall provide 35546
for the examination of candidates for appointment as gas storage 35547
well inspector. Special examinations may be held whenever it 35548
becomes necessary to make an appointment of gas storage well 35549
inspector. 35550

(B) Public notice shall be given through the press or 35551
otherwise, not less than ten days in advance, announcing the time 35552
and place at which examinations under this section are to be held. 35553

(C) The examinations provided for in this section shall be 35554

conducted in accordance with rules adopted under section 1571.014 35555
of the Revised Code and conditions prescribed by the chief. 35556

Sec. 1571.014. The chief of the division of oil and gas 35557
resources management shall appoint a gas storage well inspector 35558
from the eligible list of candidates for that position that is 35559
prepared under section 124.24 of the Revised Code. If a vacancy 35560
occurs in the position of gas storage well inspector, the chief 35561
shall fill the position by selecting a person from that list. 35562

The chief shall adopt rules in accordance with Chapter 119. 35563
of the Revised Code that are necessary for conducting examinations 35564
for the position of gas storage well inspector. 35565

Sec. 1571.02. (A) Any reservoir operator who, on September 9, 35566
1957, is injecting gas into, storing gas in, or removing gas from 35567
a reservoir shall within sixty days after such date file with the 35568
division of ~~mineral~~ oil and gas resources management a map thereof 35569
as described in division (C) of this section, provided that if a 35570
reservoir operator is, on September 9, 1957, injecting gas into or 35571
storing gas in a reservoir solely for testing, the reservoir 35572
operator shall at once file such map with the division. 35573

(B) If the injection of gas into or storage of gas in a gas 35574
storage reservoir is begun after September 9, 1957, the operator 35575
of such reservoir shall file with the division a map thereof as 35576
described in division (C) of this section, on the same day and not 35577
less than three months prior to beginning such injection or 35578
storage. 35579

(C) Each map filed with the division pursuant to this section 35580
shall be prepared by a registered surveyor, registered engineer, 35581
or competent geologist. It shall show both of the following: 35582

(1) The location of the boundary of such reservoir and the 35583
boundary of such reservoir's protective area, and the known fixed 35584

monuments, corner stones, or other permanent markers in such 35585
boundary lines; 35586

(2) The boundary lines of the counties, townships, and 35587
sections or lots that are within the limits of such map, and the 35588
name of each such county and township and the number of each such 35589
section or lot clearly indicated thereon. The legend of the map 35590
shall indicate the stratum or strata in which the gas storage 35591
reservoir is located. 35592

The location of the boundary of the gas storage reservoir as 35593
shown on the map shall be defined by the location of those wells 35594
around the periphery of such reservoir that had no gas production 35595
when drilled into the storage stratum of such reservoir, provided 35596
that if the operator of such reservoir, upon taking into 35597
consideration the number and nature of such wells, the geological 35598
and production knowledge of the storage stratum, its character, 35599
permeability, and distribution, and operating experience, 35600
determines that the location of the boundary of such reservoir 35601
should be differently defined, the reservoir operator may, on such 35602
map, show the boundary of such reservoir to be located at a 35603
location different than the location defined by the location of 35604
those wells around the periphery of such reservoir that had no gas 35605
production when drilled into the storage stratum. 35606

Whenever the operator of a gas storage reservoir determines 35607
that the location of the boundary of such reservoir as shown on 35608
the most recent map thereof on file in the division pursuant to 35609
this section is incorrect, the reservoir operator shall file with 35610
the division an amended map showing the boundary of such reservoir 35611
to be located at the location that the reservoir operator then 35612
considers to be correct. 35613

(D) Each operator of a gas storage reservoir who files with 35614
the division a map as required by this section shall, at the end 35615
of each six-month period following the date of such filing, file 35616

with the division an amended map showing changes, if any, in the 35617
boundary line of such reservoir or of such reservoir's protective 35618
area that have occurred in the six-month period. Nothing in this 35619
division shall be construed to require such a reservoir operator 35620
to file an amended map at the end of any such six-month period if 35621
no such boundary changes have occurred in such period. 35622

An operator of a gas storage reservoir who is required by 35623
this section to file an amended map with the division shall not be 35624
required to so file such an amended map after such time when the 35625
reservoir operator files with the division a map pertaining to 35626
such reservoir, as provided in section 1571.04 of the Revised 35627
Code. 35628

Sec. 1571.03. (A) Every operator of a coal mine who is 35629
required by sections 1563.03 to 1563.05 of the Revised Code, to 35630
file maps of such mine, shall cause to be shown on each of such 35631
maps, in addition to the boundary lines of each tract under which 35632
excavations are likely to be made during the ensuing year, as 35633
referred to in section 1563.03 of the Revised Code: 35634

(1) The boundary of such coal mine in accordance with the 35635
meaning of the term "boundary" ~~when used in referring to the~~ 35636
~~boundary of a coal mine, and the term "coal mine" as those terms~~ 35637
~~are defined~~ in section 1571.01 of the Revised Code; 35638

(2) The boundary of the mine protective area of such mine. 35639

This division shall not be construed to amend or repeal any 35640
provisions of sections 1563.03 to 1563.05 of the Revised Code, 35641
either by implication or otherwise. 35642

This division is intended only to add to existing statutory 35643
requirements pertaining to the filing of coal mine maps with the 35644
division of mineral resources management, the requirements 35645
established in this division. 35646

(B) Every operator of a coal mine who believes that any part of the boundary of such mine is within two thousand linear feet of a well that is drilled through the horizon of such coal mine and into or through the storage stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, shall at once send notice to that effect by registered mail to the operator of such reservoir, the division of mineral resources management, and ~~to~~ the division of oil and gas resources management.

(C) Every operator of a coal mine who expects that any part of the boundary of such mine will, on a date after September 9, 1957, be extended beyond its location on such date to a point within two thousand linear feet of a well that is drilled through the horizon of such mine and into or through the stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, shall send at least nine months' notice of such date and of the location of such well by registered mail to the operator of such reservoir, the division of mineral resources management, and ~~to~~ the division of oil and gas resources management. If at the end of three years after the date stated in the notice by an operator of a coal mine to an operator of a storage reservoir as the date upon which part of the boundary of such coal mine is expected to be extended to a point within two thousand linear feet of such well, no part of such coal mine is so extended, the operator of such coal mine shall be liable to the operator of such storage reservoir for all expenses incurred by such reservoir operator in doing the plugging or reconditioning of such well as the reservoir operator is required to do in such cases as provided in section 1571.05 of the Revised Code. Such mine operator shall in no event be liable to such reservoir operator:

(1) For expenses of plugging or reconditioning such well

incurred prior to receipt by such reservoir operator from such 35679
mine operator of a notice as provided for in this division; 35680

(2) For any expenses of plugging or reconditioning such well 35681
if any part of the work of plugging or reconditioning was 35682
commenced prior to receipt by such reservoir operator from such 35683
mine operator of a notice as provided for in this division. 35684

(D) If a person intends to open a new coal mine after 35685
September 9, 1957, and if at the time of its opening any part of 35686
the boundary of such mine will be within two thousand linear feet 35687
of a well that is drilled through the horizon of such mine and 35688
into or through the storage stratum or strata of a gas storage 35689
reservoir within the boundary of such reservoir or within its 35690
protective area, such person shall send by registered mail to the 35691
operator of such storage reservoir, the division of mineral 35692
resources management, and ~~to~~ the division of oil and gas resources 35693
management at least nine months' notice of the date upon which the 35694
person intends to open such mine, and of the location of such 35695
well. If at the end of nine months after the date stated in the 35696
notice by an operator of a coal mine to an operator of a storage 35697
reservoir, the division of mineral resources management, and ~~to~~ 35698
the division of oil and gas resources management, as the date upon 35699
which such coal mine operator intends to open such new mine, such 35700
new mine is not opened, the operator of such coal mine shall be 35701
liable to the operator of such storage reservoir for all expenses 35702
incurred by such reservoir operator in doing the plugging or 35703
reconditioning of such well as the reservoir operator is required 35704
to do in such cases as provided in section 1571.05 of the Revised 35705
Code, provided: 35706

(1) That such mine operator may, prior to the end of nine 35707
months after the date stated in such mine operator's notice to 35708
such reservoir operator, the division of mineral resources 35709
management, and the division of oil and gas resources management 35710

as the date upon which the mine operator intended to open such new 35711
mine, notify such reservoir operator, the division of mineral 35712
resources management, and the division of oil and gas resources 35713
management in writing by registered mail, that the opening of such 35714
new mine will be delayed beyond the end of such nine-month period 35715
of time, and that the mine operator requests that a conference be 35716
held as provided in section 1571.10 of the Revised Code for the 35717
purpose of endeavoring to reach an agreement establishing a date 35718
subsequent to the end of such nine-month period of time, on or 35719
before which such mine operator may open such new mine without 35720
being liable to pay such reservoir operator expenses incurred by 35721
such reservoir operator in plugging or reconditioning such well as 35722
in this division provided; 35723

(2) That if such mine operator sends to such reservoir 35724
operator, the division of mineral resources management, and ~~to~~ the 35725
division of oil and gas resources management a notice and request 35726
for a conference as provided in division (D)(1) of this section, 35727
such mine operator shall not be liable to pay such reservoir 35728
operator for expenses incurred by such reservoir operator in 35729
plugging and reconditioning such well, unless such mine operator 35730
fails to open such new mine within the period of time fixed by an 35731
approved agreement reached in such conference, or fixed by an 35732
order by the chief of the division of ~~mineral~~ oil and gas 35733
resources management upon a hearing held in the matter in the 35734
event of failure to reach an approved agreement in the 35735
conference~~r~~. After issuing an order under this division, the chief 35736
shall notify the chief of the division of mineral resources 35737
management and send a copy of the order to the chief. 35738

(3) That such mine operator shall in no event be liable to 35739
such reservoir operator: 35740

(a) For expense of plugging or reconditioning such well 35741
incurred prior to the receipt by such reservoir operator from such 35742

mine operator of the notice of the date upon which such mine 35743
operator intends to open such new mine; 35744

(b) For any expense of plugging or reconditioning such well 35745
if any part of the work of plugging or reconditioning was 35746
commenced prior to receipt by such reservoir operator from such 35747
mine operator of such notice. 35748

Sec. 1571.04. (A) Upon the filing of each map or amended map 35749
with the division of ~~mineral~~ oil and gas resources management by 35750
operators of gas storage reservoirs as required by this chapter, 35751
and each coal mine map with the division of mineral resources 35752
management as required by sections 1563.03 to 1563.05 and division 35753
(A) of section 1571.03 of the Revised Code, the gas storage well 35754
inspector shall cause an examination to be made of all maps on 35755
file in ~~the division~~ those divisions as the gas storage well 35756
inspector may deem necessary to ascertain whether any part of a 35757
reservoir protective area as shown on any such map is within ten 35758
thousand linear feet of any part of the boundary of a coal mine as 35759
shown on any such map. If, upon making that examination, the gas 35760
storage well inspector finds that any part of such a reservoir 35761
protective area is within ten thousand linear feet of any part of 35762
the boundary of such a coal mine, the gas storage well inspector 35763
shall promptly send by registered mail notice to that effect to 35764
the operator of the reservoir and to the operator of the coal 35765
mine. 35766

(B) Within sixty days after receipt by an operator of a gas 35767
storage reservoir of a notice from the gas storage well inspector 35768
under division (A) of this section, such operator shall file on 35769
the same day with both the division ~~a map~~ of mineral resources 35770
management and the division of oil and gas resources management 35771
identical maps prepared by a registered surveyor, registered 35772
engineer, or competent geologist, which shall do all of the 35773

following: 35774

(1) Indicate the stratum or strata in which such gas storage 35775
reservoir is located; 35776

(2) Show the location of the boundary of the reservoir and 35777
the boundary of its protective area, and the known fixed 35778
monuments, corner stones, or other permanent markers in such 35779
boundary lines; 35780

(3) Show the boundary lines of the counties, townships, and 35781
sections or lots that are within the limits of such maps, and the 35782
name of each such county and township and the number of each such 35783
section or lot clearly indicated thereon; 35784

(4) Show the location of all oil or gas wells known to the 35785
operator of such reservoir that have been drilled within the 35786
boundary of the reservoir or within its protective area, and 35787
indicate which of such wells, if any, have been or are to be 35788
plugged or reconditioned for use in the operation of such 35789
reservoir. 35790

The location of the boundary of the gas storage reservoir as 35791
shown on the maps shall be defined by the location of those wells 35792
around the periphery of the reservoir that had no gas production 35793
when drilled into the storage stratum of the reservoir, provided 35794
that, if the operator of the reservoir, upon taking into 35795
consideration the number and nature of such wells, the geological 35796
and production knowledge of the storage stratum, its character, 35797
permeability, and distribution, and operating experience, 35798
determines that the location of the boundary of the reservoir 35799
should be differently defined, the reservoir operator may, on the 35800
maps, show the boundary of the reservoir to be located at a 35801
location different from the location defined by the location of 35802
those wells around the periphery of the reservoir that had no gas 35803
production when drilled into the storage stratum. 35804

(C) Any coal mine operator who receives from the gas storage well inspector a copy of a map as provided by division (E) of this section may request the gas storage well inspector to furnish the coal mine operator with:	35805 35806 35807 35808
(1) The name of the original operator of any well shown on such map;	35809 35810
(2) The date drilling of such well was completed;	35811
(3) The total depth of such well;	35812
(4) The depth at which oil or gas was encountered in such well if it was productive of oil or gas;	35813 35814
(5) The initial rock pressure of such well;	35815
(6) A copy of the log of the driller of such well or other similar data;	35816 35817
(7) The location of such well in respect to the property lines of the tract of land on which it is located;	35818 35819
(8) A statement as to whether the well is inactive or active:	35820
(a) If inactive, the date of plugging and other pertinent data;	35821 35822
(b) If active, whether it is being used for test purposes or storage purposes + ;	35823 35824
(9) A statement of the maximum injection pressure contemplated by the operator of the reservoir shown on such map.	35825 35826
Upon receipt of such a request, the gas storage well inspector shall promptly furnish the coal mine operator the information requested. If the information is not ascertainable from the files in the division <u>of oil and gas resources management</u> , the gas storage well inspector shall request the reservoir operator to furnish the division with such information to the extent that the reservoir operator has knowledge thereof.	35827 35828 35829 35830 35831 35832 35833

Upon receipt of such a request, the reservoir operator shall 35834
promptly furnish such information to the division. Thereupon the 35835
gas storage well inspector shall promptly transmit such 35836
information to the mine operator who requested it. 35837

Whenever the operator of a gas storage reservoir determines 35838
that the location of the boundary of the reservoir as shown on the 35839
most recent map thereof on file in the division pursuant to this 35840
section is incorrect, the reservoir operator shall file with the 35841
division an amended map showing the boundary of the reservoir to 35842
be located at the location that the reservoir operator then 35843
considers to be correct. 35844

(D) Each operator of a gas storage reservoir who files a ~~map~~ 35845
with the division of mineral resources management and the division 35846
of oil and gas resources management maps as required by this 35847
section shall, at the end of each six-month period following the 35848
date of such filing, file with ~~the~~ each division ~~an~~ identical 35849
amended ~~map~~ maps showing changes in the boundary line of the 35850
reservoir or of the reservoir's protective area that have occurred 35851
in the six-month period, and further showing or describing any 35852
other occurrences within that six-month period that cause the most 35853
recent ~~map~~ maps on file and pertaining to the reservoir to no 35854
longer be correct. Nothing in this division shall be construed to 35855
require such a reservoir operator to file an amended map at the 35856
end of any such six-month period if no boundary changes or other 35857
occurrences have occurred in that period. The operator of the 35858
reservoir shall also file with the division of mineral resources 35859
management and the division of oil and gas resources management, 35860
subsequent to the filing of a ~~map~~ maps as provided for in division 35861
(B) of this section, a statement whenever changing the maximum 35862
injection pressure is contemplated, stating for each affected well 35863
within the boundary of the reservoir or its protective area, the 35864
amount of change of injection pressure contemplated. The location 35865

or drilling of new wells or the abandonment or reconditioning of 35866
wells shall not be considered to be occurrences requiring the 35867
filing of an amended map or statement. 35868

(E) Promptly upon the filing with the division of oil and gas 35869
resources management of a map or an amended map pertaining to a 35870
gas storage reservoir under this section, the gas storage well 35871
inspector shall send by registered mail to the operator of the 35872
coal mine a part of the boundary of which is within ten thousand 35873
linear feet of any part of the boundary of the reservoir or of the 35874
outside boundary of the reservoir's protective area, notice of the 35875
filing together with a copy of the map. 35876

(F) When the operator of a gas storage reservoir files with 35877
the division ~~a map~~ of mineral resources management and the 35878
division of oil and gas resources management maps or ~~an~~ amended 35879
~~map~~ maps under this section, the reservoir operator shall file as 35880
many copies of the ~~map~~ maps as the each division may require for 35881
its files and as are needed for sending a copy to each coal mine 35882
operator under division (E) of this section. 35883

Sec. 1571.05. (A) Whenever any part of a gas storage 35884
reservoir or any part of its protective area underlies any part of 35885
a coal mine, or is, or within nine months is expected or intended 35886
to be, within two thousand linear feet of the boundary of a coal 35887
mine that is operating in a coal seam any part of which extends 35888
over any part of the storage reservoir or its protective area, the 35889
operator of the reservoir, if the reservoir operator or some other 35890
reservoir operator has not theretofore done so, shall: 35891

(1) Use every known method that is reasonable under the 35892
circumstance for discovering and locating all wells drilled within 35893
the area of the reservoir or its protective area that underlie any 35894
part of the coal mine or its protective area; 35895

(2) Plug or recondition all known wells drilled within the 35896

area of the reservoir or its protective area that underlie any 35897
part of the coal mine. 35898

(B) Whenever an operator of a gas storage reservoir is 35899
notified by the operator of a coal mine, as provided in division 35900
(B) of section 1571.03 of the Revised Code, that the coal mine 35901
operator believes that part of the boundary of the mine is within 35902
two thousand linear feet of a well that is drilled through the 35903
horizon of the coal mine and into or through the storage stratum 35904
or strata of the reservoir within the boundary of the reservoir or 35905
within its protective area, the reservoir operator shall plug or 35906
recondition the well as in this section prescribed, unless it is 35907
agreed in a conference or is ordered by the chief of the division 35908
of ~~mineral~~ oil and gas resources management after a hearing, as 35909
provided in section 1571.10 of the Revised Code, that the well 35910
referred to in the notice is not such a well as is described in 35911
division (B) of section 1571.03 of the Revised Code. 35912

Whenever an operator of a gas storage reservoir is notified 35913
by the operator of a coal mine as provided in division (C) or (D) 35914
of section 1571.03 of the Revised Code, that part of the boundary 35915
of the mine is, or within nine months is intended or expected to 35916
be, within two thousand linear feet of a well that is drilled 35917
through the horizon of the mine and into or through the storage 35918
stratum or strata of the reservoir within the boundary of the 35919
reservoir or within its protective area, the reservoir operator 35920
shall plug or recondition the well as in this section prescribed. 35921

Whenever the operator of a coal mine considers that the use 35922
of a well such as in this section described, if used for injecting 35923
gas into, or storing gas in, or removing gas from, a gas storage 35924
reservoir, would be hazardous to the safety of persons or property 35925
on or in the vicinity of the premises of the coal mine or the 35926
reservoir or well, the coal mine operator may file with the 35927
division objections to the use of the well for such purposes, and 35928

a request that a conference be held as provided in section 1571.10 35929
of the Revised Code, to discuss and endeavor to resolve by mutual 35930
agreement whether or not the well shall or shall not be used for 35931
such purposes, and whether or not the well shall be reconditioned, 35932
inactivated, or plugged. The request shall set forth the mine 35933
operator's reasons for such objections. If no approved agreement 35934
is reached in the conference, the gas storage well inspector shall 35935
within ten days after the termination of the conference, file with 35936
the chief a request that the chief hear and determine the matters 35937
considered at the conference as provided in section 1571.10 of the 35938
Revised Code. Upon conclusion of the hearing, the chief shall find 35939
and determine whether or not the safety of persons or of the 35940
property on or in the vicinity of the premises of the coal mine, 35941
or the reservoir, or the well requires that the well be 35942
reconditioned, inactivated, or plugged, and shall make an order 35943
consistent with that determination, provided that the chief shall 35944
not order a well plugged unless the chief first finds that there 35945
is underground leakage of gas therefrom. 35946

The plugging or reconditioning of each well described in a 35947
notice from a coal mine operator to a reservoir operator as 35948
provided in division (B) of section 1571.03 of the Revised Code, 35949
which must be plugged or reconditioned, shall be completed within 35950
such time as the gas storage well inspector may fix in the case of 35951
each such well. The plugging or reconditioning of each well 35952
described in a notice from a coal mine operator to a reservoir 35953
operator as provided in division (C) of section 1571.03 of the 35954
Revised Code, which must be plugged or reconditioned, shall be 35955
completed by the time the well, by reason of the extension of the 35956
boundary of the coal mine, is within two thousand linear feet of 35957
any part of the boundary of the mine. The plugging or 35958
reconditioning of each well described in a notice from a coal mine 35959
operator to a reservoir operator, as provided in division (D) of 35960
section 1571.03 of the Revised Code, which must be plugged or 35961

reconditioned, shall be completed by the time the well, by reason 35962
of the opening of the new mine, is within two thousand linear feet 35963
of any part of the boundary of the new mine. A reservoir operator 35964
who is required to complete the plugging or reconditioning of a 35965
well within a period of time fixed as in this division prescribed, 35966
may prior to the end of that period of time, notify the division 35967
and the mine operator from whom the reservoir operator received a 35968
notice as provided in division (B), (C), or (D) of section 1571.03 35969
of the Revised Code, in writing by registered mail, that the 35970
completion of the plugging or reconditioning of the well referred 35971
to in the notice will be delayed beyond the end of the period of 35972
time fixed therefor as in this section provided, and that the 35973
reservoir operator requests that a conference be held for the 35974
purpose of endeavoring to reach an agreement establishing a date 35975
subsequent to the end of that period of time, on or before which 35976
the reservoir operator may complete the plugging or reconditioning 35977
without incurring any penalties for failure to do so as provided 35978
in this chapter. If such a reservoir operator sends to such a mine 35979
operator and to the division a notice and request for a conference 35980
as in this division provided, the reservoir operator shall not 35981
incur any penalties for failure to complete the plugging or 35982
reconditioning of the well within the period of time fixed as in 35983
this division prescribed, unless the reservoir operator fails to 35984
complete the plugging or reconditioning of the well within the 35985
period of time fixed by an approved agreement reached in the 35986
conference, or fixed by an order by the chief upon a hearing held 35987
in the matter in the event of failure to reach an approved 35988
agreement in the conference. 35989

Whenever, in compliance with this division, a well is to be 35990
plugged by a reservoir operator, the operator shall give to the 35991
division notice thereof, as many days in advance as will be 35992
necessary for the gas storage well inspector or a deputy mine 35993
inspector to be present at the plugging. The notification shall be 35994

made on blanks furnished by the division and shall show the following information:

- (1) Name and address of the applicant;
- (2) The location of the well identified by section or lot number, city or village, and township and county;
- (3) The well name and number of each well to be plugged.

(C) The operator shall give written notice at the same time to the owner of the land upon which the well is located, the owners or agents of the adjoining land, and adjoining well owners or agents of the operator's intention to abandon the well, and of the time when the operator will be prepared to commence plugging and filling the same. In addition to giving such notices, the reservoir operator shall also at the same time send a copy of the notice by registered mail to the coal mine operator, if any, who sent to the reservoir operator the notice as provided in division (B), (C), or (D) of section 1571.03 of the Revised Code, in order that the coal mine operator or the coal mine operator's designated representative may attend and observe the manner in which the plugging of the well is done.

If the reservoir operator plugs the well without an the gas storage well inspector ~~from the division~~ or a deputy mine inspector being present to supervise the plugging, the reservoir operator shall send to the division and to the coal mine operator a copy of the report of the plugging of the well, including in the report:

- (1) The date of abandonment;
- (2) The name of the owner or operator of the well at the time of abandonment and the well owner's or operator's post office address;
- (3) The location of the well as to township and county and

the name of the owner of the surface upon which the well is drilled, with the address thereof; 36025
36026

(4) The date of the permit to drill; 36027

(5) The date when drilled; 36028

(6) Whether the well has been mapped; 36029

(7) The depth of the well; 36030

(8) The depth of the top of the sand to which the well was drilled; 36031
36032

(9) The depth of each seam of coal drilled through; 36033

(10) A detailed report as to how the well was plugged, giving 36034
in particular the manner in which the coal and various sands were 36035
plugged, and the date of the plugging of the well, including 36036
therein the names of those who witnessed the plugging of the well. 36037

The report shall be signed by the operator or the operator's 36038
agent who plugged the well and verified by the oath of the party 36039
so signing. For the purposes of this section, a deputy mine 36040
inspector may take acknowledgements and administer oaths to the 36041
parties signing the report. 36042

Whenever, in compliance with this division, a well is to be 36043
reconditioned by a reservoir operator, the operator shall give to 36044
the division notice thereof as many days before the reconditioning 36045
is begun as will be necessary for the gas storage well inspector, 36046
or a deputy mine inspector, to be present at the reconditioning. 36047
No well shall be reconditioned if an inspector of the division is 36048
not present unless permission to do so has been granted by the 36049
chief. The reservoir operator, at the time of giving notice to the 36050
division as in this section required, also shall send a copy of 36051
the notice by registered mail to the coal mine operator, if any, 36052
who sent to the reservoir operator the notice as provided in 36053
division (B), (C), or (D) of section 1571.03 of the Revised Code, 36054

in order that the coal mine operator or the coal mine operator's 36055
designated representative may attend and observe the manner in 36056
which the reconditioning of the well is done. 36057

If the reservoir operator reconditions the well when ~~no~~ the 36058
gas storage well inspector ~~of the division~~ or a deputy mine 36059
inspector is not present to supervise the reconditioning, the 36060
reservoir operator shall make written report to the division 36061
describing the manner in which the reconditioning was done, and 36062
shall send to the coal mine operator a copy of the report by 36063
registered mail. 36064

(D) Wells that are required by this section to be plugged 36065
shall be plugged in the manner specified in sections 1509.13 to 36066
1509.17 of the Revised Code, and the operator shall give the 36067
notifications and reports required by divisions (B) and (C) of 36068
this section. No such well shall be plugged or abandoned without 36069
the written approval of the division, and no such well shall be 36070
mudded, plugged, or abandoned without the gas storage well 36071
inspector or a deputy mine inspector present unless written 36072
permission has been granted by the chief or the gas storage well 36073
inspector. For purposes of this section, the chief of the division 36074
of mineral resources management has the authority given the chief 36075
of the division of oil and gas resources management in sections 36076
1509.15 and 1509.17 of the Revised Code. If such a well has been 36077
plugged prior to the time plugging thereof is required by this 36078
section, and, on the basis of the data, information, and other 36079
evidence available it is determined that the plugging was done in 36080
the manner required by this section, or was done in accordance 36081
with statutes prescribing the manner of plugging wells in effect 36082
at the time the plugging was done, and that there is no evidence 36083
of leakage of gas from the well either at or below the surface, 36084
and that the plugging is sufficiently effective to prevent the 36085
leakage of gas from the well, the obligations imposed upon the 36086

reservoir operator by this section as to plugging the well shall 36087
be considered fully satisfied. The operator of a coal mine any 36088
part of the boundary of which is, or within nine months is 36089
expected or intended to be, within two thousand linear feet of the 36090
well may at any time raise a question as to whether the plugging 36091
of the well is sufficiently effective to prevent the leakage of 36092
gas therefrom, and the issue so made shall be determined by a 36093
conference or hearing as provided in section 1571.10 of the 36094
Revised Code. 36095

(E) Wells that are to be reconditioned as required by this 36096
section shall be, or shall be made to be: 36097

(1) Cased in accordance with the statutes of this state in 36098
effect at the time the wells were drilled, with the casing being, 36099
or made to be, sufficiently effective in that there is no evidence 36100
of any leakage of gas therefrom; 36101

(2) Equipped with a producing string and well head composed 36102
of new pipe, or pipe as good as new, and fittings designed to 36103
operate with safety and to contain the stored gas at maximum 36104
pressures contemplated. 36105

When a well that is to be reconditioned as required by this 36106
section has been reconditioned for use in the operation of the 36107
reservoir prior to the time prescribed in this section, and on the 36108
basis of the data, information, and other evidence available it is 36109
determined that at the time the well was so reconditioned the 36110
requirements prescribed in this division were met, and that there 36111
is no evidence of underground leakage of gas from the well, and 36112
that the reconditioning is sufficiently effective to prevent 36113
underground leakage from the well, the obligations imposed upon 36114
the reservoir operator by this section as to reconditioning the 36115
well shall be considered fully satisfied. Any operator of a coal 36116
mine any part of the boundary of which is, or within nine months 36117
is expected or intended to be, within two thousand linear feet of 36118

the well may at any time raise a question as to whether the 36119
reconditioning of the well is sufficiently effective to prevent 36120
underground leakage of gas therefrom, and the issue so made shall 36121
be determined by a conference or hearing as provided in section 36122
1571.10 of the Revised Code. 36123

If the gas storage well inspector at any time finds that a 36124
well that is drilled through the horizon of a coal mine and into 36125
or through the storage stratum or strata of a reservoir within the 36126
boundary of the reservoir or within its protective area is located 36127
within the boundary of the coal mine or within two thousand linear 36128
feet of the mine boundary, and was drilled prior to the time the 36129
statutes of this state required that wells be cased, and that the 36130
well fails to meet the casing and equipping requirements 36131
prescribed in this division, the gas storage well inspector shall 36132
promptly notify the operator of the reservoir thereof in writing, 36133
and the reservoir operator upon receipt of the notice shall 36134
promptly recondition the well in the manner prescribed in this 36135
division for reconditioning wells, unless, in a conference or 36136
hearing as provided in section 1571.10 of the Revised Code, a 36137
different course of action is agreed upon or ordered. 36138

(F)(1) When a well within the boundary of a gas storage 36139
reservoir or within the reservoir's protective area penetrates the 36140
storage stratum or strata of the reservoir, but does not penetrate 36141
the coal seam within the boundary of a coal mine, the gas storage 36142
well inspector may, upon application of the operator of the 36143
storage reservoir, exempt the well from the requirements of this 36144
section. Either party affected by the action of the gas storage 36145
well inspector may request a conference and hearing with respect 36146
to the exemption. 36147

(2) When a well located within the boundary of a storage 36148
reservoir or a reservoir's protective area is a producing well in 36149
a stratum above or below the storage stratum, the obligations 36150

imposed by this section shall not begin until the well ceases to 36151
be a producing well. 36152

(G) When retreat mining reaches a point in a coal mine when 36153
the operator of the mine expects that within ninety days retreat 36154
work will be at the location of a pillar surrounding an active 36155
storage reservoir well, the operator of the mine shall promptly 36156
send by registered mail notice to that effect to the operator of 36157
the reservoir. Thereupon the operators may by agreement determine 36158
whether it is necessary or advisable to temporarily inactivate the 36159
well. If inactivated, the well shall not be reactivated until a 36160
reasonable period of time has elapsed, such period of time to be 36161
determined by agreement by the operators. In the event that the 36162
parties cannot agree upon either of the foregoing matters, the 36163
question shall be submitted to the gas storage well inspector for 36164
a conference in accordance with section 1571.10 of the Revised 36165
Code. 36166

(H)(1) The provisions of this section that require the 36167
plugging or reconditioning of wells shall not apply to such wells 36168
as are used to inject gas into, store gas in, or remove gas from a 36169
gas storage reservoir when the sole purpose of the injection, 36170
storage, or removal is testing. The operator of a gas storage 36171
reservoir who injects gas into, stores gas in, or removes gas from 36172
a reservoir for the sole purpose of testing shall be subject to 36173
all other provisions of this chapter that are applicable to 36174
operators of reservoirs. 36175

(2) If the injection of gas into, or storage of gas in, a gas 36176
storage reservoir any part of which, or of the protective area of 36177
which, is within the boundary of a coal mine is begun after 36178
September 9, 1957, and if the injection or storage of gas is for 36179
the sole purpose of testing, the operator of the reservoir shall 36180
send by registered mail to the operator of the coal mine, the 36181
division of oil and gas resources management, and ~~to~~ the division 36182

of mineral resources management at least sixty days' notice of the 36183
date upon which the testing will be begun. 36184

If at any time within the period of time during which testing 36185
of a reservoir is in progress, any part of the reservoir or of its 36186
protective area comes within any part of the boundary of a coal 36187
mine, the operator of the reservoir shall promptly send notice to 36188
that effect by registered mail to the operator of the mine, the 36189
division of oil and gas resources management, and ~~to~~ the division 36190
of mineral resources management. 36191

(3) Any coal mine operator who receives a notice as provided 36192
for in division (H)(2) of this section may within thirty days of 36193
the receipt thereof file with the division objections to the 36194
testing. The gas storage well inspector also may, within the time 36195
within which a coal mine operator may file an objection, place in 36196
the files of the division objections to the testing. The reservoir 36197
operator shall comply throughout the period of the testing 36198
operations with all conditions and requirements agreed upon and 36199
approved in the conference on such objections conducted as 36200
provided in section 1571.10 of the Revised Code, or in an order 36201
made by the chief following a hearing in the matter as provided in 36202
section 1571.10 of the Revised Code. If in complying with the 36203
agreement or order either the reservoir operator or the coal mine 36204
operator encounters or discovers conditions that were not known to 36205
exist at the time of the conference or hearing and that materially 36206
affect the agreement or order, or the ability of the reservoir 36207
operator to comply therewith, either operator may apply for a 36208
rehearing or modification of the order. 36209

(I) In addition to complying with all other provisions of 36210
this chapter and any lawful orders issued thereunder, the operator 36211
of each gas storage reservoir shall keep all wells drilled into or 36212
through the storage stratum or strata within the boundary of the 36213
operator's reservoir or within the reservoir's protective area in 36214

such condition, and operate the same in such manner, as to prevent 36215
the escape of gas therefrom into any coal mine, and shall operate 36216
and maintain the storage reservoir and its facilities in such 36217
manner and at such pressures as will prevent gas from escaping 36218
from the reservoir or its facilities into any coal mine. 36219

Sec. 1571.06. (A) Distances between boundaries of gas storage 36220
reservoirs, reservoir protective areas, coal mines, coal mine 36221
protective areas, and wells, as shown on the most recent maps of 36222
storage reservoirs and of coal mines filed with the division of 36223
oil and gas resources management or the division of mineral 36224
resources management as required by this chapter and sections 36225
1563.03 to 1563.05 of the Revised Code, may be accepted and relied 36226
upon as being accurate and correct, by operators of coal mines and 36227
operators of reservoirs. Data, statements, and reports filed with 36228
~~the~~ either division as required by this chapter and sections 36229
1563.03 to 1563.05 of the Revised Code may be likewise accepted 36230
and relied upon. However, the gas storage well inspector or any 36231
reservoir operator or coal mine operator, or any other person 36232
having a direct interest in the matter, may at any time question 36233
the accuracy or correctness of any map, data, statement, or report 36234
so filed, with ~~the~~ either division by notifying ~~the division~~ both 36235
divisions thereof in writing. Such notice shall state the reasons 36236
why the question is raised. When any such notice is so filed, the 36237
gas storage well inspector shall proceed promptly to hold a 36238
conference on the question thus raised, as provided in section 36239
1571.10 of the Revised Code. 36240

(B) If, in any proceeding under this chapter, the accuracy or 36241
correctness of any map, data, statement, or report, filed by any 36242
person pursuant to the requirements of this chapter is in 36243
question, the person so filing the same shall have the burden of 36244
proving the accuracy or correctness thereof. 36245

(C) The operator of a gas storage reservoir shall, at all 36246
reasonable times, be permitted to inspect the premises and 36247
facilities of any coal mine any part of the boundary of which is 36248
within any part of the boundary of such gas storage reservoir or 36249
within its protective area, and the operator of a coal mine shall, 36250
at all reasonable times, be permitted to inspect the premises and 36251
facilities of any gas storage reservoir any part of the boundary 36252
of which or any part of the protective area of which is within the 36253
boundary of such coal mine. In the event that either such 36254
reservoir operator or such coal mine operator denies permission to 36255
make any such inspection, the chief of the division of ~~mineral oil~~ 36256
and gas resources management on the chief's own motion, or on an 36257
application by the operator desiring to make such inspection, upon 36258
a hearing thereon if requested by either operator, after 36259
reasonable notice of such hearing, may make an order providing for 36260
such inspection. 36261

Sec. 1571.08. (A) Whenever in this chapter, the method or 36262
material to be used in discharging any obligations imposed by this 36263
chapter is specified, an alternative method or material may be 36264
used if approved by the gas storage well inspector or the chief of 36265
the division of ~~mineral oil and gas~~ resources management. A person 36266
desiring to use such alternative method or material shall file 36267
with the division of ~~mineral oil and gas~~ resources management an 36268
application for permission to do so. Such application shall 36269
describe such alternative method or material in reasonable detail. 36270
The gas storage well inspector shall promptly send by registered 36271
mail notice of the filing of such application to any coal mine 36272
operator or reservoir operator whose mine or reservoir may be 36273
directly affected thereby. Any such coal mine operator or 36274
reservoir operator may within ten days following receipt of such 36275
notice, file with the division objections to such application. The 36276
gas storage well inspector may also file with the division an 36277

objection to such application at any time during which coal mine operators or reservoir operators are permitted to file objections. If no objections are filed within the ten-day period of time, the gas storage well inspector shall thereupon issue a permit approving the use of such alternative method or material. If any such objections are filed by any coal mine operator or reservoir operator, or by the gas storage well inspector, the question as to whether or not the use of such alternative method or material, or a modification thereof is approved, shall be determined by a conference or hearing as provided in section 1571.10 of the Revised Code.

(B) Whenever in this chapter, provision is made for the filing of objections with the division, such objections shall be in writing and shall state as definitely as is reasonably possible the reasons for such objections. Upon the filing of any such objection the gas storage well inspector shall promptly fix the time and place for holding a conference for the purpose of discussing and endeavoring to resolve by mutual agreement the issue raised by such objection. The gas storage well inspector shall send written notice thereof by registered mail to each person having a direct interest therein. Thereupon the issue made by such objection shall be determined by a conference or hearing in accordance with the procedures for conferences and hearings as provided in section 1571.10 of the Revised Code.

Sec. 1571.09. (A) The chief of the division of ~~mineral oil~~ and gas resources management or any officer or employee of the division thereunto duly authorized by the chief may investigate, inspect, or examine records and facilities of any coal mine operator or reservoir operator, for the purpose of determining the accuracy or correctness of any map, data, statement, report, or other item or article, filed with or otherwise received by the division pursuant to this chapter. When a material question is

raised by any reservoir operator or coal mine operator as to the 36310
accuracy or correctness of any such map, data, statement, report, 36311
or other item or article, which may directly affect the reservoir 36312
operator or coal mine operator, the matter shall be determined by 36313
a conference or hearing as provided in section 1571.10 of the 36314
Revised Code. 36315

(B) The division of ~~mineral~~ oil and gas resources management 36316
shall keep all maps, data, statements, reports, well logs, 36317
notices, or other items or articles filed with or otherwise 36318
received by it pursuant to this chapter in a safe place and 36319
conveniently accessible to persons entitled to examine them. It 36320
shall maintain indexes of all such items and articles so that any 36321
of them may be promptly located. None of such items or articles 36322
shall be open to public inspection, but: (1) any of such items or 36323
articles pertaining to a mine may be examined by: the operator, 36324
owner, lessee, or agent of such mine; persons financially 36325
interested in such mine; owners of land adjoining such mine; the 36326
operator, owner, lessee, or agent of a mine adjoining such mine; 36327
authorized representatives of the persons employed to work in such 36328
mine; the operator of a gas storage reservoir any part of the 36329
boundary of which or of the boundary of its protective area is 36330
within ten thousand linear feet of the boundary of such mine, or 36331
the agent of such reservoir operator thereunto authorized by such 36332
reservoir operator; or any employee of the division of geological 36333
survey in the department of natural resources thereunto duly 36334
authorized by the chief of that division; and (2) any of such 36335
items or articles pertaining to a gas storage reservoir may be 36336
examined by: the operator of such reservoir; the operator of a 36337
coal mine any part of the boundary of which is within ten thousand 36338
linear feet of the boundary of a gas storage reservoir or of the 36339
boundary of its protective area, or the agent of such mine 36340
operator thereunto authorized by such mine operator, or the 36341
authorized representatives of the persons employed to work in such 36342

mine; or any employee of the division of geological survey 36343
thereunto duly authorized by the chief of that division. The 36344
division of ~~mineral~~ oil and gas resources management shall not 36345
permit any of such items or articles to be removed from its 36346
office, and it shall not furnish copies of any such items or 36347
articles to any person other than as provided in this chapter. 36348

The division shall keep a docket of all proceedings arising 36349
under this chapter, in which shall be entered the dates of any 36350
notice received or issued, the names of all persons to whom it 36351
sends a notice, and the address of each, the dates of conferences 36352
and hearings, and all findings, determinations, decisions, 36353
rulings, and orders, or other actions by the division. 36354

(C) Whenever any provision of this chapter requires the 36355
division to give notice to the operator of a coal mine of any 36356
proceeding to be held pursuant to this chapter, the division shall 36357
simultaneously give a copy of such notice to the authorized 36358
representatives of the persons employed to work in such mine. 36359

Sec. 1571.10. (A) The gas storage well inspector or any 36360
person having a direct interest in the administration of this 36361
chapter may at any time file with the division of ~~mineral~~ oil and 36362
gas resources management a written request that a conference be 36363
held for the purpose of discussing and endeavoring to resolve by 36364
mutual agreement any question or issue relating to the 36365
administration of this chapter, or to compliance with its 36366
provisions, or to any violation thereof. Such request shall 36367
describe the matter concerning which the conference is requested. 36368
Thereupon the gas storage well inspector shall promptly fix the 36369
time and place for the holding of such conference and shall send 36370
written notice thereof to each person having a direct interest 36371
therein. At such conference the gas storage well inspector or a 36372
representative of the division designated by the gas storage well 36373

inspector shall be in attendance, and shall preside at the 36374
conference, and the gas storage well inspector or designated 36375
representative may make such recommendations as the gas storage 36376
well inspector or designated representative deems proper. Any 36377
agreement reached at such conference shall be consistent with the 36378
requirements of this chapter and, if approved by the gas storage 36379
well inspector, it shall be reduced to writing and shall be 36380
effective. Any such agreement approved by the gas storage well 36381
inspector shall be kept on file in the division and a copy thereof 36382
shall be furnished to each of the persons having a direct interest 36383
therein. The conference shall be deemed terminated as of the date 36384
an approved agreement is reached or when any person having a 36385
direct interest therein refuses to confer thereafter. Such a 36386
conference shall be held in all cases prior to the holding of a 36387
hearing as provided in this section. 36388

(B) Within ten days after the termination of a conference at 36389
which no approved agreement is reached, any person who 36390
participated in such conference and who has a direct interest in 36391
the subject matter thereof, or the gas storage well inspector, may 36392
file with the chief of the division of ~~mineral~~ oil and gas 36393
resources management a request that the chief hear and determine 36394
the matter or matters, or any part thereof considered at the 36395
conference. Thereupon the chief shall promptly fix the time and 36396
place for the holding of such hearing and shall send written 36397
notice thereof to each person having a direct interest therein. 36398
The form of the request for such hearing and the conduct of the 36399
hearing shall be in accordance with rules that the chief adopts 36400
under section 1571.11 of the Revised Code. Consistent with the 36401
requirement for reasonable notice each such hearing shall be held 36402
promptly after the filing of the request therefor. Any person 36403
having a direct interest in the matter to be heard shall be 36404
entitled to appear and be heard in person or by attorney. The 36405
division may present at such hearing any evidence that is material 36406

to the matter being heard and that has come to the division's 36407
attention in any investigation or inspection made pursuant to this 36408
chapter. 36409

(C) For the purpose of conducting such a hearing the chief 36410
may require the attendance of witnesses and the production of 36411
books, records, and papers, and the chief may, and at the request 36412
of any person having a direct interest in the matter being heard, 36413
the chief shall, issue subpoenas for witnesses or subpoenas duces 36414
tecum to compel the production of any books, records, or papers, 36415
directed to the sheriffs of the counties where such witnesses are 36416
found, which subpoenas shall be served and returned in the same 36417
manner as subpoenas in criminal cases are served and returned. The 36418
fees of sheriffs shall be the same as those allowed by the court 36419
of common pleas in criminal cases. Witnesses shall be paid the 36420
fees and mileage provided for under section 119.094 of the Revised 36421
Code. Such fee and mileage expenses shall be paid in advance by 36422
the persons at whose request they are incurred, and the remainder 36423
of such expenses shall be paid out of funds appropriated for the 36424
expenses of the division. 36425

In case of disobedience or neglect of any subpoena served on 36426
any person, or the refusal of any witness to testify to any matter 36427
regarding which the witness may be lawfully interrogated, the 36428
court of common pleas of the county in which such disobedience, 36429
neglect, or refusal occurs, or any judge thereof, on application 36430
of the chief, shall compel obedience by attachment proceedings for 36431
contempt as in the case of disobedience of the requirements of a 36432
subpoena issued from such court or a refusal to testify therein. 36433
Witnesses at such hearings shall testify under oath, and the chief 36434
may administer oaths or affirmations to persons who so testify. 36435

(D) With the consent of the chief, the testimony of any 36436
witness may be taken by deposition at the instance of a party to 36437
any hearing before the chief at any time after hearing has been 36438

formally commenced. The chief may, of the chief's own motion, 36439
order testimony to be taken by deposition at any stage in any 36440
hearing, proceeding, or investigation pending before the chief. 36441
Such deposition shall be taken in the manner prescribed by the 36442
laws of this state for taking depositions in civil cases in courts 36443
of record. 36444

(E) After the conclusion of a hearing the chief shall make a 36445
determination and finding of facts. Every adjudication, 36446
determination, or finding by the chief shall be made by written 36447
order and shall contain a written finding by the chief of the 36448
facts upon which the adjudication, determination, or finding is 36449
based. Notice of the making of such order shall be given to the 36450
persons whose rights, duties, or privileges are affected thereby, 36451
by sending a certified copy thereof by registered mail to each of 36452
such persons. 36453

Adjudications, determinations, findings, and orders made by 36454
the chief shall not be governed by, or be subject to, Chapter 119. 36455
of the Revised Code. 36456

Sec. 1571.11. The chief of the division of ~~mineral~~ oil and 36457
gas resources management shall adopt rules governing 36458
administrative procedures to be followed in the administration of 36459
this chapter, which shall be of general application in all matters 36460
and to all persons affected by this chapter. 36461

No rule adopted by the chief pursuant to this section shall 36462
be effective until the tenth day after a certified copy thereof 36463
has been filed in the office of the secretary of state. 36464

All rules filed in the office of the secretary of state 36465
pursuant to this section shall be recorded by the secretary of 36466
state under a heading entitled "Regulations relating to the 36467
storage of gas in underground gas storage reservoirs" and shall be 36468
numbered consecutively under such heading and shall bear the date 36469

of filing. Such rules shall be public records open to public inspection. 36470
36471

No rule filed in the office of the secretary of state pursuant to this section shall be amended except by a rule that contains the entire rule as amended and that repeals the rule amended. Each rule that amends a rule shall bear the same consecutive rule number as the number of the rule that it amends, and it shall bear the date of filing. 36472
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No rule filed in the office of the secretary of state pursuant to this section shall be repealed except by a rule. Each rule that repeals a rule shall bear the same consecutive rule number as the number of the rule that it repeals, and it shall bear the date of filing. 36478
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The authority and the duty of the chief to adopt rules as provided in this section shall not be governed by, or be subject to Chapter 119. of the Revised Code. 36483
36484
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The chief shall have available at all times copies of all rules adopted pursuant to this section, and shall furnish same free of charge to any person requesting same. 36486
36487
36488

Sec. 1571.14. Any person claiming to be aggrieved or adversely affected by an order of the chief of the division of ~~mineral oil and gas~~ resources management made as provided in section 1571.10 or 1571.16 of the Revised Code may appeal to the director of natural resources for an order vacating or modifying such order. Upon receipt of the appeal, the director shall appoint an individual who has knowledge of the laws and rules regarding the underground storage of gas and who shall act as a hearing officer in accordance with Chapter 119. of the Revised Code in hearing the appeal. 36489
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The person appealing to the director shall be known as 36499

appellant and the chief shall be known as appellee. The appellant 36500
and the appellee shall be deemed parties to the appeal. 36501

The appeal shall be in writing and shall set forth the order 36502
complained of and the grounds upon which the appeal is based. The 36503
appeal shall be filed with the director within thirty days after 36504
the date upon which appellant received notice by registered mail 36505
of the making of the order complained of, as required by section 36506
1571.10 of the Revised Code. Notice of the filing of such appeal 36507
shall be delivered by appellant to the chief within three days 36508
after the appeal is filed with the director. 36509

Within seven days after receipt of the notice of appeal the 36510
chief shall prepare and certify to the director at the expense of 36511
appellant a complete transcript of the proceedings out of which 36512
the appeal arises, including a transcript of the testimony 36513
submitted to the chief. 36514

Upon the filing of the appeal the director shall fix the time 36515
and place at which the hearing on the appeal will be held, and 36516
shall give appellant and the chief at least ten days' written 36517
notice thereof by mail. The director may postpone or continue any 36518
hearing upon the director's own motion or upon application of 36519
appellant or of the chief. 36520

The filing of an appeal provided for in this section does not 36521
automatically suspend or stay execution of the order appealed 36522
from, but upon application by the appellant the director may 36523
suspend or stay such execution pending determination of the appeal 36524
upon such terms as the director deems proper. 36525

The hearing officer appointed by the director shall hear the 36526
appeal de novo, and either party to the appeal may submit such 36527
evidence as the hearing officer deems admissible. 36528

For the purpose of conducting a hearing on an appeal, the 36529
hearing officer may require the attendance of witnesses and the 36530

production of books, records, and papers, and may, and at the 36531
request of any party shall, issue subpoenas for witnesses or 36532
subpoenas duces tecum to compel the production of any books, 36533
records, or papers, directed to the sheriffs of the counties where 36534
such witnesses are found, which subpoenas shall be served and 36535
returned in the same manner as subpoenas in criminal cases are 36536
served and returned. The fees of sheriffs shall be the same as 36537
those allowed by the court of common pleas in criminal cases. 36538
Witnesses shall be paid the fees and mileage provided for under 36539
section 119.094 of the Revised Code. Such fee and mileage expenses 36540
incurred at the request of appellant shall be paid in advance by 36541
appellant, and the remainder of such expenses shall be paid out of 36542
funds appropriated for the expenses of the division of ~~mineral oil~~ oil 36543
and gas resources management. 36544

In case of disobedience or neglect of any subpoena served on 36545
any person, or the refusal of any witness to testify to any matter 36546
regarding which the witness may be lawfully interrogated, the 36547
court of common pleas of the county in which such disobedience, 36548
neglect, or refusal occurs, or any judge thereof, on application 36549
of the director, shall compel obedience by attachment proceedings 36550
for contempt as in the case of disobedience of the requirements of 36551
a subpoena issued from such court or a refusal to testify therein. 36552
Witnesses at such hearings shall testify under oath, and the 36553
hearing officer may administer oaths or affirmations to persons 36554
who so testify. 36555

At the request of any party to the appeal, a stenographic or 36556
electronic record of the testimony and other evidence submitted 36557
shall be taken by an official court ~~shorthand~~ reporter at the 36558
expense of the party making the request ~~therefor~~ for the record. 36559
The record shall include all of the testimony and other evidence 36560
and the rulings on the admissibility thereof presented at the 36561
hearing. The hearing officer shall pass upon the admissibility of 36562

evidence, but any party may at the time object to the admission of 36563
any evidence and except to the ruling of the hearing officer 36564
thereon, and if the hearing officer refuses to admit evidence, the 36565
party offering same may make a proffer thereof, and such proffer 36566
shall be made a part of the record of such hearing. 36567

If upon completion of the hearing the hearing officer finds 36568
that the order appealed from was lawful and reasonable, the 36569
hearing officer shall make a written order affirming the order 36570
appealed from. If the hearing officer finds that such order was 36571
unreasonable or unlawful, the hearing officer shall make a written 36572
order vacating the order appealed from and making the order that 36573
it finds the chief should have made. Every order made by the 36574
hearing officer shall contain a written finding by the hearing 36575
officer of the facts upon which the order is based. Notice of the 36576
making of such order shall be given forthwith to each party to the 36577
appeal by mailing a certified copy thereof to each such party by 36578
registered mail. 36579

Sec. 1571.16. (A) The gas storage well inspector or any 36580
person having a direct interest in the subject matter of this 36581
chapter may file with the division of ~~mineral~~ oil and gas 36582
resources management a complaint in writing stating that a person 36583
is violating, or is about to violate, a provision or provisions of 36584
this chapter, or has done, or is about to do, an act, matter, or 36585
thing therein prohibited or declared to be unlawful, or has 36586
failed, omitted, neglected, or refused, or is about to fail, omit, 36587
neglect, or refuse, to perform a duty enjoined upon the person by 36588
this chapter. Upon the filing of such a complaint, the chief of 36589
the division of ~~mineral~~ oil and gas resources management shall 36590
promptly fix the time for the holding of a hearing on such 36591
complaint and shall send by registered mail to the person so 36592
complained of, a copy of such complaint together with at least 36593
five days' notice of the time and place at which such hearing will 36594

be held. Such notice of such hearing shall also be given to all 36595
persons having a direct interest in the matters complained of in 36596
such complaint. Such hearing shall be conducted in the same 36597
manner, and the chief and persons having a direct interest in the 36598
matter being heard, shall have the same powers, rights, and duties 36599
as provided in divisions (B), (C), (D), and (E) of section 1571.10 36600
of the Revised Code, in connection with hearings by the chief, 36601
provided that if after conclusion of the hearing the chief finds 36602
that the charges against the person complained of, as stated in 36603
such complaint, have not been sustained by a preponderance of 36604
evidence, the chief shall make an order dismissing the complaint, 36605
and if the chief finds that the charges have been so sustained, 36606
the chief shall by appropriate order require compliance with those 36607
provisions. 36608

(B) Whenever the chief is of the opinion that any person is 36609
violating, or is about to violate, any provision of this chapter, 36610
or has done, or is about to do, any act, matter, or thing therein 36611
prohibited or declared to be unlawful, or has failed, omitted, 36612
neglected, or refused, or is about to fail, omit, neglect, or 36613
refuse, to perform any duty enjoined upon the person by this 36614
chapter, or has failed, omitted, neglected, or refused, or is 36615
about to fail, omit, neglect, or refuse, to obey any lawful 36616
requirement or order made by the chief, or any final judgment, 36617
order, or decree made by any court pursuant to this chapter, then 36618
and in every such case, the chief may institute in a court of 36619
competent jurisdiction of the county or counties wherein the 36620
operation is situated, an action to enjoin or restrain such 36621
violations or to enforce obedience with law or the orders of the 36622
chief. No injunction bond shall be required to be filed in any 36623
such proceeding. Such persons or corporations as the court may 36624
deem necessary or proper to be joined as parties in order to make 36625
its judgment, order, or writ effective may be joined as parties. 36626
An appeal may be taken as in other civil actions. 36627

(C) In addition to the other remedies as provided in 36628
divisions (A) and (B) of this section, any reservoir operator or 36629
coal mine operator affected by this chapter may proceed by 36630
injunction or other appropriate remedy to restrain violations or 36631
threatened violations of this chapter or of orders of the chief, 36632
or of the hearing officer appointed under section 1571.14 of the 36633
Revised Code, or the judgments, orders, or decrees of any court or 36634
to enforce obedience therewith. 36635

(D) Each remedy prescribed in divisions (A), (B), and (C) of 36636
this section is deemed concurrent or contemporaneous with each 36637
other remedy prescribed therein, and the existence or exercise of 36638
any one such remedy shall not prevent the exercise of any other 36639
such remedy. 36640

(E) The provisions of this chapter providing for conferences, 36641
hearings by the chief, appeals to the hearing officer from orders 36642
of the chief, and appeals to the court of common pleas from orders 36643
of the hearing officer, and the remedies prescribed in divisions 36644
(A), (B), (C), and (D) of this section, do not constitute the 36645
exclusive procedure that a person, who deems the person's rights 36646
to be unlawfully affected by any official action taken thereunder, 36647
must pursue in order to protect and preserve such rights, nor does 36648
this chapter constitute a procedure that such a person must pursue 36649
before the person may lawfully proceed by other actions, legal or 36650
equitable, to protect and preserve such rights. 36651

Sec. 1571.18. After ~~the effective date of this section~~ June 36652
30, 2010, and not later than the thirty-first day of March each 36653
year, the owner of a well that is used for gas storage or of a 36654
well that is used to monitor a gas storage reservoir and that is 36655
located in a reservoir protective area shall pay to the chief of 36656
the division of ~~mineral~~ oil and gas resources management a gas 36657
storage well regulatory fee of one hundred twenty-five dollars for 36658

each well that the owner owned as of the thirty-first day of 36659
December of the previous year for the purposes of administering 36660
this chapter and Chapter 1509. of the Revised Code. The chief may 36661
prescribe and provide a form for the collection of the fee imposed 36662
by this section and may adopt rules in accordance with Chapter 36663
119. of the Revised Code that are necessary for the administration 36664
of this section. 36665

All money collected under this section shall be deposited in 36666
the state treasury to the credit of the oil and gas well fund 36667
created in section 1509.02 of the Revised Code. 36668

Sec. 1571.99. Any person who purposely violates any order of 36669
the chief of the division of ~~mineral~~ oil and gas resources 36670
management, of a hearing officer appointed by the director of 36671
natural resources under section 1571.14 of the Revised Code, or of 36672
the director, made pursuant to this chapter shall be punished by a 36673
fine not exceeding two thousand dollars, or imprisoned in jail for 36674
a period not exceeding twelve months, or both, in the discretion 36675
of the court. 36676

Sec. 1701.07. (A) Every corporation shall have and maintain 36677
an agent, sometimes referred to as the "statutory agent," upon 36678
whom any process, notice, or demand required or permitted by 36679
statute to be served upon a corporation may be served. The agent 36680
may be a natural person who is a resident of this state or may be 36681
a domestic corporation or a foreign corporation holding a license 36682
as such under the laws of this state, that is authorized by its 36683
articles of incorporation to act as such agent and that has a 36684
business address in this state. 36685

(B) The secretary of state shall not accept original articles 36686
for filing unless there is filed with the articles a written 36687
appointment of an agent that is signed by the incorporators of the 36688

corporation or a majority of them and a written acceptance of the 36689
appointment that is signed by the agent. In all other cases, the 36690
corporation shall appoint the agent and shall file in the office 36691
of the secretary of state a written appointment of the agent that 36692
is signed by any authorized officer of the corporation and a 36693
written acceptance of the appointment that is either the original 36694
acceptance signed by the agent or a photocopy, facsimile, or 36695
similar reproduction of the original acceptance signed by the 36696
agent. 36697

(C) The written appointment of an agent shall set forth the 36698
name and address in this state of the agent, including the street 36699
and number or other particular description, and shall otherwise be 36700
in such form as the secretary of state prescribes. The secretary 36701
of state shall keep a record of the names of corporations, and the 36702
names and addresses of their respective agents. 36703

(D) If any agent dies, removes from the state, or resigns, 36704
the corporation shall forthwith appoint another agent and file 36705
with the secretary of state, on a form prescribed by the secretary 36706
of state, a written appointment of the agent. 36707

(E) If the agent changes the agent's address from that 36708
appearing upon the record in the office of the secretary of state, 36709
the corporation or the agent shall forthwith file with the 36710
secretary of state, on a form prescribed by the secretary of 36711
state, a written statement setting forth the new address. 36712

(F) An agent may resign by filing with the secretary of 36713
state, on a form prescribed by the secretary of state, a written 36714
notice to that effect that is signed by the agent and by sending a 36715
copy of the notice to the corporation at the current or last known 36716
address of its principal office on or prior to the date the notice 36717
is filed with the secretary of state. The notice shall set forth 36718
the name of the corporation, the name and current address of the 36719
agent, the current or last known address, including the street and 36720

number or other particular description, of the corporation's 36721
principal office, the resignation of the agent, and a statement 36722
that a copy of the notice has been sent to the corporation within 36723
the time and in the manner prescribed by this division. Upon the 36724
expiration of thirty days after the filing, the authority of the 36725
agent shall terminate. 36726

(G) A corporation may revoke the appointment of an agent by 36727
filing with the secretary of state, on a form prescribed by the 36728
secretary of state, a written appointment of another agent and a 36729
statement that the appointment of the former agent is revoked. 36730

(H) Any process, notice, or demand required or permitted by 36731
statute to be served upon a corporation may be served upon the 36732
corporation by delivering a copy of it to its agent, if a natural 36733
person, or by delivering a copy of it at the address of its agent 36734
in this state, as the address appears upon the record in the 36735
office of the secretary of state. If (1) the agent cannot be 36736
found, or (2) the agent no longer has that address, or (3) the 36737
corporation has failed to maintain an agent as required by this 36738
section, and if in any such case the party desiring that the 36739
process, notice, or demand be served, or the agent or 36740
representative of the party, shall have filed with the secretary 36741
of state an affidavit stating that one of the foregoing conditions 36742
exists and stating the most recent address of the corporation that 36743
the party after diligent search has been able to ascertain, then 36744
service of process, notice, or demand upon the secretary of state, 36745
as the agent of the corporation, may be initiated by delivering to 36746
the secretary of state or at the secretary of state's office 36747
quadruplicate copies of such process, notice, or demand and by 36748
paying to the secretary of state a fee of five dollars. The 36749
secretary of state shall forthwith give notice of the delivery to 36750
the corporation at its principal office as shown upon the record 36751
in the secretary of state's office and at any different address 36752

shown on its last franchise tax report filed in this state, or to 36753
the corporation at any different address set forth in the above 36754
mentioned affidavit, and shall forward to the corporation at said 36755
addresses, by certified mail, with request for return receipt, a 36756
copy of the process, notice, or demand; and thereupon service upon 36757
the corporation shall be deemed to have been made. 36758

(I) The secretary of state shall keep a record of each 36759
process, notice, and demand delivered to the secretary of state or 36760
at the secretary of state's office under this section or any other 36761
law of this state that authorizes service upon the secretary of 36762
state, and shall record the time of the delivery and the action 36763
thereafter with respect thereto. 36764

(J) This section does not limit or affect the right to serve 36765
any process, notice, or demand upon a corporation in any other 36766
manner permitted by law. 36767

(K) Every corporation shall state in each annual report filed 36768
by it with the department of taxation the name and address of its 36769
statutory agent. 36770

(L) Except when an original appointment of an agent is filed 36771
with the original articles, a written appointment of an agent or a 36772
written statement filed by a corporation with the secretary of 36773
state shall be signed by any authorized officer of the corporation 36774
or by the incorporators of the corporation or a majority of them 36775
if no directors have been elected. 36776

(M) For filing a written appointment of an agent other than 36777
one filed with original articles, and for filing a statement of 36778
change of address of an agent, the secretary of state shall charge 36779
and collect the fee specified in division (R) of section 111.16 of 36780
the Revised Code. 36781

(N) Upon the failure of a corporation to appoint another 36782
agent or to file a statement of change of address of an agent, the 36783

secretary of state shall give notice thereof by ~~certified~~ ordinary 36784
or electronic mail to the corporation at the electronic mail 36785
address provided to the secretary of state, or at the address set 36786
forth in the notice of resignation or on the last franchise tax 36787
return filed in this state by the corporation. Unless the default 36788
is cured within thirty days after the mailing by the secretary of 36789
state of the notice or within any further period of time that the 36790
secretary of state grants, upon the expiration of that period of 36791
time from the date of the mailing, the articles of the corporation 36792
shall be canceled without further notice or action by the 36793
secretary of state. The secretary of state shall make a notation 36794
of the cancellation on the secretary of state's records. 36795

A corporation whose articles have been canceled may be 36796
reinstated by filing, on a form prescribed by the secretary of 36797
state, an application for reinstatement and the required 36798
appointment of agent or required statement, and by paying the 36799
filing fee specified in division (Q) of section 111.16 of the 36800
Revised Code. The rights, privileges, and franchises of a 36801
corporation whose articles have been reinstated are subject to 36802
section 1701.922 of the Revised Code. The secretary of state shall 36803
furnish the tax commissioner a monthly list of all corporations 36804
canceled and reinstated under this division. 36805

(O) This section does not apply to banks, trust companies, 36806
insurance companies, or any corporation defined under the laws of 36807
this state as a public utility for taxation purposes. 36808

Sec. 1702.59. (A) Every nonprofit corporation, incorporated 36809
under the general corporation laws of this state, or previous 36810
laws, or under special provisions of the Revised Code, or created 36811
before September 1, 1851, which corporation has expressly or 36812
impliedly elected to be governed by the laws passed since that 36813
date, and whose articles or other documents are filed with the 36814

secretary of state, shall file with the secretary of state a 36815
verified statement of continued existence, signed by a director, 36816
officer, or three members in good standing, setting forth the 36817
corporate name, the place where the principal office of the 36818
corporation is located, the date of incorporation, the fact that 36819
the corporation is still actively engaged in exercising its 36820
corporate privileges, and the name and address of its agent 36821
appointed pursuant to section 1702.06 of the Revised Code. 36822

(B) Each corporation required to file a statement of 36823
continued existence shall file it with the secretary of state 36824
within each five years after the date of incorporation or of the 36825
last corporate filing. 36826

(C) Corporations specifically exempted by division (N) of 36827
section 1702.06 of the Revised Code, or whose activities are 36828
regulated or supervised by another state official, agency, bureau, 36829
department, or commission are exempted from this section. 36830

(D) The secretary of state shall give notice ~~in writing~~ by 36831
ordinary or electronic mail and provide a form for compliance with 36832
this section to each corporation required by this section to file 36833
the statement of continued existence, such notice and form to be 36834
mailed to the last known physical or electronic mail address of 36835
the corporation as it appears on the records of the secretary of 36836
state or which the secretary of state may ascertain upon a 36837
reasonable search. 36838

(E) If any nonprofit corporation required by this section to 36839
file a statement of continued existence fails to file the 36840
statement required every fifth year, then the secretary of state 36841
shall cancel the articles of such corporation, make a notation of 36842
the cancellation on the records, and mail to the corporation a 36843
certificate of the action so taken. 36844

(F) A corporation whose articles have been canceled may be 36845

reinstated by filing an application for reinstatement and paying 36846
to the secretary of state the fee specified in division (Q) of 36847
section 111.16 of the Revised Code. The name of a corporation 36848
whose articles have been canceled shall be reserved for a period 36849
of one year after the date of cancellation. If the reinstatement 36850
is not made within one year from the date of the cancellation of 36851
its articles of incorporation and it appears that a corporate 36852
name, limited liability company name, limited liability 36853
partnership name, limited partnership name, or trade name has been 36854
filed, the name of which is not distinguishable upon the record as 36855
provided in section 1702.06 of the Revised Code, the applicant for 36856
reinstatement shall be required by the secretary of state, as a 36857
condition prerequisite to such reinstatement, to amend its 36858
articles by changing its name. A certificate of reinstatement may 36859
be filed in the recorder's office of any county in the state, for 36860
which the recorder shall charge and collect a base fee of one 36861
dollar for services and a housing trust fund fee of one dollar 36862
pursuant to section 317.36 of the Revised Code. The rights, 36863
privileges, and franchises of a corporation whose articles have 36864
been reinstated are subject to section 1702.60 of the Revised 36865
Code. 36866

(G) The secretary of state shall furnish the tax commissioner 36867
a list of all corporations failing to file the required statement 36868
of continued existence. 36869

Sec. 1703.031. (A) If the laws of the United States prohibit, 36870
preempt, or otherwise eliminate the licensing requirement of 36871
sections 1703.01 to 1703.31 of the Revised Code with respect to a 36872
corporation that is a bank, savings bank, or savings and loan 36873
association chartered under the laws of the United States, the 36874
main office of which is located in another state, the bank, 36875
savings bank, or savings and loan association shall notify the 36876
secretary of state that it is transacting business in this state 36877

by submitting a notice in such form as the secretary of state 36878
prescribes. The notice shall be verified by the oath of the 36879
president, vice-president, secretary, or treasurer of the bank, 36880
savings bank, or savings and loan association, and shall set forth 36881
all of the following: 36882

(1) The name of the corporation and any trade name under 36883
which it will do business in this state; 36884

(2) The location and complete address, including the county, 36885
of its main office in another state and its principal office, if 36886
any, in this state; 36887

(3) The appointment of a designated agent and the complete 36888
address of such agent in this state, which agent may be a natural 36889
person who is a resident of this state, or may be a domestic 36890
corporation for profit or a foreign corporation for profit holding 36891
a license as such under the laws of this state, provided that the 36892
domestic or foreign corporation has a business address in this 36893
state and is authorized by its articles of incorporation to act as 36894
such agent; 36895

(4) The irrevocable consent of the corporation to service of 36896
process on such agent so long as the authority of the agent 36897
continues and to service of process upon the secretary of state in 36898
the events provided for in section 1703.19 of the Revised Code; 36899

(5) A brief summary of the business to be transacted within 36900
this state. 36901

(B) The notice required by this section shall be accompanied 36902
by a certificate of good standing or subsistence, dated not 36903
earlier than sixty days prior to the submission of the notice, 36904
under the seal of the proper official of the agency of the United 36905
States that incorporated the bank, savings bank, or savings and 36906
loan association, setting forth the exact corporate title, the 36907
date of incorporation, and the fact that the bank, savings bank, 36908

or savings and loan association is in good standing or is a 36909
subsisting bank, savings bank, or savings and loan association. 36910

(C) Upon submission of the notice, a bank, savings bank, or 36911
savings and loan association shall pay a filing fee ~~of one hundred~~ 36912
~~dollars~~ to the secretary of state as required by section 111.16 of 36913
the Revised Code. 36914

(D)(1) No such notice shall be accepted for filing if it 36915
appears that the name of the bank, savings bank, or savings and 36916
loan association is any of the following: 36917

(a) Prohibited by law; 36918

(b) Not distinguishable upon the records in the office of the 36919
secretary of state from the name of a limited liability company, 36920
whether domestic or foreign, or any other corporation, whether 36921
nonprofit or for profit and whether that of a domestic corporation 36922
or of a foreign corporation authorized to transact business in 36923
this state, unless there is also filed with the secretary of state 36924
the consent of the other limited liability company or corporation 36925
to the use of the name, evidenced in a writing signed by any 36926
authorized representative or authorized officer of the other 36927
limited liability company or corporation; 36928

(c) Not distinguishable upon the records in the office of the 36929
secretary of state from a trade name, the exclusive right to which 36930
is at the time in question registered in the manner provided in 36931
Chapter 1329. of the Revised Code, unless there also is filed with 36932
the secretary of state the consent of the other corporation or 36933
person to the use of the name, evidenced in a writing signed by 36934
any authorized officer of the other corporation or authorized 36935
party of the other person owning the exclusive right to the 36936
registered trade name. 36937

(2) Notwithstanding division (D)(1)(b) of this section, if a 36938
notice is not acceptable for filing solely because the name of the 36939

bank, savings bank, or savings and loan association is not 36940
distinguishable from the name of another corporation or registered 36941
trade name, the bank, savings bank, or savings and loan 36942
association may be authorized to transact business in this state 36943
by filing with the secretary of state, in addition to those items 36944
otherwise prescribed by this section, a statement signed by an 36945
authorized officer directing the bank, savings bank, or savings 36946
and loan association to transact business in this state under an 36947
assumed business name or names that comply with the requirements 36948
of division (D) of this section and stating that the bank, savings 36949
bank, or savings and loan association will transact business in 36950
this state only under the assumed name or names. 36951

(E) The secretary of state shall provide evidence of receipt 36952
of notice to each bank, savings bank, or savings and loan 36953
association that submits a notice required by this section. 36954

Sec. 1703.07. If a foreign corporation has merged or 36955
consolidated with one or more foreign corporations, it shall file 36956
with the secretary of state a certificate setting forth the fact 36957
of merger or consolidation, certified by the secretary of state, 36958
or other proper official, of the state under the laws of which the 36959
foreign corporation was incorporated. 36960

The secretary of state, before filing a certificate 36961
evidencing a foreign corporation's merger or consolidation, shall 36962
charge and collect from the foreign corporation a filing fee of 36963
~~ten dollars~~ as required by section 111.16 of the Revised Code. 36964

Sec. 1707.11. (A) Each person that is not organized under the 36965
laws of this state, that is not licensed under section 1703.03 of 36966
the Revised Code, or that does not have its principal place of 36967
business in this state, shall submit to the division of securities 36968
an irrevocable consent to service of process, as described in 36969

division (B) of this section, in connection with any of the 36970
following: 36971

(1) Filings to claim any of the exemptions enumerated in 36972
division (Q), (W), ~~(X)~~, or (Y) of section 1707.03 of the Revised 36973
Code; 36974

(2) Applications for registration by description, 36975
qualification, or coordination; 36976

(3) Notice filings pursuant to section 1707.092 of the 36977
Revised Code. 36978

(B) The irrevocable written consent shall be executed and 36979
acknowledged by an individual duly authorized to give the consent 36980
and shall do all of the following: 36981

(1) Designate the secretary of state as agent for service of 36982
process or pleadings; 36983

(2) State that actions growing out of the sale of such 36984
securities, the giving of investment advice, or fraud committed by 36985
a person on whose behalf the consent is submitted may be commenced 36986
against the person, in the proper court of any county in this 36987
state in which a cause of action may arise or in which the 36988
plaintiff in the action may reside, by serving on the secretary of 36989
state any proper process or pleading authorized by the laws of 36990
this state; 36991

(3) Stipulate that service of process or pleading on the 36992
secretary of state shall be taken in all courts to be as valid and 36993
binding as if service had been made upon the person on whose 36994
behalf the consent is submitted. 36995

(C) Notwithstanding any application, form, or other material 36996
filed with or submitted to the division that purports to appoint 36997
as agent for service of process a person other than the secretary 36998
of state, the application, form, or other material shall be 36999

considered to appoint the secretary of state as agent for service of process. 37000
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(D) Service of any process or pleadings may be made on the secretary of state by duplicate copies, of which one shall be filed in the office of the secretary of state, and the other immediately forwarded by the secretary of state by certified mail to the principal place of business of the person on whose behalf the consent is submitted or to the last known address as shown on the filing made with the division. However, failure to mail such copy does not invalidate the service. 37002
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(E) Notwithstanding any provision of this chapter, or of any rule adopted by the division of securities under this chapter, that requires the submission of a consent to service of process, the division may provide by rule for the electronic filing or submission of a consent to service of process. 37010
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Sec. 1707.17. (A)(1) The license of every dealer in and salesperson of securities shall expire on the thirty-first day of December of each year, and may be renewed upon the filing with the division of securities of an application for renewal, and the payment of the fee prescribed in this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal of a dealer's or salesperson's license. 37015
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(2) The license of every investment adviser and investment adviser representative licensed under section 1707.141 or 1707.161 of the Revised Code shall expire on the thirty-first day of December of each year. The licenses may be renewed upon the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal. 37022
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(3) An investment adviser required to make a notice filing 37030

under division (B) of section 1707.141 of the Revised Code 37031
annually shall file with the division the notice filing and the 37032
fee prescribed in division (B) of this section, no later than the 37033
thirty-first day of December of each year. 37034

(4) The license of every state retirement system investment 37035
officer licensed under section 1707.163 of the Revised Code and 37036
the license of a bureau of workers' compensation chief investment 37037
officer issued under section 1707.165 of the Revised Code shall 37038
expire on the thirtieth day of June of each year. The licenses may 37039
be renewed on the filing with the division of an application for 37040
renewal, and the payment of the fee prescribed in division (B) of 37041
this section. The division shall give notice, without unreasonable 37042
delay, of its action on any application for renewal. 37043

(B)(1) The fee for each dealer's license, and for each annual 37044
renewal thereof, shall be two hundred dollars. 37045

(2) The fee for each salesperson's license, and for each 37046
annual renewal thereof, shall be sixty dollars. 37047

(3) The fee for each investment adviser's license, and for 37048
each annual renewal thereof, shall be one hundred dollars. 37049

(4) The fee for each investment adviser notice filing 37050
required by division (B) of section 1707.141 of the Revised Code 37051
shall be one hundred dollars. 37052

(5) The fee for each investment adviser representative's 37053
license, and for each annual renewal thereof, shall be thirty-five 37054
dollars. 37055

(6) The fee for each state retirement system investment 37056
officer's license, and for each annual renewal thereof, shall be 37057
fifty dollars. 37058

(7) The fee for a bureau of workers' compensation chief 37059
investment officer's license, and for each annual renewal thereof, 37060

shall be fifty dollars. 37061

(C) A dealer's, salesperson's, investment adviser's, 37062
investment adviser representative's, bureau of workers' 37063
compensation chief investment officer's, or state retirement 37064
system investment officer's license may be issued at any time for 37065
the remainder of the calendar year. In that event, the annual fee 37066
shall not be reduced. 37067

(D) The division may, by rule or order, waive, in whole or in 37068
part, any of the fee requirements of this section for any person 37069
or class of persons if, in the same calendar year, the person or 37070
class of persons is required to pay an additional fee as a result 37071
of changes in federal law and regulations implemented under Title 37072
IV of the "Dodd-Frank Wall Street Reform and Consumer Protection 37073
Act of 2010," 124 Stat. 1576 (2010), 15 U.S.C. 80b-3a(a), under 37074
which a person or class of persons formerly subject to regulation 37075
under the United States securities and exchange commission is 37076
subject to state regulation under Chapter 1707. of the Revised 37077
Code. 37078

Sec. 1711.05. Every county agricultural society annually 37079
shall publish an abstract of its treasurer's account in a 37080
newspaper of general circulation in the county and make a report 37081
of its proceedings during the year. It shall also make, in 37082
accordance with the rules of the department of agriculture, a 37083
synopsis of its awards for improvement in agriculture and in 37084
household manufactures and forward such synopsis to the director 37085
of agriculture at or before the annual meeting of the directors of 37086
the society with the director of agriculture, as provided for in 37087
section 901.06 of the Revised Code. No payment after such date 37088
shall be made from the county treasury to such society unless a 37089
certificate from the director is presented to the county auditor 37090
showing that such reports have been made. 37091

Sec. 1711.07. The board of directors of a county or 37092
independent agricultural society shall consist of at least eight 37093
members. An employee of the Ohio state university extension 37094
service and the county school superintendent shall be members ex 37095
officio. Their terms of office shall be determined by the rules of 37096
the department of agriculture. Any vacancy in the board caused by 37097
death, resignation, refusal to qualify, removal from county, or 37098
other cause may be filled by the board until the society's next 37099
annual election, when a director shall be elected for the 37100
unexpired term. There shall be an annual election of directors by 37101
ballot at a time and a place fixed by the board, but this election 37102
shall not be held later than the first Saturday in December 1994, 37103
and not later than the fifteenth day of November each year 37104
thereafter, beginning in 1995. The secretary of the society shall 37105
give notice of such election, for three weeks prior to the holding 37106
thereof, in ~~at least two newspapers~~ a newspaper of ~~opposite~~ 37107
~~politics and of~~ general circulation in the county or as provided 37108
in section 7.16 of the Revised Code, or by letter mailed to each 37109
member of the society. Only persons holding membership 37110
certificates at the close of the annual county fair, or at least 37111
fifteen calendar days before the date of election, as may be fixed 37112
by the board, may vote, unless such election is held on the 37113
fairground during the fair, in which case all persons holding 37114
membership certificates on the date and hour of the election may 37115
vote. When the election is to be held during the fair, notice of 37116
such election must be prominently mentioned in the premium list, 37117
in addition to the notice required in ~~newspapers~~ a newspaper. The 37118
terms of office of the retiring directors shall expire, and those 37119
of the directors-elect shall begin, not later than the first 37120
Saturday in January 1995, and not later than the thirtieth day of 37121
November each year thereafter, beginning in 1995. 37122

The secretary of such society shall send the name and address 37123

of each member of its board to the director of agriculture within 37124
ten days after the election. 37125

Sec. 1711.18. In a county in which there is a county 37126
agricultural society indebted fifteen thousand dollars or more, 37127
and such society has purchased a fairground or title to such 37128
fairground is vested in fee in the county, the board of county 37129
commissioners, upon the presentation of a petition signed by not 37130
less than five hundred resident electors of the county praying for 37131
the submission to the electors of the county of the question 37132
whether or not county bonds shall be issued and sold to liquidate 37133
such indebtedness, shall, by resolution within ten days 37134
thereafter, fix a date, which shall be within thirty days, upon 37135
which the question of issuing and selling such bonds, in the 37136
necessary amount and denomination, shall be submitted to the 37137
electors of the county. The board also shall cause a copy of such 37138
resolution to be certified to the county board of elections and 37139
such board of elections, within ten days after such certification, 37140
shall proceed to make the necessary arrangements for the 37141
submission of such question to such electors at the time fixed by 37142
such resolution. 37143

Such election shall be held at the regular places of voting 37144
in the county and shall be conducted, canvassed, and certified, 37145
except as otherwise provided by law, as are elections of county 37146
officers. The county board of elections must give fifteen days' 37147
notice of such submission by publication in ~~one or more newspapers~~ 37148
~~published~~ a newspaper of general circulation in the county once a 37149
week for two consecutive weeks or as provided in section 7.16 of 37150
the Revised Code, stating the amount of bonds to be issued, the 37151
purpose for which they are to be issued, and the time and places 37152
of holding such election. Those who vote in favor of the 37153
proposition shall have written or printed on their ballots "for 37154
the issue of bonds" and those who vote against it shall have 37155

written or printed on their ballots "against the issue of bonds." 37156
If a majority of those voting upon the question of issuing the 37157
bonds vote in favor thereof, then and only then shall they be 37158
issued and the tax provided for in section 1711.20 of the Revised 37159
Code be levied. 37160

Sec. 1711.30. Before issuing bonds under section 1711.28 of 37161
the Revised Code, the board of county commissioners, by 37162
resolution, shall submit to the qualified electors of the county 37163
at the next general election for county officers, held not less 37164
than ninety days after receiving from the county agricultural 37165
society the notice provided for in section 1711.25 of the Revised 37166
Code, the question of issuing and selling such bonds in such 37167
amount and denomination as are necessary for the purpose in view, 37168
and shall certify a copy of such resolution to the county board of 37169
elections. 37170

The county board of elections shall place the question of 37171
issuing and selling such bonds upon the ballot and make all other 37172
necessary arrangements for the submission, at the time fixed by 37173
such resolution, of such question to such electors. The votes cast 37174
at such election upon such question must be counted, canvassed, 37175
and certified in the same manner, except as provided by law, as 37176
votes cast for county officers. Fifteen days' notice of such 37177
submission shall be given by the county board of elections, by 37178
publication once a week for two consecutive weeks in ~~two or more~~ 37179
~~newspapers published~~ a newspaper of general circulation in the 37180
county or as provided in section 7.16 of the Revised Code, stating 37181
the amount of bonds to be issued, the purpose for which they are 37182
to be issued, and the time and places of holding such election. 37183
Such question must be stated on the ballot as follows: "For the 37184
issue of county fair bonds, yes"; "For the issue of county fair 37185
bonds, no." If the majority of those voting upon the question of 37186
issuing the bonds vote in favor thereof, then and only then shall 37187

they be issued and the tax provided for in section 1711.29 of the Revised Code be levied. 37188
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Sec. 1728.06. Every community urban redevelopment corporation qualifying under this chapter, before proceeding with any project authorized in this chapter, shall make written application to the municipal corporation for approval thereof. The application shall be in such form and shall certify to such facts and data as shall be required by the municipal corporation, and may include but not be limited to: 37190
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(A) A general statement of the nature of the proposed project, that the undertaking conforms to all applicable municipal ordinances, that its completion will meet an existing need, and that the project accords with the master plan or official map, if any, of the municipal corporation; 37197
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(B) A description of the proposed project outlining the area included and a description of each unit thereof if the project is to be undertaken in units and setting out such architectural and site plans as may be required; 37202
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(C) A statement of the estimated cost of the proposed project in such detail as may be required, including the estimated cost of each unit if it is to be so undertaken; 37206
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(D) The source, method, and amount of money to be subscribed through the investment of private capital, setting forth the amount of stock or other securities to be issued therefor; 37209
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(E) A fiscal plan for the project outlining a schedule of rents, the estimated expenditures for operation and maintenance, payments for interest, amortization of debt and reserves, and payments to the municipal corporation to be made pursuant to a financial agreement to be entered into with the municipal corporation; 37212
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(F) A relocation plan providing for the relocation of 37218
persons, including families, business concerns, and others, 37219
displaced by the project, which relocation plan shall include, but 37220
not be limited to, the proposed method for the relocation of 37221
residents who will be displaced from their dwelling accommodations 37222
in decent, safe, and sanitary dwelling accommodations within their 37223
means, or with provision for adjustment payments to bring such 37224
accommodations within their means, and without undue hardship, and 37225
reasonable moving costs; 37226

(G) The names and tax mailing addresses, as determined from 37227
the records of the county auditor not more than five days prior to 37228
the submission of the application to the mayor of the municipal 37229
corporation, of the owners of all property which the corporation 37230
proposes in its application to acquire. 37231

Such application shall be addressed and submitted to the 37232
mayor of the municipal corporation, who shall, within sixty days 37233
after receipt thereof, submit it with ~~his~~ the mayor's 37234
recommendations to the governing body. The application shall be a 37235
matter of public record upon receipt by the mayor. 37236

The governing body shall by notice published once a week for 37237
two consecutive weeks in a newspaper of general circulation in the 37238
municipal corporation or as provided in section 7.16 of the 37239
Revised Code, by written notice, by certified mail or personal 37240
service, to the owners of property which the corporation proposes 37241
in its application to purchase at the tax mailing address as set 37242
forth in the corporation's application, by the putting up of signs 37243
in at least five places within the area covered by the 37244
application, and by giving written notice, by certified mail or 37245
personal service, to community organizations known by the clerk of 37246
the governing body to represent a substantial number of the 37247
residents of the area covered by the application, advise that the 37248
application is on file in the office of the clerk of the governing 37249

body of the municipal corporation and is available for inspection 37250
by the general public during business hours and advise that a 37251
public hearing shall be held thereon, stating the place and time 37252
of the public hearing, which time shall be not less than fourteen 37253
days after the first publication, or after sending the mailed 37254
notice, or after the putting up of the signs, whichever is later. 37255

Following the public hearing and after complying with section 37256
5709.83 of the Revised Code, the governing body, taking into 37257
consideration the financial impact on the community, shall by 37258
resolution approve or disapprove the application, approval to be 37259
by an affirmative vote of not less than three-fifths of the 37260
governing body, but in the event of disapproval, changes may be 37261
suggested to secure its approval. 37262

An application may be revised or resubmitted in the same 37263
manner and subject to the same procedures as an original 37264
application. The clerk of the governing body shall diligently 37265
discharge the duties imposed on the clerk by this division, 37266
provided failure of the clerk to send written notices to all 37267
community organizations, in a good faith effort by the clerk to 37268
give the required notice, shall not invalidate any proceedings 37269
under this chapter. The failure of delivery of notice given by 37270
certified mail under this division shall not invalidate any 37271
proceedings under this chapter. 37272

Sec. 1728.07. Every approved project shall be evidenced by a 37273
financial agreement between the municipal corporation and the 37274
community urban redevelopment corporation. Such agreement shall be 37275
prepared by the community urban redevelopment corporation and 37276
submitted as a separate part of its application for project 37277
approval. 37278

The financial agreement shall be in the form of a contract 37279
requiring full performance within twenty years from the date of 37280

completion of the project and shall, as a minimum, include the 37281
following: 37282

(A) That all improvements in the project to be constructed or 37283
acquired by the corporation shall be exempt from taxation, subject 37284
to section 1728.10 of the Revised Code; 37285

(B) That the corporation shall make payments in lieu of real 37286
estate taxes not less than the amount as provided by section 37287
1728.11 of the Revised Code; or if the municipal corporation is an 37288
impacted city, not less than the amount as provided by section 37289
1728.111 of the Revised Code; 37290

(C) That the corporation, its successors and assigns, shall 37291
use, develop, and redevelop the real property of the project in 37292
accordance with, and for the period of, the community development 37293
plan approved by the governing body of the municipal corporation 37294
for the blighted area in which the project is situated and shall 37295
so bind its successors and assigns by appropriate agreements and 37296
covenants running with the land enforceable by the municipal 37297
corporation. 37298

(D) If the municipal corporation is an impacted city, the 37299
extent of the undertakings and activities of the corporation for 37300
the elimination and for the prevention of the development or 37301
spread of blight. 37302

(E) That the corporation or the municipal corporation, or 37303
both, shall provide for carrying out relocation of persons, 37304
families, business concerns, and others displaced by the project, 37305
pursuant to a relocation plan, including the method for the 37306
relocation of residents in decent, safe, and sanitary dwelling 37307
accommodations, and reasonable moving costs, determined to be 37308
feasible by the governing body of the municipal corporation. Where 37309
the relocation plan is carried out by the corporation, its 37310
officers, employees, agents, or lessees, the municipal corporation 37311

shall enforce and supervise the corporation's compliance with the 37312
relocation plan. If the corporation refuses or fails to comply 37313
with the relocation plan and the municipal corporation fails or 37314
refuses to enforce compliance with such plan, the director of 37315
development may request the attorney general to commence a civil 37316
action against the municipality and the corporation to require 37317
compliance with such relocation plan. Prior to requesting action 37318
by the attorney general the director shall give notice of the 37319
proposed action to the municipality and the corporation, provide 37320
an opportunity to such municipality and corporation for 37321
discussions on the matter, and allow a reasonable time in which 37322
the corporation may begin compliance with the relocation plan, or 37323
the municipality may commence enforcement of the relocation plan. 37324

(F) That the corporation shall submit annually, within ninety 37325
days after the close of its fiscal year, its auditor's reports to 37326
the mayor and governing body of the municipal corporation; 37327

(G) That the corporation shall, upon request, permit 37328
inspection of property, equipment, buildings, and other facilities 37329
of the corporation, and also permit examination and audit of its 37330
books, contracts, records, documents, and papers by authorized 37331
representatives of the municipal corporation; 37332

(H) That in the event of any dispute between the parties the 37333
matters in controversy shall be resolved by arbitration in the 37334
manner provided therein; 37335

(I) That operation under the financial agreement is 37336
terminable by the corporation in the manner provided by Chapter 37337
1728. of the Revised Code; 37338

(J) That the corporation shall, at all times prior to the 37339
expiration or other termination of the financial agreement, remain 37340
bound by Chapter 1728. of the Revised Code; 37341

~~(K) That all wages paid to laborers and mechanics employed 37342~~

~~for work on such projects, other than for residential structures 37343
containing seven or less family units, shall be paid at the 37344
prevailing rates of wages of laborers and mechanics for the class 37345
of work called for by the project, which wages shall be determined 37346
in accordance with the requirements of Chapter 4115. of the 37347
Revised Code for determination of prevailing wage rates, provided 37348
that the requirements of this division do not apply where the 37349
federal government or any of its agencies furnishes by law or 37350
grant all or any part of the funds used in connection with such 37351
project and prescribes predetermined minimum wages to be paid to 37352
such laborers and mechanics. 37353~~

Modifications of the financial agreement may from time to 37354
time be made by agreement between the governing body of the 37355
municipal corporation and the community urban redevelopment 37356
corporation. 37357

Sec. 1751.01. As used in this chapter: 37358

(A)(1) "Basic health care services" means the following 37359
services when medically necessary: 37360

(a) Physician's services, except when such services are 37361
supplemental under division (B) of this section; 37362

(b) Inpatient hospital services; 37363

(c) Outpatient medical services; 37364

(d) Emergency health services; 37365

(e) Urgent care services; 37366

(f) Diagnostic laboratory services and diagnostic and 37367
therapeutic radiologic services; 37368

(g) Diagnostic and treatment services, other than 37369
prescription drug services, for biologically based mental 37370
illnesses; 37371

(h) Preventive health care services, including, but not 37372
limited to, voluntary family planning services, infertility 37373
services, periodic physical examinations, prenatal obstetrical 37374
care, and well-child care; 37375

(i) Routine patient care for patients enrolled in an eligible 37376
cancer clinical trial pursuant to section 3923.80 of the Revised 37377
Code. 37378

"Basic health care services" does not include experimental 37379
procedures. 37380

Except as provided by divisions (A)(2) and (3) of this 37381
section in connection with the offering of coverage for diagnostic 37382
and treatment services for biologically based mental illnesses, a 37383
health insuring corporation shall not offer coverage for a health 37384
care service, defined as a basic health care service by this 37385
division, unless it offers coverage for all listed basic health 37386
care services. However, this requirement does not apply to the 37387
coverage of beneficiaries enrolled in medicare pursuant to a 37388
medicare contract, or to the coverage of beneficiaries enrolled in 37389
the federal employee health benefits program pursuant to 5 37390
U.S.C.A. 8905, or to the coverage of medicaid recipients, ~~or to~~ 37391
~~the coverage of participants of the children's buy-in program,~~ or 37392
to the coverage of beneficiaries under any federal health care 37393
program regulated by a federal regulatory body, or to the coverage 37394
of beneficiaries under any contract covering officers or employees 37395
of the state that has been entered into by the department of 37396
administrative services. 37397

(2) A health insuring corporation may offer coverage for 37398
diagnostic and treatment services for biologically based mental 37399
illnesses without offering coverage for all other basic health 37400
care services. A health insuring corporation may offer coverage 37401
for diagnostic and treatment services for biologically based 37402
mental illnesses alone or in combination with one or more 37403

supplemental health care services. However, a health insuring 37404
corporation that offers coverage for any other basic health care 37405
service shall offer coverage for diagnostic and treatment services 37406
for biologically based mental illnesses in combination with the 37407
offer of coverage for all other listed basic health care services. 37408

(3) A health insuring corporation that offers coverage for 37409
basic health care services is not required to offer coverage for 37410
diagnostic and treatment services for biologically based mental 37411
illnesses in combination with the offer of coverage for all other 37412
listed basic health care services if all of the following apply: 37413

(a) The health insuring corporation submits documentation 37414
certified by an independent member of the American academy of 37415
actuaries to the superintendent of insurance showing that incurred 37416
claims for diagnostic and treatment services for biologically 37417
based mental illnesses for a period of at least six months 37418
independently caused the health insuring corporation's costs for 37419
claims and administrative expenses for the coverage of basic 37420
health care services to increase by more than one per cent per 37421
year. 37422

(b) The health insuring corporation submits a signed letter 37423
from an independent member of the American academy of actuaries to 37424
the superintendent of insurance opining that the increase in costs 37425
described in division (A)(3)(a) of this section could reasonably 37426
justify an increase of more than one per cent in the annual 37427
premiums or rates charged by the health insuring corporation for 37428
the coverage of basic health care services. 37429

(c) The superintendent of insurance makes the following 37430
determinations from the documentation and opinion submitted 37431
pursuant to divisions (A)(3)(a) and (b) of this section: 37432

(i) Incurred claims for diagnostic and treatment services for 37433
biologically based mental illnesses for a period of at least six 37434

months independently caused the health insuring corporation's 37435
costs for claims and administrative expenses for the coverage of 37436
basic health care services to increase by more than one per cent 37437
per year. 37438

(ii) The increase in costs reasonably justifies an increase 37439
of more than one per cent in the annual premiums or rates charged 37440
by the health insuring corporation for the coverage of basic 37441
health care services. 37442

Any determination made by the superintendent under this 37443
division is subject to Chapter 119. of the Revised Code. 37444

(B)(1) "Supplemental health care services" means any health 37445
care services other than basic health care services that a health 37446
insuring corporation may offer, alone or in combination with 37447
either basic health care services or other supplemental health 37448
care services, and includes: 37449

(a) Services of facilities for intermediate or long-term 37450
care, or both; 37451

(b) Dental care services; 37452

(c) Vision care and optometric services including lenses and 37453
frames; 37454

(d) Podiatric care or foot care services; 37455

(e) Mental health services, excluding diagnostic and 37456
treatment services for biologically based mental illnesses; 37457

(f) Short-term outpatient evaluative and crisis-intervention 37458
mental health services; 37459

(g) Medical or psychological treatment and referral services 37460
for alcohol and drug abuse or addiction; 37461

(h) Home health services; 37462

(i) Prescription drug services; 37463

(j) Nursing services;	37464
(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;	37465 37466
(l) Physical therapy services;	37467
(m) Chiropractic services;	37468
(n) Any other category of services approved by the superintendent of insurance.	37469 37470
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	37471 37472 37473 37474 37475
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.	37476 37477 37478 37479 37480
(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.	37481 37482 37483 37484 37485 37486 37487
(E) "Children's buy-in program" has the same meaning as in section 5101.5211 of the Revised Code.	37488 37489
(F) "Closed panel plan" means a health care plan that requires enrollees to use participating providers.	37490 37491
(G) <u>(F)</u> "Compensation" means remuneration for the provision of health care services, determined on other than a fee-for-service	37492 37493

or discounted-fee-for-service basis. 37494

~~(H)~~(G) "Contractual periodic prepayment" means the formula 37495
for determining the premium rate for all subscribers of a health 37496
insuring corporation. 37497

~~(I)~~(H) "Corporation" means a corporation formed under Chapter 37498
1701. or 1702. of the Revised Code or the similar laws of another 37499
state. 37500

~~(J)~~(I) "Emergency health services" means those health care 37501
services that must be available on a seven-days-per-week, 37502
twenty-four-hours-per-day basis in order to prevent jeopardy to an 37503
enrollee's health status that would occur if such services were 37504
not received as soon as possible, and includes, where appropriate, 37505
provisions for transportation and indemnity payments or service 37506
agreements for out-of-area coverage. 37507

~~(K)~~(J) "Enrollee" means any natural person who is entitled to 37508
receive health care benefits provided by a health insuring 37509
corporation. 37510

~~(L)~~(K) "Evidence of coverage" means any certificate, 37511
agreement, policy, or contract issued to a subscriber that sets 37512
out the coverage and other rights to which such person is entitled 37513
under a health care plan. 37514

~~(M)~~(L) "Health care facility" means any facility, except a 37515
health care practitioner's office, that provides preventive, 37516
diagnostic, therapeutic, acute convalescent, rehabilitation, 37517
mental health, mental retardation, intermediate care, or skilled 37518
nursing services. 37519

~~(N)~~(M) "Health care services" means basic, supplemental, and 37520
specialty health care services. 37521

~~(O)~~(N) "Health delivery network" means any group of providers 37522
or health care facilities, or both, or any representative thereof, 37523

that have entered into an agreement to offer health care services 37524
in a panel rather than on an individual basis. 37525

~~(P)~~(O) "Health insuring corporation" means a corporation, as 37526
defined in division ~~(I)~~(H) of this section, that, pursuant to a 37527
policy, contract, certificate, or agreement, pays for, reimburses, 37528
or provides, delivers, arranges for, or otherwise makes available, 37529
basic health care services, supplemental health care services, or 37530
specialty health care services, or a combination of basic health 37531
care services and either supplemental health care services or 37532
specialty health care services, through either an open panel plan 37533
or a closed panel plan. 37534

"Health insuring corporation" does not include a limited 37535
liability company formed pursuant to Chapter 1705. of the Revised 37536
Code, an insurer licensed under Title XXXIX of the Revised Code if 37537
that insurer offers only open panel plans under which all 37538
providers and health care facilities participating receive their 37539
compensation directly from the insurer, a corporation formed by or 37540
on behalf of a political subdivision or a department, office, or 37541
institution of the state, or a public entity formed by or on 37542
behalf of a board of county commissioners, a county board of 37543
developmental disabilities, an alcohol and drug addiction services 37544
board, a board of alcohol, drug addiction, and mental health 37545
services, or a community mental health board, as those terms are 37546
used in Chapters 340. and 5126. of the Revised Code. Except as 37547
provided by division (D) of section 1751.02 of the Revised Code, 37548
or as otherwise provided by law, no board, commission, agency, or 37549
other entity under the control of a political subdivision may 37550
accept insurance risk in providing for health care services. 37551
However, nothing in this division shall be construed as 37552
prohibiting such entities from purchasing the services of a health 37553
insuring corporation or a third-party administrator licensed under 37554
Chapter 3959. of the Revised Code. 37555

~~(Q)~~(P) "Intermediary organization" means a health delivery network or other entity that contracts with licensed health insuring corporations or self-insured employers, or both, to provide health care services, and that enters into contractual arrangements with other entities for the provision of health care services for the purpose of fulfilling the terms of its contracts with the health insuring corporations and self-insured employers.

~~(R)~~(O) "Intermediate care" means residential care above the level of room and board for patients who require personal assistance and health-related services, but who do not require skilled nursing care.

~~(S)~~(R) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(T)~~(S) "Medical record" means the personal information that relates to an individual's physical or mental condition, medical history, or medical treatment.

~~(U)~~(T) "Medicare" means the program established under Title XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 1395, as amended.

~~(V)~~(U)(1) "Open panel plan" means a health care plan that provides incentives for enrollees to use participating providers and that also allows enrollees to use providers that are not participating providers.

(2) No health insuring corporation may offer an open panel plan, unless the health insuring corporation is also licensed as an insurer under Title XXXIX of the Revised Code, the health insuring corporation, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1736. or 1740. of the Revised Code, or an insurer licensed under Title XXXIX of the Revised Code is responsible for the out-of-network risk as evidenced by both an evidence of coverage filing under section

1751.11 of the Revised Code and a policy and certificate filing 37587
under section 3923.02 of the Revised Code. 37588

~~(W)~~(V) "Panel" means a group of providers or health care 37589
facilities that have joined together to deliver health care 37590
services through a contractual arrangement with a health insuring 37591
corporation, employer group, or other payor. 37592

~~(X)~~(W) "Person" has the same meaning as in section 1.59 of 37593
the Revised Code, and, unless the context otherwise requires, 37594
includes any insurance company holding a certificate of authority 37595
under Title XXXIX of the Revised Code, any subsidiary and 37596
affiliate of an insurance company, and any government agency. 37597

~~(Y)~~(X) "Premium rate" means any set fee regularly paid by a 37598
subscriber to a health insuring corporation. A "premium rate" does 37599
not include a one-time membership fee, an annual administrative 37600
fee, or a nominal access fee, paid to a managed health care system 37601
under which the recipient of health care services remains solely 37602
responsible for any charges accessed for those services by the 37603
provider or health care facility. 37604

~~(Z)~~(Y) "Primary care provider" means a provider that is 37605
designated by a health insuring corporation to supervise, 37606
coordinate, or provide initial care or continuing care to an 37607
enrollee, and that may be required by the health insuring 37608
corporation to initiate a referral for specialty care and to 37609
maintain supervision of the health care services rendered to the 37610
enrollee. 37611

~~(AA)~~(Z) "Provider" means any natural person or partnership of 37612
natural persons who are licensed, certified, accredited, or 37613
otherwise authorized in this state to furnish health care 37614
services, or any professional association organized under Chapter 37615
1785. of the Revised Code, provided that nothing in this chapter 37616
or other provisions of law shall be construed to preclude a health 37617

insuring corporation, health care practitioner, or organized 37618
health care group associated with a health insuring corporation 37619
from employing certified nurse practitioners, certified nurse 37620
anesthetists, clinical nurse specialists, certified nurse 37621
midwives, dietitians, physician assistants, dental assistants, 37622
dental hygienists, optometric technicians, or other allied health 37623
personnel who are licensed, certified, accredited, or otherwise 37624
authorized in this state to furnish health care services. 37625

~~(BB)~~(AA) "Provider sponsored organization" means a 37626
corporation, as defined in division ~~(I)~~(H) of this section, that 37627
is at least eighty per cent owned or controlled by one or more 37628
hospitals, as defined in section 3727.01 of the Revised Code, or 37629
one or more physicians licensed to practice medicine or surgery or 37630
osteopathic medicine and surgery under Chapter 4731. of the 37631
Revised Code, or any combination of such physicians and hospitals. 37632
Such control is presumed to exist if at least eighty per cent of 37633
the voting rights or governance rights of a provider sponsored 37634
organization are directly or indirectly owned, controlled, or 37635
otherwise held by any combination of the physicians and hospitals 37636
described in this division. 37637

~~(CC)~~(BB) "Solicitation document" means the written materials 37638
provided to prospective subscribers or enrollees, or both, and 37639
used for advertising and marketing to induce enrollment in the 37640
health care plans of a health insuring corporation. 37641

~~(DD)~~(CC) "Subscriber" means a person who is responsible for 37642
making payments to a health insuring corporation for participation 37643
in a health care plan, or an enrollee whose employment or other 37644
status is the basis of eligibility for enrollment in a health 37645
insuring corporation. 37646

~~(EE)~~(DD) "Urgent care services" means those health care 37647
services that are appropriately provided for an unforeseen 37648
condition of a kind that usually requires medical attention 37649

without delay but that does not pose a threat to the life, limb, 37650
or permanent health of the injured or ill person, and may include 37651
such health care services provided out of the health insuring 37652
corporation's approved service area pursuant to indemnity payments 37653
or service agreements. 37654

Sec. 1751.04. (A) Except as provided by division (D) of this 37655
section, upon the receipt by the superintendent of insurance of a 37656
complete application for a certificate of authority to establish 37657
or operate a health insuring corporation, which application sets 37658
forth or is accompanied by the information and documents required 37659
by division (A) of section 1751.03 of the Revised Code, the 37660
superintendent shall review the application and accompanying 37661
documents and make findings as to whether the applicant for a 37662
certificate of authority has done all of the following with 37663
respect to any basic health care services and supplemental health 37664
care services to be furnished: 37665

(1) Demonstrated the willingness and potential ability to 37666
ensure that all basic health care services and supplemental health 37667
care services described in the evidence of coverage will be 37668
provided to all its enrollees as promptly as is appropriate and in 37669
a manner that assures continuity; 37670

(2) Made effective arrangements to ensure that its enrollees 37671
have reliable access to qualified providers in those specialties 37672
that are generally available in the geographic area or areas to be 37673
served by the applicant and that are necessary to provide all 37674
basic health care services and supplemental health care services 37675
described in the evidence of coverage; 37676

(3) Made appropriate arrangements for the availability of 37677
short-term health care services in emergencies within the 37678
geographic area or areas to be served by the applicant, 37679
twenty-four hours per day, seven days per week, and for the 37680

provision of adequate coverage whenever an out-of-area emergency
arises; 37681
37682

(4) Made appropriate arrangements for an ongoing evaluation 37683
and assurance of the quality of health care services provided to 37684
enrollees, including, if applicable, the development of a quality 37685
assurance program complying with the requirements of sections 37686
1751.73 to 1751.75 of the Revised Code, and the adequacy of the 37687
personnel, facilities, and equipment by or through which the 37688
services are rendered; 37689

(5) Developed a procedure to gather and report statistics 37690
relating to the cost and effectiveness of its operations, the 37691
pattern of utilization of its services, and the quality, 37692
availability, and accessibility of its services. 37693

(B) Based upon the information provided in the application 37694
for issuance of a certificate of authority, the superintendent 37695
shall determine whether or not the applicant meets the 37696
requirements of division (A) of this section. If the 37697
superintendent determines that the applicant does not meet these 37698
requirements, the superintendent shall specify in what respects it 37699
is deficient. However, the superintendent shall not deny an 37700
application because the requirements of this section are not met 37701
unless the applicant has been given an opportunity for a hearing 37702
on that issue. 37703

(C) If the applicant requests a hearing, the superintendent 37704
shall hold a hearing before denying an application because the 37705
applicant does not meet the requirements of this section. The 37706
hearing shall be held in accordance with Chapter 119. of the 37707
Revised Code. 37708

(D) Nothing in this section requires the superintendent to 37709
review or make findings with regard to an application and 37710
accompanying documents to establish or operate any of the 37711

following:	37712
(1) A health insuring corporation to cover solely medicaid recipients;	37713 37714
(2) A health insuring corporation to cover solely medicare beneficiaries;	37715 37716
(3) A health insuring corporation to cover solely medicaid recipients and medicare beneficiaries;	37717 37718
(4) A health insuring corporation to cover solely participants of the children's buy in program;	37719 37720
(5) A health insuring corporation to cover solely medicaid recipients and participants of the children's buy in program;	37721 37722
(6) A health insuring corporation to cover solely medicaid recipients, medicare beneficiaries, and participants of the children's buy in program.	37723 37724 37725
Sec. 1751.11. (A) Every subscriber of a health insuring corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.	37726 37727 37728
(B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of incorporation, and any trade or fictitious names used by the health insuring corporation. The identification card or document shall list at least one toll-free telephone number that provides the subscriber with access, to information on a twenty-four-hours-per-day, seven-days-per-week basis, as to how health care services may be obtained. The identification card or document shall also list at least one toll-free number that, during normal business hours, provides the subscriber with access to information on the coverage available under the subscriber's health care plan and information	37729 37730 37731 37732 37733 37734 37735 37736 37737 37738 37739 37740 37741

on the health care plan's internal and external review processes. 37742

(C) No evidence of coverage, or amendment to the evidence of 37743
coverage, shall be delivered, issued for delivery, renewed, or 37744
used, until the form of the evidence of coverage or amendment has 37745
been filed by the health insuring corporation with the 37746
superintendent of insurance. If the superintendent does not 37747
disapprove the evidence of coverage or amendment within sixty days 37748
after it is filed it shall be deemed approved, unless the 37749
superintendent sooner gives approval for the evidence of coverage 37750
or amendment. With respect to an amendment to an approved evidence 37751
of coverage, the superintendent only may disapprove provisions 37752
amended or added to the evidence of coverage. If the 37753
superintendent determines within the sixty-day period that any 37754
evidence of coverage or amendment fails to meet the requirements 37755
of this section, the superintendent shall so notify the health 37756
insuring corporation and it shall be unlawful for the health 37757
insuring corporation to use such evidence of coverage or 37758
amendment. At any time, the superintendent, upon at least thirty 37759
days' written notice to a health insuring corporation, may 37760
withdraw an approval, deemed or actual, of any evidence of 37761
coverage or amendment on any of the grounds stated in this 37762
section. Such disapproval shall be effected by a written order, 37763
which shall state the grounds for disapproval and shall be issued 37764
in accordance with Chapter 119. of the Revised Code. 37765

(D) No evidence of coverage or amendment shall be delivered, 37766
issued for delivery, renewed, or used: 37767

(1) If it contains provisions or statements that are 37768
inequitable, untrue, misleading, or deceptive; 37769

(2) Unless it contains a clear, concise, and complete 37770
statement of the following: 37771

(a) The health care services and insurance or other benefits, 37772

if any, to which an enrollee is entitled under the health care plan;	37773 37774
(b) Any exclusions or limitations on the health care services, type of health care services, benefits, or type of benefits to be provided, including copayments and deductibles;	37775 37776 37777
(c) An enrollee's personal financial obligation for noncovered services;	37778 37779
(d) Where and in what manner general information and information as to how health care services may be obtained is available, including a toll-free telephone number;	37780 37781 37782
(e) The premium rate with respect to individual and conversion contracts, and relevant copayment and deductible provisions with respect to all contracts. The statement of the premium rate, however, may be contained in a separate insert.	37783 37784 37785 37786
(f) The method utilized by the health insuring corporation for resolving enrollee complaints;	37787 37788
(g) The utilization review, internal review, and external review procedures established under sections 1751.77 to 1751.85 of the Revised Code.	37789 37790 37791
(3) Unless it provides for the continuation of an enrollee's coverage, in the event that the enrollee's coverage under the group policy, contract, certificate, or agreement terminates while the enrollee is receiving inpatient care in a hospital. This continuation of coverage shall terminate at the earliest occurrence of any of the following:	37792 37793 37794 37795 37796 37797
(a) The enrollee's discharge from the hospital;	37798
(b) The determination by the enrollee's attending physician that inpatient care is no longer medically indicated for the enrollee; however, nothing in division (D)(3)(b) of this section precludes a health insuring corporation from engaging in	37799 37800 37801 37802

utilization review as described in the evidence of coverage. 37803

(c) The enrollee's reaching the limit for contractual 37804
benefits; 37805

(d) The effective date of any new coverage. 37806

(4) Unless it contains a provision that states, in substance, 37807
that the health insuring corporation is not a member of any 37808
guaranty fund, and that in the event of the health insuring 37809
corporation's insolvency, an enrollee is protected only to the 37810
extent that the hold harmless provision required by section 37811
1751.13 of the Revised Code applies to the health care services 37812
rendered; 37813

(5) Unless it contains a provision that states, in substance, 37814
that in the event of the insolvency of the health insuring 37815
corporation, an enrollee may be financially responsible for health 37816
care services rendered by a provider or health care facility that 37817
is not under contract to the health insuring corporation, whether 37818
or not the health insuring corporation authorized the use of the 37819
provider or health care facility. 37820

(E) Notwithstanding divisions (C) and (D) of this section, a 37821
health insuring corporation may use an evidence of coverage that 37822
provides for the coverage of beneficiaries enrolled in medicare 37823
pursuant to a medicare contract, or an evidence of coverage that 37824
provides for the coverage of beneficiaries enrolled in the federal 37825
employees health benefits program pursuant to 5 U.S.C.A. 8905, or 37826
an evidence of coverage that provides for the coverage of medicaid 37827
recipients, ~~or an evidence of coverage that provides for coverage~~ 37828
~~of participants of the children's buy in program,~~ or an evidence 37829
of coverage that provides for the coverage of beneficiaries under 37830
any other federal health care program regulated by a federal 37831
regulatory body, or an evidence of coverage that provides for the 37832
coverage of beneficiaries under any contract covering officers or 37833

employees of the state that has been entered into by the 37834
department of administrative services, if both of the following 37835
apply: 37836

(1) The evidence of coverage has been approved by the United 37837
States department of health and human services, the United States 37838
office of personnel management, the Ohio department of job and 37839
family services, or the department of administrative services. 37840

(2) The evidence of coverage is filed with the superintendent 37841
of insurance prior to use and is accompanied by documentation of 37842
approval from the United States department of health and human 37843
services, the United States office of personnel management, the 37844
Ohio department of job and family services, or the department of 37845
administrative services. 37846

Sec. 1751.111. (A)(1) This section applies to both of the 37847
following: 37848

(a) A health insuring corporation that issues or requires the 37849
use of a standardized identification card or an electronic 37850
technology for submission and routing of prescription drug claims 37851
pursuant to a policy, contract, or agreement for health care 37852
services; 37853

(b) A person or entity that a health insuring corporation 37854
contracts with to issue a standardized identification card or an 37855
electronic technology described in division (A)(1)(a) of this 37856
section. 37857

(2) Notwithstanding division (A)(1) of this section, this 37858
section does not apply to the issuance or required use of a 37859
standardized identification card or an electronic technology for 37860
submission and routing of prescription drug claims in connection 37861
with any of the following: 37862

(a) Coverage provided under the medicare advantage program 37863

operated pursuant to Part C of Title XVIII of the "Social Security Act," 49 Stat. 62 (1935), 42 U.S.C. 301, as amended. 37864
37865

(b) Coverage provided under medicaid. 37866

(c) ~~Coverage provided under the children's buy-in program.~~ 37867

~~(d)~~ Coverage provided under an employer's self-insurance plan 37868
or by any of its administrators, as defined in section 3959.01 of 37869
the Revised Code, to the extent that federal law supersedes, 37870
preempts, prohibits, or otherwise precludes the application of 37871
this section to the plan and its administrators. 37872

(B) A standardized identification card or an electronic 37873
technology issued or required to be used as provided in division 37874
(A)(1) of this section shall contain uniform prescription drug 37875
information in accordance with either division (B)(1) or (2) of 37876
this section. 37877

(1) The standardized identification card or the electronic 37878
technology shall be in a format and contain information fields 37879
approved by the national council for prescription drug programs or 37880
a successor organization, as specified in the council's or 37881
successor organization's pharmacy identification card 37882
implementation guide in effect on the first day of October most 37883
immediately preceding the issuance or required use of the 37884
standardized identification card or the electronic technology. 37885

(2) If the health insuring corporation or the person under 37886
contract with the corporation to issue a standardized 37887
identification card or an electronic technology requires the 37888
information for the submission and routing of a claim, the 37889
standardized identification card or the electronic technology 37890
shall contain any of the following information: 37891

(a) The health insuring corporation's name; 37892

(b) The subscriber's name, group number, and identification 37893

number; 37894

(c) A telephone number to inquire about pharmacy-related 37895
issues; 37896

(d) The issuer's international identification number, labeled 37897
as "ANSI BIN" or "RxBIN"; 37898

(e) The processor's control number, labeled as "RxPCN"; 37899

(f) The subscriber's pharmacy benefits group number if 37900
different from the subscriber's medical group number, labeled as 37901
"RxGrp." 37902

(C) If the standardized identification card or the electronic 37903
technology issued or required to be used as provided in division 37904
(A)(1) of this section is also used for submission and routing of 37905
nonpharmacy claims, the designation "Rx" is required to be 37906
included as part of the labels identified in divisions (B)(2)(d) 37907
and (e) of this section if the issuer's international 37908
identification number or the processor's control number is 37909
different for medical and pharmacy claims. 37910

(D) Each health insuring corporation described in division 37911
(A) of this section shall annually file a certificate with the 37912
superintendent of insurance certifying that it or any person it 37913
contracts with to issue a standardized identification card or 37914
electronic technology for submission and routing of prescription 37915
drug claims complies with this section. 37916

(E)(1) Except as provided in division (E)(2) of this section, 37917
if there is a change in the information contained in the 37918
standardized identification card or the electronic technology 37919
issued to a subscriber, the health insuring corporation or person 37920
under contract with the corporation to issue a standardized 37921
identification card or an electronic technology shall issue a new 37922
card or electronic technology to the subscriber. 37923

(2) A health insuring corporation or person under contract 37924
with the corporation is not required under division (E)(1) of this 37925
section to issue a new card or electronic technology to a 37926
subscriber more than once during a twelve-month period. 37927

(F) Nothing in this section shall be construed as requiring a 37928
health insuring corporation to produce more than one standardized 37929
identification card or one electronic technology for use by 37930
subscribers accessing health care benefits provided under a 37931
policy, contract, or agreement for health care services. 37932

Sec. 1751.12. (A)(1) No contractual periodic prepayment and 37933
no premium rate for nongroup and conversion policies for health 37934
care services, or any amendment to them, may be used by any health 37935
insuring corporation at any time until the contractual periodic 37936
prepayment and premium rate, or amendment, have been filed with 37937
the superintendent of insurance, and shall not be effective until 37938
the expiration of sixty days after their filing unless the 37939
superintendent sooner gives approval. The filing shall be 37940
accompanied by an actuarial certification in the form prescribed 37941
by the superintendent. The superintendent shall disapprove the 37942
filing, if the superintendent determines within the sixty-day 37943
period that the contractual periodic prepayment or premium rate, 37944
or amendment, is not in accordance with sound actuarial principles 37945
or is not reasonably related to the applicable coverage and 37946
characteristics of the applicable class of enrollees. The 37947
superintendent shall notify the health insuring corporation of the 37948
disapproval, and it shall thereafter be unlawful for the health 37949
insuring corporation to use the contractual periodic prepayment or 37950
premium rate, or amendment. 37951

(2) No contractual periodic prepayment for group policies for 37952
health care services shall be used until the contractual periodic 37953
prepayment has been filed with the superintendent. The filing 37954

shall be accompanied by an actuarial certification in the form 37955
prescribed by the superintendent. The superintendent may reject a 37956
filing made under division (A)(2) of this section at any time, 37957
with at least thirty days' written notice to a health insuring 37958
corporation, if the contractual periodic prepayment is not in 37959
accordance with sound actuarial principles or is not reasonably 37960
related to the applicable coverage and characteristics of the 37961
applicable class of enrollees. 37962

(3) At any time, the superintendent, upon at least thirty 37963
days' written notice to a health insuring corporation, may 37964
withdraw the approval given under division (A)(1) of this section, 37965
deemed or actual, of any contractual periodic prepayment or 37966
premium rate, or amendment, based on information that either of 37967
the following applies: 37968

(a) The contractual periodic prepayment or premium rate, or 37969
amendment, is not in accordance with sound actuarial principles. 37970

(b) The contractual periodic prepayment or premium rate, or 37971
amendment, is not reasonably related to the applicable coverage 37972
and characteristics of the applicable class of enrollees. 37973

(4) Any disapproval under division (A)(1) of this section, 37974
any rejection of a filing made under division (A)(2) of this 37975
section, or any withdrawal of approval under division (A)(3) of 37976
this section, shall be effected by a written notice, which shall 37977
state the specific basis for the disapproval, rejection, or 37978
withdrawal and shall be issued in accordance with Chapter 119. of 37979
the Revised Code. 37980

(B) Notwithstanding division (A) of this section, a health 37981
insuring corporation may use a contractual periodic prepayment or 37982
premium rate for policies used for the coverage of beneficiaries 37983
enrolled in medicare pursuant to a medicare risk contract or 37984
medicare cost contract, or for policies used for the coverage of 37985

beneficiaries enrolled in the federal employees health benefits 37986
program pursuant to 5 U.S.C.A. 8905, or for policies used for the 37987
coverage of medicaid recipients, ~~or for policies used for coverage~~ 37988
~~of participants of the children's buy in program,~~ or for policies 37989
used for the coverage of beneficiaries under any other federal 37990
health care program regulated by a federal regulatory body, or for 37991
policies used for the coverage of beneficiaries under any contract 37992
covering officers or employees of the state that has been entered 37993
into by the department of administrative services, if both of the 37994
following apply: 37995

(1) The contractual periodic prepayment or premium rate has 37996
been approved by the United States department of health and human 37997
services, the United States office of personnel management, the 37998
department of job and family services, or the department of 37999
administrative services. 38000

(2) The contractual periodic prepayment or premium rate is 38001
filed with the superintendent prior to use and is accompanied by 38002
documentation of approval from the United States department of 38003
health and human services, the United States office of personnel 38004
management, the department of job and family services, or the 38005
department of administrative services. 38006

(C) The administrative expense portion of all contractual 38007
periodic prepayment or premium rate filings submitted to the 38008
superintendent for review must reflect the actual cost of 38009
administering the product. The superintendent may require that the 38010
administrative expense portion of the filings be itemized and 38011
supported. 38012

(D)(1) Copayments must be reasonable and must not be a 38013
barrier to the necessary utilization of services by enrollees. 38014

(2) A health insuring corporation, in order to ensure that 38015
copayments are reasonable and not a barrier to the necessary 38016

utilization of basic health care services by enrollees, may do one 38017
of the following: 38018

(a) Impose copayment charges on any single covered basic 38019
health care service that does not exceed forty per cent of the 38020
average cost to the health insuring corporation of providing the 38021
service; 38022

(b) Impose copayment charges that annually do not exceed 38023
twenty per cent of the total annual cost to the health insuring 38024
corporation of providing all covered basic health care services, 38025
including physician office visits, urgent care services, and 38026
emergency health services, when aggregated as to all persons 38027
covered under the filed product in question. In addition, annual 38028
copayment charges as to each enrollee shall not exceed twenty per 38029
cent of the total annual cost to the health insuring corporation 38030
of providing all covered basic health care services, including 38031
physician office visits, urgent care services, and emergency 38032
health services, as to such enrollee. The total annual cost of 38033
providing a health care service is the cost to the health insuring 38034
corporation of providing the health care service to its enrollees 38035
as reduced by any applicable provider discount. 38036

(3) To ensure that copayments are reasonable and not a 38037
barrier to the utilization of basic health care services, a health 38038
insuring corporation may not impose, in any contract year, on any 38039
subscriber or enrollee, copayments that exceed two hundred per 38040
cent of the average annual premium rate to subscribers or 38041
enrollees. 38042

(4) For purposes of division (D) of this section, both of the 38043
following apply: 38044

(a) Copayments imposed by health insuring corporations in 38045
connection with a high deductible health plan that is linked to a 38046
health savings account are reasonable and are not a barrier to the 38047

necessary utilization of services by enrollees. 38048

(b) Divisions (D)(2) and (3) of this section do not apply to 38049
a high deductible health plan that is linked to a health savings 38050
account. 38051

(E) A health insuring corporation shall not impose lifetime 38052
maximums on basic health care services. However, a health insuring 38053
corporation may establish a benefit limit for inpatient hospital 38054
services that are provided pursuant to a policy, contract, 38055
certificate, or agreement for supplemental health care services. 38056

(F) A health insuring corporation may require that an 38057
enrollee pay an annual deductible that does not exceed one 38058
thousand dollars per enrollee or two thousand dollars per family, 38059
except that: 38060

(1) A health insuring corporation may impose higher 38061
deductibles for high deductible health plans that are linked to 38062
health savings accounts; 38063

(2) The superintendent may adopt rules allowing different 38064
annual deductible amounts for plans with a medical savings 38065
account, health reimbursement arrangement, flexible spending 38066
account, or similar account; 38067

(3) A health insuring corporation may impose higher 38068
deductibles under health plans if requested by the group contract, 38069
policy, certificate, or agreement holder, or an individual seeking 38070
coverage under an individual health plan. This shall not be 38071
construed as requiring the health insuring corporation to create 38072
customized health plans for group contract holders or individuals. 38073

(G) As used in this section, "health savings account" and 38074
"high deductible health plan" have the same meanings as in the 38075
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 223, as 38076
amended. 38077

Sec. 1751.13. (A)(1)(a) A health insuring corporation shall, 38078
either directly or indirectly, enter into contracts for the 38079
provision of health care services with a sufficient number and 38080
types of providers and health care facilities to ensure that all 38081
covered health care services will be accessible to enrollees from 38082
a contracted provider or health care facility. 38083

(b) A health insuring corporation shall not refuse to 38084
contract with a physician for the provision of health care 38085
services or refuse to recognize a physician as a specialist on the 38086
basis that the physician attended an educational program or a 38087
residency program approved or certified by the American 38088
osteopathic association. A health insuring corporation shall not 38089
refuse to contract with a health care facility for the provision 38090
of health care services on the basis that the health care facility 38091
is certified or accredited by the American osteopathic association 38092
or that the health care facility is an osteopathic hospital as 38093
defined in section 3702.51 of the Revised Code. 38094

(c) Nothing in division (A)(1)(b) of this section shall be 38095
construed to require a health insuring corporation to make a 38096
benefit payment under a closed panel plan to a physician or health 38097
care facility with which the health insuring corporation does not 38098
have a contract, provided that none of the bases set forth in that 38099
division are used as a reason for failing to make a benefit 38100
payment. 38101

(2) When a health insuring corporation is unable to provide a 38102
covered health care service from a contracted provider or health 38103
care facility, the health insuring corporation must provide that 38104
health care service from a noncontracted provider or health care 38105
facility consistent with the terms of the enrollee's policy, 38106
contract, certificate, or agreement. The health insuring 38107
corporation shall either ensure that the health care service be 38108

provided at no greater cost to the enrollee than if the enrollee 38109
had obtained the health care service from a contracted provider or 38110
health care facility, or make other arrangements acceptable to the 38111
superintendent of insurance. 38112

(3) Nothing in this section shall prohibit a health insuring 38113
corporation from entering into contracts with out-of-state 38114
providers or health care facilities that are licensed, certified, 38115
accredited, or otherwise authorized in that state. 38116

(B)(1) A health insuring corporation shall, either directly 38117
or indirectly, enter into contracts with all providers and health 38118
care facilities through which health care services are provided to 38119
its enrollees. 38120

(2) A health insuring corporation, upon written request, 38121
shall assist its contracted providers in finding stop-loss or 38122
reinsurance carriers. 38123

(C) A health insuring corporation shall file an annual 38124
certificate with the superintendent certifying that all provider 38125
contracts and contracts with health care facilities through which 38126
health care services are being provided contain the following: 38127

(1) A description of the method by which the provider or 38128
health care facility will be notified of the specific health care 38129
services for which the provider or health care facility will be 38130
responsible, including any limitations or conditions on such 38131
services; 38132

(2) The specific hold harmless provision specifying 38133
protection of enrollees set forth as follows: 38134

"[Provider/Health Care Facility] agrees that in no event, 38135
including but not limited to nonpayment by the health insuring 38136
corporation, insolvency of the health insuring corporation, or 38137
breach of this agreement, shall [Provider/Health Care Facility] 38138
bill, charge, collect a deposit from, seek remuneration or 38139

reimbursement from, or have any recourse against, a subscriber, 38140
enrollee, person to whom health care services have been provided, 38141
or person acting on behalf of the covered enrollee, for health 38142
care services provided pursuant to this agreement. This does not 38143
prohibit [Provider/Health Care Facility] from collecting 38144
co-insurance, deductibles, or copayments as specifically provided 38145
in the evidence of coverage, or fees for uncovered health care 38146
services delivered on a fee-for-service basis to persons 38147
referenced above, nor from any recourse against the health 38148
insuring corporation or its successor." 38149

(3) Provisions requiring the provider or health care facility 38150
to continue to provide covered health care services to enrollees 38151
in the event of the health insuring corporation's insolvency or 38152
discontinuance of operations. The provisions shall require the 38153
provider or health care facility to continue to provide covered 38154
health care services to enrollees as needed to complete any 38155
medically necessary procedures commenced but unfinished at the 38156
time of the health insuring corporation's insolvency or 38157
discontinuance of operations. The completion of a medically 38158
necessary procedure shall include the rendering of all covered 38159
health care services that constitute medically necessary follow-up 38160
care for that procedure. If an enrollee is receiving necessary 38161
inpatient care at a hospital, the provisions may limit the 38162
required provision of covered health care services relating to 38163
that inpatient care in accordance with division (D)(3) of section 38164
1751.11 of the Revised Code, and may also limit such required 38165
provision of covered health care services to the period ending 38166
thirty days after the health insuring corporation's insolvency or 38167
discontinuance of operations. 38168

The provisions required by division (C)(3) of this section 38169
shall not require any provider or health care facility to continue 38170
to provide any covered health care service after the occurrence of 38171

any of the following:	38172
(a) The end of the thirty-day period following the entry of a liquidation order under Chapter 3903. of the Revised Code;	38173 38174
(b) The end of the enrollee's period of coverage for a contractual prepayment or premium;	38175 38176
(c) The enrollee obtains equivalent coverage with another health insuring corporation or insurer, or the enrollee's employer obtains such coverage for the enrollee;	38177 38178 38179
(d) The enrollee or the enrollee's employer terminates coverage under the contract;	38180 38181
(e) A liquidator effects a transfer of the health insuring corporation's obligations under the contract under division (A)(8) of section 3903.21 of the Revised Code.	38182 38183 38184
(4) A provision clearly stating the rights and responsibilities of the health insuring corporation, and of the contracted providers and health care facilities, with respect to administrative policies and programs, including, but not limited to, payments systems, utilization review, quality assurance, assessment, and improvement programs, credentialing, confidentiality requirements, and any applicable federal or state programs;	38185 38186 38187 38188 38189 38190 38191 38192
(5) A provision regarding the availability and confidentiality of those health records maintained by providers and health care facilities to monitor and evaluate the quality of care, to conduct evaluations and audits, and to determine on a concurrent or retrospective basis the necessity of and appropriateness of health care services provided to enrollees. The provision shall include terms requiring the provider or health care facility to make these health records available to appropriate state and federal authorities involved in assessing the quality of care or in investigating the grievances or	38193 38194 38195 38196 38197 38198 38199 38200 38201 38202

complaints of enrollees, and requiring the provider or health care 38203
facility to comply with applicable state and federal laws related 38204
to the confidentiality of medical or health records. 38205

(6) A provision that states that contractual rights and 38206
responsibilities may not be assigned or delegated by the provider 38207
or health care facility without the prior written consent of the 38208
health insuring corporation; 38209

(7) A provision requiring the provider or health care 38210
facility to maintain adequate professional liability and 38211
malpractice insurance. The provision shall also require the 38212
provider or health care facility to notify the health insuring 38213
corporation not more than ten days after the provider's or health 38214
care facility's receipt of notice of any reduction or cancellation 38215
of such coverage. 38216

(8) A provision requiring the provider or health care 38217
facility to observe, protect, and promote the rights of enrollees 38218
as patients; 38219

(9) A provision requiring the provider or health care 38220
facility to provide health care services without discrimination on 38221
the basis of a patient's participation in the health care plan, 38222
age, sex, ethnicity, religion, sexual preference, health status, 38223
or disability, and without regard to the source of payments made 38224
for health care services rendered to a patient. This requirement 38225
shall not apply to circumstances when the provider or health care 38226
facility appropriately does not render services due to limitations 38227
arising from the provider's or health care facility's lack of 38228
training, experience, or skill, or due to licensing restrictions. 38229

(10) A provision containing the specifics of any obligation 38230
on the primary care provider to provide, or to arrange for the 38231
provision of, covered health care services twenty-four hours per 38232
day, seven days per week; 38233

(11) A provision setting forth procedures for the resolution of disputes arising out of the contract; 38234
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(12) A provision stating that the hold harmless provision required by division (C)(2) of this section shall survive the termination of the contract with respect to services covered and provided under the contract during the time the contract was in effect, regardless of the reason for the termination, including the insolvency of the health insuring corporation; 38236
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(13) A provision requiring those terms that are used in the contract and that are defined by this chapter, be used in the contract in a manner consistent with those definitions. 38242
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This division does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare risk contract or medicare cost contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, ~~or to the coverage of participants of the children's buy in program,~~ or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services. 38245
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(D)(1) No health insuring corporation contract with a provider or health care facility shall contain any of the following: 38256
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(a) A provision that directly or indirectly offers an inducement to the provider or health care facility to reduce or limit medically necessary health care services to a covered enrollee; 38259
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(b) A provision that penalizes a provider or health care facility that assists an enrollee to seek a reconsideration of the 38263
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health insuring corporation's decision to deny or limit benefits	38265
to the enrollee;	38266
(c) A provision that limits or otherwise restricts the	38267
provider's or health care facility's ethical and legal	38268
responsibility to fully advise enrollees about their medical	38269
condition and about medically appropriate treatment options;	38270
(d) A provision that penalizes a provider or health care	38271
facility for principally advocating for medically necessary health	38272
care services;	38273
(e) A provision that penalizes a provider or health care	38274
facility for providing information or testimony to a legislative	38275
or regulatory body or agency. This shall not be construed to	38276
prohibit a health insuring corporation from penalizing a provider	38277
or health care facility that provides information or testimony	38278
that is libelous or slanderous or that discloses trade secrets	38279
which the provider or health care facility has no privilege or	38280
permission to disclose.	38281
(f) A provision that violates Chapter 3963. of the Revised	38282
Code.	38283
(2) Nothing in this division shall be construed to prohibit a	38284
health insuring corporation from doing either of the following:	38285
(a) Making a determination not to reimburse or pay for a	38286
particular medical treatment or other health care service;	38287
(b) Enforcing reasonable peer review or utilization review	38288
protocols, or determining whether a particular provider or health	38289
care facility has complied with these protocols.	38290
(E) Any contract between a health insuring corporation and an	38291
intermediary organization shall clearly specify that the health	38292
insuring corporation must approve or disapprove the participation	38293
of any provider or health care facility with which the	38294

intermediary organization contracts. 38295

(F) If an intermediary organization that is not a health 38296
delivery network contracting solely with self-insured employers 38297
subcontracts with a provider or health care facility, the 38298
subcontract with the provider or health care facility shall do all 38299
of the following: 38300

(1) Contain the provisions required by divisions (C) and (G) 38301
of this section, as made applicable to an intermediary 38302
organization, without the inclusion of inducements or penalties 38303
described in division (D) of this section; 38304

(2) Acknowledge that the health insuring corporation is a 38305
third-party beneficiary to the agreement; 38306

(3) Acknowledge the health insuring corporation's role in 38307
approving the participation of the provider or health care 38308
facility, pursuant to division (E) of this section. 38309

(G) Any provider contract or contract with a health care 38310
facility shall clearly specify the health insuring corporation's 38311
statutory responsibility to monitor and oversee the offering of 38312
covered health care services to its enrollees. 38313

(H)(1) A health insuring corporation shall maintain its 38314
provider contracts and its contracts with health care facilities 38315
at one or more of its places of business in this state, and shall 38316
provide copies of these contracts to facilitate regulatory review 38317
upon written notice by the superintendent of insurance. 38318

(2) Any contract with an intermediary organization that 38319
accepts compensation shall include provisions requiring the 38320
intermediary organization to provide the superintendent with 38321
regulatory access to all books, records, financial information, 38322
and documents related to the provision of health care services to 38323
subscribers and enrollees under the contract. The contract shall 38324
require the intermediary organization to maintain such books, 38325

records, financial information, and documents at its principal 38326
place of business in this state and to preserve them for at least 38327
three years in a manner that facilitates regulatory review. 38328

(I)(1) A health insuring corporation shall notify its 38329
affected enrollees of the termination of a contract for the 38330
provision of health care services between the health insuring 38331
corporation and a primary care physician or hospital, by mail, 38332
within thirty days after the termination of the contract. 38333

(a) Notice shall be given to subscribers of the termination 38334
of a contract with a primary care physician if the subscriber, or 38335
a dependent covered under the subscriber's health care coverage, 38336
has received health care services from the primary care physician 38337
within the previous twelve months or if the subscriber or 38338
dependent has selected the physician as the subscriber's or 38339
dependent's primary care physician within the previous twelve 38340
months. 38341

(b) Notice shall be given to subscribers of the termination 38342
of a contract with a hospital if the subscriber, or a dependent 38343
covered under the subscriber's health care coverage, has received 38344
health care services from that hospital within the previous twelve 38345
months. 38346

(2) The health insuring corporation shall pay, in accordance 38347
with the terms of the contract, for all covered health care 38348
services rendered to an enrollee by a primary care physician or 38349
hospital between the date of the termination of the contract and 38350
five days after the notification of the contract termination is 38351
mailed to a subscriber at the subscriber's last known address. 38352

(J) Divisions (A) and (B) of this section do not apply to any 38353
health insuring corporation that, on June 4, 1997, holds a 38354
certificate of authority or license to operate under Chapter 1740. 38355
of the Revised Code. 38356

(K) Nothing in this section shall restrict the governing body of a hospital from exercising the authority granted it pursuant to section 3701.351 of the Revised Code.

Sec. 1751.15. (A) Each health insuring corporation shall accept individuals for open enrollment coverage as provided in sections 3923.58 and 3923.581 of the Revised Code. A health insuring corporation may reinsure coverage of any individual acquired under those sections with the open enrollment reinsurance program in accordance with division (G) of section 3924.11 of the Revised Code. Fixed periodic prepayment rates charged for coverage reinsured by the program shall be established in accordance with section 3924.12 of the Revised Code.

(B) This section does not apply to any of the following:

(1) Any health insuring corporation that offers only supplemental health care services or specialty health care services;

(2) Any health insuring corporation that offers plans only through medicare, or medicaid, ~~or the children's buy-in program~~ and that has no other commercial enrollment;

(3) Any health insuring corporation that offers plans only through other federal health care programs regulated by federal regulatory bodies and that has no other commercial enrollment;

(4) Any health insuring corporation that offers plans only through contracts covering officers or employees of the state that have been entered into by the department of administrative services and that has no other commercial enrollment.

Sec. 1751.17. (A) As used in this section, "nongroup contract" means a contract issued by a health insuring corporation to an individual who makes direct application for coverage under the contract and who, if required by the health insuring

corporation, submits to medical underwriting. "Nongroup contract" 38387
does not include group conversion coverage, coverage obtained 38388
through open enrollment, or coverage issued on the basis of 38389
membership in a group. 38390

(B) Except as provided in division (C) of this section, every 38391
nongroup contract that is issued by a health insuring corporation 38392
and that makes available basic health care services shall provide 38393
an option for conversion to a contract issued on a direct-payment 38394
basis to an enrollee covered by the nongroup contract. The option 38395
for conversion shall be available: 38396

(1) Upon the death of the subscriber, to the surviving spouse 38397
with respect to the spouse or dependents who were then covered by 38398
the nongroup contract; 38399

(2) Upon the divorce, dissolution, or annulment of the 38400
marriage of the subscriber, to the divorced spouse, or, in the 38401
event of annulment, to the former spouse of the subscriber; 38402

(3) To a child solely with respect to the child, upon the 38403
child's attaining the limiting age of coverage under the nongroup 38404
contract while covered as a dependent under the contract. 38405

(C) The direct payment contract offered pursuant to division 38406
(B) of this section shall not be made available to an enrollee if 38407
any of the following applies: 38408

(1) The enrollee is, or is eligible to be, covered for 38409
benefits at least comparable to the nongroup contract under any of 38410
the following: 38411

(a) Medicaid; 38412

(b) ~~The children's buy-in program;~~ 38413

~~(c)~~ Medicare; 38414

~~(d)~~ (c) Any act of congress or law under this or any other 38415
state of the United States providing coverage at least comparable 38416

to the benefits offered under division (C)(1)(a) ~~or (b) or (c)~~ 38417
of this section. 38418

(2) The nongroup contract under which the enrollee was 38419
covered was terminated due to nonpayment of a premium rate. 38420

(3) The enrollee is eligible for group coverage provided by, 38421
or available through, an employer or association and the group 38422
coverage provides benefits comparable to the benefits provided 38423
under a direct payment contract. 38424

(D) The direct payment contract offered pursuant to division 38425
(B) of this section shall provide benefits that are at least 38426
comparable to the benefits provided by the nongroup contract under 38427
which the enrollee was covered at the time of the occurrence of 38428
any of the events set forth in division (B) of this section. The 38429
coverage provided under the direct payment contract shall be 38430
continuous, provided that the enrollee makes the required premium 38431
rate payment within the thirty-day period immediately following 38432
the occurrence of the event, and may be terminated for nonpayment 38433
of any required premium rate payment. 38434

(E) The evidence of coverage of every nongroup contract shall 38435
contain notice that an option for conversion to a contract issued 38436
on a direct-payment basis is available, in accordance with this 38437
section, to any enrollee covered by the contract. 38438

(F) Benefits otherwise payable to an enrollee under a direct 38439
payment contract shall be reduced by the amount of any benefits 38440
available to the enrollee under any applicable group health 38441
insuring corporation contract or group sickness and accident 38442
insurance policy. 38443

(G) Nothing in this section shall be construed as requiring a 38444
health insuring corporation to offer nongroup contracts. 38445

(H) This section does not apply to any nongroup contract 38446
offering only supplemental health care services or specialty 38447

health care services. 38448

Sec. 1751.20. (A) No health insuring corporation, or agent, 38449
employee, or representative of a health insuring corporation, 38450
shall use any advertisement or solicitation document, or shall 38451
engage in any activity, that is unfair, untrue, misleading, or 38452
deceptive. 38453

(B) No health insuring corporation shall use a name that is 38454
deceptively similar to the name or description of any insurance or 38455
surety corporation doing business in this state. 38456

(C) All solicitation documents, advertisements, evidences of 38457
coverage, and enrollee identification cards used by a health 38458
insuring corporation shall contain the health insuring 38459
corporation's name. The use of a trade name, an insurance group 38460
designation, the name of a parent company, the name of a division 38461
of an affiliated insurance company, a service mark, a slogan, a 38462
symbol, or other device, without the name of the health insuring 38463
corporation as stated in its articles of incorporation, shall not 38464
satisfy this requirement if the usage would have the capacity and 38465
tendency to mislead or deceive persons as to the true identity of 38466
the health insuring corporation. 38467

(D) No solicitation document or advertisement used by a 38468
health insuring corporation shall contain any words, symbols, or 38469
physical materials that are so similar in content, phraseology, 38470
shape, color, or other characteristic to those used by an agency 38471
of the federal government or this state, that prospective 38472
enrollees may be led to believe that the solicitation document or 38473
advertisement is connected with an agency of the federal 38474
government or this state. 38475

(E) A health insuring corporation that provides basic health 38476
care services may use the phrase "health maintenance organization" 38477
or the abbreviation "HMO" in its marketing name, advertising, 38478

solicitation documents, or marketing literature, or in reference 38479
to the phrase "doing business as" or the abbreviation "DBA." 38480

(F) This section does not apply to the coverage of 38481
beneficiaries enrolled in medicare pursuant to a medicare risk 38482
contract or medicare cost contract, or to the coverage of 38483
beneficiaries enrolled in the federal employee health benefits 38484
program pursuant to 5 U.S.C.A. 8905, or to the coverage of 38485
medicaid recipients, ~~or to the coverage of participants of the~~ 38486
~~children's buy-in program,~~ or to the coverage of beneficiaries 38487
under any federal health care program regulated by a federal 38488
regulatory body, or to the coverage of beneficiaries under any 38489
contract covering officers or employees of the state that has been 38490
entered into by the department of administrative services. 38491

Sec. 1751.31. (A) Any changes in a health insuring 38492
corporation's solicitation document shall be filed with the 38493
superintendent of insurance. The superintendent, within sixty days 38494
of filing, may disapprove any solicitation document or amendment 38495
to it on any of the grounds stated in this section. Such 38496
disapproval shall be effected by written notice to the health 38497
insuring corporation. The notice shall state the grounds for 38498
disapproval and shall be issued in accordance with Chapter 119. of 38499
the Revised Code. 38500

(B) The solicitation document shall contain all information 38501
necessary to enable a consumer to make an informed choice as to 38502
whether or not to enroll in the health insuring corporation. The 38503
information shall include a specific description of the health 38504
care services to be available and the approximate number and type 38505
of full-time equivalent medical practitioners. The information 38506
shall be presented in the solicitation document in a manner that 38507
is clear, concise, and intelligible to prospective applicants in 38508
the proposed service area. 38509

(C) Every potential applicant whose subscription to a health care plan is solicited shall receive, at or before the time of solicitation, a solicitation document approved by the superintendent.

(D) Notwithstanding division (A) of this section, a health insuring corporation may use a solicitation document that the corporation uses in connection with policies for medicare beneficiaries pursuant to a medicare risk contract or medicare cost contract, or for policies for beneficiaries of the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or for policies for medicaid recipients, or for policies for beneficiaries of any other federal health care program regulated by a federal regulatory body, ~~or for policies for participants of the children's buy-in program,~~ or for policies for beneficiaries of contracts covering officers or employees of the state entered into by the department of administrative services, if both of the following apply:

(1) The solicitation document has been approved by the United States department of health and human services, the United States office of personnel management, the department of job and family services, or the department of administrative services.

(2) The solicitation document is filed with the superintendent of insurance prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the department of job and family services, or the department of administrative services.

(E) No health insuring corporation, or its agents or representatives, shall use monetary or other valuable consideration, engage in misleading or deceptive practices, or make untrue, misleading, or deceptive representations to induce enrollment. Nothing in this division shall prohibit incentive

forms of remuneration such as commission sales programs for the 38542
health insuring corporation's employees and agents. 38543

(F) Any person obligated for any part of a premium rate in 38544
connection with an enrollment agreement, in addition to any right 38545
otherwise available to revoke an offer, may cancel such agreement 38546
within seventy-two hours after having signed the agreement or 38547
offer to enroll. Cancellation occurs when written notice of the 38548
cancellation is given to the health insuring corporation or its 38549
agents or other representatives. A notice of cancellation mailed 38550
to the health insuring corporation shall be considered to have 38551
been filed on its postmark date. 38552

(G) Nothing in this section shall prohibit healthy lifestyle 38553
programs. 38554

Sec. 1751.34. (A) Each health insuring corporation and each 38555
applicant for a certificate of authority under this chapter shall 38556
be subject to examination by the superintendent of insurance in 38557
accordance with section 3901.07 of the Revised Code. Section 38558
3901.07 of the Revised Code shall govern every aspect of the 38559
examination, including the circumstances under and frequency with 38560
which it is conducted, the authority of the superintendent and any 38561
examiner or other person appointed by the superintendent, the 38562
liability for the assessment of expenses incurred in conducting 38563
the examination, and the remittance of the assessment to the 38564
superintendent's examination fund. 38565

(B) The superintendent shall make an examination concerning 38566
the matters subject to the superintendent's consideration in 38567
section 1751.04 of the Revised Code as often as the superintendent 38568
considers it necessary for the protection of the interests of the 38569
people of this state. The expenses of such examinations shall be 38570
assessed against the health insuring corporation being examined in 38571
the manner in which expenses of examinations are assessed against 38572

an insurance company under section 3901.07 of the Revised Code. 38573
Nothing in this division requires the superintendent to make an 38574
examination of any of the following: 38575

(1) A health insuring corporation that covers solely medicaid 38576
recipients; 38577

(2) A health insuring corporation that covers solely medicare 38578
beneficiaries; 38579

(3) A health insuring corporation that covers solely medicaid 38580
recipients and medicare beneficiaries; 38581

~~(4) A health insuring corporation that covers solely 38582
participants of the children's buy in program; 38583~~

~~(5) A health insuring corporation that covers solely medicaid 38584
recipients and participants of the children's buy in program; 38585~~

~~(6) A health insuring corporation that covers solely medicaid 38586
recipients, medicare beneficiaries, and participants of the 38587
children's buy in program. 38588~~

(C) An examination, pursuant to section 3901.07 of the 38589
Revised Code, of an insurance company holding a certificate of 38590
authority under this chapter to organize and operate a health 38591
insuring corporation shall include an examination of the health 38592
insuring corporation pursuant to this section and the examination 38593
shall satisfy the requirements of divisions (A) and (B) of this 38594
section. 38595

(D) The superintendent may conduct market conduct 38596
examinations pursuant to section 3901.011 of the Revised Code of 38597
any health insuring corporation as often as the superintendent 38598
considers it necessary for the protection of the interests of 38599
subscribers and enrollees. The expenses of such market conduct 38600
examinations shall be assessed against the health insuring 38601
corporation being examined. All costs, assessments, or fines 38602

collected under this division shall be paid into the state 38603
treasury to the credit of the department of insurance operating 38604
fund. 38605

Sec. 1751.60. (A) Except as provided for in divisions (E) and 38606
(F) of this section, every provider or health care facility that 38607
contracts with a health insuring corporation to provide health 38608
care services to the health insuring corporation's enrollees or 38609
subscribers shall seek compensation for covered services solely 38610
from the health insuring corporation and not, under any 38611
circumstances, from the enrollees or subscribers, except for 38612
approved copayments and deductibles. 38613

(B) No subscriber or enrollee of a health insuring 38614
corporation is liable to any contracting provider or health care 38615
facility for the cost of any covered health care services, if the 38616
subscriber or enrollee has acted in accordance with the evidence 38617
of coverage. 38618

(C) Except as provided for in divisions (E) and (F) of this 38619
section, every contract between a health insuring corporation and 38620
provider or health care facility shall contain a provision 38621
approved by the superintendent of insurance requiring the provider 38622
or health care facility to seek compensation solely from the 38623
health insuring corporation and not, under any circumstances, from 38624
the subscriber or enrollee, except for approved copayments and 38625
deductibles. 38626

(D) Nothing in this section shall be construed as preventing 38627
a provider or health care facility from billing the enrollee or 38628
subscriber of a health insuring corporation for noncovered 38629
services. 38630

(E) Upon application by a health insuring corporation and a 38631
provider or health care facility, the superintendent may waive the 38632
requirements of divisions (A) and (C) of this section when, in 38633

addition to the reserve requirements contained in section 1751.28 38634
of the Revised Code, the health insuring corporation provides 38635
sufficient assurances to the superintendent that the provider or 38636
health care facility has been provided with financial guarantees. 38637
No waiver of the requirements of divisions (A) and (C) of this 38638
section is effective as to enrollees or subscribers for whom the 38639
health insuring corporation is compensated under a provider 38640
agreement or risk contract entered into pursuant to Chapter 5111. 38641
or 5115. of the Revised Code ~~or under the children's buy in~~ 38642
~~program.~~ 38643

(F) The requirements of divisions (A) to (C) of this section 38644
apply only to health care services provided to an enrollee or 38645
subscriber prior to the effective date of a termination of a 38646
contract between the health insuring corporation and the provider 38647
or health care facility. 38648

Sec. 1761.04. (A) The licensing and operation of a credit 38649
union share guaranty corporation is subject to the regulation of 38650
the superintendent of insurance pursuant to Chapters 3901., 3903., 38651
3905., 3925., 3927., 3929., 3937., 3941., and 3999. of the Revised 38652
Code to the extent such laws are otherwise applicable and are not 38653
in conflict with this chapter. 38654

(B) A credit union share guaranty corporation shall pay, by 38655
the fifteenth day of April of each year, to the superintendent of 38656
credit unions, an annual fee of one-half of one per cent of its 38657
guarantee fund as shown by the corporation's last annual financial 38658
report, but in no event shall such payment exceed ~~five~~ twenty-five 38659
thousand dollars in any calendar year. 38660

(C) In addition to the specific powers and duties given the 38661
superintendent of insurance and the superintendent of credit 38662
unions under this chapter, the superintendents may independently, 38663
pursuant to Chapter 119. of the Revised Code, adopt, amend, and 38664

rescind such rules as are necessary to implement the requirements 38665
of this chapter. 38666

Sec. 1776.83. (A) A limited liability partnership and a 38667
foreign limited liability partnership authorized to transact 38668
business in this state shall file a biennial report in the office 38669
of the secretary of state. The report shall contain all of the 38670
following: 38671

(1) The name of the limited liability partnership and the 38672
state or other jurisdiction under whose laws the foreign limited 38673
liability partnership is formed; 38674

(2) The street address of the partnership's chief executive 38675
office and, if the partnership's chief executive office is not in 38676
this state, the street address of any office of the partnership in 38677
this state; 38678

(3) If the partnership does not have an office in this state, 38679
the name and street address of the partnership's current agent for 38680
service of process. 38681

(B) A partnership shall file a biennial report between the 38682
first day of April and the first day of July of each odd-numbered 38683
year that follows the calendar year in which the partnership files 38684
a statement of qualification or a foreign partnership becomes 38685
authorized to transact business in this state. 38686

(C) The secretary of state may revoke the statement of 38687
qualification of any partnership that fails to file a biennial 38688
report when due or pay the required filing fee. To revoke a 38689
statement, the secretary of state shall provide the partnership at 38690
least sixty days' written notice of the intent to revoke, mailed 38691
to the partnership at its chief executive office set forth in the 38692
last filed statement of qualification or biennial report or sent 38693
by electronic mail to the last electronic mail address provided to 38694

the secretary of state. The notice shall specify the report that 38695
the partnership failed to file, the unpaid fee, and the effective 38696
date of the revocation. The revocation is not effective if the 38697
partnership files the report and pays the fee before the effective 38698
date of the revocation. 38699

(D) A revocation under division (C) of this section affects 38700
only a partnership's status as a limited liability partnership and 38701
is not an event of dissolution of the partnership. 38702

(E) A partnership whose statement of qualification is revoked 38703
may apply to the secretary of state for reinstatement within two 38704
years after the effective date of the revocation. The application 38705
for reinstatement shall state the name of the partnership, the 38706
effective date of the revocation, and that the ground for 38707
revocation either did not exist or has been corrected. 38708

(F) A reinstatement under division (E) of this section 38709
relates back to and takes effect as of the effective date of the 38710
revocation, and the partnership's status as a limited liability 38711
partnership continues as if the revocation had never occurred. 38712

Sec. 1785.06. A professional association, within thirty days 38713
after the thirtieth day of June in each even-numbered year, shall 38714
furnish a statement to the secretary of state showing the names 38715
and post-office addresses of all of the shareholders in the 38716
association and certifying that all of the shareholders are duly 38717
licensed, certificated, or otherwise legally authorized to render 38718
within this state the same professional service for which the 38719
association was organized or, in the case of a combination of 38720
professional services described in division (B) of section 1785.01 38721
of the Revised Code, to render within this state any of the 38722
applicable types of professional services for which the 38723
association was organized. This statement shall be made on a form 38724
that the secretary of state shall prescribe, shall be signed by an 38725

officer of the association, and shall be filed in the office of 38726
the secretary of state. 38727

If any professional association fails to file the biennial 38728
statement within the time required by this section, the secretary 38729
of state shall give notice of the failure by ~~certified~~ ordinary or 38730
electronic mail, ~~return receipt requested,~~ to the last known 38731
physical or electronic address of the association or its agent. If 38732
the biennial statement is not filed within thirty days after the 38733
mailing of the notice, the secretary of state, upon the expiration 38734
of that period, shall cancel the association's articles of 38735
incorporation, give notice of the cancellation to the association 38736
by ordinary or electronic mail sent to the last known physical or 38737
electronic address of the association or its agent, and make a 38738
notation of the cancellation on the records of the secretary of 38739
state. 38740

A professional association whose articles have been canceled 38741
pursuant to this section may be reinstated by filing an 38742
application for reinstatement and the required biennial statement 38743
or statements and by paying the reinstatement fee specified in 38744
division (Q) of section 111.16 of the Revised Code. The rights, 38745
privileges, and franchises of a professional association whose 38746
articles have been reinstated are subject to section 1701.922 of 38747
the Revised Code. The secretary of state shall inform the tax 38748
commissioner of all cancellations and reinstatements under this 38749
section. 38750

Sec. 1901.02. (A) The municipal courts established by section 38751
1901.01 of the Revised Code have jurisdiction within the corporate 38752
limits of their respective municipal corporations, or, for the 38753
Clermont county municipal court, the Columbiana county municipal 38754
court, and, effective January 1, 2008, the Erie county municipal 38755
court, within the municipal corporation or unincorporated 38756

territory in which they are established, and are courts of record. 38757
Each of the courts shall be styled 38758
"..... municipal court," inserting 38759
the name of the municipal corporation, except the following 38760
courts, which shall be styled as set forth below: 38761

(1) The municipal court established in Chesapeake that shall 38762
be styled and known as the "Lawrence county municipal court"; 38763

(2) The municipal court established in Cincinnati that shall 38764
be styled and known as the "Hamilton county municipal court"; 38765

(3) The municipal court established in Ravenna that shall be 38766
styled and known as the "Portage county municipal court"; 38767

(4) The municipal court established in Athens that shall be 38768
styled and known as the "Athens county municipal court"; 38769

(5) The municipal court established in Columbus that shall be 38770
styled and known as the "Franklin county municipal court"; 38771

(6) The municipal court established in London that shall be 38772
styled and known as the "Madison county municipal court"; 38773

(7) The municipal court established in Newark that shall be 38774
styled and known as the "Licking county municipal court"; 38775

(8) The municipal court established in Wooster that shall be 38776
styled and known as the "Wayne county municipal court"; 38777

(9) The municipal court established in Wapakoneta that shall 38778
be styled and known as the "Auglaize county municipal court"; 38779

(10) The municipal court established in Troy that shall be 38780
styled and known as the "Miami county municipal court"; 38781

(11) The municipal court established in Bucyrus that shall be 38782
styled and known as the "Crawford county municipal court"; 38783

(12) The municipal court established in Logan that shall be 38784
styled and known as the "Hocking county municipal court"; 38785

- (13) The municipal court established in Urbana that shall be styled and known as the "Champaign county municipal court"; 38786
38787
- (14) The municipal court established in Jackson that shall be styled and known as the "Jackson county municipal court"; 38788
38789
- (15) The municipal court established in Springfield that shall be styled and known as the "Clark county municipal court"; 38790
38791
- (16) The municipal court established in Kenton that shall be styled and known as the "Hardin county municipal court"; 38792
38793
- (17) The municipal court established within Clermont county in Batavia or in any other municipal corporation or unincorporated territory within Clermont county that is selected by the legislative authority of that court that shall be styled and known as the "Clermont county municipal court"; 38794
38795
38796
38797
38798
- (18) The municipal court established in Wilmington that, beginning July 1, 1992, shall be styled and known as the "Clinton county municipal court"; 38799
38800
38801
- (19) The municipal court established in Port Clinton that shall be styled and known as "the Ottawa county municipal court"; 38802
38803
- (20) The municipal court established in Lancaster that, beginning January 2, 2000, shall be styled and known as the "Fairfield county municipal court"; 38804
38805
38806
- (21) The municipal court established within Columbiana county in Lisbon or in any other municipal corporation or unincorporated territory selected pursuant to division (I) of section 1901.021 of the Revised Code, that shall be styled and known as the "Columbiana county municipal court"; 38807
38808
38809
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38811
- (22) The municipal court established in Georgetown that, beginning February 9, 2003, shall be styled and known as the "Brown county municipal court"; 38812
38813
38814
- (23) The municipal court established in Mount Gilead that, 38815

beginning January 1, 2003, shall be styled and known as the 38816
"Morrow county municipal court"; 38817

(24) The municipal court established in Greenville that, 38818
beginning January 1, 2005, shall be styled and known as the "Darke 38819
county municipal court"; 38820

(25) The municipal court established in Millersburg that, 38821
beginning January 1, 2007, shall be styled and known as the 38822
"Holmes county municipal court"; 38823

(26) The municipal court established in Carrollton that, 38824
beginning January 1, 2007, shall be styled and known as the 38825
"Carroll county municipal court"; 38826

(27) The municipal court established within Erie county in 38827
Milan or established in any other municipal corporation or 38828
unincorporated territory that is within Erie county, is within the 38829
territorial jurisdiction of that court, and is selected by the 38830
legislative authority of that court that, beginning January 1, 38831
2008, shall be styled and known as the "Erie county municipal 38832
court"; 38833

(28) The municipal court established in Ottawa that, 38834
beginning January 1, 2011, shall be styled and known as the 38835
"Putnam county municipal court"; 38836

(29) The municipal court established within Montgomery county 38837
in any municipal corporation or unincorporated territory within 38838
Montgomery county, except the municipal corporations of 38839
Centerville, Clayton, Dayton, Englewood, Germantown, Kettering, 38840
Miamisburg, Moraine, Oakwood, Union, Vandalia, and West Carrollton 38841
and Butler, German, Harrison, Miami, and Washington townships, 38842
that is selected by the legislative authority of that court and 38843
that, beginning July 1, 2010, shall be styled and known as the 38844
"Montgomery county municipal court." 38845

(B) In addition to the jurisdiction set forth in division (A) 38846

of this section, the municipal courts established by section	38847
1901.01 of the Revised Code have jurisdiction as follows:	38848
The Akron municipal court has jurisdiction within Bath,	38849
Richfield, and Springfield townships, and within the municipal	38850
corporations of Fairlawn, Lakemore, and Mogadore, in Summit	38851
county.	38852
The Alliance municipal court has jurisdiction within	38853
Lexington, Marlboro, Paris, and Washington townships in Stark	38854
county.	38855
The Ashland municipal court has jurisdiction within Ashland	38856
county.	38857
The Ashtabula municipal court has jurisdiction within	38858
Ashtabula, Plymouth, and Saybrook townships in Ashtabula county.	38859
The Athens county municipal court has jurisdiction within	38860
Athens county.	38861
The Auglaize county municipal court has jurisdiction within	38862
Auglaize county.	38863
The Avon Lake municipal court has jurisdiction within the	38864
municipal corporations of Avon and Sheffield in Lorain county.	38865
The Barberton municipal court has jurisdiction within	38866
Coventry, Franklin, and Green townships, within all of Copley	38867
township except within the municipal corporation of Fairlawn, and	38868
within the municipal corporations of Clinton and Norton, in Summit	38869
county.	38870
The Bedford municipal court has jurisdiction within the	38871
municipal corporations of Bedford Heights, Oakwood, Glenwillow,	38872
Solon, Bentleyville, Chagrin Falls, Moreland Hills, Orange,	38873
Warrensville Heights, North Randall, and Woodmere, and within	38874
Warrensville and Chagrin Falls townships, in Cuyahoga county.	38875
The Bellefontaine municipal court has jurisdiction within	38876

Logan county.	38877
The Bellevue municipal court has jurisdiction within Lyme and Sherman townships in Huron county and within York township in Sandusky county.	38878 38879 38880
The Berea municipal court has jurisdiction within the municipal corporations of Strongsville, Middleburgh Heights, Brook Park, Westview, and Olmsted Falls, and within Olmsted township, in Cuyahoga county.	38881 38882 38883 38884
The Bowling Green municipal court has jurisdiction within the municipal corporations of Bairdstown, Bloomdale, Bradner, Custar, Cygnet, Grand Rapids, Haskins, Hoytville, Jerry City, Milton Center, North Baltimore, Pemberville, Portage, Rising Sun, Tontogany, Wayne, <u>West Millgrove</u> , and Weston, and within Bloom, Center, Freedom, Grand Rapids, Henry, Jackson, Liberty, Middleton, Milton, Montgomery, Plain, Portage, Washington, Webster, and Weston townships in Wood county.	38885 38886 38887 38888 38889 38890 38891 38892
Beginning February 9, 2003, the Brown county municipal court has jurisdiction within Brown county.	38893 38894
The Bryan municipal court has jurisdiction within Williams county.	38895 38896
The Cambridge municipal court has jurisdiction within Guernsey county.	38897 38898
The Campbell municipal court has jurisdiction within Coitsville township in Mahoning county.	38899 38900
The Canton municipal court has jurisdiction within Canton, Lake, Nimishillen, Osnaburg, Pike, Plain, and Sandy townships in Stark county.	38901 38902 38903
The Carroll county municipal court has jurisdiction within Carroll county.	38904 38905
The Celina municipal court has jurisdiction within Mercer	38906

county.	38907
The Champaign county municipal court has jurisdiction within	38908
Champaign county.	38909
The Chardon municipal court has jurisdiction within Geauga	38910
county.	38911
The Chillicothe municipal court has jurisdiction within Ross	38912
county.	38913
The Circleville municipal court has jurisdiction within	38914
Pickaway county.	38915
The Clark county municipal court has jurisdiction within	38916
Clark county.	38917
The Clermont county municipal court has jurisdiction within	38918
Clermont county.	38919
The Cleveland municipal court has jurisdiction within the	38920
municipal corporation of Bratenahl in Cuyahoga county.	38921
Beginning July 1, 1992, the Clinton county municipal court	38922
has jurisdiction within Clinton county.	38923
The Columbiana county municipal court has jurisdiction within	38924
all of Columbiana county except within the municipal corporation	38925
of East Liverpool and except within Liverpool and St. Clair	38926
townships.	38927
The Coshocton municipal court has jurisdiction within	38928
Coshocton county.	38929
The Crawford county municipal court has jurisdiction within	38930
Crawford county.	38931
Until December 31, 2008, the Cuyahoga Falls municipal court	38932
has jurisdiction within Boston, Hudson, Northfield Center,	38933
Sagamore Hills, and Twinsburg townships, and within the municipal	38934
corporations of Boston Heights, Hudson, Munroe Falls, Northfield,	38935

Peninsula, Reminderville, Silver Lake, Stow, Tallmadge, Twinsburg, and Macedonia, in Summit county.	38936 38937
Beginning January 1, 2005, the Darke county municipal court has jurisdiction within Darke county except within the municipal corporation of Bradford.	38938 38939 38940
The Defiance municipal court has jurisdiction within Defiance county.	38941 38942
The Delaware municipal court has jurisdiction within Delaware county.	38943 38944
The East Liverpool municipal court has jurisdiction within Liverpool and St. Clair townships in Columbiana county.	38945 38946
The Eaton municipal court has jurisdiction within Preble county.	38947 38948
The Elyria municipal court has jurisdiction within the municipal corporations of Grafton, LaGrange, and North Ridgeville, and within Elyria, Carlisle, Eaton, Columbia, Grafton, and LaGrange townships, in Lorain county.	38949 38950 38951 38952
Beginning January 1, 2008, the Erie county municipal court has jurisdiction within Erie county except within the townships of Florence, Huron, Perkins, and Vermilion and the municipal corporations of Bay View, Castalia, Huron, Sandusky, and Vermilion.	38953 38954 38955 38956 38957
The Fairborn municipal court has jurisdiction within the municipal corporation of Beaver creek and within Bath and Beaver creek townships in Greene county.	38958 38959 38960
Beginning January 2, 2000, the Fairfield county municipal court has jurisdiction within Fairfield county.	38961 38962
The Findlay municipal court has jurisdiction within all of Hancock county except within Washington township.	38963 38964
The Fostoria municipal court has jurisdiction within Loudon	38965

and Jackson townships in Seneca county, within Washington township	38966
in Hancock county, and within Perry township, <u>except within the</u>	38967
<u>municipal corporation of West Millgrove,</u> in Wood county.	38968
The Franklin municipal court has jurisdiction within Franklin	38969
township in Warren county.	38970
The Franklin county municipal court has jurisdiction within	38971
Franklin county.	38972
The Fremont municipal court has jurisdiction within Ballville	38973
and Sandusky townships in Sandusky county.	38974
The Gallipolis municipal court has jurisdiction within Gallia	38975
county.	38976
The Garfield Heights municipal court has jurisdiction within	38977
the municipal corporations of Maple Heights, Walton Hills, Valley	38978
View, Cuyahoga Heights, Newburgh Heights, Independence, and	38979
Brecksville in Cuyahoga county.	38980
The Girard municipal court has jurisdiction within Liberty,	38981
Vienna, and Hubbard townships in Trumbull county.	38982
The Hamilton municipal court has jurisdiction within Ross and	38983
St. Clair townships in Butler county.	38984
The Hamilton county municipal court has jurisdiction within	38985
Hamilton county.	38986
The Hardin county municipal court has jurisdiction within	38987
Hardin county.	38988
The Hillsboro municipal court has jurisdiction within all of	38989
Highland county except within Madison township.	38990
The Hocking county municipal court has jurisdiction within	38991
Hocking county.	38992
The Holmes county municipal court has jurisdiction within	38993
Holmes county.	38994

The Huron municipal court has jurisdiction within all of Huron township in Erie county except within the municipal corporation of Sandusky.	38995 38996 38997
The Ironton municipal court has jurisdiction within Aid, Decatur, Elizabeth, Hamilton, Lawrence, Upper, and Washington townships in Lawrence county.	38998 38999 39000
The Jackson county municipal court has jurisdiction within Jackson county.	39001 39002
The Kettering municipal court has jurisdiction within the municipal corporations of Centerville and Moraine, and within Washington township, in Montgomery county.	39003 39004 39005
Until January 2, 2000, the Lancaster municipal court has jurisdiction within Fairfield county.	39006 39007
The Lawrence county municipal court has jurisdiction within the townships of Fayette, Mason, Perry, Rome, Symmes, Union, and Windsor in Lawrence county.	39008 39009 39010
The Lebanon municipal court has jurisdiction within Turtlecreek township in Warren county.	39011 39012
The Licking county municipal court has jurisdiction within Licking county.	39013 39014
The Lima municipal court has jurisdiction within Allen county.	39015 39016
The Lorain municipal court has jurisdiction within the municipal corporation of Sheffield Lake, and within Sheffield township, in Lorain county.	39017 39018 39019
The Lyndhurst municipal court has jurisdiction within the municipal corporations of Mayfield Heights, Gates Mills, Mayfield, Highland Heights, and Richmond Heights in Cuyahoga county.	39020 39021 39022
The Madison county municipal court has jurisdiction within Madison county.	39023 39024

The Mansfield municipal court has jurisdiction within	39025
Madison, Springfield, Sandusky, Franklin, Weller, Mifflin, Troy,	39026
Washington, Monroe, Perry, Jefferson, and Worthington townships,	39027
and within sections 35-36-31 and 32 of Butler township, in	39028
Richland county.	39029
The Marietta municipal court has jurisdiction within	39030
Washington county.	39031
The Marion municipal court has jurisdiction within Marion	39032
county.	39033
The Marysville municipal court has jurisdiction within Union	39034
county.	39035
The Mason municipal court has jurisdiction within Deerfield	39036
township in Warren county.	39037
The Massillon municipal court has jurisdiction within	39038
Bethlehem, Perry, Sugar Creek, Tuscarawas, Lawrence, and Jackson	39039
townships in Stark county.	39040
The Maumee municipal court has jurisdiction within the	39041
municipal corporations of Waterville and Whitehouse, within	39042
Waterville and Providence townships, and within those portions of	39043
Springfield, Monclova, and Swanton townships lying south of the	39044
northerly boundary line of the Ohio turnpike, in Lucas county.	39045
The Medina municipal court has jurisdiction within the	39046
municipal corporations of Briarwood Beach, Brunswick,	39047
Chippewa-on-the-Lake, and Spencer and within the townships of	39048
Brunswick Hills, Chatham, Granger, Hinckley, Lafayette,	39049
Litchfield, Liverpool, Medina, Montville, Spencer, and York	39050
townships, in Medina county.	39051
The Mentor municipal court has jurisdiction within the	39052
municipal corporation of Mentor-on-the-Lake in Lake county.	39053
The Miami county municipal court has jurisdiction within	39054

Miami county and within the part of the municipal corporation of 39055
Bradford that is located in Darke county. 39056

The Miamisburg municipal court has jurisdiction within the 39057
municipal corporations of Germantown and West Carrollton, and 39058
within German and Miami townships in Montgomery county. 39059

The Middletown municipal court has jurisdiction within 39060
Madison township, and within all of Lemon township, except within 39061
the municipal corporation of Monroe, in Butler county. 39062

Beginning July 1, 2010, the Montgomery county municipal court 39063
has jurisdiction within all of Montgomery county except for the 39064
municipal corporations of Centerville, Clayton, Dayton, Englewood, 39065
Germantown, Kettering, Miamisburg, Moraine, Oakwood, Union, 39066
Vandalia, and West Carrollton and Butler, German, Harrison, Miami, 39067
and Washington townships. 39068

Beginning January 1, 2003, the Morrow county municipal court 39069
has jurisdiction within Morrow county. 39070

The Mount Vernon municipal court has jurisdiction within Knox 39071
county. 39072

The Napoleon municipal court has jurisdiction within Henry 39073
county. 39074

The New Philadelphia municipal court has jurisdiction within 39075
the municipal corporation of Dover, and within Auburn, Bucks, 39076
Fairfield, Goshen, Jefferson, Warren, York, Dover, Franklin, 39077
Lawrence, Sandy, Sugarcreek, and Wayne townships in Tuscarawas 39078
county. 39079

The Newton Falls municipal court has jurisdiction within 39080
Bristol, Bloomfield, Lordstown, Newton, Braceville, Southington, 39081
Farmington, and Mesopotamia townships in Trumbull county. 39082

The Niles municipal court has jurisdiction within the 39083
municipal corporation of McDonald, and within Weathersfield 39084

township in Trumbull county. 39085

The Norwalk municipal court has jurisdiction within all of 39086
Huron county except within the municipal corporation of Bellevue 39087
and except within Lyme and Sherman townships. 39088

The Oberlin municipal court has jurisdiction within the 39089
municipal corporations of Amherst, Kipton, Rochester, South 39090
Amherst, and Wellington, and within Henrietta, Russia, Camden, 39091
Pittsfield, Brighton, Wellington, Penfield, Rochester, and 39092
Huntington townships, and within all of Amherst township except 39093
within the municipal corporation of Lorain, in Lorain county. 39094

The Oregon municipal court has jurisdiction within the 39095
municipal corporation of Harbor View, and within Jerusalem 39096
township, in Lucas county, and north within Maumee Bay and Lake 39097
Erie to the boundary line between Ohio and Michigan between the 39098
easterly boundary of the court and the easterly boundary of the 39099
Toledo municipal court. 39100

The Ottawa county municipal court has jurisdiction within 39101
Ottawa county. 39102

The Painesville municipal court has jurisdiction within 39103
Painesville, Perry, Leroy, Concord, and Madison townships in Lake 39104
county. 39105

The Parma municipal court has jurisdiction within the 39106
municipal corporations of Parma Heights, Brooklyn, Linndale, North 39107
Royalton, Broadview Heights, Seven Hills, and Brooklyn Heights in 39108
Cuyahoga county. 39109

The Perrysburg municipal court has jurisdiction within the 39110
municipal corporations of Luckey, Millbury, Northwood, Rossford, 39111
and Walbridge, and within Perrysburg, Lake, and Troy townships, in 39112
Wood county. 39113

The Portage county municipal court has jurisdiction within 39114

Portage county.	39115
The Portsmouth municipal court has jurisdiction within Scioto county.	39116 39117
The Putnam county municipal court has jurisdiction within Putnam county.	39118 39119
The Rocky River municipal court has jurisdiction within the municipal corporations of Bay Village, Westlake, Fairview Park, and North Olmsted, and within Riveredge township, in Cuyahoga county.	39120 39121 39122 39123
The Sandusky municipal court has jurisdiction within the municipal corporations of Castalia and Bay View, and within Perkins township, in Erie county.	39124 39125 39126
The Shaker Heights municipal court has jurisdiction within the municipal corporations of University Heights, Beachwood, Pepper Pike, and Hunting Valley in Cuyahoga county.	39127 39128 39129
The Shelby municipal court has jurisdiction within Sharon, Jackson, Cass, Plymouth, and Blooming Grove townships, and within all of Butler township except sections 35-36-31 and 32, in Richland county.	39130 39131 39132 39133
The Sidney municipal court has jurisdiction within Shelby county.	39134 39135
Beginning January 1, 2009, the Stow municipal court has jurisdiction within Boston, Hudson, Northfield Center, Sagamore Hills, and Twinsburg townships, and within the municipal corporations of Boston Heights, Cuyahoga Falls, Hudson, Munroe Falls, Northfield, Peninsula, Reminderville, Silver Lake, Stow, Tallmadge, Twinsburg, and Macedonia, in Summit county.	39136 39137 39138 39139 39140 39141
The Struthers municipal court has jurisdiction within the municipal corporations of Lowellville, New Middleton, and Poland, and within Poland and Springfield townships in Mahoning county.	39142 39143 39144

The Sylvania municipal court has jurisdiction within the 39145
municipal corporations of Berkey and Holland, and within Sylvania, 39146
Richfield, Spencer, and Harding townships, and within those 39147
portions of Swanton, Monclova, and Springfield townships lying 39148
north of the northerly boundary line of the Ohio turnpike, in 39149
Lucas county. 39150

The Tiffin municipal court has jurisdiction within Adams, Big 39151
Spring, Bloom, Clinton, Eden, Hopewell, Liberty, Pleasant, Reed, 39152
Scipio, Seneca, Thompson, and Venice townships in Seneca county. 39153

The Toledo municipal court has jurisdiction within Washington 39154
township, and within the municipal corporation of Ottawa Hills, in 39155
Lucas county. 39156

The Upper Sandusky municipal court has jurisdiction within 39157
Wyandot county. 39158

The Vandalia municipal court has jurisdiction within the 39159
municipal corporations of Clayton, Englewood, and Union, and 39160
within Butler, Harrison, and Randolph townships, in Montgomery 39161
county. 39162

The Van Wert municipal court has jurisdiction within Van Wert 39163
county. 39164

The Vermilion municipal court has jurisdiction within the 39165
townships of Vermilion and Florence in Erie county and within all 39166
of Brownhelm township except within the municipal corporation of 39167
Lorain, in Lorain county. 39168

The Wadsworth municipal court has jurisdiction within the 39169
municipal corporations of Gloria Glens Park, Lodi, Seville, and 39170
Westfield Center, and within Guilford, Harrisville, Homer, Sharon, 39171
Wadsworth, and Westfield townships in Medina county. 39172

The Warren municipal court has jurisdiction within Warren and 39173
Champion townships, and within all of Howland township except 39174

within the municipal corporation of Niles, in Trumbull county.	39175
The Washington Court House municipal court has jurisdiction within Fayette county.	39176 39177
The Wayne county municipal court has jurisdiction within Wayne county.	39178 39179
The Willoughby municipal court has jurisdiction within the municipal corporations of Eastlake, Wickliffe, Willowick, Willoughby Hills, Kirtland, Kirtland Hills, Waite Hill, Timberlake, and Lakeline, and within Kirtland township, in Lake county.	39180 39181 39182 39183 39184
Through June 30, 1992, the Wilmington municipal court has jurisdiction within Clinton county.	39185 39186
The Xenia municipal court has jurisdiction within Caesar creek, Cedarville, Jefferson, Miami, New Jasper, Ross, Silvercreek, Spring Valley, Sugarcreek, and Xenia townships in Greene county.	39187 39188 39189 39190
(C) As used in this section:	39191
(1) "Within a township" includes all land, including, but not limited to, any part of any municipal corporation, that is physically located within the territorial boundaries of that township, whether or not that land or municipal corporation is governmentally a part of the township.	39192 39193 39194 39195 39196
(2) "Within a municipal corporation" includes all land within the territorial boundaries of the municipal corporation and any townships that are coextensive with the municipal corporation.	39197 39198 39199
Sec. 1901.18. (A) Except as otherwise provided in this division or section 1901.181 of the Revised Code, subject to the monetary jurisdiction of municipal courts as set forth in section 1901.17 of the Revised Code, a municipal court has original jurisdiction within its territory in all of the following actions	39200 39201 39202 39203 39204

or proceedings and to perform all of the following functions:	39205
(1) In any civil action, of whatever nature or remedy, of which judges of county courts have jurisdiction;	39206 39207
(2) In any action or proceeding at law for the recovery of money or personal property of which the court of common pleas has jurisdiction;	39208 39209 39210
(3) In any action at law based on contract, to determine, preserve, and enforce all legal and equitable rights involved in the contract, to decree an accounting, reformation, or cancellation of the contract, and to hear and determine all legal and equitable remedies necessary or proper for a complete determination of the rights of the parties to the contract;	39211 39212 39213 39214 39215 39216
(4) In any action or proceeding for the sale of personal property under chattel mortgage, lien, encumbrance, or other charge, for the foreclosure and marshalling of liens on personal property of that nature, and for the rendering of personal judgment in the action or proceeding;	39217 39218 39219 39220 39221
(5) In any action or proceeding to enforce the collection of its own judgments or the judgments rendered by any court within the territory to which the municipal court has succeeded, and to subject the interest of a judgment debtor in personal property to satisfy judgments enforceable by the municipal court;	39222 39223 39224 39225 39226
(6) In any action or proceeding in the nature of interpleader;	39227 39228
(7) In any action of replevin;	39229
(8) In any action of forcible entry and detainer;	39230
(9) In any action concerning the issuance and enforcement of temporary protection orders pursuant to section 2919.26 of the Revised Code or protection orders pursuant to section 2903.213 of the Revised Code or the enforcement of protection orders issued by	39231 39232 39233 39234

courts of another state, as defined in section 2919.27 of the Revised Code;

(10) If the municipal court has a housing or environmental division, in any action over which the division is given jurisdiction by section 1901.181 of the Revised Code, provided that, except as specified in division (B) of that section, no judge of the court other than the judge of the division shall hear or determine any action over which the division has jurisdiction;

(11) In any action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 of the Revised Code, if the residential premises that are the subject of the action are located within the territorial jurisdiction of the court;

(12) In any civil action as described in division (B)(1) of section 3767.41 of the Revised Code that relates to a public nuisance, and, to the extent any provision of this chapter conflicts or is inconsistent with a provision of that section, the provision of that section shall control in the civil action.

(B) The Cleveland municipal court also shall have jurisdiction within its territory in all of the following actions or proceedings and to perform all of the following functions:

(1) In all actions and proceedings for the sale of real property under lien of a judgment of the municipal court or a lien for machinery, material, or fuel furnished or labor performed, irrespective of amount, and, in those actions and proceedings, the court may proceed to foreclose and marshal all liens and all vested or contingent rights, to appoint a receiver, and to render personal judgment irrespective of amount in favor of any party.

(2) In all actions for the foreclosure of a mortgage on real property given to secure the payment of money or the enforcement of a specific lien for money or other encumbrance or charge on real property, when the amount claimed by the plaintiff does not

exceed fifteen thousand dollars and the real property is situated 39266
within the territory, and, in those actions, the court may proceed 39267
to foreclose all liens and all vested and contingent rights and 39268
may proceed to render judgments and make findings and orders 39269
between the parties in the same manner and to the same extent as 39270
in similar actions in the court of common pleas. 39271

(3) In all actions for the recovery of real property situated 39272
within the territory to the same extent as courts of common pleas 39273
have jurisdiction; 39274

(4) In all actions for injunction to prevent or terminate 39275
violations of the ordinances and regulations of the city of 39276
Cleveland enacted or promulgated under the police power of the 39277
city of Cleveland, pursuant to Section 3 of Article XVIII, Ohio 39278
Constitution, over which the court of common pleas has or may have 39279
jurisdiction, and, in those actions, the court may proceed to 39280
render judgments and make findings and orders in the same manner 39281
and to the same extent as in similar actions in the court of 39282
common pleas. 39283

Sec. 1901.261. (A)(1) A municipal court may determine that 39284
for the efficient operation of the court additional funds are 39285
required to computerize the court, to make available computerized 39286
legal research services, or to do both. Upon making a 39287
determination that additional funds are required for either or 39288
both of those purposes, the court shall include in its schedule of 39289
fees and costs under section 1901.26 of the Revised Code one 39290
additional fee not to exceed three dollars on the filing of each 39291
cause of action or appeal equivalent to one described in division 39292
(A), (Q), or (U) of section 2303.20 of the Revised Code and shall 39293
direct the clerk of the court to charge the fee. 39294

(2) All fees collected under this section shall be paid to 39295
the county treasurer if the court is a county-operated municipal 39296

court or to the city treasurer if the court is not a 39297
county-operated municipal court. The treasurer shall place the 39298
funds from the fees in a separate fund to be disbursed upon an 39299
order of the court, subject to an appropriation by the board of 39300
county commissioners if the court is a county-operated municipal 39301
court or by the legislative authority of the municipal corporation 39302
if the court is not a county-operated municipal court, in an 39303
amount not greater than the actual cost to the court of 39304
computerizing the court, procuring and maintaining computerized 39305
legal research services, or both. 39306

(3) If the court determines that the funds in the fund 39307
described in division (A)(2) of this section are more than 39308
sufficient to satisfy the purpose for which the additional fee 39309
described in division (A)(1) of this section was imposed, the 39310
court may declare a surplus in the fund and, subject to an 39311
appropriation by the board of county commissioners if the court is 39312
a county-operated municipal court or by the legislative authority 39313
of the municipal corporation if the court is not a county-operated 39314
municipal court, expend those surplus funds for other appropriate 39315
technological expenses of the court. 39316

(B)(1) A municipal court may determine that, for the 39317
efficient operation of the court, additional funds are required to 39318
computerize the office of the clerk of the court and, upon that 39319
determination, may include in its schedule of fees and costs under 39320
section 1901.26 of the Revised Code an additional fee not to 39321
exceed ten dollars on the filing of each cause of action or 39322
appeal, on the filing, docketing, and endorsing of each 39323
certificate of judgment, or on the docketing and indexing of each 39324
aid in execution or petition to vacate, revive, or modify a 39325
judgment that is equivalent to one described in division (A), (P), 39326
(Q), (T), or (U) of section 2303.20 of the Revised Code. Subject 39327
to division (B)(2) of this section, all moneys collected under 39328

division (B)(1) of this section shall be paid to the county treasurer if the court is a county-operated municipal court or to the city treasurer if the court is not a county-operated municipal court. The treasurer shall place the funds from the fees in a separate fund to be disbursed, upon an order of the municipal court and subject to an appropriation by the board of county commissioners if the court is a county-operated municipal court or by the legislative authority of the municipal corporation if the court is not a county-operated municipal court, in an amount no greater than the actual cost to the court of procuring and maintaining computer systems for the office of the clerk of the municipal court.

(2) If a municipal court makes the determination described in division (B)(1) of this section, the board of county commissioners of the county if the court is a county-operated municipal court or the legislative authority of the municipal corporation if the court is not a county-operated municipal court, may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the municipal court. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges and financing costs related to any general obligation bonds issued pursuant to division (B)(2) of this section as they become due. General obligation bonds issued pursuant to division (B)(2) of this section are Chapter 133 securities.

Sec. 1901.262. (A) A municipal court may establish by rule procedures for the resolution of disputes between parties. Any procedures so adopted shall include, but are not limited to, mediation. If the court establishes any procedures under this division, the court may include in the court's schedule of fees

and costs under section 1901.26 of the Revised Code a reasonable 39361
fee, that is to be collected on the filing of each civil or 39362
criminal action or proceeding, and that is to be used to implement 39363
the procedures, and the court shall direct the clerk of the court 39364
to charge the fee. 39365

(B) All fees collected under division (A) of this section 39366
shall be paid to the county treasurer if the court is a 39367
county-operated municipal court or to the city treasurer if the 39368
court is not a county-operated municipal court. The treasurer 39369
shall place the funds from the fees in a separate fund to be 39370
disbursed upon an order of the court, subject to an appropriation 39371
by the board of county commissioners if the court is a 39372
county-operated municipal court or by the legislative authority of 39373
the municipal corporation if the court is not a county-operated 39374
municipal court. 39375

(C) If the court determines that the amount of the moneys in 39376
the fund described in division (B) of this section is more than 39377
the amount sufficient to satisfy the purpose for which the 39378
additional fee described in division (A) of this section was 39379
imposed, the court may declare a surplus in the fund and, subject 39380
to an appropriation by the board of county commissioners if the 39381
court is a county-operated municipal court or by the legislative 39382
authority of the municipal corporation if the court is not a 39383
county-operated municipal court, expend the surplus moneys for 39384
other appropriate expenses of the court. 39385

Sec. 1907.261. (A)(1) A county court may determine that for 39386
the efficient operation of the court additional funds are required 39387
to computerize the court, to make available computerized legal 39388
research services, or to do both. Upon making a determination that 39389
additional funds are required for either or both of those 39390
purposes, the court shall include in its schedule of fees and 39391

costs under section 1907.24 of the Revised Code one additional fee 39392
not to exceed three dollars on the filing of each cause of action 39393
or appeal equivalent to one described in division (A), (Q), or (U) 39394
of section 2303.20 of the Revised Code and shall direct the clerk 39395
of the court to charge the fee. 39396

(2) All fees collected under this section shall be paid to 39397
the county treasurer. The treasurer shall place the funds from the 39398
fees in a separate fund to be disbursed upon an order of the 39399
court, subject to an appropriation by the board of county 39400
commissioners, in an amount not greater than the actual cost to 39401
the court of computerizing the court, procuring and maintaining 39402
computerized legal research services, or both. 39403

(3) If the court determines that the funds in the fund 39404
described in division (A)(2) of this section are more than 39405
sufficient to satisfy the purpose for which the additional fee 39406
described in division (A)(1) of this section was imposed, the 39407
court may declare a surplus in the fund and, subject to an 39408
appropriation by the board of county commissioners, expend those 39409
surplus funds for other appropriate technological expenses of the 39410
court. 39411

(B)(1) A county court may determine that, for the efficient 39412
operation of the court, additional funds are required to 39413
computerize the office of the clerk of the court and, upon that 39414
determination, may include in its schedule of fees and costs under 39415
section 1907.24 of the Revised Code an additional fee not to 39416
exceed ten dollars on the filing of each cause of action or 39417
appeal, on the filing, docketing, and endorsing of each 39418
certificate of judgment, or on the docketing and indexing of each 39419
aid in execution or petition to vacate, revive, or modify a 39420
judgment that is equivalent to one described in division (A), (P), 39421
(Q), (T), or (U) of section 2303.20 of the Revised Code. Subject 39422
to division (B)(2) of this section, all moneys collected under 39423

division (B)(1) of this section shall be paid to the county 39424
treasurer. The treasurer shall place the funds from the fees in a 39425
separate fund to be disbursed, upon an order of the county court 39426
and subject to an appropriation by the board of county 39427
commissioners, in an amount no greater than the actual cost to the 39428
court of procuring and maintaining computer systems for the office 39429
of the clerk of the county court. 39430

(2) If a county court makes the determination described in 39431
division (B)(1) of this section, the board of county commissioners 39432
of that county may issue one or more general obligation bonds for 39433
the purpose of procuring and maintaining the computer systems for 39434
the office of the clerk of the county court. In addition to the 39435
purposes stated in division (B)(1) of this section for which the 39436
moneys collected under that division may be expended, the moneys 39437
additionally may be expended to pay debt charges and financing 39438
costs related to any general obligation bonds issued pursuant to 39439
division (B)(2) of this section as they become due. General 39440
obligation bonds issued pursuant to division (B)(2) of this 39441
section are Chapter 133. securities. 39442

Sec. 1907.262. (A) A county court may establish by rule 39443
procedures for the resolution of disputes between parties. Any 39444
procedures so adopted shall include, but are not limited to, 39445
mediation. If the court establishes any procedures under this 39446
division, the court may include in the court's schedule of fees 39447
and costs under section 1907.24 of the Revised Code a reasonable 39448
fee, that is to be collected on the filing of each civil or 39449
criminal action or proceeding, and that is to be used to implement 39450
the procedures, and the court shall direct the clerk of the court 39451
to charge the fee. 39452

(B) All fees collected under division (A) of this section 39453
shall be paid to the county treasurer. The treasurer shall place 39454

the funds from the fees in a separate fund to be disbursed upon an order of the court, subject to an appropriation by the board of county commissioners.

(C) If the court determines that the amount of the moneys in the fund described in division (B) of this section is more than the amount sufficient to satisfy the purpose for which the additional fee described in division (A) of this section was imposed, the court may declare a surplus in the fund and, subject to an appropriation by the board of county commissioners, expend the surplus moneys for other appropriate expenses of the court.

Sec. 1907.53. (A)(1) Each judge of a county court may appoint a bailiff on a full-time or part-time basis. The bailiff shall receive compensation as prescribed by the appointing judge, and the compensation is payable in semimonthly installments from the treasury of the county or other authorized fund. Before entering upon the duties of the office, a bailiff shall take an oath to faithfully perform those duties and shall give a bond of not less than three thousand dollars, as the appointing judge prescribes, conditioned on the faithful performance of the duties as bailiff.

(2) The board of county commissioners may purchase motor vehicles for the use of the bailiff that the court determines necessary to perform the duties of the office. The board, upon approval by the court, shall pay all expenses, maintenance, and upkeep of the vehicles from the county treasury or other authorized fund. Any allowances, costs, and expenses for the operation of private motor vehicles by the bailiffs for official duties, including the cost of oil, gasoline, and maintenance, shall be prescribed by the court and subject to the approval of the board and shall be paid from the county treasury or other authorized fund.

(B)(1) In a county court district in which no bailiff is 39486
appointed pursuant to division (A)(1) of this section, every 39487
deputy sheriff of the county, every police officer of a municipal 39488
corporation within the jurisdiction of the court, every member of 39489
a township or joint ~~township~~ police district police force, and 39490
every police constable of a township within the county court 39491
district is ex officio a bailiff of the court in and for the 39492
county, municipal corporation, or township within which the deputy 39493
sheriff, police officer, police force member, or police constable 39494
is commissioned and shall perform, in respect to cases within that 39495
jurisdiction and without additional compensation, any duties that 39496
are required by a judge of the court or by the clerk of the court. 39497

(2) At the request of a county court judge, a deputy sheriff 39498
or constable shall attend the county court while a trial is in 39499
progress. 39500

(C)(1) A bailiff and an ex officio bailiff shall perform for 39501
the county court services similar to those performed by the 39502
sheriff for the court of common pleas and shall perform any other 39503
duties that are required by rule of court. 39504

(2) The bailiff may administer oaths to witnesses and jurors 39505
and receive verdicts in the same manner and form and to the same 39506
extent as the clerk or deputy clerks of the county court. The 39507
bailiff may approve all undertakings and bonds given in actions of 39508
replevin and all redelivery bonds in attachments. 39509

(D) Bailiffs and deputy bailiffs are in the unclassified 39510
civil service. 39511

Sec. 1909.11. A county court judge has jurisdiction in any 39512
action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 39513
of the Revised Code if the residential premises that are the 39514
subject of the action are located within the territorial 39515
jurisdiction of the judge's county court district. 39516

Sec. 1923.01. (A) As provided in this chapter, any judge of a 39517
county or municipal court or a court of common pleas, within the 39518
judge's proper area of jurisdiction, may inquire about persons who 39519
make unlawful and forcible entry into lands or tenements and 39520
detain them, and about persons who make a lawful and peaceable 39521
entry into lands or tenements and hold them unlawfully and by 39522
force. If, upon the inquiry, it is found that an unlawful and 39523
forcible entry has been made and the lands or tenements are 39524
detained, or that, after a lawful entry, lands or tenements are 39525
held unlawfully and by force, a judge shall cause the plaintiff in 39526
an action under this chapter to have restitution of the lands or 39527
tenements. 39528

(B) An action shall be brought under this chapter within two 39529
years after the cause of action accrues. 39530

(C) As used in this chapter: 39531

(1) "Tenant" means a person who is entitled under a rental 39532
agreement to the use or occupancy of premises, other than premises 39533
located in a manufactured home park, to the exclusion of others, 39534
except that as used in division (A)(6) of section 1923.02 and 39535
section 1923.051 of the Revised Code, "tenant" includes a 39536
manufactured home park resident. 39537

(2) "Landlord" means the owner, lessor, or sublessor of 39538
premises, or the agent or person the landlord authorizes to manage 39539
premises or to receive rent from a tenant under a rental 39540
agreement, except, if required by the facts of the action to which 39541
the term is applied, "landlord" means a park operator. 39542

(3) "Resident" has the same meaning as in section ~~3733.01~~ 39543
4781.01 of the Revised Code. 39544

(4) "Residential premises" has the same meaning as in section 39545
5321.01 of the Revised Code, except, if required by the facts of 39546

the action to which the term is applied, "residential premises" 39547
has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised 39548
Code. 39549

(5) "Rental agreement" means any agreement or lease, written 39550
or oral, that establishes or modifies the terms, conditions, 39551
rules, or other provisions concerning the use or occupancy of 39552
premises by one of the parties to the agreement or lease, except 39553
that "rental agreement," as used in division (A)(13) of section 39554
1923.02 of the Revised Code and where the context requires as used 39555
in this chapter, means a rental agreement as defined in division 39556
(D) of section 5322.01 of the Revised Code. 39557

(6) "Controlled substance" has the same meaning as in section 39558
3719.01 of the Revised Code. 39559

(7) "School premises" has the same meaning as in section 39560
2925.01 of the Revised Code. 39561

(8) "Sexually oriented offense" and "child-victim oriented 39562
offense" have the same meanings as in section 2950.01 of the 39563
Revised Code. 39564

(9) "Recreational vehicle" and "mobile home" have the same 39565
meanings as in section 4501.01 of the Revised Code. 39566

(10) "Manufactured home" has the same meaning as in section 39567
3781.06 of the Revised Code. 39568

(11) "Manufactured home park" has the same meaning as in 39569
section ~~3733.01~~ 4781.01 of the Revised Code and also means any 39570
tract of land upon which one or two manufactured or mobile homes 39571
used for habitation are parked, either free of charge or for 39572
revenue purposes, pursuant to rental agreements between the owners 39573
of the manufactured or mobile homes and the owner of the tract of 39574
land. 39575

(12) "Park operator" has the same meaning as in section 39576

~~3733.01~~ 4781.01 of the Revised Code and also means a landlord of premises upon which one or two manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, pursuant to rental agreements between the owners of the manufactured or mobile homes and a landlord who is not licensed as a manufactured home park operator pursuant to Chapter ~~3733.~~ 4781. of the Revised Code.

(13) "Personal property" means tangible personal property other than a manufactured home, mobile home, or recreational vehicle that is the subject of an action under this chapter.

(14) "Preschool or child day-care center premises" has the same meaning as in section 2950.034 of the Revised Code.

Sec. 1923.02. (A) Proceedings under this chapter may be had as follows:

(1) Against tenants or manufactured home park residents holding over their terms;

(2) Against tenants or manufactured home park residents in possession under an oral tenancy, who are in default in the payment of rent as provided in division (B) of this section;

(3) In sales of real estate, on executions, orders, or other judicial process, when the judgment debtor was in possession at the time of the rendition of the judgment or decree, by virtue of which the sale was made;

(4) In sales by executors, administrators, or guardians, and on partition, when any of the parties to the complaint were in possession at the commencement of the action, after the sales, so made on execution or otherwise, have been examined by the proper court and adjudged legal;

(5) When the defendant is an occupier of lands or tenements, without color of title, and the complainant has the right of

possession to them; 39607

(6) In any other case of the unlawful and forcible detention 39608
of lands or tenements. For purposes of this division, in addition 39609
to any other type of unlawful and forcible detention of lands or 39610
tenements, such a detention may be determined to exist when both 39611
of the following apply: 39612

(a) A tenant fails to vacate residential premises within 39613
three days after both of the following occur: 39614

(i) The tenant's landlord has actual knowledge of or has 39615
reasonable cause to believe that the tenant, any person in the 39616
tenant's household, or any person on the premises with the consent 39617
of the tenant previously has or presently is engaged in a 39618
violation of Chapter 2925. or 3719. of the Revised Code, or of a 39619
municipal ordinance that is substantially similar to any section 39620
in either of those chapters, which involves a controlled substance 39621
and which occurred in, is occurring in, or otherwise was or is 39622
connected with the premises, whether or not the tenant or other 39623
person has been charged with, has pleaded guilty to or been 39624
convicted of, or has been determined to be a delinquent child for 39625
an act that, if committed by an adult, would be a violation as 39626
described in this division. For purposes of this division, a 39627
landlord has "actual knowledge of or has reasonable cause to 39628
believe" that a tenant, any person in the tenant's household, or 39629
any person on the premises with the consent of the tenant 39630
previously has or presently is engaged in a violation as described 39631
in this division if a search warrant was issued pursuant to 39632
Criminal Rule 41 or Chapter 2933. of the Revised Code; the 39633
affidavit presented to obtain the warrant named or described the 39634
tenant or person as the individual to be searched and particularly 39635
described the tenant's premises as the place to be searched, named 39636
or described one or more controlled substances to be searched for 39637
and seized, stated substantially the offense under Chapter 2925. 39638

or 3719. of the Revised Code or the substantially similar 39639
municipal ordinance that occurred in, is occurring in, or 39640
otherwise was or is connected with the tenant's premises, and 39641
states the factual basis for the affiant's belief that the 39642
controlled substances are located on the tenant's premises; the 39643
warrant was properly executed by a law enforcement officer and any 39644
controlled substance described in the affidavit was found by that 39645
officer during the search and seizure; and, subsequent to the 39646
search and seizure, the landlord was informed by that or another 39647
law enforcement officer of the fact that the tenant or person has 39648
or presently is engaged in a violation as described in this 39649
division and it occurred in, is occurring in, or otherwise was or 39650
is connected with the tenant's premises. 39651

(ii) The landlord gives the tenant the notice required by 39652
division (C) of section 5321.17 of the Revised Code. 39653

(b) The court determines, by a preponderance of the evidence, 39654
that the tenant, any person in the tenant's household, or any 39655
person on the premises with the consent of the tenant previously 39656
has or presently is engaged in a violation as described in 39657
division (A)(6)(a)(i) of this section. 39658

(7) In cases arising out of Chapter 5313. of the Revised 39659
Code. In those cases, the court has the authority to declare a 39660
forfeiture of the vendee's rights under a land installment 39661
contract and to grant any other claims arising out of the 39662
contract. 39663

(8) Against tenants who have breached an obligation that is 39664
imposed by section 5321.05 of the Revised Code, other than the 39665
obligation specified in division (A)(9) of that section, and that 39666
materially affects health and safety. Prior to the commencement of 39667
an action under this division, notice shall be given to the tenant 39668
and compliance secured with section 5321.11 of the Revised Code. 39669

(9) Against tenants who have breached an obligation imposed upon them by a written rental agreement;	39670 39671
(10) Against manufactured home park residents who have defaulted in the payment of rent or breached the terms of a rental agreement with a park operator. Nothing in this division precludes the commencement of an action under division (A)(12) of this section when the additional circumstances described in that division apply.	39672 39673 39674 39675 39676 39677
(11) Against manufactured home park residents who have committed two material violations of the rules of the manufactured home park, of the public health council <u>manufactured homes commission</u> , or of applicable state and local health and safety codes and who have been notified of the violations in compliance with section 3733.13 <u>4781.45</u> of the Revised Code;	39678 39679 39680 39681 39682 39683
(12) Against a manufactured home park resident, or the estate of a manufactured home park resident, who as a result of death or otherwise has been absent from the manufactured home park for a period of thirty consecutive days prior to the commencement of an action under this division and whose manufactured home or mobile home, or recreational vehicle that is parked in the manufactured home park, has been left unoccupied for that thirty-day period, without notice to the park operator and without payment of rent due under the rental agreement with the park operator;	39684 39685 39686 39687 39688 39689 39690 39691 39692
(13) Against occupants of self-service storage facilities, as defined in division (A) of section 5322.01 of the Revised Code, who have breached the terms of a rental agreement or violated section 5322.04 of the Revised Code;	39693 39694 39695 39696
(14) Against any resident or occupant who, pursuant to a rental agreement, resides in or occupies residential premises located within one thousand feet of any school premises or preschool or child day-care center premises and to whom both of	39697 39698 39699 39700

the following apply: 39701

(a) The resident's or occupant's name appears on the state registry of sex offenders and child-victim offenders maintained under section 2950.13 of the Revised Code. 39702
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(b) The state registry of sex offenders and child-victim offenders indicates that the resident or occupant was convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense. 39705
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(15) Against any tenant who permits any person to occupy residential premises located within one thousand feet of any school premises or preschool or child day-care center premises if both of the following apply to the person: 39711
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(a) The person's name appears on the state registry of sex offenders and child-victim offenders maintained under section 2950.13 of the Revised Code. 39715
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(b) The state registry of sex offenders and child-victim offenders indicates that the person was convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense. 39718
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(B) If a tenant or manufactured home park resident holding under an oral tenancy is in default in the payment of rent, the tenant or resident forfeits the right of occupancy, and the landlord may, at the landlord's option, terminate the tenancy by notifying the tenant or resident, as provided in section 1923.04 of the Revised Code, to leave the premises, for the restitution of which an action may then be brought under this chapter. 39723
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(C)(1) If a tenant or any other person with the tenant's permission resides in or occupies residential premises that are 39730
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located within one thousand feet of any school premises and is a 39732
resident or occupant of the type described in division (A)(14) of 39733
this section or a person of the type described in division (A)(15) 39734
of this section, the landlord for those residential premises, upon 39735
discovery that the tenant or other person is a resident, occupant, 39736
or person of that nature, may terminate the rental agreement or 39737
tenancy for those residential premises by notifying the tenant and 39738
all other occupants, as provided in section 1923.04 of the Revised 39739
Code, to leave the premises. 39740

(2) If a landlord is authorized to terminate a rental 39741
agreement or tenancy pursuant to division (C)(1) of this section 39742
but does not so terminate the rental agreement or tenancy, the 39743
landlord is not liable in a tort or other civil action in damages 39744
for any injury, death, or loss to person or property that 39745
allegedly result from that decision. 39746

(D) This chapter does not apply to a student tenant as 39747
defined by division (H) of section 5321.01 of the Revised Code 39748
when the college or university proceeds to terminate a rental 39749
agreement pursuant to section 5321.031 of the Revised Code. 39750

Sec. 1923.061. (A) Any defense in an action under this 39751
chapter may be asserted at trial. 39752

(B) In an action for possession of residential premises based 39753
upon nonpayment of the rent or in an action for rent when the 39754
tenant or manufactured home park resident is in possession, the 39755
tenant or resident may counterclaim for any amount ~~he~~ the tenant 39756
or resident may recover under the rental agreement or under 39757
Chapter ~~3733-~~ 4781. or 5321. of the Revised Code. In that event, 39758
the court from time to time may order the tenant or resident to 39759
pay into court all or part of the past due rent and rent becoming 39760
due during the pendency of the action. After trial and judgment, 39761
the party to whom a net judgment is owed shall be paid first from 39762

the money paid into court, and any balance shall be satisfied as 39763
any other judgment. If no rent remains due after application of 39764
this division, judgment shall be entered for the tenant or 39765
resident in the action for possession. If the tenant or resident 39766
has paid into court an amount greater than that necessary to 39767
satisfy a judgment obtained by the landlord, the balance shall be 39768
returned by the court to the tenant or resident. 39769

Sec. 1923.15. During any proceeding involving residential 39770
premises under this chapter, the court may order an appropriate 39771
governmental agency to inspect the residential premises. If the 39772
agency determines and the court finds conditions which constitute 39773
a violation of section ~~3733.10~~ 4781.38 or 5321.04 of the Revised 39774
Code, and if the premises have been vacated or are to be restored 39775
to the landlord, the court may issue an order forbidding the 39776
re-rental of the property until such conditions are corrected. If 39777
the agency determines and the court finds such conditions, and if 39778
the court finds that the tenant or manufactured home park resident 39779
may remain in possession, the court may order such conditions 39780
corrected. If such conditions have been caused by the tenant or 39781
resident, the court may award damages to the landlord equal to the 39782
reasonable cost of correcting such conditions. 39783

Sec. 2101.08. The probate judge may appoint a ~~stenographic~~ 39784
reporter and fix ~~his~~ the reporter's compensation in the manner 39785
provided for the court of common pleas in sections 2301.18 to 39786
2301.26, ~~inclusive,~~ of the Revised Code. 39787

Sec. 2101.162. (A)(1) The probate judge may determine that, 39788
for the efficient operation of the probate court, additional funds 39789
are required to computerize the court, make available computerized 39790
legal research services, or to do both. Upon making a 39791
determination that additional funds are required for either or 39792

both of those purposes, the probate judge shall charge a fee not 39793
to exceed three dollars or authorize and direct a deputy clerk of 39794
~~his~~ the probate court to charge a fee not to exceed three dollars, 39795
in addition to the fees specified in divisions (A)(1), (3), (4), 39796
(6), (14) to (17), (20) to (25), (27), (30) to (32), (34), (35), 39797
(37) to (48), (50) to (55), (59) to (61), (63) to (66), (69), and 39798
(72) of section 2101.16 of the Revised Code, the fee adopted 39799
pursuant to division (F) of that section, and the fee charged in 39800
connection with the docketing and indexing of an appeal. 39801

(2) All moneys collected under division (A)(1) of this 39802
section shall be paid to the county treasurer. The treasurer shall 39803
place the moneys from the fees in a separate fund to be disbursed, 39804
upon an order of the probate judge, subject to an appropriation by 39805
the board of county commissioners, in an amount no greater than 39806
the actual cost to the court of procuring and maintaining 39807
computerization of the court, computerized legal research 39808
services, or both. 39809

(3) If the court determines that the funds in the fund 39810
described in division (A)(2) of this section are more than 39811
sufficient to satisfy the purpose for which the additional fee 39812
described in division (A)(1) of this section was imposed, the 39813
court may declare a surplus in the fund and, subject to an 39814
appropriation by the board of county commissioners, expend those 39815
surplus funds for other appropriate technological expenses of the 39816
court. 39817

(B)(1) The probate judge may determine that, for the 39818
efficient operation of ~~his~~ the probate court, additional funds are 39819
required to computerize the office of the clerk of the court and, 39820
upon that determination, may charge a fee, not to exceed ten 39821
dollars, or authorize and direct a deputy clerk of the probate 39822
court to charge a fee, not to exceed ten dollars, in addition to 39823
the fees specified in divisions (A)(1), (3), (4), (6), (14) to 39824

(17), (20) to (25), (27), (30) to (32), (34), (35), (37) to (48), 39825
(50) to (55), (59) to (61), (63) to (66), (69), and (72) of 39826
section 2101.16 of the Revised Code, the fee adopted pursuant to 39827
division (F) of that section, and the fee charged in connection 39828
with the docketing and indexing of an appeal. Subject to division 39829
(B)(2) of this section, all moneys collected under this division 39830
shall be paid to the county treasurer to be disbursed, upon an 39831
order of the probate judge and subject to appropriation by the 39832
board of county commissioners, in an amount no greater than the 39833
actual cost to the probate court of procuring and maintaining 39834
computer systems for the office of the clerk of the court. 39835

(2) If the probate judge makes the determination described in 39836
division (B)(1) of this section, the board of county commissioners 39837
may issue one or more general obligation bonds for the purpose of 39838
procuring and maintaining the computer systems for the office of 39839
the clerk of the probate court. In addition to the purposes stated 39840
in division (B)(1) of this section for which the moneys collected 39841
under that division may be expended, the moneys additionally may 39842
be expended to pay debt charges on and financing costs related to 39843
any general obligation bonds issued pursuant to this division as 39844
they become due. General obligation bonds issued pursuant to this 39845
division are Chapter 133. securities. 39846

Sec. 2105.09. (A) The county auditor, unless ~~he~~ the auditor 39847
acts pursuant to division (C) of this section, shall take 39848
possession of real property escheated to the state that is located 39849
in ~~his~~ the auditor's county and outside the incorporated area of a 39850
city. The auditor shall take possession in the name of the state 39851
and sell the property at public auction, at the county seat of the 39852
county, to the highest bidder, after having given thirty days' 39853
notice of the intended sale in a newspaper ~~published within of~~ 39854
general circulation in the county or as provided in section 7.16 39855
of the Revised Code. 39856

On the application of the auditor, the court of common pleas shall appoint three disinterested freeholders of the county to appraise the real property. The freeholders shall be governed by the same rule as appraisers in sheriffs' or administrators' sales. The auditor shall sell the property at not less than two thirds of its appraised value and may sell it for cash, or for one-third cash and the balance in equal annual payments, the deferred payments to be amply secured. Upon payment of the whole consideration, the auditor shall execute a deed to the purchaser, in the name and on behalf of the state. The proceeds of the sale shall be paid by the auditor to the county treasurer.

If there is a regularly organized agricultural society within the county, the treasurer shall pay the greater of six hundred dollars or five per cent of the proceeds, in any case, to the society. The excess of the proceeds, or the whole thereof if there is no regularly organized agricultural society within the county, shall be distributed as follows:

(1) Twenty-five per cent shall be paid equally to the townships of the county;

(2) Seventy per cent shall be paid into the state treasury to the credit of the agro Ohio fund created under section 901.04 of the Revised Code;

(3) Five per cent shall be credited to the county general fund for such lawful purposes as the board of county commissioners provides.

(B) The legislative authority of a city within which are lands escheated to the state, unless it acts pursuant to division (C) of this section, shall take possession of the lands for the city, and the title to the lands shall vest in the city. The city shall use the premises primarily for health, welfare, or recreational purposes, or may lease them at such prices and for

such purposes as it considers proper. With the approval of the tax commissioner, the city may sell the lands or any undivided interest in the lands, in the same manner as is provided in the sale of land not needed for any municipal purposes; provided, that the net proceeds from the rent or sale of the premises shall be devoted to health, welfare, or recreational purposes.

(C) As an alternative to the procedure prescribed in divisions (A) and (B) of this section, the county auditor, or if the real property is located within the incorporated area of a city, the legislative authority of that city by an affirmative vote of at least a majority of its members, may request the probate court to direct the administrator or executor of the estate that contains the escheated property to commence an action in the probate court for authority to sell the real property in the manner provided in Chapter 2127. of the Revised Code. The proceeds from the sale of real property that is located outside the incorporated area of a city shall be distributed by the court in the same manner as the proceeds are distributed under division (A) of this section. The proceeds from the sale of real property that is located within the incorporated area of a city shall be distributed by the court in the same manner as the proceeds are distributed under division (B) of this section.

Sec. 2151.011. (A) As used in the Revised Code:

(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b) The juvenile court of Cuyahoga county or Hamilton county	39919
that is separately and independently created by section 2151.08 or	39920
Chapter 2153. of the Revised Code and that has jurisdiction under	39921
this chapter and Chapter 2152. of the Revised Code;	39922
(c) If division (A)(1)(a) or (b) of this section does not	39923
apply, the probate division of the court of common pleas.	39924
(2) "Juvenile judge" means a judge of a court having	39925
jurisdiction under this chapter.	39926
(3) "Private child placing agency" means any association, as	39927
defined in section 5103.02 of the Revised Code, that is certified	39928
under section 5103.03 of the Revised Code to accept temporary,	39929
permanent, or legal custody of children and place the children for	39930
either foster care or adoption.	39931
(4) "Private noncustodial agency" means any person,	39932
organization, association, or society certified by the department	39933
of job and family services that does not accept temporary or	39934
permanent legal custody of children, that is privately operated in	39935
this state, and that does one or more of the following:	39936
(a) Receives and cares for children for two or more	39937
consecutive weeks;	39938
(b) Participates in the placement of children in certified	39939
foster homes;	39940
(c) Provides adoption services in conjunction with a public	39941
children services agency or private child placing agency.	39942
(B) As used in this chapter:	39943
(1) "Adequate parental care" means the provision by a child's	39944
parent or parents, guardian, or custodian of adequate food,	39945
clothing, and shelter to ensure the child's health and physical	39946
safety and the provision by a child's parent or parents of	39947
specialized services warranted by the child's physical or mental	39948

needs. 39949

(2) "Adult" means an individual who is eighteen years of age or older. 39950
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(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency. 39952
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(4) "Alternative response" means the public children services agency's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to whether child abuse or neglect occurred. 39956
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(5) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code. 39962
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~~(5)~~(6) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age. 39965
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~~(6)~~(7) "Child day camp," "child care," "child day-care center," "part-time child day-care center," "type A family day-care home," "certified type B family day-care home," "type B home," "administrator of a child day-care center," "administrator of a type A family day-care home," "in-home aide," and "authorized provider" have the same meanings as in section 5104.01 of the Revised Code. 39973
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~~(7)~~(8) "Child care provider" means an individual who is a 39980
child-care staff member or administrator of a child day-care 39981
center, a type A family day-care home, or a type B family day-care 39982
home, or an in-home aide or an individual who is licensed, is 39983
regulated, is approved, operates under the direction of, or 39984
otherwise is certified by the department of job and family 39985
services, department of developmental disabilities, or the early 39986
childhood programs of the department of education. 39987

~~(8)~~(9) "Chronic truant" has the same meaning as in section 39988
2152.02 of the Revised Code. 39989

~~(9)~~(10) "Commit" means to vest custody as ordered by the 39990
court. 39991

~~(10)~~(11) "Counseling" includes both of the following: 39992

(a) General counseling services performed by a public 39993
children services agency or shelter for victims of domestic 39994
violence to assist a child, a child's parents, and a child's 39995
siblings in alleviating identified problems that may cause or have 39996
caused the child to be an abused, neglected, or dependent child. 39997

(b) Psychiatric or psychological therapeutic counseling 39998
services provided to correct or alleviate any mental or emotional 39999
illness or disorder and performed by a licensed psychiatrist, 40000
licensed psychologist, or a person licensed under Chapter 4757. of 40001
the Revised Code to engage in social work or professional 40002
counseling. 40003

~~(11)~~(12) "Custodian" means a person who has legal custody of 40004
a child or a public children services agency or private child 40005
placing agency that has permanent, temporary, or legal custody of 40006
a child. 40007

~~(12)~~(13) "Delinquent child" has the same meaning as in 40008
section 2152.02 of the Revised Code. 40009

~~(13)~~(14) "Detention" means the temporary care of children 40010
pending court adjudication or disposition, or execution of a court 40011
order, in a public or private facility designed to physically 40012
restrict the movement and activities of children. 40013

~~(14)~~(15) "Developmental disability" has the same meaning as 40014
in section 5123.01 of the Revised Code. 40015

~~(15)~~(16) "Differential response approach" means an approach 40016
that a public children services agency may use to respond to 40017
accepted reports of child abuse or neglect with either an 40018
alternative response or a traditional response. 40019

(17) "Foster caregiver" has the same meaning as in section 40020
5103.02 of the Revised Code. 40021

~~(16)~~(18) "Guardian" means a person, association, or 40022
corporation that is granted authority by a probate court pursuant 40023
to Chapter 2111. of the Revised Code to exercise parental rights 40024
over a child to the extent provided in the court's order and 40025
subject to the residual parental rights of the child's parents. 40026

~~(17)~~(19) "Habitual truant" means any child of compulsory 40027
school age who is absent without legitimate excuse for absence 40028
from the public school the child is supposed to attend for five or 40029
more consecutive school days, seven or more school days in one 40030
school month, or twelve or more school days in a school year. 40031

~~(18)~~(20) "Juvenile traffic offender" has the same meaning as 40032
in section 2152.02 of the Revised Code. 40033

~~(19)~~(21) "Legal custody" means a legal status that vests in 40034
the custodian the right to have physical care and control of the 40035
child and to determine where and with whom the child shall live, 40036
and the right and duty to protect, train, and discipline the child 40037
and to provide the child with food, shelter, education, and 40038
medical care, all subject to any residual parental rights, 40039
privileges, and responsibilities. An individual granted legal 40040

custody shall exercise the rights and responsibilities personally 40041
unless otherwise authorized by any section of the Revised Code or 40042
by the court. 40043

~~(20)~~(22) A "legitimate excuse for absence from the public 40044
school the child is supposed to attend" includes, but is not 40045
limited to, any of the following: 40046

(a) The fact that the child in question has enrolled in and 40047
is attending another public or nonpublic school in this or another 40048
state; 40049

(b) The fact that the child in question is excused from 40050
attendance at school for any of the reasons specified in section 40051
3321.04 of the Revised Code; 40052

(c) The fact that the child in question has received an age 40053
and schooling certificate in accordance with section 3331.01 of 40054
the Revised Code. 40055

~~(21)~~(23) "Mental illness" and "mentally ill person subject to 40056
hospitalization by court order" have the same meanings as in 40057
section 5122.01 of the Revised Code. 40058

~~(22)~~(24) "Mental injury" means any behavioral, cognitive, 40059
emotional, or mental disorder in a child caused by an act or 40060
omission that is described in section 2919.22 of the Revised Code 40061
and is committed by the parent or other person responsible for the 40062
child's care. 40063

~~(23)~~(25) "Mentally retarded person" has the same meaning as 40064
in section 5123.01 of the Revised Code. 40065

~~(24)~~(26) "Nonsecure care, supervision, or training" means 40066
care, supervision, or training of a child in a facility that does 40067
not confine or prevent movement of the child within the facility 40068
or from the facility. 40069

~~(25)~~(27) "Of compulsory school age" has the same meaning as 40070

in section 3321.01 of the Revised Code. 40071

~~(26)~~(28) "Organization" means any institution, public, 40072
semipublic, or private, and any private association, society, or 40073
agency located or operating in the state, incorporated or 40074
unincorporated, having among its functions the furnishing of 40075
protective services or care for children, or the placement of 40076
children in certified foster homes or elsewhere. 40077

~~(27)~~(29) "Out-of-home care" means detention facilities, 40078
shelter facilities, certified children's crisis care facilities, 40079
certified foster homes, placement in a prospective adoptive home 40080
prior to the issuance of a final decree of adoption, 40081
organizations, certified organizations, child day-care centers, 40082
type A family day-care homes, child care provided by type B family 40083
day-care home providers and by in-home aides, group home 40084
providers, group homes, institutions, state institutions, 40085
residential facilities, residential care facilities, residential 40086
camps, day camps, public schools, chartered nonpublic schools, 40087
educational service centers, hospitals, and medical clinics that 40088
are responsible for the care, physical custody, or control of 40089
children. 40090

~~(28)~~(30) "Out-of-home care child abuse" means any of the 40091
following when committed by a person responsible for the care of a 40092
child in out-of-home care: 40093

(a) Engaging in sexual activity with a child in the person's 40094
care; 40095

(b) Denial to a child, as a means of punishment, of proper or 40096
necessary subsistence, education, medical care, or other care 40097
necessary for a child's health; 40098

(c) Use of restraint procedures on a child that cause injury 40099
or pain; 40100

(d) Administration of prescription drugs or psychotropic 40101

medication to the child without the written approval and ongoing supervision of a licensed physician; 40102
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(e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death. 40104
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~~(29)~~(31) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care: 40109
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(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child; 40112
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(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person; 40115
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(c) Failure to develop a process for all of the following: 40119

(i) Administration of prescription drugs or psychotropic drugs for the child; 40120
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(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed; 40122
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(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug. 40124
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(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child; 40127
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(e) Confinement of the child to a locked room without monitoring by staff; 40130
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(f) Failure to provide ongoing security for all prescription and nonprescription medication; 40132
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(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child. 40134
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~~(30)~~(32) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations. 40137
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~~(31)~~(33) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency. 40143
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~~(32)~~(34) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies. 40148
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~~(33)~~(35) "Person responsible for a child's care in out-of-home care" means any of the following: 40151
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(a) Any foster caregiver, in-home aide, or provider; 40153

(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; certified type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic; 40154
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(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school;

(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children.

~~(34)~~(36) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:

(a) A substantial impairment of vision, speech, or hearing;

(b) A congenital orthopedic impairment;

(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.

~~(35)~~(37) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.

~~(36)~~(38) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.

~~(37)~~(39) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.

(b) The order permits the agency to make an appropriate

placement of the child and to enter into a written agreement with 40193
a foster care provider or with another person or agency with whom 40194
the child is placed. 40195

~~(38)~~(40) "Practice of social work" and "practice of 40196
professional counseling" have the same meanings as in section 40197
4757.01 of the Revised Code. 40198

~~(39)~~(41) "Sanction, service, or condition" means a sanction, 40199
service, or condition created by court order following an 40200
adjudication that a child is an unruly child that is described in 40201
division (A)(4) of section 2152.19 of the Revised Code. 40202

~~(40)~~(42) "Protective supervision" means an order of 40203
disposition pursuant to which the court permits an abused, 40204
neglected, dependent, or unruly child to remain in the custody of 40205
the child's parents, guardian, or custodian and stay in the 40206
child's home, subject to any conditions and limitations upon the 40207
child, the child's parents, guardian, or custodian, or any other 40208
person that the court prescribes, including supervision as 40209
directed by the court for the protection of the child. 40210

~~(41)~~(43) "Psychiatrist" has the same meaning as in section 40211
5122.01 of the Revised Code. 40212

~~(42)~~(44) "Psychologist" has the same meaning as in section 40213
4732.01 of the Revised Code. 40214

~~(43)~~(45) "Residential camp" means a program in which the 40215
care, physical custody, or control of children is accepted 40216
overnight for recreational or recreational and educational 40217
purposes. 40218

~~(44)~~(46) "Residential care facility" means an institution, 40219
residence, or facility that is licensed by the department of 40220
mental health under section 5119.22 of the Revised Code and that 40221
provides care for a child. 40222

~~(45)~~(47) "Residential facility" means a home or facility that 40223
is licensed by the department of developmental disabilities under 40224
section 5123.19 of the Revised Code and in which a child with a 40225
developmental disability resides. 40226

~~(46)~~(48) "Residual parental rights, privileges, and 40227
responsibilities" means those rights, privileges, and 40228
responsibilities remaining with the natural parent after the 40229
transfer of legal custody of the child, including, but not 40230
necessarily limited to, the privilege of reasonable visitation, 40231
consent to adoption, the privilege to determine the child's 40232
religious affiliation, and the responsibility for support. 40233

~~(47)~~(49) "School day" means the school day established by the 40234
state board of education pursuant to section 3313.48 of the 40235
Revised Code. 40236

~~(48)~~(50) "School month" and "school year" have the same 40237
meanings as in section 3313.62 of the Revised Code. 40238

~~(49)~~(51) "Secure correctional facility" means a facility 40239
under the direction of the department of youth services that is 40240
designed to physically restrict the movement and activities of 40241
children and used for the placement of children after adjudication 40242
and disposition. 40243

~~(50)~~(52) "Sexual activity" has the same meaning as in section 40244
2907.01 of the Revised Code. 40245

~~(51)~~(53) "Shelter" means the temporary care of children in 40246
physically unrestricted facilities pending court adjudication or 40247
disposition. 40248

~~(52)~~(54) "Shelter for victims of domestic violence" has the 40249
same meaning as in section 3113.33 of the Revised Code. 40250

~~(53)~~(55) "Temporary custody" means legal custody of a child 40251
who is removed from the child's home, which custody may be 40252

terminated at any time at the discretion of the court or, if the 40253
legal custody is granted in an agreement for temporary custody, by 40254
the person who executed the agreement. 40255

(56) "Traditional response" means a public children services 40256
agency's response to a report of child abuse or neglect that 40257
encourages engagement of the family in a comprehensive evaluation 40258
of the child's current and future safety needs and a fact-finding 40259
process to determine whether child abuse or neglect occurred and 40260
the circumstances surrounding the alleged harm or risk of harm. 40261

(C) For the purposes of this chapter, a child shall be 40262
presumed abandoned when the parents of the child have failed to 40263
visit or maintain contact with the child for more than ninety 40264
days, regardless of whether the parents resume contact with the 40265
child after that period of ninety days. 40266

Sec. 2151.3515. As used in sections 2151.3515 to 2151.3530 of 40267
the Revised Code: 40268

(A) "Deserted child" means a child whose parent has 40269
voluntarily delivered the child to an emergency medical service 40270
worker, peace officer, or hospital employee without expressing an 40271
intent to return for the child. 40272

(B) "Emergency medical service organization," "emergency 40273
medical technician-basic," "emergency medical 40274
technician-intermediate," "first responder," and "paramedic" have 40275
the same meanings as in section 4765.01 of the Revised Code. 40276

(C) "Emergency medical service worker" means a first 40277
responder, emergency medical technician-basic, emergency medical 40278
technician-intermediate, or paramedic. 40279

(D) "Hospital" has the same meaning as in section 3727.01 of 40280
the Revised Code. 40281

(E) "Hospital employee" means any of the following persons: 40282

(1) A physician who has been granted privileges to practice at the hospital;	40283 40284
(2) A nurse, physician assistant, or nursing assistant employed by the hospital;	40285 40286
(3) An authorized person employed by the hospital who is acting under the direction of a physician described in division (E)(1) of this section.	40287 40288 40289
(F) "Law enforcement agency" means an organization or entity made up of peace officers.	40290 40291
(G) "Nurse" means a person who is licensed under Chapter 4723. of the Revised Code to practice as a registered nurse or licensed practical nurse.	40292 40293 40294
(H) "Nursing assistant" means a person designated by a hospital as a nurse aide or nursing assistant whose job is to aid nurses, physicians, and physician assistants in the performance of their duties.	40295 40296 40297 40298
(I) "Peace officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, or a state highway patrol trooper.	40299 40300 40301 40302
(J) "Physician" and "physician assistant" have the same meanings as in section 4730.01 of the Revised Code.	40303 40304
Sec. 2151.412. (A) Each public children services agency and private child placing agency shall prepare and maintain a case plan for any child to whom the agency is providing services and to whom any of the following applies:	40305 40306 40307 40308
(1) The agency filed a complaint pursuant to section 2151.27 of the Revised Code alleging that the child is an abused, neglected, or dependent child;	40309 40310 40311

(2) The agency has temporary or permanent custody of the child; 40312
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(3) The child is living at home subject to an order for protective supervision; 40314
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(4) The child is in a planned permanent living arrangement. 40316

Except as provided by division (A)(2) of section 5103.153 of the Revised Code, a private child placing agency providing services to a child who is the subject of a voluntary permanent custody surrender agreement entered into under division (B)(2) of section 5103.15 of the Revised Code is not required to prepare and maintain a case plan for that child. 40317
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(B) Each public children services agency shall prepare and maintain a case plan or a family service plan for any child for whom the agency is providing in-home services pursuant to an alternative response. 40323
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(C)(1) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code setting forth the content and format of case plans required by division (A) of this section and establishing procedures for developing, implementing, and changing the case plans. The rules shall at a minimum comply with the requirements of Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 671 (1980), as amended. 40327
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(2) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code requiring public children services agencies and private child placing agencies to maintain case plans for children and their families who are receiving services in their homes from the agencies and for whom case plans are not required by division (A) of this section. The rules for public children services agencies shall include the requirements for case plans or family service plans maintained for children and their families who are receiving services in their 40334
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homes from public children services agencies pursuant to an 40343
alternative response. The agencies shall maintain case plans and 40344
family service plans as required by those rules; however, the case 40345
plans and family service plans shall not be subject to any other 40346
provision of this section except as specifically required by the 40347
rules. 40348

~~(C)~~(D) Each public children services agency and private child 40349
placing agency that is required by division (A) of this section to 40350
maintain a case plan shall file the case plan with the court prior 40351
to the child's adjudicatory hearing but no later than thirty days 40352
after the earlier of the date on which the complaint in the case 40353
was filed or the child was first placed into shelter care. If the 40354
agency does not have sufficient information prior to the 40355
adjudicatory hearing to complete any part of the case plan, the 40356
agency shall specify in the case plan the additional information 40357
necessary to complete each part of the case plan and the steps 40358
that will be taken to obtain that information. All parts of the 40359
case plan shall be completed by the earlier of thirty days after 40360
the adjudicatory hearing or the date of the dispositional hearing 40361
for the child. 40362

~~(D)~~(E) Any agency that is required by division (A) of this 40363
section to prepare a case plan shall attempt to obtain an 40364
agreement among all parties, including, but not limited to, the 40365
parents, guardian, or custodian of the child and the guardian ad 40366
litem of the child regarding the content of the case plan. If all 40367
parties agree to the content of the case plan and the court 40368
approves it, the court shall journalize it as part of its 40369
dispositional order. If the agency cannot obtain an agreement upon 40370
the contents of the case plan or the court does not approve it, 40371
the parties shall present evidence on the contents of the case 40372
plan at the dispositional hearing. The court, based upon the 40373
evidence presented at the dispositional hearing and the best 40374

interest of the child, shall determine the contents of the case 40375
plan and journalize it as part of the dispositional order for the 40376
child. 40377

~~(E)~~(F)(1) All parties, including the parents, guardian, or 40378
custodian of the child, are bound by the terms of the journalized 40379
case plan. A party that fails to comply with the terms of the 40380
journalized case plan may be held in contempt of court. 40381

(2) Any party may propose a change to a substantive part of 40382
the case plan, including, but not limited to, the child's 40383
placement and the visitation rights of any party. A party 40384
proposing a change to the case plan shall file the proposed change 40385
with the court and give notice of the proposed change in writing 40386
before the end of the day after the day of filing it to all 40387
parties and the child's guardian ad litem. All parties and the 40388
guardian ad litem shall have seven days from the date the notice 40389
is sent to object to and request a hearing on the proposed change. 40390

(a) If it receives a timely request for a hearing, the court 40391
shall schedule a hearing pursuant to section 2151.417 of the 40392
Revised Code to be held no later than thirty days after the 40393
request is received by the court. The court shall give notice of 40394
the date, time, and location of the hearing to all parties and the 40395
guardian ad litem. The agency may implement the proposed change 40396
after the hearing, if the court approves it. The agency shall not 40397
implement the proposed change unless it is approved by the court. 40398

(b) If it does not receive a timely request for a hearing, 40399
the court may approve the proposed change without a hearing. If 40400
the court approves the proposed change without a hearing, it shall 40401
journalize the case plan with the change not later than fourteen 40402
days after the change is filed with the court. If the court does 40403
not approve the proposed change to the case plan, it shall 40404
schedule a hearing to be held pursuant to section 2151.417 of the 40405
Revised Code no later than thirty days after the expiration of the 40406

fourteen-day time period and give notice of the date, time, and 40407
location of the hearing to all parties and the guardian ad litem 40408
of the child. If, despite the requirements of division ~~(E)~~(F)(2) 40409
of this section, the court neither approves and journalizes the 40410
proposed change nor conducts a hearing, the agency may implement 40411
the proposed change not earlier than fifteen days after it is 40412
submitted to the court. 40413

(3) If an agency has reasonable cause to believe that a child 40414
is suffering from illness or injury and is not receiving proper 40415
care and that an appropriate change in the child's case plan is 40416
necessary to prevent immediate or threatened physical or emotional 40417
harm, to believe that a child is in immediate danger from the 40418
child's surroundings and that an immediate change in the child's 40419
case plan is necessary to prevent immediate or threatened physical 40420
or emotional harm to the child, or to believe that a parent, 40421
guardian, custodian, or other member of the child's household has 40422
abused or neglected the child and that the child is in danger of 40423
immediate or threatened physical or emotional harm from that 40424
person unless the agency makes an appropriate change in the 40425
child's case plan, it may implement the change without prior 40426
agreement or a court hearing and, before the end of the next day 40427
after the change is made, give all parties, the guardian ad litem 40428
of the child, and the court notice of the change. Before the end 40429
of the third day after implementing the change in the case plan, 40430
the agency shall file a statement of the change with the court and 40431
give notice of the filing accompanied by a copy of the statement 40432
to all parties and the guardian ad litem. All parties and the 40433
guardian ad litem shall have ten days from the date the notice is 40434
sent to object to and request a hearing on the change. 40435

(a) If it receives a timely request for a hearing, the court 40436
shall schedule a hearing pursuant to section 2151.417 of the 40437
Revised Code to be held no later than thirty days after the 40438

request is received by the court. The court shall give notice of 40439
the date, time, and location of the hearing to all parties and the 40440
guardian ad litem. The agency shall continue to administer the 40441
case plan with the change after the hearing, if the court approves 40442
the change. If the court does not approve the change, the court 40443
shall make appropriate changes to the case plan and shall 40444
journalize the case plan. 40445

(b) If it does not receive a timely request for a hearing, 40446
the court may approve the change without a hearing. If the court 40447
approves the change without a hearing, it shall journalize the 40448
case plan with the change within fourteen days after receipt of 40449
the change. If the court does not approve the change to the case 40450
plan, it shall schedule a hearing under section 2151.417 of the 40451
Revised Code to be held no later than thirty days after the 40452
expiration of the fourteen-day time period and give notice of the 40453
date, time, and location of the hearing to all parties and the 40454
guardian ad litem of the child. 40455

~~(F)~~(G)(1) All case plans for children in temporary custody 40456
shall have the following general goals: 40457

(a) Consistent with the best interest and special needs of 40458
the child, to achieve a safe out-of-home placement in the least 40459
restrictive, most family-like setting available and in close 40460
proximity to the home from which the child was removed or the home 40461
in which the child will be permanently placed; 40462

(b) To eliminate with all due speed the need for the 40463
out-of-home placement so that the child can safely return home. 40464

(2) The director of job and family services shall adopt rules 40465
pursuant to Chapter 119. of the Revised Code setting forth the 40466
general goals of case plans for children subject to dispositional 40467
orders for protective supervision, a planned permanent living 40468
arrangement, or permanent custody. 40469

~~(G)~~(H) In the agency's development of a case plan and the 40470
court's review of the case plan, the child's health and safety 40471
shall be the paramount concern. The agency and the court shall be 40472
guided by the following general priorities: 40473

(1) A child who is residing with or can be placed with the 40474
child's parents within a reasonable time should remain in their 40475
legal custody even if an order of protective supervision is 40476
required for a reasonable period of time; 40477

(2) If both parents of the child have abandoned the child, 40478
have relinquished custody of the child, have become incapable of 40479
supporting or caring for the child even with reasonable 40480
assistance, or have a detrimental effect on the health, safety, 40481
and best interest of the child, the child should be placed in the 40482
legal custody of a suitable member of the child's extended family; 40483

(3) If a child described in division ~~(G)~~(H)(2) of this 40484
section has no suitable member of the child's extended family to 40485
accept legal custody, the child should be placed in the legal 40486
custody of a suitable nonrelative who shall be made a party to the 40487
proceedings after being given legal custody of the child; 40488

(4) If the child has no suitable member of the child's 40489
extended family to accept legal custody of the child and no 40490
suitable nonrelative is available to accept legal custody of the 40491
child and, if the child temporarily cannot or should not be placed 40492
with the child's parents, guardian, or custodian, the child should 40493
be placed in the temporary custody of a public children services 40494
agency or a private child placing agency; 40495

(5) If the child cannot be placed with either of the child's 40496
parents within a reasonable period of time or should not be placed 40497
with either, if no suitable member of the child's extended family 40498
or suitable nonrelative is available to accept legal custody of 40499
the child, and if the agency has a reasonable expectation of 40500

placing the child for adoption, the child should be committed to 40501
the permanent custody of the public children services agency or 40502
private child placing agency; 40503

(6) If the child is to be placed for adoption or foster care, 40504
the placement shall not be delayed or denied on the basis of the 40505
child's or adoptive or foster family's race, color, or national 40506
origin. 40507

~~(H)~~(I) The case plan for a child in temporary custody shall 40508
include at a minimum the following requirements if the child is or 40509
has been the victim of abuse or neglect or if the child witnessed 40510
the commission in the child's household of abuse or neglect 40511
against a sibling of the child, a parent of the child, or any 40512
other person in the child's household: 40513

(1) A requirement that the child's parents, guardian, or 40514
custodian participate in mandatory counseling; 40515

(2) A requirement that the child's parents, guardian, or 40516
custodian participate in any supportive services that are required 40517
by or provided pursuant to the child's case plan. 40518

~~(I)~~(J) A case plan may include, as a supplement, a plan for 40519
locating a permanent family placement. The supplement shall not be 40520
considered part of the case plan for purposes of division ~~(D)~~(E) 40521
of this section. 40522

Sec. 2151.421. (A)(1)(a) No person described in division 40523
(A)(1)(b) of this section who is acting in an official or 40524
professional capacity and knows, or has reasonable cause to 40525
suspect based on facts that would cause a reasonable person in a 40526
similar position to suspect, that a child under eighteen years of 40527
age or a mentally retarded, developmentally disabled, or 40528
physically impaired child under twenty-one years of age has 40529
suffered or faces a threat of suffering any physical or mental 40530

wound, injury, disability, or condition of a nature that 40531
reasonably indicates abuse or neglect of the child shall fail to 40532
immediately report that knowledge or reasonable cause to suspect 40533
to the entity or persons specified in this division. Except as 40534
provided in section 5120.173 of the Revised Code, the person 40535
making the report shall make it to the public children services 40536
agency or a municipal or county peace officer in the county in 40537
which the child resides or in which the abuse or neglect is 40538
occurring or has occurred. In the circumstances described in 40539
section 5120.173 of the Revised Code, the person making the report 40540
shall make it to the entity specified in that section. 40541

(b) Division (A)(1)(a) of this section applies to any person 40542
who is an attorney; physician, including a hospital intern or 40543
resident; dentist; podiatrist; practitioner of a limited branch of 40544
medicine as specified in section 4731.15 of the Revised Code; 40545
registered nurse; licensed practical nurse; visiting nurse; other 40546
health care professional; licensed psychologist; licensed school 40547
psychologist; independent marriage and family therapist or 40548
marriage and family therapist; speech pathologist or audiologist; 40549
coroner; administrator or employee of a child day-care center; 40550
administrator or employee of a residential camp or child day camp; 40551
administrator or employee of a certified child care agency or 40552
other public or private children services agency; school teacher; 40553
school employee; school authority; person engaged in social work 40554
or the practice of professional counseling; agent of a county 40555
humane society; person, other than a cleric, rendering spiritual 40556
treatment through prayer in accordance with the tenets of a 40557
well-recognized religion; employee of a county department of job 40558
and family services who is a professional and who works with 40559
children and families; superintendent, board member, or employee 40560
of a county board of developmental disabilities; investigative 40561
agent contracted with by a county board of developmental 40562
disabilities; employee of the department of developmental 40563

disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of a home health agency; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; or third party employed by a public children services agency to assist in providing child or family related services.

(2) Except as provided in division (A)(3) of this section, an attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding.

(3) The client or patient in an attorney-client or physician-patient relationship described in division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney or physician receives from the client or patient in that attorney-client or physician-patient relationship, and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(b) The attorney or physician knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar position to suspect, as a result of the communication or any observations made during that communication, that the client

or patient has suffered or faces a threat of suffering any 40596
physical or mental wound, injury, disability, or condition of a 40597
nature that reasonably indicates abuse or neglect of the client or 40598
patient. 40599

(c) The abuse or neglect does not arise out of the client's 40600
or patient's attempt to have an abortion without the notification 40601
of her parents, guardian, or custodian in accordance with section 40602
2151.85 of the Revised Code. 40603

(4)(a) No cleric and no person, other than a volunteer, 40604
designated by any church, religious society, or faith acting as a 40605
leader, official, or delegate on behalf of the church, religious 40606
society, or faith who is acting in an official or professional 40607
capacity, who knows, or has reasonable cause to believe based on 40608
facts that would cause a reasonable person in a similar position 40609
to believe, that a child under eighteen years of age or a mentally 40610
retarded, developmentally disabled, or physically impaired child 40611
under twenty-one years of age has suffered or faces a threat of 40612
suffering any physical or mental wound, injury, disability, or 40613
condition of a nature that reasonably indicates abuse or neglect 40614
of the child, and who knows, or has reasonable cause to believe 40615
based on facts that would cause a reasonable person in a similar 40616
position to believe, that another cleric or another person, other 40617
than a volunteer, designated by a church, religious society, or 40618
faith acting as a leader, official, or delegate on behalf of the 40619
church, religious society, or faith caused, or poses the threat of 40620
causing, the wound, injury, disability, or condition that 40621
reasonably indicates abuse or neglect shall fail to immediately 40622
report that knowledge or reasonable cause to believe to the entity 40623
or persons specified in this division. Except as provided in 40624
section 5120.173 of the Revised Code, the person making the report 40625
shall make it to the public children services agency or a 40626
municipal or county peace officer in the county in which the child 40627

resides or in which the abuse or neglect is occurring or has 40628
occurred. In the circumstances described in section 5120.173 of 40629
the Revised Code, the person making the report shall make it to 40630
the entity specified in that section. 40631

(b) Except as provided in division (A)(4)(c) of this section, 40632
a cleric is not required to make a report pursuant to division 40633
(A)(4)(a) of this section concerning any communication the cleric 40634
receives from a penitent in a cleric-penitent relationship, if, in 40635
accordance with division (C) of section 2317.02 of the Revised 40636
Code, the cleric could not testify with respect to that 40637
communication in a civil or criminal proceeding. 40638

(c) The penitent in a cleric-penitent relationship described 40639
in division (A)(4)(b) of this section is deemed to have waived any 40640
testimonial privilege under division (C) of section 2317.02 of the 40641
Revised Code with respect to any communication the cleric receives 40642
from the penitent in that cleric-penitent relationship, and the 40643
cleric shall make a report pursuant to division (A)(4)(a) of this 40644
section with respect to that communication, if all of the 40645
following apply: 40646

(i) The penitent, at the time of the communication, is either 40647
a child under eighteen years of age or a mentally retarded, 40648
developmentally disabled, or physically impaired person under 40649
twenty-one years of age. 40650

(ii) The cleric knows, or has reasonable cause to believe 40651
based on facts that would cause a reasonable person in a similar 40652
position to believe, as a result of the communication or any 40653
observations made during that communication, the penitent has 40654
suffered or faces a threat of suffering any physical or mental 40655
wound, injury, disability, or condition of a nature that 40656
reasonably indicates abuse or neglect of the penitent. 40657

(iii) The abuse or neglect does not arise out of the 40658

penitent's attempt to have an abortion performed upon a child 40659
under eighteen years of age or upon a mentally retarded, 40660
developmentally disabled, or physically impaired person under 40661
twenty-one years of age without the notification of her parents, 40662
guardian, or custodian in accordance with section 2151.85 of the 40663
Revised Code. 40664

(d) Divisions (A)(4)(a) and (c) of this section do not apply 40665
in a cleric-penitent relationship when the disclosure of any 40666
communication the cleric receives from the penitent is in 40667
violation of the sacred trust. 40668

(e) As used in divisions (A)(1) and (4) of this section, 40669
"cleric" and "sacred trust" have the same meanings as in section 40670
2317.02 of the Revised Code. 40671

(B) Anyone who knows, or has reasonable cause to suspect 40672
based on facts that would cause a reasonable person in similar 40673
circumstances to suspect, that a child under eighteen years of age 40674
or a mentally retarded, developmentally disabled, or physically 40675
impaired person under twenty-one years of age has suffered or 40676
faces a threat of suffering any physical or mental wound, injury, 40677
disability, or other condition of a nature that reasonably 40678
indicates abuse or neglect of the child may report or cause 40679
reports to be made of that knowledge or reasonable cause to 40680
suspect to the entity or persons specified in this division. 40681
Except as provided in section 5120.173 of the Revised Code, a 40682
person making a report or causing a report to be made under this 40683
division shall make it or cause it to be made to the public 40684
children services agency or to a municipal or county peace 40685
officer. In the circumstances described in section 5120.173 of the 40686
Revised Code, a person making a report or causing a report to be 40687
made under this division shall make it or cause it to be made to 40688
the entity specified in that section. 40689

(C) Any report made pursuant to division (A) or (B) of this 40690

section shall be made forthwith either by telephone or in person 40691
and shall be followed by a written report, if requested by the 40692
receiving agency or officer. The written report shall contain: 40693

(1) The names and addresses of the child and the child's 40694
parents or the person or persons having custody of the child, if 40695
known; 40696

(2) The child's age and the nature and extent of the child's 40697
injuries, abuse, or neglect that is known or reasonably suspected 40698
or believed, as applicable, to have occurred or of the threat of 40699
injury, abuse, or neglect that is known or reasonably suspected or 40700
believed, as applicable, to exist, including any evidence of 40701
previous injuries, abuse, or neglect; 40702

(3) Any other information that might be helpful in 40703
establishing the cause of the injury, abuse, or neglect that is 40704
known or reasonably suspected or believed, as applicable, to have 40705
occurred or of the threat of injury, abuse, or neglect that is 40706
known or reasonably suspected or believed, as applicable, to 40707
exist. 40708

Any person, who is required by division (A) of this section 40709
to report child abuse or child neglect that is known or reasonably 40710
suspected or believed to have occurred, may take or cause to be 40711
taken color photographs of areas of trauma visible on a child and, 40712
if medically indicated, cause to be performed radiological 40713
examinations of the child. 40714

(D) As used in this division, "children's advocacy center" 40715
and "sexual abuse of a child" have the same meanings as in section 40716
2151.425 of the Revised Code. 40717

(1) When a municipal or county peace officer receives a 40718
report concerning the possible abuse or neglect of a child or the 40719
possible threat of abuse or neglect of a child, upon receipt of 40720
the report, the municipal or county peace officer who receives the 40721

report shall refer the report to the appropriate public children services agency. 40722
40723

(2) When a public children services agency receives a report pursuant to this division or division (A) or (B) of this section, upon receipt of the report, the public children services agency shall do both of the following: 40724
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(a) Comply with section 2151.422 of the Revised Code; 40728

(b) If the county served by the agency is also served by a children's advocacy center and the report alleges sexual abuse of a child or another type of abuse of a child that is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, comply regarding the report with the protocol and procedures for referrals and investigations, with the coordinating activities, and with the authority or responsibility for performing or providing functions, activities, and services stipulated in the interagency agreement entered into under section 2151.428 of the Revised Code relative to that center. 40729
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(E) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code. 40740
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(F)(1) Except as provided in section 2151.422 of the Revised Code or in an interagency agreement entered into under section 40751
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2151.428 of the Revised Code that applies to the particular 40753
report, the public children services agency shall investigate, 40754
within twenty-four hours, each report of child abuse or child 40755
neglect that is known or reasonably suspected or believed to have 40756
occurred and of a threat of child abuse or child neglect that is 40757
known or reasonably suspected or believed to exist that is 40758
referred to it under this section to determine the circumstances 40759
surrounding the injuries, abuse, or neglect or the threat of 40760
injury, abuse, or neglect, the cause of the injuries, abuse, 40761
neglect, or threat, and the person or persons responsible. The 40762
investigation shall be made in cooperation with the law 40763
enforcement agency and in accordance with the memorandum of 40764
understanding prepared under division (J) of this section. A 40765
representative of the public children services agency shall, at 40766
the time of initial contact with the person subject to the 40767
investigation, inform the person of the specific complaints or 40768
allegations made against the person. The information shall be 40769
given in a manner that is consistent with division (H)(1) of this 40770
section and protects the rights of the person making the report 40771
under this section. 40772

A failure to make the investigation in accordance with the 40773
memorandum is not grounds for, and shall not result in, the 40774
dismissal of any charges or complaint arising from the report or 40775
the suppression of any evidence obtained as a result of the report 40776
and does not give, and shall not be construed as giving, any 40777
rights or any grounds for appeal or post-conviction relief to any 40778
person. The public children services agency shall report each case 40779
to the uniform statewide automated child welfare information 40780
system that the department of job and family services shall 40781
maintain in accordance with section 5101.13 of the Revised Code. 40782
The public children services agency shall submit a report of its 40783
investigation, in writing, to the law enforcement agency. 40784

(2) The public children services agency shall make any 40785
recommendations to the county prosecuting attorney or city 40786
director of law that it considers necessary to protect any 40787
children that are brought to its attention. 40788

(G)(1)(a) Except as provided in division (H)(3) of this 40789
section, anyone or any hospital, institution, school, health 40790
department, or agency participating in the making of reports under 40791
division (A) of this section, anyone or any hospital, institution, 40792
school, health department, or agency participating in good faith 40793
in the making of reports under division (B) of this section, and 40794
anyone participating in good faith in a judicial proceeding 40795
resulting from the reports, shall be immune from any civil or 40796
criminal liability for injury, death, or loss to person or 40797
property that otherwise might be incurred or imposed as a result 40798
of the making of the reports or the participation in the judicial 40799
proceeding. 40800

(b) Notwithstanding section 4731.22 of the Revised Code, the 40801
physician-patient privilege shall not be a ground for excluding 40802
evidence regarding a child's injuries, abuse, or neglect, or the 40803
cause of the injuries, abuse, or neglect in any judicial 40804
proceeding resulting from a report submitted pursuant to this 40805
section. 40806

(2) In any civil or criminal action or proceeding in which it 40807
is alleged and proved that participation in the making of a report 40808
under this section was not in good faith or participation in a 40809
judicial proceeding resulting from a report made under this 40810
section was not in good faith, the court shall award the 40811
prevailing party reasonable attorney's fees and costs and, if a 40812
civil action or proceeding is voluntarily dismissed, may award 40813
reasonable attorney's fees and costs to the party against whom the 40814
civil action or proceeding is brought. 40815

(H)(1) Except as provided in divisions (H)(4) and (N) of this 40816

section, a report made under this section is confidential. The 40817
information provided in a report made pursuant to this section and 40818
the name of the person who made the report shall not be released 40819
for use, and shall not be used, as evidence in any civil action or 40820
proceeding brought against the person who made the report. Nothing 40821
in this division shall preclude the use of reports of other 40822
incidents of known or suspected abuse or neglect in a civil action 40823
or proceeding brought pursuant to division (M) of this section 40824
against a person who is alleged to have violated division (A)(1) 40825
of this section, provided that any information in a report that 40826
would identify the child who is the subject of the report or the 40827
maker of the report, if the maker of the report is not the 40828
defendant or an agent or employee of the defendant, has been 40829
redacted. In a criminal proceeding, the report is admissible in 40830
evidence in accordance with the Rules of Evidence and is subject 40831
to discovery in accordance with the Rules of Criminal Procedure. 40832

(2) No person shall permit or encourage the unauthorized 40833
dissemination of the contents of any report made under this 40834
section. 40835

(3) A person who knowingly makes or causes another person to 40836
make a false report under division (B) of this section that 40837
alleges that any person has committed an act or omission that 40838
resulted in a child being an abused child or a neglected child is 40839
guilty of a violation of section 2921.14 of the Revised Code. 40840

(4) If a report is made pursuant to division (A) or (B) of 40841
this section and the child who is the subject of the report dies 40842
for any reason at any time after the report is made, but before 40843
the child attains eighteen years of age, the public children 40844
services agency or municipal or county peace officer to which the 40845
report was made or referred, on the request of the child fatality 40846
review board, shall submit a summary sheet of information 40847
providing a summary of the report to the review board of the 40848

county in which the deceased child resided at the time of death. 40849
On the request of the review board, the agency or peace officer 40850
may, at its discretion, make the report available to the review 40851
board. If the county served by the public children services agency 40852
is also served by a children's advocacy center and the report of 40853
alleged sexual abuse of a child or another type of abuse of a 40854
child is specified in the memorandum of understanding that creates 40855
the center as being within the center's jurisdiction, the agency 40856
or center shall perform the duties and functions specified in this 40857
division in accordance with the interagency agreement entered into 40858
under section 2151.428 of the Revised Code relative to that 40859
advocacy center. 40860

(5) A public children services agency shall advise a person 40861
alleged to have inflicted abuse or neglect on a child who is the 40862
subject of a report made pursuant to this section, including a 40863
report alleging sexual abuse of a child or another type of abuse 40864
of a child referred to a children's advocacy center pursuant to an 40865
interagency agreement entered into under section 2151.428 of the 40866
Revised Code, in writing of the disposition of the investigation. 40867
The agency shall not provide to the person any information that 40868
identifies the person who made the report, statements of 40869
witnesses, or police or other investigative reports. 40870

(I) Any report that is required by this section, other than a 40871
report that is made to the state highway patrol as described in 40872
section 5120.173 of the Revised Code, shall result in protective 40873
services and emergency supportive services being made available by 40874
the public children services agency on behalf of the children 40875
about whom the report is made, in an effort to prevent further 40876
neglect or abuse, to enhance their welfare, and, whenever 40877
possible, to preserve the family unit intact. The agency required 40878
to provide the services shall be the agency conducting the 40879
investigation of the report pursuant to section 2151.422 of the 40880

Revised Code. 40881

(J)(1) Each public children services agency shall prepare a 40882
memorandum of understanding that is signed by all of the 40883
following: 40884

(a) If there is only one juvenile judge in the county, the 40885
juvenile judge of the county or the juvenile judge's 40886
representative; 40887

(b) If there is more than one juvenile judge in the county, a 40888
juvenile judge or the juvenile judges' representative selected by 40889
the juvenile judges or, if they are unable to do so for any 40890
reason, the juvenile judge who is senior in point of service or 40891
the senior juvenile judge's representative; 40892

(c) The county peace officer; 40893

(d) All chief municipal peace officers within the county; 40894

(e) Other law enforcement officers handling child abuse and 40895
neglect cases in the county; 40896

(f) The prosecuting attorney of the county; 40897

(g) If the public children services agency is not the county 40898
department of job and family services, the county department of 40899
job and family services; 40900

(h) The county humane society; 40901

(i) If the public children services agency participated in 40902
the execution of a memorandum of understanding under section 40903
2151.426 of the Revised Code establishing a children's advocacy 40904
center, each participating member of the children's advocacy 40905
center established by the memorandum. 40906

(2) A memorandum of understanding shall set forth the normal 40907
operating procedure to be employed by all concerned officials in 40908
the execution of their respective responsibilities under this 40909
section and division (C) of section 2919.21, division (B)(1) of 40910

section 2919.22, division (B) of section 2919.23, and section 40911
2919.24 of the Revised Code and shall have as two of its primary 40912
goals the elimination of all unnecessary interviews of children 40913
who are the subject of reports made pursuant to division (A) or 40914
(B) of this section and, when feasible, providing for only one 40915
interview of a child who is the subject of any report made 40916
pursuant to division (A) or (B) of this section. A failure to 40917
follow the procedure set forth in the memorandum by the concerned 40918
officials is not grounds for, and shall not result in, the 40919
dismissal of any charges or complaint arising from any reported 40920
case of abuse or neglect or the suppression of any evidence 40921
obtained as a result of any reported child abuse or child neglect 40922
and does not give, and shall not be construed as giving, any 40923
rights or any grounds for appeal or post-conviction relief to any 40924
person. 40925

(3) A memorandum of understanding shall include all of the 40926
following: 40927

(a) The roles and responsibilities for handling emergency and 40928
nonemergency cases of abuse and neglect; 40929

(b) Standards and procedures to be used in handling and 40930
coordinating investigations of reported cases of child abuse and 40931
reported cases of child neglect, methods to be used in 40932
interviewing the child who is the subject of the report and who 40933
allegedly was abused or neglected, and standards and procedures 40934
addressing the categories of persons who may interview the child 40935
who is the subject of the report and who allegedly was abused or 40936
neglected. 40937

(4) If a public children services agency participated in the 40938
execution of a memorandum of understanding under section 2151.426 40939
of the Revised Code establishing a children's advocacy center, the 40940
agency shall incorporate the contents of that memorandum in the 40941
memorandum prepared pursuant to this section. 40942

(5) The clerk of the court of common pleas in the county may sign the memorandum of understanding prepared under division (J)(1) of this section. If the clerk signs the memorandum of understanding, the clerk shall execute all relevant responsibilities as required of officials specified in the memorandum.

(K)(1) Except as provided in division (K)(4) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report, or of the children's advocacy center that is referred the report if the report is referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, to be provided with the following information:

(a) Whether the agency or center has initiated an investigation of the report;

(b) Whether the agency or center is continuing to investigate the report;

(c) Whether the agency or center is otherwise involved with the child who is the subject of the report;

(d) The general status of the health and safety of the child who is the subject of the report;

(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (K)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.

(3) A request made pursuant to division (K)(1) of this section is not a substitute for any report required to be made pursuant to division (A) of this section.

(4) If an agency other than the agency that received or was referred the report is conducting the investigation of the report pursuant to section 2151.422 of the Revised Code, the agency conducting the investigation shall comply with the requirements of division (K) of this section.

(L) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The department of job and family services may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney general that the department determines are necessary to protect

children from child abuse and child neglect. 41005

(M) Whoever violates division (A) of this section is liable 41006
for compensatory and exemplary damages to the child who would have 41007
been the subject of the report that was not made. A person who 41008
brings a civil action or proceeding pursuant to this division 41009
against a person who is alleged to have violated division (A)(1) 41010
of this section may use in the action or proceeding reports of 41011
other incidents of known or suspected abuse or neglect, provided 41012
that any information in a report that would identify the child who 41013
is the subject of the report or the maker of the report, if the 41014
maker is not the defendant or an agent or employee of the 41015
defendant, has been redacted. 41016

(N)(1) As used in this division: 41017

(a) "Out-of-home care" includes a nonchartered nonpublic 41018
school if the alleged child abuse or child neglect, or alleged 41019
threat of child abuse or child neglect, described in a report 41020
received by a public children services agency allegedly occurred 41021
in or involved the nonchartered nonpublic school and the alleged 41022
perpetrator named in the report holds a certificate, permit, or 41023
license issued by the state board of education under section 41024
3301.071 or Chapter 3319. of the Revised Code. 41025

(b) "Administrator, director, or other chief administrative 41026
officer" means the superintendent of the school district if the 41027
out-of-home care entity subject to a report made pursuant to this 41028
section is a school operated by the district. 41029

(2) No later than the end of the day following the day on 41030
which a public children services agency receives a report of 41031
alleged child abuse or child neglect, or a report of an alleged 41032
threat of child abuse or child neglect, that allegedly occurred in 41033
or involved an out-of-home care entity, the agency shall provide 41034
written notice of the allegations contained in and the person 41035

named as the alleged perpetrator in the report to the 41036
administrator, director, or other chief administrative officer of 41037
the out-of-home care entity that is the subject of the report 41038
unless the administrator, director, or other chief administrative 41039
officer is named as an alleged perpetrator in the report. If the 41040
administrator, director, or other chief administrative officer of 41041
an out-of-home care entity is named as an alleged perpetrator in a 41042
report of alleged child abuse or child neglect, or a report of an 41043
alleged threat of child abuse or child neglect, that allegedly 41044
occurred in or involved the out-of-home care entity, the agency 41045
shall provide the written notice to the owner or governing board 41046
of the out-of-home care entity that is the subject of the report. 41047
The agency shall not provide witness statements or police or other 41048
investigative reports. 41049

(3) No later than three days after the day on which a public 41050
children services agency that conducted the investigation as 41051
determined pursuant to section 2151.422 of the Revised Code makes 41052
a disposition of an investigation involving a report of alleged 41053
child abuse or child neglect, or a report of an alleged threat of 41054
child abuse or child neglect, that allegedly occurred in or 41055
involved an out-of-home care entity, the agency shall send written 41056
notice of the disposition of the investigation to the 41057
administrator, director, or other chief administrative officer and 41058
the owner or governing board of the out-of-home care entity. The 41059
agency shall not provide witness statements or police or other 41060
investigative reports. 41061

(O) As used in this section, "investigation" means the public 41062
children services agency's response to an accepted report of child 41063
abuse or neglect through either an alternative response or a 41064
traditional response. 41065

Sec. 2151.424. (A) If a child has been placed in a certified 41066

foster home or is in the custody of a relative of the child, other than a parent of the child, a court, prior to conducting any hearing pursuant to division ~~(E)~~(F)(2) or (3) of section 2151.412 or section 2151.28, 2151.33, 2151.35, 2151.414, 2151.415, 2151.416, or 2151.417 of the Revised Code with respect to the child, shall notify the foster caregiver or relative of the date, time, and place of the hearing. At the hearing, the foster caregiver or relative shall have the right to present evidence.

(B) If a public children services agency or private child placing agency has permanent custody of a child and a petition to adopt the child has been filed under Chapter 3107. of the Revised Code, the agency, prior to conducting a review under section 2151.416 of the Revised Code, or a court, prior to conducting a hearing under division ~~(E)~~(F)(2) or (3) of section 2151.412 or section 2151.416 or 2151.417 of the Revised Code, shall notify the prospective adoptive parent of the date, time, and place of the review or hearing. At the review or hearing, the prospective adoptive parent shall have the right to present evidence.

(C) The notice and the opportunity to present evidence do not make the foster caregiver, relative, or prospective adoptive parent a party in the action or proceeding pursuant to which the review or hearing is conducted.

Sec. 2151.429. (A) The differential response approach, as defined in section 2151.011 of the Revised Code, pursued by a public children services agency shall include two response pathways, the traditional response pathway and the alternative response pathway. The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code setting forth the procedures and criteria for public children services agencies to assign and reassign response pathways.

(B) The agency shall use the traditional response for the

<u>following types of accepted reports:</u>	41098
<u>(1) Physical abuse resulting in serious injury or that creates a serious and immediate risk to a child's health and safety.</u>	41099 41100 41101
<u>(2) Sexual abuse.</u>	41102
<u>(3) Child fatality.</u>	41103
<u>(4) Reports requiring a specialized assessment as identified by rule adopted by the department.</u>	41104 41105
<u>(5) Reports requiring a third party investigative procedure as identified by rule adopted by the department.</u>	41106 41107
<u>(C) For all other child abuse and neglect reports, an alternative response shall be the preferred response, whenever appropriate and in accordance with rules adopted by the department.</u>	41108 41109 41110 41111
Sec. 2151.541. (A)(1) The juvenile judge may determine that, for the efficient operation of the juvenile court, additional funds are required to computerize the court, to make available computerized legal research services, or both. Upon making a determination that additional funds are required for either or both of those purposes, the judge shall do one of the following:	41112 41113 41114 41115 41116 41117
(a) If he <u>the judge</u> is clerk of the court, charge one additional fee not to exceed three dollars on the filing of each cause of action or appeal under division (A), (Q), or (U) of section 2303.20 of the Revised Code;	41118 41119 41120 41121
(b) If the clerk of the court of common pleas serves as the clerk of the juvenile court pursuant to section 2151.12 of the Revised Code, authorize and direct the clerk to charge one additional fee not to exceed three dollars on the filing of each cause of action or appeal under division (A), (Q), or (U) of section 2303.20 of the Revised Code.	41122 41123 41124 41125 41126 41127

(2) All moneys collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the moneys from the fees in a separate fund to be disbursed, upon an order of the juvenile judge, subject to an appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and, subject to an appropriation by the board of county commissioners, expend those surplus funds for other appropriate technological expenses of the court.

(B)(1) If the juvenile judge is the clerk of the juvenile court, ~~he~~ the judge may determine that, for the efficient operation of ~~his~~ the juvenile court, additional funds are required to computerize the clerk's office and, upon that determination, may charge an additional fee, not to exceed ten dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under this division shall be paid to the county treasurer to be disbursed, upon an order of the juvenile judge and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the juvenile court of procuring and maintaining computer systems for the clerk's office.

(2) If the juvenile judge makes the determination described 41160
in division (B)(1) of this section, the board of county 41161
commissioners may issue one or more general obligation bonds for 41162
the purpose of procuring and maintaining the computer systems for 41163
the office of the clerk of the juvenile court. In addition to the 41164
purposes stated in division (B)(1) of this section for which the 41165
moneys collected under that division may be expended, the moneys 41166
additionally may be expended to pay debt charges on and financing 41167
costs related to any general obligation bonds issued pursuant to 41168
this division as they become due. General obligation bonds issued 41169
pursuant to this division are Chapter 133. securities. 41170

Sec. 2152.72. (A) This section applies only to a child who is 41171
or previously has been adjudicated a delinquent child for an act 41172
to which any of the following applies: 41173

(1) The act is a violation of section 2903.01, 2903.02, 41174
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2907.02, 2907.03, or 41175
2907.05 of the Revised Code. 41176

(2) The act is a violation of section 2923.01 of the Revised 41177
Code and involved an attempt to commit aggravated murder or 41178
murder. 41179

(3) The act would be a felony if committed by an adult, and 41180
the court determined that the child, if an adult, would be guilty 41181
of a specification found in section 2941.141, 2941.144, or 41182
2941.145 of the Revised Code or in another section of the Revised 41183
Code that relates to the possession or use of a firearm during the 41184
commission of the act for which the child was adjudicated a 41185
delinquent child. 41186

(4) The act would be an offense of violence that is a felony 41187
if committed by an adult, and the court determined that the child, 41188
if an adult, would be guilty of a specification found in section 41189
2941.1411 of the Revised Code or in another section of the Revised 41190

Code that relates to the wearing or carrying of body armor during 41191
the commission of the act for which the child was adjudicated a 41192
delinquent child. 41193

(B)(1) Except as provided in division (E) of this section, a 41194
public children services agency, private child placing agency, 41195
private noncustodial agency, or court, the department of youth 41196
services, or another private or government entity shall not place 41197
a child in a certified foster home or for adoption until it 41198
provides the foster caregivers or prospective adoptive parents 41199
with all of the following: 41200

(a) A written report describing the child's social history; 41201

(b) A written report describing all the acts committed by the 41202
child the entity knows of that resulted in the child being 41203
adjudicated a delinquent child and the disposition made by the 41204
court, unless the records pertaining to the acts have been sealed 41205
pursuant to section 2151.356 of the Revised Code; 41206

(c) A written report describing any other violent act 41207
committed by the child of which the entity is aware; 41208

(d) The substantial and material conclusions and 41209
recommendations of any psychiatric or psychological examination 41210
conducted on the child or, if no psychological or psychiatric 41211
examination of the child is available, the substantial and 41212
material conclusions and recommendations of an examination to 41213
detect mental and emotional disorders conducted in compliance with 41214
the requirements of Chapter 4757. of the Revised Code by an 41215
independent social worker, social worker, professional clinical 41216
counselor, or professional counselor licensed under that chapter. 41217
The entity shall not provide any part of a psychological, 41218
psychiatric, or mental and emotional disorder examination to the 41219
foster caregivers or prospective adoptive parents other than the 41220
substantial and material conclusions. 41221

(2) Notwithstanding sections 2151.356 to 2151.358 of the Revised Code, if records of an adjudication that a child is a delinquent child have been sealed pursuant to those sections and an entity knows the records have been sealed, the entity shall provide the foster caregivers or prospective adoptive parents a written statement that the records of a prior adjudication have been sealed.

(C)(1) The entity that places the child in a certified foster home or for adoption shall conduct a psychological examination of the child unless either of the following applies:

(a) An entity is not required to conduct the examination if an examination was conducted no more than one year prior to the child's placement, and division (C)(1)(b) of this section does not apply.

(b) An entity is not required to conduct the examination if a foster caregiver seeks to adopt the foster caregiver's foster child, and an examination was conducted no more than two years prior to the date the foster caregiver seeks to adopt the child.

(2) No later than sixty days after placing the child, the entity shall provide the foster caregiver or prospective adoptive parents a written report detailing the substantial and material conclusions and recommendations of the examination conducted pursuant to this division.

(D)(1) Except as provided in divisions (D)(2) and (3) of this section, the expenses of conducting the examinations and preparing the reports and assessment required by division (B) or (C) of this section shall be paid by the entity that places the child in the certified foster home or for adoption.

(2) When a juvenile court grants temporary or permanent custody of a child pursuant to any section of the Revised Code, including section 2151.33, 2151.353, 2151.354, or 2152.19 of the

Revised Code, to a public children services agency or private 41253
child placing agency, the court shall provide the agency the 41254
information described in division (B) of this section, pay the 41255
expenses of preparing that information, and, if a new examination 41256
is required to be conducted, pay the expenses of conducting the 41257
examination described in division (C) of this section. On receipt 41258
of the information described in division (B) of this section, the 41259
agency shall provide to the court written acknowledgment that the 41260
agency received the information. The court shall keep the 41261
acknowledgment and provide a copy to the agency. On the motion of 41262
the agency, the court may terminate the order granting temporary 41263
or permanent custody of the child to that agency, if the court 41264
does not provide the information described in division (B) of this 41265
section. 41266

(3) If one of the following entities is placing a child in a 41267
certified foster home or for adoption with the assistance of or by 41268
contracting with a public children services agency, private child 41269
placing agency, or a private noncustodial agency, the entity shall 41270
provide the agency with the information described in division (B) 41271
of this section, pay the expenses of preparing that information, 41272
and, if a new examination is required to be conducted, pay the 41273
expenses of conducting the examination described in division (C) 41274
of this section: 41275

(a) The department of youth services if the placement is 41276
pursuant to any section of the Revised Code including section 41277
2152.22, 5139.06, 5139.07, 5139.38, or 5139.39 of the Revised 41278
Code; 41279

(b) A juvenile court with temporary or permanent custody of a 41280
child pursuant to section 2151.354 or 2152.19 of the Revised Code; 41281

(c) A public children services agency or private child 41282
placing agency with temporary or permanent custody of the child. 41283

The agency receiving the information described in division 41284
(B) of this section shall provide the entity described in division 41285
(D)(3)(a) to (c) of this section that sent the information written 41286
acknowledgment that the agency received the information and 41287
provided it to the foster caregivers or prospective adoptive 41288
parents. The entity shall keep the acknowledgment and provide a 41289
copy to the agency. An entity that places a child in a certified 41290
foster home or for adoption with the assistance of or by 41291
contracting with an agency remains responsible to provide the 41292
information described in division (B) of this section to the 41293
foster caregivers or prospective adoptive parents unless the 41294
entity receives written acknowledgment that the agency provided 41295
the information. 41296

(E) If a child is placed in a certified foster home as a 41297
result of an emergency removal of the child from home pursuant to 41298
division (D) of section 2151.31 of the Revised Code, an emergency 41299
change in the child's case plan pursuant to division ~~(E)~~(F)(3) of 41300
section 2151.412 of the Revised Code, or an emergency placement by 41301
the department of youth services pursuant to this chapter or 41302
Chapter 5139. of the Revised Code, the entity that places the 41303
child in the certified foster home shall provide the information 41304
described in division (B) of this section no later than ninety-six 41305
hours after the child is placed in the certified foster home. 41306

(F) On receipt of the information described in divisions (B) 41307
and (C) of this section, the foster caregiver or prospective 41308
adoptive parents shall provide to the entity that places the child 41309
in the foster caregiver's or prospective adoptive parents' home a 41310
written acknowledgment that the foster caregiver or prospective 41311
adoptive parents received the information. The entity shall keep 41312
the acknowledgment and provide a copy to the foster caregiver or 41313
prospective adoptive parents. 41314

(G) No person employed by an entity subject to this section 41315

and made responsible by that entity for the child's placement in a 41316
certified foster home or for adoption shall fail to provide the 41317
foster caregivers or prospective adoptive parents with the 41318
information required by divisions (B) and (C) of this section. 41319

(H) It is not a violation of any duty of confidentiality 41320
provided for in the Revised Code or a code of professional 41321
responsibility for a person or government entity to provide the 41322
substantial and material conclusions and recommendations of a 41323
psychiatric or psychological examination, or an examination to 41324
detect mental and emotional disorders, in accordance with division 41325
(B)(1)(d) or (C) of this section. 41326

(I) As used in this section: 41327

(1) "Body armor" has the same meaning as in section 2941.1411 41328
of the Revised Code. 41329

(2) "Firearm" has the same meaning as in section 2923.11 of 41330
the Revised Code. 41331

Sec. 2301.03. (A) In Franklin county, the judges of the court 41332
of common pleas whose terms begin on January 1, 1953, January 2, 41333
1953, January 5, 1969, January 5, 1977, and January 2, 1997, and 41334
successors, shall have the same qualifications, exercise the same 41335
powers and jurisdiction, and receive the same compensation as 41336
other judges of the court of common pleas of Franklin county and 41337
shall be elected and designated as judges of the court of common 41338
pleas, division of domestic relations. They shall have all the 41339
powers relating to juvenile courts, and all cases under Chapters 41340
2151. and 2152. of the Revised Code, all parentage proceedings 41341
under Chapter 3111. of the Revised Code over which the juvenile 41342
court has jurisdiction, and all divorce, dissolution of marriage, 41343
legal separation, and annulment cases shall be assigned to them. 41344
In addition to the judge's regular duties, the judge who is senior 41345
in point of service shall serve on the children services board and 41346

the county advisory board and shall be the administrator of the 41347
domestic relations division and its subdivisions and departments. 41348

41349

(B) In Hamilton county: 41350

(1) The judge of the court of common pleas, whose term begins 41351
on January 1, 1957, and successors, and the judge of the court of 41352
common pleas, whose term begins on February 14, 1967, and 41353
successors, shall be the juvenile judges as provided in Chapters 41354
2151. and 2152. of the Revised Code, with the powers and 41355
jurisdiction conferred by those chapters. 41356

(2) The judges of the court of common pleas whose terms begin 41357
on January 5, 1957, January 16, 1981, and July 1, 1991, and 41358
successors, shall be elected and designated as judges of the court 41359
of common pleas, division of domestic relations, and shall have 41360
assigned to them all divorce, dissolution of marriage, legal 41361
separation, and annulment cases coming before the court. On or 41362
after the first day of July and before the first day of August of 41363
1991 and each year thereafter, a majority of the judges of the 41364
division of domestic relations shall elect one of the judges of 41365
the division as administrative judge of that division. If a 41366
majority of the judges of the division of domestic relations are 41367
unable for any reason to elect an administrative judge for the 41368
division before the first day of August, a majority of the judges 41369
of the Hamilton county court of common pleas, as soon as possible 41370
after that date, shall elect one of the judges of the division of 41371
domestic relations as administrative judge of that division. The 41372
term of the administrative judge shall begin on the earlier of the 41373
first day of August of the year in which the administrative judge 41374
is elected or the date on which the administrative judge is 41375
elected by a majority of the judges of the Hamilton county court 41376
of common pleas and shall terminate on the date on which the 41377
administrative judge's successor is elected in the following year. 41378

In addition to the judge's regular duties, the administrative 41379
judge of the division of domestic relations shall be the 41380
administrator of the domestic relations division and its 41381
subdivisions and departments and shall have charge of the 41382
employment, assignment, and supervision of the personnel of the 41383
division engaged in handling, servicing, or investigating divorce, 41384
dissolution of marriage, legal separation, and annulment cases, 41385
including any referees considered necessary by the judges in the 41386
discharge of their various duties. 41387

The administrative judge of the division of domestic 41388
relations also shall designate the title, compensation, expense 41389
allowances, hours, leaves of absence, and vacations of the 41390
personnel of the division, and shall fix the duties of its 41391
personnel. The duties of the personnel, in addition to those 41392
provided for in other sections of the Revised Code, shall include 41393
the handling, servicing, and investigation of divorce, dissolution 41394
of marriage, legal separation, and annulment cases and counseling 41395
and conciliation services that may be made available to persons 41396
requesting them, whether or not the persons are parties to an 41397
action pending in the division. 41398

The board of county commissioners shall appropriate the sum 41399
of money each year as will meet all the administrative expenses of 41400
the division of domestic relations, including reasonable expenses 41401
of the domestic relations judges and the division counselors and 41402
other employees designated to conduct the handling, servicing, and 41403
investigation of divorce, dissolution of marriage, legal 41404
separation, and annulment cases, conciliation and counseling, and 41405
all matters relating to those cases and counseling, and the 41406
expenses involved in the attendance of division personnel at 41407
domestic relations and welfare conferences designated by the 41408
division, and the further sum each year as will provide for the 41409
adequate operation of the division of domestic relations. 41410

The compensation and expenses of all employees and the salary 41411
and expenses of the judges shall be paid by the county treasurer 41412
from the money appropriated for the operation of the division, 41413
upon the warrant of the county auditor, certified to by the 41414
administrative judge of the division of domestic relations. 41415

The summonses, warrants, citations, subpoenas, and other 41416
writs of the division may issue to a bailiff, constable, or staff 41417
investigator of the division or to the sheriff of any county or 41418
any marshal, constable, or police officer, and the provisions of 41419
law relating to the subpoenaing of witnesses in other cases shall 41420
apply insofar as they are applicable. When a summons, warrant, 41421
citation, subpoena, or other writ is issued to an officer, other 41422
than a bailiff, constable, or staff investigator of the division, 41423
the expense of serving it shall be assessed as a part of the costs 41424
in the case involved. 41425

(3) The judge of the court of common pleas of Hamilton county 41426
whose term begins on January 3, 1997, and the successors to that 41427
judge shall each be elected and designated as the drug court judge 41428
of the court of common pleas of Hamilton county. The drug court 41429
judge may accept or reject any case referred to the drug court 41430
judge under division (B)(3) of this section. After the drug court 41431
judge accepts a referred case, the drug court judge has full 41432
authority over the case, including the authority to conduct 41433
arraignment, accept pleas, enter findings and dispositions, 41434
conduct trials, order treatment, and if treatment is not 41435
successfully completed pronounce and enter sentence. 41436

A judge of the general division of the court of common pleas 41437
of Hamilton county and a judge of the Hamilton county municipal 41438
court may refer to the drug court judge any case, and any 41439
companion cases, the judge determines meet the criteria described 41440
under divisions (B)(3)(a) and (b) of this section. If the drug 41441
court judge accepts referral of a referred case, the case, and any 41442

companion cases, shall be transferred to the drug court judge. A 41443
judge may refer a case meeting the criteria described in divisions 41444
(B)(3)(a) and (b) of this section that involves a violation of a 41445
condition of a community control sanction to the drug court judge, 41446
and, if the drug court judge accepts the referral, the referring 41447
judge and the drug court judge have concurrent jurisdiction over 41448
the case. 41449

A judge of the general division of the court of common pleas 41450
of Hamilton county and a judge of the Hamilton county municipal 41451
court may refer a case to the drug court judge under division 41452
(B)(3) of this section if the judge determines that both of the 41453
following apply: 41454

(a) One of the following applies: 41455

(i) The case involves a drug abuse offense, as defined in 41456
section 2925.01 of the Revised Code, that is a felony of the third 41457
or fourth degree if the offense is committed prior to July 1, 41458
1996, a felony of the third, fourth, or fifth degree if the 41459
offense is committed on or after July 1, 1996, or a misdemeanor. 41460

(ii) The case involves a theft offense, as defined in section 41461
2913.01 of the Revised Code, that is a felony of the third or 41462
fourth degree if the offense is committed prior to July 1, 1996, a 41463
felony of the third, fourth, or fifth degree if the offense is 41464
committed on or after July 1, 1996, or a misdemeanor, and the 41465
defendant is drug or alcohol dependent or in danger of becoming 41466
drug or alcohol dependent and would benefit from treatment. 41467

(b) All of the following apply: 41468

(i) The case involves an offense for which a community 41469
control sanction may be imposed or is a case in which a mandatory 41470
prison term or a mandatory jail term is not required to be 41471
imposed. 41472

(ii) The defendant has no history of violent behavior. 41473

(iii) The defendant has no history of mental illness.	41474
(iv) The defendant's current or past behavior, or both, is drug or alcohol driven.	41475 41476
(v) The defendant demonstrates a sincere willingness to participate in a fifteen-month treatment process.	41477 41478
(vi) The defendant has no acute health condition.	41479
(vii) If the defendant is incarcerated, the county prosecutor approves of the referral.	41480 41481
(4) If the administrative judge of the court of common pleas of Hamilton county determines that the volume of cases pending before the drug court judge does not constitute a sufficient caseload for the drug court judge, the administrative judge, in accordance with the Rules of Superintendence for Courts of Common Pleas, shall assign individual cases to the drug court judge from the general docket of the court. If the assignments so occur, the administrative judge shall cease the assignments when the administrative judge determines that the volume of cases pending before the drug court judge constitutes a sufficient caseload for the drug court judge.	41482 41483 41484 41485 41486 41487 41488 41489 41490 41491 41492
(5) As used in division (B) of this section, "community control sanction," "mandatory prison term," and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.	41493 41494 41495 41496
(C)(1) In Lorain county:	41497
(a) The judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and successors, and the judge of the court of common pleas whose term begins on February 9, 2009, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of	41498 41499 41500 41501 41502 41503

Lorain county and shall be elected and designated as the judges of 41504
the court of common pleas, division of domestic relations. The 41505
judges of the court of common pleas whose terms begin on January 41506
3, 1959, January 4, 1989, and January 2, 1999, and successors, 41507
shall have all of the powers relating to juvenile courts, and all 41508
cases under Chapters 2151. and 2152. of the Revised Code, all 41509
parentage proceedings over which the juvenile court has 41510
jurisdiction, and all divorce, dissolution of marriage, legal 41511
separation, and annulment cases shall be assigned to them, except 41512
cases that for some special reason are assigned to some other 41513
judge of the court of common pleas. From February 9, 2009, through 41514
September 28, 2009, the judge of the court of common pleas whose 41515
term begins on February 9, 2009, shall have all the powers 41516
relating to juvenile courts, and cases under Chapters 2151. and 41517
2152. of the Revised Code, parentage proceedings over which the 41518
juvenile court has jurisdiction, and divorce, dissolution of 41519
marriage, legal separation, and annulment cases shall be assigned 41520
to that judge, except cases that for some special reason are 41521
assigned to some other judge of the court of common pleas. 41522

(b) From January 1, 2006, through September 28, 2009, the 41523
judges of the court of common pleas, division of domestic 41524
relations, in addition to the powers and jurisdiction set forth in 41525
division (C)(1)(a) of this section, shall have jurisdiction over 41526
matters that are within the jurisdiction of the probate court 41527
under Chapter 2101. and other provisions of the Revised Code. 41528

(c) The judge of the court of common pleas, division of 41529
domestic relations, whose term begins on February 9, 2009, is the 41530
successor to the probate judge who was elected in 2002 for a term 41531
that began on February 9, 2003. After September 28, 2009, the 41532
judge of the court of common pleas, division of domestic 41533
relations, whose term begins on February 9, 2009, shall be the 41534
probate judge. 41535

(2)(a) From February 9, 2009, through September 28, 2009, 41536
with respect to Lorain county, all references in law to the 41537
probate court shall be construed as references to the court of 41538
common pleas, division of domestic relations, and all references 41539
to the probate judge shall be construed as references to the 41540
judges of the court of common pleas, division of domestic 41541
relations. 41542

(b) From February 9, 2009, through September 28, 2009, with 41543
respect to Lorain county, all references in law to the clerk of 41544
the probate court shall be construed as references to the judge 41545
who is serving pursuant to Rule 4 of the Rules of Superintendence 41546
for the Courts of Ohio as the administrative judge of the court of 41547
common pleas, division of domestic relations. 41548

(D) In Lucas county: 41549

(1) The judges of the court of common pleas whose terms begin 41550
on January 1, 1955, and January 3, 1965, and successors, shall 41551
have the same qualifications, exercise the same powers and 41552
jurisdiction, and receive the same compensation as other judges of 41553
the court of common pleas of Lucas county and shall be elected and 41554
designated as judges of the court of common pleas, division of 41555
domestic relations. All divorce, dissolution of marriage, legal 41556
separation, and annulment cases shall be assigned to them. 41557

The judge of the division of domestic relations, senior in 41558
point of service, shall be considered as the presiding judge of 41559
the court of common pleas, division of domestic relations, and 41560
shall be charged exclusively with the assignment and division of 41561
the work of the division and the employment and supervision of all 41562
other personnel of the domestic relations division. 41563

(2) The judges of the court of common pleas whose terms begin 41564
on January 5, 1977, and January 2, 1991, and successors shall have 41565
the same qualifications, exercise the same powers and 41566

jurisdiction, and receive the same compensation as other judges of 41567
the court of common pleas of Lucas county, shall be elected and 41568
designated as judges of the court of common pleas, juvenile 41569
division, and shall be the juvenile judges as provided in Chapters 41570
2151. and 2152. of the Revised Code with the powers and 41571
jurisdictions conferred by those chapters. In addition to the 41572
judge's regular duties, the judge of the court of common pleas, 41573
juvenile division, senior in point of service, shall be the 41574
administrator of the juvenile division and its subdivisions and 41575
departments and shall have charge of the employment, assignment, 41576
and supervision of the personnel of the division engaged in 41577
handling, servicing, or investigating juvenile cases, including 41578
any referees considered necessary by the judges of the division in 41579
the discharge of their various duties. 41580

The judge of the court of common pleas, juvenile division, 41581
senior in point of service, also shall designate the title, 41582
compensation, expense allowance, hours, leaves of absence, and 41583
vacation of the personnel of the division and shall fix the duties 41584
of the personnel of the division. The duties of the personnel, in 41585
addition to other statutory duties include the handling, 41586
servicing, and investigation of juvenile cases and counseling and 41587
conciliation services that may be made available to persons 41588
requesting them, whether or not the persons are parties to an 41589
action pending in the division. 41590

(3) If one of the judges of the court of common pleas, 41591
division of domestic relations, or one of the judges of the 41592
juvenile division is sick, absent, or unable to perform that 41593
judge's judicial duties or the volume of cases pending in that 41594
judge's division necessitates it, the duties shall be performed by 41595
the judges of the other of those divisions. 41596

(E) In Mahoning county: 41597

(1) The judge of the court of common pleas whose term began 41598

on January 1, 1955, and successors, shall have the same 41599
qualifications, exercise the same powers and jurisdiction, and 41600
receive the same compensation as other judges of the court of 41601
common pleas of Mahoning county, shall be elected and designated 41602
as judge of the court of common pleas, division of domestic 41603
relations, and shall be assigned all the divorce, dissolution of 41604
marriage, legal separation, and annulment cases coming before the 41605
court. In addition to the judge's regular duties, the judge of the 41606
court of common pleas, division of domestic relations, shall be 41607
the administrator of the domestic relations division and its 41608
subdivisions and departments and shall have charge of the 41609
employment, assignment, and supervision of the personnel of the 41610
division engaged in handling, servicing, or investigating divorce, 41611
dissolution of marriage, legal separation, and annulment cases, 41612
including any referees considered necessary in the discharge of 41613
the various duties of the judge's office. 41614

The judge also shall designate the title, compensation, 41615
expense allowances, hours, leaves of absence, and vacations of the 41616
personnel of the division and shall fix the duties of the 41617
personnel of the division. The duties of the personnel, in 41618
addition to other statutory duties, include the handling, 41619
servicing, and investigation of divorce, dissolution of marriage, 41620
legal separation, and annulment cases and counseling and 41621
conciliation services that may be made available to persons 41622
requesting them, whether or not the persons are parties to an 41623
action pending in the division. 41624

(2) The judge of the court of common pleas whose term began 41625
on January 2, 1969, and successors, shall have the same 41626
qualifications, exercise the same powers and jurisdiction, and 41627
receive the same compensation as other judges of the court of 41628
common pleas of Mahoning county, shall be elected and designated 41629
as judge of the court of common pleas, juvenile division, and 41630

shall be the juvenile judge as provided in Chapters 2151. and 41631
2152. of the Revised Code, with the powers and jurisdictions 41632
conferred by those chapters. In addition to the judge's regular 41633
duties, the judge of the court of common pleas, juvenile division, 41634
shall be the administrator of the juvenile division and its 41635
subdivisions and departments and shall have charge of the 41636
employment, assignment, and supervision of the personnel of the 41637
division engaged in handling, servicing, or investigating juvenile 41638
cases, including any referees considered necessary by the judge in 41639
the discharge of the judge's various duties. 41640

The judge also shall designate the title, compensation, 41641
expense allowances, hours, leaves of absence, and vacation of the 41642
personnel of the division and shall fix the duties of the 41643
personnel of the division. The duties of the personnel, in 41644
addition to other statutory duties, include the handling, 41645
servicing, and investigation of juvenile cases and counseling and 41646
conciliation services that may be made available to persons 41647
requesting them, whether or not the persons are parties to an 41648
action pending in the division. 41649

(3) If a judge of the court of common pleas, division of 41650
domestic relations or juvenile division, is sick, absent, or 41651
unable to perform that judge's judicial duties, or the volume of 41652
cases pending in that judge's division necessitates it, that 41653
judge's duties shall be performed by another judge of the court of 41654
common pleas. 41655

(F) In Montgomery county: 41656

(1) The judges of the court of common pleas whose terms begin 41657
on January 2, 1953, and January 4, 1977, and successors, shall 41658
have the same qualifications, exercise the same powers and 41659
jurisdiction, and receive the same compensation as other judges of 41660
the court of common pleas of Montgomery county and shall be 41661
elected and designated as judges of the court of common pleas, 41662

division of domestic relations. These judges shall have assigned 41663
to them all divorce, dissolution of marriage, legal separation, 41664
and annulment cases. 41665

The judge of the division of domestic relations, senior in 41666
point of service, shall be charged exclusively with the assignment 41667
and division of the work of the division and shall have charge of 41668
the employment and supervision of the personnel of the division 41669
engaged in handling, servicing, or investigating divorce, 41670
dissolution of marriage, legal separation, and annulment cases, 41671
including any necessary referees, except those employees who may 41672
be appointed by the judge, junior in point of service, under this 41673
section and sections 2301.12, and 2301.18, ~~and 2301.19~~ of the 41674
Revised Code. The judge of the division of domestic relations, 41675
senior in point of service, also shall designate the title, 41676
compensation, expense allowances, hours, leaves of absence, and 41677
vacation of the personnel of the division and shall fix their 41678
duties. 41679

(2) The judges of the court of common pleas whose terms begin 41680
on January 1, 1953, and January 1, 1993, and successors, shall 41681
have the same qualifications, exercise the same powers and 41682
jurisdiction, and receive the same compensation as other judges of 41683
the court of common pleas of Montgomery county, shall be elected 41684
and designated as judges of the court of common pleas, juvenile 41685
division, and shall be, and have the powers and jurisdiction of, 41686
the juvenile judge as provided in Chapters 2151. and 2152. of the 41687
Revised Code. 41688

In addition to the judge's regular duties, the judge of the 41689
court of common pleas, juvenile division, senior in point of 41690
service, shall be the administrator of the juvenile division and 41691
its subdivisions and departments and shall have charge of the 41692
employment, assignment, and supervision of the personnel of the 41693
juvenile division, including any necessary referees, who are 41694

engaged in handling, servicing, or investigating juvenile cases. 41695
The judge, senior in point of service, also shall designate the 41696
title, compensation, expense allowances, hours, leaves of absence, 41697
and vacation of the personnel of the division and shall fix their 41698
duties. The duties of the personnel, in addition to other 41699
statutory duties, shall include the handling, servicing, and 41700
investigation of juvenile cases and of any counseling and 41701
conciliation services that are available upon request to persons, 41702
whether or not they are parties to an action pending in the 41703
division. 41704

If one of the judges of the court of common pleas, division 41705
of domestic relations, or one of the judges of the court of common 41706
pleas, juvenile division, is sick, absent, or unable to perform 41707
that judge's duties or the volume of cases pending in that judge's 41708
division necessitates it, the duties of that judge may be 41709
performed by the judge or judges of the other of those divisions. 41710

(G) In Richland county: 41711

(1) The judge of the court of common pleas whose term begins 41712
on January 1, 1957, and successors, shall have the same 41713
qualifications, exercise the same powers and jurisdiction, and 41714
receive the same compensation as the other judges of the court of 41715
common pleas of Richland county and shall be elected and 41716
designated as judge of the court of common pleas, division of 41717
domestic relations. That judge shall be assigned and hear all 41718
divorce, dissolution of marriage, legal separation, and annulment 41719
cases, all domestic violence cases arising under section 3113.31 41720
of the Revised Code, and all post-decree proceedings arising from 41721
any case pertaining to any of those matters. The division of 41722
domestic relations has concurrent jurisdiction with the juvenile 41723
division of the court of common pleas of Richland county to 41724
determine the care, custody, or control of any child not a ward of 41725
another court of this state, and to hear and determine a request 41726

for an order for the support of any child if the request is not 41727
ancillary to an action for divorce, dissolution of marriage, 41728
annulment, or legal separation, a criminal or civil action 41729
involving an allegation of domestic violence, or an action for 41730
support brought under Chapter 3115. of the Revised Code. Except in 41731
cases that are subject to the exclusive original jurisdiction of 41732
the juvenile court, the judge of the division of domestic 41733
relations shall be assigned and hear all cases pertaining to 41734
paternity or parentage, the care, custody, or control of children, 41735
parenting time or visitation, child support, or the allocation of 41736
parental rights and responsibilities for the care of children, all 41737
proceedings arising under Chapter 3111. of the Revised Code, all 41738
proceedings arising under the uniform interstate family support 41739
act contained in Chapter 3115. of the Revised Code, and all 41740
post-decree proceedings arising from any case pertaining to any of 41741
those matters. 41742

In addition to the judge's regular duties, the judge of the 41743
court of common pleas, division of domestic relations, shall be 41744
the administrator of the domestic relations division and its 41745
subdivisions and departments. The judge shall have charge of the 41746
employment, assignment, and supervision of the personnel of the 41747
domestic relations division, including any magistrates the judge 41748
considers necessary for the discharge of the judge's duties. The 41749
judge shall also designate the title, compensation, expense 41750
allowances, hours, leaves of absence, vacation, and other 41751
employment-related matters of the personnel of the division and 41752
shall fix their duties. 41753

(2) The judge of the court of common pleas whose term begins 41754
on January 3, 2005, and successors, shall have the same 41755
qualifications, exercise the same powers and jurisdiction, and 41756
receive the same compensation as other judges of the court of 41757
common pleas of Richland county, shall be elected and designated 41758

as judge of the court of common pleas, juvenile division, and 41759
shall be, and have the powers and jurisdiction of, the juvenile 41760
judge as provided in Chapters 2151. and 2152. of the Revised Code. 41761
Except in cases that are subject to the exclusive original 41762
jurisdiction of the juvenile court, the judge of the juvenile 41763
division shall not have jurisdiction or the power to hear, and 41764
shall not be assigned, any case pertaining to paternity or 41765
parentage, the care, custody, or control of children, parenting 41766
time or visitation, child support, or the allocation of parental 41767
rights and responsibilities for the care of children or any 41768
post-decree proceeding arising from any case pertaining to any of 41769
those matters. The judge of the juvenile division shall not have 41770
jurisdiction or the power to hear, and shall not be assigned, any 41771
proceeding under the uniform interstate family support act 41772
contained in Chapter 3115. of the Revised Code. 41773

In addition to the judge's regular duties, the judge of the 41774
juvenile division shall be the administrator of the juvenile 41775
division and its subdivisions and departments. The judge shall 41776
have charge of the employment, assignment, and supervision of the 41777
personnel of the juvenile division who are engaged in handling, 41778
servicing, or investigating juvenile cases, including any 41779
magistrates whom the judge considers necessary for the discharge 41780
of the judge's various duties. 41781

The judge of the juvenile division also shall designate the 41782
title, compensation, expense allowances, hours, leaves of absence, 41783
and vacation of the personnel of the division and shall fix their 41784
duties. The duties of the personnel, in addition to other 41785
statutory duties, include the handling, servicing, and 41786
investigation of juvenile cases and providing any counseling, 41787
conciliation, and mediation services that the court makes 41788
available to persons, whether or not the persons are parties to an 41789
action pending in the court, who request the services. 41790

(H) In Stark county, the judges of the court of common pleas 41791
whose terms begin on January 1, 1953, January 2, 1959, and January 41792
1, 1993, and successors, shall have the same qualifications, 41793
exercise the same powers and jurisdiction, and receive the same 41794
compensation as other judges of the court of common pleas of Stark 41795
county and shall be elected and designated as judges of the court 41796
of common pleas, division of domestic relations. They shall have 41797
all the powers relating to juvenile courts, and all cases under 41798
Chapters 2151. and 2152. of the Revised Code, all parentage 41799
proceedings over which the juvenile court has jurisdiction, and 41800
all divorce, dissolution of marriage, legal separation, and 41801
annulment cases, except cases that are assigned to some other 41802
judge of the court of common pleas for some special reason, shall 41803
be assigned to the judges. 41804

The judge of the division of domestic relations, second most 41805
senior in point of service, shall have charge of the employment 41806
and supervision of the personnel of the division engaged in 41807
handling, servicing, or investigating divorce, dissolution of 41808
marriage, legal separation, and annulment cases, and necessary 41809
referees required for the judge's respective court. 41810

The judge of the division of domestic relations, senior in 41811
point of service, shall be charged exclusively with the 41812
administration of sections 2151.13, 2151.16, 2151.17, and 2152.71 41813
of the Revised Code and with the assignment and division of the 41814
work of the division and the employment and supervision of all 41815
other personnel of the division, including, but not limited to, 41816
that judge's necessary referees, but excepting those employees who 41817
may be appointed by the judge second most senior in point of 41818
service. The senior judge further shall serve in every other 41819
position in which the statutes permit or require a juvenile judge 41820
to serve. 41821

(I) In Summit county: 41822

(1) The judges of the court of common pleas whose terms begin 41823
on January 4, 1967, and January 6, 1993, and successors, shall 41824
have the same qualifications, exercise the same powers and 41825
jurisdiction, and receive the same compensation as other judges of 41826
the court of common pleas of Summit county and shall be elected 41827
and designated as judges of the court of common pleas, division of 41828
domestic relations. The judges of the division of domestic 41829
relations shall have assigned to them and hear all divorce, 41830
dissolution of marriage, legal separation, and annulment cases 41831
that come before the court. Except in cases that are subject to 41832
the exclusive original jurisdiction of the juvenile court, the 41833
judges of the division of domestic relations shall have assigned 41834
to them and hear all cases pertaining to paternity, custody, 41835
visitation, child support, or the allocation of parental rights 41836
and responsibilities for the care of children and all post-decree 41837
proceedings arising from any case pertaining to any of those 41838
matters. The judges of the division of domestic relations shall 41839
have assigned to them and hear all proceedings under the uniform 41840
interstate family support act contained in Chapter 3115. of the 41841
Revised Code. 41842

The judge of the division of domestic relations, senior in 41843
point of service, shall be the administrator of the domestic 41844
relations division and its subdivisions and departments and shall 41845
have charge of the employment, assignment, and supervision of the 41846
personnel of the division, including any necessary referees, who 41847
are engaged in handling, servicing, or investigating divorce, 41848
dissolution of marriage, legal separation, and annulment cases. 41849
That judge also shall designate the title, compensation, expense 41850
allowances, hours, leaves of absence, and vacations of the 41851
personnel of the division and shall fix their duties. The duties 41852
of the personnel, in addition to other statutory duties, shall 41853
include the handling, servicing, and investigation of divorce, 41854
dissolution of marriage, legal separation, and annulment cases and 41855

of any counseling and conciliation services that are available 41856
upon request to all persons, whether or not they are parties to an 41857
action pending in the division. 41858

(2) The judge of the court of common pleas whose term begins 41859
on January 1, 1955, and successors, shall have the same 41860
qualifications, exercise the same powers and jurisdiction, and 41861
receive the same compensation as other judges of the court of 41862
common pleas of Summit county, shall be elected and designated as 41863
judge of the court of common pleas, juvenile division, and shall 41864
be, and have the powers and jurisdiction of, the juvenile judge as 41865
provided in Chapters 2151. and 2152. of the Revised Code. Except 41866
in cases that are subject to the exclusive original jurisdiction 41867
of the juvenile court, the judge of the juvenile division shall 41868
not have jurisdiction or the power to hear, and shall not be 41869
assigned, any case pertaining to paternity, custody, visitation, 41870
child support, or the allocation of parental rights and 41871
responsibilities for the care of children or any post-decree 41872
proceeding arising from any case pertaining to any of those 41873
matters. The judge of the juvenile division shall not have 41874
jurisdiction or the power to hear, and shall not be assigned, any 41875
proceeding under the uniform interstate family support act 41876
contained in Chapter 3115. of the Revised Code. 41877

The juvenile judge shall be the administrator of the juvenile 41878
division and its subdivisions and departments and shall have 41879
charge of the employment, assignment, and supervision of the 41880
personnel of the juvenile division, including any necessary 41881
referees, who are engaged in handling, servicing, or investigating 41882
juvenile cases. The judge also shall designate the title, 41883
compensation, expense allowances, hours, leaves of absence, and 41884
vacation of the personnel of the division and shall fix their 41885
duties. The duties of the personnel, in addition to other 41886
statutory duties, shall include the handling, servicing, and 41887

investigation of juvenile cases and of any counseling and 41888
conciliation services that are available upon request to persons, 41889
whether or not they are parties to an action pending in the 41890
division. 41891

(J) In Trumbull county, the judges of the court of common 41892
pleas whose terms begin on January 1, 1953, and January 2, 1977, 41893
and successors, shall have the same qualifications, exercise the 41894
same powers and jurisdiction, and receive the same compensation as 41895
other judges of the court of common pleas of Trumbull county and 41896
shall be elected and designated as judges of the court of common 41897
pleas, division of domestic relations. They shall have all the 41898
powers relating to juvenile courts, and all cases under Chapters 41899
2151. and 2152. of the Revised Code, all parentage proceedings 41900
over which the juvenile court has jurisdiction, and all divorce, 41901
dissolution of marriage, legal separation, and annulment cases 41902
shall be assigned to them, except cases that for some special 41903
reason are assigned to some other judge of the court of common 41904
pleas. 41905

(K) In Butler county: 41906

(1) The judges of the court of common pleas whose terms begin 41907
on January 1, 1957, and January 4, 1993, and successors, shall 41908
have the same qualifications, exercise the same powers and 41909
jurisdiction, and receive the same compensation as other judges of 41910
the court of common pleas of Butler county and shall be elected 41911
and designated as judges of the court of common pleas, division of 41912
domestic relations. The judges of the division of domestic 41913
relations shall have assigned to them all divorce, dissolution of 41914
marriage, legal separation, and annulment cases coming before the 41915
court, except in cases that for some special reason are assigned 41916
to some other judge of the court of common pleas. The judges of 41917
the division of domestic relations also have concurrent 41918
jurisdiction with judges of the juvenile division of the court of 41919

common pleas of Butler county with respect to and may hear cases 41920
to determine the custody, support, or custody and support of a 41921
child who is born of issue of a marriage and who is not the ward 41922
of another court of this state, cases commenced by a party of the 41923
marriage to obtain an order requiring support of any child when 41924
the request for that order is not ancillary to an action for 41925
divorce, dissolution of marriage, annulment, or legal separation, 41926
a criminal or civil action involving an allegation of domestic 41927
violence, an action for support under Chapter 3115. of the Revised 41928
Code, or an action that is within the exclusive original 41929
jurisdiction of the juvenile division of the court of common pleas 41930
of Butler county and that involves an allegation that the child is 41931
an abused, neglected, or dependent child, and post-decree 41932
proceedings and matters arising from those types of cases. The 41933
judge senior in point of service shall be charged with the 41934
assignment and division of the work of the division and with the 41935
employment and supervision of all other personnel of the domestic 41936
relations division. 41937

The judge senior in point of service also shall designate the 41938
title, compensation, expense allowances, hours, leaves of absence, 41939
and vacations of the personnel of the division and shall fix their 41940
duties. The duties of the personnel, in addition to other 41941
statutory duties, shall include the handling, servicing, and 41942
investigation of divorce, dissolution of marriage, legal 41943
separation, and annulment cases and providing any counseling and 41944
conciliation services that the division makes available to 41945
persons, whether or not the persons are parties to an action 41946
pending in the division, who request the services. 41947

(2) The judges of the court of common pleas whose terms begin 41948
on January 3, 1987, and January 2, 2003, and successors, shall 41949
have the same qualifications, exercise the same powers and 41950
jurisdiction, and receive the same compensation as other judges of 41951

the court of common pleas of Butler county, shall be elected and 41952
designated as judges of the court of common pleas, juvenile 41953
division, and shall be the juvenile judges as provided in Chapters 41954
2151. and 2152. of the Revised Code, with the powers and 41955
jurisdictions conferred by those chapters. Except in cases that 41956
are subject to the exclusive original jurisdiction of the juvenile 41957
court, the judges of the juvenile division shall not have 41958
jurisdiction or the power to hear and shall not be assigned, but 41959
shall have the limited ability and authority to certify, any case 41960
commenced by a party of a marriage to determine the custody, 41961
support, or custody and support of a child who is born of issue of 41962
the marriage and who is not the ward of another court of this 41963
state when the request for the order in the case is not ancillary 41964
to an action for divorce, dissolution of marriage, annulment, or 41965
legal separation. The judge of the court of common pleas, juvenile 41966
division, who is senior in point of service, shall be the 41967
administrator of the juvenile division and its subdivisions and 41968
departments. The judge, senior in point of service, shall have 41969
charge of the employment, assignment, and supervision of the 41970
personnel of the juvenile division who are engaged in handling, 41971
servicing, or investigating juvenile cases, including any referees 41972
whom the judge considers necessary for the discharge of the 41973
judge's various duties. 41974

The judge, senior in point of service, also shall designate 41975
the title, compensation, expense allowances, hours, leaves of 41976
absence, and vacation of the personnel of the division and shall 41977
fix their duties. The duties of the personnel, in addition to 41978
other statutory duties, include the handling, servicing, and 41979
investigation of juvenile cases and providing any counseling and 41980
conciliation services that the division makes available to 41981
persons, whether or not the persons are parties to an action 41982
pending in the division, who request the services. 41983

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(L)(1) In Cuyahoga county, the judges of the court of common pleas whose terms begin on January 8, 1961, January 9, 1961, January 18, 1975, January 19, 1975, and January 13, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Cuyahoga county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that are assigned to some other judge of the court of common pleas for some special reason.

(2) The administrative judge is administrator of the domestic relations division and its subdivisions and departments and has the following powers concerning division personnel:

(a) Full charge of the employment, assignment, and supervision;

(b) Sole determination of compensation, duties, expenses, allowances, hours, leaves, and vacations.

(3) "Division personnel" include persons employed or referees engaged in hearing, servicing, investigating, counseling, or conciliating divorce, dissolution of marriage, legal separation and annulment matters.

(M) In Lake county:

(1) The judge of the court of common pleas whose term begins

on January 2, 1961, and successors, shall have the same 42015
qualifications, exercise the same powers and jurisdiction, and 42016
receive the same compensation as the other judges of the court of 42017
common pleas of Lake county and shall be elected and designated as 42018
judge of the court of common pleas, division of domestic 42019
relations. The judge shall be assigned all the divorce, 42020
dissolution of marriage, legal separation, and annulment cases 42021
coming before the court, except in cases that for some special 42022
reason are assigned to some other judge of the court of common 42023
pleas. The judge shall be charged with the assignment and division 42024
of the work of the division and with the employment and 42025
supervision of all other personnel of the domestic relations 42026
division. 42027

The judge also shall designate the title, compensation, 42028
expense allowances, hours, leaves of absence, and vacations of the 42029
personnel of the division and shall fix their duties. The duties 42030
of the personnel, in addition to other statutory duties, shall 42031
include the handling, servicing, and investigation of divorce, 42032
dissolution of marriage, legal separation, and annulment cases and 42033
providing any counseling and conciliation services that the 42034
division makes available to persons, whether or not the persons 42035
are parties to an action pending in the division, who request the 42036
services. 42037

(2) The judge of the court of common pleas whose term begins 42038
on January 4, 1979, and successors, shall have the same 42039
qualifications, exercise the same powers and jurisdiction, and 42040
receive the same compensation as other judges of the court of 42041
common pleas of Lake county, shall be elected and designated as 42042
judge of the court of common pleas, juvenile division, and shall 42043
be the juvenile judge as provided in Chapters 2151. and 2152. of 42044
the Revised Code, with the powers and jurisdictions conferred by 42045
those chapters. The judge of the court of common pleas, juvenile 42046

division, shall be the administrator of the juvenile division and 42047
its subdivisions and departments. The judge shall have charge of 42048
the employment, assignment, and supervision of the personnel of 42049
the juvenile division who are engaged in handling, servicing, or 42050
investigating juvenile cases, including any referees whom the 42051
judge considers necessary for the discharge of the judge's various 42052
duties. 42053

The judge also shall designate the title, compensation, 42054
expense allowances, hours, leaves of absence, and vacation of the 42055
personnel of the division and shall fix their duties. The duties 42056
of the personnel, in addition to other statutory duties, include 42057
the handling, servicing, and investigation of juvenile cases and 42058
providing any counseling and conciliation services that the 42059
division makes available to persons, whether or not the persons 42060
are parties to an action pending in the division, who request the 42061
services. 42062

(3) If a judge of the court of common pleas, division of 42063
domestic relations or juvenile division, is sick, absent, or 42064
unable to perform that judge's judicial duties or the volume of 42065
cases pending in the judge's division necessitates it, the duties 42066
of that judge shall be performed by the other judges of the 42067
domestic relations and juvenile divisions. 42068

(N) In Erie county: 42069

(1) The judge of the court of common pleas whose term begins 42070
on January 2, 1971, and the successors to that judge whose terms 42071
begin before January 2, 2007, shall have the same qualifications, 42072
exercise the same powers and jurisdiction, and receive the same 42073
compensation as the other judge of the court of common pleas of 42074
Erie county and shall be elected and designated as judge of the 42075
court of common pleas, division of domestic relations. The judge 42076
shall have all the powers relating to juvenile courts, and shall 42077
be assigned all cases under Chapters 2151. and 2152. of the 42078

Revised Code, parentage proceedings over which the juvenile court 42079
has jurisdiction, and divorce, dissolution of marriage, legal 42080
separation, and annulment cases, except cases that for some 42081
special reason are assigned to some other judge. 42082

On or after January 2, 2007, the judge of the court of common 42083
pleas who is elected in 2006 shall be the successor to the judge 42084
of the domestic relations division whose term expires on January 42085
1, 2007, shall be designated as judge of the court of common 42086
pleas, juvenile division, and shall be the juvenile judge as 42087
provided in Chapters 2151. and 2152. of the Revised Code with the 42088
powers and jurisdictions conferred by those chapters. 42089

(2) The judge of the court of common pleas, general division, 42090
whose term begins on January 1, 2005, and successors, the judge of 42091
the court of common pleas, general division whose term begins on 42092
January 2, 2005, and successors, and the judge of the court of 42093
common pleas, general division, whose term begins February 9, 42094
2009, and successors, shall have assigned to them, in addition to 42095
all matters that are within the jurisdiction of the general 42096
division of the court of common pleas, all divorce, dissolution of 42097
marriage, legal separation, and annulment cases coming before the 42098
court, and all matters that are within the jurisdiction of the 42099
probate court under Chapter 2101., and other provisions, of the 42100
Revised Code. 42101

(0) In Greene county: 42102

(1) The judge of the court of common pleas whose term begins 42103
on January 1, 1961, and successors, shall have the same 42104
qualifications, exercise the same powers and jurisdiction, and 42105
receive the same compensation as the other judges of the court of 42106
common pleas of Greene county and shall be elected and designated 42107
as the judge of the court of common pleas, division of domestic 42108
relations. The judge shall be assigned all divorce, dissolution of 42109
marriage, legal separation, annulment, uniform reciprocal support 42110

enforcement, and domestic violence cases and all other cases 42111
related to domestic relations, except cases that for some special 42112
reason are assigned to some other judge of the court of common 42113
pleas. 42114

The judge shall be charged with the assignment and division 42115
of the work of the division and with the employment and 42116
supervision of all other personnel of the division. The judge also 42117
shall designate the title, compensation, hours, leaves of absence, 42118
and vacations of the personnel of the division and shall fix their 42119
duties. The duties of the personnel of the division, in addition 42120
to other statutory duties, shall include the handling, servicing, 42121
and investigation of divorce, dissolution of marriage, legal 42122
separation, and annulment cases and the provision of counseling 42123
and conciliation services that the division considers necessary 42124
and makes available to persons who request the services, whether 42125
or not the persons are parties in an action pending in the 42126
division. The compensation for the personnel shall be paid from 42127
the overall court budget and shall be included in the 42128
appropriations for the existing judges of the general division of 42129
the court of common pleas. 42130

(2) The judge of the court of common pleas whose term begins 42131
on January 1, 1995, and successors, shall have the same 42132
qualifications, exercise the same powers and jurisdiction, and 42133
receive the same compensation as the other judges of the court of 42134
common pleas of Greene county, shall be elected and designated as 42135
judge of the court of common pleas, juvenile division, and, on or 42136
after January 1, 1995, shall be the juvenile judge as provided in 42137
Chapters 2151. and 2152. of the Revised Code with the powers and 42138
jurisdiction conferred by those chapters. The judge of the court 42139
of common pleas, juvenile division, shall be the administrator of 42140
the juvenile division and its subdivisions and departments. The 42141
judge shall have charge of the employment, assignment, and 42142

supervision of the personnel of the juvenile division who are 42143
engaged in handling, servicing, or investigating juvenile cases, 42144
including any referees whom the judge considers necessary for the 42145
discharge of the judge's various duties. 42146

The judge also shall designate the title, compensation, 42147
expense allowances, hours, leaves of absence, and vacation of the 42148
personnel of the division and shall fix their duties. The duties 42149
of the personnel, in addition to other statutory duties, include 42150
the handling, servicing, and investigation of juvenile cases and 42151
providing any counseling and conciliation services that the court 42152
makes available to persons, whether or not the persons are parties 42153
to an action pending in the court, who request the services. 42154

(3) If one of the judges of the court of common pleas, 42155
general division, is sick, absent, or unable to perform that 42156
judge's judicial duties or the volume of cases pending in the 42157
general division necessitates it, the duties of that judge of the 42158
general division shall be performed by the judge of the division 42159
of domestic relations and the judge of the juvenile division. 42160

(P) In Portage county, the judge of the court of common 42161
pleas, whose term begins January 2, 1987, and successors, shall 42162
have the same qualifications, exercise the same powers and 42163
jurisdiction, and receive the same compensation as the other 42164
judges of the court of common pleas of Portage county and shall be 42165
elected and designated as judge of the court of common pleas, 42166
division of domestic relations. The judge shall be assigned all 42167
divorce, dissolution of marriage, legal separation, and annulment 42168
cases coming before the court, except in cases that for some 42169
special reason are assigned to some other judge of the court of 42170
common pleas. The judge shall be charged with the assignment and 42171
division of the work of the division and with the employment and 42172
supervision of all other personnel of the domestic relations 42173
division. 42174

The judge also shall designate the title, compensation, 42175
expense allowances, hours, leaves of absence, and vacations of the 42176
personnel of the division and shall fix their duties. The duties 42177
of the personnel, in addition to other statutory duties, shall 42178
include the handling, servicing, and investigation of divorce, 42179
dissolution of marriage, legal separation, and annulment cases and 42180
providing any counseling and conciliation services that the 42181
division makes available to persons, whether or not the persons 42182
are parties to an action pending in the division, who request the 42183
services. 42184

(Q) In Clermont county, the judge of the court of common 42185
pleas, whose term begins January 2, 1987, and successors, shall 42186
have the same qualifications, exercise the same powers and 42187
jurisdiction, and receive the same compensation as the other 42188
judges of the court of common pleas of Clermont county and shall 42189
be elected and designated as judge of the court of common pleas, 42190
division of domestic relations. The judge shall be assigned all 42191
divorce, dissolution of marriage, legal separation, and annulment 42192
cases coming before the court, except in cases that for some 42193
special reason are assigned to some other judge of the court of 42194
common pleas. The judge shall be charged with the assignment and 42195
division of the work of the division and with the employment and 42196
supervision of all other personnel of the domestic relations 42197
division. 42198

The judge also shall designate the title, compensation, 42199
expense allowances, hours, leaves of absence, and vacations of the 42200
personnel of the division and shall fix their duties. The duties 42201
of the personnel, in addition to other statutory duties, shall 42202
include the handling, servicing, and investigation of divorce, 42203
dissolution of marriage, legal separation, and annulment cases and 42204
providing any counseling and conciliation services that the 42205
division makes available to persons, whether or not the persons 42206

are parties to an action pending in the division, who request the 42207
services. 42208

(R) In Warren county, the judge of the court of common pleas, 42209
whose term begins January 1, 1987, and successors, shall have the 42210
same qualifications, exercise the same powers and jurisdiction, 42211
and receive the same compensation as the other judges of the court 42212
of common pleas of Warren county and shall be elected and 42213
designated as judge of the court of common pleas, division of 42214
domestic relations. The judge shall be assigned all divorce, 42215
dissolution of marriage, legal separation, and annulment cases 42216
coming before the court, except in cases that for some special 42217
reason are assigned to some other judge of the court of common 42218
pleas. The judge shall be charged with the assignment and division 42219
of the work of the division and with the employment and 42220
supervision of all other personnel of the domestic relations 42221
division. 42222

The judge also shall designate the title, compensation, 42223
expense allowances, hours, leaves of absence, and vacations of the 42224
personnel of the division and shall fix their duties. The duties 42225
of the personnel, in addition to other statutory duties, shall 42226
include the handling, servicing, and investigation of divorce, 42227
dissolution of marriage, legal separation, and annulment cases and 42228
providing any counseling and conciliation services that the 42229
division makes available to persons, whether or not the persons 42230
are parties to an action pending in the division, who request the 42231
services. 42232

(S) In Licking county, the judges of the court of common 42233
pleas, whose terms begin on January 1, 1991, and January 1, 2005, 42234
and successors, shall have the same qualifications, exercise the 42235
same powers and jurisdiction, and receive the same compensation as 42236
the other judges of the court of common pleas of Licking county 42237
and shall be elected and designated as judges of the court of 42238

common pleas, division of domestic relations. The judges shall be 42239
assigned all divorce, dissolution of marriage, legal separation, 42240
and annulment cases, all cases arising under Chapter 3111. of the 42241
Revised Code, all proceedings involving child support, the 42242
allocation of parental rights and responsibilities for the care of 42243
children and the designation for the children of a place of 42244
residence and legal custodian, parenting time, and visitation, and 42245
all post-decree proceedings and matters arising from those cases 42246
and proceedings, except in cases that for some special reason are 42247
assigned to another judge of the court of common pleas. The 42248
administrative judge of the division of domestic relations shall 42249
be charged with the assignment and division of the work of the 42250
division and with the employment and supervision of the personnel 42251
of the division. 42252

The administrative judge of the division of domestic 42253
relations shall designate the title, compensation, expense 42254
allowances, hours, leaves of absence, and vacations of the 42255
personnel of the division and shall fix the duties of the 42256
personnel of the division. The duties of the personnel of the 42257
division, in addition to other statutory duties, shall include the 42258
handling, servicing, and investigation of divorce, dissolution of 42259
marriage, legal separation, and annulment cases, cases arising 42260
under Chapter 3111. of the Revised Code, and proceedings involving 42261
child support, the allocation of parental rights and 42262
responsibilities for the care of children and the designation for 42263
the children of a place of residence and legal custodian, 42264
parenting time, and visitation and providing any counseling and 42265
conciliation services that the division makes available to 42266
persons, whether or not the persons are parties to an action 42267
pending in the division, who request the services. 42268

(T) In Allen county, the judge of the court of common pleas, 42269
whose term begins January 1, 1993, and successors, shall have the 42270

same qualifications, exercise the same powers and jurisdiction, 42271
and receive the same compensation as the other judges of the court 42272
of common pleas of Allen county and shall be elected and 42273
designated as judge of the court of common pleas, division of 42274
domestic relations. The judge shall be assigned all divorce, 42275
dissolution of marriage, legal separation, and annulment cases, 42276
all cases arising under Chapter 3111. of the Revised Code, all 42277
proceedings involving child support, the allocation of parental 42278
rights and responsibilities for the care of children and the 42279
designation for the children of a place of residence and legal 42280
custodian, parenting time, and visitation, and all post-decree 42281
proceedings and matters arising from those cases and proceedings, 42282
except in cases that for some special reason are assigned to 42283
another judge of the court of common pleas. The judge shall be 42284
charged with the assignment and division of the work of the 42285
division and with the employment and supervision of the personnel 42286
of the division. 42287

The judge shall designate the title, compensation, expense 42288
allowances, hours, leaves of absence, and vacations of the 42289
personnel of the division and shall fix the duties of the 42290
personnel of the division. The duties of the personnel of the 42291
division, in addition to other statutory duties, shall include the 42292
handling, servicing, and investigation of divorce, dissolution of 42293
marriage, legal separation, and annulment cases, cases arising 42294
under Chapter 3111. of the Revised Code, and proceedings involving 42295
child support, the allocation of parental rights and 42296
responsibilities for the care of children and the designation for 42297
the children of a place of residence and legal custodian, 42298
parenting time, and visitation, and providing any counseling and 42299
conciliation services that the division makes available to 42300
persons, whether or not the persons are parties to an action 42301
pending in the division, who request the services. 42302

(U) In Medina county, the judge of the court of common pleas 42303
whose term begins January 1, 1995, and successors, shall have the 42304
same qualifications, exercise the same powers and jurisdiction, 42305
and receive the same compensation as other judges of the court of 42306
common pleas of Medina county and shall be elected and designated 42307
as judge of the court of common pleas, division of domestic 42308
relations. The judge shall be assigned all divorce, dissolution of 42309
marriage, legal separation, and annulment cases, all cases arising 42310
under Chapter 3111. of the Revised Code, all proceedings involving 42311
child support, the allocation of parental rights and 42312
responsibilities for the care of children and the designation for 42313
the children of a place of residence and legal custodian, 42314
parenting time, and visitation, and all post-decree proceedings 42315
and matters arising from those cases and proceedings, except in 42316
cases that for some special reason are assigned to another judge 42317
of the court of common pleas. The judge shall be charged with the 42318
assignment and division of the work of the division and with the 42319
employment and supervision of the personnel of the division. 42320

The judge shall designate the title, compensation, expense 42321
allowances, hours, leaves of absence, and vacations of the 42322
personnel of the division and shall fix the duties of the 42323
personnel of the division. The duties of the personnel, in 42324
addition to other statutory duties, include the handling, 42325
servicing, and investigation of divorce, dissolution of marriage, 42326
legal separation, and annulment cases, cases arising under Chapter 42327
3111. of the Revised Code, and proceedings involving child 42328
support, the allocation of parental rights and responsibilities 42329
for the care of children and the designation for the children of a 42330
place of residence and legal custodian, parenting time, and 42331
visitation, and providing counseling and conciliation services 42332
that the division makes available to persons, whether or not the 42333
persons are parties to an action pending in the division, who 42334
request the services. 42335

(V) In Fairfield county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Fairfield county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge also has concurrent jurisdiction with the probate-juvenile division of the court of common pleas of Fairfield county with respect to and may hear cases to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state, cases that are commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code, to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, and post-decree proceedings and matters arising from those types of cases.

The judge of the domestic relations division shall be charged 42369
with the assignment and division of the work of the division and 42370
with the employment and supervision of the personnel of the 42371
division. 42372

The judge shall designate the title, compensation, expense 42373
allowances, hours, leaves of absence, and vacations of the 42374
personnel of the division and shall fix the duties of the 42375
personnel of the division. The duties of the personnel of the 42376
division, in addition to other statutory duties, shall include the 42377
handling, servicing, and investigation of divorce, dissolution of 42378
marriage, legal separation, and annulment cases, cases arising 42379
under Chapter 3111. of the Revised Code, and proceedings involving 42380
child support, the allocation of parental rights and 42381
responsibilities for the care of children and the designation for 42382
the children of a place of residence and legal custodian, 42383
parenting time, and visitation, and providing any counseling and 42384
conciliation services that the division makes available to 42385
persons, regardless of whether the persons are parties to an 42386
action pending in the division, who request the services. When the 42387
judge hears a case to determine the custody of a child, as defined 42388
in section 2151.011 of the Revised Code, who is not the ward of 42389
another court of this state or a case that is commenced by a 42390
parent, guardian, or custodian of a child, as defined in section 42391
2151.011 of the Revised Code, to obtain an order requiring a 42392
parent of the child to pay child support for that child when the 42393
request for that order is not ancillary to an action for divorce, 42394
dissolution of marriage, annulment, or legal separation, a 42395
criminal or civil action involving an allegation of domestic 42396
violence, an action for support under Chapter 3115. of the Revised 42397
Code, or an action that is within the exclusive original 42398
jurisdiction of the probate-juvenile division of the court of 42399
common pleas of Fairfield county and that involves an allegation 42400
that the child is an abused, neglected, or dependent child, the 42401

duties of the personnel of the domestic relations division also 42402
include the handling, servicing, and investigation of those types 42403
of cases. 42404

(W)(1) In Clark county, the judge of the court of common 42405
pleas whose term begins on January 2, 1995, and successors, shall 42406
have the same qualifications, exercise the same powers and 42407
jurisdiction, and receive the same compensation as other judges of 42408
the court of common pleas of Clark county and shall be elected and 42409
designated as judge of the court of common pleas, domestic 42410
relations division. The judge shall have all the powers relating 42411
to juvenile courts, and all cases under Chapters 2151. and 2152. 42412
of the Revised Code and all parentage proceedings under Chapter 42413
3111. of the Revised Code over which the juvenile court has 42414
jurisdiction shall be assigned to the judge of the division of 42415
domestic relations. All divorce, dissolution of marriage, legal 42416
separation, annulment, uniform reciprocal support enforcement, and 42417
other cases related to domestic relations shall be assigned to the 42418
domestic relations division, and the presiding judge of the court 42419
of common pleas shall assign the cases to the judge of the 42420
domestic relations division and the judges of the general 42421
division. 42422

(2) In addition to the judge's regular duties, the judge of 42423
the division of domestic relations shall serve on the children 42424
services board and the county advisory board. 42425

(3) If the judge of the court of common pleas of Clark 42426
county, division of domestic relations, is sick, absent, or unable 42427
to perform that judge's judicial duties or if the presiding judge 42428
of the court of common pleas of Clark county determines that the 42429
volume of cases pending in the division of domestic relations 42430
necessitates it, the duties of the judge of the division of 42431
domestic relations shall be performed by the judges of the general 42432
division or probate division of the court of common pleas of Clark 42433

county, as assigned for that purpose by the presiding judge of 42434
that court, and the judges so assigned shall act in conjunction 42435
with the judge of the division of domestic relations of that 42436
court. 42437

(X) In Scioto county, the judge of the court of common pleas 42438
whose term begins January 2, 1995, and successors, shall have the 42439
same qualifications, exercise the same powers and jurisdiction, 42440
and receive the same compensation as other judges of the court of 42441
common pleas of Scioto county and shall be elected and designated 42442
as judge of the court of common pleas, division of domestic 42443
relations. The judge shall be assigned all divorce, dissolution of 42444
marriage, legal separation, and annulment cases, all cases arising 42445
under Chapter 3111. of the Revised Code, all proceedings involving 42446
child support, the allocation of parental rights and 42447
responsibilities for the care of children and the designation for 42448
the children of a place of residence and legal custodian, 42449
parenting time, visitation, and all post-decree proceedings and 42450
matters arising from those cases and proceedings, except in cases 42451
that for some special reason are assigned to another judge of the 42452
court of common pleas. The judge shall be charged with the 42453
assignment and division of the work of the division and with the 42454
employment and supervision of the personnel of the division. 42455

The judge shall designate the title, compensation, expense 42456
allowances, hours, leaves of absence, and vacations of the 42457
personnel of the division and shall fix the duties of the 42458
personnel of the division. The duties of the personnel, in 42459
addition to other statutory duties, include the handling, 42460
servicing, and investigation of divorce, dissolution of marriage, 42461
legal separation, and annulment cases, cases arising under Chapter 42462
3111. of the Revised Code, and proceedings involving child 42463
support, the allocation of parental rights and responsibilities 42464
for the care of children and the designation for the children of a 42465

place of residence and legal custodian, parenting time, and 42466
visitation, and providing counseling and conciliation services 42467
that the division makes available to persons, whether or not the 42468
persons are parties to an action pending in the division, who 42469
request the services. 42470

(Y) In Auglaize county, the judge of the probate and juvenile 42471
divisions of the Auglaize county court of common pleas also shall 42472
be the administrative judge of the domestic relations division of 42473
the court and shall be assigned all divorce, dissolution of 42474
marriage, legal separation, and annulment cases coming before the 42475
court. The judge shall have all powers as administrator of the 42476
domestic relations division and shall have charge of the personnel 42477
engaged in handling, servicing, or investigating divorce, 42478
dissolution of marriage, legal separation, and annulment cases, 42479
including any referees considered necessary for the discharge of 42480
the judge's various duties. 42481

(Z)(1) In Marion county, the judge of the court of common 42482
pleas whose term begins on February 9, 1999, and the successors to 42483
that judge, shall have the same qualifications, exercise the same 42484
powers and jurisdiction, and receive the same compensation as the 42485
other judges of the court of common pleas of Marion county and 42486
shall be elected and designated as judge of the court of common 42487
pleas, domestic relations-juvenile-probate division. Except as 42488
otherwise specified in this division, that judge, and the 42489
successors to that judge, shall have all the powers relating to 42490
juvenile courts, and all cases under Chapters 2151. and 2152. of 42491
the Revised Code, all cases arising under Chapter 3111. of the 42492
Revised Code, all divorce, dissolution of marriage, legal 42493
separation, and annulment cases, all proceedings involving child 42494
support, the allocation of parental rights and responsibilities 42495
for the care of children and the designation for the children of a 42496
place of residence and legal custodian, parenting time, and 42497

visitation, and all post-decree proceedings and matters arising 42498
from those cases and proceedings shall be assigned to that judge 42499
and the successors to that judge. Except as provided in division 42500
(Z)(2) of this section and notwithstanding any other provision of 42501
any section of the Revised Code, on and after February 9, 2003, 42502
the judge of the court of common pleas of Marion county whose term 42503
begins on February 9, 1999, and the successors to that judge, 42504
shall have all the powers relating to the probate division of the 42505
court of common pleas of Marion county in addition to the powers 42506
previously specified in this division, and shall exercise 42507
concurrent jurisdiction with the judge of the probate division of 42508
that court over all matters that are within the jurisdiction of 42509
the probate division of that court under Chapter 2101., and other 42510
provisions, of the Revised Code in addition to the jurisdiction of 42511
the domestic relations-juvenile-probate division of that court 42512
otherwise specified in division (Z)(1) of this section. 42513

(2) The judge of the domestic relations-juvenile-probate 42514
division of the court of common pleas of Marion county or the 42515
judge of the probate division of the court of common pleas of 42516
Marion county, whichever of those judges is senior in total length 42517
of service on the court of common pleas of Marion county, 42518
regardless of the division or divisions of service, shall serve as 42519
the clerk of the probate division of the court of common pleas of 42520
Marion county. 42521

(3) On and after February 9, 2003, all references in law to 42522
"the probate court," "the probate judge," "the juvenile court," or 42523
"the judge of the juvenile court" shall be construed, with respect 42524
to Marion county, as being references to both "the probate 42525
division" and "the domestic relations-juvenile-probate division" 42526
and as being references to both "the judge of the probate 42527
division" and "the judge of the domestic relations- 42528
juvenile-probate division." On and after February 9, 2003, all 42529

references in law to "the clerk of the probate court" shall be 42530
construed, with respect to Marion county, as being references to 42531
the judge who is serving pursuant to division (Z)(2) of this 42532
section as the clerk of the probate division of the court of 42533
common pleas of Marion county. 42534

(AA) In Muskingum county, the judge of the court of common 42535
pleas whose term begins on January 2, 2003, and successors, shall 42536
have the same qualifications, exercise the same powers and 42537
jurisdiction, and receive the same compensation as the other 42538
judges of the court of common pleas of Muskingum county and shall 42539
be elected and designated as the judge of the court of common 42540
pleas, division of domestic relations. The judge shall be assigned 42541
all divorce, dissolution of marriage, legal separation, and 42542
annulment cases, all cases arising under Chapter 3111. of the 42543
Revised Code, all proceedings involving child support, the 42544
allocation of parental rights and responsibilities for the care of 42545
children and the designation for the children of a place of 42546
residence and legal custodian, parenting time, and visitation, and 42547
all post-decree proceedings and matters arising from those cases 42548
and proceedings, except in cases that for some special reason are 42549
assigned to another judge of the court of common pleas. The judge 42550
shall be charged with the assignment and division of the work of 42551
the division and with the employment and supervision of the 42552
personnel of the division. 42553

The judge shall designate the title, compensation, expense 42554
allowances, hours, leaves of absence, and vacations of the 42555
personnel of the division and shall fix the duties of the 42556
personnel of the division. The duties of the personnel of the 42557
division, in addition to other statutory duties, shall include the 42558
handling, servicing, and investigation of divorce, dissolution of 42559
marriage, legal separation, and annulment cases, cases arising 42560
under Chapter 3111. of the Revised Code, and proceedings involving 42561

child support, the allocation of parental rights and 42562
responsibilities for the care of children and the designation for 42563
the children of a place of residence and legal custodian, 42564
parenting time, and visitation and providing any counseling and 42565
conciliation services that the division makes available to 42566
persons, whether or not the persons are parties to an action 42567
pending in the division, who request the services. 42568

(BB) In Henry county, the judge of the court of common pleas 42569
whose term begins on January 1, 2005, and successors, shall have 42570
the same qualifications, exercise the same powers and 42571
jurisdiction, and receive the same compensation as the other judge 42572
of the court of common pleas of Henry county and shall be elected 42573
and designated as the judge of the court of common pleas, division 42574
of domestic relations. The judge shall have all of the powers 42575
relating to juvenile courts, and all cases under Chapter 2151. or 42576
2152. of the Revised Code, all parentage proceedings arising under 42577
Chapter 3111. of the Revised Code over which the juvenile court 42578
has jurisdiction, all divorce, dissolution of marriage, legal 42579
separation, and annulment cases, all proceedings involving child 42580
support, the allocation of parental rights and responsibilities 42581
for the care of children and the designation for the children of a 42582
place of residence and legal custodian, parenting time, and 42583
visitation, and all post-decree proceedings and matters arising 42584
from those cases and proceedings shall be assigned to that judge, 42585
except in cases that for some special reason are assigned to the 42586
other judge of the court of common pleas. 42587

(CC)(1) In Logan county, the judge of the court of common 42588
pleas whose term begins January 2, 2005, and the successors to 42589
that judge, shall have the same qualifications, exercise the same 42590
powers and jurisdiction, and receive the same compensation as the 42591
other judges of the court of common pleas of Logan county and 42592
shall be elected and designated as judge of the court of common 42593

pleas, domestic relations-juvenile-probate division. Except as 42594
otherwise specified in this division, that judge, and the 42595
successors to that judge, shall have all the powers relating to 42596
juvenile courts, and all cases under Chapters 2151. and 2152. of 42597
the Revised Code, all cases arising under Chapter 3111. of the 42598
Revised Code, all divorce, dissolution of marriage, legal 42599
separation, and annulment cases, all proceedings involving child 42600
support, the allocation of parental rights and responsibilities 42601
for the care of children and designation for the children of a 42602
place of residence and legal custodian, parenting time, and 42603
visitation, and all post-decree proceedings and matters arising 42604
from those cases and proceedings shall be assigned to that judge 42605
and the successors to that judge. Notwithstanding any other 42606
provision of any section of the Revised Code, on and after January 42607
2, 2005, the judge of the court of common pleas of Logan county 42608
whose term begins on January 2, 2005, and the successors to that 42609
judge, shall have all the powers relating to the probate division 42610
of the court of common pleas of Logan county in addition to the 42611
powers previously specified in this division and shall exercise 42612
concurrent jurisdiction with the judge of the probate division of 42613
that court over all matters that are within the jurisdiction of 42614
the probate division of that court under Chapter 2101., and other 42615
provisions, of the Revised Code in addition to the jurisdiction of 42616
the domestic relations-juvenile-probate division of that court 42617
otherwise specified in division (CC)(1) of this section. 42618

(2) The judge of the domestic relations-juvenile-probate 42619
division of the court of common pleas of Logan county or the 42620
probate judge of the court of common pleas of Logan county who is 42621
elected as the administrative judge of the probate division of the 42622
court of common pleas of Logan county pursuant to Rule 4 of the 42623
Rules of Superintendence shall be the clerk of the probate 42624
division and juvenile division of the court of common pleas of 42625
Logan county. The clerk of the court of common pleas who is 42626

elected pursuant to section 2303.01 of the Revised Code shall keep 42627
all of the journals, records, books, papers, and files pertaining 42628
to the domestic relations cases. 42629

(3) On and after January 2, 2005, all references in law to 42630
"the probate court," "the probate judge," "the juvenile court," or 42631
"the judge of the juvenile court" shall be construed, with respect 42632
to Logan county, as being references to both "the probate 42633
division" and the "domestic relations-juvenile-probate division" 42634
and as being references to both "the judge of the probate 42635
division" and the "judge of the domestic 42636
relations-juvenile-probate division." On and after January 2, 42637
2005, all references in law to "the clerk of the probate court" 42638
shall be construed, with respect to Logan county, as being 42639
references to the judge who is serving pursuant to division 42640
(CC)(2) of this section as the clerk of the probate division of 42641
the court of common pleas of Logan county. 42642

(DD)(1) In Champaign county, the judge of the court of common 42643
pleas whose term begins February 9, 2003, and the judge of the 42644
court of common pleas whose term begins February 10, 2009, and the 42645
successors to those judges, shall have the same qualifications, 42646
exercise the same powers and jurisdiction, and receive the same 42647
compensation as the other judges of the court of common pleas of 42648
Champaign county and shall be elected and designated as judges of 42649
the court of common pleas, domestic relations-juvenile-probate 42650
division. Except as otherwise specified in this division, those 42651
judges, and the successors to those judges, shall have all the 42652
powers relating to juvenile courts, and all cases under Chapters 42653
2151. and 2152. of the Revised Code, all cases arising under 42654
Chapter 3111. of the Revised Code, all divorce, dissolution of 42655
marriage, legal separation, and annulment cases, all proceedings 42656
involving child support, the allocation of parental rights and 42657
responsibilities for the care of children and the designation for 42658

the children of a place of residence and legal custodian, 42659
parenting time, and visitation, and all post-decree proceedings 42660
and matters arising from those cases and proceedings shall be 42661
assigned to those judges and the successors to those judges. 42662
Notwithstanding any other provision of any section of the Revised 42663
Code, on and after February 9, 2009, the judges designated by this 42664
division as judges of the court of common pleas of Champaign 42665
county, domestic relations-juvenile-probate division, and the 42666
successors to those judges, shall have all the powers relating to 42667
probate courts in addition to the powers previously specified in 42668
this division and shall exercise jurisdiction over all matters 42669
that are within the jurisdiction of probate courts under Chapter 42670
2101., and other provisions, of the Revised Code in addition to 42671
the jurisdiction of the domestic relations-juvenile-probate 42672
division otherwise specified in division (DD)(1) of this section. 42673

(2) On and after February 9, 2009, all references in law to 42674
"the probate court," "the probate judge," "the juvenile court," or 42675
"the judge of the juvenile court" shall be construed with respect 42676
to Champaign county as being references to the "domestic 42677
relations-juvenile-probate division" and as being references to 42678
the "judge of the domestic relations-juvenile-probate division." 42679
On and after February 9, 2009, all references in law to "the clerk 42680
of the probate court" shall be construed with respect to Champaign 42681
county as being references to the judge who is serving pursuant to 42682
Rule 4 of the Rules of Superintendence for the Courts of Ohio as 42683
the administrative judge of the court of common pleas, domestic 42684
relations-juvenile-probate division. 42685

(EE) If a judge of the court of common pleas, division of 42686
domestic relations, or juvenile judge, of any of the counties 42687
mentioned in this section is sick, absent, or unable to perform 42688
that judge's judicial duties or the volume of cases pending in the 42689
judge's division necessitates it, the duties of that judge shall 42690

be performed by another judge of the court of common pleas of that 42691
county, assigned for that purpose by the presiding judge of the 42692
court of common pleas of that county to act in place of or in 42693
conjunction with that judge, as the case may require. 42694

Sec. 2301.031. (A)(1) The domestic relations judges of a 42695
domestic relations division created by section 2301.03 of the 42696
Revised Code may determine that, for the efficient operation of 42697
their division, additional funds are required to computerize the 42698
division, to make available computerized legal research services, 42699
or both. Upon making a determination that additional funds are 42700
required for either or both of those purposes, the judges shall do 42701
one of the following: 42702

(a) Authorize and direct the clerk or a deputy clerk of the 42703
division to charge one additional fee not to exceed three dollars 42704
on the filing of each cause of action or appeal under division 42705
(A), (Q), or (U) of section 2303.20 of the Revised Code; 42706

(b) If the clerk of the court of common pleas serves as the 42707
clerk of the division, authorize and direct the clerk of the court 42708
of common pleas to charge one additional fee not to exceed three 42709
dollars on the filing of each cause of action or appeal under 42710
division (A), (Q), or (U) of section 2303.20 of the Revised Code. 42711

(2) All moneys collected under division (A)(1) of this 42712
section shall be paid to the county treasurer. The treasurer shall 42713
place the moneys from the fees in a separate fund to be disbursed, 42714
upon an order of the domestic relations judges, subject to an 42715
appropriation by the board of county commissioners, in an amount 42716
no greater than the actual cost to the division of procuring and 42717
maintaining computerization of the court, computerized legal 42718
research services, or both. 42719

(3) If the court determines that the funds in the fund 42720
described in division (A)(2) of this section are more than 42721

sufficient to satisfy the purpose for which the additional fee 42722
described in division (A)(1) of this section was imposed, the 42723
court may declare a surplus in the fund and, subject to an 42724
appropriation by the board of county commissioners, expend those 42725
surplus funds for other appropriate technological expenses of the 42726
court. 42727

(B)(1) If the clerk of the court of common pleas is not 42728
serving as the clerk of a juvenile or domestic relations division 42729
created by section 2301.03 of the Revised Code, the juvenile or 42730
domestic relations judges may determine that, for the efficient 42731
operation of their division, additional funds are required to 42732
computerize the office of the clerk of their division and, upon 42733
that determination, may authorize and direct the clerk or a deputy 42734
clerk of their division to charge an additional fee, not to exceed 42735
ten dollars, on the filing of each cause of action or appeal, on 42736
the filing, docketing, and endorsing of each certificate of 42737
judgment, or on the docketing and indexing of each aid in 42738
execution or petition to vacate, revive, or modify a judgment 42739
under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of 42740
the Revised Code. Subject to division (B)(2) of this section, all 42741
moneys collected under this division shall be paid to the county 42742
treasurer to be disbursed, upon an order of the juvenile or 42743
domestic relations judges and subject to appropriation by the 42744
board of county commissioners, in an amount no greater than the 42745
actual cost to the juvenile or domestic relations division of 42746
procuring and maintaining computer systems for the clerk's office. 42747

(2) If juvenile or domestic relations judges make the 42748
determination described in division (B)(1) of this section, the 42749
board of county commissioners may issue one or more general 42750
obligation bonds for the purpose of procuring and maintaining the 42751
computer systems for the office of the clerk of the juvenile or 42752
domestic relations division. In addition to the purposes stated in 42753

division (B)(1) of this section for which the moneys collected 42754
under that division may be expended, the moneys additionally may 42755
be expended to pay debt charges on and financing costs related to 42756
any general obligation bonds issued pursuant to this division as 42757
they become due. General obligation bonds issued pursuant to this 42758
division are Chapter 133. securities. 42759

Sec. 2301.18. The court of common pleas shall appoint a 42760
~~stenographic~~ reporter as the official shorthand reporter of ~~such~~ 42761
the court, ~~who shall hold the appointment~~ for a term not exceeding 42762
three years ~~from the date thereof,~~ unless removed by the court, 42763
after a good cause shown, for neglect of duty, misconduct in 42764
office, or incompetency. ~~Such~~ The court of common pleas may 42765
appoint assistant reporters as the business of the court requires, 42766
for terms not exceeding three years under one appointment. The 42767
official ~~shorthand~~ reporter and assistant reporters shall take an 42768
oath faithfully and impartially to discharge the duties of ~~such~~ 42769
~~position~~ their positions. 42770

Sec. 2301.20. ~~Upon the trial of a~~ All civil ~~or~~ and criminal 42771
~~action~~ actions in the court of common pleas, ~~if either party to~~ 42772
~~the action or his attorney requests the services of a shorthand~~ 42773
~~reporter, the trial judge shall grant the request, or may order a~~ 42774
~~full report of the testimony or other proceedings. In either case,~~ 42775
~~the shorthand shall be recorded. The~~ reporter shall take accurate 42776
~~shorthand~~ notes of, or shall electronically record, the oral 42777
testimony ~~or other oral proceedings.~~ The notes and electronic 42778
records shall be filed in the office of the official ~~shorthand~~ 42779
reporter and carefully preserved for either of the following 42780
periods of time: 42781

(A) If the action is not a capital case, the notes and 42782
electronic records shall be preserved for the period of time 42783
specified by the court of common pleas, which period of time shall 42784

not be longer than the period of time that the other records of 42785
the particular action are required to be kept. 42786

(B) If the action is a capital case, the notes and electronic 42787
records shall be preserved for the longer of ten years or until 42788
the final disposition of the action. 42789

Sec. 2301.21. In every case ~~reported~~ recorded as provided in 42790
section 2301.20 of the Revised Code, there shall be taxed for each 42791
day's service of the official or assistant ~~shorthand~~ reporters a 42792
fee of twenty-five dollars, to be collected as other costs in the 42793
case. The fees so collected shall be paid quarterly by the clerk 42794
of the court of common pleas in which the cases were tried into 42795
the treasury of the county and shall be credited by the county 42796
treasurer to the general fund. 42797

Sec. 2301.22. Each ~~shorthand~~ reporter shall receive such 42798
compensation as the court of common pleas making the appointment 42799
fixes. ~~Such~~ That compensation shall be in place of all per diem 42800
compensation in ~~such~~ those courts. In case ~~such~~ the appointment is 42801
for a term of less than one year, ~~such~~ the court may allow a per 42802
diem compensation to be fixed by the court, plus actual and 42803
necessary expenses incurred, for each day ~~such shorthand~~ the 42804
reporter is actually engaged in taking testimony or performing 42805
other duties under the orders of ~~such~~ the court, which allowance 42806
shall be in full payment for all services so rendered. 42807

The county auditor shall issue warrants on the county 42808
treasurer for the payment of ~~such~~ the compensation under this 42809
section in equal monthly installments, ~~when~~ if the compensation is 42810
allowed annually, and ~~when~~ in case of services per diem, for the 42811
amount of the bill approved by the court, from the general fund 42812
upon the presentation of a certified copy of the journal entry of 42813
appointment and compensation of ~~such shorthand~~ the reporters. 42814

Sec. 2301.23. When ~~shorthand~~ notes have been taken or an 42815
electronic recording has been made in a case as provided in 42816
section 2301.20 of the Revised Code, if the court~~,~~ or either party 42817
to the suit ~~or his attorney,~~ requests written transcripts of any 42818
portion of ~~such notes in longhand~~ the proceeding, the ~~shorthand~~ 42819
reporter reporting the case shall make full and accurate 42820
transcripts of the notes ~~for the use of such court or party or~~ 42821
electronic recording. The court may direct the official ~~shorthand~~ 42822
reporter to furnish to the court and the parties copies of 42823
decisions rendered and charges delivered by the court in pending 42824
cases. 42825

When the compensation for transcripts, copies of decisions, 42826
or charges is taxed as a part of the costs, ~~such~~ the transcripts, 42827
copies of decisions, and charges shall remain on file with the 42828
papers of the case. 42829

Sec. 2301.24. The compensation of ~~shorthand~~ reporters for 42830
making written transcripts ~~and copies~~ as provided in section 42831
2301.23 of the Revised Code shall be fixed by ~~the judges of the~~ 42832
court of common pleas of the county wherein in which the trial is 42833
~~had held~~. ~~Such~~ If more than one transcript of the same testimony 42834
or proceeding is ordered, the reporter shall make copies of the 42835
transcript at cost pursuant to division (B)(1) of section 149.43 42836
of the Revised Code, or shall provide an electronic copy of the 42837
transcript free of charge. The compensation shall be paid 42838
~~forthwith~~ by the party for whose benefit a transcript is made. The 42839
compensation for transcripts ~~of testimony~~ requested by the 42840
prosecuting attorney ~~during trial~~ or an indigent defendant in 42841
criminal cases or by the trial judge~~,~~ in either civil or criminal 42842
cases, and for copies of decisions and charges furnished by 42843
direction of the court shall be paid from the county treasury~~,~~ and 42844
taxed and collected as costs. 42845

Sec. 2301.25. When ordered by the prosecuting attorney or the 42846
defendant in a criminal ~~trial, case~~ or when ordered by a judge of 42847
the court of common pleas ~~for his use,~~ in either civil or criminal 42848
cases, the costs of transcripts ~~mentioned in section 2301.23 of~~ 42849
~~the Revised Code,~~ shall be taxed as costs in the case, collected 42850
as other costs, whether ~~such~~ the transcripts have been prepaid or 42851
not, as provided by section 2301.24 of the Revised Code, ~~and~~ paid 42852
by the clerk of the court of common pleas, quarterly, into the 42853
county treasury, and credited to the general fund. If, upon final 42854
judgment, the costs or any part ~~thereof shall be~~ of the costs are 42855
adjudged against a defendant in a criminal case, ~~he~~ the defendant 42856
shall be allowed credit on the cost bill of the amount paid ~~by him~~ 42857
for the transcript ~~he ordered~~ and, if the costs are finally 42858
adjudged against the state, the defendant shall have ~~his~~ the 42859
defendant's deposit refunded. ~~When more than one transcript of the~~ 42860
~~same testimony or proceedings is ordered at the same time by the~~ 42861
~~same party, or by the court, the compensation for making such~~ 42862
~~additional transcript shall be one half the compensation allowed~~ 42863
~~for the first copy, and shall be paid for in the same manner~~ 42864
~~except that where ordered by the same party only the cost of the~~ 42865
~~original shall be taxed as costs.~~ All ~~such~~ transcripts shall be 42866
taken and received as prima-facie evidence of their correctness. 42867
~~When~~ If the testimony of witnesses is taken before the grand jury 42868
by ~~shorthand~~ reporters, they shall receive for ~~such~~ the 42869
transcripts ~~as are ordered by the prosecuting attorney~~ the same 42870
compensation ~~per folio~~ and be paid ~~therefor~~ in the same manner as 42871
provided in this section and section 2301.24 of the Revised Code. 42872
42873

Sec. 2301.26. ~~Shorthand reporters~~ Reporters appointed under 42874
~~sections~~ section 2301.18 ~~and 2301.19~~ of the Revised Code, may be 42875
appointed referees to take and report evidence in causes pending 42876

in any of the courts of this state. In the taking of evidence as 42877
~~such~~ referees, ~~they~~ the reporters may administer oaths to 42878
witnesses. They shall be furnished by the board of county 42879
commissioners with a suitable room in the courthouse, and with 42880
~~stationery~~, supplies and ~~other~~ equipment necessary in for the 42881
proper discharge of their duties and for the preservation of their 42882
~~stenographic~~ notes and electronic records. ~~Such~~ The notes and 42883
electronic records shall be the property of the county and 42884
carefully preserved in the office of the ~~shorthand~~ reporters. 42885

Sec. 2303.201. (A)(1) The court of common pleas of any county 42886
may determine that for the efficient operation of the court 42887
additional funds are required to computerize the court, to make 42888
available computerized legal research services, or to do both. 42889
Upon making a determination that additional funds are required for 42890
either or both of those purposes, the court shall authorize and 42891
direct the clerk of the court of common pleas to charge one 42892
additional fee, not to exceed three dollars, on the filing of each 42893
cause of action or appeal under divisions (A), (Q), and (U) of 42894
section 2303.20 of the Revised Code. 42895

(2) All fees collected under division (A)(1) of this section 42896
shall be paid to the county treasurer. The treasurer shall place 42897
the funds from the fees in a separate fund to be disbursed, upon 42898
an order of the court, subject to an appropriation by the board of 42899
county commissioners, in an amount not greater than the actual 42900
cost to the court of procuring and maintaining computerization of 42901
the court, computerized legal research services, or both. 42902

(3) If the court determines that the funds in the fund 42903
described in division (A)(2) of this section are more than 42904
sufficient to satisfy the purpose for which the additional fee 42905
described in division (A)(1) of this section was imposed, the 42906
court may declare a surplus in the fund and, subject to an 42907

appropriation by the board of county commissioners, expend those 42908
surplus funds for other appropriate technological expenses of the 42909
court. 42910

(B)(1) The court of common pleas of any county may determine 42911
that, for the efficient operation of the court, additional funds 42912
are required to computerize the office of the clerk of the court 42913
of common pleas and, upon that determination, authorize and direct 42914
the clerk of the court of common pleas to charge an additional 42915
fee, not to exceed ten dollars, on the filing of each cause of 42916
action or appeal, on the filing, docketing, and endorsing of each 42917
certificate of judgment, or on the docketing and indexing of each 42918
aid in execution or petition to vacate, revive, or modify a 42919
judgment under divisions (A), (P), (Q), (T), and (U) of section 42920
2303.20 of the Revised Code. Subject to division (B)(2) of this 42921
section, all moneys collected under division (B)(1) of this 42922
section shall be paid to the county treasurer to be disbursed, 42923
upon an order of the court of common pleas and subject to 42924
appropriation by the board of county commissioners, in an amount 42925
no greater than the actual cost to the court of procuring and 42926
maintaining computer systems for the office of the clerk of the 42927
court of common pleas. 42928

(2) If the court of common pleas of a county makes the 42929
determination described in division (B)(1) of this section, the 42930
board of county commissioners of that county may issue one or more 42931
general obligation bonds for the purpose of procuring and 42932
maintaining the computer systems for the office of the clerk of 42933
the court of common pleas. In addition to the purposes stated in 42934
division (B)(1) of this section for which the moneys collected 42935
under that division may be expended, the moneys additionally may 42936
be expended to pay debt charges on and financing costs related to 42937
any general obligation bonds issued pursuant to division (B)(2) of 42938
this section as they become due. General obligation bonds issued 42939

pursuant to division (B)(2) of this section are Chapter 133. 42940
securities. 42941

(C) The court of common pleas shall collect the sum of 42942
twenty-six dollars as additional filing fees in each new civil 42943
action or proceeding for the charitable public purpose of 42944
providing financial assistance to legal aid societies that operate 42945
within the state and to support the office of the state public 42946
defender. This division does not apply to proceedings concerning 42947
annulments, dissolutions of marriage, divorces, legal separation, 42948
spousal support, marital property or separate property 42949
distribution, support, or other domestic relations matters; to a 42950
juvenile division of a court of common pleas; to a probate 42951
division of a court of common pleas, except that the additional 42952
filing fees shall apply to name change, guardianship, adoption, 42953
and decedents' estate proceedings; or to an execution on a 42954
judgment, proceeding in aid of execution, or other post-judgment 42955
proceeding arising out of a civil action. The filing fees required 42956
to be collected under this division shall be in addition to any 42957
other filing fees imposed in the action or proceeding and shall be 42958
collected at the time of the filing of the action or proceeding. 42959
The court shall not waive the payment of the additional filing 42960
fees in a new civil action or proceeding unless the court waives 42961
the advanced payment of all filing fees in the action or 42962
proceeding. All such moneys collected during a month except for an 42963
amount equal to up to one per cent of those moneys retained to 42964
cover administrative costs shall be transmitted on or before the 42965
twentieth day of the following month by the clerk of the court to 42966
the treasurer of state in a manner prescribed by the treasurer of 42967
state or by the Ohio legal assistance foundation. The treasurer of 42968
state shall deposit four per cent of the funds collected under 42969
this division to the credit of the civil case filing fee fund 42970
established under section 120.07 of the Revised Code and 42971
ninety-six per cent of the funds collected under this division to 42972

the credit of the legal aid fund established under section 120.52 42973
of the Revised Code. 42974

The court may retain up to one per cent of the moneys it 42975
collects under this division to cover administrative costs, 42976
including the hiring of any additional personnel necessary to 42977
implement this division. If the court fails to transmit to the 42978
treasurer of state the moneys the court collects under this 42979
division in a manner prescribed by the treasurer of state or by 42980
the Ohio legal assistance foundation, the court shall forfeit the 42981
moneys the court retains under this division to cover 42982
administrative costs, including the hiring of any additional 42983
personnel necessary to implement this division, and shall transmit 42984
to the treasurer of state all moneys collected under this 42985
division, including the forfeited amount retained for 42986
administrative costs, for deposit in the legal aid fund. 42987

(D) On and after the thirtieth day after December 9, 1994, 42988
the court of common pleas shall collect the sum of thirty-two 42989
dollars as additional filing fees in each new action or proceeding 42990
for annulment, divorce, or dissolution of marriage for the purpose 42991
of funding shelters for victims of domestic violence pursuant to 42992
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 42993
required to be collected under this division shall be in addition 42994
to any other filing fees imposed in the action or proceeding and 42995
shall be collected at the time of the filing of the action or 42996
proceeding. The court shall not waive the payment of the 42997
additional filing fees in a new action or proceeding for 42998
annulment, divorce, or dissolution of marriage unless the court 42999
waives the advanced payment of all filing fees in the action or 43000
proceeding. On or before the twentieth day of each month, all 43001
moneys collected during the immediately preceding month pursuant 43002
to this division shall be deposited by the clerk of the court into 43003
the county treasury in the special fund used for deposit of 43004

additional marriage license fees as described in section 3113.34 43005
of the Revised Code. Upon their deposit into the fund, the moneys 43006
shall be retained in the fund and expended only as described in 43007
section 3113.34 of the Revised Code. 43008

(E)(1) The court of common pleas may determine that, for the 43009
efficient operation of the court, additional funds are necessary 43010
to acquire and pay for special projects of the court, including, 43011
but not limited to, the acquisition of additional facilities or 43012
the rehabilitation of existing facilities, the acquisition of 43013
equipment, the hiring and training of staff, community service 43014
programs, mediation or dispute resolution services, the employment 43015
of magistrates, the training and education of judges, acting 43016
judges, and magistrates, and other related services. Upon that 43017
determination, the court by rule may charge a fee, in addition to 43018
all other court costs, on the filing of each criminal cause, civil 43019
action or proceeding, or judgment by confession. 43020

If the court of common pleas offers a special program or 43021
service in cases of a specific type, the court by rule may assess 43022
an additional charge in a case of that type, over and above court 43023
costs, to cover the special program or service. The court shall 43024
adjust the special assessment periodically, but not retroactively, 43025
so that the amount assessed in those cases does not exceed the 43026
actual cost of providing the service or program. 43027

All moneys collected under division (E) of this section shall 43028
be paid to the county treasurer for deposit into either a general 43029
special projects fund or a fund established for a specific special 43030
project. Moneys from a fund of that nature shall be disbursed upon 43031
an order of the court, subject to an appropriation by the board of 43032
county commissioners, in an amount no greater than the actual cost 43033
to the court of a project. If a specific fund is terminated 43034
because of the discontinuance of a program or service established 43035
under division (E) of this section, the court may order, subject 43036

to an appropriation by the board of county commissioners, that 43037
moneys remaining in the fund be transferred to an account 43038
established under this division for a similar purpose. 43039

(2) As used in division (E) of this section: 43040

(a) "Criminal cause" means a charge alleging the violation of 43041
a statute or ordinance, or subsection of a statute or ordinance, 43042
that requires a separate finding of fact or a separate plea before 43043
disposition and of which the defendant may be found guilty, 43044
whether filed as part of a multiple charge on a single summons, 43045
citation, or complaint or as a separate charge on a single 43046
summons, citation, or complaint. "Criminal cause" does not include 43047
separate violations of the same statute or ordinance, or 43048
subsection of the same statute or ordinance, unless each charge is 43049
filed on a separate summons, citation, or complaint. 43050

(b) "Civil action or proceeding" means any civil litigation 43051
that must be determined by judgment entry. 43052

Sec. 2305.01. Except as otherwise provided by this section or 43053
section 2305.03 of the Revised Code, the court of common pleas has 43054
original jurisdiction in all civil cases in which the sum or 43055
matter in dispute exceeds the exclusive original jurisdiction of 43056
county courts and appellate jurisdiction from the decisions of 43057
boards of county commissioners. The court of common pleas shall 43058
not have jurisdiction, in any tort action to which the amounts 43059
apply, to award punitive or exemplary damages that exceed the 43060
amounts set forth in section 2315.21 of the Revised Code. The 43061
court of common pleas shall not have jurisdiction in any tort 43062
action to which the limits apply to enter judgment on an award of 43063
compensatory damages for noneconomic loss in excess of the limits 43064
set forth in section 2315.18 of the Revised Code. 43065

The court of common pleas may on its own motion transfer for 43066
trial any action in the court to any municipal court in the county 43067

having concurrent jurisdiction of the subject matter of, and the parties to, the action, if the amount sought by the plaintiff does not exceed one thousand dollars and if the judge or presiding judge of the municipal court concurs in the proposed transfer. Upon the issuance of an order of transfer, the clerk of courts shall remove to the designated municipal court the entire case file. Any untaxed portion of the common pleas deposit for court costs shall be remitted to the municipal court by the clerk of courts to be applied in accordance with section 1901.26 of the Revised Code, and the costs taxed by the municipal court shall be added to any costs taxed in the common pleas court.

The court of common pleas has jurisdiction in any action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 of the Revised Code if the residential premises that are the subject of the action are located within the territorial jurisdiction of the court.

The courts of common pleas of Adams, Athens, Belmont, Brown, Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, Meigs, Monroe, Scioto, and Washington counties have jurisdiction beyond the north or northwest shore of the Ohio river extending to the opposite shore line, between the extended boundary lines of any adjacent counties or adjacent state. Each of those courts of common pleas has concurrent jurisdiction on the Ohio river with any adjacent court of common pleas that borders on that river and with any court of Kentucky or of West Virginia that borders on the Ohio river and that has jurisdiction on the Ohio river under the law of Kentucky or the law of West Virginia, whichever is applicable, or under federal law.

Sec. 2305.232. (A) No person who gives aid or advice in an emergency situation relating to the prevention of an imminent release of hazardous material, to the clean-up or disposal of

hazardous material that has been released, or to the related 43099
mitigation of the effects of a release of hazardous material, nor 43100
the public or private employer of such a person, is liable in 43101
civil damages as a result of the aid or advice if all of the 43102
following apply: 43103

(1) The aid or advice was given at the request of: 43104

(a) A sheriff, the chief of police or other chief officer of 43105
the law enforcement agency of a municipal corporation, the chief 43106
of police of a township police district or joint police district, 43107
the chief of a fire department, the state fire marshal, the 43108
director of environmental protection, the chairperson of the 43109
public utilities commission, the superintendent of the state 43110
highway patrol, the executive director of the emergency management 43111
agency, the chief executive of a municipal corporation, ~~or~~ the 43112
authorized representative of any such official, or the legislative 43113
authority of a township or county; or 43114

(b) The owner or manufacturer of the hazardous material, an 43115
association of manufacturers of the hazardous material, or a 43116
hazardous material mutual aid group. 43117

(2) The person giving the aid or advice acted without 43118
anticipating remuneration for self or the person's employer from 43119
the governmental official, authority, or agency that requested the 43120
aid or advice; 43121

(3) The person giving the aid or advice was specially 43122
qualified by training or experience to give the aid or advice; 43123

(4) Neither the person giving the aid or advice nor the 43124
public or private employer of the person giving the aid or advice 43125
was responsible for causing the release or threat of release nor 43126
would otherwise be liable for damages caused by the release; 43127

(5) The person giving the aid or advice did not engage in 43128
willful, wanton, or reckless misconduct or grossly negligent 43129

conduct in giving the aid or advice; 43130

(6) The person giving the aid or advice notified the 43131
emergency response section of the environmental protection agency 43132
prior to giving the aid or advice. 43133

(B) The immunity conferred by this section does not limit the 43134
liability of any person whose action caused or contributed to the 43135
release of hazardous material. That person is liable for any 43136
enhancement of damages caused by the person giving aid or advice 43137
under this section unless the enhancement of damages was caused by 43138
the willful, wanton, or reckless misconduct or grossly negligent 43139
conduct of the person giving aid or advice. 43140

(C) This section does not apply to any person rendering care, 43141
assistance, or advice in response to a discharge of oil when that 43142
person's immunity from liability is subject to determination under 43143
section 2305.39 of the Revised Code. 43144

(D) As used in this section: 43145

(1) "Hazardous material" means any material designated as 43146
such under the "Hazardous Materials Transportation Act," 88 Stat. 43147
2156 (1975), 49 U.S.C.A. 1803, as amended. 43148

(2) "Mutual aid group" means any group formed at the federal, 43149
state, regional, or local level whose members agree to respond to 43150
incidents involving hazardous material whether or not they 43151
shipped, transported, manufactured, or were at all connected with 43152
the hazardous material involved in a particular incident. 43153

(3) "Discharge" and "oil" have the same meanings as in 43154
section 2305.39 of the Revised Code. 43155

Sec. 2317.02. The following persons shall not testify in 43156
certain respects: 43157

(A)(1) An attorney, concerning a communication made to the 43158
attorney by a client in that relation or the attorney's advice to 43159

a client, except that the attorney may testify by express consent 43160
of the client or, if the client is deceased, by the express 43161
consent of the surviving spouse or the executor or administrator 43162
of the estate of the deceased client. However, if the client 43163
voluntarily testifies or is deemed by section 2151.421 of the 43164
Revised Code to have waived any testimonial privilege under this 43165
division, the attorney may be compelled to testify on the same 43166
subject. 43167

The testimonial privilege established under this division 43168
does not apply concerning a communication between a client who has 43169
since died and the deceased client's attorney if the communication 43170
is relevant to a dispute between parties who claim through that 43171
deceased client, regardless of whether the claims are by testate 43172
or intestate succession or by inter vivos transaction, and the 43173
dispute addresses the competency of the deceased client when the 43174
deceased client executed a document that is the basis of the 43175
dispute or whether the deceased client was a victim of fraud, 43176
undue influence, or duress when the deceased client executed a 43177
document that is the basis of the dispute. 43178

(2) An attorney, concerning a communication made to the 43179
attorney by a client in that relationship or the attorney's advice 43180
to a client, except that if the client is an insurance company, 43181
the attorney may be compelled to testify, subject to an in camera 43182
inspection by a court, about communications made by the client to 43183
the attorney or by the attorney to the client that are related to 43184
the attorney's aiding or furthering an ongoing or future 43185
commission of bad faith by the client, if the party seeking 43186
disclosure of the communications has made a prima facie showing of 43187
bad faith, fraud, or criminal misconduct by the client. 43188

(B)(1) A physician or a dentist concerning a communication 43189
made to the physician or dentist by a patient in that relation or 43190
the physician's or dentist's advice to a patient, except as 43191

otherwise provided in this division, division (B)(2), and division 43192
(B)(3) of this section, and except that, if the patient is deemed 43193
by section 2151.421 of the Revised Code to have waived any 43194
testimonial privilege under this division, the physician may be 43195
compelled to testify on the same subject. 43196

The testimonial privilege established under this division 43197
does not apply, and a physician or dentist may testify or may be 43198
compelled to testify, in any of the following circumstances: 43199

(a) In any civil action, in accordance with the discovery 43200
provisions of the Rules of Civil Procedure in connection with a 43201
civil action, or in connection with a claim under Chapter 4123. of 43202
the Revised Code, under any of the following circumstances: 43203

(i) If the patient or the guardian or other legal 43204
representative of the patient gives express consent; 43205

(ii) If the patient is deceased, the spouse of the patient or 43206
the executor or administrator of the patient's estate gives 43207
express consent; 43208

(iii) If a medical claim, dental claim, chiropractic claim, 43209
or optometric claim, as defined in section 2305.113 of the Revised 43210
Code, an action for wrongful death, any other type of civil 43211
action, or a claim under Chapter 4123. of the Revised Code is 43212
filed by the patient, the personal representative of the estate of 43213
the patient if deceased, or the patient's guardian or other legal 43214
representative. 43215

(b) In any civil action concerning court-ordered treatment or 43216
services received by a patient, if the court-ordered treatment or 43217
services were ordered as part of a case plan journalized under 43218
section 2151.412 of the Revised Code or the court-ordered 43219
treatment or services are necessary or relevant to dependency, 43220
neglect, or abuse or temporary or permanent custody proceedings 43221
under Chapter 2151. of the Revised Code. 43222

(c) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the patient's whole blood, blood serum or plasma, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.

(d) In any criminal action against a physician or dentist. In such an action, the testimonial privilege established under this division does not prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician or dentist to testify in such an action or permits the introduction into evidence of patient records or other communications in such an action shall require that appropriate measures be taken to ensure that the confidentiality of any patient named or otherwise identified in the records is maintained. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(e)(i) If the communication was between a patient who has since died and the deceased patient's physician or dentist, the communication is relevant to a dispute between parties who claim through that deceased patient, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased patient when the deceased patient executed a document that is the basis of the dispute or whether the deceased patient was a victim of fraud, undue influence, or duress when the deceased patient executed a document that is the basis of the

dispute. 43255

(ii) If neither the spouse of a patient nor the executor or 43256
administrator of that patient's estate gives consent under 43257
division (B)(1)(a)(ii) of this section, testimony or the 43258
disclosure of the patient's medical records by a physician, 43259
dentist, or other health care provider under division (B)(1)(e)(i) 43260
of this section is a permitted use or disclosure of protected 43261
health information, as defined in 45 C.F.R. 160.103, and an 43262
authorization or opportunity to be heard shall not be required. 43263

(iii) Division (B)(1)(e)(i) of this section does not require 43264
a mental health professional to disclose psychotherapy notes, as 43265
defined in 45 C.F.R. 164.501. 43266

(iv) An interested person who objects to testimony or 43267
disclosure under division (B)(1)(e)(i) of this section may seek a 43268
protective order pursuant to Civil Rule 26. 43269

(v) A person to whom protected health information is 43270
disclosed under division (B)(1)(e)(i) of this section shall not 43271
use or disclose the protected health information for any purpose 43272
other than the litigation or proceeding for which the information 43273
was requested and shall return the protected health information to 43274
the covered entity or destroy the protected health information, 43275
including all copies made, at the conclusion of the litigation or 43276
proceeding. 43277

(2)(a) If any law enforcement officer submits a written 43278
statement to a health care provider that states that an official 43279
criminal investigation has begun regarding a specified person or 43280
that a criminal action or proceeding has been commenced against a 43281
specified person, that requests the provider to supply to the 43282
officer copies of any records the provider possesses that pertain 43283
to any test or the results of any test administered to the 43284
specified person to determine the presence or concentration of 43285

alcohol, a drug of abuse, a combination of them, a controlled 43286
substance, or a metabolite of a controlled substance in the 43287
person's whole blood, blood serum or plasma, breath, or urine at 43288
any time relevant to the criminal offense in question, and that 43289
conforms to section 2317.022 of the Revised Code, the provider, 43290
except to the extent specifically prohibited by any law of this 43291
state or of the United States, shall supply to the officer a copy 43292
of any of the requested records the provider possesses. If the 43293
health care provider does not possess any of the requested 43294
records, the provider shall give the officer a written statement 43295
that indicates that the provider does not possess any of the 43296
requested records. 43297

(b) If a health care provider possesses any records of the 43298
type described in division (B)(2)(a) of this section regarding the 43299
person in question at any time relevant to the criminal offense in 43300
question, in lieu of personally testifying as to the results of 43301
the test in question, the custodian of the records may submit a 43302
certified copy of the records, and, upon its submission, the 43303
certified copy is qualified as authentic evidence and may be 43304
admitted as evidence in accordance with the Rules of Evidence. 43305
Division (A) of section 2317.422 of the Revised Code does not 43306
apply to any certified copy of records submitted in accordance 43307
with this division. Nothing in this division shall be construed to 43308
limit the right of any party to call as a witness the person who 43309
administered the test to which the records pertain, the person 43310
under whose supervision the test was administered, the custodian 43311
of the records, the person who made the records, or the person 43312
under whose supervision the records were made. 43313

(3)(a) If the testimonial privilege described in division 43314
(B)(1) of this section does not apply as provided in division 43315
(B)(1)(a)(iii) of this section, a physician or dentist may be 43316
compelled to testify or to submit to discovery under the Rules of 43317

Civil Procedure only as to a communication made to the physician 43318
or dentist by the patient in question in that relation, or the 43319
physician's or dentist's advice to the patient in question, that 43320
related causally or historically to physical or mental injuries 43321
that are relevant to issues in the medical claim, dental claim, 43322
chiropractic claim, or optometric claim, action for wrongful 43323
death, other civil action, or claim under Chapter 4123. of the 43324
Revised Code. 43325

(b) If the testimonial privilege described in division (B)(1) 43326
of this section does not apply to a physician or dentist as 43327
provided in division (B)(1)(c) of this section, the physician or 43328
dentist, in lieu of personally testifying as to the results of the 43329
test in question, may submit a certified copy of those results, 43330
and, upon its submission, the certified copy is qualified as 43331
authentic evidence and may be admitted as evidence in accordance 43332
with the Rules of Evidence. Division (A) of section 2317.422 of 43333
the Revised Code does not apply to any certified copy of results 43334
submitted in accordance with this division. Nothing in this 43335
division shall be construed to limit the right of any party to 43336
call as a witness the person who administered the test in 43337
question, the person under whose supervision the test was 43338
administered, the custodian of the results of the test, the person 43339
who compiled the results, or the person under whose supervision 43340
the results were compiled. 43341

(4) The testimonial privilege described in division (B)(1) of 43342
this section is not waived when a communication is made by a 43343
physician to a pharmacist or when there is communication between a 43344
patient and a pharmacist in furtherance of the physician-patient 43345
relation. 43346

(5)(a) As used in divisions (B)(1) to (4) of this section, 43347
"communication" means acquiring, recording, or transmitting any 43348
information, in any manner, concerning any facts, opinions, or 43349

statements necessary to enable a physician or dentist to diagnose, 43350
treat, prescribe, or act for a patient. A "communication" may 43351
include, but is not limited to, any medical or dental, office, or 43352
hospital communication such as a record, chart, letter, 43353
memorandum, laboratory test and results, x-ray, photograph, 43354
financial statement, diagnosis, or prognosis. 43355

(b) As used in division (B)(2) of this section, "health care 43356
provider" means a hospital, ambulatory care facility, long-term 43357
care facility, pharmacy, emergency facility, or health care 43358
practitioner. 43359

(c) As used in division (B)(5)(b) of this section: 43360

(i) "Ambulatory care facility" means a facility that provides 43361
medical, diagnostic, or surgical treatment to patients who do not 43362
require hospitalization, including a dialysis center, ambulatory 43363
surgical facility, cardiac catheterization facility, diagnostic 43364
imaging center, extracorporeal shock wave lithotripsy center, home 43365
health agency, inpatient hospice, birthing center, radiation 43366
therapy center, emergency facility, and an urgent care center. 43367
"Ambulatory health care facility" does not include the private 43368
office of a physician or dentist, whether the office is for an 43369
individual or group practice. 43370

(ii) "Emergency facility" means a hospital emergency 43371
department or any other facility that provides emergency medical 43372
services. 43373

(iii) "Health care practitioner" has the same meaning as in 43374
section 4769.01 of the Revised Code. 43375

(iv) "Hospital" has the same meaning as in section 3727.01 of 43376
the Revised Code. 43377

(v) "Long-term care facility" means a nursing home, 43378
residential care facility, or home for the aging, as those terms 43379
are defined in section 3721.01 of the Revised Code; an adult care 43380

facility, as defined in section ~~3722.01~~ 5119.70 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists.

(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code or the immunity from civil liability conferred by section 2305.33 of the Revised Code upon physicians who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in division (B)(7) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(C)(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character. The cleric may testify by express consent of the person making the communication, except

when the disclosure of the information is in violation of a sacred trust and except that, if the person voluntarily testifies or is deemed by division (A)(4)(c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust.

(2) As used in division (C) of this section:

(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.

(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply:

(i) The confession or confidential communication was made directly to the cleric.

(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be

permitted to testify; 43443

(F) A person who, if a party, would be restricted under 43444
section 2317.03 of the Revised Code, when the property or thing is 43445
sold or transferred by an executor, administrator, guardian, 43446
trustee, heir, devisee, or legatee, shall be restricted in the 43447
same manner in any action or proceeding concerning the property or 43448
thing. 43449

(G)(1) A school guidance counselor who holds a valid educator 43450
license from the state board of education as provided for in 43451
section 3319.22 of the Revised Code, a person licensed under 43452
Chapter 4757. of the Revised Code as a professional clinical 43453
counselor, professional counselor, social worker, independent 43454
social worker, marriage and family therapist or independent 43455
marriage and family therapist, or registered under Chapter 4757. 43456
of the Revised Code as a social work assistant concerning a 43457
confidential communication received from a client in that relation 43458
or the person's advice to a client unless any of the following 43459
applies: 43460

(a) The communication or advice indicates clear and present 43461
danger to the client or other persons. For the purposes of this 43462
division, cases in which there are indications of present or past 43463
child abuse or neglect of the client constitute a clear and 43464
present danger. 43465

(b) The client gives express consent to the testimony. 43466

(c) If the client is deceased, the surviving spouse or the 43467
executor or administrator of the estate of the deceased client 43468
gives express consent. 43469

(d) The client voluntarily testifies, in which case the 43470
school guidance counselor or person licensed or registered under 43471
Chapter 4757. of the Revised Code may be compelled to testify on 43472
the same subject. 43473

(e) The court in camera determines that the information 43474
communicated by the client is not germane to the counselor-client, 43475
marriage and family therapist-client, or social worker-client 43476
relationship. 43477

(f) A court, in an action brought against a school, its 43478
administration, or any of its personnel by the client, rules after 43479
an in-camera inspection that the testimony of the school guidance 43480
counselor is relevant to that action. 43481

(g) The testimony is sought in a civil action and concerns 43482
court-ordered treatment or services received by a patient as part 43483
of a case plan journalized under section 2151.412 of the Revised 43484
Code or the court-ordered treatment or services are necessary or 43485
relevant to dependency, neglect, or abuse or temporary or 43486
permanent custody proceedings under Chapter 2151. of the Revised 43487
Code. 43488

(2) Nothing in division (G)(1) of this section shall relieve 43489
a school guidance counselor or a person licensed or registered 43490
under Chapter 4757. of the Revised Code from the requirement to 43491
report information concerning child abuse or neglect under section 43492
2151.421 of the Revised Code. 43493

(H) A mediator acting under a mediation order issued under 43494
division (A) of section 3109.052 of the Revised Code or otherwise 43495
issued in any proceeding for divorce, dissolution, legal 43496
separation, annulment, or the allocation of parental rights and 43497
responsibilities for the care of children, in any action or 43498
proceeding, other than a criminal, delinquency, child abuse, child 43499
neglect, or dependent child action or proceeding, that is brought 43500
by or against either parent who takes part in mediation in 43501
accordance with the order and that pertains to the mediation 43502
process, to any information discussed or presented in the 43503
mediation process, to the allocation of parental rights and 43504
responsibilities for the care of the parents' children, or to the 43505

awarding of parenting time rights in relation to their children; 43506

(I) A communications assistant, acting within the scope of 43507
the communication assistant's authority, when providing 43508
telecommunications relay service pursuant to section 4931.06 of 43509
the Revised Code or Title II of the "Communications Act of 1934," 43510
104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication 43511
made through a telecommunications relay service. Nothing in this 43512
section shall limit the obligation of a communications assistant 43513
to divulge information or testify when mandated by federal law or 43514
regulation or pursuant to subpoena in a criminal proceeding. 43515

Nothing in this section shall limit any immunity or privilege 43516
granted under federal law or regulation. 43517

(J)(1) A chiropractor in a civil proceeding concerning a 43518
communication made to the chiropractor by a patient in that 43519
relation or the chiropractor's advice to a patient, except as 43520
otherwise provided in this division. The testimonial privilege 43521
established under this division does not apply, and a chiropractor 43522
may testify or may be compelled to testify, in any civil action, 43523
in accordance with the discovery provisions of the Rules of Civil 43524
Procedure in connection with a civil action, or in connection with 43525
a claim under Chapter 4123. of the Revised Code, under any of the 43526
following circumstances: 43527

(a) If the patient or the guardian or other legal 43528
representative of the patient gives express consent. 43529

(b) If the patient is deceased, the spouse of the patient or 43530
the executor or administrator of the patient's estate gives 43531
express consent. 43532

(c) If a medical claim, dental claim, chiropractic claim, or 43533
optometric claim, as defined in section 2305.113 of the Revised 43534
Code, an action for wrongful death, any other type of civil 43535
action, or a claim under Chapter 4123. of the Revised Code is 43536

filed by the patient, the personal representative of the estate of 43537
the patient if deceased, or the patient's guardian or other legal 43538
representative. 43539

(2) If the testimonial privilege described in division (J)(1) 43540
of this section does not apply as provided in division (J)(1)(c) 43541
of this section, a chiropractor may be compelled to testify or to 43542
submit to discovery under the Rules of Civil Procedure only as to 43543
a communication made to the chiropractor by the patient in 43544
question in that relation, or the chiropractor's advice to the 43545
patient in question, that related causally or historically to 43546
physical or mental injuries that are relevant to issues in the 43547
medical claim, dental claim, chiropractic claim, or optometric 43548
claim, action for wrongful death, other civil action, or claim 43549
under Chapter 4123. of the Revised Code. 43550

(3) The testimonial privilege established under this division 43551
does not apply, and a chiropractor may testify or be compelled to 43552
testify, in any criminal action or administrative proceeding. 43553

(4) As used in this division, "communication" means 43554
acquiring, recording, or transmitting any information, in any 43555
manner, concerning any facts, opinions, or statements necessary to 43556
enable a chiropractor to diagnose, treat, or act for a patient. A 43557
communication may include, but is not limited to, any 43558
chiropractic, office, or hospital communication such as a record, 43559
chart, letter, memorandum, laboratory test and results, x-ray, 43560
photograph, financial statement, diagnosis, or prognosis. 43561

(K)(1) Except as provided under division (K)(2) of this 43562
section, a critical incident stress management team member 43563
concerning a communication received from an individual who 43564
receives crisis response services from the team member, or the 43565
team member's advice to the individual, during a debriefing 43566
session. 43567

(2) The testimonial privilege established under division 43568
(K)(1) of this section does not apply if any of the following are 43569
true: 43570

(a) The communication or advice indicates clear and present 43571
danger to the individual who receives crisis response services or 43572
to other persons. For purposes of this division, cases in which 43573
there are indications of present or past child abuse or neglect of 43574
the individual constitute a clear and present danger. 43575

(b) The individual who received crisis response services 43576
gives express consent to the testimony. 43577

(c) If the individual who received crisis response services 43578
is deceased, the surviving spouse or the executor or administrator 43579
of the estate of the deceased individual gives express consent. 43580

(d) The individual who received crisis response services 43581
voluntarily testifies, in which case the team member may be 43582
compelled to testify on the same subject. 43583

(e) The court in camera determines that the information 43584
communicated by the individual who received crisis response 43585
services is not germane to the relationship between the individual 43586
and the team member. 43587

(f) The communication or advice pertains or is related to any 43588
criminal act. 43589

(3) As used in division (K) of this section: 43590

(a) "Crisis response services" means consultation, risk 43591
assessment, referral, and on-site crisis intervention services 43592
provided by a critical incident stress management team to 43593
individuals affected by crisis or disaster. 43594

(b) "Critical incident stress management team member" or 43595
"team member" means an individual specially trained to provide 43596
crisis response services as a member of an organized community or 43597

local crisis response team that holds membership in the Ohio
critical incident stress management network. 43598
43599

(c) "Debriefing session" means a session at which crisis
response services are rendered by a critical incident stress
management team member during or after a crisis or disaster. 43600
43601
43602

(L)(1) Subject to division (L)(2) of this section and except
as provided in division (L)(3) of this section, an employee
assistance professional, concerning a communication made to the
employee assistance professional by a client in the employee
assistance professional's official capacity as an employee
assistance professional. 43603
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(2) Division (L)(1) of this section applies to an employee
assistance professional who meets either or both of the following
requirements: 43609
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(a) Is certified by the employee assistance certification
commission to engage in the employee assistance profession; 43612
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(b) Has education, training, and experience in all of the
following: 43614
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(i) Providing workplace-based services designed to address
employer and employee productivity issues; 43616
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(ii) Providing assistance to employees and employees'
dependents in identifying and finding the means to resolve
personal problems that affect the employees or the employees'
performance; 43618
43619
43620
43621

(iii) Identifying and resolving productivity problems
associated with an employee's concerns about any of the following
matters: health, marriage, family, finances, substance abuse or
other addiction, workplace, law, and emotional issues; 43622
43623
43624
43625

(iv) Selecting and evaluating available community resources; 43626

(v) Making appropriate referrals; 43627

(vi) Local and national employee assistance agreements;	43628
(vii) Client confidentiality.	43629
(3) Division (L)(1) of this section does not apply to any of the following:	43630 43631
(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;	43632 43633 43634 43635
(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;	43636 43637 43638
(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;	43639 43640 43641
(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;	43642 43643 43644
(e) A civil or criminal malpractice action brought against the employee assistance professional;	43645 43646
(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;	43647 43648 43649
(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law.	43650 43651
Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 2317.41 of the Revised Code but subject to division (B) of this section, the records, or copies or photographs of the records, of a hospital, homes required to be licensed pursuant to section 3721.01 of the Revised Code, and adult care facilities required to	43652 43653 43654 43655 43656

be licensed pursuant to Chapter ~~3722~~. 5119. of the Revised Code, 43657
in lieu of the testimony in open court of their custodian, person 43658
who made them, or person under whose supervision they were made, 43659
may be qualified as authentic evidence if any such person endorses 43660
thereon the person's verified certification identifying such 43661
records, giving the mode and time of their preparation, and 43662
stating that they were prepared in the usual course of the 43663
business of the institution. Such records, copies, or photographs 43664
may not be qualified by certification as provided in this section 43665
unless the party intending to offer them delivers a copy of them, 43666
or of their relevant portions, to the attorney of record for each 43667
adverse party not less than five days before trial. Nothing in 43668
this section shall be construed to limit the right of any party to 43669
call the custodian, person who made such records, or person under 43670
whose supervision they were made, as a witness. 43671

(B) Division (A) of this section does not apply to any 43672
certified copy of the results of any test given to determine the 43673
presence or concentration of alcohol, a drug of abuse, a 43674
combination of them, a controlled substance, or a metabolite of a 43675
controlled substance in a patient's whole blood, blood serum or 43676
plasma, breath, or urine at any time relevant to a criminal 43677
offense that is submitted in a criminal action or proceeding in 43678
accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 43679
of the Revised Code. 43680

Sec. 2319.27. Except as section 147.08 of the Revised Code 43681
governs the fees chargeable by a notary public for services 43682
rendered in connection with depositions, the fees and expenses 43683
chargeable for the taking and certifying of a deposition by a 43684
person who is authorized to do so in this state, including, but 43685
not limited to, a ~~shorthand~~ reporter, stenographer, or person 43686
described in Civil Rule 28, may be established by that person 43687
subject to the qualification specified in this section, and may be 43688

different than the fees and expenses charged for the taking and 43689
certifying of depositions by similar persons in other areas of 43690
this state. Unless, prior to the taking and certifying of a 43691
deposition, the parties who request it agree that the fees or 43692
expenses to be charged may exceed the usual and customary fees or 43693
expenses charged in the particular community for similar services, 43694
such a person shall not charge fees or expenses in connection with 43695
the taking and certifying of the deposition that exceed those 43696
usual and customary fees and expenses. 43697

The person taking and certifying a deposition may retain the 43698
deposition until the fees and expenses that ~~he~~ the person charged 43699
are paid. ~~He~~ The person also shall tax the costs, if any, of a 43700
sheriff or other officer who serves any process in connection with 43701
the taking of a deposition and the fees of the witnesses, and, if 43702
directed by a person entitled to those costs or fees, may retain 43703
the deposition until those costs or fees are paid. 43704

Sec. 2329.26. (A) Lands and tenements taken in execution 43705
shall not be sold until all of the following occur: 43706

(1)(a) Except as otherwise provided in division (A)(1)(b) of 43707
this section, the judgment creditor who seeks the sale of the 43708
lands and tenements or the judgment creditor's attorney does both 43709
of the following: 43710

(i) Causes a written notice of the date, time, and place of 43711
the sale to be served in accordance with divisions (A) and (B) of 43712
Civil Rule 5 upon the judgment debtor and upon each other party to 43713
the action in which the judgment giving rise to the execution was 43714
rendered; 43715

(ii) At least seven calendar days prior to the date of the 43716
sale, files with the clerk of the court that rendered the judgment 43717
giving rise to the execution a copy of the written notice 43718
described in division (A)(1)(a)(i) of this section with proof of 43719

service endorsed on the copy in the form described in division (D) 43720
of Civil Rule 5. 43721

(b) Service of the written notice described in division 43722
(A)(1)(a)(i) of this section is not required to be made upon any 43723
party who is in default for failure to appear in the action in 43724
which the judgment giving rise to the execution was rendered. 43725

(2) The officer taking the lands and tenements gives public 43726
notice of the date, time, and place of the sale once a week for at 43727
least three consecutive weeks before the day of sale by 43728
advertisement in a newspaper ~~published in and~~ of general 43729
circulation in the county. The newspaper shall meet the 43730
requirements of section 7.12 of the Revised Code. The court 43731
ordering the sale may designate in the order of sale the newspaper 43732
in which this public notice shall be published, ~~and this public~~ 43733
~~notice is subject to division (A) of section 2329.27 of the~~ 43734
~~Revised Code.~~ 43735

(3) The officer taking the lands and tenements shall collect 43736
the purchaser's information required by section 2329.271 of the 43737
Revised Code. 43738

(B) A sale of lands and tenements taken in execution may be 43739
set aside in accordance with division (A) or (B) of section 43740
2329.27 of the Revised Code. 43741

Sec. 2335.05. In all cases or proceedings not specified in 43742
sections 2335.06 and 2335.08 of the Revised Code, except as 43743
otherwise provided in section 2335.061 of the Revised Code, each 43744
person subpoenaed as a witness shall be allowed one dollar for 43745
each day's attendance and the mileage allowed in courts of record. 43746
~~When~~ If not subpoenaed each person called upon to testify in a 43747
case or proceeding shall receive twenty-five cents. Such fee shall 43748
be taxed in the bill of costs, and if incurred in a state or 43749
ordinance case, or in a proceeding before a public officer, board, 43750

or commission, the fee shall be paid out of the proper public 43751
treasury, upon the certificate of the court, officer, board, or 43752
commission conducting the proceeding. 43753

Sec. 2335.06. ~~Each~~ (A) Except as otherwise provided in 43754
section 2335.061 of the Revised Code, each witness in civil cases 43755
shall receive the following fees: 43756

~~(A)(1)~~ Twelve dollars for each full day's attendance and six 43757
dollars for each half day's attendance at a court of record, 43758
mayor's court, or before a person authorized to take depositions, 43759
to be taxed in the bill of costs. Each witness shall also receive 43760
reimbursement for each mile necessarily traveled to and from the 43761
witness's place of residence to the place of giving testimony, to 43762
be taxed in the bill of costs. The board of county commissioners 43763
of each county shall set the reimbursement rate for each mile 43764
necessarily traveled by a witness in a civil case in the common 43765
pleas court, any division of the common pleas court, a county 43766
court, or a county-operated municipal court. The rate shall not 43767
exceed fifty and one-half cents for each mile. 43768

~~(B)(2)~~ For attending a coroner's inquest, the same fees and 43769
mileage provided by division (A)(1) of this section, payable from 43770
the county treasury on the certificate of the coroner. 43771

~~(C)(B)~~ As used in this section, "full day's attendance" means 43772
a day on which a witness is required or requested to be present at 43773
proceedings before and after twelve noon regardless of whether the 43774
witness actually testifies; "half day's attendance" means a day on 43775
which a witness is required or requested to be present at 43776
proceedings either before or after twelve noon, but not both, 43777
regardless of whether the witness actually testifies. 43778

Sec. 2335.061. (A) As used in this section: 43779

(1) "Coroner" has the same meaning as in section 313.01 of 43780

the Revised Code, and includes the following: 43781

(a) The coroner of a county other than a county in which the death occurred or the dead human body was found if the coroner of that other county performed services for the county in which the death occurred or the dead human body was found; 43782
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(b) A medical examiner appointed by the governing authority of a county to perform the duties of a coroner set forth in Chapter 313. of the Revised Code. 43786
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(2) "Deposition fee" means the amount derived by multiplying the hourly rate by the number of hours a coroner or deputy coroner spent preparing for and giving expert testimony at a deposition in a civil action pursuant to this section. 43789
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(3) "Deputy coroner" means a pathologist serving as a deputy coroner. 43793
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(4) "Expert testimony" means testimony given by a coroner or deputy coroner as an expert witness pursuant to this section and the Rules of Evidence. 43795
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(5) "Fact testimony" means testimony given by a coroner or deputy coroner regarding the performance of the duties of the coroner as set forth in Chapter 313. of the Revised Code. "Fact testimony" does not include expert testimony. 43798
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(6) "Hourly rate" means the compensation established in sections 325.15 and 325.18 of the Revised Code for a coroner without a private practice of medicine at the class 8 level for calendar year 2001 and thereafter, divided by two thousand eighty. 43802
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(7) "Testimonial fee" means the amount derived by multiplying the hourly rate by six and multiplying the product by the number of hours that a coroner or deputy coroner spent preparing for and giving expert testimony at a trial or hearing in a civil action pursuant to this section. 43806
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(B)(1) A party may subpoena a coroner or deputy coroner to give expert testimony at a trial, hearing, or deposition in a civil action only upon filing with the court a notice that includes all of the following: 43811
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(a) The name of the coroner or deputy coroner whose testimony is sought; 43815
43816

(b) A brief statement of the issues upon which the party seeks expert testimony from the coroner or deputy coroner; 43817
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(c) An acknowledgment by the party that the giving of expert testimony by the coroner or deputy coroner at the trial, hearing, or deposition is governed by this section and that the party will comply with all of the requirements of this section; 43819
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(d) A statement of the obligations of the coroner or deputy coroner under division (C) of this section. 43823
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(2) The notice under division (B)(1) of this section shall be served together with the subpoena. 43825
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(C) A party that obtains the expert testimony of a coroner or deputy coroner at a trial, hearing, or deposition in a civil action pursuant to division (B) or (D) of this section shall pay to the treasury of the county in which the coroner or deputy coroner holds office or is appointed or employed a testimonial fee or deposition fee, whichever is applicable, within thirty days after receiving the statement described in this division. Upon the conclusion of the coroner's or deputy coroner's expert testimony, the coroner or deputy coroner shall file a statement with the court on behalf of the county in which the coroner or deputy coroner holds office or is appointed or employed showing the fee due and how the coroner or deputy coroner calculated the fee. The coroner or deputy coroner shall serve a copy of the statement on each of the parties. 43827
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(D) For good cause shown, the court may permit a coroner or 43841

deputy coroner who has not been served with a subpoena under 43842
division (B) of this section to give expert testimony at a trial, 43843
hearing, or deposition in a civil action. Unless good cause is 43844
shown, the failure of a party to file with the court the notice 43845
described in division (B)(1) of this section prohibits the party 43846
from having a coroner or deputy coroner subpoenaed to give expert 43847
testimony at a trial, hearing, or deposition in a civil action or 43848
from otherwise calling the coroner or a deputy coroner to give 43849
expert testimony at a trial, hearing, or deposition in a civil 43850
action. 43851

(E) In the event of a dispute as to the contents of the 43852
notice filed by a party under division (B) of this section or as 43853
to the nature of the testimony sought from or given by a coroner 43854
or a deputy coroner at a trial, hearing, or deposition in a civil 43855
action, the court shall determine whether the testimony sought 43856
from or given by the coroner or deputy coroner is expert testimony 43857
or fact testimony. In making this determination, the court shall 43858
consider all of the following: 43859

(1) The definitions of "expert testimony" and "fact 43860
testimony" set forth in this section; 43861

(2) All applicable rules of evidence; 43862

(3) Any other information that the court considers relevant. 43863

(F) Nothing in this section shall be construed to alter, 43864
amend, or supersede the requirements of the Rules of Civil 43865
Procedure or the Rules of Evidence. 43866

Sec. 2501.16. (A) Each court of appeals may appoint one or 43867
more official ~~shorthand~~ reporters, law clerks, secretaries, and 43868
any other employees that the court considers necessary for its 43869
efficient operation. 43870

The clerk of the court of common pleas, acting as the clerk 43871

of the court of appeals for the county, shall perform the duties 43872
otherwise performed and collect the fees otherwise collected by 43873
the clerk of the court of common pleas, as set forth in section 43874
2303.03 of the Revised Code, and shall maintain the files and 43875
records of the court. The clerk of the court of common pleas, 43876
acting as the clerk of the court of appeals for the county, may 43877
refuse to accept for filing any pleading or paper submitted for 43878
filing by a person who has been found to be a vexatious litigator 43879
under section 2323.52 of the Revised Code and who has failed to 43880
obtain leave from the court of appeals to proceed under that 43881
section. The overhead expenses pertaining to the office of the 43882
clerk of the court of common pleas that result from the clerk's 43883
acting as clerk of the court of appeals for the county, other than 43884
wages and salaries, shall be paid from the funds provided under 43885
sections 2501.18 and 2501.181 of the Revised Code. 43886

Each officer and employee appointed pursuant to this section 43887
shall take an oath of office, serve at the pleasure of the court, 43888
and perform any duties that the court directs. Each ~~shorthand~~ 43889
reporter shall have the powers that are vested in official 43890
~~shorthand~~ reporters of the court of common pleas under sections 43891
2301.18 to 2301.26 of the Revised Code. Whenever an opinion, per 43892
curiam, or report of a case has been prepared in accordance with 43893
section 2503.20 of the Revised Code, the official ~~shorthand~~ 43894
reporter immediately shall forward one copy of the opinion, per 43895
curiam, or report to the reporter of the supreme court, without 43896
expense to the reporter. 43897

(B) The court of appeals may determine that, for the 43898
efficient operation of the court, additional funds are necessary 43899
to acquire and pay for special projects of the court, including, 43900
but not limited to, the acquisition of additional facilities or 43901
the rehabilitation of existing facilities, the acquisition of 43902
equipment, the hiring and training of staff, the employment of 43903

magistrates, the training and education of judges, acting judges, 43904
and magistrates, community service programs, and other related 43905
services. Upon that determination, the court by rule may charge a 43906
fee, in addition to all other court costs, on the filing of each 43907
case or cause over which the court has jurisdiction. 43908

If the court of appeals offers a special program or service 43909
in cases of a specific type, the court by rule may assess an 43910
additional charge in a case of that type, over and above court 43911
costs, to cover the special program or service. The court shall 43912
adjust the special assessment periodically, but not retroactively, 43913
so that the amount assessed in those cases does not exceed the 43914
actual cost of providing the service or program. 43915

All moneys collected under division (B) of this section shall 43916
be paid to the county treasurer of the county selected as the 43917
principal seat of that court of appeals for deposit into either a 43918
general special projects fund or a fund established for a specific 43919
special project. Moneys from a fund of that nature shall be 43920
disbursed upon an order of the court in an amount no greater than 43921
the actual cost to the court of a project. If a specific fund is 43922
terminated because of the discontinuance of a program or service 43923
established under division (B) of this section, the court may 43924
order that moneys remaining in the fund be transferred to an 43925
account established under this division for a similar purpose. 43926

Sec. 2501.17. Each officer and employee of a court of appeals 43927
appointed under section 2501.16 of the Revised Code shall receive 43928
the compensation that is fixed by the court of appeals and payable 43929
from the state treasury upon the certificate of the presiding or 43930
administrative judge of the district in which the officer or 43931
employee serves. The additional amount of compensation that the 43932
clerk of the court of common pleas receives for acting as the 43933
clerk of the court of appeals in ~~his~~ the clerk's county and 43934

assuming the duties of that office and that is equal to one-eighth 43935
of the annual compensation that ~~he~~ the clerk receives pursuant to 43936
sections 325.08 and 325.18 of the Revised Code for being the clerk 43937
of the court of common pleas is payable from the state treasury 43938
upon the certificate of the presiding or administrative judge of 43939
the district in which the clerk serves. 43940

~~Shorthand reporters~~ Reporters may receive additional 43941
compensation for transcripts of evidence, the fee for the 43942
transcripts to be fixed by the judges of the court of appeals and 43943
paid and collected in the same manner as the fees for transcripts 43944
furnished by official ~~shorthand~~ reporters of the court of common 43945
pleas under section 2301.24 of the Revised Code. ~~Shorthand~~ 43946
~~reporters~~ Reporters appointed for a term of less than one year 43947
shall receive a per diem compensation of not less than thirty 43948
dollars per day. All ~~shorthand~~ reporters shall receive their 43949
actual expenses for traveling when attending court in any county 43950
other than that in which they reside, to be paid as provided by 43951
section ~~2301.24~~ 2301.22 of the Revised Code. 43952

Sec. 2743.09. The clerk of the court of claims shall do all 43953
of the following: 43954

(A) Administer oaths and take and certify affidavits, 43955
depositions, and acknowledgments of powers of attorney and other 43956
instruments in writing; 43957

(B) Prepare the dockets, enter and record the orders, 43958
judgments, decisions, awards, and proceedings of the court of 43959
claims and the court of claims commissioners, and issue writs and 43960
process; 43961

(C) Maintain an office in Franklin county in rooms provided 43962
by the supreme court for that purpose; 43963

(D) Keep an appearance docket of civil actions, claims for an 43964

award of reparations, and appeals from decisions of the court of 43965
claims commissioners. The clerk may refuse to accept for filing 43966
any pleading or paper that relates to a civil action in the court 43967
of claims and that is submitted for filing by a person who has 43968
been found to be a vexatious litigator under section 2323.52 of 43969
the Revised Code and who has failed to obtain leave to proceed 43970
under that section. 43971

Upon the commencement of an action or claim, the clerk shall 43972
assign it a number. This number shall be placed on the first page, 43973
and every continuation page, of the appearance docket that 43974
concerns the particular action or claim. In addition, this number 43975
and the names of the parties shall be placed on the case file, and 43976
every paper filed in the action or claim. 43977

At the time the action is commenced the clerk shall enter in 43978
the appearance docket the names of the parties in full and the 43979
names of counsel and shall index the action alphabetically by the 43980
last name of each party. Thereafter, the clerk shall 43981
chronologically note in the appearance docket all process issued 43982
and returns, pleas, motions, papers filed in the action, orders, 43983
verdicts, and judgments. The notations shall be brief but shall 43984
show the date of filing, substance, and journal volume and page of 43985
each order, verdict, and judgment. An action is commenced for 43986
purposes of this division by the filing of a complaint, including 43987
a form complaint under section 2743.10 of the Revised Code or a 43988
petition for removal. 43989

At the time an appeal for an award of reparations is 43990
commenced, the clerk shall enter the full names of the claimant, 43991
the victim, and the attorneys in the appearance docket and shall 43992
index the claim alphabetically by the last name of the claimant 43993
and the victim. Thereafter, the clerk shall chronologically note 43994
in the appearance docket all process issued and returns, motions, 43995
papers filed in the claim, orders, decisions, and awards. The 43996

notations shall be brief but shall show the date of filing, 43997
substance, and journal volume and page of each order. 43998

(E) Keep all original papers filed in an action or claim in a 43999
separate file folder and a journal in which all orders, verdicts, 44000
and judgments of the court and commissioners shall be recorded; 44001

(F) Charge and collect fees pursuant to section 2303.20 of 44002
the Revised Code, keep a cashbook in which the clerk shall enter 44003
the amounts received, make a report to the clerk of the supreme 44004
court each quarter of the fees received during the preceding 44005
quarter, and pay them monthly into the state treasury; 44006

(G) Appoint stenographers, ~~shorthand~~ reporters, and other 44007
clerical personnel; 44008

(H) Under the direction of the chief justice, establish 44009
procedures for hearing and determining appeals for an award of 44010
reparations pursuant to sections 2743.51 to 2743.72 of the Revised 44011
Code. 44012

Sec. 2744.05. Notwithstanding any other provisions of the 44013
Revised Code or rules of a court to the contrary, in an action 44014
against a political subdivision to recover damages for injury, 44015
death, or loss to person or property caused by an act or omission 44016
in connection with a governmental or proprietary function: 44017

(A) Punitive or exemplary damages shall not be awarded. 44018

(B)(1) If a claimant receives or is entitled to receive 44019
benefits for injuries or loss allegedly incurred from a policy or 44020
policies of insurance or any other source, the benefits shall be 44021
disclosed to the court, and the amount of the benefits shall be 44022
deducted from any award against a political subdivision recovered 44023
by that claimant. No insurer or other person is entitled to bring 44024
an action under a subrogation provision in an insurance or other 44025
contract against a political subdivision with respect to those 44026

benefits. 44027

The amount of the benefits shall be deducted from an award 44028
against a political subdivision under division (B)(1) of this 44029
section regardless of whether the claimant may be under an 44030
obligation to pay back the benefits upon recovery, in whole or in 44031
part, for the claim. A claimant whose benefits have been deducted 44032
from an award under division (B)(1) of this section is not 44033
considered fully compensated and shall not be required to 44034
reimburse a subrogated claim for benefits deducted from an award 44035
pursuant to division (B)(1) of this section. 44036

(2) Nothing in division (B)(1) of this section shall be 44037
construed to do either of the following: 44038

(a) Limit the rights of a beneficiary under a life insurance 44039
policy or the rights of sureties under fidelity or surety bonds; 44040

(b) Prohibit the department of job and family services from 44041
recovering from the political subdivision, pursuant to section 44042
5101.58 of the Revised Code, the cost of medical assistance 44043
benefits provided under ~~sections 5101.5211 to 5101.5216~~ or Chapter 44044
5107.~~7~~ or 5111. of the Revised Code. 44045

(C)(1) There shall not be any limitation on compensatory 44046
damages that represent the actual loss of the person who is 44047
awarded the damages. However, except in wrongful death actions 44048
brought pursuant to Chapter 2125. of the Revised Code, damages 44049
that arise from the same cause of action, transaction or 44050
occurrence, or series of transactions or occurrences and that do 44051
not represent the actual loss of the person who is awarded the 44052
damages shall not exceed two hundred fifty thousand dollars in 44053
favor of any one person. The limitation on damages that do not 44054
represent the actual loss of the person who is awarded the damages 44055
provided in this division does not apply to court costs that are 44056
awarded to a plaintiff, or to interest on a judgment rendered in 44057

favor of a plaintiff, in an action against a political 44058
subdivision. 44059

(2) As used in this division, "the actual loss of the person 44060
who is awarded the damages" includes all of the following: 44061

(a) All wages, salaries, or other compensation lost by the 44062
person injured as a result of the injury, including wages, 44063
salaries, or other compensation lost as of the date of a judgment 44064
and future expected lost earnings of the person injured; 44065

(b) All expenditures of the person injured or another person 44066
on behalf of the person injured for medical care or treatment, for 44067
rehabilitation services, or for other care, treatment, services, 44068
products, or accommodations that were necessary because of the 44069
injury; 44070

(c) All expenditures to be incurred in the future, as 44071
determined by the court, by the person injured or another person 44072
on behalf of the person injured for medical care or treatment, for 44073
rehabilitation services, or for other care, treatment, services, 44074
products, or accommodations that will be necessary because of the 44075
injury; 44076

(d) All expenditures of a person whose property was injured 44077
or destroyed or of another person on behalf of the person whose 44078
property was injured or destroyed in order to repair or replace 44079
the property that was injured or destroyed; 44080

(e) All expenditures of the person injured or of the person 44081
whose property was injured or destroyed or of another person on 44082
behalf of the person injured or of the person whose property was 44083
injured or destroyed in relation to the actual preparation or 44084
presentation of the claim involved; 44085

(f) Any other expenditures of the person injured or of the 44086
person whose property was injured or destroyed or of another 44087
person on behalf of the person injured or of the person whose 44088

property was injured or destroyed that the court determines 44089
represent an actual loss experienced because of the personal or 44090
property injury or property loss. 44091

"The actual loss of the person who is awarded the damages" 44092
does not include any fees paid or owed to an attorney for any 44093
services rendered in relation to a personal or property injury or 44094
property loss, and does not include any damages awarded for pain 44095
and suffering, for the loss of society, consortium, companionship, 44096
care, assistance, attention, protection, advice, guidance, 44097
counsel, instruction, training, or education of the person 44098
injured, for mental anguish, or for any other intangible loss. 44099

Sec. 2901.01. (A) As used in the Revised Code: 44100

(1) "Force" means any violence, compulsion, or constraint 44101
physically exerted by any means upon or against a person or thing. 44102

(2) "Deadly force" means any force that carries a substantial 44103
risk that it will proximately result in the death of any person. 44104

(3) "Physical harm to persons" means any injury, illness, or 44105
other physiological impairment, regardless of its gravity or 44106
duration. 44107

(4) "Physical harm to property" means any tangible or 44108
intangible damage to property that, in any degree, results in loss 44109
to its value or interferes with its use or enjoyment. "Physical 44110
harm to property" does not include wear and tear occasioned by 44111
normal use. 44112

(5) "Serious physical harm to persons" means any of the 44113
following: 44114

(a) Any mental illness or condition of such gravity as would 44115
normally require hospitalization or prolonged psychiatric 44116
treatment; 44117

(b) Any physical harm that carries a substantial risk of 44118

death;	44119
(c) Any physical harm that involves some permanent	44120
incapacity, whether partial or total, or that involves some	44121
temporary, substantial incapacity;	44122
(d) Any physical harm that involves some permanent	44123
disfigurement or that involves some temporary, serious	44124
disfigurement;	44125
(e) Any physical harm that involves acute pain of such	44126
duration as to result in substantial suffering or that involves	44127
any degree of prolonged or intractable pain.	44128
(6) "Serious physical harm to property" means any physical	44129
harm to property that does either of the following:	44130
(a) Results in substantial loss to the value of the property	44131
or requires a substantial amount of time, effort, or money to	44132
repair or replace;	44133
(b) Temporarily prevents the use or enjoyment of the property	44134
or substantially interferes with its use or enjoyment for an	44135
extended period of time.	44136
(7) "Risk" means a significant possibility, as contrasted	44137
with a remote possibility, that a certain result may occur or that	44138
certain circumstances may exist.	44139
(8) "Substantial risk" means a strong possibility, as	44140
contrasted with a remote or significant possibility, that a	44141
certain result may occur or that certain circumstances may exist.	44142
(9) "Offense of violence" means any of the following:	44143
(a) A violation of section 2903.01, 2903.02, 2903.03,	44144
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211,	44145
2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03,	44146
2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11,	44147
2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04,	44148

2921.34, or 2923.161, of division (A)(1), (2), or (3) of section 44149
2911.12, or of division (B)(1), (2), (3), or (4) of section 44150
2919.22 of the Revised Code or felonious sexual penetration in 44151
violation of former section 2907.12 of the Revised Code; 44152

(b) A violation of an existing or former municipal ordinance 44153
or law of this or any other state or the United States, 44154
substantially equivalent to any section, division, or offense 44155
listed in division (A)(9)(a) of this section; 44156

(c) An offense, other than a traffic offense, under an 44157
existing or former municipal ordinance or law of this or any other 44158
state or the United States, committed purposely or knowingly, and 44159
involving physical harm to persons or a risk of serious physical 44160
harm to persons; 44161

(d) A conspiracy or attempt to commit, or complicity in 44162
committing, any offense under division (A)(9)(a), (b), or (c) of 44163
this section. 44164

(10)(a) "Property" means any property, real or personal, 44165
tangible or intangible, and any interest or license in that 44166
property. "Property" includes, but is not limited to, cable 44167
television service, other telecommunications service, 44168
telecommunications devices, information service, computers, data, 44169
computer software, financial instruments associated with 44170
computers, other documents associated with computers, or copies of 44171
the documents, whether in machine or human readable form, trade 44172
secrets, trademarks, copyrights, patents, and property protected 44173
by a trademark, copyright, or patent. "Financial instruments 44174
associated with computers" include, but are not limited to, 44175
checks, drafts, warrants, money orders, notes of indebtedness, 44176
certificates of deposit, letters of credit, bills of credit or 44177
debit cards, financial transaction authorization mechanisms, 44178
marketable securities, or any computer system representations of 44179
any of them. 44180

(b) As used in division (A)(10) of this section, "trade
secret" has the same meaning as in section 1333.61 of the Revised
Code, and "telecommunications service" and "information service"
have the same meanings as in section 2913.01 of the Revised Code.

(c) As used in divisions (A)(10) and (13) of this section,
"cable television service," "computer," "computer software,"
"computer system," "computer network," "data," and
"telecommunications device" have the same meanings as in section
2913.01 of the Revised Code.

(11) "Law enforcement officer" means any of the following:

(a) A sheriff, deputy sheriff, constable, police officer of a
township or joint ~~township~~ police district, marshal, deputy
marshal, municipal police officer, member of a police force
employed by a metropolitan housing authority under division (D) of
section 3735.31 of the Revised Code, or state highway patrol
trooper;

(b) An officer, agent, or employee of the state or any of its
agencies, instrumentalities, or political subdivisions, upon whom,
by statute, a duty to conserve the peace or to enforce all or
certain laws is imposed and the authority to arrest violators is
conferred, within the limits of that statutory duty and authority;

(c) A mayor, in the mayor's capacity as chief conservator of
the peace within the mayor's municipal corporation;

(d) A member of an auxiliary police force organized by
county, township, or municipal law enforcement authorities, within
the scope of the member's appointment or commission;

(e) A person lawfully called pursuant to section 311.07 of
the Revised Code to aid a sheriff in keeping the peace, for the
purposes and during the time when the person is called;

(f) A person appointed by a mayor pursuant to section 737.01

of the Revised Code as a special patrolling officer during riot or 44211
emergency, for the purposes and during the time when the person is 44212
appointed; 44213

(g) A member of the organized militia of this state or the 44214
armed forces of the United States, lawfully called to duty to aid 44215
civil authorities in keeping the peace or protect against domestic 44216
violence; 44217

(h) A prosecuting attorney, assistant prosecuting attorney, 44218
secret service officer, or municipal prosecutor; 44219

(i) A veterans' home police officer appointed under section 44220
5907.02 of the Revised Code; 44221

(j) A member of a police force employed by a regional transit 44222
authority under division (Y) of section 306.35 of the Revised 44223
Code; 44224

(k) A special police officer employed by a port authority 44225
under section 4582.04 or 4582.28 of the Revised Code; 44226

(l) The house of representatives sergeant at arms if the 44227
house of representatives sergeant at arms has arrest authority 44228
pursuant to division (E)(1) of section 101.311 of the Revised Code 44229
and an assistant house of representatives sergeant at arms; 44230

(m) A special police officer employed by a municipal 44231
corporation at a municipal airport, or other municipal air 44232
navigation facility, that has scheduled operations, as defined in 44233
section 119.3 of Title 14 of the Code of Federal Regulations, 14 44234
C.F.R. 119.3, as amended, and that is required to be under a 44235
security program and is governed by aviation security rules of the 44236
transportation security administration of the United States 44237
department of transportation as provided in Parts 1542. and 1544. 44238
of Title 49 of the Code of Federal Regulations, as amended. 44239

(12) "Privilege" means an immunity, license, or right 44240

conferred by law, bestowed by express or implied grant, arising 44241
out of status, position, office, or relationship, or growing out 44242
of necessity. 44243

(13) "Contraband" means any property that is illegal for a 44244
person to acquire or possess under a statute, ordinance, or rule, 44245
or that a trier of fact lawfully determines to be illegal to 44246
possess by reason of the property's involvement in an offense. 44247
"Contraband" includes, but is not limited to, all of the 44248
following: 44249

(a) Any controlled substance, as defined in section 3719.01 44250
of the Revised Code, or any device or paraphernalia; 44251

(b) Any unlawful gambling device or paraphernalia; 44252

(c) Any dangerous ordnance or obscene material. 44253

(14) A person is "not guilty by reason of insanity" relative 44254
to a charge of an offense only if the person proves, in the manner 44255
specified in section 2901.05 of the Revised Code, that at the time 44256
of the commission of the offense, the person did not know, as a 44257
result of a severe mental disease or defect, the wrongfulness of 44258
the person's acts. 44259

(B)(1)(a) Subject to division (B)(2) of this section, as used 44260
in any section contained in Title XXIX of the Revised Code that 44261
sets forth a criminal offense, "person" includes all of the 44262
following: 44263

(i) An individual, corporation, business trust, estate, 44264
trust, partnership, and association; 44265

(ii) An unborn human who is viable. 44266

(b) As used in any section contained in Title XXIX of the 44267
Revised Code that does not set forth a criminal offense, "person" 44268
includes an individual, corporation, business trust, estate, 44269
trust, partnership, and association. 44270

(c) As used in division (B)(1)(a) of this section: 44271

(i) "Unborn human" means an individual organism of the 44272
species *Homo sapiens* from fertilization until live birth. 44273

(ii) "Viable" means the stage of development of a human fetus 44274
at which there is a realistic possibility of maintaining and 44275
nourishing of a life outside the womb with or without temporary 44276
artificial life-sustaining support. 44277

(2) Notwithstanding division (B)(1)(a) of this section, in no 44278
case shall the portion of the definition of the term "person" that 44279
is set forth in division (B)(1)(a)(ii) of this section be applied 44280
or construed in any section contained in Title XXIX of the Revised 44281
Code that sets forth a criminal offense in any of the following 44282
manners: 44283

(a) Except as otherwise provided in division (B)(2)(a) of 44284
this section, in a manner so that the offense prohibits or is 44285
construed as prohibiting any pregnant woman or her physician from 44286
performing an abortion with the consent of the pregnant woman, 44287
with the consent of the pregnant woman implied by law in a medical 44288
emergency, or with the approval of one otherwise authorized by law 44289
to consent to medical treatment on behalf of the pregnant woman. 44290
An abortion that violates the conditions described in the 44291
immediately preceding sentence may be punished as a violation of 44292
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 44293
2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 44294
of the Revised Code, as applicable. An abortion that does not 44295
violate the conditions described in the second immediately 44296
preceding sentence, but that does violate section 2919.12, 44297
division (B) of section 2919.13, or section 2919.151, 2919.17, or 44298
2919.18 of the Revised Code, may be punished as a violation of 44299
section 2919.12, division (B) of section 2919.13, or section 44300
2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. 44301
Consent is sufficient under this division if it is of the type 44302

otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with section 2919.12 of the Revised Code.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

(i) Her delivery of a stillborn baby;

(ii) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;

(iii) Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;

(iv) Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;

(v) Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(C) As used in Title XXIX of the Revised Code:

(1) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.

(2) "School," "school building," and "school premises" have the same meanings as in section 2925.01 of the Revised Code.

(3) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Chapter 3314. of the Revised Code; a governing board of an

educational service center, or the governing body of a school for 44333
which the state board of education prescribes minimum standards 44334
under section 3301.07 of the Revised Code. 44335

(4) "School bus" has the same meaning as in section 4511.01 44336
of the Revised Code. 44337

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the 44338
Revised Code: 44339

(A) "Care facility" means any of the following: 44340

(1) Any "home" as defined in section 3721.10 or 5111.20 of 44341
the Revised Code; 44342

(2) Any "residential facility" as defined in section 5123.19 44343
of the Revised Code; 44344

(3) Any institution or facility operated or provided by the 44345
department of mental health or by the department of developmental 44346
disabilities pursuant to sections 5119.02 and 5123.03 of the 44347
Revised Code; 44348

(4) Any "residential facility" as defined in section 5119.22 44349
of the Revised Code; 44350

(5) Any unit of any hospital, as defined in section 3701.01 44351
of the Revised Code, that provides the same services as a nursing 44352
home, as defined in section 3721.01 of the Revised Code; 44353

(6) Any institution, residence, or facility that provides, 44354
for a period of more than twenty-four hours, whether for a 44355
consideration or not, accommodations to one individual or two 44356
unrelated individuals who are dependent upon the services of 44357
others; 44358

(7) Any "adult care facility" as defined in section ~~3722.01~~ 44359
5119.70 of the Revised Code; 44360

(8) Any adult foster home certified ~~by the department of~~ 44361

~~aging or its designee~~ under section ~~173.36~~ 5119.692 of the Revised Code. 44362
44363

(B) "Abuse" means knowingly causing physical harm or 44364
recklessly causing serious physical harm to a person by physical 44365
contact with the person or by the inappropriate use of a physical 44366
or chemical restraint, medication, or isolation on the person. 44367

(C)(1) "Gross neglect" means knowingly failing to provide a 44368
person with any treatment, care, goods, or service that is 44369
necessary to maintain the health or safety of the person when the 44370
failure results in physical harm or serious physical harm to the 44371
person. 44372

(2) "Neglect" means recklessly failing to provide a person 44373
with any treatment, care, goods, or service that is necessary to 44374
maintain the health or safety of the person when the failure 44375
results in serious physical harm to the person. 44376

(D) "Inappropriate use of a physical or chemical restraint, 44377
medication, or isolation" means the use of physical or chemical 44378
restraint, medication, or isolation as punishment, for staff 44379
convenience, excessively, as a substitute for treatment, or in 44380
quantities that preclude habilitation and treatment. 44381

Sec. 2907.15. (A) As used in this section: 44382

(1) "Public retirement system" means the public employees 44383
retirement system, state teachers retirement system, school 44384
employees retirement system, Ohio police and fire pension fund, 44385
state highway patrol retirement system, or a municipal retirement 44386
system of a municipal corporation of this state. 44387

(2) "Government deferred compensation program" means such a 44388
program offered by the Ohio public employees deferred compensation 44389
board; a municipal corporation; ~~or~~ a governmental unit, as defined 44390
in section 148.06 of the Revised Code, or a program styled as a 44391

supplemental employee deferral plan offered by the treasurer of 44392
state. 44393

(3) "Deferred compensation program participant" means a 44394
"participating employee" or "continuing member," as defined in 44395
section 148.01 of the Revised Code, or any other public employee 44396
who has funds in a government deferred compensation program. 44397

(4) "Alternative retirement plan" means an alternative 44398
retirement plan provided pursuant to Chapter 3305. of the Revised 44399
Code. 44400

(5) "Prosecutor" has the same meaning as in section 2935.01 44401
of the Revised Code. 44402

In any case in which a sentencing court orders restitution to 44403
the victim under section 2929.18 or 2929.28 of the Revised Code 44404
for a violation of section 2907.02, 2907.03, 2907.04, or 2907.05 44405
of the Revised Code and in which the offender is a government 44406
deferred compensation program participant, is an electing 44407
employee, as defined in section 3305.01 of the Revised Code, or is 44408
a member of, or receiving a pension, benefit, or allowance, other 44409
than a survivorship benefit, from, a public retirement system and 44410
committed the offense against a child, student, patient, or other 44411
person with whom the offender had contact in the context of the 44412
offender's public employment, at the request of the victim the 44413
prosecutor shall file a motion with the sentencing court 44414
specifying the government deferred compensation program, 44415
alternative retirement plan, or public retirement system and 44416
requesting that the court issue an order requiring the government 44417
deferred compensation program, alternative retirement plan, or 44418
public retirement system to withhold the amount required as 44419
restitution from one or more of the following: any payment to be 44420
made from a government deferred compensation program, any payment 44421
or benefit under an alternative retirement plan, or under a 44422
pension, annuity, allowance, or any other benefit, other than a 44423

survivorship benefit, that has been or is in the future granted to 44424
the offender; from any payment of accumulated employee 44425
contributions standing to the offender's credit with the 44426
government deferred compensation program, alternative retirement 44427
plan, or public retirement system; or from any payment of any 44428
other amounts to be paid to the offender pursuant to section 44429
113.42 or Chapter 145., 148., 742., 3307., 3309., or 5505. of the 44430
Revised Code on withdrawal of contributions. The motion may be 44431
filed at any time subsequent to the conviction of the offender or 44432
entry of a guilty plea. On the filing of the motion, the clerk of 44433
the court in which the motion is filed shall notify the offender 44434
and the government deferred compensation program, alternative 44435
retirement plan, or public retirement system, in writing, of all 44436
of the following: that the motion was filed; that the offender 44437
will be granted a hearing on the issuance of the requested order 44438
if the offender files a written request for a hearing with the 44439
clerk prior to the expiration of thirty days after the offender 44440
receives the notice; that, if a hearing is requested, the court 44441
will schedule a hearing as soon as possible and notify the 44442
offender and the government deferred compensation program, 44443
alternative retirement plan, or public retirement system of the 44444
date, time, and place of the hearing; that, if a hearing is 44445
conducted, it will be limited to a consideration of whether the 44446
offender can show good cause why the order should not be issued; 44447
that, if a hearing is conducted, the court will not issue the 44448
order if the court determines, based on evidence presented at the 44449
hearing by the offender, that there is good cause for the order 44450
not to be issued; that the court will issue the order if a hearing 44451
is not requested or if a hearing is conducted but the court does 44452
not determine, based on evidence presented at the hearing by the 44453
offender, that there is good cause for the order not to be issued; 44454
and that, if the order is issued, the government deferred 44455
compensation program, alternative retirement plan, or public 44456

retirement system specified in the motion will be required to 44457
withhold the amount required as restitution from payments to the 44458
offender. 44459

(B) In any case in which a motion requesting the issuance of 44460
a withholding order as described in division (A) of this section 44461
is filed, the offender may receive a hearing on the motion by 44462
delivering a written request for a hearing to the court prior to 44463
the expiration of thirty days after the offender's receipt of the 44464
notice provided pursuant to division (A) of this section. If the 44465
offender requests a hearing within the prescribed time, the court 44466
shall schedule a hearing as soon as possible after the request is 44467
made and notify the offender and the government deferred 44468
compensation program, alternative retirement plan, or public 44469
retirement system of the date, time, and place of the hearing. A 44470
hearing scheduled under this division shall be limited to a 44471
consideration of whether there is good cause, based on evidence 44472
presented by the offender, for the requested order not to be 44473
issued. If the court determines, based on evidence presented by 44474
the offender, that there is good cause for the order not to be 44475
issued, the court shall deny the motion and shall not issue the 44476
order. Good cause for not issuing the order includes a 44477
determination by the court that the order would severely impact 44478
the offender's ability to support the offender's dependents. 44479

If the offender does not request a hearing within the 44480
prescribed time or the court conducts a hearing but does not 44481
determine, based on evidence presented by the offender, that there 44482
is good cause for the order not to be issued, the court shall 44483
order the government deferred compensation program, alternative 44484
retirement plan, or public retirement system to withhold the 44485
amount required as restitution from one or more of the following: 44486
any payments to be made from a government deferred compensation 44487
program, any payment or benefit under an alternative retirement 44488

plan, or under a pension, annuity, allowance, or under any other 44489
benefit, other than a survivorship benefit, that has been or is in 44490
the future granted to the offender; from any payment of 44491
accumulated employee contributions standing to the offender's 44492
credit with the government deferred compensation program, 44493
alternative retirement plan, or public retirement system; or from 44494
any payment of any other amounts to be paid to the offender upon 44495
withdrawal of contributions pursuant to Chapter 145., 148., 742., 44496
3307., 3309., or 5505. of the Revised Code and to continue the 44497
withholding for that purpose, in accordance with the order, out of 44498
each payment to be made on or after the date of issuance of the 44499
order, until further order of the court. On receipt of an order 44500
issued under this division, the government deferred compensation 44501
program, alternative retirement plan, or public retirement system 44502
shall withhold the amount required as restitution, in accordance 44503
with the order, from any such payments and immediately forward the 44504
amount withheld to the clerk of the court in which the order was 44505
issued for payment to the person to whom restitution is to be 44506
made. The order shall not apply to any portion of payments made 44507
from a government deferred compensation program, alternative 44508
retirement plan, or public retirement system to a person other 44509
than the offender pursuant to a previously issued domestic court 44510
order. 44511

(C) Service of a notice required by division (A) or (B) of 44512
this section shall be effected in the same manner as provided in 44513
the Rules of Civil Procedure for the service of process. 44514

(D) Upon the filing of charges under section 2907.02, 44515
2907.03, 2907.04, or 2907.05 of the Revised Code against a person 44516
who is a deferred compensation program participant, an electing 44517
employee participating in an alternative retirement plan, or a 44518
member of, or receiving a pension benefit, or allowance, other 44519
than a survivorship benefit, from a public retirement system for 44520

an offense against a child, student, patient, or other person with whom the offender had contact in the context of the offender's public employment, the prosecutor shall send written notice that charges have been filed against that person to the appropriate government deferred compensation program, alternative retirement plan, or public retirement system. The notice shall specifically identify the person charged.

Sec. 2915.01. As used in this chapter:

(A) "Bookmaking" means the business of receiving or paying off bets.

(B) "Bet" means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.

(C) "Scheme of chance" means a slot machine, lottery, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit.

(D) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

(E) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

(F) "Gambling device" means any of the following:

(1) A book, totalizer, or other equipment for recording bets;

(2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;

(3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance; 44550
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(4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes; 44553
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(5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter. 44555
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(G) "Gambling offense" means any of the following: 44557

(1) A violation of section 2915.02, 2915.03, 2915.04, 2915.05, 2915.06, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.10, or 2915.11 of the Revised Code; 44558
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(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in division (G)(1) of this section or a violation of section 2915.06 of the Revised Code as it existed prior to July 1, 1996; 44561
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(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element; 44566
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(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (G)(1), (2), or (3) of this section. 44569
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(H) Except as otherwise provided in this chapter, "charitable organization" means any tax exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, youth athletic, amateur athletic, or youth athletic park organization. An organization is tax exempt if the organization is, and has received from the internal revenue service a determination letter that currently is 44572
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in effect stating that the organization is, exempt from federal 44580
income taxation under subsection 501(a) and described in 44581
subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 44582
501(c)(19) of the Internal Revenue Code, or if the organization is 44583
a sporting organization that is exempt from federal income 44584
taxation under subsection 501(a) and is described in subsection 44585
501(c)(7) of the Internal Revenue Code. To qualify as a charitable 44586
organization, an organization, except a volunteer rescue service 44587
or volunteer firefighter's organization, shall have been in 44588
continuous existence as such in this state for a period of two 44589
years immediately preceding either the making of an application 44590
for a bingo license under section 2915.08 of the Revised Code or 44591
the conducting of any game of chance as provided in division (D) 44592
of section 2915.02 of the Revised Code. A charitable organization 44593
that is exempt from federal income taxation under subsection 44594
501(a) and described in subsection 501(c)(3) of the Internal 44595
Revenue Code and that is created by a veteran's organization, a 44596
fraternal organization, or a sporting organization does not have 44597
to have been in continuous existence as such in this state for a 44598
period of two years immediately preceding either the making of an 44599
application for a bingo license under section 2915.08 of the 44600
Revised Code or the conducting of any game of chance as provided 44601
in division (D) of section 2915.02 of the Revised Code. 44602

(I) "Religious organization" means any church, body of 44603
communicants, or group that is not organized or operated for 44604
profit and that gathers in common membership for regular worship 44605
and religious observances. 44606

(J) "Educational organization" means any organization within 44607
this state that is not organized for profit, the primary purpose 44608
of which is to educate and develop the capabilities of individuals 44609
through instruction by means of operating or contributing to the 44610
support of a school, academy, college, or university. 44611

(K) "Veteran's organization" means any individual post or 44612
state headquarters of a national veteran's association or an 44613
auxiliary unit of any individual post of a national veteran's 44614
association, which post, state headquarters, or auxiliary unit is 44615
incorporated as a nonprofit corporation and either has received a 44616
letter from the state headquarters of the national veteran's 44617
association indicating that the individual post or auxiliary unit 44618
is in good standing with the national veteran's association or has 44619
received a letter from the national veteran's association 44620
indicating that the state headquarters is in good standing with 44621
the national veteran's association. As used in this division, 44622
"national veteran's association" means any veteran's association 44623
that has been in continuous existence as such for a period of at 44624
least five years and either is incorporated by an act of the 44625
United States congress or has a national dues-paying membership of 44626
at least five thousand persons. 44627

(L) "Volunteer firefighter's organization" means any 44628
organization of volunteer firefighters, as defined in section 44629
146.01 of the Revised Code, that is organized and operated 44630
exclusively to provide financial support for a volunteer fire 44631
department or a volunteer fire company and that is recognized or 44632
ratified by a county, municipal corporation, or township. 44633

(M) "Fraternal organization" means any society, order, state 44634
headquarters, or association within this state, except a college 44635
or high school fraternity, that is not organized for profit, that 44636
is a branch, lodge, or chapter of a national or state 44637
organization, that exists exclusively for the common business or 44638
sodality of its members. 44639

(N) "Volunteer rescue service organization" means any 44640
organization of volunteers organized to function as an emergency 44641
medical service organization, as defined in section 4765.01 of the 44642
Revised Code. 44643

(O) "Service organization" means either of the following: 44644

(1) Any organization, not organized for profit, that is 44645
organized and operated exclusively to provide, or to contribute to 44646
the support of organizations or institutions organized and 44647
operated exclusively to provide, medical and therapeutic services 44648
for persons who are crippled, born with birth defects, or have any 44649
other mental or physical defect or those organized and operated 44650
exclusively to protect, or to contribute to the support of 44651
organizations or institutions organized and operated exclusively 44652
to protect, animals from inhumane treatment or provide immediate 44653
shelter to victims of domestic violence; 44654

(2) Any organization that is described in subsection 44655
509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code 44656
and is either a governmental unit or an organization that is tax 44657
exempt under subsection 501(a) and described in subsection 44658
501(c)(3) of the Internal Revenue Code and that is an 44659
organization, not organized for profit, that is organized and 44660
operated primarily to provide, or to contribute to the support of 44661
organizations or institutions organized and operated primarily to 44662
provide, medical and therapeutic services for persons who are 44663
crippled, born with birth defects, or have any other mental or 44664
physical defect. 44665

(P) "Nonprofit medical organization" means either of the 44666
following: 44667

(1) Any organization that has been incorporated as a 44668
nonprofit corporation for at least five years and that has 44669
continuously operated and will be operated exclusively to provide, 44670
or to contribute to the support of organizations or institutions 44671
organized and operated exclusively to provide, hospital, medical, 44672
research, or therapeutic services for the public; 44673

(2) Any organization that is described and qualified under 44674

subsection 501(c)(3) of the Internal Revenue Code, that has been 44675
incorporated as a nonprofit corporation for at least five years, 44676
and that has continuously operated and will be operated primarily 44677
to provide, or to contribute to the support of organizations or 44678
institutions organized and operated primarily to provide, 44679
hospital, medical, research, or therapeutic services for the 44680
public. 44681

(Q) "Senior citizen's organization" means any private 44682
organization, not organized for profit, that is organized and 44683
operated exclusively to provide recreational or social services 44684
for persons who are fifty-five years of age or older and that is 44685
described and qualified under subsection 501(c)(3) of the Internal 44686
Revenue Code. 44687

(R) "Charitable bingo game" means any bingo game described in 44688
division (S)(1) or (2) of this section that is conducted by a 44689
charitable organization that has obtained a license pursuant to 44690
section 2915.08 of the Revised Code and the proceeds of which are 44691
used for a charitable purpose. 44692

(S) "Bingo" means either of the following: 44693

(1) A game with all of the following characteristics: 44694

(a) The participants use bingo cards or sheets, including 44695
paper formats and electronic representation or image formats, that 44696
are divided into twenty-five spaces arranged in five horizontal 44697
and five vertical rows of spaces, with each space, except the 44698
central space, being designated by a combination of a letter and a 44699
number and with the central space being designated as a free 44700
space. 44701

(b) The participants cover the spaces on the bingo cards or 44702
sheets that correspond to combinations of letters and numbers that 44703
are announced by a bingo game operator. 44704

(c) A bingo game operator announces combinations of letters 44705

and numbers that appear on objects that a bingo game operator 44706
selects by chance, either manually or mechanically, from a 44707
receptacle that contains seventy-five objects at the beginning of 44708
each game, each object marked by a different combination of a 44709
letter and a number that corresponds to one of the seventy-five 44710
possible combinations of a letter and a number that can appear on 44711
the bingo cards or sheets. 44712

(d) The winner of the bingo game includes any participant who 44713
properly announces during the interval between the announcements 44714
of letters and numbers as described in division (S)(1)(c) of this 44715
section, that a predetermined and preannounced pattern of spaces 44716
has been covered on a bingo card or sheet being used by the 44717
participant. 44718

(2) Instant bingo, punch boards, and raffles. 44719

(T) "Conduct" means to back, promote, organize, manage, carry 44720
on, sponsor, or prepare for the operation of bingo or a game of 44721
chance. 44722

(U) "Bingo game operator" means any person, except security 44723
personnel, who performs work or labor at the site of bingo, 44724
including, but not limited to, collecting money from participants, 44725
handing out bingo cards or sheets or objects to cover spaces on 44726
bingo cards or sheets, selecting from a receptacle the objects 44727
that contain the combination of letters and numbers that appear on 44728
bingo cards or sheets, calling out the combinations of letters and 44729
numbers, distributing prizes, selling or redeeming instant bingo 44730
tickets or cards, supervising the operation of a punch board, 44731
selling raffle tickets, selecting raffle tickets from a receptacle 44732
and announcing the winning numbers in a raffle, and preparing, 44733
selling, and serving food or beverages. 44734

(V) "Participant" means any person who plays bingo. 44735

(W) "Bingo session" means a period that includes both of the 44736

following: 44737

(1) Not to exceed five continuous hours for the conduct of 44738
one or more games described in division (S)(1) of this section, 44739
instant bingo, and seal cards; 44740

(2) A period for the conduct of instant bingo and seal cards 44741
for not more than two hours before and not more than two hours 44742
after the period described in division (W)(1) of this section. 44743

(X) "Gross receipts" means all money or assets, including 44744
admission fees, that a person receives from bingo without the 44745
deduction of any amounts for prizes paid out or for the expenses 44746
of conducting bingo. "Gross receipts" does not include any money 44747
directly taken in from the sale of food or beverages by a 44748
charitable organization conducting bingo, or by a bona fide 44749
auxiliary unit or society of a charitable organization conducting 44750
bingo, provided all of the following apply: 44751

(1) The auxiliary unit or society has been in existence as a 44752
bona fide auxiliary unit or society of the charitable organization 44753
for at least two years prior to conducting bingo. 44754

(2) The person who purchases the food or beverage receives 44755
nothing of value except the food or beverage and items customarily 44756
received with the purchase of that food or beverage. 44757

(3) The food and beverages are sold at customary and 44758
reasonable prices. 44759

(Y) "Security personnel" includes any person who either is a 44760
sheriff, deputy sheriff, marshal, deputy marshal, township 44761
constable, or member of an organized police department of a 44762
municipal corporation or has successfully completed a peace 44763
officer's training course pursuant to sections 109.71 to 109.79 of 44764
the Revised Code and who is hired to provide security for the 44765
premises on which bingo is conducted. 44766

(Z) "Charitable purpose" means that the net profit of bingo, 44767
other than instant bingo, is used by, or is given, donated, or 44768
otherwise transferred to, any of the following: 44769

(1) Any organization that is described in subsection 44770
509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code 44771
and is either a governmental unit or an organization that is tax 44772
exempt under subsection 501(a) and described in subsection 44773
501(c)(3) of the Internal Revenue Code; 44774

(2) A veteran's organization that is a post, chapter, or 44775
organization of veterans, or an auxiliary unit or society of, or a 44776
trust or foundation for, any such post, chapter, or organization 44777
organized in the United States or any of its possessions, at least 44778
seventy-five per cent of the members of which are veterans and 44779
substantially all of the other members of which are individuals 44780
who are spouses, widows, or widowers of veterans, or such 44781
individuals, provided that no part of the net earnings of such 44782
post, chapter, or organization inures to the benefit of any 44783
private shareholder or individual, and further provided that the 44784
net profit is used by the post, chapter, or organization for the 44785
charitable purposes set forth in division (B)(12) of section 44786
5739.02 of the Revised Code, is used for awarding scholarships to 44787
or for attendance at an institution mentioned in division (B)(12) 44788
of section 5739.02 of the Revised Code, is donated to a 44789
governmental agency, or is used for nonprofit youth activities, 44790
the purchase of United States or Ohio flags that are donated to 44791
schools, youth groups, or other bona fide nonprofit organizations, 44792
promotion of patriotism, or disaster relief; 44793

(3) A fraternal organization that has been in continuous 44794
existence in this state for fifteen years and that uses the net 44795
profit exclusively for religious, charitable, scientific, 44796
literary, or educational purposes, or for the prevention of 44797
cruelty to children or animals, if contributions for such use 44798

would qualify as a deductible charitable contribution under 44799
subsection 170 of the Internal Revenue Code; 44800

(4) A volunteer firefighter's organization that uses the net 44801
profit for the purposes set forth in division (L) of this section. 44802

(AA) "Internal Revenue Code" means the "Internal Revenue Code 44803
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter 44804
amended. 44805

(BB) "Youth athletic organization" means any organization, 44806
not organized for profit, that is organized and operated 44807
exclusively to provide financial support to, or to operate, 44808
athletic activities for persons who are twenty-one years of age or 44809
younger by means of sponsoring, organizing, operating, or 44810
contributing to the support of an athletic team, club, league, or 44811
association. 44812

(CC) "Youth athletic park organization" means any 44813
organization, not organized for profit, that satisfies both of the 44814
following: 44815

(1) It owns, operates, and maintains playing fields that 44816
satisfy both of the following: 44817

(a) The playing fields are used at least one hundred days per 44818
year for athletic activities by one or more organizations, not 44819
organized for profit, each of which is organized and operated 44820
exclusively to provide financial support to, or to operate, 44821
athletic activities for persons who are eighteen years of age or 44822
younger by means of sponsoring, organizing, operating, or 44823
contributing to the support of an athletic team, club, league, or 44824
association. 44825

(b) The playing fields are not used for any profit-making 44826
activity at any time during the year. 44827

(2) It uses the proceeds of bingo it conducts exclusively for 44828

the operation, maintenance, and improvement of its playing fields 44829
of the type described in division (CC)(1) of this section. 44830

(DD) "Amateur athletic organization" means any organization, 44831
not organized for profit, that is organized and operated 44832
exclusively to provide financial support to, or to operate, 44833
athletic activities for persons who are training for amateur 44834
athletic competition that is sanctioned by a national governing 44835
body as defined in the "Amateur Sports Act of 1978," 90 Stat. 44836
3045, 36 U.S.C.A. 373. 44837

(EE) "Bingo supplies" means bingo cards or sheets; instant 44838
bingo tickets or cards; electronic bingo aids; raffle tickets; 44839
punch boards; seal cards; instant bingo ticket dispensers; and 44840
devices for selecting or displaying the combination of bingo 44841
letters and numbers or raffle tickets. Items that are "bingo 44842
supplies" are not gambling devices if sold or otherwise provided, 44843
and used, in accordance with this chapter. For purposes of this 44844
chapter, "bingo supplies" are not to be considered equipment used 44845
to conduct a bingo game. 44846

(FF) "Instant bingo" means a form of bingo that uses folded 44847
or banded tickets or paper cards with perforated break-open tabs, 44848
a face of which is covered or otherwise hidden from view to 44849
conceal a number, letter, or symbol, or set of numbers, letters, 44850
or symbols, some of which have been designated in advance as prize 44851
winners. "Instant bingo" includes seal cards. "Instant bingo" does 44852
not include any device that is activated by the insertion of a 44853
coin, currency, token, or an equivalent, and that contains as one 44854
of its components a video display monitor that is capable of 44855
displaying numbers, letters, symbols, or characters in winning or 44856
losing combinations. 44857

(GG) "Seal card" means a form of instant bingo that uses 44858
instant bingo tickets in conjunction with a board or placard that 44859
contains one or more seals that, when removed or opened, reveal 44860

predesignated winning numbers, letters, or symbols. 44861

(HH) "Raffle" means a form of bingo in which the one or more 44862
prizes are won by one or more persons who have purchased a raffle 44863
ticket. The one or more winners of the raffle are determined by 44864
drawing a ticket stub or other detachable section from a 44865
receptacle containing ticket stubs or detachable sections 44866
corresponding to all tickets sold for the raffle. "Raffle" does 44867
not include the drawing of a ticket stub or other detachable 44868
section of a ticket purchased to attend a professional sporting 44869
event if both of the following apply: 44870

(1) The ticket stub or other detachable section is used to 44871
select the winner of a free prize given away at the professional 44872
sporting event; and 44873

(2) The cost of the ticket is the same as the cost of a 44874
ticket to the professional sporting event on days when no free 44875
prize is given away. 44876

(II) "Punch board" means a board containing a number of holes 44877
or receptacles of uniform size in which are placed, mechanically 44878
and randomly, serially numbered slips of paper that may be punched 44879
or drawn from the hole or receptacle when used in conjunction with 44880
instant bingo. A player may punch or draw the numbered slips of 44881
paper from the holes or receptacles and obtain the prize 44882
established for the game if the number drawn corresponds to a 44883
winning number or, if the punch board includes the use of a seal 44884
card, a potential winning number. 44885

(JJ) "Gross profit" means gross receipts minus the amount 44886
actually expended for the payment of prize awards. 44887

(KK) "Net profit" means gross profit minus expenses. 44888

(LL) "Expenses" means the reasonable amount of gross profit 44889
actually expended for all of the following: 44890

(1) The purchase or lease of bingo supplies;	44891
(2) The annual license fee required under section 2915.08 of the Revised Code;	44892 44893
(3) Bank fees and service charges for a bingo session or game account described in section 2915.10 of the Revised Code;	44894 44895
(4) Audits and accounting services;	44896
(5) Safes;	44897
(6) Cash registers;	44898
(7) Hiring security personnel;	44899
(8) Advertising bingo;	44900
(9) Renting premises in which to conduct a bingo session;	44901
(10) Tables and chairs;	44902
(11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;	44903 44904 44905 44906
(12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;	44907 44908
(13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the attorney general under division (B)(1) of section 2915.08 of the Revised Code.	44909 44910 44911 44912
(MM) "Person" has the same meaning as in section 1.59 of the Revised Code and includes any firm or any other legal entity, however organized.	44913 44914 44915
(NN) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.	44916 44917 44918 44919

(OO) "Suspend" means to interrupt temporarily all rights and 44920
privileges of the holder of a license issued under section 44921
2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable 44922
gaming license issued by another jurisdiction. 44923

(PP) "Distributor" means any person who purchases or obtains 44924
bingo supplies and who does either of the following: 44925

(1) Sells, offers for sale, or otherwise provides or offers 44926
to provide the bingo supplies to another person for use in this 44927
state; 44928

(2) Modifies, converts, adds to, or removes parts from the 44929
bingo supplies to further their promotion or sale for use in this 44930
state. 44931

(QQ) "Manufacturer" means any person who assembles completed 44932
bingo supplies from raw materials, other items, or subparts or who 44933
modifies, converts, adds to, or removes parts from bingo supplies 44934
to further their promotion or sale. 44935

(RR) "Gross annual revenues" means the annual gross receipts 44936
derived from the conduct of bingo described in division (S)(1) of 44937
this section plus the annual net profit derived from the conduct 44938
of bingo described in division (S)(2) of this section. 44939

(SS) "Instant bingo ticket dispenser" means a mechanical 44940
device that dispenses an instant bingo ticket or card as the sole 44941
item of value dispensed and that has the following 44942
characteristics: 44943

(1) It is activated upon the insertion of United States 44944
currency. 44945

(2) It performs no gaming functions. 44946

(3) It does not contain a video display monitor or generate 44947
noise. 44948

(4) It is not capable of displaying any numbers, letters, 44949

symbols, or characters in winning or losing combinations. 44950

(5) It does not simulate or display rolling or spinning 44951
reels. 44952

(6) It is incapable of determining whether a dispensed bingo 44953
ticket or card is a winning or nonwinning ticket or card and 44954
requires a winning ticket or card to be paid by a bingo game 44955
operator. 44956

(7) It may provide accounting and security features to aid in 44957
accounting for the instant bingo tickets or cards it dispenses. 44958

(8) It is not part of an electronic network and is not 44959
interactive. 44960

(TT)(1) "Electronic bingo aid" means an electronic device 44961
used by a participant to monitor bingo cards or sheets purchased 44962
at the time and place of a bingo session and that does all of the 44963
following: 44964

(a) It provides a means for a participant to input numbers 44965
and letters announced by a bingo caller. 44966

(b) It compares the numbers and letters entered by the 44967
participant to the bingo faces previously stored in the memory of 44968
the device. 44969

(c) It identifies a winning bingo pattern. 44970

(2) "Electronic bingo aid" does not include any device into 44971
which a coin, currency, token, or an equivalent is inserted to 44972
activate play. 44973

(UU) "Deal of instant bingo tickets" means a single game of 44974
instant bingo tickets all with the same serial number. 44975

(VV)(1) "Slot machine" means either of the following: 44976

(a) Any mechanical, electronic, video, or digital device that 44977
is capable of accepting anything of value, directly or indirectly, 44978

from or on behalf of a player who gives the thing of value in the hope of gain;

(b) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.

(2) "Slot machine" does not include a skill-based amusement machine or an instant bingo ticket dispenser.

(WW) "Net profit from the proceeds of the sale of instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies.

(XX) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to section 2915.13 of the Revised Code.

(YY) "Game flare" means the board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information for the game:

(1) The name of the game;

(2) The manufacturer's name or distinctive logo;

(3) The form number;	45009
(4) The ticket count;	45010
(5) The prize structure, including the number of winning instant bingo tickets by denomination and the respective winning symbol or number combinations for the winning instant bingo tickets;	45011 45012 45013 45014
(6) The cost per play;	45015
(7) The serial number of the game.	45016
(ZZ) "Historic railroad educational organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that owns in fee simple the tracks and the right_of_way of a historic railroad that the organization restores or maintains and on which the organization provides excursions as part of a program to promote tourism and educate visitors regarding the role of railroad transportation in Ohio history, and that received as donations from a charitable organization that holds a license to conduct bingo under this chapter an amount equal to at least fifty per cent of that licensed charitable organization's net proceeds from the conduct of bingo during each of the five years preceding June 30, 2003. "Historic railroad" means all or a portion of the tracks and right-of-way of a railroad that was owned and operated by a for-profit common carrier in this state at any time prior to January 1, 1950.	45017 45018 45019 45020 45021 45022 45023 45024 45025 45026 45027 45028 45029 45030 45031 45032
(AAA)(1) "Skill-based amusement machine" means a mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:	45033 45034 45035 45036 45037 45038
(a) The wholesale value of a merchandise prize awarded as a	45039

result of the single play of a machine does not exceed ten 45040
dollars; 45041

(b) Redeemable vouchers awarded for any single play of a 45042
machine are not redeemable for a merchandise prize with a 45043
wholesale value of more than ten dollars; 45044

(c) Redeemable vouchers are not redeemable for a merchandise 45045
prize that has a wholesale value of more than ten dollars times 45046
the fewest number of single plays necessary to accrue the 45047
redeemable vouchers required to obtain that prize; and 45048

(d) Any redeemable vouchers or merchandise prizes are 45049
distributed at the site of the skill-based amusement machine at 45050
the time of play. 45051

A card for the purchase of gasoline is a redeemable voucher 45052
for purposes of division (AAA)(1) of this section even if the 45053
skill-based amusement machine for the play of which the card is 45054
awarded is located at a place where gasoline may not be legally 45055
distributed to the public or the card is not redeemable at the 45056
location of, or at the time of playing, the skill-based amusement 45057
machine. 45058

(2) A device shall not be considered a skill-based amusement 45059
machine and shall be considered a slot machine if it pays cash or 45060
one or more of the following apply: 45061

(a) The ability of a player to succeed at the game is 45062
impacted by the number or ratio of prior wins to prior losses of 45063
players playing the game. 45064

(b) Any reward of redeemable vouchers is not based solely on 45065
the player achieving the object of the game or the player's score; 45066

(c) The outcome of the game, or the value of the redeemable 45067
voucher or merchandise prize awarded for winning the game, can be 45068
controlled by a source other than any player playing the game. 45069

(d) The success of any player is or may be determined by a chance event that cannot be altered by player actions.

(e) The ability of any player to succeed at the game is determined by game features not visible or known to the player.

(f) The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.

(3) All of the following apply to any machine that is operated as described in division (AAA)(1) of this section:

(a) As used in this section, "game" and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition, or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.

(b) Advance play for a single game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single noncontest, competition, or tournament play.

(c) To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.

(4) For purposes of division (AAA)(1) of this section, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the

outcome of the play of the game does not make the device a 45101
skill-based amusement machine. 45102

(BBB) "Merchandise prize" means any item of value, but shall 45103
not include any of the following: 45104

(1) Cash, gift cards, or any equivalent thereof; 45105

(2) Plays on games of chance, state lottery tickets, bingo, 45106
or instant bingo; 45107

(3) Firearms, tobacco, or alcoholic beverages; or 45108

(4) A redeemable voucher that is redeemable for any of the 45109
items listed in division (BBB)(1), (2), or (3) of this section. 45110

(CCC) "Redeemable voucher" means any ticket, token, coupon, 45111
receipt, or other noncash representation of value. 45112

(DDD) "Pool not conducted for profit" means a scheme in which 45113
a participant gives a valuable consideration for a chance to win a 45114
prize and the total amount of consideration wagered is distributed 45115
to a participant or participants. 45116

(EEE) "Sporting organization" means a hunting, fishing, or 45117
trapping organization, other than a college or high school 45118
fraternity or sorority, that is not organized for profit, that is 45119
affiliated with a state or national sporting organization, 45120
including but not limited to, the Ohio league of sportsmen, and 45121
that has been in continuous existence in this state for a period 45122
of three years. 45123

(FFF) "Community action agency" has the same meaning as in 45124
section 122.66 of the Revised Code. 45125

Sec. 2917.40. (A) As used in this section: 45126

(1) "Live entertainment performance" means any live speech; 45127
any live musical performance, including a concert; any live 45128
dramatic performance; any live variety show; and any other live 45129

performance with respect to which the primary intent of the audience can be construed to be viewing the performers. A "live entertainment performance" does not include any form of entertainment with respect to which the person purchasing a ticket routinely participates in amusements as well as views performers.

(2) "Restricted entertainment area" means any wholly or partially enclosed area, whether indoors or outdoors, that has limited access through established entrances, or established ~~turnstyles~~ turnstiles or similar devices.

(3) "Concert" means a musical performance of which the primary component is a presentation by persons singing or playing musical instruments, that is intended by its sponsors mainly, but not necessarily exclusively, for the listening enjoyment of the audience, and that is held in a facility. A "concert" does not include any performance in which music is a part of the presentation and the primary component of which is acting, dancing, a motion picture, a demonstration of skills or talent other than singing or playing an instrument, an athletic event, an exhibition, or a speech.

(4) "Facility" means any structure that has a roof or partial roof and that has walls that wholly surround the area on all sides, including, but not limited to, a stadium, hall, arena, armory, auditorium, ballroom, exhibition hall, convention center, or music hall.

(5) "Person" includes, in addition to an individual or entity specified in division (C) of section 1.59 of the Revised Code, any governmental entity.

(B)(1) No person shall sell, offer to sell, or offer in return for a donation any ticket that is not numbered and that does not correspond to a specific seat for admission to either of the following:

(a) A live entertainment performance that is not exempted 45161
under division (D) of this section, that is held in a restricted 45162
entertainment area, and for which more than eight thousand tickets 45163
are offered to the public; 45164

(b) A concert that is not exempted under division (D) of this 45165
section and for which more than three thousand tickets are offered 45166
to the public. 45167

(2) No person shall advertise any live entertainment 45168
performance as described in division (B)(1)(a) of this section or 45169
any concert as described in division (B)(1)(b) of this section, 45170
unless the advertisement contains the words "Reserved Seats Only." 45171

(C) Unless exempted by division (D)(1) of this section, no 45172
person who owns or operates any restricted entertainment area 45173
shall fail to open, maintain, and properly staff at least the 45174
number of entrances designated under division (E) of this section 45175
for a minimum of ninety minutes prior to the scheduled start of 45176
any live entertainment performance that is held in the restricted 45177
entertainment area and for which more than three thousand tickets 45178
are sold, offered for sale, or offered in return for a donation. 45179

(D)(1) A live entertainment performance, other than a 45180
concert, is exempted from the provisions of divisions (B) and (C) 45181
of this section if both of the following apply: 45182

(a) The restricted entertainment area in which the 45183
performance is held has at least eight entrances or, if both 45184
entrances and separate admission ~~turnstiles~~ turnstiles or similar 45185
devices are used, has at least eight ~~turnstiles~~ turnstiles or 45186
similar devices; 45187

(b) The eight entrances or, if applicable, the eight 45188
~~turnstiles~~ turnstiles or similar devices are opened, maintained, 45189
and properly staffed at least one hour prior to the scheduled 45190
start of the performance. 45191

(2)(a) The chief of the police department of a township 45192
police district or joint police district in the case of a facility 45193
located within the district, the officer responsible for public 45194
safety within a municipal corporation in the case of a facility 45195
located within the municipal corporation, or the county sheriff in 45196
the case of a facility located outside the boundaries of a 45197
township or joint police district or municipal corporation may, 45198
upon application of the sponsor of a concert covered by division 45199
(B) of this section, exempt the concert from the provisions of 45200
that division if the official finds that the health, safety, and 45201
welfare of the participants and spectators would not be 45202
substantially affected by failure to comply with the provisions of 45203
that division. 45204

In determining whether to grant an exemption, the official 45205
shall consider the following factors: 45206

(i) The size and design of the facility in which the concert 45207
is scheduled; 45208

(ii) The size, age, and anticipated conduct of the crowd 45209
expected to attend the concert; 45210

(iii) The ability of the sponsor to manage and control the 45211
expected crowd. 45212

If the sponsor of any concert desires to obtain an exemption 45213
under this division, the sponsor shall apply to the appropriate 45214
official on a form prescribed by that official. The official shall 45215
issue an order that grants or denies the exemption within five 45216
days after receipt of the application. The sponsor may appeal any 45217
order that denies an exemption to the court of common pleas of the 45218
county in which the facility is located. 45219

(b) If an official grants an exemption under division 45220
(D)(2)(a) of this section, the official shall designate an on-duty 45221
law enforcement officer to be present at the concert. The 45222

designated officer has authority to issue orders to all security 45223
personnel at the concert to protect the health, safety, and 45224
welfare of the participants and spectators. 45225

(3) Notwithstanding division (D)(2) of this section, in the 45226
case of a concert held in a facility located on the campus of an 45227
educational institution covered by section 3345.04 of the Revised 45228
Code, a state university law enforcement officer appointed 45229
pursuant to sections 3345.04 and 3345.21 of the Revised Code shall 45230
do both of the following: 45231

(a) Exercise the authority to grant exemptions provided by 45232
division (D)(2)(a) of this section in lieu of an official 45233
designated in that division; 45234

(b) If the officer grants an exemption under division 45235
(D)(3)(a) of this section, designate an on-duty state university 45236
law enforcement officer to be present at the concert. The 45237
designated officer has authority to issue orders to all security 45238
personnel at the concert to protect the health, safety, and 45239
welfare of the participants and spectators. 45240

(E)(1) Unless a live entertainment performance is exempted by 45241
division (D)(1) of this section, the chief of the police 45242
department of a township police district or joint police district 45243
in the case of a restricted entertainment area located within the 45244
district, the officer responsible for public safety within a 45245
municipal corporation in the case of a restricted entertainment 45246
area located within the municipal corporation, or the county 45247
sheriff in the case of a restricted entertainment area located 45248
outside the boundaries of a township or joint police district or 45249
municipal corporation shall designate, for purposes of division 45250
(C) of this section, the minimum number of entrances required to 45251
be opened, maintained, and staffed at each live entertainment 45252
performance so as to permit crowd control and reduce congestion at 45253
the entrances. The designation shall be based on such factors as 45254

the size and nature of the crowd expected to attend the live 45255
entertainment performance, the length of time prior to the live 45256
entertainment performance that crowds are expected to congregate 45257
at the entrances, and the amount of security provided at the 45258
restricted entertainment area. 45259

(2) Notwithstanding division (E)(1) of this section, a state 45260
university law enforcement officer appointed pursuant to sections 45261
3345.04 and 3345.21 of the Revised Code shall designate the number 45262
of entrances required to be opened, maintained, and staffed in the 45263
case of a live entertainment performance that is held at a 45264
restricted entertainment area located on the campus of an 45265
educational institution covered by section 3345.04 of the Revised 45266
Code. 45267

(F) No person shall enter into any contract for a live 45268
entertainment performance, that does not permit or require 45269
compliance with this section. 45270

(G)(1) This section does not apply to a live entertainment 45271
performance held in a restricted entertainment area if one 45272
admission ticket entitles the holder to view or participate in 45273
three or more different games, rides, activities, or live 45274
entertainment performances occurring simultaneously at different 45275
sites within the restricted entertainment area and if the initial 45276
admittance entrance to the restricted entertainment area, for 45277
which the ticket is required, is separate from the entrance to any 45278
specific live entertainment performance and an additional ticket 45279
is not required for admission to the particular live entertainment 45280
performance. 45281

(2) This section does not apply to a symphony orchestra 45282
performance, a ballet performance, horse races, dances, or fairs. 45283

(H) This section does not prohibit the legislative authority 45284
of any municipal corporation from imposing additional 45285

requirements, not in conflict with this section, for the promotion 45286
or holding of live entertainment performances. 45287

(I) Whoever violates division (B), (C), or (F) of this 45288
section is guilty of a misdemeanor of the first degree. If any 45289
individual suffers physical harm to ~~his~~ the individual's person as 45290
a result of a violation of this section, the sentencing court 45291
shall consider this factor in favor of imposing a term of 45292
imprisonment upon the offender. 45293

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a 45294
violation of section 2919.27 of the Revised Code or of a municipal 45295
ordinance that is substantially similar to that section, the court 45296
may order an evaluation of the mental condition of the defendant 45297
if the court determines that either of the following criteria 45298
apply: 45299

(i) If the alleged violation is a violation of a protection 45300
order issued or consent agreement approved pursuant to section 45301
2919.26 or 3113.31 of the Revised Code, that the violation 45302
allegedly involves conduct by the defendant that caused physical 45303
harm to the person or property of a family or household member 45304
covered by the order or agreement, or conduct by the defendant 45305
that caused a family or household member to believe that the 45306
defendant would cause physical harm to that member or that 45307
member's property. 45308

(ii) If the alleged violation is a violation of a protection 45309
order issued pursuant to section 2903.213 or 2903.214 of the 45310
Revised Code or a protection order issued by a court of another 45311
state, that the violation allegedly involves conduct by the 45312
defendant that caused physical harm to the person or property of 45313
the person covered by the order, or conduct by the defendant that 45314
caused the person covered by the order to believe that the 45315
defendant would cause physical harm to that person or that 45316

person's property. 45317

(b) If a defendant is charged with a violation of section 45318
2903.211 of the Revised Code or of a municipal ordinance that is 45319
substantially similar to that section, the court may order an 45320
evaluation of the mental condition of the defendant. 45321

(2) An evaluation ordered under division (A)(1) of this 45322
section shall be completed no later than thirty days from the date 45323
the order is entered pursuant to that division. In that order, the 45324
court shall do either of the following: 45325

(a) Order that the evaluation of the mental condition of the 45326
defendant be preceded by an examination conducted either by a 45327
forensic center that is designated by the department of mental 45328
health to conduct examinations and make evaluations of defendants 45329
charged with violations of section 2903.211 or 2919.27 of the 45330
Revised Code or of substantially similar municipal ordinances in 45331
the area in which the court is located, or by any other program or 45332
facility that is designated by the department of mental health or 45333
the department of developmental disabilities to conduct 45334
examinations and make evaluations of defendants charged with 45335
violations of section 2903.211 or 2919.27 of the Revised Code or 45336
of substantially similar municipal ordinances, and that is 45337
operated by either department or is certified by either department 45338
as being in compliance with the standards established under 45339
division ~~(I)~~(H) of section 5119.01 of the Revised Code or division 45340
(C) of section 5123.04 of the Revised Code. 45341

(b) Designate a center, program, or facility other than one 45342
designated by the department of mental health or the department of 45343
developmental disabilities, as described in division (A)(2)(a) of 45344
this section, to conduct the evaluation and preceding examination 45345
of the mental condition of the defendant. 45346

Whether the court acts pursuant to division (A)(2)(a) or (b) 45347

of this section, the court may designate examiners other than the 45348
personnel of the center, program, facility, or department involved 45349
to make the evaluation and preceding examination of the mental 45350
condition of the defendant. 45351

(B) If the court considers that additional evaluations of the 45352
mental condition of a defendant are necessary following the 45353
evaluation authorized by division (A) of this section, the court 45354
may order up to two additional similar evaluations. These 45355
evaluations shall be completed no later than thirty days from the 45356
date the applicable court order is entered. If more than one 45357
evaluation of the mental condition of the defendant is ordered 45358
under this division, the prosecutor and the defendant may 45359
recommend to the court an examiner whom each prefers to perform 45360
one of the evaluations and preceding examinations. 45361

(C)(1) The court may order a defendant who has been released 45362
on bail to submit to an examination under division (A) or (B) of 45363
this section. The examination shall be conducted either at the 45364
detention facility in which the defendant would have been confined 45365
if the defendant had not been released on bail, or, if so 45366
specified by the center, program, facility, or examiners involved, 45367
at the premises of the center, program, or facility. Additionally, 45368
the examination shall be conducted at the times established by the 45369
examiners involved. If such a defendant refuses to submit to an 45370
examination or a complete examination as required by the court or 45371
the center, program, facility, or examiners involved, the court 45372
may amend the conditions of the bail of the defendant and order 45373
the sheriff to take the defendant into custody and deliver the 45374
defendant to the detention facility in which the defendant would 45375
have been confined if the defendant had not been released on bail, 45376
or, if so specified by the center, program, facility, or examiners 45377
involved, to the premises of the center, program, or facility, for 45378
purposes of the examination. 45379

(2) A defendant who has not been released on bail shall be 45380
examined at the detention facility in which the defendant is 45381
confined or, if so specified by the center, program, facility, or 45382
examiners involved, at the premises of the center, program, or 45383
facility. 45384

(D) The examiner of the mental condition of a defendant under 45385
division (A) or (B) of this section shall file a written report 45386
with the court within thirty days after the entry of an order for 45387
the evaluation of the mental condition of the defendant. The 45388
report shall contain the findings of the examiner; the facts in 45389
reasonable detail on which the findings are based; the opinion of 45390
the examiner as to the mental condition of the defendant; the 45391
opinion of the examiner as to whether the defendant represents a 45392
substantial risk of physical harm to other persons as manifested 45393
by evidence of recent homicidal or other violent behavior, 45394
evidence of recent threats that placed other persons in reasonable 45395
fear of violent behavior and serious physical harm, or evidence of 45396
present dangerousness; and the opinion of the examiner as to the 45397
types of treatment or counseling that the defendant needs. The 45398
court shall provide copies of the report to the prosecutor and 45399
defense counsel. 45400

(E) The costs of any evaluation and preceding examination of 45401
a defendant that is ordered pursuant to division (A) or (B) of 45402
this section shall be taxed as court costs in the criminal case. 45403

(F) If the examiner considers it necessary in order to make 45404
an accurate evaluation of the mental condition of a defendant, an 45405
examiner under division (A) or (B) of this section may request any 45406
family or household member of the defendant to provide the 45407
examiner with information. A family or household member may, but 45408
is not required to, provide information to the examiner upon 45409
receipt of the request. 45410

(G) As used in this section: 45411

(1) "Bail" includes a recognizance.	45412
(2) "Examiner" means a psychiatrist, a licensed independent social worker who is employed by a forensic center that is certified as being in compliance with the standards established under division (I) (H) of section 5119.01 or division (C) of section 5123.04 of the Revised Code, a licensed professional clinical counselor who is employed at a forensic center that is certified as being in compliance with such standards, or a licensed clinical psychologist, except that in order to be an examiner, a licensed clinical psychologist shall meet the criteria of division (I)(1) of section 5122.01 of the Revised Code or be employed to conduct examinations by the department of mental health or by a forensic center certified as being in compliance with the standards established under division (I) (H) of section 5119.01 or division (C) of section 5123.04 of the Revised Code that is designated by the department of mental health.	45413 45414 45415 45416 45417 45418 45419 45420 45421 45422 45423 45424 45425 45426 45427
(3) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.	45428 45429
(4) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.	45430 45431
(5) "Psychiatrist" and "licensed clinical psychologist" have the same meanings as in section 5122.01 of the Revised Code.	45432 45433
(6) "Protection order issued by a court of another state" has the same meaning as in section 2919.27 of the Revised Code.	45434 45435
Sec. 2921.41. (A) No public official or party official shall commit any theft offense, as defined in division (K) of section 2913.01 of the Revised Code, when either of the following applies:	45436 45437 45438
(1) The offender uses the offender's office in aid of committing the offense or permits or assents to its use in aid of committing the offense;	45439 45440 45441

(2) The property or service involved is owned by this state, 45442
any other state, the United States, a county, a municipal 45443
corporation, a township, or any political subdivision, department, 45444
or agency of any of them, is owned by a political party, or is 45445
part of a political campaign fund. 45446

(B) Whoever violates this section is guilty of theft in 45447
office. Except as otherwise provided in this division, theft in 45448
office is a felony of the fifth degree. If the value of property 45449
or services stolen is five hundred dollars or more and is less 45450
than five thousand dollars, theft in office is a felony of the 45451
fourth degree. If the value of property or services stolen is five 45452
thousand dollars or more, theft in office is a felony of the third 45453
degree. 45454

(C)(1) A public official or party official who pleads guilty 45455
to theft in office and whose plea is accepted by the court or a 45456
public official or party official against whom a verdict or 45457
finding of guilt for committing theft in office is returned is 45458
forever disqualified from holding any public office, employment, 45459
or position of trust in this state. 45460

(2)(a) A court that imposes sentence for a violation of this 45461
section based on conduct described in division (A)(2) of this 45462
section shall require the public official or party official who is 45463
convicted of or pleads guilty to the offense to make restitution 45464
for all of the property or the service that is the subject of the 45465
offense, in addition to the term of imprisonment and any fine 45466
imposed. A court that imposes sentence for a violation of this 45467
section based on conduct described in division (A)(1) of this 45468
section and that determines at trial that this state or a 45469
political subdivision of this state if the offender is a public 45470
official, or a political party in the United States or this state 45471
if the offender is a party official, suffered actual loss as a 45472
result of the offense shall require the offender to make 45473

restitution to the state, political subdivision, or political 45474
party for all of the actual loss experienced, in addition to the 45475
term of imprisonment and any fine imposed. 45476

(b)(i) In any case in which a sentencing court is required to 45477
order restitution under division (C)(2)(a) of this section and in 45478
which the offender, at the time of the commission of the offense 45479
or at any other time, was a member of the public employees 45480
retirement system, the Ohio police and fire pension fund, the 45481
state teachers retirement system, the school employees retirement 45482
system, or the state highway patrol retirement system; was an 45483
electing employee, as defined in section 3305.01 of the Revised 45484
Code, participating in an alternative retirement plan provided 45485
pursuant to Chapter 3305. of the Revised Code; was a participating 45486
employee or continuing member, as defined in section 148.01 of the 45487
Revised Code, in a deferred compensation program offered by the 45488
Ohio public employees deferred compensation board; was an officer 45489
or employee of a municipal corporation who was a participant in a 45490
deferred compensation program offered by that municipal 45491
corporation; was an officer or employee of a government unit, as 45492
defined in section 148.06 of the Revised Code, who was a 45493
participant in a deferred compensation program offered by that 45494
government unit, was a participant in a deferred compensation 45495
program styled as a supplemental employee deferral plan offered by 45496
the treasurer of state, or was a participating employee, 45497
continuing member, or participant in any deferred compensation 45498
program described in this division and a member of a retirement 45499
system specified in this division or a retirement system of a 45500
municipal corporation, the entity to which restitution is to be 45501
made may file a motion with the sentencing court specifying any 45502
retirement system, any provider as defined in section 3305.01 of 45503
the Revised Code, and any deferred compensation program of which 45504
the offender was a member, electing employee, participating 45505
employee, continuing member, or participant and requesting the 45506

court to issue an order requiring the specified retirement system, 45507
the specified provider under the alternative retirement plan, or 45508
the specified deferred compensation program, or, if more than one 45509
is specified in the motion, the applicable combination of these, 45510
to withhold the amount required as restitution from any payment 45511
that is to be made under a pension, annuity, or allowance, under 45512
an option in the alternative retirement plan, under a participant 45513
account, as defined in section 148.01 of the Revised Code, or 45514
under any other type of benefit, other than a survivorship 45515
benefit, that has been or is in the future granted to the 45516
offender, from any payment of accumulated employee contributions 45517
standing to the offender's credit with that retirement system, 45518
that provider of the option under the alternative retirement plan, 45519
or that deferred compensation program, or, if more than one is 45520
specified in the motion, the applicable combination of these, and 45521
from any payment of any other amounts to be paid to the offender 45522
upon the offender's withdrawal of the offender's contributions 45523
pursuant to Chapter 145., 148., 742., 3307., 3309., or 5505. of 45524
the Revised Code. A motion described in this division may be filed 45525
at any time subsequent to the conviction of the offender or entry 45526
of a guilty plea. Upon the filing of the motion, the clerk of the 45527
court in which the motion is filed shall notify the offender, the 45528
specified retirement system, the specified provider under the 45529
alternative retirement plan, or the specified deferred 45530
compensation program, or, if more than one is specified in the 45531
motion, the applicable combination of these, in writing, of all of 45532
the following: that the motion was filed; that the offender will 45533
be granted a hearing on the issuance of the requested order if the 45534
offender files a written request for a hearing with the clerk 45535
prior to the expiration of thirty days after the offender receives 45536
the notice; that, if a hearing is requested, the court will 45537
schedule a hearing as soon as possible and notify the offender, 45538
any specified retirement system, any specified provider under an 45539

alternative retirement plan, and any specified deferred 45540
compensation program of the date, time, and place of the hearing; 45541
that, if a hearing is conducted, it will be limited only to a 45542
consideration of whether the offender can show good cause why the 45543
requested order should not be issued; that, if a hearing is 45544
conducted, the court will not issue the requested order if the 45545
court determines, based on evidence presented at the hearing by 45546
the offender, that there is good cause for the requested order not 45547
to be issued; that the court will issue the requested order if a 45548
hearing is not requested or if a hearing is conducted but the 45549
court does not determine, based on evidence presented at the 45550
hearing by the offender, that there is good cause for the 45551
requested order not to be issued; and that, if the requested order 45552
is issued, any retirement system, any provider under an 45553
alternative retirement plan, and any deferred compensation program 45554
specified in the motion will be required to withhold the amount 45555
required as restitution from payments to the offender. 45556

(ii) In any case in which a sentencing court is required to 45557
order restitution under division (C)(2)(a) of this section and in 45558
which a motion requesting the issuance of a withholding order as 45559
described in division (C)(2)(b)(i) of this section is filed, the 45560
offender may receive a hearing on the motion by delivering a 45561
written request for a hearing to the court prior to the expiration 45562
of thirty days after the offender's receipt of the notice provided 45563
pursuant to division (C)(2)(b)(i) of this section. If a request 45564
for a hearing is made by the offender within the prescribed time, 45565
the court shall schedule a hearing as soon as possible after the 45566
request is made and shall notify the offender, the specified 45567
retirement system, the specified provider under the alternative 45568
retirement plan, or the specified deferred compensation program, 45569
or, if more than one is specified in the motion, the applicable 45570
combination of these, of the date, time, and place of the hearing. 45571
A hearing scheduled under this division shall be limited to a 45572

consideration of whether there is good cause, based on evidence 45573
presented by the offender, for the requested order not to be 45574
issued. If the court determines, based on evidence presented by 45575
the offender, that there is good cause for the order not to be 45576
issued, the court shall deny the motion and shall not issue the 45577
requested order. If the offender does not request a hearing within 45578
the prescribed time or if the court conducts a hearing but does 45579
not determine, based on evidence presented by the offender, that 45580
there is good cause for the order not to be issued, the court 45581
shall order the specified retirement system, the specified 45582
provider under the alternative retirement plan, or the specified 45583
deferred compensation program, or, if more than one is specified 45584
in the motion, the applicable combination of these, to withhold 45585
the amount required as restitution under division (C)(2)(a) of 45586
this section from any payments to be made under a pension, 45587
annuity, or allowance, under a participant account, as defined in 45588
section 148.01 of the Revised Code, under an option in the 45589
alternative retirement plan, or under any other type of benefit, 45590
other than a survivorship benefit, that has been or is in the 45591
future granted to the offender, from any payment of accumulated 45592
employee contributions standing to the offender's credit with that 45593
retirement system, that provider under the alternative retirement 45594
plan, or that deferred compensation program, or, if more than one 45595
is specified in the motion, the applicable combination of these, 45596
and from any payment of any other amounts to be paid to the 45597
offender upon the offender's withdrawal of the offender's 45598
contributions pursuant to Chapter 145., 148., 742., 3307., 3309., 45599
or 5505. of the Revised Code, and to continue the withholding for 45600
that purpose, in accordance with the order, out of each payment to 45601
be made on or after the date of issuance of the order, until 45602
further order of the court. Upon receipt of an order issued under 45603
this division, the public employees retirement system, the Ohio 45604
police and fire pension fund, the state teachers retirement 45605

system, the school employees retirement system, the state highway 45606
patrol retirement system, a municipal corporation retirement 45607
system, the provider under the alternative retirement plan, and 45608
the deferred compensation program offered by the Ohio public 45609
employees deferred compensation board, treasurer of state, a 45610
municipal corporation, or a government unit, as defined in section 45611
148.06 of the Revised Code, whichever are applicable, shall 45612
withhold the amount required as restitution, in accordance with 45613
the order, from any such payments and immediately shall forward 45614
the amount withheld to the clerk of the court in which the order 45615
was issued for payment to the entity to which restitution is to be 45616
made. 45617

(iii) Service of a notice required by division (C)(2)(b)(i) 45618
or (ii) of this section shall be effected in the same manner as 45619
provided in the Rules of Civil Procedure for the service of 45620
process. 45621

(D) Upon the filing of charges against a person under this 45622
section, the prosecutor, as defined in section 2935.01 of the 45623
Revised Code, who is assigned the case shall send written notice 45624
that charges have been filed against that person to the public 45625
employees retirement system, the Ohio police and fire pension 45626
fund, the state teachers retirement system, the school employees 45627
retirement system, the state highway patrol retirement system, the 45628
provider under an alternative retirement plan, any municipal 45629
corporation retirement system in this state, and the deferred 45630
compensation program offered by the Ohio public employees deferred 45631
compensation board, treasurer of state, a municipal corporation, 45632
or a government unit, as defined in section 148.06 of the Revised 45633
Code. The written notice shall specifically identify the person 45634
charged. 45635

Sec. 2929.71. (A) As used in this section: 45636

(1) "Agency" means any law enforcement agency, other public agency, or public official involved in the investigation or prosecution of the offender or in the investigation of the fire or explosion in an aggravated arson, arson, or criminal damaging or endangering case. An "agency" includes, but is not limited to, a sheriff's office, a municipal corporation, township, or township or joint police district police department, the office of a prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a municipal corporation, the fire marshal's office, a municipal corporation, township, or township fire district fire department, the office of a fire prevention officer, and any state, county, or municipal corporation crime laboratory.

(2) "Assets" includes all forms of real or personal property.

(3) "Itemized statement" means the statement of costs described in division (B) of this section.

(4) "Offender" means the person who has been convicted of or pleaded guilty to committing, attempting to commit, or complicity in committing a violation of section 2909.02 or 2909.03 of the Revised Code, or, when the means used are fire or explosion, division (A)(2) of section 2909.06 of the Revised Code.

(5) "Costs" means the reasonable value of the time spent by an officer or employee of an agency on the aggravated arson, arson, or criminal damaging or endangering case, any moneys spent by the agency on that case, and the reasonable fair market value of resources used or expended by the agency on that case.

(B) Prior to the sentencing of an offender, the court shall enter an order that directs agencies that wish to be reimbursed by the offender for the costs they incurred in the investigation or prosecution of the offender or in the investigation of the fire or explosion involved in the case, to file with the court within a

specified time an itemized statement of those costs. The order 45668
also shall require that a copy of the itemized statement be given 45669
to the offender or offender's attorney within the specified time. 45670
Only itemized statements so filed and given shall be considered at 45671
the hearing described in division (C) of this section. 45672

(C) The court shall set a date for a hearing on all the 45673
itemized statements filed with it and given to the offender or the 45674
offender's attorney in accordance with division (B) of this 45675
section. The hearing shall be held prior to the sentencing of the 45676
offender, but may be held on the same day as the sentencing. 45677
Notice of the hearing date shall be given to the offender or the 45678
offender's attorney and to the agencies whose itemized statements 45679
are involved. At the hearing, each agency has the burden of 45680
establishing by a preponderance of the evidence that the costs set 45681
forth in its itemized statement were incurred in the investigation 45682
or prosecution of the offender or in the investigation of the fire 45683
or explosion involved in the case, and of establishing by a 45684
preponderance of the evidence that the offender has assets 45685
available for the reimbursement of all or a portion of the costs. 45686

The offender may cross-examine all witnesses and examine all 45687
documentation presented by the agencies at the hearing, and the 45688
offender may present at the hearing witnesses and documentation 45689
the offender has obtained without a subpoena or a subpoena duces 45690
tecum or, in the case of documentation, that belongs to the 45691
offender. The offender also may issue subpoenas and subpoenas 45692
duces tecum for, and present and examine at the hearing, witnesses 45693
and documentation, subject to the following applying to the 45694
witnesses or documentation subpoenaed: 45695

(1) The testimony of witnesses subpoenaed or documentation 45696
subpoenaed is material to the preparation or presentation by the 45697
offender of the offender's defense to the claims of the agencies 45698
for a reimbursement of costs; 45699

(2) If witnesses to be subpoenaed are personnel of an agency 45700
or documentation to be subpoenaed belongs to an agency, the 45701
personnel or documentation may be subpoenaed only if the agency 45702
involved has indicated, pursuant to this division, that it intends 45703
to present the personnel as witnesses or use the documentation at 45704
the hearing. The offender shall submit, in writing, a request to 45705
an agency as described in this division to ascertain whether the 45706
agency intends to present various personnel as witnesses or to use 45707
particular documentation. The request shall indicate that the 45708
offender is considering issuing subpoenas to personnel of the 45709
agency who are specifically named or identified by title or 45710
position, or for documentation of the agency that is specifically 45711
described or generally identified, and shall request the agency to 45712
indicate, in writing, whether it intends to present such personnel 45713
as witnesses or to use such documentation at the hearing. The 45714
agency shall promptly reply to the request of the offender. An 45715
agency is prohibited from presenting personnel as witnesses or 45716
from using documentation at the hearing if it indicates to the 45717
offender it does not intend to do so in response to a request of 45718
the offender under this division, or if it fails to reply or 45719
promptly reply to such a request. 45720

(D) Following the hearing, the court shall determine which of 45721
the agencies established by a preponderance of the evidence that 45722
costs set forth in their itemized statements were incurred as 45723
described in division (C) of this section and that the offender 45724
has assets available for reimbursement purposes. The court also 45725
shall determine whether the offender has assets available to 45726
reimburse all such agencies, in whole or in part, for their 45727
established costs, and if it determines that the assets are 45728
available, it shall order the offender, as part of the offender's 45729
sentence, to reimburse the agencies from the offender's assets for 45730
all or a specified portion of their established costs. 45731

Sec. 2935.01. As used in this chapter:	45732
(A) "Magistrate" has the same meaning as in section 2931.01 of the Revised Code.	45733 45734
(B) "Peace officer" includes, except as provided in section 2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract pursuant to section 737.04 of the Revised Code; member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code; member of a police force employed by a regional transit authority under division (Y) of section 306.05 of the Revised Code; state university law enforcement officer appointed under section 3345.04 of the Revised Code; enforcement agent of the department of public safety designated under section 5502.14 of the Revised Code; employee of the department of taxation to whom investigation powers have been delegated under section 5743.45 of the Revised Code; employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code; individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code; veterans' home police officer appointed under section 5907.02 of the Revised Code; special police officer employed by a port authority under section 4582.04 or 4582.28 of	45735 45736 45737 45738 45739 45740 45741 45742 45743 45744 45745 45746 45747 45748 45749 45750 45751 45752 45753 45754 45755 45756 45757 45758 45759 45760 45761 45762 45763

the Revised Code; police constable of any township; police officer 45764
of a township or joint ~~township~~ police district; a special police 45765
officer employed by a municipal corporation at a municipal 45766
airport, or other municipal air navigation facility, that has 45767
scheduled operations, as defined in section 119.3 of Title 14 of 45768
the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and 45769
that is required to be under a security program and is governed by 45770
aviation security rules of the transportation security 45771
administration of the United States department of transportation 45772
as provided in Parts 1542. and 1544. of Title 49 of the Code of 45773
Federal Regulations, as amended; the house of representatives 45774
sergeant at arms if the house of representatives sergeant at arms 45775
has arrest authority pursuant to division (E)(1) of section 45776
101.311 of the Revised Code; and an assistant house of 45777
representatives sergeant at arms; officer or employee of the 45778
bureau of criminal identification and investigation established 45779
pursuant to section 109.51 of the Revised Code who has been 45780
awarded a certificate by the executive director of the Ohio peace 45781
officer training commission attesting to the officer's or 45782
employee's satisfactory completion of an approved state, county, 45783
municipal, or department of natural resources peace officer basic 45784
training program and who is providing assistance upon request to a 45785
law enforcement officer or emergency assistance to a peace officer 45786
pursuant to section 109.54 or 109.541 of the Revised Code; a state 45787
fire marshal law enforcement officer described in division (A)(23) 45788
of section 109.71 of the Revised Code; and, for the purpose of 45789
arrests within those areas, for the purposes of Chapter 5503. of 45790
the Revised Code, and the filing of and service of process 45791
relating to those offenses witnessed or investigated by them, the 45792
superintendent and troopers of the state highway patrol. 45793

(C) "Prosecutor" includes the county prosecuting attorney and 45794
any assistant prosecutor designated to assist the county 45795
prosecuting attorney, and, in the case of courts inferior to 45796

courts of common pleas, includes the village solicitor, city 45797
director of law, or similar chief legal officer of a municipal 45798
corporation, any such officer's assistants, or any attorney 45799
designated by the prosecuting attorney of the county to appear for 45800
the prosecution of a given case. 45801

(D) "Offense," except where the context specifically 45802
indicates otherwise, includes felonies, misdemeanors, and 45803
violations of ordinances of municipal corporations and other 45804
public bodies authorized by law to adopt penal regulations. 45805

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, 45806
deputy marshal, municipal police officer, township constable, 45807
police officer of a township or joint ~~township~~ police district, 45808
member of a police force employed by a metropolitan housing 45809
authority under division (D) of section 3735.31 of the Revised 45810
Code, member of a police force employed by a regional transit 45811
authority under division (Y) of section 306.35 of the Revised 45812
Code, state university law enforcement officer appointed under 45813
section 3345.04 of the Revised Code, veterans' home police officer 45814
appointed under section 5907.02 of the Revised Code, special 45815
police officer employed by a port authority under section 4582.04 45816
or 4582.28 of the Revised Code, or a special police officer 45817
employed by a municipal corporation at a municipal airport, or 45818
other municipal air navigation facility, that has scheduled 45819
operations, as defined in section 119.3 of Title 14 of the Code of 45820
Federal Regulations, 14 C.F.R. 119.3, as amended, and that is 45821
required to be under a security program and is governed by 45822
aviation security rules of the transportation security 45823
administration of the United States department of transportation 45824
as provided in Parts 1542. and 1544. of Title 49 of the Code of 45825
Federal Regulations, as amended, shall arrest and detain, until a 45826
warrant can be obtained, a person found violating, within the 45827
limits of the political subdivision, metropolitan housing 45828

authority housing project, regional transit authority facilities 45829
or areas of a municipal corporation that have been agreed to by a 45830
regional transit authority and a municipal corporation located 45831
within its territorial jurisdiction, college, university, 45832
veterans' home operated under Chapter 5907. of the Revised Code, 45833
port authority, or municipal airport or other municipal air 45834
navigation facility, in which the peace officer is appointed, 45835
employed, or elected, a law of this state, an ordinance of a 45836
municipal corporation, or a resolution of a township. 45837

(2) A peace officer of the department of natural resources, a 45838
state fire marshal law enforcement officer described in division 45839
(A)(23) of section 109.71 of the Revised Code, or an individual 45840
designated to perform law enforcement duties under section 45841
511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and 45842
detain, until a warrant can be obtained, a person found violating, 45843
within the limits of the peace officer's, state fire marshal law 45844
enforcement officer's, or individual's territorial jurisdiction, a 45845
law of this state. 45846

(3) The house sergeant at arms, if the house sergeant at arms 45847
has arrest authority pursuant to division (E)(1) of section 45848
101.311 of the Revised Code, and an assistant house sergeant at 45849
arms shall arrest and detain, until a warrant can be obtained, a 45850
person found violating, within the limits of the sergeant at 45851
arms's or assistant sergeant at arms's territorial jurisdiction 45852
specified in division (D)(1)(a) of section 101.311 of the Revised 45853
Code or while providing security pursuant to division (D)(1)(f) of 45854
section 101.311 of the Revised Code, a law of this state, an 45855
ordinance of a municipal corporation, or a resolution of a 45856
township. 45857

(B)(1) When there is reasonable ground to believe that an 45858
offense of violence, the offense of criminal child enticement as 45859
defined in section 2905.05 of the Revised Code, the offense of 45860

public indecency as defined in section 2907.09 of the Revised Code, the offense of domestic violence as defined in section 2919.25 of the Revised Code, the offense of violating a protection order as defined in section 2919.27 of the Revised Code, the offense of menacing by stalking as defined in section 2903.211 of the Revised Code, the offense of aggravated trespass as defined in section 2911.211 of the Revised Code, a theft offense as defined in section 2913.01 of the Revised Code, or a felony drug abuse offense as defined in section 2925.01 of the Revised Code, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a peace officer described in division (A) of this section may arrest and detain until a warrant can be obtained any person who the peace officer has reasonable cause to believe is guilty of the violation.

(2) For purposes of division (B)(1) of this section, the execution of any of the following constitutes reasonable ground to believe that the offense alleged in the statement was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation:

(a) A written statement by a person alleging that an alleged offender has committed the offense of menacing by stalking or aggravated trespass;

(b) A written statement by the administrator of the

interstate compact on mental health appointed under section 45893
5119.51 of the Revised Code alleging that a person who had been 45894
hospitalized, institutionalized, or confined in any facility under 45895
an order made pursuant to or under authority of section 2945.37, 45896
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 45897
Revised Code has escaped from the facility, from confinement in a 45898
vehicle for transportation to or from the facility, or from 45899
supervision by an employee of the facility that is incidental to 45900
hospitalization, institutionalization, or confinement in the 45901
facility and that occurs outside of the facility, in violation of 45902
section 2921.34 of the Revised Code; 45903

(c) A written statement by the administrator of any facility 45904
in which a person has been hospitalized, institutionalized, or 45905
confined under an order made pursuant to or under authority of 45906
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 45907
2945.402 of the Revised Code alleging that the person has escaped 45908
from the facility, from confinement in a vehicle for 45909
transportation to or from the facility, or from supervision by an 45910
employee of the facility that is incidental to hospitalization, 45911
institutionalization, or confinement in the facility and that 45912
occurs outside of the facility, in violation of section 2921.34 of 45913
the Revised Code. 45914

(3)(a) For purposes of division (B)(1) of this section, a 45915
peace officer described in division (A) of this section has 45916
reasonable grounds to believe that the offense of domestic 45917
violence or the offense of violating a protection order has been 45918
committed and reasonable cause to believe that a particular person 45919
is guilty of committing the offense if any of the following 45920
occurs: 45921

(i) A person executes a written statement alleging that the 45922
person in question has committed the offense of domestic violence 45923
or the offense of violating a protection order against the person 45924

who executes the statement or against a child of the person who 45925
executes the statement. 45926

(ii) No written statement of the type described in division 45927
(B)(3)(a)(i) of this section is executed, but the peace officer, 45928
based upon the peace officer's own knowledge and observation of 45929
the facts and circumstances of the alleged incident of the offense 45930
of domestic violence or the alleged incident of the offense of 45931
violating a protection order or based upon any other information, 45932
including, but not limited to, any reasonably trustworthy 45933
information given to the peace officer by the alleged victim of 45934
the alleged incident of the offense or any witness of the alleged 45935
incident of the offense, concludes that there are reasonable 45936
grounds to believe that the offense of domestic violence or the 45937
offense of violating a protection order has been committed and 45938
reasonable cause to believe that the person in question is guilty 45939
of committing the offense. 45940

(iii) No written statement of the type described in division 45941
(B)(3)(a)(i) of this section is executed, but the peace officer 45942
witnessed the person in question commit the offense of domestic 45943
violence or the offense of violating a protection order. 45944

(b) If pursuant to division (B)(3)(a) of this section a peace 45945
officer has reasonable grounds to believe that the offense of 45946
domestic violence or the offense of violating a protection order 45947
has been committed and reasonable cause to believe that a 45948
particular person is guilty of committing the offense, it is the 45949
preferred course of action in this state that the officer arrest 45950
and detain that person pursuant to division (B)(1) of this section 45951
until a warrant can be obtained. 45952

If pursuant to division (B)(3)(a) of this section a peace 45953
officer has reasonable grounds to believe that the offense of 45954
domestic violence or the offense of violating a protection order 45955
has been committed and reasonable cause to believe that family or 45956

household members have committed the offense against each other, 45957
it is the preferred course of action in this state that the 45958
officer, pursuant to division (B)(1) of this section, arrest and 45959
detain until a warrant can be obtained the family or household 45960
member who committed the offense and whom the officer has 45961
reasonable cause to believe is the primary physical aggressor. 45962
There is no preferred course of action in this state regarding any 45963
other family or household member who committed the offense and 45964
whom the officer does not have reasonable cause to believe is the 45965
primary physical aggressor, but, pursuant to division (B)(1) of 45966
this section, the peace officer may arrest and detain until a 45967
warrant can be obtained any other family or household member who 45968
committed the offense and whom the officer does not have 45969
reasonable cause to believe is the primary physical aggressor. 45970

(c) If a peace officer described in division (A) of this 45971
section does not arrest and detain a person whom the officer has 45972
reasonable cause to believe committed the offense of domestic 45973
violence or the offense of violating a protection order when it is 45974
the preferred course of action in this state pursuant to division 45975
(B)(3)(b) of this section that the officer arrest that person, the 45976
officer shall articulate in the written report of the incident 45977
required by section 2935.032 of the Revised Code a clear statement 45978
of the officer's reasons for not arresting and detaining that 45979
person until a warrant can be obtained. 45980

(d) In determining for purposes of division (B)(3)(b) of this 45981
section which family or household member is the primary physical 45982
aggressor in a situation in which family or household members have 45983
committed the offense of domestic violence or the offense of 45984
violating a protection order against each other, a peace officer 45985
described in division (A) of this section, in addition to any 45986
other relevant circumstances, should consider all of the 45987
following: 45988

(i) Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain; 45989
45990
45991

(ii) If violence is alleged, whether the alleged violence was caused by a person acting in self-defense; 45992
45993

(iii) Each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of the use of force against any person, and the reasonableness of that fear; 45994
45995
45996
45997

(iv) The comparative severity of any injuries suffered by the persons involved in the alleged offense. 45998
45999

(e)(i) A peace officer described in division (A) of this section shall not require, as a prerequisite to arresting or charging a person who has committed the offense of domestic violence or the offense of violating a protection order, that the victim of the offense specifically consent to the filing of charges against the person who has committed the offense or sign a complaint against the person who has committed the offense. 46000
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(ii) If a person is arrested for or charged with committing the offense of domestic violence or the offense of violating a protection order and if the victim of the offense does not cooperate with the involved law enforcement or prosecuting authorities in the prosecution of the offense or, subsequent to the arrest or the filing of the charges, informs the involved law enforcement or prosecuting authorities that the victim does not wish the prosecution of the offense to continue or wishes to drop charges against the alleged offender relative to the offense, the involved prosecuting authorities, in determining whether to continue with the prosecution of the offense or whether to dismiss charges against the alleged offender relative to the offense and notwithstanding the victim's failure to cooperate or the victim's 46007
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wishes, shall consider all facts and circumstances that are 46020
relevant to the offense, including, but not limited to, the 46021
statements and observations of the peace officers who responded to 46022
the incident that resulted in the arrest or filing of the charges 46023
and of all witnesses to that incident. 46024

(f) In determining pursuant to divisions (B)(3)(a) to (g) of 46025
this section whether to arrest a person pursuant to division 46026
(B)(1) of this section, a peace officer described in division (A) 46027
of this section shall not consider as a factor any possible 46028
shortage of cell space at the detention facility to which the 46029
person will be taken subsequent to the person's arrest or any 46030
possibility that the person's arrest might cause, contribute to, 46031
or exacerbate overcrowding at that detention facility or at any 46032
other detention facility. 46033

(g) If a peace officer described in division (A) of this 46034
section intends pursuant to divisions (B)(3)(a) to (g) of this 46035
section to arrest a person pursuant to division (B)(1) of this 46036
section and if the officer is unable to do so because the person 46037
is not present, the officer promptly shall seek a warrant for the 46038
arrest of the person. 46039

(h) If a peace officer described in division (A) of this 46040
section responds to a report of an alleged incident of the offense 46041
of domestic violence or an alleged incident of the offense of 46042
violating a protection order and if the circumstances of the 46043
incident involved the use or threatened use of a deadly weapon or 46044
any person involved in the incident brandished a deadly weapon 46045
during or in relation to the incident, the deadly weapon that was 46046
used, threatened to be used, or brandished constitutes contraband, 46047
and, to the extent possible, the officer shall seize the deadly 46048
weapon as contraband pursuant to Chapter 2981. of the Revised 46049
Code. Upon the seizure of a deadly weapon pursuant to division 46050
(B)(3)(h) of this section, section 2981.12 of the Revised Code 46051

shall apply regarding the treatment and disposition of the deadly 46052
weapon. For purposes of that section, the "underlying criminal 46053
offense" that was the basis of the seizure of a deadly weapon 46054
under division (B)(3)(h) of this section and to which the deadly 46055
weapon had a relationship is any of the following that is 46056
applicable: 46057

(i) The alleged incident of the offense of domestic violence 46058
or the alleged incident of the offense of violating a protection 46059
order to which the officer who seized the deadly weapon responded; 46060

(ii) Any offense that arose out of the same facts and 46061
circumstances as the report of the alleged incident of the offense 46062
of domestic violence or the alleged incident of the offense of 46063
violating a protection order to which the officer who seized the 46064
deadly weapon responded. 46065

(4) If, in the circumstances described in divisions (B)(3)(a) 46066
to (g) of this section, a peace officer described in division (A) 46067
of this section arrests and detains a person pursuant to division 46068
(B)(1) of this section, or if, pursuant to division (B)(3)(h) of 46069
this section, a peace officer described in division (A) of this 46070
section seizes a deadly weapon, the officer, to the extent 46071
described in and in accordance with section 9.86 or 2744.03 of the 46072
Revised Code, is immune in any civil action for damages for 46073
injury, death, or loss to person or property that arises from or 46074
is related to the arrest and detention or the seizure. 46075

(C) When there is reasonable ground to believe that a 46076
violation of division (A)(1), (2), (3), (4), or (5) of section 46077
4506.15 or a violation of section 4511.19 of the Revised Code has 46078
been committed by a person operating a motor vehicle subject to 46079
regulation by the public utilities commission of Ohio under Title 46080
XLIX of the Revised Code, a peace officer with authority to 46081
enforce that provision of law may stop or detain the person whom 46082
the officer has reasonable cause to believe was operating the 46083

motor vehicle in violation of the division or section and, after 46084
investigating the circumstances surrounding the operation of the 46085
vehicle, may arrest and detain the person. 46086

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 46087
municipal police officer, member of a police force employed by a 46088
metropolitan housing authority under division (D) of section 46089
3735.31 of the Revised Code, member of a police force employed by 46090
a regional transit authority under division (Y) of section 306.35 46091
of the Revised Code, special police officer employed by a port 46092
authority under section 4582.04 or 4582.28 of the Revised Code, 46093
special police officer employed by a municipal corporation at a 46094
municipal airport or other municipal air navigation facility 46095
described in division (A) of this section, township constable, 46096
police officer of a township or joint ~~township~~ police district, 46097
state university law enforcement officer appointed under section 46098
3345.04 of the Revised Code, peace officer of the department of 46099
natural resources, individual designated to perform law 46100
enforcement duties under section 511.232, 1545.13, or 6101.75 of 46101
the Revised Code, the house sergeant at arms if the house sergeant 46102
at arms has arrest authority pursuant to division (E)(1) of 46103
section 101.311 of the Revised Code, or an assistant house 46104
sergeant at arms is authorized by division (A) or (B) of this 46105
section to arrest and detain, within the limits of the political 46106
subdivision, metropolitan housing authority housing project, 46107
regional transit authority facilities or those areas of a 46108
municipal corporation that have been agreed to by a regional 46109
transit authority and a municipal corporation located within its 46110
territorial jurisdiction, port authority, municipal airport or 46111
other municipal air navigation facility, college, or university in 46112
which the officer is appointed, employed, or elected or within the 46113
limits of the territorial jurisdiction of the peace officer, a 46114
person until a warrant can be obtained, the peace officer, outside 46115
the limits of that territory, may pursue, arrest, and detain that 46116

person until a warrant can be obtained if all of the following 46117
apply: 46118

(1) The pursuit takes place without unreasonable delay after 46119
the offense is committed; 46120

(2) The pursuit is initiated within the limits of the 46121
political subdivision, metropolitan housing authority housing 46122
project, regional transit authority facilities or those areas of a 46123
municipal corporation that have been agreed to by a regional 46124
transit authority and a municipal corporation located within its 46125
territorial jurisdiction, port authority, municipal airport or 46126
other municipal air navigation facility, college, or university in 46127
which the peace officer is appointed, employed, or elected or 46128
within the limits of the territorial jurisdiction of the peace 46129
officer; 46130

(3) The offense involved is a felony, a misdemeanor of the 46131
first degree or a substantially equivalent municipal ordinance, a 46132
misdemeanor of the second degree or a substantially equivalent 46133
municipal ordinance, or any offense for which points are 46134
chargeable pursuant to section 4510.036 of the Revised Code. 46135

(E) In addition to the authority granted under division (A) 46136
or (B) of this section: 46137

(1) A sheriff or deputy sheriff may arrest and detain, until 46138
a warrant can be obtained, any person found violating section 46139
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 46140
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 46141
portion of any street or highway that is located immediately 46142
adjacent to the boundaries of the county in which the sheriff or 46143
deputy sheriff is elected or appointed. 46144

(2) A member of the police force of a township police 46145
district created under section 505.48 of the Revised Code, a 46146
member of the police force of a joint ~~township~~ police district 46147

created under section ~~505.481~~ 505.482 of the Revised Code, or a 46148
township constable appointed in accordance with section 509.01 of 46149
the Revised Code, who has received a certificate from the Ohio 46150
peace officer training commission under section 109.75 of the 46151
Revised Code, may arrest and detain, until a warrant can be 46152
obtained, any person found violating any section or chapter of the 46153
Revised Code listed in division (E)(1) of this section, other than 46154
sections 4513.33 and 4513.34 of the Revised Code, on the portion 46155
of any street or highway that is located immediately adjacent to 46156
the boundaries of the township police district or joint ~~township~~ 46157
police district, in the case of a member of a township police 46158
district or joint ~~township~~ police district police force, or the 46159
unincorporated territory of the township, in the case of a 46160
township constable. However, if the population of the township 46161
that created the township police district served by the member's 46162
police force, or the townships and municipal corporations that 46163
created the joint ~~township~~ police district served by the member's 46164
police force, or the township that is served by the township 46165
constable, is sixty thousand or less, the member of the township 46166
police district or joint police district police force or the 46167
township constable may not make an arrest under division (E)(2) of 46168
this section on a state highway that is included as part of the 46169
interstate system. 46170

(3) A police officer or village marshal appointed, elected, 46171
or employed by a municipal corporation may arrest and detain, 46172
until a warrant can be obtained, any person found violating any 46173
section or chapter of the Revised Code listed in division (E)(1) 46174
of this section on the portion of any street or highway that is 46175
located immediately adjacent to the boundaries of the municipal 46176
corporation in which the police officer or village marshal is 46177
appointed, elected, or employed. 46178

(4) A peace officer of the department of natural resources, a 46179

state fire marshal law enforcement officer described in division 46180
(A)(23) of section 109.71 of the Revised Code, or an individual 46181
designated to perform law enforcement duties under section 46182
511.232, 1545.13, or 6101.75 of the Revised Code may arrest and 46183
detain, until a warrant can be obtained, any person found 46184
violating any section or chapter of the Revised Code listed in 46185
division (E)(1) of this section, other than sections 4513.33 and 46186
4513.34 of the Revised Code, on the portion of any street or 46187
highway that is located immediately adjacent to the boundaries of 46188
the lands and waters that constitute the territorial jurisdiction 46189
of the peace officer or state fire marshal law enforcement 46190
officer. 46191

(F)(1) A department of mental health special police officer 46192
or a department of developmental disabilities special police 46193
officer may arrest without a warrant and detain until a warrant 46194
can be obtained any person found committing on the premises of any 46195
institution under the jurisdiction of the particular department a 46196
misdemeanor under a law of the state. 46197

A department of mental health special police officer or a 46198
department of developmental disabilities special police officer 46199
may arrest without a warrant and detain until a warrant can be 46200
obtained any person who has been hospitalized, institutionalized, 46201
or confined in an institution under the jurisdiction of the 46202
particular department pursuant to or under authority of section 46203
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 46204
2945.402 of the Revised Code and who is found committing on the 46205
premises of any institution under the jurisdiction of the 46206
particular department a violation of section 2921.34 of the 46207
Revised Code that involves an escape from the premises of the 46208
institution. 46209

(2)(a) If a department of mental health special police 46210
officer or a department of developmental disabilities special 46211

police officer finds any person who has been hospitalized, 46212
institutionalized, or confined in an institution under the 46213
jurisdiction of the particular department pursuant to or under 46214
authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 46215
2945.401, or 2945.402 of the Revised Code committing a violation 46216
of section 2921.34 of the Revised Code that involves an escape 46217
from the premises of the institution, or if there is reasonable 46218
ground to believe that a violation of section 2921.34 of the 46219
Revised Code has been committed that involves an escape from the 46220
premises of an institution under the jurisdiction of the 46221
department of mental health or the department of developmental 46222
disabilities and if a department of mental health special police 46223
officer or a department of developmental disabilities special 46224
police officer has reasonable cause to believe that a particular 46225
person who has been hospitalized, institutionalized, or confined 46226
in the institution pursuant to or under authority of section 46227
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 46228
2945.402 of the Revised Code is guilty of the violation, the 46229
special police officer, outside of the premises of the 46230
institution, may pursue, arrest, and detain that person for that 46231
violation of section 2921.34 of the Revised Code, until a warrant 46232
can be obtained, if both of the following apply: 46233

(i) The pursuit takes place without unreasonable delay after 46234
the offense is committed; 46235

(ii) The pursuit is initiated within the premises of the 46236
institution from which the violation of section 2921.34 of the 46237
Revised Code occurred. 46238

(b) For purposes of division (F)(2)(a) of this section, the 46239
execution of a written statement by the administrator of the 46240
institution in which a person had been hospitalized, 46241
institutionalized, or confined pursuant to or under authority of 46242
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 46243

2945.402 of the Revised Code alleging that the person has escaped 46244
from the premises of the institution in violation of section 46245
2921.34 of the Revised Code constitutes reasonable ground to 46246
believe that the violation was committed and reasonable cause to 46247
believe that the person alleged in the statement to have committed 46248
the offense is guilty of the violation. 46249

(G) As used in this section: 46250

(1) A "department of mental health special police officer" 46251
means a special police officer of the department of mental health 46252
designated under section 5119.14 of the Revised Code who is 46253
certified by the Ohio peace officer training commission under 46254
section 109.77 of the Revised Code as having successfully 46255
completed an approved peace officer basic training program. 46256

(2) A "department of developmental disabilities special 46257
police officer" means a special police officer of the department 46258
of developmental disabilities designated under section 5123.13 of 46259
the Revised Code who is certified by the Ohio peace officer 46260
training council under section 109.77 of the Revised Code as 46261
having successfully completed an approved peace officer basic 46262
training program. 46263

(3) "Deadly weapon" has the same meaning as in section 46264
2923.11 of the Revised Code. 46265

(4) "Family or household member" has the same meaning as in 46266
section 2919.25 of the Revised Code. 46267

(5) "Street" or "highway" has the same meaning as in section 46268
4511.01 of the Revised Code. 46269

(6) "Interstate system" has the same meaning as in section 46270
5516.01 of the Revised Code. 46271

(7) "Peace officer of the department of natural resources" 46272
means an employee of the department of natural resources who is a 46273

natural resources law enforcement staff officer designated 46274
pursuant to section 1501.013 of the Revised Code, a forest officer 46275
designated pursuant to section 1503.29 of the Revised Code, a 46276
preserve officer designated pursuant to section 1517.10 of the 46277
Revised Code, a wildlife officer designated pursuant to section 46278
1531.13 of the Revised Code, a park officer designated pursuant to 46279
section 1541.10 of the Revised Code, or a state watercraft officer 46280
designated pursuant to section 1547.521 of the Revised Code. 46281

(8) "Portion of any street or highway" means all lanes of the 46282
street or highway irrespective of direction of travel, including 46283
designated turn lanes, and any berm, median, or shoulder. 46284

Sec. 2939.11. The official ~~shorthand~~ reporter of the county, 46285
or any ~~shorthand~~ reporter designated by the court of common pleas, 46286
at the request of the prosecuting attorney, or any such reporter 46287
designated by the attorney general in investigations conducted by 46288
~~him~~ the attorney general, may take ~~shorthand~~ notes of, or 46289
electronically record, testimony before the grand jury, and 46290
furnish a transcript to the prosecuting attorney or the attorney 46291
general, and to no other person. The ~~shorthand~~ reporter shall 46292
withdraw from the jury room before the jurors begin to express 46293
their views or take their vote on the matter before them. Such 46294
reporter shall take an oath to be administered by the judge after 46295
the grand jury is sworn, imposing an obligation of secrecy to not 46296
disclose any testimony taken or heard except to the grand jury, 46297
prosecuting attorney, or attorney general, unless called upon in 46298
court to make disclosures. 46299

Sec. 2945.371. (A) If the issue of a defendant's competence 46300
to stand trial is raised or if a defendant enters a plea of not 46301
guilty by reason of insanity, the court may order one or more 46302
evaluations of the defendant's present mental condition or, in the 46303
case of a plea of not guilty by reason of insanity, of the 46304

defendant's mental condition at the time of the offense charged. 46305
An examiner shall conduct the evaluation. 46306

(B) If the court orders more than one evaluation under 46307
division (A) of this section, the prosecutor and the defendant may 46308
recommend to the court an examiner whom each prefers to perform 46309
one of the evaluations. If a defendant enters a plea of not guilty 46310
by reason of insanity and if the court does not designate an 46311
examiner recommended by the defendant, the court shall inform the 46312
defendant that the defendant may have independent expert 46313
evaluation and that, if the defendant is unable to obtain 46314
independent expert evaluation, it will be obtained for the 46315
defendant at public expense if the defendant is indigent. 46316

(C) If the court orders an evaluation under division (A) of 46317
this section, the defendant shall be available at the times and 46318
places established by the examiners who are to conduct the 46319
evaluation. The court may order a defendant who has been released 46320
on bail or recognizance to submit to an evaluation under this 46321
section. If a defendant who has been released on bail or 46322
recognizance refuses to submit to a complete evaluation, the court 46323
may amend the conditions of bail or recognizance and order the 46324
sheriff to take the defendant into custody and deliver the 46325
defendant to a center, program, or facility operated or certified 46326
by the department of mental health or the department of 46327
developmental disabilities where the defendant may be held for 46328
evaluation for a reasonable period of time not to exceed twenty 46329
days. 46330

(D) A defendant who has not been released on bail or 46331
recognizance may be evaluated at the defendant's place of 46332
detention. Upon the request of the examiner, the court may order 46333
the sheriff to transport the defendant to a program or facility 46334
operated or certified by the department of mental health or the 46335
department of developmental disabilities, where the defendant may 46336

be held for evaluation for a reasonable period of time not to exceed twenty days, and to return the defendant to the place of detention after the evaluation. A municipal court may make an order under this division only upon the request of a certified forensic center examiner.

(E) If a court orders the evaluation to determine a defendant's mental condition at the time of the offense charged, the court shall inform the examiner of the offense with which the defendant is charged.

(F) In conducting an evaluation of a defendant's mental condition at the time of the offense charged, the examiner shall consider all relevant evidence. If the offense charged involves the use of force against another person, the relevant evidence to be considered includes, but is not limited to, any evidence that the defendant suffered, at the time of the commission of the offense, from the "battered woman syndrome."

(G) The examiner shall file a written report with the court within thirty days after entry of a court order for evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the following:

(1) The examiner's findings;

(2) The facts in reasonable detail on which the findings are based;

(3) If the evaluation was ordered to determine the defendant's competence to stand trial, all of the following findings or recommendations that are applicable:

(a) Whether the defendant is capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense;

(b) If the examiner's opinion is that the defendant is 46367
incapable of understanding the nature and objective of the 46368
proceedings against the defendant or of assisting in the 46369
defendant's defense, whether the defendant presently is mentally 46370
ill or mentally retarded and, if the examiner's opinion is that 46371
the defendant presently is mentally retarded, whether the 46372
defendant appears to be a mentally retarded person subject to 46373
institutionalization by court order; 46374

(c) If the examiner's opinion is that the defendant is 46375
incapable of understanding the nature and objective of the 46376
proceedings against the defendant or of assisting in the 46377
defendant's defense, the examiner's opinion as to the likelihood 46378
of the defendant becoming capable of understanding the nature and 46379
objective of the proceedings against the defendant and of 46380
assisting in the defendant's defense within one year if the 46381
defendant is provided with a course of treatment; 46382

(d) If the examiner's opinion is that the defendant is 46383
incapable of understanding the nature and objective of the 46384
proceedings against the defendant or of assisting in the 46385
defendant's defense and that the defendant presently is mentally 46386
ill or mentally retarded, the examiner's recommendation as to the 46387
least restrictive ~~treatment~~ placement or commitment alternative, 46388
consistent with the defendant's treatment needs for restoration to 46389
competency and with the safety of the community; 46390

(e) If the defendant is charged with a misdemeanor offense 46391
that is not an offense of violence and the examiner's opinion is 46392
that the defendant is incapable of understanding the nature and 46393
objective of the proceedings against the defendant or of assisting 46394
in the defendant's defense and that the defendant is presently 46395
mentally ill or mentally retarded, the examiner's recommendation 46396
as to whether the defendant is amenable to engagement in mental 46397
health treatment or developmental disability services. 46398

(4) If the evaluation was ordered to determine the defendant's mental condition at the time of the offense charged, the examiner's findings as to whether the defendant, at the time of the offense charged, did not know, as a result of a severe mental disease or defect, the wrongfulness of the defendant's acts charged.

(H) If the examiner's report filed under division (G) of this section indicates that in the examiner's opinion the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that in the examiner's opinion the defendant appears to be a mentally retarded person subject to institutionalization by court order, the court shall order the defendant to undergo a separate mental retardation evaluation conducted by a psychologist designated by the director of developmental disabilities. Divisions (C) to (F) of this section apply in relation to a separate mental retardation evaluation conducted under this division. The psychologist appointed under this division to conduct the separate mental retardation evaluation shall file a written report with the court within thirty days after the entry of the court order requiring the separate mental retardation evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the information described in divisions (G)(1) to (4) of this section. If the court orders a separate mental retardation evaluation of a defendant under this division, the court shall not conduct a hearing under divisions (B) to (H) of section 2945.37 of the Revised Code regarding that defendant until a report of the separate mental retardation evaluation conducted under this division has been filed. Upon the filing of that report, the court shall conduct the hearing within the period of time specified in division (C) of section 2945.37 of the Revised Code.

(I) An examiner appointed under divisions (A) and (B) of this section or under division (H) of this section to evaluate a defendant to determine the defendant's competence to stand trial also may be appointed to evaluate a defendant who has entered a plea of not guilty by reason of insanity, but an examiner of that nature shall prepare separate reports on the issue of competence to stand trial and the defense of not guilty by reason of insanity.

(J) No statement that a defendant makes in an evaluation or hearing under divisions (A) to (H) of this section relating to the defendant's competence to stand trial or to the defendant's mental condition at the time of the offense charged shall be used against the defendant on the issue of guilt in any criminal action or proceeding, but, in a criminal action or proceeding, the prosecutor or defense counsel may call as a witness any person who evaluated the defendant or prepared a report pursuant to a referral under this section. Neither the appointment nor the testimony of an examiner appointed under this section precludes the prosecutor or defense counsel from calling other witnesses or presenting other evidence on competency or insanity issues.

(K) Persons appointed as examiners under divisions (A) and (B) of this section or under division (H) of this section shall be paid a reasonable amount for their services and expenses, as certified by the court. The certified amount shall be paid by the county in the case of county courts and courts of common pleas and by the legislative authority, as defined in section 1901.03 of the Revised Code, in the case of municipal courts.

Sec. 2945.38. (A) If the issue of a defendant's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant

shall be proceeded against as provided by law. If the court finds 46463
the defendant competent to stand trial and the defendant is 46464
receiving psychotropic drugs or other medication, the court may 46465
authorize the continued administration of the drugs or medication 46466
or other appropriate treatment in order to maintain the 46467
defendant's competence to stand trial, unless the defendant's 46468
attending physician advises the court against continuation of the 46469
drugs, other medication, or treatment. 46470

(B)(1)(a) If, after taking into consideration all relevant 46471
reports, information, and other evidence, the court finds that the 46472
defendant is incompetent to stand trial and that there is a 46473
substantial probability that the defendant will become competent 46474
to stand trial within one year if the defendant is provided with a 46475
course of treatment, the court shall order the defendant to 46476
undergo treatment. If the defendant has been charged with a felony 46477
offense and if, after taking into consideration all relevant 46478
reports, information, and other evidence, the court finds that the 46479
defendant is incompetent to stand trial, but the court is unable 46480
at that time to determine whether there is a substantial 46481
probability that the defendant will become competent to stand 46482
trial within one year if the defendant is provided with a course 46483
of treatment, the court shall order continuing evaluation and 46484
treatment of the defendant for a period not to exceed four months 46485
to determine whether there is a substantial probability that the 46486
defendant will become competent to stand trial within one year if 46487
the defendant is provided with a course of treatment. 46488

(b) The court order for the defendant to undergo treatment or 46489
continuing evaluation and treatment under division (B)(1)(a) of 46490
this section shall specify that the defendant, if determined to 46491
require mental health treatment or continuing evaluation and 46492
treatment, shall be committed to the department of mental health 46493
for treatment or continuing evaluation and treatment shall occur 46494

at a hospital, facility, or agency, as determined to be clinically 46495
appropriate by the department of mental health and, if determined 46496
to require treatment or continuing evaluation and treatment for a 46497
developmental disability, shall receive treatment or continuing 46498
evaluation and treatment at an institution or facility operated by 46499
the department of ~~mental health or the department of~~ developmental 46500
disabilities, at a facility certified by ~~either of those~~ 46501
~~departments~~ the department of developmental disabilities as being 46502
qualified to treat ~~mental illness or~~ mental retardation, at a 46503
public or private community mental ~~health or mental~~ retardation 46504
facility, or by a ~~psychiatrist or another~~ mental health or mental 46505
retardation professional. The order may restrict the defendant's 46506
freedom of movement as the court considers necessary. The 46507
prosecutor in the defendant's case shall send to the chief 46508
clinical officer of the hospital ~~or~~, facility, or agency where the 46509
defendant is placed by the department of mental health, or to the 46510
managing officer of the institution, the director of the ~~program~~ 46511
facility, or the person to which the defendant is committed, 46512
copies of relevant police reports and other background information 46513
that pertains to the defendant and is available to the prosecutor 46514
unless the prosecutor determines that the release of any of the 46515
information in the police reports or any of the other background 46516
information to unauthorized persons would interfere with the 46517
effective prosecution of any person or would create a substantial 46518
risk of harm to any person. 46519

In committing the defendant to the department of mental 46520
health, the court shall consider the extent to which the person is 46521
a danger to the person and to others, the need for security, and 46522
the type of crime involved and, if the court finds that 46523
restrictions on the defendant's freedom of movement are necessary, 46524
shall specify the least restrictive limitations on the person's 46525
freedom of movement determined to be necessary to protect public 46526
safety. In determining ~~placement~~ commitment alternatives for 46527

defendants determined to require treatment or continuing 46528
evaluation and treatment for developmental disabilities, the court 46529
shall consider the extent to which the person is a danger to the 46530
person and to others, the need for security, and the type of crime 46531
involved and shall order the least restrictive alternative 46532
available that is consistent with public safety and treatment 46533
goals. In weighing these factors, the court shall give preference 46534
to protecting public safety. 46535

(c) If the defendant is found incompetent to stand trial, if 46536
the chief clinical officer of the hospital ~~or~~, facility, or agency 46537
where the defendant is placed, or the managing officer of the 46538
institution, the director of the ~~program~~ facility, or the person 46539
to which the defendant is committed for treatment or continuing 46540
evaluation and treatment under division (B)(1)(b) of this section 46541
determines that medication is necessary to restore the defendant's 46542
competency to stand trial, and if the defendant lacks the capacity 46543
to give informed consent or refuses medication, the chief clinical 46544
officer of the hospital, facility, or agency where the defendant 46545
is placed, or the managing officer of the institution, the 46546
director of the facility, or the person to which the defendant is 46547
committed for treatment or continuing evaluation and treatment may 46548
petition the court for authorization for the involuntary 46549
administration of medication. The court shall hold a hearing on 46550
the petition within five days of the filing of the petition if the 46551
petition was filed in a municipal court or a county court 46552
regarding an incompetent defendant charged with a misdemeanor or 46553
within ten days of the filing of the petition if the petition was 46554
filed in a court of common pleas regarding an incompetent 46555
defendant charged with a felony offense. Following the hearing, 46556
the court may authorize the involuntary administration of 46557
medication or may dismiss the petition. 46558

(d) If the defendant is charged with a misdemeanor offense 46559

that is not an offense of violence, the prosecutor may hold the charges in abeyance while the defendant engages in mental health treatment or developmental disability services.

(2) If the court finds that the defendant is incompetent to stand trial and that, even if the defendant is provided with a course of treatment, there is not a substantial probability that the defendant will become competent to stand trial within one year, the court shall order the discharge of the defendant, unless upon motion of the prosecutor or on its own motion, the court either seeks to retain jurisdiction over the defendant pursuant to section 2945.39 of the Revised Code or files an affidavit in the probate court for the civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code alleging that the defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the defendant's mental condition that were prepared pursuant to section 2945.371 of the Revised Code.

The trial court may issue the temporary order of detention that a probate court may issue under section 5122.11 or 5123.71 of the Revised Code, to remain in effect until the probable cause or initial hearing in the probate court. Further proceedings in the probate court are civil proceedings governed by Chapter 5122. or 5123. of the Revised Code.

(C) No defendant shall be required to undergo treatment, including any continuing evaluation and treatment, under division (B)(1) of this section for longer than whichever of the following periods is applicable:

(1) One year, if the most serious offense with which the defendant is charged is one of the following offenses:

(a) Aggravated murder, murder, or an offense of violence for which a sentence of death or life imprisonment may be imposed; 46592
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(b) An offense of violence that is a felony of the first or second degree; 46594
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(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division (C)(1)(a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree. 46596
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(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C)(1) of this section; 46600
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(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree; 46603
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(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor. 46606
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(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 46609
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(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed by the court under this section to ~~a hospital~~ the department of mental health with restrictions on the defendant's freedom of movement or ~~either is committed to an institution by the court under this section or facility for the treatment of developmental~~ disabilities shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. The court may grant a defendant supervised off-grounds movement to obtain medical 46613
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treatment or specialized habilitation treatment services if the 46623
person who supervises the treatment or the continuing evaluation 46624
and treatment of the defendant ordered under division (B)(1)(a) of 46625
this section informs the court that the treatment or continuing 46626
evaluation and treatment cannot be provided at the hospital or 46627
facility where the defendant is placed by the department of mental 46628
health or the institution or facility to which the defendant is 46629
committed. The chief clinical officer of the hospital or facility 46630
where the defendant is placed by the department of mental health 46631
or the managing officer of the institution or director of the 46632
facility to which the defendant is committed, or a designee of 46633
~~either~~ any of those persons, may grant a defendant movement to a 46634
medical facility for an emergency medical situation with 46635
appropriate supervision to ensure the safety of the defendant, 46636
staff, and community during that emergency medical situation. The 46637
chief clinical officer of the hospital or facility where the 46638
defendant is placed by the department of mental health or the 46639
managing officer of the institution or director of the facility to 46640
which the defendant is committed shall notify the court within 46641
twenty-four hours of the defendant's movement to the medical 46642
facility for an emergency medical situation under this division. 46643

(F) The person who supervises the treatment or continuing 46644
evaluation and treatment of a defendant ordered to undergo 46645
treatment or continuing evaluation and treatment under division 46646
(B)(1)(a) of this section shall file a written report with the 46647
court at the following times: 46648

(1) Whenever the person believes the defendant is capable of 46649
understanding the nature and objective of the proceedings against 46650
the defendant and of assisting in the defendant's defense; 46651

(2) For a felony offense, fourteen days before expiration of 46652
the maximum time for treatment as specified in division (C) of 46653
this section and fourteen days before the expiration of the 46654

maximum time for continuing evaluation and treatment as specified 46655
in division (B)(1)(a) of this section, and, for a misdemeanor 46656
offense, ten days before the expiration of the maximum time for 46657
treatment, as specified in division (C) of this section; 46658

(3) At a minimum, after each six months of treatment; 46659

(4) Whenever the person who supervises the treatment or 46660
continuing evaluation and treatment of a defendant ordered under 46661
division (B)(1)(a) of this section believes that there is not a 46662
substantial probability that the defendant will become capable of 46663
understanding the nature and objective of the proceedings against 46664
the defendant or of assisting in the defendant's defense even if 46665
the defendant is provided with a course of treatment. 46666

(G) A report under division (F) of this section shall contain 46667
the examiner's findings, the facts in reasonable detail on which 46668
the findings are based, and the examiner's opinion as to the 46669
defendant's capability of understanding the nature and objective 46670
of the proceedings against the defendant and of assisting in the 46671
defendant's defense. If, in the examiner's opinion, the defendant 46672
remains incapable of understanding the nature and objective of the 46673
proceedings against the defendant and of assisting in the 46674
defendant's defense and there is a substantial probability that 46675
the defendant will become capable of understanding the nature and 46676
objective of the proceedings against the defendant and of 46677
assisting in the defendant's defense if the defendant is provided 46678
with a course of treatment, if in the examiner's opinion the 46679
defendant remains mentally ill or mentally retarded, and if the 46680
maximum time for treatment as specified in division (C) of this 46681
section has not expired, the report also shall contain the 46682
examiner's recommendation as to the least restrictive ~~treatment~~ 46683
placement or commitment alternative that is consistent with the 46684
defendant's treatment needs for restoration to competency and with 46685
the safety of the community. The court shall provide copies of the 46686

report to the prosecutor and defense counsel. 46687

(H) If a defendant is committed pursuant to division (B)(1) 46688
of this section, within ten days after the treating physician of 46689
the defendant or the examiner of the defendant who is employed or 46690
retained by the treating facility advises that there is not a 46691
substantial probability that the defendant will become capable of 46692
understanding the nature and objective of the proceedings against 46693
the defendant or of assisting in the defendant's defense even if 46694
the defendant is provided with a course of treatment, within ten 46695
days after the expiration of the maximum time for treatment as 46696
specified in division (C) of this section, within ten days after 46697
the expiration of the maximum time for continuing evaluation and 46698
treatment as specified in division (B)(1)(a) of this section, 46699
within thirty days after a defendant's request for a hearing that 46700
is made after six months of treatment, or within thirty days after 46701
being advised by the treating physician or examiner that the 46702
defendant is competent to stand trial, whichever is the earliest, 46703
the court shall conduct another hearing to determine if the 46704
defendant is competent to stand trial and shall do whichever of 46705
the following is applicable: 46706

(1) If the court finds that the defendant is competent to 46707
stand trial, the defendant shall be proceeded against as provided 46708
by law. 46709

(2) If the court finds that the defendant is incompetent to 46710
stand trial, but that there is a substantial probability that the 46711
defendant will become competent to stand trial if the defendant is 46712
provided with a course of treatment, and the maximum time for 46713
treatment as specified in division (C) of this section has not 46714
expired, the court, after consideration of the examiner's 46715
recommendation, shall order that treatment be continued, may 46716
change the ~~facility or program at which the treatment is to be~~ 46717
~~continued~~ least restrictive limitations on the defendant's freedom 46718

of movement, and, if applicable, shall specify whether the 46719
treatment for developmental disabilities is to be continued at the 46720
same or a different facility or ~~program~~ institution. 46721

(3) If the court finds that the defendant is incompetent to 46722
stand trial, if the defendant is charged with an offense listed in 46723
division (C)(1) of this section, and if the court finds that there 46724
is not a substantial probability that the defendant will become 46725
competent to stand trial even if the defendant is provided with a 46726
course of treatment, or if the maximum time for treatment relative 46727
to that offense as specified in division (C) of this section has 46728
expired, further proceedings shall be as provided in sections 46729
2945.39, 2945.401, and 2945.402 of the Revised Code. 46730

(4) If the court finds that the defendant is incompetent to 46731
stand trial, if the most serious offense with which the defendant 46732
is charged is a misdemeanor or a felony other than a felony listed 46733
in division (C)(1) of this section, and if the court finds that 46734
there is not a substantial probability that the defendant will 46735
become competent to stand trial even if the defendant is provided 46736
with a course of treatment, or if the maximum time for treatment 46737
relative to that offense as specified in division (C) of this 46738
section has expired, the court shall dismiss the indictment, 46739
information, or complaint against the defendant. A dismissal under 46740
this division is not a bar to further prosecution based on the 46741
same conduct. The court shall discharge the defendant unless the 46742
court or prosecutor files an affidavit in probate court for civil 46743
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 46744
If an affidavit for civil commitment is filed, the court may 46745
detain the defendant for ten days pending civil commitment. All of 46746
the following provisions apply to persons charged with a 46747
misdemeanor or a felony other than a felony listed in division 46748
(C)(1) of this section who are committed by the probate court 46749
subsequent to the court's or prosecutor's filing of an affidavit 46750

for civil commitment under authority of this division: 46751

(a) The chief clinical officer of the entity, hospital, or 46752
facility, the managing officer of the institution, ~~the director of~~ 46753
~~the program~~, or the person to which the defendant is committed or 46754
admitted shall do all of the following: 46755

(i) Notify the prosecutor, in writing, of the discharge of 46756
the defendant, send the notice at least ten days prior to the 46757
discharge unless the discharge is by the probate court, and state 46758
in the notice the date on which the defendant will be discharged; 46759

(ii) Notify the prosecutor, in writing, when the defendant is 46760
absent without leave or is granted unsupervised, off-grounds 46761
movement, and send this notice promptly after the discovery of the 46762
absence without leave or prior to the granting of the 46763
unsupervised, off-grounds movement, whichever is applicable; 46764

(iii) Notify the prosecutor, in writing, of the change of the 46765
defendant's commitment or admission to voluntary status, send the 46766
notice promptly upon learning of the change to voluntary status, 46767
and state in the notice the date on which the defendant was 46768
committed or admitted on a voluntary status. 46769

(b) Upon receiving notice that the defendant will be granted 46770
unsupervised, off-grounds movement, the prosecutor either shall 46771
re-indict the defendant or promptly notify the court that the 46772
prosecutor does not intend to prosecute the charges against the 46773
defendant. 46774

(I) If a defendant is convicted of a crime and sentenced to a 46775
jail or workhouse, the defendant's sentence shall be reduced by 46776
the total number of days the defendant is confined for evaluation 46777
to determine the defendant's competence to stand trial or 46778
treatment under this section and sections 2945.37 and 2945.371 of 46779
the Revised Code or by the total number of days the defendant is 46780
confined for evaluation to determine the defendant's mental 46781

condition at the time of the offense charged. 46782

Sec. 2945.39. (A) If a defendant who is charged with an 46783
offense described in division (C)(1) of section 2945.38 of the 46784
Revised Code is found incompetent to stand trial, after the 46785
expiration of the maximum time for treatment as specified in 46786
division (C) of that section or after the court finds that there 46787
is not a substantial probability that the defendant will become 46788
competent to stand trial even if the defendant is provided with a 46789
course of treatment, one of the following applies: 46790

(1) The court or the prosecutor may file an affidavit in 46791
probate court for civil commitment of the defendant in the manner 46792
provided in Chapter 5122. or 5123. of the Revised Code. If the 46793
court or prosecutor files an affidavit for civil commitment, the 46794
court may detain the defendant for ten days pending civil 46795
commitment. If the probate court commits the defendant subsequent 46796
to the court's or prosecutor's filing of an affidavit for civil 46797
commitment, the chief clinical officer of the entity, hospital, or 46798
facility, the managing officer of the institution, ~~the director of~~ 46799
~~the program~~, or the person to which the defendant is committed or 46800
admitted shall send to the prosecutor the notices described in 46801
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 46802
Code within the periods of time and under the circumstances 46803
specified in those divisions. 46804

(2) On the motion of the prosecutor or on its own motion, the 46805
court may retain jurisdiction over the defendant if, at a hearing, 46806
the court finds both of the following by clear and convincing 46807
evidence: 46808

(a) The defendant committed the offense with which the 46809
defendant is charged. 46810

(b) The defendant is a mentally ill person subject to 46811
hospitalization by court order or a mentally retarded person 46812

subject to institutionalization by court order. 46813

(B) In making its determination under division (A)(2) of this 46814
section as to whether to retain jurisdiction over the defendant, 46815
the court may consider all relevant evidence, including, but not 46816
limited to, any relevant psychiatric, psychological, or medical 46817
testimony or reports, the acts constituting the offense charged, 46818
and any history of the defendant that is relevant to the 46819
defendant's ability to conform to the law. 46820

(C) If the court conducts a hearing as described in division 46821
(A)(2) of this section and if the court does not make both 46822
findings described in divisions (A)(2)(a) and (b) of this section 46823
by clear and convincing evidence, the court shall dismiss the 46824
indictment, information, or complaint against the defendant. Upon 46825
the dismissal, the court shall discharge the defendant unless the 46826
court or prosecutor files an affidavit in probate court for civil 46827
commitment of the defendant pursuant to Chapter 5122. or 5123. of 46828
the Revised Code. If the court or prosecutor files an affidavit 46829
for civil commitment, the court may order that the defendant be 46830
detained for up to ten days pending the civil commitment. If the 46831
probate court commits the defendant subsequent to the court's or 46832
prosecutor's filing of an affidavit for civil commitment, the 46833
chief clinical officer of the entity, hospital, or facility, the 46834
managing officer of the institution, ~~the director of the program,~~ 46835
or the person to which the defendant is committed or admitted 46836
shall send to the prosecutor the notices described in divisions 46837
(H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code 46838
within the periods of time and under the circumstances specified 46839
in those divisions. A dismissal of charges under this division is 46840
not a bar to further criminal proceedings based on the same 46841
conduct. 46842

(D)(1) If the court conducts a hearing as described in 46843
division (A)(2) of this section and if the court makes the 46844

findings described in divisions (A)(2)(a) and (b) of this section 46845
by clear and convincing evidence, the court shall commit the 46846
defendant, if determined to require mental health treatment, to a 46847
~~hospital operated by~~ the department of mental health for treatment 46848
at a hospital, facility, or agency as determined clinically 46849
appropriate by the department of mental health or, if determined 46850
to require treatment for developmental disabilities, to a facility 46851
operated by the department of developmental disabilities, or 46852
another ~~medical or psychiatric~~ facility, as appropriate. In 46853
committing the defendant to the department of mental health, the 46854
court shall specify the least restrictive limitations on the 46855
defendant's freedom of movement determined to be necessary to 46856
protect public safety. In determining the place and nature of the 46857
commitment to a facility operated by the department of 46858
developmental disabilities or another facility for treatment of 46859
developmental disabilities, the court shall order the least 46860
restrictive commitment alternative available that is consistent 46861
with public safety and the welfare of the defendant. In weighing 46862
these factors, the court shall give preference to protecting 46863
public safety. 46864

(2) If a court makes a commitment of a defendant under 46865
division (D)(1) of this section, the prosecutor shall send to the 46866
hospital, facility, or agency where the defendant is placed by the 46867
department of mental health or to the defendant's place of 46868
commitment all reports of the defendant's current mental condition 46869
and, except as otherwise provided in this division, any other 46870
relevant information, including, but not limited to, a transcript 46871
of the hearing held pursuant to division (A)(2) of this section, 46872
copies of relevant police reports, and copies of any prior arrest 46873
and conviction records that pertain to the defendant and that the 46874
prosecutor possesses. The prosecutor shall send the reports of the 46875
defendant's current mental condition in every case of commitment, 46876
and, unless the prosecutor determines that the release of any of 46877

the other relevant information to unauthorized persons would 46878
interfere with the effective prosecution of any person or would 46879
create a substantial risk of harm to any person, the prosecutor 46880
also shall send the other relevant information. ~~Upon admission of~~ 46881
~~a defendant committed under division (D)(1) of this section, the~~ 46882
~~place of commitment shall send to the board of alcohol, drug~~ 46883
~~addiction, and mental health services or the community mental~~ 46884
~~health board serving the county in which the charges against the~~ 46885
~~defendant were filed a copy of all reports of the defendant's~~ 46886
~~current mental condition and a copy of the other relevant~~ 46887
~~information provided by the prosecutor under this division,~~ 46888
~~including, if provided, a transcript of the hearing held pursuant~~ 46889
~~to division (A)(2) of this section, the relevant police reports,~~ 46890
~~and the prior arrest and conviction records that pertain to the~~ 46891
~~defendant and that the prosecutor possesses.~~ 46892

(3) If a court makes a commitment under division (D)(1) of 46893
this section, all further proceedings shall be in accordance with 46894
sections 2945.401 and 2945.402 of the Revised Code. 46895

Sec. 2945.40. (A) If a person is found not guilty by reason 46896
of insanity, the verdict shall state that finding, and the trial 46897
court shall conduct a full hearing to determine whether the person 46898
is a mentally ill person subject to hospitalization by court order 46899
or a mentally retarded person subject to institutionalization by 46900
court order. Prior to the hearing, if the trial judge believes 46901
that there is probable cause that the person found not guilty by 46902
reason of insanity is a mentally ill person subject to 46903
hospitalization by court order or mentally retarded person subject 46904
to institutionalization by court order, the trial judge may issue 46905
a temporary order of detention for that person to remain in effect 46906
for ten court days or until the hearing, whichever occurs first. 46907

Any person detained pursuant to a temporary order of 46908

detention issued under this division shall be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

(B) The court shall hold the hearing under division (A) of this section to determine whether the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order within ten court days after the finding of not guilty by reason of insanity. Failure to conduct the hearing within the ten-day period shall cause the immediate discharge of the respondent, unless the judge grants a continuance for not longer than ten court days for good cause shown or for any period of time upon motion of the respondent.

(C) If a person is found not guilty by reason of insanity, the person has the right to attend all hearings conducted pursuant to sections 2945.37 to 2945.402 of the Revised Code. At any hearing conducted pursuant to one of those sections, the court shall inform the person that the person has all of the following rights:

(1) The right to be represented by counsel and to have that counsel provided at public expense if the person is indigent, with the counsel to be appointed by the court under Chapter 120. of the Revised Code or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code;

(2) The right to have independent expert evaluation and to have that independent expert evaluation provided at public expense if the person is indigent;

(3) The right to subpoena witnesses and documents, to present evidence on the person's behalf, and to cross-examine witnesses

against the person; 46940

(4) The right to testify in the person's own behalf and to 46941
not be compelled to testify; 46942

(5) The right to have copies of any relevant medical or 46943
mental health document in the custody of the state or of any place 46944
of commitment other than a document for which the court finds that 46945
the release to the person of information contained in the document 46946
would create a substantial risk of harm to any person. 46947

(D) The hearing under division (A) of this section shall be 46948
open to the public, and the court shall conduct the hearing in 46949
accordance with the Rules of Civil Procedure. The court shall make 46950
and maintain a full transcript and record of the hearing 46951
proceedings. The court may consider all relevant evidence, 46952
including, but not limited to, any relevant psychiatric, 46953
psychological, or medical testimony or reports, the acts 46954
constituting the offense in relation to which the person was found 46955
not guilty by reason of insanity, and any history of the person 46956
that is relevant to the person's ability to conform to the law. 46957

(E) Upon completion of the hearing under division (A) of this 46958
section, if the court finds there is not clear and convincing 46959
evidence that the person is a mentally ill person subject to 46960
hospitalization by court order or a mentally retarded person 46961
subject to institutionalization by court order, the court shall 46962
discharge the person, unless a detainer has been placed upon the 46963
person by the department of rehabilitation and correction, in 46964
which case the person shall be returned to that department. 46965

(F) If, at the hearing under division (A) of this section, 46966
the court finds by clear and convincing evidence that the person 46967
is a mentally ill person subject to hospitalization by court order 46968
~~or~~, the court shall commit the person to the department of mental 46969
health for placement in a hospital, facility, or agency as 46970

determined clinically appropriate by the department of mental 46971
health. If, at the hearing under division (A) of this section, the 46972
court finds by clear and convincing evidence that the person is a 46973
mentally retarded person subject to institutionalization by court 46974
order, it shall commit the person to a ~~hospital operated by the~~ 46975
~~department of mental health,~~ a facility operated by the department 46976
of developmental disabilities, ~~or another medical or psychiatric~~ 46977
facility, as appropriate, ~~and further.~~ Further proceedings shall 46978
be in accordance with sections 2945.401 and 2945.402 of the 46979
Revised Code. In committing the person to the department of mental 46980
health, the court shall specify the least restrictive limitations 46981
to the defendant's freedom of movement determined to be necessary 46982
to protect public safety. In determining the place and nature of 46983
the commitment of a mentally retarded person subject to 46984
institutionalization by court order, the court shall order the 46985
least restrictive commitment alternative available that is 46986
consistent with public safety and the welfare of the person. In 46987
weighing these factors, the court shall give preference to 46988
protecting public safety. 46989

(G) If a court makes a commitment of a person under division 46990
(F) of this section, the prosecutor shall send to the hospital, 46991
facility, or agency where the person is placed by the department 46992
of mental health or to the defendant's place of commitment all 46993
reports of the person's current mental condition, and, except as 46994
otherwise provided in this division, any other relevant 46995
information, including, but not limited to, a transcript of the 46996
hearing held pursuant to division (A) of this section, copies of 46997
relevant police reports, and copies of any prior arrest and 46998
conviction records that pertain to the person and that the 46999
prosecutor possesses. The prosecutor shall send the reports of the 47000
person's current mental condition in every case of commitment, 47001
and, unless the prosecutor determines that the release of any of 47002
the other relevant information to unauthorized persons would 47003

interfere with the effective prosecution of any person or would 47004
create a substantial risk of harm to any person, the prosecutor 47005
also shall send the other relevant information. ~~Upon admission of~~ 47006
~~a person committed under division (F) of this section, the place~~ 47007
~~of commitment shall send to the board of alcohol, drug addiction,~~ 47008
~~and mental health services or the community mental health board~~ 47009
~~serving the county in which the charges against the person were~~ 47010
~~filed a copy of all reports of the person's current mental~~ 47011
~~condition and a copy of the other relevant information provided by~~ 47012
~~the prosecutor under this division, including, if provided, a~~ 47013
~~transcript of the hearing held pursuant to division (A) of this~~ 47014
~~section, the relevant police reports, and the prior arrest and~~ 47015
~~conviction records that pertain to the person and that the~~ 47016
~~prosecutor possesses.~~ 47017

(H) A person who is committed pursuant to this section shall 47018
not voluntarily admit the person or be voluntarily admitted to a 47019
hospital or institution pursuant to section 5122.02, 5122.15, 47020
5123.69, or 5123.76 of the Revised Code. 47021

Sec. 2945.401. (A) A defendant found incompetent to stand 47022
trial and committed pursuant to section 2945.39 of the Revised 47023
Code or a person found not guilty by reason of insanity and 47024
committed pursuant to section 2945.40 of the Revised Code shall 47025
remain subject to the jurisdiction of the trial court pursuant to 47026
that commitment, and to the provisions of this section, until the 47027
final termination of the commitment as described in division 47028
(J)(1) of this section. If the jurisdiction is terminated under 47029
this division because of the final termination of the commitment 47030
resulting from the expiration of the maximum prison term or term 47031
of imprisonment described in division (J)(1)(b) of this section, 47032
the court or prosecutor may file an affidavit for the civil 47033
commitment of the defendant or person pursuant to Chapter 5122. or 47034
5123. of the Revised Code. 47035

(B) A hearing conducted under any provision of sections 47036
2945.37 to 2945.402 of the Revised Code shall not be conducted in 47037
accordance with Chapters 5122. and 5123. of the Revised Code. Any 47038
person who is committed pursuant to section 2945.39 or 2945.40 of 47039
the Revised Code shall not voluntarily admit the person or be 47040
voluntarily admitted to a hospital or institution pursuant to 47041
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 47042
All other provisions of Chapters 5122. and 5123. of the Revised 47043
Code regarding hospitalization or institutionalization shall apply 47044
to the extent they are not in conflict with this chapter. A 47045
commitment under section 2945.39 or 2945.40 of the Revised Code 47046
shall not be terminated and the conditions of the commitment shall 47047
not be changed except as otherwise provided in division (D)(2) of 47048
this section with respect to a mentally retarded person subject to 47049
institutionalization by court order or except by order of the 47050
trial court. 47051

(C) The ~~hospital, department of mental health or the~~ 47052
institution or facility, or program to which a defendant or person 47053
has been committed under section 2945.39 or 2945.40 of the Revised 47054
Code shall report in writing to the trial court, at the times 47055
specified in this division, as to whether the defendant or person 47056
remains a mentally ill person subject to hospitalization by court 47057
order or a mentally retarded person subject to 47058
institutionalization by court order and, in the case of a 47059
defendant committed under section 2945.39 of the Revised Code, as 47060
to whether the defendant remains incompetent to stand trial. The 47061
~~hospital department, institution, or facility, or program~~ shall 47062
make the reports after the initial six months of treatment and 47063
every two years after the initial report is made. The trial court 47064
shall provide copies of the reports to the prosecutor and to the 47065
counsel for the defendant or person. Within thirty days after its 47066
receipt pursuant to this division of a report from ~~a hospital the~~ 47067
department, institution, or facility, or program, the trial court 47068

shall hold a hearing on the continued commitment of the defendant 47069
or person or on any changes in the conditions of the commitment of 47070
the defendant or person. The defendant or person may request a 47071
change in the conditions of confinement, and the trial court shall 47072
conduct a hearing on that request if six months or more have 47073
elapsed since the most recent hearing was conducted under this 47074
section. 47075

(D)(1) Except as otherwise provided in division (D)(2) of 47076
this section, when a defendant or person has been committed under 47077
section 2945.39 or 2945.40 of the Revised Code, at any time after 47078
evaluating the risks to public safety and the welfare of the 47079
defendant or person, the ~~chief clinical officer~~ designee of the 47080
department of mental health or the managing officer of the 47081
institution or director of the ~~hospital, facility, or program~~ to 47082
which the defendant or person is committed may recommend a 47083
termination of the defendant's or person's commitment or a change 47084
in the conditions of the defendant's or person's commitment. 47085

Except as otherwise provided in division (D)(2) of this 47086
section, if the ~~chief clinical officer~~ designee of the department 47087
of mental health recommends on-grounds unsupervised movement, 47088
off-grounds supervised movement, or nonsecured status for the 47089
defendant or person or termination of the defendant's or person's 47090
commitment, the following provisions apply: 47091

(a) If the ~~chief clinical officer~~ department's designee 47092
recommends on-grounds unsupervised movement or off-grounds 47093
supervised movement, the ~~chief clinical officer~~ department's 47094
designee shall file with the trial court an application for 47095
approval of the movement and shall send a copy of the application 47096
to the prosecutor. Within fifteen days after receiving the 47097
application, the prosecutor may request a hearing on the 47098
application and, if a hearing is requested, shall so inform the 47099
~~chief clinical officer~~ department's designee. If the prosecutor 47100

does not request a hearing within the fifteen-day period, the 47101
trial court shall approve the application by entering its order 47102
approving the requested movement or, within five days after the 47103
expiration of the fifteen-day period, shall set a date for a 47104
hearing on the application. If the prosecutor requests a hearing 47105
on the application within the fifteen-day period, the trial court 47106
shall hold a hearing on the application within thirty days after 47107
the hearing is requested. If the trial court, within five days 47108
after the expiration of the fifteen-day period, sets a date for a 47109
hearing on the application, the trial court shall hold the hearing 47110
within thirty days after setting the hearing date. At least 47111
fifteen days before any hearing is held under this division, the 47112
trial court shall give the prosecutor written notice of the date, 47113
time, and place of the hearing. At the conclusion of each hearing 47114
conducted under this division, the trial court either shall 47115
approve or disapprove the application and shall enter its order 47116
accordingly. 47117

(b) If the ~~chief clinical officer~~ department's designee 47118
recommends termination of the defendant's or person's commitment 47119
at any time or if the ~~chief clinical officer~~ department's designee 47120
recommends the first of any nonsecured status for the defendant or 47121
person, the ~~chief clinical officer~~ department's designee shall 47122
send written notice of this recommendation to the trial court and 47123
to the local forensic center. The local forensic center shall 47124
evaluate the committed defendant or person and, within thirty days 47125
after its receipt of the written notice, shall submit to the trial 47126
court and the ~~chief clinical officer~~ department's designee a 47127
written report of the evaluation. The trial court shall provide a 47128
copy of the ~~chief clinical officer's~~ department's designee's 47129
written notice and of the local forensic center's written report 47130
to the prosecutor and to the counsel for the defendant or person. 47131
Upon the local forensic center's submission of the report to the 47132
trial court and the ~~chief clinical officer~~ department's designee, 47133

all of the following apply: 47134

(i) If the forensic center disagrees with the recommendation 47135
of the ~~chief clinical officer~~ department's designee, it shall 47136
inform the ~~chief clinical officer~~ department's designee and the 47137
trial court of its decision and the reasons for the decision. The 47138
~~chief clinical officer~~ department's designee, after consideration 47139
of the forensic center's decision, shall either withdraw, proceed 47140
with, or modify and proceed with the recommendation. If the ~~chief~~ 47141
~~clinical officer~~ department's designee proceeds with, or modifies 47142
and proceeds with, the recommendation, the ~~chief clinical officer~~ 47143
department's designee shall proceed in accordance with division 47144
(D)(1)(b)(iii) of this section. 47145

(ii) If the forensic center agrees with the recommendation of 47146
the ~~chief clinical officer~~ department's designee, it shall inform 47147
the ~~chief clinical officer~~ department's designee and the trial 47148
court of its decision and the reasons for the decision, and the 47149
~~chief clinical officer~~ department's designee shall proceed in 47150
accordance with division (D)(1)(b)(iii) of this section. 47151

(iii) If the forensic center disagrees with the 47152
recommendation of the ~~chief clinical officer~~ department's designee 47153
and the ~~chief clinical officer~~ department's designee proceeds 47154
with, or modifies and proceeds with, the recommendation or if the 47155
forensic center agrees with the recommendation of the ~~chief~~ 47156
~~clinical officer~~ department's designee, the ~~chief clinical officer~~ 47157
department's designee shall work with ~~the board~~ community mental 47158
health agencies, programs, facilities, or boards of alcohol, drug 47159
addiction, and mental health services ~~or community mental health~~ 47160
~~board serving the area, as appropriate,~~ to develop a plan to 47161
implement the recommendation. If the defendant or person is on 47162
medication, the plan shall include, but shall not be limited to, a 47163
system to monitor the defendant's or person's compliance with the 47164
prescribed medication treatment plan. The system shall include a 47165

schedule that clearly states when the defendant or person shall 47166
report for a medication compliance check. The medication 47167
compliance checks shall be based upon the effective duration of 47168
the prescribed medication, taking into account the route by which 47169
it is taken, and shall be scheduled at intervals sufficiently 47170
close together to detect a potential increase in mental illness 47171
symptoms that the medication is intended to prevent. 47172
47173

~~The chief clinical officer, after consultation with the board~~ 47174
~~of alcohol, drug addiction, and mental health services or the~~ 47175
~~community mental health board serving the area, department's~~ 47176
designee shall send the recommendation and plan developed under 47177
division (D)(1)(b)(iii) of this section, in writing, to the trial 47178
court, the prosecutor and the counsel for the committed defendant 47179
or person. The trial court shall conduct a hearing on the 47180
recommendation and plan developed under division (D)(1)(b)(iii) of 47181
this section. Divisions (D)(1)(c) and (d) and (E) to (J) of this 47182
section apply regarding the hearing. 47183

(c) If the ~~chief clinical officer's~~ department's designee's 47184
recommendation is for nonsecured status or termination of 47185
commitment, the prosecutor may obtain an independent expert 47186
evaluation of the defendant's or person's mental condition, and 47187
the trial court may continue the hearing on the recommendation for 47188
a period of not more than thirty days to permit time for the 47189
evaluation. 47190

The prosecutor may introduce the evaluation report or present 47191
other evidence at the hearing in accordance with the Rules of 47192
Evidence. 47193

(d) The trial court shall schedule the hearing on a ~~chief~~ 47194
~~clinical officer's~~ department's designee's recommendation for 47195
nonsecured status or termination of commitment and shall give 47196
reasonable notice to the prosecutor and the counsel for the 47197

defendant or person. Unless continued for independent evaluation 47198
at the prosecutor's request or for other good cause, the hearing 47199
shall be held within thirty days after the trial court's receipt 47200
of the recommendation and plan. 47201

(2)(a) Division (D)(1) of this section does not apply to 47202
on-grounds unsupervised movement of a defendant or person who has 47203
been committed under section 2945.39 or 2945.40 of the Revised 47204
Code, who is a mentally retarded person subject to 47205
institutionalization by court order, and who is being provided 47206
residential habilitation, care, and treatment in a facility 47207
operated by the department of developmental disabilities. 47208

(b) If, pursuant to section 2945.39 of the Revised Code, the 47209
trial court commits a defendant who is found incompetent to stand 47210
trial and who is a mentally retarded person subject to 47211
institutionalization by court order, if the defendant is being 47212
provided residential habilitation, care, and treatment in a 47213
facility operated by the department of developmental disabilities, 47214
if an individual who is conducting a survey for the department of 47215
health to determine the facility's compliance with the 47216
certification requirements of the medicaid program under Chapter 47217
5111. of the Revised Code and Title XIX of the "Social Security 47218
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the 47219
defendant's receipt of the residential habilitation, care, and 47220
treatment in the facility as being inappropriate under the 47221
certification requirements, if the defendant's receipt of the 47222
residential habilitation, care, and treatment in the facility 47223
potentially jeopardizes the facility's continued receipt of 47224
federal medicaid moneys, and if as a result of the citation the 47225
chief clinical officer of the facility determines that the 47226
conditions of the defendant's commitment should be changed, the 47227
department of developmental disabilities may cause the defendant 47228
to be removed from the particular facility and, after evaluating 47229

the risks to public safety and the welfare of the defendant and 47230
after determining whether another type of placement is consistent 47231
with the certification requirements, may place the defendant in 47232
another facility that the department selects as an appropriate 47233
facility for the defendant's continued receipt of residential 47234
habilitation, care, and treatment and that is a no less secure 47235
setting than the facility in which the defendant had been placed 47236
at the time of the citation. Within three days after the 47237
defendant's removal and alternative placement under the 47238
circumstances described in division (D)(2)(b) of this section, the 47239
department of developmental disabilities shall notify the trial 47240
court and the prosecutor in writing of the removal and alternative 47241
placement. 47242

The trial court shall set a date for a hearing on the removal 47243
and alternative placement, and the hearing shall be held within 47244
twenty-one days after the trial court's receipt of the notice from 47245
the department of developmental disabilities. At least ten days 47246
before the hearing is held, the trial court shall give the 47247
prosecutor, the department of developmental disabilities, and the 47248
counsel for the defendant written notice of the date, time, and 47249
place of the hearing. At the hearing, the trial court shall 47250
consider the citation issued by the individual who conducted the 47251
survey for the department of health to be prima-facie evidence of 47252
the fact that the defendant's commitment to the particular 47253
facility was inappropriate under the certification requirements of 47254
the medicaid program under Chapter 5111. of the Revised Code and 47255
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 47256
U.S.C.A. 301, as amended, and potentially jeopardizes the 47257
particular facility's continued receipt of federal medicaid 47258
moneys. At the conclusion of the hearing, the trial court may 47259
approve or disapprove the defendant's removal and alternative 47260
placement. If the trial court approves the defendant's removal and 47261
alternative placement, the department of developmental 47262

disabilities may continue the defendant's alternative placement. 47263
If the trial court disapproves the defendant's removal and 47264
alternative placement, it shall enter an order modifying the 47265
defendant's removal and alternative placement, but that order 47266
shall not require the department of developmental disabilities to 47267
replace the defendant for purposes of continued residential 47268
habilitation, care, and treatment in the facility associated with 47269
the citation issued by the individual who conducted the survey for 47270
the department of health. 47271

(E) In making a determination under this section regarding 47272
nonsecured status or termination of commitment, the trial court 47273
shall consider all relevant factors, including, but not limited 47274
to, all of the following: 47275

(1) Whether, in the trial court's view, the defendant or 47276
person currently represents a substantial risk of physical harm to 47277
the defendant or person or others; 47278

(2) Psychiatric and medical testimony as to the current 47279
mental and physical condition of the defendant or person; 47280

(3) Whether the defendant or person has insight into the 47281
defendant's or person's condition so that the defendant or person 47282
will continue treatment as prescribed or seek professional 47283
assistance as needed; 47284

(4) The grounds upon which the state relies for the proposed 47285
commitment; 47286

(5) Any past history that is relevant to establish the 47287
defendant's or person's degree of conformity to the laws, rules, 47288
regulations, and values of society; 47289

(6) If there is evidence that the defendant's or person's 47290
mental illness is in a state of remission, the medically suggested 47291
cause and degree of the remission and the probability that the 47292
defendant or person will continue treatment to maintain the 47293

remissive state of the defendant's or person's illness should the 47294
defendant's or person's commitment conditions be altered. 47295

(F) At any hearing held pursuant to division (C) or (D)(1) or 47296
(2) of this section, the defendant or the person shall have all 47297
the rights of a defendant or person at a commitment hearing as 47298
described in section 2945.40 of the Revised Code. 47299

(G) In a hearing held pursuant to division (C) or (D)(1) of 47300
this section, the prosecutor has the burden of proof as follows: 47301

(1) For a recommendation of termination of commitment, to 47302
show by clear and convincing evidence that the defendant or person 47303
remains a mentally ill person subject to hospitalization by court 47304
order or a mentally retarded person subject to 47305
institutionalization by court order; 47306

(2) For a recommendation for a change in the conditions of 47307
the commitment to a less restrictive status, to show by clear and 47308
convincing evidence that the proposed change represents a threat 47309
to public safety or a threat to the safety of any person. 47310

(H) In a hearing held pursuant to division (C) or (D)(1) or 47311
(2) of this section, the prosecutor shall represent the state or 47312
the public interest. 47313

(I) At the conclusion of a hearing conducted under division 47314
(D)(1) of this section regarding a recommendation from the ~~chief~~ 47315
~~clinical officer~~ designee of the department of mental health, 47316
managing officer of the institution, or director of a ~~hospital,~~ 47317
~~program, or~~ facility, the trial court may approve, disapprove, or 47318
modify the recommendation and shall enter an order accordingly. 47319

(J)(1) A defendant or person who has been committed pursuant 47320
to section 2945.39 or 2945.40 of the Revised Code continues to be 47321
under the jurisdiction of the trial court until the final 47322
termination of the commitment. For purposes of division (J) of 47323
this section, the final termination of a commitment occurs upon 47324

the earlier of one of the following: 47325

(a) The defendant or person no longer is a mentally ill 47326
person subject to hospitalization by court order or a mentally 47327
retarded person subject to institutionalization by court order, as 47328
determined by the trial court; 47329

(b) The expiration of the maximum prison term or term of 47330
imprisonment that the defendant or person could have received if 47331
the defendant or person had been convicted of the most serious 47332
offense with which the defendant or person is charged or in 47333
relation to which the defendant or person was found not guilty by 47334
reason of insanity; 47335

(c) The trial court enters an order terminating the 47336
commitment under the circumstances described in division 47337
(J)(2)(a)(ii) of this section. 47338

(2)(a) If a defendant is found incompetent to stand trial and 47339
committed pursuant to section 2945.39 of the Revised Code, if 47340
neither of the circumstances described in divisions (J)(1)(a) and 47341
(b) of this section applies to that defendant, and if a report 47342
filed with the trial court pursuant to division (C) of this 47343
section indicates that the defendant presently is competent to 47344
stand trial or if, at any other time during the period of the 47345
defendant's commitment, the prosecutor, the counsel for the 47346
defendant, or the ~~chief clinical officer~~ designee of the 47347
department of mental health or the managing officer of the 47348
institution or director of the ~~hospital, facility, or program~~ to 47349
which the defendant is committed files an application with the 47350
trial court alleging that the defendant presently is competent to 47351
stand trial and requesting a hearing on the competency issue or 47352
the trial court otherwise has reasonable cause to believe that the 47353
defendant presently is competent to stand trial and determines on 47354
its own motion to hold a hearing on the competency issue, the 47355
trial court shall schedule a hearing on the competency of the 47356

defendant to stand trial, shall give the prosecutor, the counsel 47357
for the defendant, and the ~~chief clinical officer~~ department's 47358
designee or the managing officer of the institution or the 47359
director of the facility to which the defendant is committed 47360
notice of the date, time, and place of the hearing at least 47361
fifteen days before the hearing, and shall conduct the hearing 47362
within thirty days of the filing of the application or of its own 47363
motion. If, at the conclusion of the hearing, the trial court 47364
determines that the defendant presently is capable of 47365
understanding the nature and objective of the proceedings against 47366
the defendant and of assisting in the defendant's defense, the 47367
trial court shall order that the defendant is competent to stand 47368
trial and shall be proceeded against as provided by law with 47369
respect to the applicable offenses described in division (C)(1) of 47370
section 2945.38 of the Revised Code and shall enter whichever of 47371
the following additional orders is appropriate: 47372

(i) If the trial court determines that the defendant remains 47373
a mentally ill person subject to hospitalization by court order or 47374
a mentally retarded person subject to institutionalization by 47375
court order, the trial court shall order that the defendant's 47376
commitment to the ~~hospital,~~ department of mental health or to an 47377
institution or facility, ~~or program for the treatment of~~ 47378
developmental disabilities be continued during the pendency of the 47379
trial on the applicable offenses described in division (C)(1) of 47380
section 2945.38 of the Revised Code. 47381

(ii) If the trial court determines that the defendant no 47382
longer is a mentally ill person subject to hospitalization by 47383
court order or a mentally retarded person subject to 47384
institutionalization by court order, the trial court shall order 47385
that the defendant's commitment to the ~~hospital,~~ department of 47386
mental health or to an institution or facility, ~~or program for the~~ 47387
treatment of developmental disabilities shall not be continued 47388

during the pendency of the trial on the applicable offenses 47389
described in division (C)(1) of section 2945.38 of the Revised 47390
Code. This order shall be a final termination of the commitment 47391
for purposes of division (J)(1)(c) of this section. 47392

(b) If, at the conclusion of the hearing described in 47393
division (J)(2)(a) of this section, the trial court determines 47394
that the defendant remains incapable of understanding the nature 47395
and objective of the proceedings against the defendant or of 47396
assisting in the defendant's defense, the trial court shall order 47397
that the defendant continues to be incompetent to stand trial, 47398
that the defendant's commitment to the ~~hospital, department of~~ 47399
mental health or to an institution or facility, or program for the 47400
treatment of developmental disabilities shall be continued, and 47401
that the defendant remains subject to the jurisdiction of the 47402
trial court pursuant to that commitment, and to the provisions of 47403
this section, until the final termination of the commitment as 47404
described in division (J)(1) of this section. 47405

Sec. 2945.402. (A) In approving a conditional release, the 47406
trial court may set any conditions on the release with respect to 47407
the treatment, evaluation, counseling, or control of the defendant 47408
or person that the court considers necessary to protect the public 47409
safety and the welfare of the defendant or person. The trial court 47410
may revoke a defendant's or person's conditional release and order 47411
~~rehospitalization~~ reinstatement of the previous placement or 47412
reinstitutionalization at any time the conditions of the release 47413
have not been satisfied, provided that the revocation shall be in 47414
accordance with this section. 47415

(B) A conditional release is a commitment. The hearings on 47416
continued commitment as described in section 2945.401 of the 47417
Revised Code apply to a defendant or person on conditional 47418
release. 47419

(C) A person, agency, or facility that is assigned to monitor a defendant or person on conditional release immediately shall notify the trial court on learning that the defendant or person being monitored has violated the terms of the conditional release. Upon learning of any violation of the terms of the conditional release, the trial court may issue a temporary order of detention or, if necessary, an arrest warrant for the defendant or person. Within ten court days after the defendant's or person's detention or arrest, the trial court shall conduct a hearing to determine whether the conditional release should be modified or terminated. At the hearing, the defendant or person shall have the same rights as are described in division (C) of section 2945.40 of the Revised Code. The trial court may order a continuance of the ten-court-day period for no longer than ten days for good cause shown or for any period on motion of the defendant or person. If the trial court fails to conduct the hearing within the ten-court-day period and does not order a continuance in accordance with this division, the defendant or person shall be restored to the prior conditional release status.

(D) The trial court shall give all parties reasonable notice of a hearing conducted under this section. At the hearing, the prosecutor shall present the case demonstrating that the defendant or person violated the terms of the conditional release. If the court finds by a preponderance of the evidence that the defendant or person violated the terms of the conditional release, the court may continue, modify, or terminate the conditional release and shall enter its order accordingly.

Sec. 2949.14. Upon conviction of a nonindigent person for a felony, the clerk of the court of common pleas shall make and certify under ~~his~~ the clerk's hand and seal of the court, a complete itemized bill of the costs made in such prosecution, including the sum paid by the board of county commissioners,

certified by the county auditor, for the arrest and return of the 47452
person on the requisition of the governor, or on the request of 47453
the governor to the president of the United States, or on the 47454
return of the fugitive by a designated agent pursuant to a waiver 47455
of extradition except in cases of parole violation. ~~Such bill of~~ 47456
~~costs shall be presented by such clerk to the prosecuting~~ 47457
~~attorney, who shall examine each item therein charged and certify~~ 47458
~~to it if correct and legal. Upon certification by the prosecuting~~ 47459
~~attorney, the~~ The clerk shall attempt to collect the costs from 47460
the person convicted. 47461

Sec. 2953.08. (A) In addition to any other right to appeal 47462
and except as provided in division (D) of this section, a 47463
defendant who is convicted of or pleads guilty to a felony may 47464
appeal as a matter of right the sentence imposed upon the 47465
defendant on one of the following grounds: 47466

(1) The sentence consisted of or included the maximum prison 47467
term allowed for the offense by division (A) of section 2929.14 or 47468
section 2929.142 of the Revised Code, the sentence was not imposed 47469
pursuant to division (D)(3)(b) of section 2929.14 of the Revised 47470
Code, the maximum prison term was not required for the offense 47471
pursuant to Chapter 2925. or any other provision of the Revised 47472
Code, and the court imposed the sentence under one of the 47473
following circumstances: 47474

(a) The sentence was imposed for only one offense. 47475

(b) The sentence was imposed for two or more offenses arising 47476
out of a single incident, and the court imposed the maximum prison 47477
term for the offense of the highest degree. 47478

(2) The sentence consisted of or included a prison term, the 47479
offense for which it was imposed is a felony of the fourth or 47480
fifth degree or is a felony drug offense that is a violation of a 47481
provision of Chapter 2925. of the Revised Code and that is 47482

specified as being subject to division (B) of section 2929.13 of 47483
the Revised Code for purposes of sentencing, and the court did not 47484
specify at sentencing that it found one or more factors specified 47485
in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised 47486
Code to apply relative to the defendant. If the court specifies 47487
that it found one or more of those factors to apply relative to 47488
the defendant, the defendant is not entitled under this division 47489
to appeal as a matter of right the sentence imposed upon the 47490
offender. 47491

(3) The person was convicted of or pleaded guilty to a 47492
violent sex offense or a designated homicide, assault, or 47493
kidnapping offense, was adjudicated a sexually violent predator in 47494
relation to that offense, and was sentenced pursuant to division 47495
(A)(3) of section 2971.03 of the Revised Code, if the minimum term 47496
of the indefinite term imposed pursuant to division (A)(3) of 47497
section 2971.03 of the Revised Code is the longest term available 47498
for the offense from among the range of terms listed in section 47499
2929.14 of the Revised Code. As used in this division, "designated 47500
homicide, assault, or kidnapping offense" and "violent sex 47501
offense" have the same meanings as in section 2971.01 of the 47502
Revised Code. As used in this division, "adjudicated a sexually 47503
violent predator" has the same meaning as in section 2929.01 of 47504
the Revised Code, and a person is "adjudicated a sexually violent 47505
predator" in the same manner and the same circumstances as are 47506
described in that section. 47507

(4) The sentence is contrary to law. 47508

(5) The sentence consisted of an additional prison term of 47509
ten years imposed pursuant to division (D)(2)(a) of section 47510
2929.14 of the Revised Code. 47511

(6) The sentence consisted of an additional prison term of 47512
ten years imposed pursuant to division (D)(3)(b) of section 47513
2929.14 of the Revised Code. 47514

(B) In addition to any other right to appeal and except as provided in division (D) of this section, a prosecuting attorney, a city director of law, village solicitor, or similar chief legal officer of a municipal corporation, or the attorney general, if one of those persons prosecuted the case, may appeal as a matter of right a sentence imposed upon a defendant who is convicted of or pleads guilty to a felony or, in the circumstances described in division (B)(3) of this section the modification of a sentence imposed upon such a defendant, on any of the following grounds:

(1) The sentence did not include a prison term despite a presumption favoring a prison term for the offense for which it was imposed, as set forth in section 2929.13 or Chapter 2925. of the Revised Code.

(2) The sentence is contrary to law.

(3) The sentence is a modification under section 2929.20 of the Revised Code of a sentence that was imposed for a felony of the first or second degree.

(C)(1) In addition to the right to appeal a sentence granted under division (A) or (B) of this section, a defendant who is convicted of or pleads guilty to a felony may seek leave to appeal a sentence imposed upon the defendant on the basis that the sentencing judge has imposed consecutive sentences under division (E)(3) or (4) of section 2929.14 of the Revised Code and that the consecutive sentences exceed the maximum prison term allowed by division (A) of that section for the most serious offense of which the defendant was convicted. Upon the filing of a motion under this division, the court of appeals may grant leave to appeal the sentence if the court determines that the allegation included as the basis of the motion is true.

(2) A defendant may seek leave to appeal an additional sentence imposed upon the defendant pursuant to division (D)(2)(a)

or (b) of section 2929.14 of the Revised Code if the additional 47546
sentence is for a definite prison term that is longer than five 47547
years. 47548

(D)(1) A sentence imposed upon a defendant is not subject to 47549
review under this section if the sentence is authorized by law, 47550
has been recommended jointly by the defendant and the prosecution 47551
in the case, and is imposed by a sentencing judge. 47552

(2) Except as provided in division (C)(2) of this section, a 47553
sentence imposed upon a defendant is not subject to review under 47554
this section if the sentence is imposed pursuant to division 47555
(D)(2)(b) of section 2929.14 of the Revised Code. Except as 47556
otherwise provided in this division, a defendant retains all 47557
rights to appeal as provided under this chapter or any other 47558
provision of the Revised Code. A defendant has the right to appeal 47559
under this chapter or any other provision of the Revised Code the 47560
court's application of division (D)(2)(c) of section 2929.14 of 47561
the Revised Code. 47562

(3) A sentence imposed for aggravated murder or murder 47563
pursuant to sections 2929.02 to 2929.06 of the Revised Code is not 47564
subject to review under this section. 47565

(E) A defendant, prosecuting attorney, city director of law, 47566
village solicitor, or chief municipal legal officer shall file an 47567
appeal of a sentence under this section to a court of appeals 47568
within the time limits specified in Rule 4(B) of the Rules of 47569
Appellate Procedure, provided that if the appeal is pursuant to 47570
division (B)(3) of this section, the time limits specified in that 47571
rule shall not commence running until the court grants the motion 47572
that makes the sentence modification in question. A sentence 47573
appeal under this section shall be consolidated with any other 47574
appeal in the case. If no other appeal is filed, the court of 47575
appeals may review only the portions of the trial record that 47576
pertain to sentencing. 47577

(F) On the appeal of a sentence under this section, the 47578
record to be reviewed shall include all of the following, as 47579
applicable: 47580

(1) Any presentence, psychiatric, or other investigative 47581
report that was submitted to the court in writing before the 47582
sentence was imposed. An appellate court that reviews a 47583
presentence investigation report prepared pursuant to section 47584
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 47585
connection with the appeal of a sentence under this section shall 47586
comply with division (D)(3) of section 2951.03 of the Revised Code 47587
when the appellate court is not using the presentence 47588
investigation report, and the appellate court's use of a 47589
presentence investigation report of that nature in connection with 47590
the appeal of a sentence under this section does not affect the 47591
otherwise confidential character of the contents of that report as 47592
described in division (D)(1) of section 2951.03 of the Revised 47593
Code and does not cause that report to become a public record, as 47594
defined in section 149.43 of the Revised Code, following the 47595
appellate court's use of the report. 47596

(2) The trial record in the case in which the sentence was 47597
imposed; 47598

(3) Any oral or written statements made to or by the court at 47599
the sentencing hearing at which the sentence was imposed; 47600

(4) Any written findings that the court was required to make 47601
in connection with the modification of the sentence pursuant to a 47602
judicial release under division (I) of section 2929.20 of the 47603
Revised Code. 47604

(G)(1) If the sentencing court was required to make the 47605
findings required by division (B) or (D) of section 2929.13, 47606
division (D)(2)(e) or (E)(4) of section 2929.14, or division (I) 47607
of section 2929.20 of the Revised Code relative to the imposition 47608

or modification of the sentence, and if the sentencing court 47609
failed to state the required findings on the record, the court 47610
hearing an appeal under division (A), (B), or (C) of this section 47611
shall remand the case to the sentencing court and instruct the 47612
sentencing court to state, on the record, the required findings. 47613

(2) The court hearing an appeal under division (A), (B), or 47614
(C) of this section shall review the record, including the 47615
findings underlying the sentence or modification given by the 47616
sentencing court. 47617

The appellate court may increase, reduce, or otherwise modify 47618
a sentence that is appealed under this section or may vacate the 47619
sentence and remand the matter to the sentencing court for 47620
resentencing. The appellate court's standard for review is not 47621
whether the sentencing court abused its discretion. The appellate 47622
court may take any action authorized by this division if it 47623
clearly and convincingly finds either of the following: 47624

(a) That the record does not support the sentencing court's 47625
findings under division (B) or (D) of section 2929.13, division 47626
(D)(2)(e) or (E)(4) of section 2929.14, or division (I) of section 47627
2929.20 of the Revised Code, whichever, if any, is relevant; 47628

(b) That the sentence is otherwise contrary to law. 47629

(H) A judgment or final order of a court of appeals under 47630
this section may be appealed, by leave of court, to the supreme 47631
court. 47632

(I)(1) There is hereby established the felony sentence appeal 47633
cost oversight committee, consisting of eight members. One member 47634
shall be the chief justice of the supreme court or a 47635
representative of the court designated by the chief justice, one 47636
member shall be a member of the senate appointed by the president 47637
of the senate, one member shall be a member of the house of 47638
representatives appointed by the speaker of the house of 47639

representatives, one member shall be the director of budget and 47640
management or a representative of the office of budget and 47641
management designated by the director, one member shall be a judge 47642
of a court of appeals, court of common pleas, municipal court, or 47643
county court appointed by the chief justice of the supreme court, 47644
one member shall be the state public defender or a representative 47645
of the office of the state public defender designated by the state 47646
public defender, one member shall be a prosecuting attorney 47647
appointed by the Ohio prosecuting attorneys association, and one 47648
member shall be a county commissioner appointed by the county 47649
commissioners association of Ohio. No more than three of the 47650
appointed members of the committee may be members of the same 47651
political party. 47652

The president of the senate, the speaker of the house of 47653
representatives, the chief justice of the supreme court, the Ohio 47654
prosecuting attorneys association, and the county commissioners 47655
association of Ohio shall make the initial appointments to the 47656
committee of the appointed members no later than ninety days after 47657
July 1, 1996. Of those initial appointments to the committee, the 47658
members appointed by the speaker of the house of representatives 47659
and the Ohio prosecuting attorneys association shall serve a term 47660
ending two years after July 1, 1996, the member appointed by the 47661
chief justice of the supreme court shall serve a term ending three 47662
years after July 1, 1996, and the members appointed by the 47663
president of the senate and the county commissioners association 47664
of Ohio shall serve terms ending four years after July 1, 1996. 47665
Thereafter, terms of office of the appointed members shall be for 47666
four years, with each term ending on the same day of the same 47667
month as did the term that it succeeds. Members may be 47668
reappointed. Vacancies shall be filled in the same manner provided 47669
for original appointments. A member appointed to fill a vacancy 47670
occurring prior to the expiration of the term for which that 47671
member's predecessor was appointed shall hold office as a member 47672

for the remainder of the predecessor's term. An appointed member 47673
shall continue in office subsequent to the expiration date of that 47674
member's term until that member's successor takes office or until 47675
a period of sixty days has elapsed, whichever occurs first. 47676

If the chief justice of the supreme court, the director of 47677
the office of budget and management, or the state public defender 47678
serves as a member of the committee, that person's term of office 47679
as a member shall continue for as long as that person holds office 47680
as chief justice, director of the office of budget and management, 47681
or state public defender. If the chief justice of the supreme 47682
court designates a representative of the court to serve as a 47683
member, the director of budget and management designates a 47684
representative of the office of budget and management to serve as 47685
a member, or the state public defender designates a representative 47686
of the office of the state public defender to serve as a member, 47687
the person so designated shall serve as a member of the commission 47688
for as long as the official who made the designation holds office 47689
as chief justice, director of the office of budget and management, 47690
or state public defender or until that official revokes the 47691
designation. 47692

The chief justice of the supreme court or the representative 47693
of the supreme court appointed by the chief justice shall serve as 47694
chairperson of the committee. The committee shall meet within two 47695
weeks after all appointed members have been appointed and shall 47696
organize as necessary. Thereafter, the committee shall meet at 47697
least once every six months or more often upon the call of the 47698
chairperson or the written request of three or more members, 47699
provided that the committee shall not meet unless moneys have been 47700
appropriated to the judiciary budget administered by the supreme 47701
court specifically for the purpose of providing financial 47702
assistance to counties under division (I)(2) of this section and 47703
the moneys so appropriated then are available for that purpose. 47704

The members of the committee shall serve without 47705
compensation, but, if moneys have been appropriated to the 47706
judiciary budget administered by the supreme court specifically 47707
for the purpose of providing financial assistance to counties 47708
under division (I)(2) of this section, each member shall be 47709
reimbursed out of the moneys so appropriated that then are 47710
available for actual and necessary expenses incurred in the 47711
performance of official duties as a committee member. 47712

(2) ~~The state criminal sentencing commission periodically~~ 47713
~~shall provide to the felony sentence appeal cost oversight~~ 47714
~~committee all data the commission collects pursuant to division~~ 47715
~~(A)(5) of section 181.25 of the Revised Code. Upon receipt of the~~ 47716
~~data from the state criminal sentencing commission, the felony~~ 47717
sentence appeal cost oversight committee periodically shall review 47718
~~the data;~~ determine whether any money has been appropriated to the 47719
judiciary budget administered by the supreme court specifically 47720
for the purpose of providing state financial assistance to 47721
counties in accordance with this division for the increase in 47722
expenses the counties experience as a result of the felony 47723
sentence appeal provisions set forth in this section or as a 47724
result of a postconviction relief proceeding brought under 47725
division (A)(2) of section 2953.21 of the Revised Code or an 47726
appeal of a judgment in that proceeding; if it determines that any 47727
money has been so appropriated, determine the total amount of 47728
moneys that have been so appropriated specifically for that 47729
purpose and that then are available for that purpose; and develop 47730
a recommended method of distributing those moneys to the counties. 47731
The committee shall send a copy of its recommendation to the 47732
supreme court. Upon receipt of the committee's recommendation, the 47733
supreme court shall distribute to the counties, based upon that 47734
recommendation, the moneys that have been so appropriated 47735
specifically for the purpose of providing state financial 47736
assistance to counties under this division and that then are 47737

available for that purpose. 47738

Sec. 2981.11. (A)(1) Any property that has been lost, 47739
abandoned, stolen, seized pursuant to a search warrant, or 47740
otherwise lawfully seized or forfeited and that is in the custody 47741
of a law enforcement agency shall be kept safely by the agency, 47742
pending the time it no longer is needed as evidence or for another 47743
lawful purpose, and shall be disposed of pursuant to sections 47744
2981.12 and 2981.13 of the Revised Code. 47745

(2) This chapter does not apply to the custody and disposal 47746
of any of the following: 47747

(a) Vehicles subject to forfeiture under Title XLV of the 47748
Revised Code, except as provided in division (A)(6) of section 47749
2981.12 of the Revised Code; 47750

(b) Abandoned junk motor vehicles or other property of 47751
negligible value; 47752

(c) Property held by a department of rehabilitation and 47753
correction institution that is unclaimed, that does not have an 47754
identified owner, that the owner agrees to dispose of, or that is 47755
identified by the department as having little value; 47756

(d) Animals taken, and devices used in unlawfully taking 47757
animals, under section 1531.20 of the Revised Code; 47758

(e) Controlled substances sold by a peace officer in the 47759
performance of the officer's official duties under section 47760
3719.141 of the Revised Code; 47761

(f) Property recovered by a township law enforcement agency 47762
under sections 505.105 to 505.109 of the Revised Code; 47763

(g) Property held and disposed of under an ordinance of the 47764
municipal corporation or under sections 737.29 to 737.33 of the 47765
Revised Code, except that a municipal corporation that has 47766
received notice of a citizens' reward program as provided in 47767

division (F) of section 2981.12 of the Revised Code and disposes 47768
of property under an ordinance shall pay twenty-five per cent of 47769
any moneys acquired from any sale or auction to the citizens' 47770
reward program. 47771

(B)(1) Each law enforcement agency that has custody of any 47772
property that is subject to this section shall adopt and comply 47773
with a written internal control policy that does all of the 47774
following: 47775

(a) Provides for keeping detailed records as to the amount of 47776
property acquired by the agency and the date property was 47777
acquired; 47778

(b) Provides for keeping detailed records of the disposition 47779
of the property, which shall include, but not be limited to, both 47780
of the following: 47781

(i) The manner in which it was disposed, the date of 47782
disposition, detailed financial records concerning any property 47783
sold, and the name of any person who received the property. The 47784
record shall not identify or enable identification of the 47785
individual officer who seized any item of property. 47786

(ii) The general types of expenditures made with amounts that 47787
are gained from the sale of the property and that are retained by 47788
the agency, including the specific amount expended on each general 47789
type of expenditure, except that the policy shall not provide for 47790
or permit the identification of any specific expenditure that is 47791
made in an ongoing investigation. 47792

(c) Complies with section 2981.13 of the Revised Code if the 47793
agency has a law enforcement trust fund or similar fund created 47794
under that section. 47795

(2) Each law enforcement agency that during any calendar year 47796
has any seized or forfeited property covered by this section in 47797
its custody, including amounts distributed under section 2981.13 47798

of the Revised Code to its law enforcement trust fund or a similar 47799
fund created for the state highway patrol, department of public 47800
safety, department of taxation, or state board of pharmacy, shall 47801
prepare a report covering the calendar year that cumulates all of 47802
the information contained in all of the public records kept by the 47803
agency pursuant to this section for that calendar year. The agency 47804
shall send a copy of the cumulative report to the attorney general 47805
not later than the first day of March in the calendar year 47806
following the calendar year covered by the report. 47807

(3) The records kept under the internal control policy shall 47808
be open to public inspection during the agency's regular business 47809
hours. The policy adopted under this section and each report 47810
received by the attorney general is a public record open for 47811
inspection under section 149.43 of the Revised Code. 47812

(4) Not later than the fifteenth day of April in each 47813
calendar year in which reports are sent to the attorney general 47814
under division (B)(2) of this section, the attorney general shall 47815
send to the president of the senate and the speaker of the house 47816
of representatives a written notice that indicates that the 47817
attorney general received reports that cover the previous calendar 47818
year, that the reports are open for inspection under section 47819
149.43 of the Revised Code, and that the attorney general will 47820
provide a copy of any or all of the reports to the president of 47821
the senate or the speaker of the house of representatives upon 47822
request. 47823

(C) A law enforcement agency with custody of property to be 47824
disposed of under section 2981.12 or 2981.13 of the Revised Code 47825
shall make a reasonable effort to locate persons entitled to 47826
possession of the property, to notify them of when and where it 47827
may be claimed, and to return the property to them at the earliest 47828
possible time. In the absence of evidence identifying persons 47829
entitled to possession, it is sufficient notice to advertise in a 47830

newspaper of general circulation in the county and to briefly 47831
describe the nature of the property in custody and inviting 47832
persons to view and establish their right to it. 47833

(D) As used in sections 2981.11 to 2981.13 of the Revised 47834
Code: 47835

(1) "Citizens' reward program" has the same meaning as in 47836
section 9.92 of the Revised Code. 47837

(2) "Law enforcement agency" includes correctional 47838
institutions. 47839

(3) "Township law enforcement agency" means an organized 47840
police department of a township, a township police district, a 47841
joint ~~township~~ police district, or the office of a township 47842
constable. 47843

Sec. 2981.13. (A) Except as otherwise provided in this 47844
section, property ordered forfeited as contraband, proceeds, or an 47845
instrumentality pursuant to this chapter shall be disposed of, 47846
used, or sold pursuant to section 2981.12 of the Revised Code. If 47847
the property is to be sold under that section, the prosecutor 47848
shall cause notice of the proposed sale to be given in accordance 47849
with law. 47850

(B) If the contraband or instrumentality forfeited under this 47851
chapter is sold, any moneys acquired from a sale and any proceeds 47852
forfeited under this chapter shall be applied in the following 47853
order: 47854

(1) First, to pay costs incurred in the seizure, storage, 47855
maintenance, security, and sale of the property and in the 47856
forfeiture proceeding; 47857

(2) Second, in a criminal forfeiture case, to satisfy any 47858
restitution ordered to the victim of the offense or, in a civil 47859
forfeiture case, to satisfy any recovery ordered for the person 47860

harmed, unless paid from other assets; 47861

(3) Third, to pay the balance due on any security interest 47862
preserved under this chapter; 47863

(4) Fourth, apply the remaining amounts as follows: 47864

(a) If the forfeiture was ordered by a juvenile court, ten 47865
per cent to one or more certified alcohol and drug addiction 47866
treatment programs as provided in division (D) of section 2981.12 47867
of the Revised Code; 47868

(b) If the forfeiture was ordered in a juvenile court, ninety 47869
per cent, and if the forfeiture was ordered in a court other than 47870
a juvenile court, one hundred per cent to the law enforcement 47871
trust fund of the prosecutor and to the following fund supporting 47872
the law enforcement agency that substantially conducted the 47873
investigation: the law enforcement trust fund of the county 47874
sheriff, municipal corporation, township, or park district created 47875
under section 511.18 or 1545.01 of the Revised Code; the state 47876
highway patrol contraband, forfeiture, and other fund; the 47877
department of public safety investigative unit contraband, 47878
forfeiture, and other fund; the department of taxation enforcement 47879
fund; the board of pharmacy drug law enforcement fund created by 47880
division (B)(1) of section 4729.65 of the Revised Code; the 47881
medicaid fraud investigation and prosecution fund; or the 47882
treasurer of state for deposit into the peace officer training 47883
commission fund if any other state law enforcement agency 47884
substantially conducted the investigation. In the case of property 47885
forfeited for medicaid fraud, any remaining amount shall be used 47886
by the attorney general to investigate and prosecute medicaid 47887
fraud offenses. 47888

If the prosecutor declines to accept any of the remaining 47889
amounts, the amounts shall be applied to the fund of the agency 47890
that substantially conducted the investigation. 47891

(c) If more than one law enforcement agency is substantially involved in the seizure of property forfeited under this chapter, the court ordering the forfeiture shall equitably divide the amounts, after calculating any distribution to the law enforcement trust fund of the prosecutor pursuant to division (B)(4) of this section, among the entities that the court determines were substantially involved in the seizure.

(C)(1) A law enforcement trust fund shall be established by the prosecutor of each county who intends to receive any remaining amounts pursuant to this section, by the sheriff of each county, by the legislative authority of each municipal corporation, by the board of township trustees of each township that has a township police department, township or joint police district police force, or office of the constable, and by the board of park commissioners of each park district created pursuant to section 511.18 or 1545.01 of the Revised Code that has a park district police force or law enforcement department, for the purposes of this section.

There is hereby created in the state treasury the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the medicaid fraud investigation and prosecution fund, the department of taxation enforcement fund, and the peace officer training commission fund, for the purposes of this section.

Amounts distributed to any municipal corporation, township, or park district law enforcement trust fund shall be allocated from the fund by the legislative authority only to the police department of the municipal corporation, by the board of township trustees only to the township police department, township police district police force, or office of the constable, by the joint police district board only to the joint police district, and by the board of park commissioners only to the park district police

force or law enforcement department. 47924

(2)(a) No amounts shall be allocated to a fund created under 47925
this section or used by an agency unless the agency has adopted a 47926
written internal control policy that addresses the use of moneys 47927
received from the appropriate fund. The appropriate fund shall be 47928
expended only in accordance with that policy and, subject to the 47929
requirements specified in this section, only for the following 47930
purposes: 47931

(i) To pay the costs of protracted or complex investigations 47932
or prosecutions; 47933

(ii) To provide reasonable technical training or expertise; 47934

(iii) To provide matching funds to obtain federal grants to 47935
aid law enforcement, in the support of DARE programs or other 47936
programs designed to educate adults or children with respect to 47937
the dangers associated with the use of drugs of abuse; 47938

(iv) To pay the costs of emergency action taken under section 47939
3745.13 of the Revised Code relative to the operation of an 47940
illegal methamphetamine laboratory if the forfeited property or 47941
money involved was that of a person responsible for the operation 47942
of the laboratory; 47943

(v) For other law enforcement purposes that the 47944
superintendent of the state highway patrol, department of public 47945
safety, prosecutor, county sheriff, legislative authority, 47946
department of taxation, board of township trustees, or board of 47947
park commissioners determines to be appropriate. 47948

(b) The board of pharmacy drug law enforcement fund shall be 47949
expended only in accordance with the written internal control 47950
policy so adopted by the board and only in accordance with section 47951
4729.65 of the Revised Code, except that it also may be expended 47952
to pay the costs of emergency action taken under section 3745.13 47953
of the Revised Code relative to the operation of an illegal 47954

methamphetamine laboratory if the forfeited property or money 47955
involved was that of a person responsible for the operation of the 47956
laboratory. 47957

(c) The state highway patrol contraband, forfeiture, and 47958
other fund, the department of public safety investigative unit 47959
contraband, forfeiture, and other fund, the department of taxation 47960
enforcement fund, the board of pharmacy drug law enforcement fund, 47961
and a law enforcement trust fund shall not be used to meet the 47962
operating costs of the state highway patrol, of the investigative 47963
unit of the department of public safety, of the state board of 47964
pharmacy, of any political subdivision, or of any office of a 47965
prosecutor or county sheriff that are unrelated to law 47966
enforcement. 47967

(d) Forfeited moneys that are paid into the state treasury to 47968
be deposited into the peace officer training commission fund shall 47969
be used by the commission only to pay the costs of peace officer 47970
training. 47971

(3) Any of the following offices or agencies that receive 47972
amounts under this section during any calendar year shall file a 47973
report with the specified entity, not later than the thirty-first 47974
day of January of the next calendar year, verifying that the 47975
moneys were expended only for the purposes authorized by this 47976
section or other relevant statute and specifying the amounts 47977
expended for each authorized purpose: 47978

(a) Any sheriff or prosecutor shall file the report with the 47979
county auditor. 47980

(b) Any municipal corporation police department shall file 47981
the report with the legislative authority of the municipal 47982
corporation. 47983

(c) Any township police department, township or joint police 47984
district police force, or office of the constable shall file the 47985

report with the board of township trustees of the township. 47986

(d) Any park district police force or law enforcement 47987
department shall file the report with the board of park 47988
commissioners of the park district. 47989

(e) The superintendent of the state highway patrol and the 47990
tax commissioner shall file the report with the attorney general. 47991

(f) The executive director of the state board of pharmacy 47992
shall file the report with the attorney general, verifying that 47993
cash and forfeited proceeds paid into the board of pharmacy drug 47994
law enforcement fund were used only in accordance with section 47995
4729.65 of the Revised Code. 47996

(g) The peace officer training commission shall file a report 47997
with the attorney general, verifying that cash and forfeited 47998
proceeds paid into the peace officer training commission fund 47999
pursuant to this section during the prior calendar year were used 48000
by the commission during the prior calendar year only to pay the 48001
costs of peace officer training. 48002

(D) The written internal control policy of a county sheriff, 48003
prosecutor, municipal corporation police department, township 48004
police department, township or joint police district police force, 48005
office of the constable, or park district police force or law 48006
enforcement department shall provide that at least ten per cent of 48007
the first one hundred thousand dollars of amounts deposited during 48008
each calendar year in the agency's law enforcement trust fund 48009
under this section, and at least twenty per cent of the amounts 48010
exceeding one hundred thousand dollars that are so deposited, 48011
shall be used in connection with community preventive education 48012
programs. The manner of use shall be determined by the sheriff, 48013
prosecutor, department, police force, or office of the constable 48014
after receiving and considering advice on appropriate community 48015
preventive education programs from the county's board of alcohol, 48016

drug addiction, and mental health services, from the county's 48017
alcohol and drug addiction services board, or through appropriate 48018
community dialogue. 48019

The financial records kept under the internal control policy 48020
shall specify the amount deposited during each calendar year in 48021
the portion of that amount that was used pursuant to this 48022
division, and the programs in connection with which the portion of 48023
that amount was so used. 48024

As used in this division, "community preventive education 48025
programs" include, but are not limited to, DARE programs and other 48026
programs designed to educate adults or children with respect to 48027
the dangers associated with using drugs of abuse. 48028

(E) Upon the sale, under this section or section 2981.12 of 48029
the Revised Code, of any property that is required by law to be 48030
titled or registered, the state shall issue an appropriate 48031
certificate of title or registration to the purchaser. If the 48032
state is vested with title and elects to retain property that is 48033
required to be titled or registered under law, the state shall 48034
issue an appropriate certificate of title or registration. 48035

(F) Any failure of a law enforcement officer or agency, 48036
prosecutor, court, or the attorney general to comply with this 48037
section in relation to any property seized does not affect the 48038
validity of the seizure and shall not be considered to be the 48039
basis for suppressing any evidence resulting from the seizure, 48040
provided the seizure itself was lawful. 48041

Sec. 3109.16. (A) The children's trust fund board, upon the 48042
recommendation of the director of job and family services, shall 48043
approve the employment of an executive director who will 48044
administer the programs of the board. ~~The~~ 48045

(B) The department of job and family services shall provide 48046

budgetary, procurement, accounting, and other related management 48047
functions for the board and may adopt rules in accordance with 48048
Chapter 119. of the Revised Code for these purposes. An amount not 48049
to exceed three per cent of the total amount of fees deposited in 48050
the children's trust fund in each fiscal year may be used for 48051
costs directly related to these administrative functions of the 48052
department. Each fiscal year, the board shall approve a budget for 48053
administrative expenditures for the next fiscal year. 48054

(C) The board may request that the department adopt rules the 48055
board considers necessary for the purpose of carrying out the 48056
board's responsibilities under this section, and the department 48057
may adopt those rules. The department may, after consultation with 48058
the board and the executive director, adopt any other rules to 48059
assist the board in carrying out its responsibilities under this 48060
section. In either case, the rules shall be adopted under Chapter 48061
119. of the Revised Code. 48062

(D) The board shall meet at least quarterly at the call of 48063
the chairperson to conduct its official business. All business 48064
transactions of the board shall be conducted in public meetings. 48065
Eight members of the board constitute a quorum. A majority of the 48066
board members is required to adopt the state plan for the 48067
allocation of funds from the children's trust fund. A majority of 48068
the quorum is required to make all other decisions of the board. 48069

The (E) With respect to funding, all of the following apply: 48070

(1) The board may apply for and accept federal and other 48071
funds for the purpose of funding child abuse and child neglect 48072
prevention programs. In addition, the 48073

(2) The board may solicit and accept gifts, money, and other 48074
donations from any public or private source, including 48075
individuals, philanthropic foundations or organizations, 48076
corporations, or corporation endowments. The 48077

(3) The board may develop private-public partnerships to 48078
support the mission of the children's trust fund. 48079

(4) The acceptance and use of federal and other funds shall 48080
not entail any commitment or pledge of state funds, nor obligate 48081
the general assembly to continue the programs or activities for 48082
which the federal and other funds are made available. ~~All~~ 48083

(5) All funds received in the manner described in this 48084
section shall be transmitted to the treasurer of state, who shall 48085
credit them to the children's trust fund created in section 48086
3109.14 of the Revised Code. 48087

Sec. 3111.04. (A) An action to determine the existence or 48088
nonexistence of the father and child relationship may be brought 48089
by the child or the child's personal representative, the child's 48090
mother or her personal representative, a man alleged or alleging 48091
himself to be the child's father, the child support enforcement 48092
agency of the county in which the child resides if the child's 48093
mother, father, or alleged father is a recipient of public 48094
assistance or of services under Title IV-D of the "Social Security 48095
Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, or the 48096
alleged father's personal representative. 48097

(B) An agreement does not bar an action under this section. 48098

(C) If an action under this section is brought before the 48099
birth of the child and if the action is contested, all 48100
proceedings, except service of process and the taking of 48101
depositions to perpetuate testimony, may be stayed until after the 48102
birth. 48103

(D) A recipient of public assistance or of services under 48104
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 48105
U.S.C.A. 651, as amended, shall cooperate with the child support 48106
enforcement agency of the county in which a child resides to 48107

obtain an administrative determination pursuant to sections 48108
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 48109
determination pursuant to sections 3111.01 to 3111.18 of the 48110
Revised Code, of the existence or nonexistence of a parent and 48111
child relationship between the father and the child. If the 48112
recipient fails to cooperate, the agency may commence an action to 48113
determine the existence or nonexistence of a parent and child 48114
relationship between the father and the child pursuant to sections 48115
3111.01 to 3111.18 of the Revised Code. 48116

(E) As used in this section, "public assistance" means all of 48117
the following: 48118

(1) Medicaid under Chapter 5111. of the Revised Code; 48119

(2) Ohio works first under Chapter 5107. of the Revised Code; 48120

(3) Disability financial assistance under Chapter 5115. of 48121
the Revised Code; 48122

~~(4) Children's buy in program under sections 5101.5211 to 48123
5101.5216 of the Revised Code. 48124~~

Sec. 3113.06. No father, or mother when she is charged with 48125
the maintenance, of a child under eighteen years of age, or a 48126
mentally or physically handicapped child under age twenty-one, who 48127
is legally a ward of a public children services agency or is the 48128
recipient of aid pursuant to ~~sections 5101.5211 to 5101.5216 or~~ 48129
Chapter 5107. or 5115. of the Revised Code, shall neglect or 48130
refuse to pay such agency the reasonable cost of maintaining such 48131
child when such father or mother is able to do so by reason of 48132
property, labor, or earnings. 48133

An offense under this section shall be held committed in the 48134
county in which the agency is located. The agency shall file 48135
charges against any parent who violates this section, unless the 48136
agency files charges under section 2919.21 of the Revised Code, or 48137

unless charges of nonsupport are filed by a relative or guardian 48138
of the child, or unless an action to enforce support is brought 48139
under Chapter 3115. of the Revised Code. 48140

Sec. 3119.54. A party to a child support order issued in 48141
accordance with section 3119.30 of the Revised Code shall notify 48142
any physician, hospital, or other provider of medical services 48143
that provides medical services to the child who is the subject of 48144
the child support order of the number of any health insurance or 48145
health care policy, contract, or plan that covers the child if the 48146
child is eligible for medical assistance under ~~sections 5101.5211~~ 48147
~~to 5101.5216~~ or Chapter 5111. of the Revised Code. The party shall 48148
include in the notice the name and address of the insurer. Any 48149
physician, hospital, or other provider of medical services for 48150
which medical assistance is available under ~~sections 5101.5211~~ to 48151
~~5101.5216~~ or Chapter 5111. of the Revised Code who is notified 48152
under this section of the existence of a health insurance or 48153
health care policy, contract, or plan with coverage for children 48154
who are eligible for medical assistance shall first bill the 48155
insurer for any services provided for those children. If the 48156
insurer fails to pay all or any part of a claim filed under this 48157
section and the services for which the claim is filed are covered 48158
by ~~sections 5101.5211~~ to ~~5101.5216~~ or Chapter 5111. of the Revised 48159
Code, the physician, hospital, or other medical services provider 48160
shall bill the remaining unpaid costs of the services in 48161
accordance with ~~sections 5101.5211~~ to ~~5101.5216~~ or Chapter 5111. 48162
of the Revised Code. 48163

Sec. 3121.48. The office of child support shall ~~maintain~~ 48164
administer a ~~separate account~~ fund for the deposit of support 48165
payments it receives as trustee for remittance to the persons 48166
entitled to receive the support payments. The fund shall be in the 48167
custody of the treasurer of state, but shall not be part of the 48168

state treasury. 48169

Sec. 3123.44. (A) Notice shall be sent to an individual 48170
described in section 3123.42 of the Revised Code in compliance 48171
with section 3121.23 of the Revised Code. The notice shall specify 48172
that a court or child support enforcement agency has determined 48173
the individual to be in default under a child support order or 48174
that the individual is an obligor who has failed to comply with a 48175
subpoena or warrant issued by a court or agency with respect to a 48176
proceeding to enforce a child support order, that a notice 48177
containing the individual's name and social security number or 48178
other identification number may be sent to every board that has 48179
authority to issue or has issued the individual a license, and 48180
that, if the board receives that notice and determines that the 48181
individual is the individual named in that notice and the board 48182
has not received notice under section 3123.45 or 3123.46 of the 48183
Revised Code, all of the following will occur: 48184

~~(A)~~(1) The board will not issue any license to the individual 48185
or renew any license of the individual. 48186

~~(B)~~(2) The board will suspend any license of the individual 48187
if it determines that the individual is the individual named in 48188
the notice sent to the board under section 3123.43 of the Revised 48189
Code. 48190

~~(C)~~(3) If the individual is the individual named in the 48191
notice, the board will not issue any license to the individual, 48192
and will not reinstate a suspended license, until the board 48193
receives a notice under section 3123.45 or 3123.46 of the Revised 48194
Code. 48195

(B) If an agency makes the determination described in 48196
division (A) of section 3123.42 of the Revised Code, it shall not 48197
send the notice described in division (A) of this section unless 48198

both of the following are the case: 48199

(1) At least ninety days have elapsed since the final and enforceable determination of default; 48200
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(2) In the preceding ninety days, the obligor has failed to pay at least fifty per cent of the arrearage through means other than those described in sections 3123.81 to 3123.85 of the Revised Code. 48202
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(C) The department of job and family services shall adopt rules pursuant to section 3123.63 of the Revised Code establishing a uniform pre-suspension notice form that shall be used by agencies that send notice as required by this section. 48206
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Sec. 3123.45. A child support enforcement agency that sent a notice to a board of an individual's default under a child support order shall send to each board to which the agency sent the notice a further notice that the individual is not in default if it determines that the individual is not in default or any of the following occurs: 48210
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(A) The individual makes full payment to the office of child support in the department of job and family services or, pursuant to sections 3125.27 to 3125.30 of the Revised Code, the child support enforcement agency of the arrearage that was the basis for the court or agency determination that the individual was in default. 48216
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(B) ~~An~~ The individual has presented to the agency sufficient evidence of current employment or of an account in a financial institution, the agency has confirmed the individual's employment or the existence of the account, and an appropriate withholding or deduction notice or other appropriate order described in section 3121.03, ~~3121.04, 3121.05, 3121.06, or 3121.12~~ of the Revised Code has been issued to collect current support and any arrearage due 48222
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under the child support order that was in default, ~~and the~~ 48229
~~individual is complying with the notice or order.~~ 48230

~~(C) A new child support order has been issued or the child~~ 48231
~~support order that was in default, has been modified to collect~~ 48232
~~current support and any arrearage due under the child support~~ 48233
~~order that was in default, and the individual is complying with~~ 48234
~~the new or modified child support order~~ The individual presents 48235
evidence to the agency sufficient to establish that the individual 48236
is unable to work due to circumstances beyond the individual's 48237
control. 48238

The agency shall send the notice under this section not later 48239
than seven days after the agency determines the individual is not 48240
in default or that any of the circumstances specified in this 48241
section has occurred. 48242

Sec. 3123.55. (A) Notice shall be sent to the individual 48243
described in section ~~3123.54~~ 3123.53 of the Revised Code in 48244
compliance with section 3121.23 of the Revised Code. The notice 48245
shall specify that a court or child support enforcement agency has 48246
determined the individual to be in default under a child support 48247
order or that the individual is an obligor under a child support 48248
order who has failed to comply with a subpoena or warrant issued 48249
by a court or agency with respect to a proceeding to enforce a 48250
child support order, that a notice containing the individual's 48251
name and social security number or other identification number may 48252
be sent to the registrar of motor vehicles, and that, if the 48253
registrar receives that notice and determines that the individual 48254
is the individual named in that notice and the registrar has not 48255
received notice under section 3123.56 or 3123.57 of the Revised 48256
Code, all of the following will occur: 48257

~~(A)~~(1) The registrar and all deputy registrars will be 48258
prohibited from issuing to the individual a driver's or commercial 48259

driver's license, motorcycle operator's license or endorsement, or 48260
temporary instruction permit or commercial driver's temporary 48261
instruction permit. 48262

~~(B)~~(2) The registrar and all deputy registrars will be 48263
prohibited from renewing for the individual a driver's or 48264
commercial driver's license, motorcycle operator's license or 48265
endorsement, or commercial driver's temporary instruction permit. 48266

~~(C)~~(3) If the individual holds a driver's or commercial 48267
driver's license, motorcycle operator's license or endorsement, or 48268
temporary instruction permit or commercial driver's temporary 48269
instruction permit, the registrar will impose a class F suspension 48270
under division (B)(6) of section 4510.02 of the Revised Code if 48271
the registrar determines that the individual is the individual 48272
named in the notice sent pursuant to section 3123.54 of the 48273
Revised Code. 48274

~~(D)~~(4) If the individual is the individual named in the 48275
notice, the individual will not be issued or have renewed any 48276
license, endorsement, or permit, and no suspension will be lifted 48277
with respect to any license, endorsement, or permit listed in this 48278
section until the registrar receives a notice under section 48279
3123.56 or 3123.57 of the Revised Code. 48280

(B) If an agency makes the determination described in 48281
division (A) of section 3123.53 of the Revised Code, it shall not 48282
send the notice described in division (A) of this section unless 48283
both of the following are the case: 48284

(1) At least ninety days have elapsed since the final and 48285
enforceable determination of default; 48286

(2) In the preceding ninety days, the obligor has failed to 48287
pay at least fifty per cent of the arrearage through means other 48288
than those described in sections 3123.81 to 3123.85 of the Revised 48289
Code. 48290

(C) The department of job and family services shall adopt 48291
rules pursuant to section 3123.63 of the Revised Code establishing 48292
a uniform pre-suspension notice form that shall be used by 48293
agencies that send notice as required by this section. 48294

Sec. 3123.56. A child support enforcement agency that sent a 48295
notice under section 3123.54 of the Revised Code of an 48296
individual's default under a child support order shall send to the 48297
registrar of motor vehicles a notice that the individual is not in 48298
default if it determines that the individual is not in default or 48299
any of the following occurs: 48300

(A) The individual makes full payment to the office of child 48301
support or, pursuant to sections 3125.27 to 3125.30 of the Revised 48302
Code, to the child support enforcement agency of the arrearage 48303
that was the basis for the court or agency determination that the 48304
individual was in default. 48305

(B) ~~An~~ The individual has presented to the agency sufficient 48306
evidence of current employment or of an account in a financial 48307
institution, the agency has confirmed the individual's employment 48308
or the existence of the account, and an appropriate withholding or 48309
deduction notice or other appropriate order described in section 48310
3121.03, ~~3121.04, 3121.05, 3121.06, or 3121.12~~ of the Revised Code 48311
has been issued to collect current support and any arrearage due 48312
under the child support order that was in default, ~~and the~~ 48313
~~individual is complying with the notice or order.~~ 48314

(C) ~~A new child support order has been issued or the child~~ 48315
~~support order that was in default has been modified to collect~~ 48316
~~current support and any arrearage due under the child support~~ 48317
~~order that was in default, and the individual is complying with~~ 48318
~~the new or modified child support order~~ The individual presents 48319
evidence to the agency sufficient to establish that the individual 48320
is unable to work due to circumstances beyond the individual's 48321

control. 48322

The agency shall send the notice under this section not later 48323
than seven days after it determines the individual is not in 48324
default or that any of the circumstances specified in this section 48325
has occurred. 48326

Sec. 3123.58. (A) On receipt of a notice pursuant to section 48327
3123.54 of the Revised Code, the registrar of motor vehicles shall 48328
determine whether the individual named in the notice holds or has 48329
applied for a driver's license or commercial driver's license, 48330
motorcycle operator's license or endorsement, or temporary 48331
instruction permit or commercial driver's temporary instruction 48332
permit. If the registrar determines that the individual holds or 48333
has applied for a license, permit, or endorsement and the 48334
individual is the individual named in the notice and does not 48335
receive a notice pursuant to section 3123.56 or 3123.57 of the 48336
Revised Code, the registrar immediately shall provide notice of 48337
the determination to each deputy registrar. The registrar or a 48338
deputy registrar may not issue to the individual a driver's or 48339
commercial driver's license, motorcycle operator's license or 48340
endorsement, or temporary instruction permit or commercial 48341
driver's temporary instruction permit and may not renew for the 48342
individual a driver's or commercial driver's license, motorcycle 48343
operator's license or endorsement, or commercial driver's 48344
temporary instruction permit. The registrar or a deputy registrar 48345
also shall impose a class F suspension of the license, permit, or 48346
endorsement held by the individual under division (B)(6) of 48347
section 4510.02 of the Revised Code. 48348

~~(B) Prior to the date specified in section 3123.52 of the 48349
Revised Code, the registrar of motor vehicles or a deputy 48350
registrar shall do only the following with respect to an 48351
individual if the registrar makes the determination required under 48352~~

~~division (A) of this section and no notice is received concerning 48353
the individual under section 3123.56 or 3123.57 of the Revised 48354
Code. 48355~~

~~(1) Refuse to issue or renew the individual's commercial 48356
driver's license or commercial driver's temporary instruction 48357
permit. 48358~~

~~(2) Impose a class F suspension under division (B)(6) of 48359
section 4510.02 of the Revised Code on the individual with respect 48360
to the license or permit held by the individual. 48361~~

Sec. 3123.59. Not later than seven days after receipt of a 48362
notice pursuant to section 3123.56 or 3123.57 of the Revised Code, 48363
the registrar of motor vehicles shall notify each deputy registrar 48364
of the notice. The registrar and each deputy registrar shall then, 48365
if the individual otherwise is eligible for the license, permit, 48366
or endorsement and wants the license, permit, or endorsement, 48367
issue a license, permit, or endorsement to, or renew a license, 48368
permit, or endorsement of, the individual, or, if the registrar 48369
imposed a class F suspension of the individual's license, permit, 48370
or endorsement pursuant to division (A) of section 3123.58 of the 48371
Revised Code, remove the suspension. ~~On and after the date 48372
specified in section 3123.52 of the Revised Code, the registrar or 48373
a deputy registrar shall remove, after receipt of a notice under 48374
section 3123.56 or 3123.57 of the Revised Code, a class F 48375
suspension imposed on an individual with respect to a license or 48376
permit pursuant to division (B) of section 3123.58 of the Revised 48377
Code.~~ The registrar or a deputy registrar may charge a fee of not 48378
more than twenty-five dollars for issuing or renewing or removing 48379
the suspension of a license, permit, or endorsement pursuant to 48380
this section. The fees collected by the registrar pursuant to this 48381
section shall be paid into the state bureau of motor vehicles fund 48382
established in section 4501.25 of the Revised Code. 48383

Sec. 3123.591. A child support enforcement agency may, 48384
pursuant to rules adopted under section 3123.63 of the Revised 48385
Code, direct the registrar of motor vehicles to eliminate from the 48386
abstract maintained by the bureau of motor vehicles any reference 48387
to the suspension of an individual's license, permit, or 48388
endorsement imposed under section 3123.58 of the Revised Code. 48389

Sec. 3123.63. The director of job and family services ~~may~~ 48390
shall adopt rules in accordance with Chapter 119. of the Revised 48391
Code to implement sections 3123.41 to 3123.50, ~~3123.52~~ 3123.53 to 48392
~~3123.614~~ 3123.60, and 3123.62 of the Revised Code. The rules shall 48393
include both of the following: 48394

(A) Requirements concerning the contents of, and the 48395
conditions for issuance of, a notice required by section 3123.44 48396
or 3123.55 of the Revised Code. The rules shall require the 48397
contents of the notice to include information about the effect of 48398
a license suspension and appropriate steps that an individual can 48399
take to avoid license suspension. 48400

(B) Requirements concerning the authority of a child support 48401
enforcement agency to direct the registrar of motor vehicles to 48402
eliminate from the abstract maintained by the bureau of motor 48403
vehicles any reference to the suspension of an individual's 48404
license, permit, or endorsement imposed under section 3123.58 of 48405
the Revised Code. 48406

Sec. 3301.07. The state board of education shall exercise 48407
under the acts of the general assembly general supervision of the 48408
system of public education in the state. In addition to the powers 48409
otherwise imposed on the state board under the provisions of law, 48410
the board shall have the powers described in this section. 48411

(A) The state board shall exercise policy forming, planning, 48412
and evaluative functions for the public schools of the state 48413

except as otherwise provided by law. 48414

(B)(1) The state board shall exercise leadership in the 48415
improvement of public education in this state, and administer the 48416
educational policies of this state relating to public schools, and 48417
relating to instruction and instructional material, building and 48418
equipment, transportation of pupils, administrative 48419
responsibilities of school officials and personnel, and finance 48420
and organization of school districts, educational service centers, 48421
and territory. Consultative and advisory services in such matters 48422
shall be provided by the board to school districts and educational 48423
service centers of this state. 48424

(2) The state board also shall develop a standard of 48425
financial reporting which shall be used by each school district 48426
board of education and educational service center governing board 48427
to make its financial information and annual budgets for each 48428
school building under its control available to the public in a 48429
format understandable by the average citizen. The format shall 48430
show, among other things, at the district and educational service 48431
center level or at the school building level, as determined 48432
appropriate by the department of education, revenue by source; 48433
expenditures for salaries, wages, and benefits of employees, 48434
showing such amounts separately for classroom teachers, other 48435
employees required to hold licenses issued pursuant to sections 48436
3319.22 to 3319.31 of the Revised Code, and all other employees; 48437
expenditures other than for personnel, by category, including 48438
utilities, textbooks and other educational materials, equipment, 48439
permanent improvements, pupil transportation, extracurricular 48440
athletics, and other extracurricular activities; and per pupil 48441
expenditures. 48442

(C) The state board shall administer and supervise the 48443
allocation and distribution of all state and federal funds for 48444
public school education under the provisions of law, and may 48445

prescribe such systems of accounting as are necessary and proper 48446
to this function. It may require county auditors and treasurers, 48447
boards of education, educational service center governing boards, 48448
treasurers of such boards, teachers, and other school officers and 48449
employees, or other public officers or employees, to file with it 48450
such reports as it may prescribe relating to such funds, or to the 48451
management and condition of such funds. 48452

(D)(1) Wherever in Titles IX, XXIII, XXIX, XXXIII, XXXVII, 48453
XLVII, and LI of the Revised Code a reference is made to standards 48454
prescribed under this section or division (D) of this section, 48455
that reference shall be construed to refer to the standards 48456
prescribed under division (D)(2) of this section, unless the 48457
context specifically indicates a different meaning or intent. 48458

(2) The state board shall formulate and prescribe minimum 48459
standards to be applied to all elementary and secondary schools in 48460
this state for the purpose of requiring a general education of 48461
high quality. Such standards shall provide adequately for: the 48462
licensing of teachers, administrators, and other professional 48463
personnel and their assignment according to training and 48464
qualifications; efficient and effective instructional materials 48465
and equipment, including library facilities; the proper 48466
organization, administration, and supervision of each school, 48467
including regulations for preparing all necessary records and 48468
reports and the preparation of a statement of policies and 48469
objectives for each school; buildings, grounds, health and 48470
sanitary facilities and services; admission of pupils, and such 48471
requirements for their promotion from grade to grade as will 48472
assure that they are capable and prepared for the level of study 48473
to which they are certified; requirements for graduation; and such 48474
other factors as the board finds necessary. 48475

In the formulation and administration of such standards for 48476
nonpublic schools the board shall also consider the particular 48477

needs, methods and objectives of those schools, provided they do 48478
not conflict with the provision of a general education of a high 48479
quality and provided that regular procedures shall be followed for 48480
promotion from grade to grade of pupils who have met the 48481
educational requirements prescribed. 48482

In the formulation and administration of such standards as 48483
they relate to instructional materials and equipment in public 48484
schools, including library materials, the board shall require that 48485
the material and equipment be aligned with and promote skills 48486
expected under the statewide academic standards adopted under 48487
section 3301.079 of the Revised Code. 48488

(3) In addition to the minimum standards required by division 48489
(D)(2) of this section, the state board ~~shall~~ may formulate and 48490
prescribe the following additional minimum operating standards for 48491
school districts: 48492

(a) Standards for the effective and efficient organization, 48493
administration, and supervision of each school district so that it 48494
becomes a thinking and learning organization according to 48495
principles of systems design and collaborative professional 48496
learning communities research as defined by the superintendent of 48497
public instruction, including a focus on the personalized and 48498
individualized needs of each student; a shared responsibility 48499
among school boards, administrators, faculty, and staff to develop 48500
a common vision, mission, and set of guiding principles; a shared 48501
responsibility among school boards, administrators, faculty, and 48502
staff to engage in a process of collective inquiry, action 48503
orientation, and experimentation to ensure the academic success of 48504
all students; commitment to teaching and learning strategies that 48505
utilize technological tools and emphasize inter-disciplinary, 48506
real-world, project-based, and technology-oriented learning 48507
experiences to meet the individual needs of every student; 48508
commitment to high expectations for every student and commitment 48509

to closing the achievement gap so that all students achieve core 48510
knowledge and skills in accordance with the statewide academic 48511
standards adopted under section 3301.079 of the Revised Code; 48512
commitment to the use of assessments to diagnose the needs of each 48513
student; effective connections and relationships with families and 48514
others that support student success; and commitment to the use of 48515
positive behavior intervention supports throughout a district to 48516
ensure a safe and secure learning environment for all students; 48517

(b) Standards for the establishment of business advisory 48518
councils under section 3313.82 of the Revised Code; 48519

(c) Standards for school district ~~organizational units, as~~ 48520
~~defined in sections 3306.02 and 3306.04 of the Revised Code,~~ 48521
buildings that may require: 48522

(i) The effective and efficient organization, administration, 48523
and supervision of each school district ~~organizational unit~~ 48524
building so that it becomes a thinking and learning organization 48525
according to principles of systems design and collaborative 48526
professional learning communities research as defined by the state 48527
superintendent, including a focus on the personalized and 48528
individualized needs of each student; a shared responsibility 48529
among ~~organizational unit~~ building administrators, faculty, and 48530
staff to develop a common vision, mission, and set of guiding 48531
principles; a shared responsibility among ~~organizational unit~~ 48532
building administrators, faculty, and staff to engage in a process 48533
of collective inquiry, action orientation, and experimentation to 48534
ensure the academic success of all students; commitment to job 48535
embedded professional development and professional mentoring and 48536
coaching; established periods of time for teachers to pursue 48537
planning time for the development of lesson plans, professional 48538
development, and shared learning; commitment to effective 48539
management strategies that allow administrators reasonable access 48540
to classrooms for observation and professional development 48541

experiences; commitment to teaching and learning strategies that 48542
utilize technological tools and emphasize inter-disciplinary, 48543
real-world, project-based, and technology-oriented learning 48544
experiences to meet the individual needs of every student; 48545
commitment to high expectations for every student and commitment 48546
to closing the achievement gap so that all students achieve core 48547
knowledge and skills in accordance with the statewide academic 48548
standards adopted under section 3301.079 of the Revised Code; 48549
commitment to the use of assessments to diagnose the needs of each 48550
student; effective connections and relationships with families and 48551
others that support student success; commitment to the use of 48552
positive behavior intervention supports throughout the 48553
~~organizational-unit~~ building to ensure a safe and secure learning 48554
environment for all students; 48555

(ii) A school ~~organizational-unit~~ building leadership team to 48556
coordinate positive behavior intervention supports, learning 48557
environments, thinking and learning systems, collaborative 48558
planning, planning time, student academic interventions, student 48559
extended learning opportunities, and other activities identified 48560
by the team and approved by the district board of education. The 48561
team shall include the building principal, representatives from 48562
each collective bargaining unit, ~~the building lead~~ a classroom 48563
teacher, parents, business representatives, and others that 48564
support student success. 48565

(E) The state board may require as part of the health 48566
curriculum information developed under section 2108.34 of the 48567
Revised Code promoting the donation of anatomical gifts pursuant 48568
to Chapter 2108. of the Revised Code and may provide the 48569
information to high schools, educational service centers, and 48570
joint vocational school district boards of education; 48571

(F) The state board shall prepare and submit annually to the 48572
governor and the general assembly a report on the status, needs, 48573

and major problems of the public schools of the state, with 48574
recommendations for necessary legislative action and a ten-year 48575
projection of the state's public and nonpublic school enrollment, 48576
by year and by grade level. 48577

(G) The state board shall prepare and submit to the director 48578
of budget and management the biennial budgetary requests of the 48579
state board of education, for its agencies and for the public 48580
schools of the state. 48581

(H) The state board shall cooperate with federal, state, and 48582
local agencies concerned with the health and welfare of children 48583
and youth of the state. 48584

(I) The state board shall require such reports from school 48585
districts and educational service centers, school officers, and 48586
employees as are necessary and desirable. The superintendents and 48587
treasurers of school districts and educational service centers 48588
shall certify as to the accuracy of all reports required by law or 48589
state board or state department of education rules to be submitted 48590
by the district or educational service center and which contain 48591
information necessary for calculation of state funding. Any 48592
superintendent who knowingly falsifies such report shall be 48593
subject to license revocation pursuant to section 3319.31 of the 48594
Revised Code. 48595

(J) In accordance with Chapter 119. of the Revised Code, the 48596
state board shall adopt procedures, standards, and guidelines for 48597
the education of children with disabilities pursuant to Chapter 48598
3323. of the Revised Code, including procedures, standards, and 48599
guidelines governing programs and services operated by county 48600
boards of developmental disabilities pursuant to section 3323.09 48601
of the Revised Code. 48602

(K) For the purpose of encouraging the development of special 48603
programs of education for academically gifted children, the state 48604

board shall employ competent persons to analyze and publish data, 48605
promote research, advise and counsel with boards of education, and 48606
encourage the training of teachers in the special instruction of 48607
gifted children. The board may provide financial assistance out of 48608
any funds appropriated for this purpose to boards of education and 48609
educational service center governing boards for developing and 48610
conducting programs of education for academically gifted children. 48611

(L) The state board shall require that all public schools 48612
emphasize and encourage, within existing units of study, the 48613
teaching of energy and resource conservation as recommended to 48614
each district board of education by leading business persons 48615
involved in energy production and conservation, beginning in the 48616
primary grades. 48617

(M) The state board shall formulate and prescribe minimum 48618
standards requiring the use of phonics as a technique in the 48619
teaching of reading in grades kindergarten through three. In 48620
addition, the state board shall provide in-service training 48621
programs for teachers on the use of phonics as a technique in the 48622
teaching of reading in grades kindergarten through three. 48623

(N) The state board may adopt rules necessary for carrying 48624
out any function imposed on it by law, and may provide rules as 48625
are necessary for its government and the government of its 48626
employees, and may delegate to the superintendent of public 48627
instruction the management and administration of any function 48628
imposed on it by law. It may provide for the appointment of board 48629
members to serve on temporary committees established by the board 48630
for such purposes as are necessary. Permanent or standing 48631
committees shall not be created. 48632

(O) Upon application from the board of education of a school 48633
district, the superintendent of public instruction may issue a 48634
waiver exempting the district from compliance with the standards 48635
adopted under divisions (B)(2) and (D) of this section, as they 48636

relate to the operation of a school operated by the district. The 48637
state board shall adopt standards for the approval or disapproval 48638
of waivers under this division. The state superintendent shall 48639
consider every application for a waiver, and shall determine 48640
whether to grant or deny a waiver in accordance with the state 48641
board's standards. For each waiver granted, the state 48642
superintendent shall specify the period of time during which the 48643
waiver is in effect, which shall not exceed five years. A district 48644
board may apply to renew a waiver. 48645

Sec. 3301.071. (A)(1) In the case of nontax-supported 48646
schools, standards for teacher certification prescribed under 48647
section 3301.07 of the Revised Code shall provide for 48648
certification, without further educational requirements, of any 48649
administrator, supervisor, or teacher who has attended and 48650
received a bachelor's degree from a college or university 48651
accredited by a national or regional association in the United 48652
States except that, at the discretion of the state board of 48653
education, this requirement may be met by having an equivalent 48654
degree from a foreign college or university of comparable 48655
standing. 48656

(2) In the case of nonchartered, nontax-supported schools, 48657
the standards for teacher certification prescribed under section 48658
3301.07 of the Revised Code shall provide for certification, 48659
without further educational requirements, of any administrator, 48660
supervisor, or teacher who has attended and received a diploma 48661
from a "bible college" or "bible institute" described in division 48662
(E) of section 1713.02 of the Revised Code. 48663

(3) A certificate issued under division (A)(3) of this 48664
section shall be valid only for teaching foreign language, music, 48665
religion, computer technology, or fine arts. 48666

Notwithstanding division (A)(1) of this section, the 48667

standards for teacher certification prescribed under section 48668
3301.07 of the Revised Code shall provide for certification of a 48669
person as a teacher upon receipt by the state board of an 48670
affidavit signed by the chief administrative officer of a 48671
chartered nonpublic school seeking to employ the person, stating 48672
that the person meets one of the following conditions: 48673

(a) The person has specialized knowledge, skills, or 48674
expertise that qualifies the person to provide instruction. 48675

(b) The person has provided to the chief administrative 48676
officer evidence of at least three years of teaching experience in 48677
a public or nonpublic school. 48678

(c) The person has provided to the chief administrative 48679
officer evidence of completion of a teacher training program named 48680
in the affidavit. 48681

(B) Each person applying for a certificate under this section 48682
for purposes of serving in a nonpublic school chartered by the 48683
state board under section 3301.16 of the Revised Code shall pay a 48684
fee in the amount established under division (A) of section 48685
3319.51 of the Revised Code. Any fees received under this division 48686
shall be paid into the state treasury to the credit of the state 48687
board of education certification fund established under division 48688
(B) of section 3319.51 of the Revised Code. 48689

(C) A person applying for or holding any certificate pursuant 48690
to this section for purposes of serving in a nonpublic school 48691
chartered by the state board is subject to sections 3123.41 to 48692
3123.50 of the Revised Code and any applicable rules adopted under 48693
section 3123.63 of the Revised Code and sections 3319.31 and 48694
3319.311 of the Revised Code. 48695

(D) Divisions (B) and (C) of this section and sections 48696
3319.291, 3319.31, and 3319.311 of the Revised Code do not apply 48697
to any administrators, supervisors, or teachers in nonchartered, 48698

nontax-supported schools. 48699

Sec. 3301.079. (A)(1) Not later than June 30, 2010, and ~~at~~ 48700
~~least once every five years~~ periodically thereafter, the state 48701
board of education shall adopt statewide academic standards with 48702
emphasis on coherence, focus, and rigor for each of grades 48703
kindergarten through twelve in English language arts, mathematics, 48704
science, and social studies. 48705

The standards shall specify the following: 48706

(a) The core academic content and skills that students are 48707
expected to know and be able to do at each grade level that will 48708
allow each student to be prepared for postsecondary instruction 48709
and the workplace for success in the twenty-first century; 48710

~~(b) The development of skill sets as they relate to 48711
creativity and innovation, critical thinking and problem solving,
and communication and collaboration;~~ 48712
48713

~~(c) The development of skill sets that promote information, 48714
media, and technological literacy;~~ 48715

~~(d) The development of skill sets that promote personal 48716
management, productivity and accountability, and leadership and
responsibility;~~ 48717
48718

~~(e)~~(c) Interdisciplinary, project-based, real-world learning 48719
opportunities. 48720

(2) After completing the standards required by division 48721
(A)(1) of this section, the state board shall adopt standards and 48722
model curricula for instruction in ~~computer literacy~~ technology, 48723
financial literacy and entrepreneurship, fine arts, and foreign 48724
language for grades kindergarten through twelve. The standards 48725
shall meet the same requirements prescribed in divisions (A)(1)(a) 48726
to ~~(e)~~(c) of this section. 48727

(3) The state board shall adopt the most recent standards 48728

developed by the national association for sport and physical 48729
education for physical education in grades kindergarten through 48730
twelve or shall adopt its own standards for physical education in 48731
those grades and revise and update them periodically. 48732

The department shall employ a full-time physical education 48733
coordinator to provide guidance and technical assistance to 48734
districts, community schools, and STEM schools in implementing the 48735
physical education standards adopted under this division. The 48736
superintendent of public instruction shall determine that the 48737
person employed as coordinator is qualified for the position, as 48738
demonstrated by possessing an adequate combination of education, 48739
license, and experience. 48740

(4) When academic standards have been completed for any 48741
subject area required by this section, the state board shall 48742
inform all school districts, all community schools established 48743
under Chapter 3314. of the Revised Code, all STEM schools 48744
established under Chapter 3326. of the Revised Code, and all 48745
nonpublic schools required to administer the assessments 48746
prescribed by sections 3301.0710 and 3301.0712 of the Revised Code 48747
of the content of those standards. 48748

(B) Not later than March 31, 2011, the state board shall 48749
adopt a model curriculum for instruction in each subject area for 48750
which updated academic standards are required by division (A)(1) 48751
of this section and for each of grades kindergarten through twelve 48752
that is sufficient to meet the needs of students in every 48753
community. The model curriculum shall be aligned with the 48754
standards, to ensure that the academic content and skills 48755
specified for each grade level are taught to students, and shall 48756
demonstrate vertical articulation and emphasize coherence, focus, 48757
and rigor. When any model curriculum has been completed, the state 48758
board shall inform all school districts, community schools, and 48759
STEM schools of the content of that model curriculum. 48760

All school districts, community schools, and STEM schools may 48761
utilize the state standards and the model curriculum established 48762
by the state board, together with other relevant resources, 48763
examples, or models to ensure that students have the opportunity 48764
to attain the academic standards. Upon request, the department of 48765
education shall provide technical assistance to any district, 48766
community school, or STEM school in implementing the model 48767
curriculum. 48768

Nothing in this section requires any school district to 48769
utilize all or any part of a model curriculum developed under this 48770
division. 48771

(C) The state board shall develop achievement assessments 48772
aligned with the academic standards and model curriculum for each 48773
of the subject areas and grade levels required by divisions (A)(1) 48774
and (B)(1) of section 3301.0710 of the Revised Code. 48775

When any achievement assessment has been completed, the state 48776
board shall inform all school districts, community schools, STEM 48777
schools, and nonpublic schools required to administer the 48778
assessment of its completion, and the department of education 48779
shall make the achievement assessment available to the districts 48780
and schools. 48781

(D)(1) The state board shall adopt a diagnostic assessment 48782
aligned with the academic standards and model curriculum for each 48783
of grades kindergarten through two in English language arts and 48784
mathematics and for grade three in English language arts. The 48785
diagnostic assessment shall be designed to measure student 48786
comprehension of academic content and mastery of related skills 48787
for the relevant subject area and grade level. Any diagnostic 48788
assessment shall not include components to identify gifted 48789
students. Blank copies of diagnostic assessments shall be public 48790
records. 48791

(2) When each diagnostic assessment has been completed, the 48792
state board shall inform all school districts of its completion 48793
and the department of education shall make the diagnostic 48794
assessment available to the districts at no cost to the district. 48795
School districts shall administer the diagnostic assessment 48796
pursuant to section 3301.0715 of the Revised Code beginning the 48797
first school year following the development of the assessment. 48798

(E) The state board shall not adopt a diagnostic or 48799
achievement assessment for any grade level or subject area other 48800
than those specified in this section. 48801

(F) Whenever the state board or the department of education 48802
consults with persons for the purpose of drafting or reviewing any 48803
standards, diagnostic assessments, achievement assessments, or 48804
model curriculum required under this section, the state board or 48805
the department shall first consult with parents of students in 48806
kindergarten through twelfth grade and with active Ohio classroom 48807
teachers, other school personnel, and administrators with 48808
expertise in the appropriate subject area. Whenever practicable, 48809
the state board and department shall consult with teachers 48810
recognized as outstanding in their fields. 48811

If the department contracts with more than one outside entity 48812
for the development of the achievement assessments required by 48813
this section, the department shall ensure the interchangeability 48814
of those assessments. 48815

(G) The fairness sensitivity review committee, established by 48816
rule of the state board of education, shall not allow any question 48817
on any achievement or diagnostic assessment developed under this 48818
section or any proficiency test prescribed by former section 48819
3301.0710 of the Revised Code, as it existed prior to September 48820
11, 2001, to include, be written to promote, or inquire as to 48821
individual moral or social values or beliefs. The decision of the 48822
committee shall be final. This section does not create a private 48823

cause of action. 48824

(H) Not later than forty-five days prior to the initial 48825
deadline established under division (A)(1) of this section and the 48826
deadline established under division (B) of this section, the 48827
superintendent of public instruction shall present the academic 48828
standards or model curricula, as applicable, to the respective 48829
committees of the house of representatives and senate that 48830
consider education legislation. 48831

(I) As used in this section: 48832

(1) "Coherence" means a reflection of the structure of the 48833
discipline being taught. 48834

(2) "Focus" means limiting the number of items included in a 48835
curriculum to allow for deeper exploration of the subject matter. 48836

(3) "Rigor" means more challenging and demanding when 48837
compared to international standards. 48838

(4) "Vertical articulation" means key academic concepts and 48839
skills associated with mastery in particular content areas should 48840
be articulated and reinforced in a developmentally appropriate 48841
manner at each grade level so that over time students acquire a 48842
depth of knowledge and understanding in the core academic 48843
disciplines. 48844

Sec. 3301.0710. The state board of education shall adopt 48845
rules establishing a statewide program to assess student 48846
achievement. The state board shall ensure that all assessments 48847
administered under the program are aligned with the academic 48848
standards and model curricula adopted by the state board and are 48849
created with input from Ohio parents, Ohio classroom teachers, 48850
Ohio school administrators, and other Ohio school personnel 48851
pursuant to section 3301.079 of the Revised Code. 48852

The assessment program shall be designed to ensure that 48853

students who receive a high school diploma demonstrate at least 48854
high school levels of achievement in English language arts, 48855
mathematics, science, and social studies, ~~and other skills~~ 48856
~~necessary in the twenty-first century.~~ 48857

(A)(1) The state board shall prescribe all of the following: 48858

(a) Two statewide achievement assessments, one each designed 48859
to measure the level of English language arts and mathematics 48860
skill expected at the end of third grade; 48861

(b) Two statewide achievement assessments, one each designed 48862
to measure the level of English language arts and mathematics 48863
skill expected at the end of fourth grade; 48864

(c) Four statewide achievement assessments, one each designed 48865
to measure the level of English language arts, mathematics, 48866
science, and social studies skill expected at the end of fifth 48867
grade; 48868

(d) Two statewide achievement assessments, one each designed 48869
to measure the level of English language arts and mathematics 48870
skill expected at the end of sixth grade; 48871

(e) Two statewide achievement assessments, one each designed 48872
to measure the level of English language arts and mathematics 48873
skill expected at the end of seventh grade; 48874

(f) Four statewide achievement assessments, one each designed 48875
to measure the level of English language arts, mathematics, 48876
science, and social studies skill expected at the end of eighth 48877
grade. 48878

(2) The state board shall determine and designate at least 48879
three ranges of scores on each of the achievement assessments 48880
described in divisions (A)(1) and (B)(1) of this section. Each 48881
range of scores shall be deemed to demonstrate a level of 48882
achievement so that any student attaining a score within such 48883

range has achieved one of the following: 48884

(a) An advanced level of skill; 48885

(b) A proficient level of skill; 48886

(c) A limited level of skill. 48887

(B)(1) The assessments prescribed under division (B)(1) of 48888
this section shall collectively be known as the Ohio graduation 48889
tests. The state board shall prescribe five statewide high school 48890
achievement assessments, one each designed to measure the level of 48891
reading, writing, mathematics, science, and social studies skill 48892
expected at the end of tenth grade. The state board shall 48893
designate a score in at least the range designated under division 48894
(A)(2)(b) of this section on each such assessment that shall be 48895
deemed to be a passing score on the assessment as a condition 48896
toward granting high school diplomas under sections 3313.61, 48897
3313.611, 3313.612, and 3325.08 of the Revised Code until the 48898
assessment system prescribed by section 3301.0712 of the Revised 48899
Code is implemented in accordance with rules adopted by the state 48900
board under division ~~(E)~~(D) of that section. 48901

(2) The state board shall prescribe an assessment system in 48902
accordance with section 3301.0712 of the Revised Code that shall 48903
replace the Ohio graduation tests in the manner prescribed by 48904
rules adopted by the state board under division ~~(E)~~(D) of that 48905
section. 48906

(3) The state board may enter into a reciprocal agreement 48907
with the appropriate body or agency of any other state that has 48908
similar statewide achievement assessment requirements for 48909
receiving high school diplomas, under which any student who has 48910
met an achievement assessment requirement of one state is 48911
recognized as having met the similar requirement of the other 48912
state for purposes of receiving a high school diploma. For 48913
purposes of this section and sections 3301.0711 and 3313.61 of the 48914

Revised Code, any student enrolled in any public high school in 48915
this state who has met an achievement assessment requirement 48916
specified in a reciprocal agreement entered into under this 48917
division shall be deemed to have attained at least the applicable 48918
score designated under this division on each assessment required 48919
by division (B)(1) or (2) of this section that is specified in the 48920
agreement. 48921

(C) The superintendent of public instruction shall designate 48922
dates and times for the administration of the assessments 48923
prescribed by divisions (A) and (B) of this section. 48924

In prescribing administration dates pursuant to this 48925
division, the superintendent shall designate the dates in such a 48926
way as to allow a reasonable length of time between the 48927
administration of assessments prescribed under this section and 48928
any administration of the national assessment of educational 48929
progress given to students in the same grade level pursuant to 48930
section 3301.27 of the Revised Code or federal law. 48931

(D) The state board shall prescribe a practice version of 48932
each Ohio graduation test described in division (B)(1) of this 48933
section that is of comparable length to the actual test. 48934

(E) Any committee established by the department of education 48935
for the purpose of making recommendations to the state board 48936
regarding the state board's designation of scores on the 48937
assessments described by this section shall inform the state board 48938
of the probable percentage of students who would score in each of 48939
the ranges established under division (A)(2) of this section on 48940
the assessments if the committee's recommendations are adopted by 48941
the state board. To the extent possible, these percentages shall 48942
be disaggregated by gender, major racial and ethnic groups, 48943
limited English proficient students, economically disadvantaged 48944
students, students with disabilities, and migrant students. 48945

If the state board intends to make any change to the committee's recommendations, the state board shall explain the intended change to the Ohio accountability task force established by section 3302.021 of the Revised Code. The task force shall recommend whether the state board should proceed to adopt the intended change. Nothing in this division shall require the state board to designate assessment scores based upon the recommendations of the task force.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish to, grade, and score all assessments required by divisions (A)(1) and (B)(1) of section 3301.0710 of the Revised Code to be administered by city, local, exempted village, and joint vocational school districts, except that each district shall score any assessment administered pursuant to division (B)(10) of this section. Each assessment so furnished shall include the data verification code of the student to whom the assessment will be administered, as assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code. In furnishing the practice versions of Ohio graduation tests prescribed by division (D) of section 3301.0710 of the Revised Code, the department shall make the tests available on its web site for reproduction by districts. In awarding contracts for grading assessments, the department shall give preference to Ohio-based entities employing Ohio residents.

(2) Adopt rules for the ethical use of assessments and prescribing the manner in which the assessments prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted

under division (A) of this section: 48977

(1) Administer the English language arts assessments 48978
prescribed under division (A)(1)(a) of section 3301.0710 of the 48979
Revised Code twice annually to all students in the third grade who 48980
have not attained the score designated for that assessment under 48981
division (A)(2)(b) of section 3301.0710 of the Revised Code. 48982

(2) Administer the mathematics assessment prescribed under 48983
division (A)(1)(a) of section 3301.0710 of the Revised Code at 48984
least once annually to all students in the third grade. 48985

(3) Administer the assessments prescribed under division 48986
(A)(1)(b) of section 3301.0710 of the Revised Code at least once 48987
annually to all students in the fourth grade. 48988

(4) Administer the assessments prescribed under division 48989
(A)(1)(c) of section 3301.0710 of the Revised Code at least once 48990
annually to all students in the fifth grade. 48991

(5) Administer the assessments prescribed under division 48992
(A)(1)(d) of section 3301.0710 of the Revised Code at least once 48993
annually to all students in the sixth grade. 48994

(6) Administer the assessments prescribed under division 48995
(A)(1)(e) of section 3301.0710 of the Revised Code at least once 48996
annually to all students in the seventh grade. 48997

(7) Administer the assessments prescribed under division 48998
(A)(1)(f) of section 3301.0710 of the Revised Code at least once 48999
annually to all students in the eighth grade. 49000

(8) Except as provided in division (B)(9) of this section, 49001
administer any assessment prescribed under division (B)(1) of 49002
section 3301.0710 of the Revised Code as follows: 49003

(a) At least once annually to all tenth grade students and at 49004
least twice annually to all students in eleventh or twelfth grade 49005
who have not yet attained the score on that assessment designated 49006

under that division; 49007

(b) To any person who has successfully completed the 49008
curriculum in any high school or the individualized education 49009
program developed for the person by any high school pursuant to 49010
section 3323.08 of the Revised Code but has not received a high 49011
school diploma and who requests to take such assessment, at any 49012
time such assessment is administered in the district. 49013

(9) In lieu of the board of education of any city, local, or 49014
exempted village school district in which the student is also 49015
enrolled, the board of a joint vocational school district shall 49016
administer any assessment prescribed under division (B)(1) of 49017
section 3301.0710 of the Revised Code at least twice annually to 49018
any student enrolled in the joint vocational school district who 49019
has not yet attained the score on that assessment designated under 49020
that division. A board of a joint vocational school district may 49021
also administer such an assessment to any student described in 49022
division (B)(8)(b) of this section. 49023

(10) If the district has been declared to be under an 49024
academic watch or in a state of academic emergency pursuant to 49025
section 3302.03 of the Revised Code or has a three-year average 49026
graduation rate of not more than seventy-five per cent, administer 49027
each assessment prescribed by division (D) of section 3301.0710 of 49028
the Revised Code in September to all ninth grade students, 49029
beginning in the school year that starts July 1, 2005. 49030

Except as provided in section 3313.614 of the Revised Code 49031
for administration of an assessment to a person who has fulfilled 49032
the curriculum requirement for a high school diploma but has not 49033
passed one or more of the required assessments, the assessments 49034
prescribed under division (B)(1) of section 3301.0710 of the 49035
Revised Code and the practice assessments prescribed under 49036
division (D) of that section and required to be administered under 49037
divisions (B)(8), (9), and (10) of this section shall not be 49038

administered after the assessment system prescribed by division 49039
(B)(2) of section 3301.0710 and section 3301.0712 of the Revised 49040
Code is implemented under rule of the state board adopted under 49041
division ~~(E)~~(D)(1) of section 3301.0712 of the Revised Code. 49042

(11) Administer the assessments prescribed by division (B)(2) 49043
of section 3301.0710 and section 3301.0712 of the Revised Code in 49044
accordance with the timeline and plan for implementation of those 49045
assessments prescribed by rule of the state board adopted under 49046
division ~~(E)~~(D)(1) of section 3301.0712 of the Revised Code. 49047

(C)(1)(a) ~~Any~~ In the case of a student receiving special 49048
education services under Chapter 3323. of the Revised Code, the 49049
individualized education program developed for the student under 49050
that chapter shall specify the manner in which the student will 49051
participate in the assessments administered under this section. 49052
The individualized education program may be excused excuse the 49053
student from taking any particular assessment required to be 49054
administered under this section if ~~the individualized education~~ 49055
~~program developed for the student pursuant to section 3323.08 of~~ 49056
~~the Revised Code excuses the student from taking that assessment~~ 49057
~~and it~~ instead specifies an alternate assessment method approved 49058
by the department of education as conforming to requirements of 49059
federal law for receipt of federal funds for disadvantaged pupils. 49060
To the extent possible, the individualized education program shall 49061
not excuse the student from taking an assessment unless no 49062
reasonable accommodation can be made to enable the student to take 49063
the assessment. 49064

(b) Any alternate assessment approved by the department for a 49065
student under this division shall produce measurable results 49066
comparable to those produced by the assessment it replaces in 49067
order to allow for the student's results to be included in the 49068
data compiled for a school district or building under section 49069
3302.03 of the Revised Code. 49070

(c) Any student enrolled in a chartered nonpublic school who 49071
has been identified, based on an evaluation conducted in 49072
accordance with section 3323.03 of the Revised Code or section 504 49073
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 49074
794, as amended, as a child with a disability shall be excused 49075
from taking any particular assessment required to be administered 49076
under this section if a plan developed for the student pursuant to 49077
rules adopted by the state board excuses the student from taking 49078
that assessment. In the case of any student so excused from taking 49079
an assessment, the chartered nonpublic school shall not prohibit 49080
the student from taking the assessment. 49081

(2) A district board may, for medical reasons or other good 49082
cause, excuse a student from taking an assessment administered 49083
under this section on the date scheduled, but that assessment 49084
shall be administered to the excused student not later than nine 49085
days following the scheduled date. The district board shall 49086
annually report the number of students who have not taken one or 49087
more of the assessments required by this section to the state 49088
board of education not later than the thirtieth day of June. 49089

(3) As used in this division, "limited English proficient 49090
student" has the same meaning as in 20 U.S.C. 7801. 49091

No school district board shall excuse any limited English 49092
proficient student from taking any particular assessment required 49093
to be administered under this section, except that any limited 49094
English proficient student who has been enrolled in United States 49095
schools for less than one full school year shall not be required 49096
to take any reading, writing, or English language arts assessment. 49097
However, no board shall prohibit a limited English proficient 49098
student who is not required to take an assessment under this 49099
division from taking the assessment. A board may permit any 49100
limited English proficient student to take an assessment required 49101
to be administered under this section with appropriate 49102

accommodations, as determined by the department. For each limited 49103
English proficient student, each school district shall annually 49104
assess that student's progress in learning English, in accordance 49105
with procedures approved by the department. 49106

The governing authority of a chartered nonpublic school may 49107
excuse a limited English proficient student from taking any 49108
assessment administered under this section. However, no governing 49109
authority shall prohibit a limited English proficient student from 49110
taking the assessment. 49111

(D)(1) In the school year next succeeding the school year in 49112
which the assessments prescribed by division (A)(1) or (B)(1) of 49113
section 3301.0710 of the Revised Code or former division (A)(1), 49114
(A)(2), or (B) of section 3301.0710 of the Revised Code as it 49115
existed prior to September 11, 2001, are administered to any 49116
student, the board of education of any school district in which 49117
the student is enrolled in that year shall provide to the student 49118
intervention services commensurate with the student's performance, 49119
including any intensive intervention required under section 49120
3313.608 of the Revised Code, in any skill in which the student 49121
failed to demonstrate at least a score at the proficient level on 49122
the assessment. 49123

(2) Following any administration of the assessments 49124
prescribed by division (D) of section 3301.0710 of the Revised 49125
Code to ninth grade students, each school district that has a 49126
three-year average graduation rate of not more than seventy-five 49127
per cent shall determine for each high school in the district 49128
whether the school shall be required to provide intervention 49129
services to any students who took the assessments. In determining 49130
which high schools shall provide intervention services based on 49131
the resources available, the district shall consider each school's 49132
graduation rate and scores on the practice assessments. The 49133
district also shall consider the scores received by ninth grade 49134

students on the English language arts and mathematics assessments 49135
prescribed under division (A)(1)(f) of section 3301.0710 of the 49136
Revised Code in the eighth grade in determining which high schools 49137
shall provide intervention services. 49138

Each high school selected to provide intervention services 49139
under this division shall provide intervention services to any 49140
student whose results indicate that the student is failing to make 49141
satisfactory progress toward being able to attain scores at the 49142
proficient level on the Ohio graduation tests. Intervention 49143
services shall be provided in any skill in which a student 49144
demonstrates unsatisfactory progress and shall be commensurate 49145
with the student's performance. Schools shall provide the 49146
intervention services prior to the end of the school year, during 49147
the summer following the ninth grade, in the next succeeding 49148
school year, or at any combination of those times. 49149

(E) Except as provided in section 3313.608 of the Revised 49150
Code and division (M) of this section, no school district board of 49151
education shall utilize any student's failure to attain a 49152
specified score on an assessment administered under this section 49153
as a factor in any decision to deny the student promotion to a 49154
higher grade level. However, a district board may choose not to 49155
promote to the next grade level any student who does not take an 49156
assessment administered under this section or make up an 49157
assessment as provided by division (C)(2) of this section and who 49158
is not exempt from the requirement to take the assessment under 49159
division (C)(3) of this section. 49160

(F) No person shall be charged a fee for taking any 49161
assessment administered under this section. 49162

(G)(1) Each school district board shall designate one 49163
location for the collection of assessments administered in the 49164
spring under division (B)(1) of this section and those 49165
administered under divisions (B)(2) to (7) of this section. Each 49166

district board shall submit the assessments to the entity with 49167
which the department contracts for the scoring of the assessments 49168
as follows: 49169

(a) If the district's total enrollment in grades kindergarten 49170
through twelve during the first full school week of October was 49171
less than two thousand five hundred, not later than the Friday 49172
after all of the assessments have been administered; 49173

(b) If the district's total enrollment in grades kindergarten 49174
through twelve during the first full school week of October was 49175
two thousand five hundred or more, but less than seven thousand, 49176
not later than the Monday after all of the assessments have been 49177
administered; 49178

(c) If the district's total enrollment in grades kindergarten 49179
through twelve during the first full school week of October was 49180
seven thousand or more, not later than the Tuesday after all of 49181
the assessments have been administered. 49182

However, any assessment that a student takes during the 49183
make-up period described in division (C)(2) of this section shall 49184
be submitted not later than the Friday following the day the 49185
student takes the assessment. 49186

(2) The department or an entity with which the department 49187
contracts for the scoring of the assessment shall send to each 49188
school district board a list of the individual scores of all 49189
persons taking an assessment prescribed by division (A)(1) or 49190
(B)(1) of section 3301.0710 of the Revised Code within sixty days 49191
after its administration, but in no case shall the scores be 49192
returned later than the fifteenth day of June following the 49193
administration. For assessments administered under this section by 49194
a joint vocational school district, the department or entity shall 49195
also send to each city, local, or exempted village school district 49196
a list of the individual scores of any students of such city, 49197

local, or exempted village school district who are attending 49198
school in the joint vocational school district. 49199

(H) Individual scores on any assessments administered under 49200
this section shall be released by a district board only in 49201
accordance with section 3319.321 of the Revised Code and the rules 49202
adopted under division (A) of this section. No district board or 49203
its employees shall utilize individual or aggregate results in any 49204
manner that conflicts with rules for the ethical use of 49205
assessments adopted pursuant to division (A) of this section. 49206

(I) Except as provided in division (G) of this section, the 49207
department or an entity with which the department contracts for 49208
the scoring of the assessment shall not release any individual 49209
scores on any assessment administered under this section. The 49210
state board of education shall adopt rules to ensure the 49211
protection of student confidentiality at all times. The rules may 49212
require the use of the data verification codes assigned to 49213
students pursuant to division (D)(2) of section 3301.0714 of the 49214
Revised Code to protect the confidentiality of student scores. 49215

(J) Notwithstanding division (D) of section 3311.52 of the 49216
Revised Code, this section does not apply to the board of 49217
education of any cooperative education school district except as 49218
provided under rules adopted pursuant to this division. 49219

(1) In accordance with rules that the state board of 49220
education shall adopt, the board of education of any city, 49221
exempted village, or local school district with territory in a 49222
cooperative education school district established pursuant to 49223
divisions (A) to (C) of section 3311.52 of the Revised Code may 49224
enter into an agreement with the board of education of the 49225
cooperative education school district for administering any 49226
assessment prescribed under this section to students of the city, 49227
exempted village, or local school district who are attending 49228
school in the cooperative education school district. 49229

(2) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any assessment prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(8)(b) of this section.

Any assessment of students pursuant to such an agreement shall be in lieu of any assessment of such students or persons pursuant to this section.

(K)(1) As a condition of compliance with section 3313.612 of the Revised Code, each chartered nonpublic school that educates students in grades nine through twelve shall administer the assessments prescribed by divisions (B)(1) and (2) of section 3301.0710 of the Revised Code. Any chartered nonpublic school may participate in the assessment program by administering any of the assessments prescribed by division (A) of section 3301.0710 of the Revised Code. The chief administrator of the school shall specify which assessments the school will administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which assessments are administered and shall include a pledge that the nonpublic school will administer the specified assessments in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the assessments 49262
prescribed by section 3301.0710 or 3301.0712 of the Revised Code 49263
to each chartered nonpublic school that participates under this 49264
division. 49265

(L)(1) The superintendent of the state school for the blind 49266
and the superintendent of the state school for the deaf shall 49267
administer the assessments described by sections 3301.0710 and 49268
3301.0712 of the Revised Code. Each superintendent shall 49269
administer the assessments in the same manner as district boards 49270
are required to do under this section and rules adopted by the 49271
department of education and in conformity with division (C)(1)(a) 49272
of this section. 49273

(2) The department of education shall furnish the assessments 49274
described by sections 3301.0710 and 3301.0712 of the Revised Code 49275
to each superintendent. 49276

(M) Notwithstanding division (E) of this section, a school 49277
district may use a student's failure to attain a score in at least 49278
the proficient range on the mathematics assessment described by 49279
division (A)(1)(a) of section 3301.0710 of the Revised Code or on 49280
an assessment described by division (A)(1)(b), (c), (d), (e), or 49281
(f) of section 3301.0710 of the Revised Code as a factor in 49282
retaining that student in the current grade level. 49283

(N)(1) In the manner specified in divisions (N)(3) and (4) of 49284
this section, the assessments required by division (A)(1) of 49285
section 3301.0710 of the Revised Code shall become public records 49286
pursuant to section 149.43 of the Revised Code on the first day of 49287
July following the school year that the assessments were 49288
administered. 49289

(2) The department may field test proposed questions with 49290
samples of students to determine the validity, reliability, or 49291
appropriateness of questions for possible inclusion in a future 49292

year's assessment. The department also may use anchor questions on 49293
assessments to ensure that different versions of the same 49294
assessment are of comparable difficulty. 49295

Field test questions and anchor questions shall not be 49296
considered in computing scores for individual students. Field test 49297
questions and anchor questions may be included as part of the 49298
administration of any assessment required by division (A)(1) or 49299
(B)(1) of section 3301.0710 of the Revised Code. 49300

(3) Any field test question or anchor question administered 49301
under division (N)(2) of this section shall not be a public 49302
record. Such field test questions and anchor questions shall be 49303
redacted from any assessments which are released as a public 49304
record pursuant to division (N)(1) of this section. 49305

(4) This division applies to the assessments prescribed by 49306
division (A) of section 3301.0710 of the Revised Code. 49307

(a) The first administration of each assessment, as specified 49308
in former section 3301.0712 of the Revised Code, shall be a public 49309
record. 49310

(b) For subsequent administrations of each assessment prior 49311
to the 2011-2012 school year, not less than forty per cent of the 49312
questions on the assessment that are used to compute a student's 49313
score shall be a public record. The department shall determine 49314
which questions will be needed for reuse on a future assessment 49315
and those questions shall not be public records and shall be 49316
redacted from the assessment prior to its release as a public 49317
record. However, for each redacted question, the department shall 49318
inform each city, local, and exempted village school district of 49319
the statewide academic standard adopted by the state board of 49320
education under section 3301.079 of the Revised Code and the 49321
corresponding benchmark to which the question relates. The 49322
preceding sentence does not apply to field test questions that are 49323

redacted under division (N)(3) of this section. 49324

(c) The administrations of each assessment in the 2011-2012 49325
school year and later shall not be a public record. 49326

(5) Each assessment prescribed by division (B)(1) of section 49327
3301.0710 of the Revised Code shall not be a public record. 49328

(O) As used in this section: 49329

(1) "Three-year average" means the average of the most recent 49330
consecutive three school years of data. 49331

(2) "Dropout" means a student who withdraws from school 49332
before completing course requirements for graduation and who is 49333
not enrolled in an education program approved by the state board 49334
of education or an education program outside the state. "Dropout" 49335
does not include a student who has departed the country. 49336

(3) "Graduation rate" means the ratio of students receiving a 49337
diploma to the number of students who entered ninth grade four 49338
years earlier. Students who transfer into the district are added 49339
to the calculation. Students who transfer out of the district for 49340
reasons other than dropout are subtracted from the calculation. If 49341
a student who was a dropout in any previous year returns to the 49342
same school district, that student shall be entered into the 49343
calculation as if the student had entered ninth grade four years 49344
before the graduation year of the graduating class that the 49345
student joins. 49346

Sec. 3301.0712. (A) The state board of education, the 49347
superintendent of public instruction, and the chancellor of the 49348
Ohio board of regents shall develop a system of college and work 49349
ready assessments as described in divisions (B)(1) ~~to (3)~~ and (2) 49350
of this section to assess whether each student upon graduating 49351
from high school is ready to enter college or the workforce. The 49352
system shall replace the Ohio graduation tests prescribed in 49353

division (B)(1) of section 3301.0710 of the Revised Code as a 49354
measure of student academic performance and a prerequisite for 49355
eligibility for a high school diploma in the manner prescribed by 49356
rule of the state board adopted under division ~~(E)~~(D) of this 49357
section. 49358

(B) The college and work ready assessment system shall 49359
consist of the following: 49360

(1) A nationally standardized assessment that measures 49361
~~competencies in science, mathematics, and English language arts~~ 49362
college and career readiness selected jointly by the state 49363
superintendent and the chancellor. 49364

(2) A series of end-of-course examinations in the areas of 49365
science, mathematics, English language arts, and social studies 49366
selected jointly by the state superintendent and the chancellor in 49367
consultation with faculty in the appropriate subject areas at 49368
institutions of higher education of the university system of Ohio. 49369
For each subject area, the state superintendent and chancellor 49370
shall select multiple assessments that school districts, public 49371
schools, and chartered nonpublic schools may use as end-of-course 49372
examinations. Those assessments shall include nationally 49373
recognized subject area assessments, such as advanced placement 49374
examinations, SAT subject tests, international baccalaureate 49375
examinations, and other assessments of college and work readiness. 49376
Any district or school that offers an interdisciplinary course may 49377
develop and use its own assessment as an end-of-course examination 49378
for that course, upon approval of the assessment by the state 49379
superintendent. 49380

~~(3) A senior project completed by a student or a group of~~ 49381
~~students. The purpose of the senior project is to assess the~~ 49382
~~student's:~~ 49383

~~(a) Mastery of core knowledge in a subject area chosen by the~~ 49384

student;	49385
(b) Written and verbal communication skills;	49386
(c) Critical thinking and problem solving skills;	49387
(d) Real world and interdisciplinary learning;	49388
(e) Creative and innovative thinking;	49389
(f) Acquired technology, information, and media skills;	49390
(g) Personal management skills such as self-direction, time management, work ethic, enthusiasm, and the desire to produce a high quality product.	49391 49392 49393
The state superintendent and the chancellor jointly shall develop standards for the senior project for students participating in dual enrollment programs.	49394 49395 49396
(C)(1) The state superintendent and the chancellor jointly shall designate the scoring rubrics and the required overall composite score for the assessment system to assess whether each student is college or work ready.	49397 49398 49399 49400
(2) Each senior project shall be judged by the student's high school in accordance with rubrics designated by the state superintendent and the chancellor.	49401 49402 49403
(D) Not later than thirty days after the state board adopts the model curricula required by division (B) of section 3301.079 of the Revised Code, the state board shall convene a group of national experts, state experts, and local practitioners to provide advice, guidance, and recommendations for the alignment of standards and model curricula to the assessments and in the design of the end-of-course examinations and scoring rubrics prescribed by this section.	49404 49405 49406 49407 49408 49409 49410 49411
(E)(D) Upon completion of the development of the assessment system, the state board shall adopt rules prescribing all of the following:	49412 49413 49414

(1) A timeline and plan for implementation of the assessment system, including a phased implementation if the state board determines such a phase-in is warranted;

(2) The date after which a person entering ninth grade shall ~~attain at least the composite score for~~ meet the requirements of the entire assessment system as a prerequisite for a high school diploma under ~~sections~~ section 3313.61, 3313.612, or 3325.08 of the Revised Code;

(3) The date after which a person shall ~~attain at least the composite score for~~ meet the requirements of the entire assessment system as a prerequisite for a diploma of adult education under section 3313.611 of the Revised Code;

(4) Whether and the extent to which a person may be excused from a social studies end-of-course examination under division (H) of section 3313.61 and division (B)(2) of section 3313.612 of the Revised Code;

(5) The date after which a person who has fulfilled the curriculum requirement for a diploma but has not passed one or more of the required assessments at the time the person fulfilled the curriculum requirement shall ~~attain at least the composite score for~~ meet the requirements of the entire assessment system as a prerequisite for a high school diploma under division (B) of section 3313.614 of the Revised Code;

(6) The extent to which the assessment system applies to students enrolled in a dropout recovery and prevention program for purposes of division (F) of section 3313.603 and section 3314.36 of the Revised Code.

No rule adopted under this division shall be effective earlier than one year after the date the rule is filed in final form pursuant to Chapter 119. of the Revised Code.

~~(F)~~(E) Not later than forty-five days prior to the state

board's adoption of a resolution directing the department of 49446
education to file the rules prescribed by division ~~(E)~~(D) of this 49447
section in final form under section 119.04 of the Revised Code, 49448
the superintendent of public instruction shall present the 49449
assessment system developed under this section to the respective 49450
committees of the house of representatives and senate that 49451
consider education legislation. 49452

Sec. 3301.0714. (A) The state board of education shall adopt 49453
rules for a statewide education management information system. The 49454
rules shall require the state board to establish guidelines for 49455
the establishment and maintenance of the system in accordance with 49456
this section and the rules adopted under this section. The 49457
guidelines shall include: 49458

(1) Standards identifying and defining the types of data in 49459
the system in accordance with divisions (B) and (C) of this 49460
section; 49461

(2) Procedures for annually collecting and reporting the data 49462
to the state board in accordance with division (D) of this 49463
section; 49464

(3) Procedures for annually compiling the data in accordance 49465
with division (G) of this section; 49466

(4) Procedures for annually reporting the data to the public 49467
in accordance with division (H) of this section. 49468

(B) The guidelines adopted under this section shall require 49469
the data maintained in the education management information system 49470
to include at least the following: 49471

(1) Student participation and performance data, for each 49472
grade in each school district as a whole and for each grade in 49473
each school building in each school district, that includes: 49474

(a) The numbers of students receiving each category of 49475

instructional service offered by the school district, such as 49476
regular education instruction, vocational education instruction, 49477
specialized instruction programs or enrichment instruction that is 49478
part of the educational curriculum, instruction for gifted 49479
students, instruction for students with disabilities, and remedial 49480
instruction. The guidelines shall require instructional services 49481
under this division to be divided into discrete categories if an 49482
instructional service is limited to a specific subject, a specific 49483
type of student, or both, such as regular instructional services 49484
in mathematics, remedial reading instructional services, 49485
instructional services specifically for students gifted in 49486
mathematics or some other subject area, or instructional services 49487
for students with a specific type of disability. The categories of 49488
instructional services required by the guidelines under this 49489
division shall be the same as the categories of instructional 49490
services used in determining cost units pursuant to division 49491
(C)(3) of this section. 49492

(b) The numbers of students receiving support or 49493
extracurricular services for each of the support services or 49494
extracurricular programs offered by the school district, such as 49495
counseling services, health services, and extracurricular sports 49496
and fine arts programs. The categories of services required by the 49497
guidelines under this division shall be the same as the categories 49498
of services used in determining cost units pursuant to division 49499
(C)(4)(a) of this section. 49500

(c) Average student grades in each subject in grades nine 49501
through twelve; 49502

(d) Academic achievement levels as assessed under sections 49503
3301.0710, 3301.0711, and 3301.0712 of the Revised Code; 49504

(e) The number of students designated as having a disabling 49505
condition pursuant to division (C)(1) of section 3301.0711 of the 49506
Revised Code; 49507

(f) The numbers of students reported to the state board pursuant to division (C)(2) of section 3301.0711 of the Revised Code;	49508 49509 49510
(g) Attendance rates and the average daily attendance for the year. For purposes of this division, a student shall be counted as present for any field trip that is approved by the school administration.	49511 49512 49513 49514
(h) Expulsion rates;	49515
(i) Suspension rates;	49516
(j) Dropout rates;	49517
(k) Rates of retention in grade;	49518
(l) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;	49519 49520 49521
(m) Graduation rates, to be calculated in a manner specified by the department of education that reflects the rate at which students who were in the ninth grade three years prior to the current year complete school and that is consistent with nationally accepted reporting requirements;	49522 49523 49524 49525 49526
(n) Results of diagnostic assessments administered to kindergarten students as required under section 3301.0715 of the Revised Code to permit a comparison of the academic readiness of kindergarten students. However, no district shall be required to report to the department the results of any diagnostic assessment administered to a kindergarten student if the parent of that student requests the district not to report those results.	49527 49528 49529 49530 49531 49532 49533
(2) Personnel and classroom enrollment data for each school district, including:	49534 49535
(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed	49536 49537

employees and nonlicensed employees providing each category of 49538
instructional service, instructional support service, and 49539
administrative support service used pursuant to division (C)(3) of 49540
this section. The guidelines adopted under this section shall 49541
require these categories of data to be maintained for the school 49542
district as a whole and, wherever applicable, for each grade in 49543
the school district as a whole, for each school building as a 49544
whole, and for each grade in each school building. 49545

(b) The total number of employees and the number of full-time 49546
equivalent employees providing each category of service used 49547
pursuant to divisions (C)(4)(a) and (b) of this section, and the 49548
total numbers of licensed employees and nonlicensed employees and 49549
the numbers of full-time equivalent licensed employees and 49550
nonlicensed employees providing each category used pursuant to 49551
division (C)(4)(c) of this section. The guidelines adopted under 49552
this section shall require these categories of data to be 49553
maintained for the school district as a whole and, wherever 49554
applicable, for each grade in the school district as a whole, for 49555
each school building as a whole, and for each grade in each school 49556
building. 49557

(c) The total number of regular classroom teachers teaching 49558
classes of regular education and the average number of pupils 49559
enrolled in each such class, in each of grades kindergarten 49560
through five in the district as a whole and in each school 49561
building in the school district. 49562

(d) The number of lead teachers employed by each school 49563
district and each school building. 49564

(3)(a) Student demographic data for each school district, 49565
including information regarding the gender ratio of the school 49566
district's pupils, the racial make-up of the school district's 49567
pupils, the number of limited English proficient students in the 49568
district, and an appropriate measure of the number of the school 49569

district's pupils who reside in economically disadvantaged 49570
households. The demographic data shall be collected in a manner to 49571
allow correlation with data collected under division (B)(1) of 49572
this section. Categories for data collected pursuant to division 49573
(B)(3) of this section shall conform, where appropriate, to 49574
standard practices of agencies of the federal government. 49575

(b) With respect to each student entering kindergarten, 49576
whether the student previously participated in a public preschool 49577
program, a private preschool program, or a head start program, and 49578
the number of years the student participated in each of these 49579
programs. 49580

(4) Any data required to be collected pursuant to federal 49581
law. 49582

(C) The education management information system shall include 49583
cost accounting data for each district as a whole and for each 49584
school building in each school district. The guidelines adopted 49585
under this section shall require the cost data for each school 49586
district to be maintained in a system of mutually exclusive cost 49587
units and shall require all of the costs of each school district 49588
to be divided among the cost units. The guidelines shall require 49589
the system of mutually exclusive cost units to include at least 49590
the following: 49591

(1) Administrative costs for the school district as a whole. 49592
The guidelines shall require the cost units under this division 49593
(C)(1) to be designed so that each of them may be compiled and 49594
reported in terms of average expenditure per pupil in formula ADM 49595
in the school district, as determined pursuant to section 3317.03 49596
of the Revised Code. 49597

(2) Administrative costs for each school building in the 49598
school district. The guidelines shall require the cost units under 49599
this division (C)(2) to be designed so that each of them may be 49600

compiled and reported in terms of average expenditure per 49601
full-time equivalent pupil receiving instructional or support 49602
services in each building. 49603

(3) Instructional services costs for each category of 49604
instructional service provided directly to students and required 49605
by guidelines adopted pursuant to division (B)(1)(a) of this 49606
section. The guidelines shall require the cost units under 49607
division (C)(3) of this section to be designed so that each of 49608
them may be compiled and reported in terms of average expenditure 49609
per pupil receiving the service in the school district as a whole 49610
and average expenditure per pupil receiving the service in each 49611
building in the school district and in terms of a total cost for 49612
each category of service and, as a breakdown of the total cost, a 49613
cost for each of the following components: 49614

(a) The cost of each instructional services category required 49615
by guidelines adopted under division (B)(1)(a) of this section 49616
that is provided directly to students by a classroom teacher; 49617

(b) The cost of the instructional support services, such as 49618
services provided by a speech-language pathologist, classroom 49619
aide, multimedia aide, or librarian, provided directly to students 49620
in conjunction with each instructional services category; 49621

(c) The cost of the administrative support services related 49622
to each instructional services category, such as the cost of 49623
personnel that develop the curriculum for the instructional 49624
services category and the cost of personnel supervising or 49625
coordinating the delivery of the instructional services category. 49626

(4) Support or extracurricular services costs for each 49627
category of service directly provided to students and required by 49628
guidelines adopted pursuant to division (B)(1)(b) of this section. 49629
The guidelines shall require the cost units under division (C)(4) 49630
of this section to be designed so that each of them may be 49631

compiled and reported in terms of average expenditure per pupil 49632
receiving the service in the school district as a whole and 49633
average expenditure per pupil receiving the service in each 49634
building in the school district and in terms of a total cost for 49635
each category of service and, as a breakdown of the total cost, a 49636
cost for each of the following components: 49637

(a) The cost of each support or extracurricular services 49638
category required by guidelines adopted under division (B)(1)(b) 49639
of this section that is provided directly to students by a 49640
licensed employee, such as services provided by a guidance 49641
counselor or any services provided by a licensed employee under a 49642
supplemental contract; 49643

(b) The cost of each such services category provided directly 49644
to students by a nonlicensed employee, such as janitorial 49645
services, cafeteria services, or services of a sports trainer; 49646

(c) The cost of the administrative services related to each 49647
services category in division (C)(4)(a) or (b) of this section, 49648
such as the cost of any licensed or nonlicensed employees that 49649
develop, supervise, coordinate, or otherwise are involved in 49650
administering or aiding the delivery of each services category. 49651

(D)(1) The guidelines adopted under this section shall 49652
require school districts to collect information about individual 49653
students, staff members, or both in connection with any data 49654
required by division (B) or (C) of this section or other reporting 49655
requirements established in the Revised Code. The guidelines may 49656
also require school districts to report information about 49657
individual staff members in connection with any data required by 49658
division (B) or (C) of this section or other reporting 49659
requirements established in the Revised Code. The guidelines shall 49660
not authorize school districts to request social security numbers 49661
of individual students. The guidelines shall prohibit the 49662
reporting under this section of a student's name, address, and 49663

social security number to the state board of education or the 49664
department of education. The guidelines shall also prohibit the 49665
reporting under this section of any personally identifiable 49666
information about any student, except for the purpose of assigning 49667
the data verification code required by division (D)(2) of this 49668
section, to any other person unless such person is employed by the 49669
school district or the information technology center operated 49670
under section 3301.075 of the Revised Code and is authorized by 49671
the district or technology center to have access to such 49672
information or is employed by an entity with which the department 49673
contracts for the scoring of assessments administered under 49674
section 3301.0711 of the Revised Code. The guidelines may require 49675
school districts to provide the social security numbers of 49676
individual staff members. 49677

(2) The guidelines shall provide for each school district or 49678
community school to assign a data verification code that is unique 49679
on a statewide basis over time to each student whose initial Ohio 49680
enrollment is in that district or school and to report all 49681
required individual student data for that student utilizing such 49682
code. The guidelines shall also provide for assigning data 49683
verification codes to all students enrolled in districts or 49684
community schools on the effective date of the guidelines 49685
established under this section. 49686

Individual student data shall be reported to the department 49687
through the information technology centers utilizing the code but, 49688
except as provided in sections 3310.11, 3310.42, 3313.978, 49689
3310.63, and 3317.20 of the Revised Code, at no time shall the 49690
state board or the department have access to information that 49691
would enable any data verification code to be matched to 49692
personally identifiable student data. 49693

Each school district shall ensure that the data verification 49694
code is included in the student's records reported to any 49695

subsequent school district, community school, or state institution 49696
of higher education, as defined in section 3345.011 of the Revised 49697
Code, in which the student enrolls. Any such subsequent district 49698
or school shall utilize the same identifier in its reporting of 49699
data under this section. 49700

The director of health shall request and receive, pursuant to 49701
sections 3301.0723 and 3701.62 of the Revised Code, a data 49702
verification code for a child who is receiving services under 49703
division (A)(2) of section 3701.61 of the Revised Code. 49704

(E) The guidelines adopted under this section may require 49705
school districts to collect and report data, information, or 49706
reports other than that described in divisions (A), (B), and (C) 49707
of this section for the purpose of complying with other reporting 49708
requirements established in the Revised Code. The other data, 49709
information, or reports may be maintained in the education 49710
management information system but are not required to be compiled 49711
as part of the profile formats required under division (G) of this 49712
section or the annual statewide report required under division (H) 49713
of this section. 49714

(F) Beginning with the school year that begins July 1, 1991, 49715
the board of education of each school district shall annually 49716
collect and report to the state board, in accordance with the 49717
guidelines established by the board, the data required pursuant to 49718
this section. A school district may collect and report these data 49719
notwithstanding section 2151.357 or 3319.321 of the Revised Code. 49720

(G) The state board shall, in accordance with the procedures 49721
it adopts, annually compile the data reported by each school 49722
district pursuant to division (D) of this section. The state board 49723
shall design formats for profiling each school district as a whole 49724
and each school building within each district and shall compile 49725
the data in accordance with these formats. These profile formats 49726
shall: 49727

(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district;

(2) Present the data on academic achievement levels as assessed by the testing of student achievement maintained pursuant to division (B)(1)(d) of this section.

(H)(1) The state board shall, in accordance with the procedures it adopts, annually prepare a statewide report for all school districts and the general public that includes the profile of each of the school districts developed pursuant to division (G) of this section. Copies of the report shall be sent to each school district.

(2) The state board shall, in accordance with the procedures it adopts, annually prepare an individual report for each school district and the general public that includes the profiles of each of the school buildings in that school district developed pursuant to division (G) of this section. Copies of the report shall be sent to the superintendent of the district and to each member of the district board of education.

(3) Copies of the reports received from the state board under divisions (H)(1) and (2) of this section shall be made available to the general public at each school district's offices. Each district board of education shall make copies of each report available to any person upon request and payment of a reasonable fee for the cost of reproducing the report. The board shall annually publish in a newspaper of general circulation in the school district, at least twice during the two weeks prior to the week in which the reports will first be available, a notice containing the address where the reports are available and the date on which the reports will be available.

(I) Any data that is collected or maintained pursuant to this

section and that identifies an individual pupil is not a public 49759
record for the purposes of section 149.43 of the Revised Code. 49760

(J) As used in this section: 49761

(1) "School district" means any city, local, exempted 49762
village, or joint vocational school district and, in accordance 49763
with section 3314.17 of the Revised Code, any community school. As 49764
used in division (L) of this section, "school district" also 49765
includes any educational service center or other educational 49766
entity required to submit data using the system established under 49767
this section. 49768

(2) "Cost" means any expenditure for operating expenses made 49769
by a school district excluding any expenditures for debt 49770
retirement except for payments made to any commercial lending 49771
institution for any loan approved pursuant to section 3313.483 of 49772
the Revised Code. 49773

(K) Any person who removes data from the information system 49774
established under this section for the purpose of releasing it to 49775
any person not entitled under law to have access to such 49776
information is subject to section 2913.42 of the Revised Code 49777
prohibiting tampering with data. 49778

(L)(1) In accordance with division (L)(2) of this section and 49779
the rules adopted under division (L)(10) of this section, the 49780
department of education may sanction any school district that 49781
reports incomplete or inaccurate data, reports data that does not 49782
conform to data requirements and descriptions published by the 49783
department, fails to report data in a timely manner, or otherwise 49784
does not make a good faith effort to report data as required by 49785
this section. 49786

(2) If the department decides to sanction a school district 49787
under this division, the department shall take the following 49788
sequential actions: 49789

(a) Notify the district in writing that the department has 49790
determined that data has not been reported as required under this 49791
section and require the district to review its data submission and 49792
submit corrected data by a deadline established by the department. 49793
The department also may require the district to develop a 49794
corrective action plan, which shall include provisions for the 49795
district to provide mandatory staff training on data reporting 49796
procedures. 49797

(b) Withhold up to ten per cent of the total amount of state 49798
funds due to the district for the current fiscal year and, if not 49799
previously required under division (L)(2)(a) of this section, 49800
require the district to develop a corrective action plan in 49801
accordance with that division; 49802

(c) Withhold an additional amount of up to twenty per cent of 49803
the total amount of state funds due to the district for the 49804
current fiscal year; 49805

(d) Direct department staff or an outside entity to 49806
investigate the district's data reporting practices and make 49807
recommendations for subsequent actions. The recommendations may 49808
include one or more of the following actions: 49809

(i) Arrange for an audit of the district's data reporting 49810
practices by department staff or an outside entity; 49811

(ii) Conduct a site visit and evaluation of the district; 49812

(iii) Withhold an additional amount of up to thirty per cent 49813
of the total amount of state funds due to the district for the 49814
current fiscal year; 49815

(iv) Continue monitoring the district's data reporting; 49816

(v) Assign department staff to supervise the district's data 49817
management system; 49818

(vi) Conduct an investigation to determine whether to suspend 49819

or revoke the license of any district employee in accordance with 49820
division (N) of this section; 49821

(vii) If the district is issued a report card under section 49822
3302.03 of the Revised Code, indicate on the report card that the 49823
district has been sanctioned for failing to report data as 49824
required by this section; 49825

(viii) If the district is issued a report card under section 49826
3302.03 of the Revised Code and incomplete or inaccurate data 49827
submitted by the district likely caused the district to receive a 49828
higher performance rating than it deserved under that section, 49829
issue a revised report card for the district; 49830

(ix) Any other action designed to correct the district's data 49831
reporting problems. 49832

(3) Any time the department takes an action against a school 49833
district under division (L)(2) of this section, the department 49834
shall make a report of the circumstances that prompted the action. 49835
The department shall send a copy of the report to the district 49836
superintendent or chief administrator and maintain a copy of the 49837
report in its files. 49838

(4) If any action taken under division (L)(2) of this section 49839
resolves a school district's data reporting problems to the 49840
department's satisfaction, the department shall not take any 49841
further actions described by that division. If the department 49842
withheld funds from the district under that division, the 49843
department may release those funds to the district, except that if 49844
the department withheld funding under division (L)(2)(c) of this 49845
section, the department shall not release the funds withheld under 49846
division (L)(2)(b) of this section and, if the department withheld 49847
funding under division (L)(2)(d) of this section, the department 49848
shall not release the funds withheld under division (L)(2)(b) or 49849
(c) of this section. 49850

(5) Notwithstanding anything in this section to the contrary, 49851
the department may use its own staff or an outside entity to 49852
conduct an audit of a school district's data reporting practices 49853
any time the department has reason to believe the district has not 49854
made a good faith effort to report data as required by this 49855
section. If any audit conducted by an outside entity under 49856
division (L)(2)(d)(i) or (5) of this section confirms that a 49857
district has not made a good faith effort to report data as 49858
required by this section, the district shall reimburse the 49859
department for the full cost of the audit. The department may 49860
withhold state funds due to the district for this purpose. 49861

(6) Prior to issuing a revised report card for a school 49862
district under division (L)(2)(d)(viii) of this section, the 49863
department may hold a hearing to provide the district with an 49864
opportunity to demonstrate that it made a good faith effort to 49865
report data as required by this section. The hearing shall be 49866
conducted by a referee appointed by the department. Based on the 49867
information provided in the hearing, the referee shall recommend 49868
whether the department should issue a revised report card for the 49869
district. If the referee affirms the department's contention that 49870
the district did not make a good faith effort to report data as 49871
required by this section, the district shall bear the full cost of 49872
conducting the hearing and of issuing any revised report card. 49873

(7) If the department determines that any inaccurate data 49874
reported under this section caused a school district to receive 49875
excess state funds in any fiscal year, the district shall 49876
reimburse the department an amount equal to the excess funds, in 49877
accordance with a payment schedule determined by the department. 49878
The department may withhold state funds due to the district for 49879
this purpose. 49880

(8) Any school district that has funds withheld under 49881
division (L)(2) of this section may appeal the withholding in 49882

accordance with Chapter 119. of the Revised Code. 49883

(9) In all cases of a disagreement between the department and 49884
a school district regarding the appropriateness of an action taken 49885
under division (L)(2) of this section, the burden of proof shall 49886
be on the district to demonstrate that it made a good faith effort 49887
to report data as required by this section. 49888

(10) The state board of education shall adopt rules under 49889
Chapter 119. of the Revised Code to implement division (L) of this 49890
section. 49891

(M) No information technology center or school district shall 49892
acquire, change, or update its student administration software 49893
package to manage and report data required to be reported to the 49894
department unless it converts to a student software package that 49895
is certified by the department. 49896

(N) The state board of education, in accordance with sections 49897
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a 49898
license as defined under division (A) of section 3319.31 of the 49899
Revised Code that has been issued to any school district employee 49900
found to have willfully reported erroneous, inaccurate, or 49901
incomplete data to the education management information system. 49902

(O) No person shall release or maintain any information about 49903
any student in violation of this section. Whoever violates this 49904
division is guilty of a misdemeanor of the fourth degree. 49905

(P) The department shall disaggregate the data collected 49906
under division (B)(1)(n) of this section according to the race and 49907
socioeconomic status of the students assessed. No data collected 49908
under that division shall be included on the report cards required 49909
by section 3302.03 of the Revised Code. 49910

(Q) If the department cannot compile any of the information 49911
required by division (C)(5) of section 3302.03 of the Revised Code 49912
based upon the data collected under this section, the department 49913

shall develop a plan and a reasonable timeline for the collection 49914
of any data necessary to comply with that division. 49915

Sec. 3301.16. Pursuant to standards prescribed by the state 49916
board of education as provided in division (D) of section 3301.07 49917
of the Revised Code, the state board shall classify and charter 49918
school districts and individual schools within each district 49919
except that no charter shall be granted to a nonpublic school 49920
unless the school complies with section 3313.612 of the Revised 49921
Code. 49922

In the course of considering the charter of a new school 49923
district created under section 3311.26 or 3311.38 of the Revised 49924
Code, the state board shall require the party proposing creation 49925
of the district to submit to the board a map, certified by the 49926
county auditor of the county in which the proposed new district is 49927
located, showing the boundaries of the proposed new district. In 49928
the case of a proposed new district located in more than one 49929
county, the map shall be certified by the county auditor of each 49930
county in which the proposed district is located. 49931

The state board shall revoke the charter of any school 49932
district or school which fails to meet the standards for 49933
elementary and high schools as prescribed by the board. The state 49934
board shall also revoke the charter of any nonpublic school that 49935
does not comply with section 3313.612 of the Revised Code. ~~The~~ 49936
~~state board may revoke the charter of any school district that~~ 49937
~~fails to meet the operating standards established under division~~ 49938
~~(D)(3) of section 3301.07 of the Revised Code.~~ 49939

In the issuance and revocation of school district or school 49940
charters, the state board shall be governed by the provisions of 49941
Chapter 119. of the Revised Code. 49942

No school district, or individual school operated by a school 49943
district, shall operate without a charter issued by the state 49944

board under this section. 49945

In case a school district charter is revoked pursuant to this 49946
section, the state board may dissolve the school district and 49947
transfer its territory to one or more adjacent districts. An 49948
equitable division of the funds, property, and indebtedness of the 49949
school district shall be made by the state board among the 49950
receiving districts. The board of education of a receiving 49951
district shall accept such territory pursuant to the order of the 49952
state board. Prior to dissolving the school district, the state 49953
board shall notify the appropriate educational service center 49954
governing board and all adjacent school district boards of 49955
education of its intention to do so. Boards so notified may make 49956
recommendations to the state board regarding the proposed 49957
dissolution and subsequent transfer of territory. Except as 49958
provided in section 3301.161 of the Revised Code, the transfer 49959
ordered by the state board shall become effective on the date 49960
specified by the state board, but the date shall be at least 49961
thirty days following the date of issuance of the order. 49962

A high school is one of higher grade than an elementary 49963
school, in which instruction and training are given in accordance 49964
with sections 3301.07 and 3313.60 of the Revised Code and which 49965
also offers other subjects of study more advanced than those 49966
taught in the elementary schools and such other subjects as may be 49967
approved by the state board of education. 49968

An elementary school is one in which instruction and training 49969
are given in accordance with sections 3301.07 and 3313.60 of the 49970
Revised Code and which offers such other subjects as may be 49971
approved by the state board of education. In districts wherein a 49972
junior high school is maintained, the elementary schools in that 49973
district may be considered to include only the work of the first 49974
six school years inclusive, plus the kindergarten year. 49975

~~A high school or an elementary school may consist of less 49976~~

~~than one or more than one organizational unit, as defined in~~ 49977
~~sections 3306.02 and 3306.04 of the Revised Code.~~ 49978

Sec. 3301.162. (A) If the governing authority of a chartered 49979
nonpublic school intends to close the school, the governing 49980
authority shall notify all of the following of that intent prior 49981
to closing the school: 49982

(1) The department of education; 49983

(2) The school district that receives auxiliary services 49984
funding under division ~~(I)~~(E) of section 3317.024 of the Revised 49985
Code on behalf of the students enrolled in the school; 49986

(3) The accrediting association that most recently accredited 49987
the school for purposes of chartering the school in accordance 49988
with the rules of the state board of education, if applicable. 49989

The notice shall include the school year and, if possible, 49990
the actual date the school will close. 49991

(B) The chief administrator of each chartered nonpublic 49992
school that closes shall deposit the school's records with either: 49993

(1) The accrediting association that most recently accredited 49994
the school for purposes of chartering the school in accordance 49995
with the rules of the state board, if applicable; 49996

(2) The school district that received auxiliary services 49997
funding under division ~~(I)~~(E) of section 3317.024 of the Revised 49998
Code on behalf of the students enrolled in the school. 49999

The school district that receives the records may charge for 50000
and receive a one-time reimbursement from auxiliary services 50001
funding under division ~~(I)~~(E) of section 3317.024 of the Revised 50002
Code for costs the district incurred to store the records. 50003

Sec. 3301.70. (A) The state board of education is the 50004
designated state agency responsible for the coordination and 50005

administration of sections 110 to 118 of the "National and 50006
Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C. 50007
12401 to 12431, as amended. With the assistance of the Ohio 50008
~~community~~ commission on service council and volunteerism created 50009
in section 121.40 of the Revised Code, the state board shall 50010
coordinate with other state agencies to apply for funding under 50011
the act when appropriate. 50012

(B) With the assistance of the Ohio ~~community~~ commission on 50013
service council and volunteerism, the state board of education 50014
shall develop a plan to assist school districts in the 50015
implementation of section 3313.605 of the Revised Code and other 50016
community service activities of school districts. The state board 50017
shall encourage the development of school district programs 50018
meeting the requirements for funding under the National and 50019
Community Service Act of 1990. The plan shall include the 50020
investigation of funding from all available sources for school 50021
community service education programs, including funds available 50022
under the National and Community Service Act of 1990, and the 50023
provision of technical assistance to school districts for the 50024
implementation of community service education programs. The plan 50025
shall also provide for technical assistance to be given to school 50026
boards to assist in obtaining funds for community service 50027
education programs from any source. 50028

(C) With the assistance of the Ohio ~~community~~ commission on 50029
service council and volunteerism, the state board of education 50030
shall do all of the following: 50031

(1) Disseminate information about school district community 50032
service education programs to other school districts and to 50033
statewide organizations involved with or promoting volunteerism; 50034

(2) Recruit additional school districts to develop community 50035
service education programs; 50036

(3) Identify or develop model community service programs, 50037
teacher training courses, and community service curricula and 50038
teaching materials for possible use by school districts in their 50039
programs. 50040

Sec. 3301.81. (A) As used in this division: 50041

(1) "Qualifying school" means either of the following: 50042

(a) A school operated by a challenged school district; 50043

(b) A community school that provides or proposes to provide 50044
classroom-based instruction at a site located within a challenged 50045
school district or a school district adjacent to a challenged 50046
school district. 50047

(2) "Challenged school district" has the same meaning as in 50048
section 3314.02 of the Revised Code. 50049

(B)(1) Not later than sixty days after the effective date of 50050
this section, the department of education shall issue a request 50051
for proposals from qualifying schools that wish to operate as a 50052
hybrid school in accordance with this section to provide students 50053
with a combination of technology-based instruction, including 50054
internet- or computer-based instruction, and classroom-based 50055
instruction. Each proposal submitted to the department shall 50056
contain the following information: 50057

(a) A description of the proposed hybrid nature of the 50058
school's instructional program; 50059

(b) An academic accountability plan, which shall include a 50060
commitment that the school will evaluate student performance at 50061
least three times a year and publish the results of each 50062
evaluation; 50063

(c) Any other information requested by the department. 50064

(2) The department shall develop a rigorous process for the 50065

evaluation of submitted proposals. As part of this process, if the 50066
department receives more than five proposals, the department shall 50067
select finalists from among the qualified responders. The 50068
finalists shall be required to make a public presentation to a 50069
panel of experts selected by the department on the merits of the 50070
school's plan and the likelihood of student success under the 50071
plan. 50072

(3) Within one hundred eighty days following the issuance of 50073
the request for proposals, the department shall select up to five 50074
schools from among the qualified responders. The selected schools 50075
may begin operating as a hybrid school in the next school year 50076
commencing after the approval of the school's proposal. If any of 50077
the selected schools is a community school established on or after 50078
the effective date of this section, the contract adopted under 50079
section 3314.03 of the Revised Code shall conform with the 50080
provisions of the school's proposal as approved by the department. 50081
If any of the selected schools is a community school established 50082
prior to the effective date of this section, the governing 50083
authority and sponsor of the school shall amend the contract 50084
adopted under section 3314.03 of the Revised Code prior to the 50085
first date of July of the school year in which the school will 50086
begin operating as a hybrid school to conform with the provisions 50087
of the school's proposal as approved by the department. 50088

(4) In the third school year after the schools selected under 50089
division (B)(3) of this section commence operations as hybrid 50090
schools, the department shall conduct a study of the academic 50091
performance of students attending the hybrid schools and determine 50092
any best practices utilized by the schools. The department shall 50093
issue a report on the results of this study to the governor, the 50094
president of the senate, and the speaker of the house of 50095
representatives. 50096

At the conclusion of the study, the department may issue a 50097

second request for proposals and select up to five additional 50098
schools that may operate as hybrid schools in accordance with this 50099
section. The department may modify the request for proposals or 50100
evaluation process from those previously used based on the results 50101
of the study conducted pursuant to this division. 50102

(C)(1) The board of education of each school district 50103
operating a hybrid school, or the governing authority of each 50104
community school operating as a hybrid school, shall require each 50105
student enrolled in the school to do both of the following: 50106

(a) Attend a designated site maintained by the board of 50107
education or governing authority to receive traditional 50108
classroom-based instruction that does not rely primarily on the 50109
use of computers or other electronic, digital, or wireless 50110
technology for the percentage of required instructional time 50111
determined under division (B)(2) of this section; 50112

(b) For the period of time the student does not attend the 50113
site maintained by the board of education or governing authority, 50114
work primarily from the student's residence on assignments in 50115
nonclassroom-based learning opportunities provided via a 50116
technology-based instructional method. 50117

(2) Before the beginning of each school year, the education 50118
team of each student enrolled in a hybrid school shall determine 50119
the percentage of the required instructional time that should be 50120
devoted to traditional classroom-based instruction and 50121
technology-based instruction to best meet the student's 50122
educational needs. As used in this division, "education team" 50123
includes, but is not limited to, the chief administrative officer 50124
or principal of the school, the student, the student's parent or 50125
guardian, and any teacher requested by the chief administrative 50126
officer or principal, student, or parent or guardian. 50127

(D) In the case of a community school operating as a hybrid 50128

school, the designated site maintained by the school's governing authority for the provision of classroom-based instruction shall be located in a challenged school district or an adjacent school district. However, the challenged school district shall be considered the school district in which the school is located for all purposes of Chapter 3314. of the Revised Code, including adopting an admission policy under division (A)(19) of section 3314.03 of the Revised Code. 50129
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(E) Except as provided in section 3314.091 of the Revised Code, the board of education of each city, local, and exempted village school district shall provide for its district's native students, in accordance with section 3327.01 of the Revised Code, transportation to and from a community school operating as a hybrid school pursuant to this section on each weekday the students are required to attend school at that site. 50137
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As used in this division, "native student" has the same meaning as in section 3314.09 of the Revised Code. 50144
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(F) A community school operating as a hybrid school pursuant to this section is not an internet- or computer-based community school for purposes of Chapter 3314. of the Revised Code. Nevertheless, except as otherwise provided in this section, a hybrid community school shall comply with all requirements of that chapter, including any provisions that apply solely to an internet- or computer-based community school. 50146
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Sec. 3302.02. Not later than one year after the adoption of rules under division ~~(E)~~(D) of section 3301.0712 of the Revised Code and at least every sixth year thereafter, upon recommendations of the superintendent of public instruction, the state board of education shall establish performance indicators for the report cards required by division (C) of section 3302.03 of the Revised Code. In establishing these indicators, the 50153
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superintendent shall consider inclusion of student performance on 50160
assessments prescribed under section 3301.0710 or 3301.0712 of the 50161
Revised Code, rates of student improvement on such assessments, 50162
student attendance, the breadth of coursework available within the 50163
district, and other indicators of student success. Not later than 50164
December 31, 2011, the state board, upon recommendation of the 50165
superintendent, shall establish a performance indicator reflecting 50166
the level of services provided to, and the performance of, 50167
students identified as gifted under Chapter 3324. of the Revised 50168
Code. 50169

The superintendent shall inform the Ohio accountability task 50170
force established under section 3302.021 of the Revised Code of 50171
the performance indicators the superintendent establishes under 50172
this section and the rationale for choosing each indicator and for 50173
determining how a school district or building meets that 50174
indicator. 50175

The superintendent shall not establish any performance 50176
indicator for passage of the third or fourth grade English 50177
language arts assessment that is solely based on the assessment 50178
given in the fall for the purpose of determining whether students 50179
have met the reading guarantee provisions of section 3313.608 of 50180
the Revised Code. 50181

Sec. 3302.031. In addition to the report cards required under 50182
section 3302.03 of the Revised Code, the department of education 50183
shall annually prepare the following reports for each school 50184
district and make a copy of each report available to the 50185
superintendent of each district: 50186

(A) A funding and expenditure accountability report which 50187
shall consist of the amount of state aid payments the school 50188
district will receive during the fiscal year under ~~Chapters 3306-~~ 50189
~~and Chapter~~ 3317. of the Revised Code and any other fiscal data 50190

the department determines is necessary to inform the public about 50191
the financial status of the district; 50192

(B) A school safety and discipline report which shall consist 50193
of statistical information regarding student safety and discipline 50194
in each school building, including the number of suspensions and 50195
expulsions disaggregated according to race and gender; 50196

(C) A student equity report which shall consist of at least a 50197
description of the status of teacher qualifications, library and 50198
media resources, textbooks, classroom materials and supplies, and 50199
technology resources for each district. To the extent possible, 50200
the information included in the report required under this 50201
division shall be disaggregated according to grade level, race, 50202
gender, disability, and scores attained on assessments required 50203
under section 3301.0710 of the Revised Code. 50204

(D) A school enrollment report which shall consist of 50205
information about the composition of classes within each district 50206
by grade and subject disaggregated according to race, gender, and 50207
scores attained on assessments required under section 3301.0710 of 50208
the Revised Code; 50209

(E) A student retention report which shall consist of the 50210
number of students retained in their respective grade levels in 50211
the district disaggregated by grade level, subject area, race, 50212
gender, and disability; 50213

(F) A school district performance report which shall describe 50214
for the district and each building within the district the extent 50215
to which the district or building meets each of the applicable 50216
performance indicators established under section 3302.02 of the 50217
Revised Code, the number of performance indicators that have been 50218
achieved, and the performance index score. In calculating the 50219
rates of achievement on the performance indicators and the 50220
performance index scores for each report, the department shall 50221

exclude all students with disabilities. 50222

Sec. 3302.042. (A) This section shall operate as a pilot project that applies to any school that has been ranked according to performance index score under section 3302.21 of the Revised Code in the lowest five per cent of performance index scores of all schools of all city, exempted village, and local school districts statewide for three or more consecutive school years and is operated by the Columbus city school district. 50223
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(B) Except as provided in division (D) of this section, if the parents or guardians of at least fifty per cent of the students enrolled in a school to which this section applies, or if the parents or guardians of at least fifty per cent of the total number of students enrolled in that school and the schools of lower grade levels whose students typically matriculate into that school, sign and file with the school district treasurer a petition requesting the district board of education to implement one of the following reforms in the school, and if the validity and sufficiency of the petition is certified in accordance with division (C) of this section, the board shall implement the requested reform in the next school year: 50230
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(1) Reopen the school as a community school under Chapter 3314. of the Revised Code; 50242
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(2) Replace at least seventy per cent of the school's personnel who are related to the school's poor academic performance or, at the request of the petitioners, retain not more than thirty per cent of the personnel; 50244
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(3) Contract with another school district or a nonprofit or for-profit entity with a demonstrated record of effectiveness to operate the school; 50248
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(4) Turn operation of the school over to the department; 50251

(5) Any other major restructuring of the school that makes 50252
fundamental reforms in the school's staffing or governance. 50253

(C) Not later than thirty days after receipt of a petition 50254
under division (B) of this section, the district treasurer shall 50255
verify the validity and sufficiency of the signatures on the 50256
petition and certify to the district board whether the petition 50257
contains the necessary number of valid signatures to require the 50258
board to implement the reform requested by the petitioners. If the 50259
treasurer certifies to the district board that the petition does 50260
not contain the necessary number of valid signatures, any person 50261
who signed the petition may file an appeal with the county auditor 50262
within ten days after the certification. Not later than thirty 50263
days after the filing of an appeal, the county auditor shall 50264
conduct an independent verification of the validity and 50265
sufficiency of the signatures on the petition and certify to the 50266
district board whether the petition contains the necessary number 50267
of valid signatures to require the board to implement the 50268
requested reform. If the treasurer or county auditor certifies 50269
that the petition contains the necessary number of valid 50270
signatures, the district board shall notify the superintendent of 50271
public instruction and the state board of education of the 50272
certification. 50273

(D) The district board shall not implement the reform 50274
requested by the petitioners in any of the following 50275
circumstances: 50276

(1) The district board has determined that the request is for 50277
reasons other than improving student academic achievement or 50278
student safety. 50279

(2) The state superintendent has determined that 50280
implementation of the requested reform would not comply with the 50281
model of differentiated accountability described in section 50282
3302.041 of the Revised Code. 50283

(3) The petitioners have requested the district board to 50284
implement the reform described in division (B)(4) of this section 50285
and the department has not agreed to take over the school's 50286
operation. 50287

(4) When all of the following have occurred: 50288

(a) After a public hearing on the matter, the district board 50289
issued a written statement explaining the reasons that it is 50290
unable to implement the requested reform and agreeing to implement 50291
one of the other reforms described in division (B) of this 50292
section. 50293

(b) The district board submitted its written statement to the 50294
state superintendent and the state board along with evidence 50295
showing how the alternative reform the district board has agreed 50296
to implement will enable the school to improve its academic 50297
performance. 50298

(c) Both the state superintendent and the state board have 50299
approved implementation of the alternative reform. 50300

(E) Beginning not later than six months after the first 50301
petition under this section has been resolved, the department of 50302
education shall annually evaluate the pilot program and submit a 50303
report to the general assembly under section 101.68 of the Revised 50304
Code. Such reports shall contain its recommendations to the 50305
general assembly with respect to the continuation of the pilot 50306
program, its expansion to other school districts, or the enactment 50307
of further legislation establishing the program statewide under 50308
permanent law. 50309

Sec. 3302.05. The state board of education shall adopt rules 50310
freeing school districts declared to be excellent under division 50311
(B)(1) or effective under division (B)(2) of section 3302.03 of 50312
the Revised Code from specified state mandates. Any mandates 50313

included in the rules shall be only those statutes or rules 50314
pertaining to state education requirements. The rules shall not 50315
exempt districts ~~from any standard or requirement of section~~ 50316
~~3306.09 of the Revised Code or~~ from any operating standard adopted 50317
under division (D)(3) of section 3301.07 of the Revised Code. 50318

Sec. 3302.06. (A) Any school of a city, exempted village, or 50319
local school district may apply to the district board of education 50320
to be designated as an innovation school. Each application shall 50321
include an innovation plan that contains the following: 50322

(1) A statement of the school's mission and an explanation of 50323
how the designation would enhance the school's ability to fulfill 50324
its mission; 50325

(2) A description of the innovations the school would 50326
implement; 50327

(3) An explanation of how implementation of the innovations 50328
described in division (A)(2) of this section would affect the 50329
school's programs and policies, including any of the following 50330
that apply: 50331

(a) The school's educational program; 50332

(b) The length of the school day and the school year; 50333

(c) The school's student promotion policy; 50334

(d) The school's plan for the assessment of students; 50335

(e) The school's budget; 50336

(f) The school's staffing levels. 50337

(4) A description of the improvements in student academic 50338
performance that the school expects to achieve by implementing the 50339
innovations described in division (A)(2) of this section; 50340

(5) An estimate of the cost savings and increased 50341
efficiencies, if any, that the school expects to achieve by 50342

implementing the innovations described in division (A)(2) of this section; 50343
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(6) A description of any laws in Title XXXIII of the Revised Code, rules adopted by the state board of education, or requirements enacted by the district board that would need to be waived to implement the innovations described in division (A)(2) of this section; 50345
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(7) A description of any provisions of a collective bargaining agreement covering personnel of the school that would need to be waived to implement the innovations described in division (A)(2) of this section; 50350
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(8) Evidence that a majority of the administrators assigned to the school and a majority of the teachers assigned to the school consent to seeking the designation and a statement of the level of support for seeking the designation demonstrated by other staff working in the school, students enrolled in the school and their parents, and members of the community in which the school is located. 50354
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(B) Two or more schools of the district may apply to the district board to be designated as an innovation school zone, if the schools share common interests based on factors such as geographical proximity or similar educational programs or if the schools serve the same classes of students as they advance to higher grade levels. Each application shall include an innovation plan that contains the information prescribed by divisions (A)(1) to (8) of this section for each participating school and the following additional information: 50361
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(1) A description of how innovations in the participating schools would be integrated to achieve results that would be less likely to be achieved by each participating school alone; 50370
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(2) An estimate of any economies of scale that would be 50373

realized by implementing innovations jointly. 50374

Sec. 3302.061. (A) A school district board of education shall 50375
review each application received under section 3302.06 of the 50376
Revised Code and, within sixty days after receipt of the 50377
application, shall approve or disapprove the application. In 50378
reviewing applications, the board shall give preference to 50379
applications that propose innovations in one or more of the 50380
following areas: 50381

(1) Curriculum; 50382

(2) Student assessments, other than the assessments 50383
prescribed by sections 3301.0710 and 3301.0712 of the Revised 50384
Code; 50385

(3) Class scheduling; 50386

(4) Accountability measures, including innovations that 50387
expand the number and variety of measures used in order to collect 50388
more complete data about student academic performance. For this 50389
purpose, schools may consider use of measures such as 50390
end-of-course examinations, portfolios of student work, nationally 50391
or internationally normed assessments, the percentage of students 50392
enrolling in post-secondary education, or the percentage of 50393
students simultaneously obtaining a high school diploma and an 50394
associate's degree or certification to work in an industry or 50395
career field. 50396

(5) Provision of student services, including services for 50397
students who are disabled, identified as gifted under Chapter 50398
3324. of the Revised Code, limited English proficient, at risk of 50399
academic failure or dropping out, or at risk of suspension or 50400
expulsion; 50401

(6) Provision of health, counseling, or other social services 50402
to students; 50403

<u>(7) Preparation of students for transition to higher education or the workforce;</u>	50404
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<u>(8) Teacher recruitment, employment, and evaluation;</u>	50406
<u>(9) Compensation for school personnel;</u>	50407
<u>(10) Professional development;</u>	50408
<u>(11) School governance and the roles and responsibilities of principals;</u>	50409
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<u>(12) Use of financial or other resources.</u>	50411
<u>(B)(1) If the board approves an application seeking designation as an innovation school, it shall so designate the school that submitted the application. If the board approves an application seeking designation as an innovation school zone, it shall so designate the participating schools that submitted the application.</u>	50412
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<u>(2) If the board disapproves an application, it shall provide a written explanation of the basis for its decision to the school or schools that submitted the application. The school or schools may reapply for designation as an innovation school or innovation school zone at any time.</u>	50418
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<u>(C) The board may approve an application that allows an innovation school or a school participating in an innovation school zone to determine the compensation of board employees working in the school, but the total compensation for all such employees shall not exceed the financial resources allocated to the school by the board. The school shall not be required to comply with the salary schedule adopted by the board under section 3317.14 of the Revised Code. The board may approve an application that allows an innovation school or a school participating in an innovation school zone to remove board employees from the school, but no employee shall be terminated except as provided in section</u>	50423
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3319.081 or 3319.16 of the Revised Code. 50434

(D) The board may do either of the following at any time: 50435

(1) Designate a school as an innovation school by creating an innovation plan for that school and offering the school an opportunity to participate in the plan's creation; 50436
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(2) Designate as an innovation school zone two or more schools that share common interests based on factors such as geographical proximity or similar educational programs or that serve the same classes of students as they advance to higher grade levels, by creating an innovation plan for those schools and offering the schools an opportunity to participate in the plan's creation. 50439
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Sec. 3302.062. (A) If a school district board of education approves an application under division (B)(1) of section 3302.061 of the Revised Code or designates an innovation school or innovation school zone under division (D) of that section, the district board shall apply to the state board of education for designation as a school district of innovation by submitting to the state board the innovation plan included in the approved application or created by the district board. 50446
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Within sixty days after receipt of the application, the state board shall designate the district as a school district of innovation, unless the state board determines that the submitted innovation plan is not financially feasible or will likely result in decreased academic achievement. If the state board so determines, it shall provide a written explanation of the basis for its determination to the district board. If the district is not designated as a school district of innovation, the district board shall not implement the innovation plan. However, the district board may reapply for designation as a school district of innovation at any time. 50454
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(B) A district board may request the state board to make a preliminary review of an innovation plan prior to the district board's formal application for designation as a school district of innovation. In that case, the state board shall review the innovation plan and, within sixty days after the request, recommend to the district board any changes or additions that the state board believes will improve the plan, which may include further innovations or measures to increase the likelihood that the innovations will result in higher academic achievement. The district board may revise the innovation plan prior to making formal application for designation as a school district of innovation.

Sec. 3302.063. (A) Except as provided in division (B) of this section, upon designation of a school district of innovation under section 3302.062 of the Revised Code, the state board of education shall waive any laws in Title XXXIII of the Revised Code or rules adopted by the state board that are specified in the innovation plan submitted by the district board of education as needing to be waived to implement the plan. The waiver shall apply only to the school or schools participating in the innovation plan and shall not apply to the district as a whole, unless each of the district's schools is a participating school. The waiver shall cease to apply to a school if the school's designation as an innovation school is revoked or the innovation school zone in which the school participates has its designation revoked under section 3302.065 of the Revised Code, or if the school is removed from an innovation school zone under that section or section 3302.064 of the Revised Code.

(B) The state board shall not waive any law or rule regarding the following:

(1) Funding for school districts under Chapter 3317. of the

<u>Revised Code;</u>	50496
<u>(2) The requirements of Chapters 3323. and 3324. of the Revised Code for the provision of services to students with disabilities and gifted students;</u>	50497 50498 50499
<u>(3) Requirements related to the provision of career-technical education that are necessary to comply with federal law or maintenance of effort provisions;</u>	50500 50501 50502
<u>(4) Administration of the assessments prescribed by sections 3301.0710, 3301.0712, and 3301.0715 of the Revised Code;</u>	50503 50504
<u>(5) Requirements related to the issuance of report cards and the assignment of performance ratings under section 3302.03 of the Revised Code;</u>	50505 50506 50507
<u>(6) Implementation of the model of differentiated accountability under section 3302.041 of the Revised Code;</u>	50508 50509
<u>(7) Requirements for the reporting of data to the department of education;</u>	50510 50511
<u>(8) Criminal records checks of school employees;</u>	50512
<u>(9) The requirements of Chapters 3307. and 3309. regarding the retirement systems for teachers and school employees.</u>	50513 50514
<u>(C) If a district board's revisions to an innovation plan under section 3302.066 of the Revised Code require a waiver of additional laws or state board rules, the state board shall grant a waiver from those laws or rules upon evidence that administrators and teachers have consented to the revisions as required by that section.</u>	50515 50516 50517 50518 50519 50520
<u>Sec. 3302.064. (A) Each collective bargaining agreement entered into by a school district board of education under Chapter 4117. of the Revised Code on or after the effective date of this section shall allow for the waiver of any provision of the</u>	50521 50522 50523 50524

agreement specified in the innovation plan approved or created 50525
under section 3302.061 of the Revised Code as needing to be waived 50526
to implement the plan, in the event the district is designated as 50527
a school district of innovation. 50528

(B)(1) In the case of an innovation school, waiver of the 50529
provisions specified in the innovation plan shall be contingent 50530
upon at least sixty per cent of the members of the bargaining unit 50531
covered by the collective bargaining agreement who work in the 50532
school voting, by secret ballot, to approve the waiver. 50533

(2) In the case of an innovation school zone, waiver of the 50534
provisions specified in the innovation plan shall be contingent 50535
upon, in each participating school, at least sixty per cent of the 50536
members of the bargaining unit covered by the collective 50537
bargaining agreement who work in that school voting, by secret 50538
ballot, to approve the waiver. If at least sixty per cent of the 50539
members of the bargaining unit in a participating school do not 50540
vote to approve the waiver, the board may revise the innovation 50541
plan to remove that school from the innovation school zone. 50542

(3) If a board's revisions to an innovation plan under 50543
section 3302.066 of the Revised Code require a waiver of 50544
additional provisions of the collective bargaining agreement, that 50545
waiver shall be contingent upon approval under division (B)(1) or 50546
(2) of this section in the same manner as the initial waiver. 50547

(C) A waiver approved under division (B) of this section 50548
shall continue to apply relative to any substantially similar 50549
provision of a collective bargaining agreement entered into after 50550
the approval of the waiver. 50551

(D) A waiver approved under division (B) of this section 50552
shall cease to apply to a school if the school's designation as an 50553
innovation school is revoked or the innovation school zone in 50554
which the school participates has its designation revoked under 50555

section 3302.065 of the Revised Code, or if the school is removed 50556
from an innovation school zone under that section. 50557

(E) An employee working in an innovation school or a school 50558
participating in an innovation school zone who is a member of a 50559
bargaining unit that approves a waiver under division (B) of this 50560
section may request the board to transfer the employee to another 50561
school of the district. The board shall make every reasonable 50562
effort to accommodate the employee's request. 50563

Sec. 3302.065. Not later than three years after obtaining 50564
designation as a school district of innovation under section 50565
3302.062 of the Revised Code, and every three years thereafter, 50566
the district board of education shall review the performance of 50567
the innovation school or innovation school zone and determine if 50568
it is achieving, or making sufficient progress toward achieving, 50569
the improvements in student academic performance that were 50570
described in its innovation plan. If the board finds that an 50571
innovation school is not achieving, or not making sufficient 50572
progress toward achieving, those improvements in student academic 50573
performance, the board may revoke the designation as an innovation 50574
school. If the board finds that a school participating in an 50575
innovation school zone is not achieving, or not making sufficient 50576
progress toward achieving, those improvements in student academic 50577
performance, the board may remove that school from the innovation 50578
school zone or may revoke the designation of all participating 50579
schools as an innovation school zone. 50580

Sec. 3302.066. A school district board of education may 50581
revise an innovation plan approved or created under section 50582
3302.061 of the Revised Code, in collaboration with the school or 50583
schools participating in the plan, to further improve student 50584
academic performance. The revisions may include identifying 50585
additional laws in Title XXXIII of the Revised Code, rules adopted 50586

by the state board of education, requirements enacted by the 50587
district board, or provisions of a collective bargaining agreement 50588
that need to be waived. Any revisions to an innovation plan shall 50589
require the consent, in each school participating in the plan, of 50590
a majority of the administrators assigned to that school and a 50591
majority of the teachers assigned to that school. 50592

Sec. 3302.067. The board of education of any district 50593
designated as a school district of innovation or any school 50594
participating in an innovation plan may accept, receive, and 50595
expend gifts, grants, or donations from any public or private 50596
entity to support the implementation of the plan. 50597

Sec. 3302.068. Not later than the first day of July each 50598
year, the department of education shall issue, and post on its web 50599
site, a report on school districts of innovation. The report shall 50600
include the following information: 50601

(A) The number of districts designated as school districts of 50602
innovation in the preceding school year and the total number of 50603
school districts of innovation statewide; 50604

(B) The number of innovation schools in each school district 50605
of innovation and the number of district students served by the 50606
schools, expressed as a total number and as a percentage of the 50607
district's total student population; 50608

(C) The number of innovation school zones in each school 50609
district of innovation, the number of schools participating in 50610
each zone, and the number of district students served by the 50611
participating schools, expressed as a total number and as a 50612
percentage of the district's total student population; 50613

(D) An overview of the innovations implemented in innovation 50614
schools and innovation school zones; 50615

(E) Data on the academic performance of the students enrolled 50616
in an innovation school or an innovation school zone in each 50617
school district of innovation, including a comparison of the 50618
students' academic performance before and after the district's 50619
designation as a school district of innovation; 50620

(F) Recommendations for legislative changes based on the 50621
innovations implemented or to enhance the ability of schools and 50622
districts to implement innovations. 50623

Sec. 3302.07. (A) The board of education of any school 50624
district, the governing board of any educational service center, 50625
or the administrative authority of any chartered nonpublic school 50626
may submit to the state board of education an application 50627
proposing an innovative education pilot program the implementation 50628
of which requires exemptions from specific statutory provisions or 50629
rules. If a district or service center board employs teachers 50630
under a collective bargaining agreement adopted pursuant to 50631
Chapter 4117. of the Revised Code, any application submitted under 50632
this division shall include the written consent of the teachers' 50633
employee representative designated under division (B) of section 50634
4117.04 of the Revised Code. The exemptions requested in the 50635
application shall be limited to any requirement of Title XXXVIII of 50636
the Revised Code or of any rule of the state board adopted 50637
pursuant to that title except that the application may not propose 50638
an exemption from any requirement of or rule adopted pursuant to 50639
~~section 3306.09~~, Chapter 3307. or 3309., sections 3319.07 to 50640
3319.21, or Chapter 3323. of the Revised Code. Furthermore, an 50641
exemption from any operating standard adopted under division 50642
(B)(2) or (D)(3) of section 3301.07 of the Revised Code shall be 50643
granted only pursuant to a waiver granted by the superintendent of 50644
public instruction under division (O) of that section. 50645

(B) The state board of education shall accept any application 50646

submitted in accordance with division (A) of this section. The 50647
superintendent of public instruction shall approve or disapprove 50648
the application in accordance with standards for approval, which 50649
shall be adopted by the state board. 50650

(C) The superintendent of public instruction shall exempt 50651
each district or service center board or chartered nonpublic 50652
school administrative authority with an application approved under 50653
division (B) of this section for a specified period from the 50654
statutory provisions or rules specified in the approved 50655
application. The period of exemption shall not exceed the period 50656
during which the pilot program proposed in the application is 50657
being implemented and a reasonable period to allow for evaluation 50658
of the effectiveness of the program. 50659

Sec. 3302.12. (A) For any school building that is ranked 50660
according to performance index score under section 3302.21 of the 50661
Revised Code in the lowest five per cent of all school district 50662
buildings statewide for three consecutive years and is declared to 50663
be under an academic watch or in a state of academic emergency 50664
under section 3302.03 of the Revised Code, the district board of 50665
education shall do one of the following at the conclusion of the 50666
school year in which the building first becomes subject to this 50667
division: 50668

(1) Close the school and direct the district superintendent 50669
to reassign the students enrolled in the school to other school 50670
buildings that demonstrate higher academic achievement; 50671

(2) Contract with another school district or a nonprofit or 50672
for-profit entity with a demonstrated record of effectiveness to 50673
operate the school; 50674

(3) Replace the principal and all teaching staff of the 50675
school and, upon request from the new principal, exempt the school 50676
from all requested policies and regulations of the board regarding 50677

curriculum and instruction. The board also shall distribute 50678
funding to the school in an amount that is at least equal to the 50679
product of the per pupil amount of state and local revenues 50680
received by the district multiplied by the student population of 50681
the school. 50682

(4) Reopen the school as a conversion community school under 50683
Chapter 3314. of the Revised Code. 50684

(B) If an action taken by the board under division (A) of 50685
this section causes the district to no longer maintain all grades 50686
kindergarten through twelve, as required by section 3311.29 of the 50687
Revised Code, the board shall enter into a contract with another 50688
school district pursuant to section 3327.04 of the Revised Code 50689
for enrollment of students in the schools of that other district 50690
to the extent necessary to comply with the requirement of section 50691
3311.29 of the Revised Code. Notwithstanding any provision of the 50692
Revised Code to the contrary, if the board enters into and 50693
maintains a contract under section 3327.04 of the Revised Code, 50694
the district shall not be considered to have failed to comply with 50695
the requirement of section 3311.29 of the Revised Code. If, 50696
however, the district board fails to or is unable to enter into or 50697
maintain such a contract, the state board of education shall take 50698
all necessary actions to dissolve the district as provided in 50699
division (A) of section 3311.29 of the Revised Code. 50700

Sec. 3302.20. (A) The department of education shall develop 50701
standards for determining, from the existing data reported in 50702
accordance with sections 3301.0714 and 3314.17 of the Revised 50703
Code, the amount of annual operating expenditures for classroom 50704
instructional purposes and for nonclassroom purposes for each 50705
city, exempted village, local, and joint vocational school 50706
district, each community school established under Chapter 3314. 50707
that is not an internet- or computer-based community school, each 50708

internet- or computer-based community school, and each STEM school 50709
established under Chapter 3326. of the Revised Code. Not later 50710
than January 1, 2012, the department shall present those standards 50711
to the state board of education for consideration. In developing 50712
the standards, the department shall adapt existing standards used 50713
by professional organizations, research organizations, and other 50714
state governments. 50715

The state board shall consider the proposed standards and 50716
adopt a final set of standards not later than July 1, 2012. 50717

(B)(1) The department shall categorize all city, exempted 50718
village, and local school districts into not less than three nor 50719
more than five groups based primarily on average daily student 50720
enrollment as reported on the most recent report card issued for 50721
each district under section 3302.03 of the Revised Code. 50722

(2) The department shall categorize all joint vocational 50723
school districts into not less than three nor more than five 50724
groups based primarily on average daily membership as reported 50725
under division (D) of section 3317.03 of the Revised Code rounded 50726
to the nearest whole number. 50727

(3) The department shall categorize all community schools 50728
that are not internet- or computer-based community schools into 50729
not less than three nor more than five groups based primarily on 50730
average daily student enrollment as reported on the most recent 50731
report card issued for each community school under sections 50732
3302.03 and 3314.012 of the Revised Code. 50733

(4) The department shall categorize all internet- or 50734
computer-based community schools into a single category. 50735

(5) The department shall categorize all STEM schools into a 50736
single category. 50737

(C) Using the standards adopted under division (A) of this 50738

section and the data reported under sections 3301.0714 and 3314.17 50739
of the Revised Code, the department shall compute, for fiscal 50740
years 2008 through 2012, and annually for each fiscal year 50741
thereafter, the following: 50742

(1) The percentage of each district's, community school's, or 50743
STEM school's total operating budget spent for classroom 50744
instructional purposes; 50745

(2) The statewide average percentage for all districts, 50746
community schools, and STEM schools combined spent for classroom 50747
instructional purposes; 50748

(3) The average percentage for each of the categories of 50749
districts and schools established under division (B) of this 50750
section spent for classroom instructional purposes; 50751

(4) The ranking of each district, community school, or STEM 50752
school within its respective category established under division 50753
(B) of this section according to the following: 50754

(a) From highest to lowest percentage spent for classroom 50755
instructional purposes; 50756

(b) From lowest to highest percentage spent for 50757
noninstructional purposes. 50758

(D) In its display of rankings within each category under 50759
division (C)(4) of this section, the department shall make the 50760
following notations: 50761

(1) Within each category of city, exempted village, and local 50762
school districts, the department shall denote each district that 50763
is: 50764

(a) Among the twenty per cent of all city, exempted village, 50765
and local school districts statewide with the lowest total 50766
operating expenditures per pupil; 50767

(b) Among the twenty per cent of all city, exempted village, 50768

and local school districts statewide with the highest performance index scores. 50769
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(2) Within each category of joint vocational school districts, the department shall denote each district that is: 50771
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(a) Among the twenty per cent of all joint vocational school districts statewide with the lowest total operating expenditures per pupil; 50773
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(b) Among the twenty per cent of all joint vocational school districts statewide with the highest performance measures required for career-technical education under 20 U.S.C. 2323, as ranked under division (A)(3) of section 3302.21 of the Revised Code. 50776
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(3) Within each category of community schools that are not internet- or computer-based community schools, the department shall denote each school that is: 50780
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(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil; 50783
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(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores. 50785
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(4) Within the category of internet- or computer-based community schools, the department shall denote each school that is: 50787
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50789

(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil; 50790
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(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores. 50792
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(5) Within the category of STEM schools, the department shall denote each school that is: 50794
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(a) Among the twenty per cent of all STEM schools statewide with the lowest total operating expenditures per pupil; 50796
50797

(b) Among the twenty per cent of all STEM schools statewide with the highest performance index scores. 50798
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(E) The department shall post in a prominent location on its web site the information prescribed by divisions (C) and (D) of this section. The department also shall include on each district's, community school's, and STEM school's annual report card issued under section 3302.03 of the Revised Code the respective information computed for the district or school under divisions (C)(1) and (4) of this section, the statewide information computed under division (C)(2) of this section, and the information computed for the district's or school's category under division (C)(3) of this section. 50800
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(F) As used in this section: 50810

(1) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code. 50811
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(2) A school district's, community school's, or STEM school's performance index score rank is its performance index score rank as computed under section 3302.21 of the Revised Code. 50813
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Sec. 3302.21. (A) The department of education shall develop a system to rank order all city, exempted village, local, and joint vocational school districts, community schools established under Chapter 3314., and STEM schools established under Chapter 3326. of the Revised Code according to the following measures: 50816
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(1) Performance index score for each school district, community school, and STEM school and for each separate building of a district, community school, or STEM school. For districts, schools, or buildings to which the performance index score does not apply, the superintendent of public instruction shall develop another measure of student academic performance and use that measure to include those buildings in the ranking so that all 50821
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districts, schools, and buildings may be reliably compared to each other. 50828
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(2) Student performance growth from year to year, using the value-added progress dimension, if applicable, and other measures of student performance growth designated by the superintendent of public instruction for subjects and grades not covered by the value-added progress dimension; 50830
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(3) Performance measures required for career-technical education under 20 U.S.C. 2323, if applicable. If a school district is a "VEPD" or "lead district" as those terms are defined in section 3317.023 of the Revised Code, the district's ranking shall be based on the performance of career-technical students from that district and all other districts served by that district, and such fact, including the identity of the other districts served by that district, shall be noted on the report required by division (B) of this section. 50835
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(4) Current operating expenditures per pupil; 50844

(5) Of total current operating expenditures, percentage spent for classroom instruction as determined under standards adopted by the state board of education; 50845
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50847

(6) Performance of, and opportunities provided to, students identified as gifted using value-added progress dimensions, if applicable, and other relevant measures as designated by the superintendent of public instruction. 50848
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The department shall rank each district, community school, and STEM school annually in accordance with the system developed under this section. 50852
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(B) In addition to the reports required by sections 3302.03 and 3302.031 of the Revised Code, not later than the first day of September each year, the department shall issue a report for each city, exempted village, local, and joint vocational school 50855
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district, each community school, and each STEM school indicating 50859
the district's or school's rank on each measure described in 50860
divisions (A)(1) to (5) of this section, including each separate 50861
building's rank according to performance index score under 50862
division (A)(1) of this section. 50863

Sec. 3302.22. (A) The governor's effective and efficient 50864
schools recognition program is hereby created. Each year, the 50865
governor shall recognize, in a manner deemed appropriate by the 50866
governor, the top ten per cent of all public schools in this 50867
state, including schools of city, exempted village, local, or 50868
joint vocational school districts, community schools established 50869
under Chapter 3314. of the Revised Code, and STEM schools 50870
established under Chapter 3326. of the Revised Code. 50871

(B) The top ten per cent of schools shall be determined by 50872
the department of education according to standards established by 50873
the department. The standards shall include, but need not be 50874
limited to, both of the following: 50875

(1) Student performance, as determined by factors including, 50876
but not limited to, performance indicators under section 3302.02 50877
of the Revised Code, report cards issued under section 3302.03 of 50878
the Revised Code, performance index score rankings under section 50879
3302.21 of the Revised Code, and any other statewide or national 50880
assessment or student performance recognition program the 50881
department selects; 50882

(2) Fiscal performance, including cost-effective measures 50883
taken by the school. 50884

Sec. 3302.25. (A) In accordance with standards prescribed by 50885
the state board of education for categorization of school district 50886
expenditures adopted under division (A) of section 3302.20 of the 50887
Revised Code, the department of education annually shall determine 50888

<u>all of the following for the previous fiscal year:</u>	50889
<u>(1) For each school district, the ratio of the district's operating expenditures for instructional purposes compared to its operating expenditures for administrative purposes;</u>	50890 50891 50892
<u>(2) For each school district, the per pupil amount of the district's expenditures for instructional purposes;</u>	50893 50894
<u>(3) For each school district, the per pupil amount of the district's operating expenditures for administrative purposes;</u>	50895 50896
<u>(4) For each school district, the percentage of the district's operating expenditures attributable to school district funds;</u>	50897 50898 50899
<u>(5) The statewide average among all school districts for each of the items described in divisions (A)(1) to (4) of this section.</u>	50900 50901
<u>(B) The department annually shall submit a report to each school district indicating the district's information for each of the items described in divisions (A)(1) to (4) of this section and the statewide averages described in division (A)(5) of this section.</u>	50902 50903 50904 50905 50906
<u>(C) Each school district, upon receipt of the report prescribed by division (B) of this section, shall publish the information contained in that report in a prominent location on the district's web site and publish the report in another fashion so that it is available to all parents of students enrolled in the district and to taxpayers of the district.</u>	50907 50908 50909 50910 50911 50912
<u>Sec. 3302.30. (A) The superintendent of public instruction shall establish a pilot project in Columbiana county under which one or more school districts in that county shall offer a multiple-track high school curriculum for students with differing career plans. The superintendent shall solicit and select</u>	50913 50914 50915 50916 50917

districts to participate in the pilot project. Selected districts 50918
shall begin offering their career track curricula not later than 50919
the school year that begins at least six months after the 50920
effective date of this section. No district shall be required to 50921
participate in the pilot project. 50922

The curricula provided under the pilot project at each 50923
participating district shall offer at least three distinct career 50924
tracks, including at least a college preparatory track and a 50925
career-technical track. Each track shall comply with the 50926
curriculum requirements of section 3313.603 of the Revised Code. 50927
The different tracks may be offered at different campuses. Two or 50928
more participating districts may offer some or all of their 50929
respective curriculum tracks through a cooperative agreement 50930
entered into under section 3313.842 of the Revised Code. 50931

The department of education shall provide technical 50932
assistance to participating districts in developing the curriculum 50933
tracks to offer to students under the pilot project. 50934

Part or all of selected curriculum materials or services may 50935
be purchased from other public or private sources. 50936

The state superintendent shall apply for private and other 50937
nonstate funds, and may use other available state funds, to 50938
support the pilot project. If nonstate funds cannot be obtained or 50939
the superintendent of public instruction determines that 50940
sufficient funds are not available to support the pilot project, 50941
implementation of this section may be postponed until such time as 50942
the superintendent determines that sufficient funds are available. 50943

(B) Each participating school district shall report to the 50944
state superintendent data about the operation and results of the 50945
pilot project, as required by the superintendent. 50946

(C) Not later than the thirty-first day of December of the 50947

third school year in which the pilot project is operating, the 50948
state superintendent shall submit a report to the general 50949
assembly, in accordance with section 101.68 of the Revised Code, 50950
containing the superintendent's evaluation of the results of the 50951
pilot project and legislative recommendations whether to continue, 50952
expand, or make changes to the pilot project. 50953

Sec. 3304.181. If the total of all funds available from 50954
nonfederal sources to support the activities of the rehabilitation 50955
services commission does not comply with the expenditure 50956
requirements of 34 C.F.R. 361.60 and 361.62 for those activities 50957
or would cause the state to lose an allotment or fail to receive a 50958
reallotment under 34 C.F.R. 361.65, the commission shall solicit 50959
additional funds from, and enter into agreements for the use of 50960
those funds with, private or public entities, including local 50961
government entities of this state. The commission shall continue 50962
to solicit additional funds and enter into agreements until the 50963
total funding available is sufficient for the commission to 50964
receive federal funds at the maximum amount and in the most 50965
advantageous proportion possible. 50966

Any agreement entered into between the commission and a 50967
private or public entity to provide funds under this section shall 50968
be in accordance with 34 C.F.R. 361.28 and section 3304.182 of the 50969
Revised Code. 50970

Sec. 3304.182. Any agreement between the rehabilitation 50971
services commission and a private or public entity providing funds 50972
under section 3304.181 of the Revised Code may permit the 50973
commission to receive a specified percentage of the funds ~~for~~ 50974
~~administration~~, but the percentage shall be not more than thirteen 50975
per cent of the total funds available under the agreement. The 50976
agreement shall not be for less than six months or be discontinued 50977
by the commission without the commission first providing three 50978

months notice of intent to discontinue the agreement. The 50979
commission may terminate an agreement only for good cause. 50980

Any services provided under an agreement entered into under 50981
section 3304.181 of the Revised Code shall be provided by a person 50982
or government entity that meets the accreditation standards 50983
established in rules adopted by the commission under section 50984
3304.16 of the Revised Code. 50985

Sec. 3305.08. Any payment, benefit, or other right accruing 50986
to any electing employee under a contract entered into for 50987
purposes of an alternative retirement plan and all moneys, 50988
investments, and income of those contracts are exempt from any 50989
state tax, except the tax imposed by section 5747.02 of the 50990
Revised Code, are exempt from any county, municipal, or other 50991
local tax, except income taxes imposed pursuant to section 5748.02 50992
~~or~~ 5748.08, or 5748.09 of the Revised Code, and, except as 50993
provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 50994
3121.02, 3121.03, 3123.06, 3305.09, and 3305.12 of the Revised 50995
Code, shall not be subject to execution, garnishment, attachment, 50996
the operation of bankruptcy or the insolvency law, or other 50997
process of law, and shall be unassignable except as specifically 50998
provided in this section and sections 3105.171, 3105.65, 3119.80, 50999
3119.81, 3121.02, 3121.03, 3115.32, and 3123.06 of the Revised 51000
Code or in any contract the electing employee has entered into for 51001
purposes of an alternative retirement plan. 51002

Sec. 3307.20. (A) As used in this section: 51003

(1) "Personal history record" means information maintained by 51004
the state teachers retirement board on an individual who is a 51005
member, former member, contributor, former contributor, retirant, 51006
or beneficiary that includes the address, telephone number, social 51007
security number, record of contributions, correspondence with the 51008

state teachers retirement system, or other information the board determines to be confidential. 51009
51010

(2) "Retirant" has the same meaning as in section 3307.50 of the Revised Code. 51011
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(B) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned: 51013
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(1) The individual's personal records provided for in section 3307.23 of the Revised Code; 51016
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(2) The individual's personal history record; 51018

(3) Any information identifying, by name and address, the amount of a monthly allowance or benefit paid to the individual. 51019
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(C) All medical reports and recommendations under sections 3307.62, 3307.64, and 3307.66 of the Revised Code are privileged, except as follows: 51021
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(1) Copies of medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or, when necessary for the proper administration of the fund, to the board assigned physician. 51024
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(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section. 51030
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51032

(D) Any person who is a member or contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one request of a person in any one year. 51033
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(E) Notwithstanding the exceptions to public inspection in division (B) of this section, the board may furnish the following 51037
51038

information: 51039

(1) If a member, former member, retirant, contributor, or 51040
former contributor is subject to an order issued under section 51041
2907.15 of the Revised Code or an order issued under division (A) 51042
or (B) of section 2929.192 of the Revised Code or is convicted of 51043
or pleads guilty to a violation of section 2921.41 of the Revised 51044
Code, on written request of a prosecutor as defined in section 51045
2935.01 of the Revised Code, the board shall furnish to the 51046
prosecutor the information requested from the individual's 51047
personal history record. 51048

(2) Pursuant to a court or administrative order issued under 51049
section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the 51050
Revised Code, the board shall furnish to a court or child support 51051
enforcement agency the information required under that section. 51052

(3) At the written request of any person, the board shall 51053
provide to the person a list of the names and addresses of 51054
members, former members, retirants, contributors, former 51055
contributors, or beneficiaries. The costs of compiling, copying, 51056
and mailing the list shall be paid by such person. 51057

(4) Within fourteen days after receiving from the director of 51058
job and family services a list of the names and social security 51059
numbers of recipients of public assistance pursuant to section 51060
5101.181 of the Revised Code, the board shall inform the auditor 51061
of state of the name, current or most recent employer address, and 51062
social security number of each member whose name and social 51063
security number are the same as that of a person whose name or 51064
social security number was submitted by the director. The board 51065
and its employees shall, except for purposes of furnishing the 51066
auditor of state with information required by this section, 51067
preserve the confidentiality of recipients of public assistance in 51068
compliance with ~~division (A) of~~ section 5101.181 of the Revised 51069
Code. 51070

(5) The system shall comply with orders issued under section 51071
3105.87 of the Revised Code. 51072

On the written request of an alternate payee, as defined in 51073
section 3105.80 of the Revised Code, the system shall furnish to 51074
the alternate payee information on the amount and status of any 51075
amounts payable to the alternate payee under an order issued under 51076
section 3105.171 or 3105.65 of the Revised Code. 51077

(6) At the request of any person, the board shall make 51078
available to the person copies of all documents, including 51079
resumes, in the board's possession regarding filling a vacancy of 51080
a contributing member or retired teacher member of the board. The 51081
person who made the request shall pay the cost of compiling, 51082
copying, and mailing the documents. The information described in 51083
this division is a public record. 51084

(7) The system shall provide the notice required by section 51085
3307.373 of the Revised Code to the prosecutor assigned to the 51086
case. 51087

(F) A statement that contains information obtained from the 51088
system's records that is signed by an officer of the retirement 51089
system and to which the system's official seal is affixed, or 51090
copies of the system's records to which the signature and seal are 51091
attached, shall be received as true copies of the system's records 51092
in any court or before any officer of this state. 51093

Sec. 3307.31. (A) Payments by boards of education and 51094
governing authorities of community schools to the state teachers 51095
retirement system, as provided in sections 3307.29 and 3307.291 of 51096
the Revised Code, shall be made from the amount allocated under 51097
section 3314.08, ~~Chapter 3306.~~, or Chapter 3317. of the Revised 51098
Code prior to its distribution to the individual school districts 51099
or community schools. The amount due from each school district or 51100
community school shall be certified by the secretary of the system 51101

to the superintendent of public instruction monthly, or at such 51102
times as may be determined by the state teachers retirement board. 51103

The superintendent shall deduct, from the amount allocated to 51104
each district or community school under section 3314.08, ~~Chapter~~ 51105
~~3306.~~, or Chapter 3317. of the Revised Code, the entire amounts 51106
due to the system from such district or school upon the 51107
certification to the superintendent by the secretary thereof. 51108

The superintendent shall certify to the director of budget 51109
and management the amounts thus due the system for payment. 51110

(B) Payments to the state teachers retirement system by a 51111
science, technology, engineering, and mathematics school shall be 51112
deducted from the amount allocated under section 3326.33 of the 51113
Revised Code and shall be made in the same manner as payments by 51114
boards of education under this section. 51115

Sec. 3307.41. The right of an individual to a pension, an 51116
annuity, or a retirement allowance itself, the right of an 51117
individual to any optional benefit, or any other right or benefit 51118
accrued or accruing to any individual under this chapter, the 51119
various funds created by section 3307.14 of the Revised Code, and 51120
all moneys, investments, and income from moneys or investments are 51121
exempt from any state tax, except the tax imposed by section 51122
5747.02 of the Revised Code, and are exempt from any county, 51123
municipal, or other local tax, except income taxes imposed 51124
pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised 51125
Code, and, except as provided in sections 3105.171, 3105.65, 51126
3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3307.37, 51127
3307.372, and 3307.373 of the Revised Code, shall not be subject 51128
to execution, garnishment, attachment, the operation of bankruptcy 51129
or insolvency laws, or any other process of law whatsoever, and 51130
shall be unassignable except as specifically provided in this 51131
chapter or sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 51132

3121.02, 3121.03, and 3123.06 of the Revised Code. 51133

Sec. 3307.64. A disability benefit recipient, notwithstanding 51134
section 3319.13 of the Revised Code, shall retain membership in 51135
the state teachers retirement system and shall be considered on 51136
leave of absence during the first five years following the 51137
effective date of a disability benefit. 51138

The state teachers retirement board shall require any 51139
disability benefit recipient to submit to an annual medical 51140
examination by a physician selected by the board, except that the 51141
board may waive the medical examination if the board's physician 51142
certifies that the recipient's disability is ongoing. If a 51143
disability benefit recipient refuses to submit to a medical 51144
examination, the recipient's disability benefit shall be suspended 51145
until the recipient withdraws the refusal. If the refusal 51146
continues for one year, all the recipient's rights under and to 51147
the disability benefit shall be terminated as of the effective 51148
date of the original suspension. 51149

After the examination, the examiner shall report and certify 51150
to the board whether the disability benefit recipient is no longer 51151
physically and mentally incapable of resuming the service from 51152
which the recipient was found disabled. If the board concurs in a 51153
report by the examining physician that the disability benefit 51154
recipient is no longer incapable, the payment of a disability 51155
benefit shall be terminated not later than the following 51156
thirty-first day of August or upon employment as a teacher prior 51157
thereto. If the leave of absence has not expired, the board shall 51158
so certify to the disability benefit recipient's last employer 51159
before being found disabled that the recipient is no longer 51160
physically and mentally incapable of resuming service that is the 51161
same or similar to that from which the recipient was found 51162
disabled. If the recipient was under contract at the time the 51163

recipient was found disabled, the employer by the first day of the 51164
next succeeding year shall restore the recipient to the 51165
recipient's previous position and salary or to a position and 51166
salary similar thereto, unless the recipient was dismissed or 51167
resigned in lieu of dismissal for dishonesty, misfeasance, 51168
malfeasance, or conviction of a felony. 51169

A disability benefit shall terminate if the disability 51170
benefit recipient becomes employed as a teacher in any public or 51171
private school or institution in this state or elsewhere. An 51172
individual receiving a disability benefit from the system shall be 51173
ineligible for any employment as a teacher and it shall be 51174
unlawful for any employer to employ the individual as a teacher. 51175
If any employer should employ or reemploy the individual prior to 51176
the termination of a disability benefit, the employer shall file 51177
notice of employment with the board designating the date of the 51178
employment. If the individual should be paid both a disability 51179
benefit and also compensation for teaching service for all or any 51180
part of the same month, the secretary of the board shall certify 51181
to the employer or to the superintendent of public instruction the 51182
amount of the disability benefit received by the individual during 51183
the employment, which amount shall be deducted from any amount due 51184
the employing district under ~~Chapters 3306.~~ and Chapter 3317. of 51185
the Revised Code or shall be paid by the employer to the annuity 51186
and pension reserve fund. 51187

Each disability benefit recipient shall file with the board 51188
an annual statement of earnings, current medical information on 51189
the recipient's condition, and any other information required in 51190
rules adopted by the board. The board may waive the requirement 51191
that a disability benefit recipient file an annual statement of 51192
earnings or current medical information if the board's physician 51193
certifies that the recipient's disability is ongoing. 51194

The board shall annually examine the information submitted by 51195

the recipient. If a disability benefit recipient refuses to file 51196
the statement or information, the disability benefit shall be 51197
suspended until the statement and information are filed. If the 51198
refusal continues for one year, the recipient's right to the 51199
disability benefit shall be terminated as of the effective date of 51200
the original suspension. 51201

A disability benefit also may be terminated by the board at 51202
the request of the disability benefit recipient. 51203

If disability retirement under section 3307.63 of the Revised 51204
Code is terminated for any reason, the annuity and pension 51205
reserves at that time in the annuity and pension reserve fund 51206
shall be transferred to the teachers' savings fund and the 51207
employers' trust fund, respectively. If the total disability 51208
benefit paid was less than the amount of the accumulated 51209
contributions of the member transferred to the annuity and pension 51210
reserve fund at the time of the member's disability retirement, 51211
then the difference shall be transferred from the annuity and 51212
pension reserve fund to another fund as required. In determining 51213
the amount of a member's account following the termination of 51214
disability retirement for any reason, the total amount paid shall 51215
be charged against the member's refundable account. 51216

If a disability allowance paid under section 3307.631 of the 51217
Revised Code is terminated for any reason, the reserve on the 51218
allowance at that time in the annuity and pension reserve fund 51219
shall be transferred from that fund to the employers' trust fund. 51220

If a former disability benefit recipient again becomes a 51221
contributor, other than as an other system retirant under section 51222
3307.35 of the Revised Code, to this retirement system, the school 51223
employees retirement system, or the public employees retirement 51224
system, and completes at least two additional years of service 51225
credit, the former disability benefit recipient shall receive 51226
credit for the period as a disability benefit recipient. 51227

Sec. 3309.22. (A)(1) As used in this division, "personal history record" means information maintained by the board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 3309.28 of the Revised Code;

(b) Any information identifying by name and address the amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(B) All medical reports and recommendations required by the system are privileged except as follows:

(1) Copies of medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(C) Any person who is a contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more

than one such request of a person in any one year. 51258

(D) Notwithstanding the exceptions to public inspection in 51259
division (A)(2) of this section, the board may furnish the 51260
following information: 51261

(1) If a member, former member, contributor, former 51262
contributor, or retirant is subject to an order issued under 51263
section 2907.15 of the Revised Code or an order issued under 51264
division (A) or (B) of section 2929.192 of the Revised Code or is 51265
convicted of or pleads guilty to a violation of section 2921.41 of 51266
the Revised Code, on written request of a prosecutor as defined in 51267
section 2935.01 of the Revised Code, the board shall furnish to 51268
the prosecutor the information requested from the individual's 51269
personal history record. 51270

(2) Pursuant to a court or administrative order issued under 51271
section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the 51272
Revised Code, the board shall furnish to a court or child support 51273
enforcement agency the information required under that section. 51274

(3) At the written request of any person, the board shall 51275
provide to the person a list of the names and addresses of 51276
members, former members, retirants, contributors, former 51277
contributors, or beneficiaries. The costs of compiling, copying, 51278
and mailing the list shall be paid by such person. 51279

(4) Within fourteen days after receiving from the director of 51280
job and family services a list of the names and social security 51281
numbers of recipients of public assistance pursuant to section 51282
5101.181 of the Revised Code, the board shall inform the auditor 51283
of state of the name, current or most recent employer address, and 51284
social security number of each contributor whose name and social 51285
security number are the same as that of a person whose name or 51286
social security number was submitted by the director. The board 51287
and its employees shall, except for purposes of furnishing the 51288

auditor of state with information required by this section, 51289
preserve the confidentiality of recipients of public assistance in 51290
compliance with ~~division (A)~~ of section 5101.181 of the Revised 51291
Code. 51292

(5) The system shall comply with orders issued under section 51293
3105.87 of the Revised Code. 51294

On the written request of an alternate payee, as defined in 51295
section 3105.80 of the Revised Code, the system shall furnish to 51296
the alternate payee information on the amount and status of any 51297
amounts payable to the alternate payee under an order issued under 51298
section 3105.171 or 3105.65 of the Revised Code. 51299

(6) At the request of any person, the board shall make 51300
available to the person copies of all documents, including 51301
resumes, in the board's possession regarding filling a vacancy of 51302
an employee member or retirant member of the board. The person who 51303
made the request shall pay the cost of compiling, copying, and 51304
mailing the documents. The information described in this division 51305
is a public record. 51306

(7) The system shall provide the notice required by section 51307
3309.673 of the Revised Code to the prosecutor assigned to the 51308
case. 51309

(E) A statement that contains information obtained from the 51310
system's records that is signed by an officer of the retirement 51311
system and to which the system's official seal is affixed, or 51312
copies of the system's records to which the signature and seal are 51313
attached, shall be received as true copies of the system's records 51314
in any court or before any officer of this state. 51315

Sec. 3309.41. (A) A disability benefit recipient shall retain 51316
membership status and shall be considered on leave of absence from 51317
employment during the first five years following the effective 51318

date of a disability benefit, notwithstanding any contrary 51319
provisions in Chapter 124. or 3319. of the Revised Code. 51320

(B) The school employees retirement board shall require a 51321
disability benefit recipient to undergo an annual medical 51322
examination, except that the board may waive the medical 51323
examination if the board's physician or physicians certify that 51324
the recipient's disability is ongoing. Should any disability 51325
benefit recipient refuse to submit to a medical examination, the 51326
recipient's disability benefit shall be suspended until withdrawal 51327
of the refusal. Should the refusal continue for one year, all the 51328
recipient's rights in and to the disability benefit shall be 51329
terminated as of the effective date of the original suspension. 51330

(C) On completion of the examination by an examining 51331
physician or physicians selected by the board, the physician or 51332
physicians shall report and certify to the board whether the 51333
disability benefit recipient is no longer physically and mentally 51334
incapable of resuming the service from which the recipient was 51335
found disabled. If the board concurs in the report that the 51336
disability benefit recipient is no longer incapable, the payment 51337
of the disability benefit shall be terminated not later than three 51338
months after the date of the board's concurrence or upon 51339
employment as an employee. If the leave of absence has not 51340
expired, the retirement board shall certify to the disability 51341
benefit recipient's last employer before being found disabled that 51342
the recipient is no longer physically and mentally incapable of 51343
resuming service that is the same or similar to that from which 51344
the recipient was found disabled. The employer shall restore the 51345
recipient to the recipient's previous position and salary or to a 51346
position and salary similar thereto not later than the first day 51347
of the first month following termination of the disability 51348
benefit, unless the recipient was dismissed or resigned in lieu of 51349
dismissal for dishonesty, misfeasance, malfeasance, or conviction 51350

of a felony. 51351

(D) Each disability benefit recipient shall file with the 51352
board an annual statement of earnings, current medical information 51353
on the recipient's condition, and any other information required 51354
in rules adopted by the board. The board may waive the requirement 51355
that a disability benefit recipient file an annual statement of 51356
earnings or current medical information on the recipient's 51357
condition if the board's physician or physicians certify that the 51358
recipient's disability is ongoing. 51359

The board shall annually examine the information submitted by 51360
the recipient. If a disability benefit recipient refuses to file 51361
the statement or information, the disability benefit shall be 51362
suspended until the statement and information are filed. If the 51363
refusal continues for one year, the recipient's right to the 51364
disability benefit shall be terminated as of the effective date of 51365
the original suspension. 51366

(E) If a disability benefit recipient is employed by an 51367
employer covered by this chapter, the recipient's disability 51368
benefit shall cease. 51369

(F) If disability retirement under section 3309.40 of the 51370
Revised Code is terminated for any reason, the annuity and pension 51371
reserves at that time in the annuity and pension reserve fund 51372
shall be transferred to the employees' savings fund and the 51373
employers' trust fund, respectively. If the total disability 51374
benefit paid is less than the amount of the accumulated 51375
contributions of the member transferred into the annuity and 51376
pension reserve fund at the time of the member's disability 51377
retirement, the difference shall be transferred from the annuity 51378
and pension reserve fund to another fund as may be required. In 51379
determining the amount of a member's account following the 51380
termination of disability retirement for any reason, the amount 51381
paid shall be charged against the member's refundable account. 51382

If a disability allowance paid under section 3309.401 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

The board may terminate a disability benefit at the request of the recipient.

(G) If a disability benefit is terminated and a former disability benefit recipient again becomes a contributor, other than as an other system retirant as defined in section 3309.341 of the Revised Code, to this system, the public employees retirement system, or the state teachers retirement system, and completes an additional two years of service credit after the termination of the disability benefit, the former disability benefit recipient shall be entitled to full service credit for the period as a disability benefit recipient.

(H) If any employer employs any member who is receiving a disability benefit, the employer shall file notice of employment with the retirement board, designating the date of employment. In case the notice is not filed, the total amount of the benefit paid during the period of employment prior to notice shall be paid from amounts allocated under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code prior to its distribution to the school district in which the disability benefit recipient was so employed.

Sec. 3309.48. Any employee who left the service of an employer after attaining age sixty-five or over and such employer had failed or refused to deduct and transmit to the school employees retirement system the employee contributions as required by section 3309.47 of the Revised Code during any year for which membership was compulsory as determined by the school employees retirement board, shall be granted service credit without cost, which shall be considered as total service credit for the purposes

of meeting the qualifications for service retirement provided by 51414
the law in effect on and retroactive to the first eligible 51415
retirement date following the date such employment terminated, but 51416
shall not be paid until formal application for such allowance on a 51417
form provided by the retirement board is received in the office of 51418
the retirement system. The total service credit granted under this 51419
section shall not exceed ten years for any such employee. 51420

The liability incurred by the retirement board because of the 51421
service credit granted under this section shall be determined by 51422
the retirement board, the cost of which shall be equal to an 51423
amount that is determined by applying the combined employee and 51424
employer rates of contribution against the compensation of such 51425
employee at the rates of contribution and maximum salary 51426
provisions in effect during such employment for each year for 51427
which credit is granted, together with interest at the rate to be 51428
credited accumulated contributions at retirement, compounded 51429
annually from the first day of the month payment was due the 51430
retirement system to and including the month of deposit, the total 51431
amount of which shall be collected from the employer. Such amounts 51432
shall be certified by the retirement board to the superintendent 51433
of public instruction, who shall deduct the amount due the system 51434
from any funds due the affected school district under ~~Chapters~~ 51435
~~3306.~~ and Chapter 3317. of the Revised Code. The superintendent 51436
shall certify to the director of budget and management the amount 51437
due the system for payment. The total amount paid shall be 51438
deposited into the employers' trust fund, and shall not be 51439
considered as accumulated contributions of the employee in the 51440
event of the employee's death or withdrawal of funds. 51441

Sec. 3309.51. (A) Each employer shall pay annually into the 51442
employers' trust fund, in such monthly or less frequent 51443
installments as the school employees retirement board requires, an 51444
amount certified by the school employees retirement board, which 51445

shall be as required by Chapter 3309. of the Revised Code. 51446

Payments by school district boards of education to the 51447
employers' trust fund of the school employees retirement system 51448
may be made from the amounts allocated under ~~Chapters 3306. and~~ 51449
Chapter 3317. of the Revised Code prior to their distribution to 51450
the individual school districts. The amount due from each school 51451
district may be certified by the secretary of the system to the 51452
superintendent of public instruction monthly, or at such times as 51453
is determined by the school employees retirement board. 51454

Payments by governing authorities of community schools to the 51455
employers' trust fund of the school employees retirement system 51456
shall be made from the amounts allocated under section 3314.08 of 51457
the Revised Code prior to their distribution to the individual 51458
community schools. The amount due from each community school shall 51459
be certified by the secretary of the system to the superintendent 51460
of public instruction monthly, or at such times as determined by 51461
the school employees retirement board. 51462

Payments by a science, technology, engineering, and 51463
mathematics school to the employers' trust fund of the school 51464
employees retirement system shall be made from the amounts 51465
allocated under section 3326.33 of the Revised Code prior to their 51466
distribution to the school. The amount due from a science, 51467
technology, engineering, and mathematics school shall be certified 51468
by the secretary of the school employees retirement system to the 51469
superintendent of public instruction monthly, or at such times as 51470
determined by the school employees retirement board. 51471

(B) The superintendent shall deduct from the amount allocated 51472
to each community school under section 3314.08 of the Revised 51473
Code, to each school district under ~~Chapters 3306. and~~ Chapter 51474
3317. of the Revised Code, or to each science, technology, 51475
engineering, and mathematics school under section 3326.33 of the 51476
Revised Code the entire amounts due to the school employees 51477

retirement system from such school or school district upon the 51478
certification to the superintendent by the secretary thereof. 51479

(C) Where an employer fails or has failed or refuses to make 51480
payments to the employers' trust fund, as provided for under 51481
Chapter 3309. of the Revised Code, the secretary of the school 51482
employees retirement system may certify to the state 51483
superintendent of public instruction, monthly or at such times as 51484
is determined by the school employees retirement board, the amount 51485
due from such employer, and the superintendent shall deduct from 51486
the amount allocated to the employer under section 3314.08 or 51487
3326.33 or Chapter ~~3306.~~ or 3317. of the Revised Code, as 51488
applicable, the entire amounts due to the system from the employer 51489
upon the certification to the superintendent by the secretary of 51490
the school employees retirement system. 51491

(D) The superintendent shall certify to the director of 51492
budget and management the amounts thus due the system for payment. 51493

Sec. 3309.66. The right of an individual to a pension, an 51494
annuity, or a retirement allowance itself, the right of an 51495
individual to any optional benefit, any other right accrued or 51496
accruing to any individual under this chapter, the various funds 51497
created by section 3309.60 of the Revised Code, and all moneys, 51498
investments, and income from moneys and investments are exempt 51499
from any state tax, except the tax imposed by section 5747.02 of 51500
the Revised Code, and are exempt from any county, municipal, or 51501
other local tax, except income taxes imposed pursuant to section 51502
5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised Code, and, except 51503
as provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 51504
3119.81, 3121.02, 3121.03, 3123.06, 3309.67, 3309.672, and 51505
3309.673 of the Revised Code, shall not be subject to execution, 51506
garnishment, attachment, the operation of bankruptcy or insolvency 51507
laws, or any other process of law whatsoever, and shall be 51508

unassignable except as specifically provided in this chapter and 51509
in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 51510
3121.03, and 3123.06 of the Revised Code. 51511

Sec. 3310.02. (A) The educational choice scholarship pilot 51512
program is hereby established. Under the program, the department 51513
of education annually shall pay scholarships to attend chartered 51514
nonpublic schools in accordance with section 3310.08 of the 51515
Revised Code for up to ~~fourteen thousand~~ the following number of 51516
eligible students: 51517

(1) Thirty thousand in the 2011-2012 school year; 51518

(2) Sixty thousand in the 2012-2013 school year and 51519
thereafter. If 51520

(B) If the number of students who apply for a scholarship 51521
exceeds ~~fourteen thousand~~ the number of scholarships available 51522
under division (A) of this section for the applicable school year, 51523
the department shall award scholarships in the following order of 51524
priority: 51525

~~(A)~~(1) First, to eligible students who received scholarships 51526
in the prior school year; 51527

~~(B)~~(2) Second, to eligible students with family incomes at or 51528
below two hundred per cent of the federal poverty guidelines, as 51529
defined in section 5101.46 of the Revised Code, who qualify under 51530
division (A) of section 3310.03 of the Revised Code. If the number 51531
of students described in ~~this~~ division (B)(2) of this section who 51532
apply for a scholarship exceeds the number of available 51533
scholarships after awards are made under division ~~(A)~~(B)(1) of 51534
this section, the department shall select students described in 51535
~~this~~ division (B)(2) of this section by lot to receive any 51536
remaining scholarships. 51537

~~(C)~~(3) Third, to other eligible students who qualify under 51538

division (A) of section 3310.03 of the Revised Code. If the number 51539
of students described in ~~this~~ division (B)(3) of this section who 51540
apply for a scholarship exceeds the number of available 51541
scholarships after awards are made under divisions ~~(A)~~(B)(1) and 51542
~~(B)~~(2) of this section, the department shall select students 51543
described in ~~this~~ division (B)(3) of this section by lot to 51544
receive any remaining scholarships. 51545

(4) Fourth, to eligible students with family incomes at or 51546
below two hundred per cent of the federal poverty guidelines who 51547
qualify under division (B) of section 3310.03 of the Revised Code. 51548
If the number of students described in division (B)(4) of this 51549
section who apply for a scholarship exceeds the number of 51550
available scholarships after awards are made under divisions 51551
(B)(1) to (3) of this section, the department shall select 51552
students described in division (B)(4) of this section by lot to 51553
receive any remaining scholarships. 51554

(5) Fifth, to other eligible students who qualify under 51555
division (B) of section 3310.03 of the Revised Code. If the number 51556
of students described in division (B)(5) of this section who apply 51557
for a scholarship exceeds the number of available scholarships 51558
after awards are made under divisions (B)(1) to (4) of this 51559
section, the department shall select students described in 51560
division (B)(5) of this section by lot to receive any remaining 51561
scholarships. 51562

Sec. 3310.03. ~~(A)~~ A student is an "eligible student" for 51563
purposes of the educational choice scholarship pilot program if 51564
the student's resident district is not a school district in which 51565
the pilot project scholarship program is operating under sections 51566
3313.974 to 3313.979 of the Revised Code and the student satisfies 51567
one of the ~~following~~ conditions in division (A) or (B) of this 51568
section: 51569

(A)(1) The student is enrolled in a school building that is 51570
operated by the student's resident district and to which both of 51571
the following apply: 51572

(a) The building was declared, in at least two of the three 51573
most recent ratings of school buildings published prior to the 51574
first day of July of the school year for which a scholarship is 51575
sought, to be in a state of academic emergency or academic watch 51576
under section 3302.03 of the Revised Code; 51577

(b) The building was not declared to be excellent or 51578
effective under that section in the most recent rating published 51579
prior to the first day of July of the school year for which a 51580
scholarship is sought. 51581

(2) The student is eligible to enroll in kindergarten in the 51582
school year for which a scholarship is sought and otherwise would 51583
be assigned under section 3319.01 of the Revised Code to a school 51584
building described in division (A)(1) of this section. 51585

(3) The student is enrolled in a community school established 51586
under Chapter 3314. of the Revised Code but otherwise would be 51587
assigned under section 3319.01 of the Revised Code to a building 51588
described in division (A)(1) of this section. 51589

(4) The student is enrolled in a school building that is 51590
operated by the student's resident district or in a community 51591
school established under Chapter 3314. of the Revised Code and 51592
otherwise would be assigned under section 3319.01 of the Revised 51593
Code to a school building described in division (A)(1) of this 51594
section in the school year for which the scholarship is sought. 51595

(5) The student is eligible to enroll in kindergarten in the 51596
school year for which a scholarship is sought, or is enrolled in a 51597
community school established under Chapter 3314. of the Revised 51598
Code, and all of the following apply to the student's resident 51599
district: 51600

(a) The district has in force an intradistrict open enrollment policy under which no student in kindergarten or the community school student's grade level, respectively, is automatically assigned to a particular school building;

(b) In at least two of the three most recent ratings of school districts published prior to the first day of July of the school year for which a scholarship is sought, the district was declared to be in a state of academic emergency under section 3302.03 of the Revised Code;

(c) The district was not declared to be excellent or effective under that section in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(B)(1) The student is enrolled in a school building that is operated by the student's resident district and to which both of the following apply:

(a) The building was ranked, for at least two of the three most recent rankings published under section 3302.21 of the Revised Code prior to the first day of July of the school year for which a scholarship is sought, in the lowest ten per cent of school district buildings according to performance index score.

(b) The building was not declared to be excellent or effective under section 3302.03 of the Revised Code in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(2) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (B)(1) of this section.

(3) The student is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be

assigned under section 3319.01 of the Revised Code to a building 51632
described in division (B)(1) of this section. 51633

(4) The student is enrolled in a school building that is 51634
operated by the student's resident district or in a community 51635
school established under Chapter 3314. of the Revised Code and 51636
otherwise would be assigned under section 3319.01 of the Revised 51637
Code to a school building described in division (B)(1) of this 51638
section in the school year for which the scholarship is sought. 51639

(C) A student who receives a scholarship under the 51640
educational choice scholarship pilot program remains an eligible 51641
student and may continue to receive scholarships in subsequent 51642
school years until the student completes grade twelve, so long as 51643
all of the following apply: 51644

(1) The student's resident district remains the same, or the 51645
student transfers to a new resident district and otherwise would 51646
be assigned in the new resident district to a school building 51647
described in division (A)(1) or ~~(6)~~(B)(1) of this section; 51648

(2) The student takes each assessment prescribed for the 51649
student's grade level under section 3301.0710 or 3301.0712 of the 51650
Revised Code while enrolled in a chartered nonpublic school; 51651

(3) In each school year that the student is enrolled in a 51652
chartered nonpublic school, the student is absent from school for 51653
not more than twenty days that the school is open for instruction, 51654
not including excused absences. 51655

~~(C)~~(D)(1) The department shall cease awarding first-time 51656
scholarships pursuant to divisions (A)(1) to (4) of this section 51657
with respect to a school building that, in the most recent ratings 51658
of school buildings published under section 3302.03 of the Revised 51659
Code prior to the first day of July of the school year, ceases to 51660
meet the criteria in division (A)(1) of this section. The 51661
department shall cease awarding first-time scholarships pursuant 51662

to division (A)(5) of this section with respect to a school 51663
district that, in the most recent ratings of school districts 51664
published under section 3302.03 of the Revised Code prior to the 51665
first day of July of the school year, ceases to meet the criteria 51666
in division (A)(5) of this section. ~~However~~ 51667

(2) The department shall cease awarding first-time 51668
scholarships pursuant to divisions (B)(1) to (4) of this section 51669
with respect to a school building that, in the most recent ratings 51670
of school buildings under section 3302.03 of the Revised Code 51671
prior to the first day of July of the school year, ceases to meet 51672
the criteria in division (B)(1) of this section. 51673

(3) However, students who have received scholarships in the 51674
prior school year remain eligible students pursuant to division 51675
~~(B)(C)~~ of this section. 51676

~~(D)(E)~~ The state board of education shall adopt rules 51677
defining excused absences for purposes of division ~~(B)(C)~~(3) of 51678
this section. 51679

Sec. 3310.05. A scholarship under the educational choice 51680
scholarship pilot program is not available for any student whose 51681
resident district is a school district in which the pilot project 51682
scholarship program is operating under sections 3313.974 to 51683
3313.979 of the Revised Code. The two pilot programs are separate 51684
and distinct. ~~The general assembly has prescribed separate 51685~~
~~scholarship amounts for the two pilot programs in recognition of 51686~~
~~their, with~~ differing eligibility criteria. The pilot project 51687
scholarship program operating under sections 3313.974 to 3313.979 51688
of the Revised Code is a district-wide program that may award 51689
scholarships to students who do not attend district schools that 51690
face academic challenges, whereas the educational choice 51691
scholarship pilot program established under sections 3310.01 to 51692
3310.17 of the Revised Code is limited to students of individual 51693

district school buildings that face academic challenges. 51694

Sec. 3310.08. (A) The amount paid for an eligible student 51695
under the educational choice scholarship pilot program shall be 51696
the lesser of the tuition of the chartered nonpublic school in 51697
which the student is enrolled or the maximum amount prescribed in 51698
section 3310.09 of the Revised Code. 51699

(B)(1) The department shall pay to the parent of each 51700
eligible student for whom a scholarship is awarded under the 51701
program, or to the student if at least eighteen years of age, 51702
periodic partial payments of the scholarship. 51703

(2) The department shall proportionately reduce or terminate 51704
the payments for any student who withdraws from a chartered 51705
nonpublic school prior to the end of the school year. 51706

(C)(1) The department shall deduct ~~five thousand two hundred~~ 51707
~~dollars~~ from the payments made to each school district under 51708
~~Chapters 3306. and Chapter 3317.~~ and, if necessary, sections 51709
321.24 and 323.156 of the Revised Code, the amount paid under 51710
division (B) of this section for each eligible student awarded a 51711
scholarship under the ~~educational choice scholarship pilot~~ program 51712
who is entitled under section 3313.64 or 3313.65 of the Revised 51713
Code to attend school in the district. 51714

~~The amount deducted under division (C)(1) of this section~~ 51715
~~funds scholarships for students under both the educational choice~~ 51716
~~scholarship pilot program and the pilot project scholarship~~ 51717
~~program under sections 3313.974 to 3313.979 of the Revised Code.~~ 51718

(2) If the department reduces or terminates payments to a 51719
parent or a student, as prescribed in division (B)(2) of this 51720
section, and the student enrolls in the schools of the student's 51721
resident district or in a community school, established under 51722
Chapter 3314. of the Revised Code, before the end of the school 51723

year, the department shall proportionally restore to the resident 51724
district the amount deducted for that student under division 51725
(C)(1) of this section. 51726

~~(D) In the case of any school district from which a deduction 51727
is made under division (C) of this section, the department shall 51728
disclose on the district's SF 3 form, or any successor to that 51729
form used to calculate a district's state funding for operating 51730
expenses, a comparison of the following: 51731~~

~~(1) The district's state share of the adequacy amount 51732
payment, as calculated under section 3306.13 of the Revised Code 51733
with the scholarship students included in the district's formula 51734
ADM; 51735~~

~~(2) What the district's state share of the adequacy amount 51736
payment would have been, as calculated under that section if the 51737
scholarship students were not included in the district's formula 51738
ADM. 51739~~

~~This comparison shall display both the aggregate difference 51740
between the amounts described in divisions (D)(1) and (2) of this 51741
section, and the quotient of that aggregate difference divided by 51742
the number of eligible students for whom deductions are made under 51743
division (C) of this section. 51744~~

Sec. 3310.41. (A) As used in this section: 51745

(1) "Alternative public provider" means either of the 51746
following providers that agrees to enroll a child in the 51747
provider's special education program to implement the child's 51748
individualized education program and to which the child's parent 51749
owes fees for the services provided to the child: 51750

(a) A school district that is not the school district in 51751
which the child is entitled to attend school; 51752

(b) A public entity other than a school district. 51753

- (2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.
- (3) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.
- (4) "Preschool child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code.
- (5) "Parent" has the same meaning as in section 3313.64 of the Revised Code, except that "parent" does not mean a parent whose custodial rights have been terminated.
- (6) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code.
- (7) "Qualified special education child" is a child for whom all of the following conditions apply:
- (a) The school district in which the child is entitled to attend school has identified the child as autistic. A child who has been identified as having a "pervasive developmental disorder - not otherwise specified (PPD-NOS)" shall be considered to be an autistic child for purposes of this section.
- (b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child.
- (c) The child either:
- (i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child; or
- (ii) Is eligible to enter school in any grade preschool

through twelve in the school district in which the child is 51784
entitled to attend school in the school year in which a 51785
scholarship under this section is first sought for the child. 51786

(8) "Registered private provider" means a nonpublic school or 51787
other nonpublic entity that has been approved by the department of 51788
education to participate in the program established under this 51789
section. 51790

(9) "Special education program" means a school or facility 51791
that provides special education and related services to children 51792
with disabilities. 51793

(B) There is hereby established the autism scholarship 51794
program. Under the program, the department of education shall pay 51795
a scholarship to the parent of each qualified special education 51796
child upon application of that parent pursuant to procedures and 51797
deadlines established by rule of the state board of education. 51798
Each scholarship shall be used only to pay tuition for the child 51799
on whose behalf the scholarship is awarded to attend a special 51800
education program that implements the child's individualized 51801
education program and that is operated by an alternative public 51802
provider or by a registered private provider. Each scholarship 51803
shall be in an amount not to exceed the lesser of the tuition 51804
charged for the child by the special education program or twenty 51805
thousand dollars. The purpose of the scholarship is to permit the 51806
parent of a qualified special education child the choice to send 51807
the child to a special education program, instead of the one 51808
operated by or for the school district in which the child is 51809
entitled to attend school, to receive the services prescribed in 51810
the child's individualized education program once the 51811
individualized education program is finalized. A The services 51812
provided under the scholarship shall include an educational 51813
component. 51814

A scholarship under this section shall not be awarded to the 51815

parent of a child while the child's individualized education 51816
program is being developed by the school district in which the 51817
child is entitled to attend school, or while any administrative or 51818
judicial mediation or proceedings with respect to the content of 51819
the child's individualized education program are pending. A 51820
scholarship under this section shall not be used for a child to 51821
attend a public special education program that operates under a 51822
contract, compact, or other bilateral agreement between the school 51823
district in which the child is entitled to attend school and 51824
another school district or other public provider, or for a child 51825
to attend a community school established under Chapter 3314. of 51826
the Revised Code. However, nothing in this section or in any rule 51827
adopted by the state board shall prohibit a parent whose child 51828
attends a public special education program under a contract, 51829
compact, or other bilateral agreement, or a parent whose child 51830
attends a community school, from applying for and accepting a 51831
scholarship under this section so that the parent may withdraw the 51832
child from that program or community school and use the 51833
scholarship for the child to attend a special education program 51834
for which the parent is required to pay for services for the 51835
child. A 51836

A child attending a special education program with a 51837
scholarship under this section shall continue to be entitled to 51838
transportation to and from that program in the manner prescribed 51839
by law. 51840

(C)(1) As prescribed in divisions (A)(2)(h), (B)(3)(g), and 51841
(B)(10) of section 3317.03 of the Revised Code, a child who is not 51842
a preschool child with a disability for whom a scholarship is 51843
awarded under this section shall be counted in the formula ADM and 51844
the category six special education ADM of the district in which 51845
the child is entitled to attend school and not in the formula ADM 51846
and the category six special education ADM of any other school 51847

district. As prescribed in divisions (B)(3)(h) and (B)(10) of 51848
section 3317.03 of the Revised Code, a child who is a preschool 51849
child with a disability for whom a scholarship is awarded under 51850
this section shall be counted in the preschool scholarship ADM and 51851
category six special education ADM of the school district in which 51852
the child is entitled to attend school and not in the preschool 51853
scholarship ADM or category six special education ADM of any other 51854
school district. 51855

(2) In each fiscal year, the department shall deduct from the 51856
amounts paid to each school district under ~~Chapters 3306. and~~ 51857
Chapter 3317. of the Revised Code, and, if necessary, sections 51858
321.24 and 323.156 of the Revised Code, the aggregate amount of 51859
scholarships awarded under this section for qualified special 51860
education children included in the formula ADM, or preschool 51861
scholarship ADM, and in the category six special education ADM of 51862
that school district as provided in division (C)(1) of this 51863
section. ~~When computing the school district's instructional~~ 51864
~~services support under section 3306.05 of the Revised Code, the~~ 51865
~~department shall add the district's preschool scholarship ADM to~~ 51866
~~the district's formula ADM.~~ 51867

The scholarships deducted shall be considered as an approved 51868
special education and related services expense of the school 51869
district. 51870

(3) From time to time, the department shall make a payment to 51871
the parent of each qualified special education child for whom a 51872
scholarship has been awarded under this section. The scholarship 51873
amount shall be proportionately reduced in the case of any such 51874
child who is not enrolled in the special education program for 51875
which a scholarship was awarded under this section for the entire 51876
school year. The department shall make no payments to the parent 51877
of a child while any administrative or judicial mediation or 51878
proceedings with respect to the content of the child's 51879

individualized education program are pending. 51880

(D) A scholarship shall not be paid to a parent for payment 51881
of tuition owed to a nonpublic entity unless that entity is a 51882
registered private provider. The department shall approve entities 51883
that meet the standards established by rule of the state board for 51884
the program established under this section. 51885

(E) The state board shall adopt rules under Chapter 119. of 51886
the Revised Code prescribing procedures necessary to implement 51887
this section, including, but not limited to, procedures and 51888
deadlines for parents to apply for scholarships, standards for 51889
registered private providers, and procedures for approval of 51890
entities as registered private providers. 51891

Sec. 3310.51. As used in sections 3310.51 to 3310.64 of the 51892
Revised Code: 51893

(A) "Alternative public provider" means either of the 51894
following providers that agrees to enroll a child in the 51895
provider's special education program to implement the child's 51896
individualized education program and to which the eligible 51897
applicant owes fees for the services provided to the child: 51898

(1) A school district that is not the school district in 51899
which the child is entitled to attend school or the child's school 51900
district of residence, if different; 51901

(2) A public entity other than a school district. 51902

(B) "Child with a disability" and "individualized education 51903
program" have the same meanings as in section 3323.01 of the 51904
Revised Code. 51905

(C) "Eligible applicant" means any of the following: 51906

(1) Either of the natural or adoptive parents of a qualified 51907
special education child, except as otherwise specified in this 51908
division. When the marriage of the natural or adoptive parents of 51909

the student has been terminated by a divorce, dissolution of 51910
marriage, or annulment, or when the natural or adoptive parents of 51911
the student are living separate and apart under a legal separation 51912
decree, and a court has issued an order allocating the parental 51913
rights and responsibilities with respect to the child, "eligible 51914
applicant" means the residential parent as designated by the 51915
court. If the court issues a shared parenting decree, "eligible 51916
applicant" means either parent. "Eligible applicant" does not mean 51917
a parent whose custodial rights have been terminated. 51918

(2) The custodian of a qualified special education child, 51919
when a court has granted temporary, legal, or permanent custody of 51920
the child to an individual other than either of the natural or 51921
adoptive parents of the child or to a government agency; 51922

(3) The guardian of a qualified special education child, when 51923
a court has appointed a guardian for the child; 51924

(4) The grandparent of a qualified special education child, 51925
when the grandparent is the child's attorney in fact under a power 51926
of attorney executed under sections 3109.51 to 3109.62 of the 51927
Revised Code or when the grandparent has executed a caregiver 51928
authorization affidavit under sections 3109.65 to 3109.73 of the 51929
Revised Code; 51930

(5) The surrogate parent appointed for a qualified special 51931
education child pursuant to division (B) of section 3323.05 and 51932
section 3323.051 of the Revised Code; 51933

(6) A qualified special education child, if the child does 51934
not have a custodian or guardian and the child is at least 51935
eighteen years of age. 51936

(D) "Entitled to attend school" means entitled to attend 51937
school in a school district under sections 3313.64 and 3313.65 of 51938
the Revised Code. 51939

(E) "Formula ADM" and "formula amount" have the same meanings 51940

as in section 3317.02 of the Revised Code. 51941

(F) "Qualified special education child" is a child for whom 51942
all of the following conditions apply: 51943

(1) The child is at least five years of age and less than 51944
twenty-two years of age. 51945

(2) The school district in which the child is entitled to 51946
attend school, or the child's school district of residence if 51947
different, has identified the child as a child with a disability. 51948

(3) The school district in which the child is entitled to 51949
attend school, or the child's school district of residence if 51950
different, has developed an individualized education program under 51951
Chapter 3323. of the Revised Code for the child. 51952

(4) The child either: 51953

(a) Was enrolled in the schools of the school district in 51954
which the child is entitled to attend school in any grade from 51955
kindergarten through twelve in the school year prior to the school 51956
year in which a scholarship is first sought for the child; 51957

(b) Is eligible to enter school in any grade kindergarten 51958
through twelve in the school district in which the child is 51959
entitled to attend school in the school year in which a 51960
scholarship is first sought for the child. 51961

(5) The department of education has not approved a 51962
scholarship for the child under the educational choice scholarship 51963
pilot program, under sections 3310.01 to 3310.17 of the Revised 51964
Code, or the autism scholarship program, under section 3310.41 of 51965
the Revised Code, for the same school year in which a scholarship 51966
under the special education scholarship program is sought. 51967

(6) The child and the child's parents are in compliance with 51968
the state compulsory attendance law under Chapter 3321. of the 51969
Revised Code. 51970

(G) "Registered private provider" means a nonpublic school or other nonpublic entity that has been registered by the superintendent of public instruction under section 3310.58 of the Revised Code. 51971
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(H) "Scholarship" means a scholarship awarded under the special education scholarship program pursuant to sections 3310.51 to 3310.64 of the Revised Code. 51975
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(I) "School district of residence" has the same meaning as in section 3323.01 of the Revised Code. A community school established under Chapter 3314. of the Revised Code is not a "school district of residence" for purposes of sections 3310.51 to 3310.64 of the Revised Code. 51978
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(J) "School year" has the same meaning as in section 3313.62 of the Revised Code. 51983
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(K) "Special education program" means a school or facility that provides special education and related services to children with disabilities. 51985
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Sec. 3310.52. (A) The special education scholarship program is hereby established. Under the program, subject to division (B) of this section, the department of education annually shall pay a scholarship to an eligible applicant for services provided by an alternative public provider or a registered private provider for a qualified special education child. The scholarship shall be used only to pay all or part of the fees for the child to attend the special education program operated by the alternative public provider or registered private provider to implement the child's individualized education program, in lieu of the child's attending the special education program operated by the school district in which the child is entitled to attend school, and other services agreed to by the provider and eligible applicant that are not included in the individualized education program but are 51988
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associated with educating the child. Upon agreement with the 52002
eligible applicant, the alternative public provider or registered 52003
private provider may modify the services provided to the child. 52004

(B) The number of scholarships awarded under the program in 52005
any fiscal year shall not exceed five per cent of the total number 52006
of students residing in the state identified as children with 52007
disabilities during the previous fiscal year. 52008

(C) No scholarship or renewal of a scholarship shall be 52009
awarded to an eligible applicant on behalf of a qualified special 52010
education child for the next school year, unless on or before the 52011
application deadline the eligible applicant completes the 52012
application for the scholarship or renewal, in the manner 52013
prescribed by the department, and notifies the school district in 52014
which the child is entitled to attend school that the eligible 52015
applicant has applied for the scholarship or renewal. 52016

The application deadline for academic terms that begin 52017
between the first day of July and the thirty-first day of December 52018
shall be the fifteenth day of April that precedes the first day of 52019
instruction. The application deadline for academic terms that 52020
begin between the first day of January and the thirtieth day of 52021
June shall be the fifteenth day of November that precedes the 52022
first day of instruction. 52023

Sec. 3310.521. (A) As a condition of receiving payments for a 52024
scholarship, each eligible applicant shall attest to receipt of 52025
the profile prescribed by division (B) of this section. Such 52026
attestation shall be made and submitted to the department of 52027
education in the form and manner as required by the department. 52028

(B) The alternative public provider or registered private 52029
provider that enrolls a qualified special education child shall 52030
submit in writing to the eligible applicant to whom a scholarship 52031
is awarded on behalf of that child a profile of the provider's 52032

special education program, in a form as prescribed by the 52033
department, that shall contain the following: 52034

(1) Methods of instruction that will be utilized by the 52035
provider to provide services to the qualified special education 52036
child; 52037

(2) Qualifications of teachers, instructors, and other 52038
persons who will be engaged by the provider to provide services to 52039
the qualified special education child. 52040

Sec. 3310.53. (A) Except for development of the child's 52041
individualized education program, as specified in division (B) of 52042
this section, the school district in which a qualified special 52043
education child is entitled to attend school and the child's 52044
school district of residence, if different, are not obligated to 52045
provide the child with a free appropriate public education under 52046
Chapter 3323. of the Revised Code for as long as the child 52047
continues to attend the special education program operated by 52048
either an alternative public provider or a registered private 52049
provider for which a scholarship is awarded under the special 52050
education scholarship program. If at any time, the eligible 52051
applicant for the child decides no longer to accept scholarship 52052
payments and enrolls the child in the special education program of 52053
the school district in which the child is entitled to attend 52054
school, that district shall provide the child with a free 52055
appropriate public education under Chapter 3323. of the Revised 52056
Code. 52057

(B) Each eligible applicant and each qualified special 52058
education child have a continuing right to the development of an 52059
individualized education program for the child that complies with 52060
Chapter 3323. of the Revised Code, 20 U.S.C. 1400 et seq., and 52061
administrative rules or guidelines adopted by the Ohio department 52062
of education or the United States department of education. The 52063

school district in which a qualified special education child is 52064
entitled to attend school, or the child's school district of 52065
residence if different, shall develop each individualized 52066
education program for the child in accordance with those 52067
provisions. 52068

(C) Each school district shall notify an eligible applicant 52069
of the applicant's and qualified special education child's rights 52070
under sections 3310.51 to 3310.64 of the Revised Code by providing 52071
to each eligible applicant the comparison document prescribed in 52072
section 3323.052 of the Revised Code. An eligible applicant's 52073
receipt of that document, as acknowledged in a format prescribed 52074
by the department of education, shall constitute notice that the 52075
eligible applicant has been informed of those rights. Upon receipt 52076
of that document, subsequent acceptance of a scholarship 52077
constitutes the eligible applicant's informed consent to the 52078
provisions of sections 3310.51 to 3310.64 of the Revised Code. 52079

Sec. 3310.54. A qualified special education child in any of 52080
grades kindergarten through twelve for whom a scholarship is 52081
awarded under the special education scholarship program shall be 52082
counted in the formula ADM and category one through six special 52083
education ADM, as appropriate, of the school district in which the 52084
child is entitled to attend school. A qualified special education 52085
child shall not be counted in the formula ADM or category one 52086
through six special education ADM of any other school district. 52087

Sec. 3310.55. The department of education shall deduct from a 52088
school district's state education aid, as defined in section 52089
3317.02 of the Revised Code, and if necessary, from its payment 52090
under sections 321.24 and 323.156 of the Revised Code, the 52091
aggregate amount of scholarships paid under section 3310.57 of the 52092
Revised Code for qualified special education children included in 52093
the formula ADM and the category one through six special education 52094

ADM of that school district. 52095

Sec. 3310.56. (A) The amount of the scholarship awarded and 52096
paid to an eligible applicant for services for a qualified special 52097
education child under the special education scholarship program in 52098
each school year shall be the least of the amounts prescribed in 52099
divisions (A)(1), (2), or (3) of this section, as follows: 52100

(1) The amount of fees charged for that school year by the 52101
alternative public provider or registered private provider; 52102

(2) The sum of the amounts calculated under divisions 52103
(A)(2)(a) and (b) of this section: 52104

(a) The sum of the formula amount plus the per pupil amount 52105
of the base funding supplements specified in divisions (C)(1) to 52106
(4) of section 3317.012 of the Revised Code for fiscal year 2009; 52107

(b) The formula amount times the following multiple 52108
prescribed for the child's disability: 52109

(i) For a student in category one, 0.2892; 52110

(ii) For a student in category two, 0.3691; 52111

(iii) For a student in category three, 1.7695; 52112

(iv) For a student in category four, 2.3646; 52113

(v) For a student in category five, 3.1129; 52114

(vi) For a student in category six, 4.7342. 52115

Before applying the multiples specified in divisions 52116
(A)(2)(b)(i) to (vi) of this section, they first shall be adjusted 52117
by multiplying them by 0.80. 52118

(3) Twenty thousand dollars. 52119

(B) As used in division (A)(2)(b) of this section, a child 52120
with a disability is in: 52121

(1) "Category one" if the child's primary or only identified 52122

disability is a speech and language disability, as this term is 52123
defined pursuant to Chapter 3323. of the Revised Code; 52124

(2) "Category two" if the child is identified as specific 52125
learning disabled or developmentally disabled, as these terms are 52126
defined pursuant to Chapter 3323. of the Revised Code, or as 52127
having an other health impairment-minor, as defined in section 52128
3317.02 of the Revised Code; 52129

(3) "Category three" if the child is identified as vision 52130
impaired, hearing disabled, or severe behavior disabled, as these 52131
terms are defined pursuant to Chapter 3323. of the Revised Code; 52132

(4) "Category four" if the child is identified as 52133
orthopedically disabled, as this term is defined pursuant to 52134
Chapter 3323. of the Revised Code, or as having an other health 52135
impairment-major, as defined in section 3317.02 of the Revised 52136
Code; 52137

(5) "Category five" if the child is identified as having 52138
multiple disabilities, as this term is defined pursuant to Chapter 52139
3323. of the Revised Code; 52140

(6) "Category six" if the child is identified as autistic, 52141
having traumatic brain injuries, or both visually and hearing 52142
impaired, as these terms are defined pursuant to Chapter 3323. of 52143
the Revised Code. 52144

Sec. 3310.57. The department of education shall make periodic 52145
payments to an eligible applicant for services for each qualified 52146
special education child for whom a scholarship has been awarded. 52147
The total of all payments made to an applicant in each school year 52148
shall not exceed the amount calculated for the child under section 52149
3310.56 of the Revised Code. 52150

The department shall proportionately reduce the scholarship 52151
amount in the case of a child who is not enrolled in the special 52152

education program of an alternative public provider or a 52153
registered private provider for the entire school year. 52154

In accordance with division (A) of section 3310.62 of the 52155
Revised Code, the department shall make no payments to an 52156
applicant for a first-time scholarship for a qualified special 52157
education child while any administrative or judicial mediation or 52158
proceedings with respect to the content of the child's 52159
individualized education program are pending. 52160

Sec. 3310.58. No nonpublic school or entity shall receive 52161
payments from an eligible applicant for services for a qualified 52162
special education child under the special education scholarship 52163
program until the school or entity registers with the 52164
superintendent of public instruction. The superintendent shall 52165
register and designate as a registered private provider any 52166
nonpublic school or entity that meets the following requirements: 52167

(A) The school or entity complies with the antidiscrimination 52168
provisions of 42 U.S.C. 2000d, regardless of whether the school or 52169
entity receives federal financial assistance. 52170

(B) If the school or entity is not chartered by the state 52171
board under section 3301.16 of the Revised Code, the school or 52172
entity agrees to comply with sections 3319.39, 3319.391, and 52173
3319.392 of the Revised Code as if it were a school district. 52174

(C) The teaching and nonteaching professionals employed by 52175
the school or entity, or employed by any subcontractors of the 52176
school or entity, hold credentials determined by the state board 52177
to be appropriate for the qualified special education children 52178
enrolled in the special education program it operates. 52179

(D) The school's or entity's educational program shall be 52180
approved by the department of education. 52181

(E) The school or entity meets applicable health and safety 52182

<u>standards established by law.</u>	52183
<u>(F) The school or entity agrees to retain on file</u>	52184
<u>documentation as required by the department of education.</u>	52185
<u>(G) The school or entity agrees to provide a record of the</u>	52186
<u>implementation of the individualized education program for each</u>	52187
<u>qualified special education child enrolled in the school's or</u>	52188
<u>entity's special education program, including evaluation of the</u>	52189
<u>child's progress, to the school district in which the child is</u>	52190
<u>entitled to attend school, in the form and manner prescribed by</u>	52191
<u>the department.</u>	52192
<u>(H) The school or entity agrees that, if it declines to</u>	52193
<u>enroll a particular qualified special education child, it will</u>	52194
<u>notify in writing the eligible applicant of its reasons for</u>	52195
<u>declining to enroll the child.</u>	52196
<u>Sec. 3310.59. The superintendent of public instruction shall</u>	52197
<u>revoke the registration of any school or entity if, after a</u>	52198
<u>hearing, the superintendent determines that the school or entity</u>	52199
<u>is in violation of any provision of section 3310.58 of the Revised</u>	52200
<u>Code.</u>	52201
<u>Sec. 3310.60. A qualified special education child attending a</u>	52202
<u>special education program at an alternative public provider or a</u>	52203
<u>registered private provider with a scholarship shall be entitled</u>	52204
<u>to transportation to and from that program in the manner</u>	52205
<u>prescribed by law for any child with a disability attending a</u>	52206
<u>nonpublic special education program.</u>	52207
<u>Sec. 3310.61. An eligible applicant on behalf of a child who</u>	52208
<u>currently attends a public special education program under a</u>	52209
<u>contract, compact, or other bilateral agreement, or on behalf of a</u>	52210
<u>child who currently attends a community school, shall not be</u>	52211

prohibited from applying for and accepting a scholarship so that 52212
the applicant may withdraw the child from that program or 52213
community school and use the scholarship for the child to attend a 52214
special education program operated by an alternative public 52215
provider or a registered private provider. 52216

Sec. 3310.62. (A) A scholarship under the special education 52217
scholarship program shall not be awarded for the first time to an 52218
eligible applicant on behalf of a qualified special education 52219
child while the child's individualized education program is being 52220
developed by the school district in which the child is entitled to 52221
attend school, or by the child's school district of residence if 52222
different, or while any administrative or judicial mediation or 52223
proceedings with respect to the content of that individualized 52224
education program are pending. 52225

(B) Development of individualized education programs 52226
subsequent to the one developed for the child the first time a 52227
scholarship was awarded on behalf of the child and the 52228
prosecuting, by the eligible applicant on behalf of the child, of 52229
administrative or judicial mediation or proceedings with respect 52230
to any of those subsequent individualized education programs do 52231
not affect the applicant's and the child's continued eligibility 52232
for scholarship payments. 52233

(C) In the case of any child for whom a scholarship has been 52234
awarded, if the school district in which the child is entitled to 52235
attend school has agreed to provide some services for the child 52236
under an agreement entered into with the eligible applicant or 52237
with the alternative public provider or registered private 52238
provider implementing the child's individualized education 52239
program, or if the district is required by law to provide some 52240
services for the child, including transportation services under 52241
sections 3310.60 and 3327.01 of the Revised Code, the district 52242

shall not discontinue the services it is providing pending 52243
completion of any administrative proceedings regarding those 52244
services. The prosecuting, by the eligible applicant on behalf of 52245
the child, of administrative proceedings regarding the services 52246
provided by the district does not affect the applicant's and the 52247
child's continued eligibility for scholarship payments. 52248

(D) The department of education shall continue to make 52249
payments to the eligible applicant under section 3310.57 of the 52250
Revised Code while either of the following are pending: 52251

(1) Administrative or judicial mediation or proceedings with 52252
respect to a subsequent individualized education program for the 52253
child referred to in division (B) of this section; 52254

(2) Administrative proceedings regarding services provided by 52255
the district under division (C) of this section. 52256

Sec. 3310.63. (A) Only for the purpose of administering the 52257
special education scholarship program, the department of education 52258
may request from any of the following entities the data 52259
verification code assigned under division (D)(2) of section 52260
3301.0714 of the Revised Code to any qualified special education 52261
child for whom a scholarship is sought under the program: 52262

(1) The school district in which the child is entitled to 52263
attend school; 52264

(2) If applicable, the community school in which the child is 52265
enrolled; 52266

(3) The independent contractor engaged to create and maintain 52267
data verification codes. 52268

(B) Upon a request by the department under division (A) of 52269
this section for the data verification code of a qualified special 52270
education child or a request by the eligible applicant for the 52271
child for that code, the school district or community school shall 52272

submit that code to the department or applicant in the manner 52273
specified by the department. If the child has not been assigned a 52274
code, because the child will be entering kindergarten during the 52275
school year for which the scholarship is sought, the district 52276
shall assign a code to that child and submit the code to the 52277
department or applicant by a date specified by the department. If 52278
the district does not assign a code to the child by the specified 52279
date, the department shall assign a code to the child. 52280

The department annually shall submit to each school district 52281
the name and data verification code of each child residing in the 52282
district who is entering kindergarten, who has been awarded a 52283
scholarship under the program, and for whom the department has 52284
assigned a code under this division. 52285

(C) The department shall not release any data verification 52286
code that it receives under this section to any person except as 52287
provided by law. 52288

(D) Any document relative to the special education 52289
scholarship program that the department holds in its files that 52290
contains both a qualified special education child's name or other 52291
personally identifiable information and the child's data 52292
verification code shall not be a public record under section 52293
149.43 of the Revised Code. 52294

Sec. 3310.64. The state board of education shall adopt rules 52295
in accordance with Chapter 119. of the Revised Code prescribing 52296
procedures necessary to implement sections 3310.51 to 3310.63 of 52297
the Revised Code including, but not limited to, procedures for 52298
parents to apply for scholarships, standards for registered 52299
private providers, and procedures for registration of private 52300
providers. 52301

Sec. 3311.05. (A) The territory within the territorial limits 52302

of a county, or the territory included in a district formed under 52303
~~either~~ section 3311.053 ~~or 3311.059~~ of the Revised Code, exclusive 52304
of the territory embraced in any city school district or exempted 52305
village school district, and excluding the territory detached 52306
therefrom for school purposes and including the territory attached 52307
thereto for school purposes constitutes an educational service 52308
center. 52309

(B) A county school financing district created under section 52310
3311.50 of the Revised Code is not the school district described 52311
in division (A) of this section or any other school district but 52312
is a taxing district. 52313

Sec. 3311.054. (A) The initial members of any new governing 52314
board of an educational service center established in accordance 52315
with this section shall be all of the members of the governing 52316
boards of the former educational service centers whose territory 52317
comprises the new educational service center. The initial members 52318
of any such governing board shall serve until the first Monday of 52319
January immediately following the first election of governing 52320
board members conducted under division (C) of this section. 52321

Notwithstanding section 3313.11 of the Revised Code, that 52322
section shall not apply to the filling of any vacancy among the 52323
initial members of any governing board established in accordance 52324
with this section. Any such vacancy shall be filled for the 52325
remainder of the term by a majority vote of all the remaining 52326
members of the governing board. 52327

(B) Prior to the next first day of April in an odd-numbered 52328
year that occurs at least ninety days after the date on which any 52329
new governing board of an educational service center is initially 52330
established in accordance with this section, the governing board 52331
or, at the governing board's option, an executive committee of the 52332
governing board appointed by the governing board shall do both of 52333

the following: 52334

(1) Designate the number of elected members comprising all 52335
subsequent governing boards of the educational service center, 52336
which number shall be an odd number not to exceed nine. 52337

(2) Divide the educational service center into a number of 52338
subdistricts equal to the number of governing board members 52339
designated under division (B)(1) of this section and number the 52340
subdistricts. Each subdistrict shall be as nearly equal in 52341
population as possible and shall be composed of adjacent and 52342
compact territory. To the extent possible, each subdistrict shall 52343
be composed only of territory located in one county. In addition, 52344
the subdistricts shall be bounded as far as possible by 52345
corporation lines, streets, alleys, avenues, public grounds, 52346
canals, watercourses, ward boundaries, voting precinct boundaries, 52347
or school district boundaries. 52348

If the new governing board fails to divide the territory of 52349
the educational service center in accordance with this division, 52350
the superintendent of public instruction shall establish the 52351
subdistricts within thirty days. 52352

(C) At the next regular municipal election following the 52353
deadline for creation of the subdistricts of an educational 52354
service center under division (B) of this section, an entire new 52355
governing board shall be elected. All members of such governing 52356
board shall be elected from those subdistricts. 52357

(D) Within ninety days after the official announcement of the 52358
results of each successive federal decennial census, each 52359
governing board of an educational service center established in 52360
accordance with this section shall redistrict the educational 52361
service center's territory into a number of subdistricts equal to 52362
the number of board members designated under division (B)(1) of 52363
this section and number the subdistricts. Each such redistricting 52364

shall be done in accordance with the standards for subdistricts in 52365
division (B)(2) of this section. At the next regular municipal 52366
election following the announcement of the results of each such 52367
successive census, all elected governing board members shall again 52368
be elected from the subdistricts most recently created under this 52369
division. 52370

If a governing board fails to redistrict the territory of its 52371
educational service center in accordance with this division, the 52372
superintendent of public instruction shall redistrict the service 52373
center within thirty days. 52374

(E) All members elected pursuant to this section shall take 52375
office on the first Monday of January immediately following the 52376
election. Whenever all elected governing board members are elected 52377
at one election under division (C) or (D) of this section, the 52378
terms of each of the members elected from even-numbered 52379
subdistricts shall be for two years and the terms of each of the 52380
members elected from odd-numbered subdistricts shall be for four 52381
years. Thereafter, successors shall be elected for four-year terms 52382
in the same manner as is provided by law for the election of 52383
members of school boards except that any successor elected at a 52384
regular municipal election immediately preceding any election at 52385
which an entire new governing board is elected shall be elected 52386
for a two-year term. 52387

Sec. 3311.056. After at least one election of board members 52388
has occurred under division (B) of section 3313.053, division (C) 52389
of section 3311.054, or section 3311.057 of the Revised Code, the 52390
elected governing board members of an educational service center 52391
created under division (A) of section 3311.053 of the Revised Code 52392
may by resolution adopt a plan for adding appointed members to 52393
that governing board. A plan may provide for adding to the board a 52394
number of appointed members that is up to one less than the number 52395

of elected members on the board except that the total number of 52396
elected and appointed board members shall be an odd number. A plan 52397
shall provide for the terms of the appointed board members. The 52398
appointed board members in each plan shall be appointed by a 52399
majority vote of the full number of elected members on the board 52400
and vacancies shall be filled as provided in the plan. Each plan 52401
shall specify the qualifications for the appointed board members 52402
of an educational service center ~~and shall at least require~~ 52403
~~appointed board members to be electors residing in the service~~ 52404
~~center. Appointed members may be representative of the client~~ 52405
school districts of the service center. As used in this section, 52406
"client school district" has the same meaning as in section 52407
3317.11 of the Revised Code. 52408

A governing board adopting a plan under this section shall 52409
submit the plan to the state board of education for approval. The 52410
state board may approve or disapprove a plan or make 52411
recommendations for modifications in a plan. A plan shall take 52412
effect thirty days after approval by the state board and, when 52413
effective, appointments to the board shall be made in accordance 52414
with the plan. 52415

The elected members of the governing board of an educational 52416
service center with a plan in effect under this section may adopt, 52417
by unanimous vote of all the elected members, a resolution to 52418
revise or rescind the plan in effect under this section. All 52419
revisions shall comply with the requirements in this section for 52420
appointed board members. A resolution revising or rescinding a 52421
plan shall specify the dates and manner in which the revision or 52422
rescission is to take place. The revision or rescission of a plan 52423
shall be submitted to the state board of education for approval. 52424
The state board may approve or disapprove a revision or rescission 52425
of a plan or make recommendations for modifications. Upon approval 52426
of a revision or rescission by the state board, the revised plan 52427

or rescission of the plan shall go into effect as provided in the 52428
revision or rescission. 52429

Sec. 3311.0510. (A) If all of the local school districts that 52430
make up the territory of an educational service center have 52431
severed from the territory of that service center, upon the 52432
effective date of the severance of the last remaining local school 52433
district to make up the territory of the service center, the 52434
governing board of that service center shall be abolished and such 52435
service center shall be dissolved by order of the superintendent 52436
of public instruction. The superintendent's order shall provide 52437
for the equitable division and disposition of the assets, 52438
property, debts, and obligations of the service center among the 52439
local school districts, of which the territory of the service 52440
center is or previously was made up, and the city and exempted 52441
village school districts with which the service center had 52442
agreements under section 3313.843 of the Revised Code for the 52443
service center's last fiscal year of operation. The 52444
superintendent's order shall provide that the tax duplicate of 52445
each of those school districts shall be bound for and assume the 52446
district's equitable share of the outstanding indebtedness of the 52447
service center. The superintendent's order is final and is not 52448
appealable. 52449

Immediately upon the abolishment of the service center 52450
governing board pursuant to this section, the superintendent of 52451
public instruction shall appoint a qualified individual to 52452
administer the dissolution of the service center and to implement 52453
the terms of the superintendent's dissolution order. 52454

Prior to distributing assets to any school district under 52455
this section, but after paying in full other debts and obligations 52456
of the service center under this section, the superintendent of 52457
public instruction may assess against the remaining assets of the 52458

service center the amount of the costs incurred by the department 52459
of education in performing the superintendent's duties under this 52460
division, including the fees, if any, owed to the individual 52461
appointed to administer the superintendent's dissolution order. 52462
Any excess cost incurred by the department under this division 52463
shall be divided equitably among the local school districts, of 52464
which the territory of the service center is or previously was 52465
made up, and the city and exempted village school districts with 52466
which the service center had agreements under section 3313.843 of 52467
the Revised Code for the service center's last fiscal year of 52468
operation. Each district's share of that excess cost shall be 52469
bound against the tax duplicate of that district. 52470

(B) A final audit of the former service center shall be 52471
performed in accordance with procedures established by the auditor 52472
of state. 52473

(C) The public records of an educational service center that 52474
is dissolved under this section shall be transferred in accordance 52475
with this division. Public records maintained by the service 52476
center in connection with services provided by the service center 52477
to local school districts shall be transferred to each of the 52478
respective local school districts. Public records maintained by 52479
the service center in connection with services provided under an 52480
agreement with a city or exempted village school district pursuant 52481
to section 3313.843 of the Revised Code shall be transferred to 52482
each of the respective city or exempted village school districts. 52483
All other public records maintained by the service center at the 52484
time the service center ceases operations shall be transferred to 52485
the Ohio historical society for analysis and disposition by the 52486
society in its capacity as archives administrator for the state 52487
and its political subdivisions pursuant to division (C) of section 52488
149.30 and section 149.31 of the Revised Code. 52489

Sec. 3311.06. (A) As used in this section:	52490
(1) "Annexation" and "annexed" mean annexation for municipal purposes under sections 709.02 to 709.37 of the Revised Code.	52491 52492
(2) "Annexed territory" means territory that has been annexed for municipal purposes to a city served by an urban school district, but on September 24, 1986, has not been transferred to the urban school district.	52493 52494 52495 52496
(3) "Urban school district" means a city school district with an average daily membership for the 1985-1986 school year in excess of twenty thousand that is the school district of a city that contains annexed territory.	52497 52498 52499 52500
(4) "Annexation agreement" means an agreement entered into under division (F) of this section that has been approved by the state board of education or an agreement entered into prior to September 24, 1986, that meets the requirements of division (F) of this section and has been filed with the state board.	52501 52502 52503 52504 52505
(B) The territory included within the boundaries of a city, local, exempted village, or joint vocational school district shall be contiguous except where a natural island forms an integral part of the district, where the state board of education authorizes a noncontiguous school district, as provided in division (E)(1) of this section, or where a local school district is created pursuant to section 3311.26 of the Revised Code from one or more local school districts, one of which has entered into an agreement under section 3313.42 of the Revised Code.	52506 52507 52508 52509 52510 52511 52512 52513 52514
(C)(1) When all of the territory of a school district is annexed to a city or village, such territory thereby becomes a part of the city school district or the school district of which the village is a part, and the legal title to school property in such territory for school purposes shall be vested in the board of	52515 52516 52517 52518 52519

education of the city school district or the school district of 52520
which the village is a part. 52521

(2) When the territory so annexed to a city or village 52522
comprises part but not all of the territory of a school district, 52523
the said territory becomes part of the city school district or the 52524
school district of which the village is a part only upon approval 52525
by the state board of education, unless the district in which the 52526
territory is located is a party to an annexation agreement with 52527
the city school district. 52528

Any urban school district that has not entered into an 52529
annexation agreement with any other school district whose 52530
territory would be affected by any transfer under this division 52531
and that desires to negotiate the terms of transfer with any such 52532
district shall conduct any negotiations under division (F) of this 52533
section as part of entering into an annexation agreement with such 52534
a district. 52535

Any school district, except an urban school district, 52536
desiring state board approval of a transfer under this division 52537
shall make a good faith effort to negotiate the terms of transfer 52538
with any other school district whose territory would be affected 52539
by the transfer. Before the state board may approve any transfer 52540
of territory to a school district, except an urban school 52541
district, under this section, it must receive the following: 52542

(a) A resolution requesting approval of the transfer, passed 52543
by at least one of the school districts whose territory would be 52544
affected by the transfer; 52545

(b) Evidence determined to be sufficient by the state board 52546
to show that good faith negotiations have taken place or that the 52547
district requesting the transfer has made a good faith effort to 52548
hold such negotiations; 52549

(c) If any negotiations took place, a statement signed by all 52550

boards that participated in the negotiations, listing the terms 52551
agreed on and the points on which no agreement could be reached. 52552

(D) The state board of education shall adopt rules governing 52553
negotiations held by any school district except an urban school 52554
district pursuant to division (C)(2) of this section. The rules 52555
shall encourage the realization of the following goals: 52556

(1) A discussion by the negotiating districts of the present 52557
and future educational needs of the pupils in each district; 52558

(2) The educational, financial, and territorial stability of 52559
each district affected by the transfer; 52560

(3) The assurance of appropriate educational programs, 52561
services, and opportunities for all the pupils in each 52562
participating district, and adequate planning for the facilities 52563
needed to provide these programs, services, and opportunities. 52564

Districts involved in negotiations under such rules may agree 52565
to share revenues from the property included in the territory to 52566
be transferred, establish cooperative programs between the 52567
participating districts, and establish mechanisms for the 52568
settlement of any future boundary disputes. 52569

(E)(1) If territory annexed after September 24, 1986, is part 52570
of a school district that is a party to an annexation agreement 52571
with the urban school district serving the annexing city, the 52572
transfer of such territory shall be governed by the agreement. If 52573
the agreement does not specify how the territory is to be dealt 52574
with, the boards of education of the district in which the 52575
territory is located and the urban school district shall negotiate 52576
with regard to the transfer of the territory which shall be 52577
transferred to the urban school district unless, not later than 52578
ninety days after the effective date of municipal annexation, the 52579
boards of education of both districts, by resolution adopted by a 52580
majority of the members of each board, agree that the territory 52581

will not be transferred and so inform the state board of 52582
education. 52583

If territory is transferred under this division the transfer 52584
shall take effect on the first day of July occurring not sooner 52585
than ninety-one days after the effective date of the municipal 52586
annexation. Territory transferred under this division need not be 52587
contiguous to the district to which it is transferred. 52588

(2) Territory annexed prior to September 24, 1986, by a city 52589
served by an urban school district shall not be subject to 52590
transfer under this section if the district in which the territory 52591
is located is a party to an annexation agreement or becomes a 52592
party to such an agreement not later than ninety days after 52593
September 24, 1986. If the district does not become a party to an 52594
annexation agreement within the ninety-day period, transfer of 52595
territory shall be governed by division (C)(2) of this section. If 52596
the district subsequently becomes a party to an agreement, 52597
territory annexed prior to September 24, 1986, other than 52598
territory annexed under division (C)(2) of this section prior to 52599
the effective date of the agreement, shall not be subject to 52600
transfer under this section. 52601

(F) An urban school district may enter into a comprehensive 52602
agreement with one or more school districts under which transfers 52603
of territory annexed by the city served by the urban school 52604
district after September 24, 1986, shall be governed by the 52605
agreement. Such agreement must provide for the establishment of a 52606
cooperative education program under section 3313.842 of the 52607
Revised Code in which all the parties to the agreement are 52608
participants and must be approved by resolution of the majority of 52609
the members of each of the boards of education of the school 52610
districts that are parties to it. An agreement may provide for 52611
interdistrict payments based on local revenue growth resulting 52612
from development in any territory annexed by the city served by 52613

the urban school district. 52614

An agreement entered into under this division may be altered, 52615
modified, or terminated only by agreement, by resolution approved 52616
by the majority of the members of each board of education, of all 52617
school districts that are parties to the agreement, except that 52618
with regard to any provision that affects only the urban school 52619
district and one of the other districts that is a party, that 52620
district and the urban district may modify or alter the agreement 52621
by resolution approved by the majority of the members of the board 52622
of that district and the urban district. Alterations, 52623
modifications, terminations, and extensions of an agreement 52624
entered into under this division do not require approval of the 52625
state board of education, but shall be filed with the board after 52626
approval and execution by the parties. 52627

If an agreement provides for interdistrict payments, each 52628
party to the agreement, except any school district specifically 52629
exempted by the agreement, shall agree to make an annual payment 52630
to the urban school district with respect to any of its territory 52631
that is annexed territory in an amount not to exceed the amount 52632
certified for that year under former section 3317.029 of the 52633
Revised Code as that section existed prior to July 1, 1998; except 52634
that such limitation of annual payments to amounts certified under 52635
former section 3317.029 of the Revised Code does not apply to 52636
agreements or extensions of agreements entered into on or after 52637
June 1, 1992, unless such limitation is expressly agreed to by the 52638
parties. The agreement may provide that all or any part of the 52639
payment shall be waived if the urban school district receives its 52640
payment with respect to such annexed territory under former 52641
section 3317.029 of the Revised Code and that all or any part of 52642
such payment may be waived if the urban school district does not 52643
receive its payment with respect to such annexed territory under 52644
such section. 52645

With respect to territory that is transferred to the urban school district after September 24, 1986, the agreement may provide for annual payments by the urban school district to the school district whose territory is transferred to the urban school district subsequent to annexation by the city served by the urban school district.

(G) In the event territory is transferred from one school district to another under this section, an equitable division of the funds and indebtedness between the districts involved shall be made under the supervision of the state board of education and that board's decision shall be final. Such division shall not include funds payable to or received by a school district under Chapter ~~3306~~ ~~or~~ 3317. of the Revised Code or payable to or received by a school district from the United States or any department or agency thereof. In the event such transferred territory includes real property owned by a school district, the state board of education, as part of such division of funds and indebtedness, shall determine the true value in money of such real property and all buildings or other improvements thereon. The board of education of the school district receiving such territory shall forthwith pay to the board of education of the school district losing such territory such true value in money of such real property, buildings, and improvements less such percentage of the true value in money of each school building located on such real property as is represented by the ratio of the total enrollment in day classes of the pupils residing in the territory transferred enrolled at such school building in the school year in which such annexation proceedings were commenced to the total enrollment in day classes of all pupils residing in the school district losing such territory enrolled at such school building in such school year. The school district receiving such payment shall place the proceeds thereof in its sinking fund or bond retirement fund.

(H) The state board of education, before approving such 52679
transfer of territory, shall determine that such payment has been 52680
made and shall apportion to the acquiring school district such 52681
percentage of the indebtedness of the school district losing the 52682
territory as is represented by the ratio that the assessed 52683
valuation of the territory transferred bears to the total assessed 52684
valuation of the entire school district losing the territory as of 52685
the effective date of the transfer, provided that in ascertaining 52686
the indebtedness of the school district losing the territory the 52687
state board of education shall disregard such percentage of the 52688
par value of the outstanding and unpaid bonds and notes of said 52689
school district issued for construction or improvement of the 52690
school building or buildings for which payment was made by the 52691
acquiring district as is equal to the percentage by which the true 52692
value in money of such building or buildings was reduced in fixing 52693
the amount of said payment. 52694

(I) No transfer of school district territory or division of 52695
funds and indebtedness incident thereto, pursuant to the 52696
annexation of territory to a city or village shall be completed in 52697
any other manner than that prescribed by this section regardless 52698
of the date of the commencement of such annexation proceedings, 52699
and this section applies to all proceedings for such transfers and 52700
divisions of funds and indebtedness pending or commenced on or 52701
after October 2, 1959. 52702

Sec. 3311.19. (A) The management and control of a joint 52703
vocational school district shall be vested in the joint vocational 52704
school district board of education. Where a joint vocational 52705
school district is composed only of two or more local school 52706
districts located in one county, or when all the participating 52707
districts are in one county and the boards of such participating 52708
districts so choose, the educational service center governing 52709
board of the county in which the joint vocational school district 52710

is located shall serve as the joint vocational school district 52711
board of education. Where a joint vocational school district is 52712
composed of local school districts of more than one county, or of 52713
any combination of city, local, or exempted village school 52714
districts or educational service centers, unless administration by 52715
the educational service center governing board has been chosen by 52716
all the participating districts in one county pursuant to this 52717
section, the board of education of the joint vocational school 52718
district shall be composed of one or more persons who are members 52719
of the boards of education from each of the city or exempted 52720
village school districts or members of the educational service 52721
centers' governing boards affected to be appointed by the boards 52722
of education or governing boards of such school districts and 52723
educational service centers. In such joint vocational school 52724
districts the number and terms of members of the joint vocational 52725
school district board of education and the allocation of a given 52726
number of members to each of the city and exempted village 52727
districts and educational service centers shall be determined in 52728
the plan for such district, provided that each such joint 52729
vocational school district board of education shall be composed of 52730
an odd number of members. 52731

(B) Notwithstanding division (A) of this section, a governing 52732
board of an educational service center that has members of its 52733
governing board serving on a joint vocational school district 52734
board of education may make a request to the joint vocational 52735
district board that the joint vocational school district plan be 52736
revised to provide for one or more members of boards of education 52737
of local school districts that are within the territory of the 52738
educational service district and within the joint vocational 52739
school district to serve in the place of or in addition to its 52740
educational service center governing board members. If agreement 52741
is obtained among a majority of the boards of education and 52742
governing boards that have a member serving on the joint 52743

vocational school district board of education and among a majority 52744
of the local school district boards of education included in the 52745
district and located within the territory of the educational 52746
service center whose board requests the substitution or addition, 52747
the state board of education may revise the joint vocational 52748
school district plan to conform with such agreement. 52749

(C) If the board of education of any school district or 52750
educational service center governing board included within a joint 52751
vocational district that has had its board or governing board 52752
membership revised under division (B) of this section requests the 52753
joint vocational school district board to submit to the state 52754
board of education a revised plan under which one or more joint 52755
vocational board members chosen in accordance with a plan revised 52756
under such division would again be chosen in the manner prescribed 52757
by division (A) of this section, the joint vocational board shall 52758
submit the revised plan to the state board of education, provided 52759
the plan is agreed to by a majority of the boards of education 52760
represented on the joint vocational board, a majority of the local 52761
school district boards included within the joint vocational 52762
district, and each educational service center governing board 52763
affected by such plan. The state board of education may revise the 52764
joint vocational school district plan to conform with the revised 52765
plan. 52766

(D) The vocational schools in such joint vocational school 52767
district shall be available to all youth of school age within the 52768
joint vocational school district subject to the rules adopted by 52769
the joint vocational school district board of education in regard 52770
to the standards requisite to admission. A joint vocational school 52771
district board of education shall have the same powers, duties, 52772
and authority for the management and operation of such joint 52773
vocational school district as is granted by law, except by this 52774
chapter and Chapters 124., ~~3306.~~ 3317., 3323., and 3331. of the 52775

Revised Code, to a board of education of a city school district, 52776
and shall be subject to all the provisions of law that apply to a 52777
city school district, except such provisions in this chapter and 52778
Chapters 124., ~~3306.7~~ 3317., 3323., and 3331. of the Revised Code. 52779

(E) Where a governing board of an educational service center 52780
has been designated to serve as the joint vocational school 52781
district board of education, the educational service center 52782
superintendent shall be the executive officer for the joint 52783
vocational school district, and the governing board may provide 52784
for additional compensation to be paid to the educational service 52785
center superintendent by the joint vocational school district, but 52786
the educational service center superintendent shall have no 52787
continuing tenure other than that of educational service center 52788
superintendent. The superintendent of schools of a joint 52789
vocational school district shall exercise the duties and authority 52790
vested by law in a superintendent of schools pertaining to the 52791
operation of a school district and the employment and supervision 52792
of its personnel. The joint vocational school district board of 52793
education shall appoint a treasurer of the joint vocational school 52794
district who shall be the fiscal officer for such district and who 52795
shall have all the powers, duties, and authority vested by law in 52796
a treasurer of a board of education. Where a governing board of an 52797
educational service center has been designated to serve as the 52798
joint vocational school district board of education, such board 52799
may appoint the educational service center superintendent as the 52800
treasurer of the joint vocational school district. 52801

(F) Each member of a joint vocational school district board 52802
of education may be paid such compensation as the board provides 52803
by resolution, but it shall not exceed one hundred twenty-five 52804
dollars per member for each meeting attended plus mileage, at the 52805
rate per mile provided by resolution of the board, to and from 52806
meetings of the board. 52807

The board may provide by resolution for the deduction of 52808
amounts payable for benefits under section 3313.202 of the Revised 52809
Code. 52810

Each member of a joint vocational school district board may 52811
be paid such compensation as the board provides by resolution for 52812
attendance at an approved training program, provided that such 52813
compensation shall not exceed sixty dollars per day for attendance 52814
at a training program three hours or fewer in length and one 52815
hundred twenty-five dollars a day for attendance at a training 52816
program longer than three hours in length. However, no board 52817
member shall be compensated for the same training program under 52818
this section and section 3313.12 of the Revised Code. 52819

Sec. 3311.21. (A) In addition to the resolutions authorized 52820
by sections 5705.194, 5705.199, 5705.21, 5705.212, and 5705.213 of 52821
the Revised Code, the board of education of a joint vocational or 52822
cooperative education school district by a vote of two-thirds of 52823
its full membership may at any time adopt a resolution declaring 52824
the necessity to levy a tax in excess of the ten-mill limitation 52825
for a period not to exceed ten years to provide funds for any one 52826
or more of the following purposes, which may be stated in the 52827
following manner in such resolution, the ballot, and the notice of 52828
election: purchasing a site or enlargement thereof and for the 52829
erection and equipment of buildings; for the purpose of enlarging, 52830
improving, or rebuilding thereof; for the purpose of providing for 52831
the current expenses of the joint vocational or cooperative school 52832
district; or for a continuing period for the purpose of providing 52833
for the current expenses of the joint vocational or cooperative 52834
education school district. The resolution shall specify the amount 52835
of the proposed rate and, if a renewal, whether the levy is to 52836
renew all, or a portion of, the existing levy, and shall specify 52837
the first year in which the levy will be imposed. If the levy 52838
provides for but is not limited to current expenses, the 52839

resolution shall apportion the annual rate of the levy between 52840
current expenses and the other purpose or purposes. Such 52841
apportionment may but need not be the same for each year of the 52842
levy, but the respective portions of the rate actually levied each 52843
year for current expenses and the other purpose or purposes shall 52844
be limited by such apportionment. The portion of any such rate 52845
actually levied for current expenses of a joint vocational or 52846
cooperative education school district shall be used in applying 52847
~~division (A)(1) of section 3306.01 and~~ division (A) of section 52848
3317.01 of the Revised Code. The portion of any such rate not 52849
apportioned to the current expenses of a joint vocational or 52850
cooperative education school district shall be used in applying 52851
division (B) of this section. On the adoption of such resolution, 52852
the joint vocational or cooperative education school district 52853
board of education shall certify the resolution to the board of 52854
elections of the county containing the most populous portion of 52855
the district, which board shall receive resolutions for filing and 52856
send them to the boards of elections of each county in which 52857
territory of the district is located, furnish all ballots for the 52858
election as provided in section 3505.071 of the Revised Code, and 52859
prepare the election notice; and the board of elections of each 52860
county in which the territory of such district is located shall 52861
make the other necessary arrangements for the submission of the 52862
question to the electors of the joint vocational or cooperative 52863
education school district at the next primary or general election 52864
occurring not less than ninety days after the resolution was 52865
received from the joint vocational or cooperative education school 52866
district board of education, or at a special election to be held 52867
at a time designated by the district board of education consistent 52868
with the requirements of section 3501.01 of the Revised Code, 52869
which date shall not be earlier than ninety days after the 52870
adoption and certification of the resolution. 52871

The board of elections of the county or counties in which 52872

territory of the joint vocational or cooperative education school 52873
district is located shall cause to be published in ~~one or more~~ 52874
~~newspapers~~ a newspaper of general circulation in that district an 52875
advertisement of the proposed tax levy question, together with a 52876
statement of the amount of the proposed levy once a week for two 52877
consecutive weeks or as provided in section 7.16 of the Revised 52878
Code, prior to the election at which the question is to appear on 52879
the ballot, ~~and, if.~~ If the board of elections operates and 52880
maintains a web site, the board also shall post ~~a similar~~ the 52881
advertisement on its web site for thirty days prior to that 52882
election. 52883

If a majority of the electors voting on the question of 52884
levying such tax vote in favor of the levy, the joint vocational 52885
or cooperative education school district board of education shall 52886
annually make the levy within the district at the rate specified 52887
in the resolution and ballot or at any lesser rate, and the county 52888
auditor of each affected county shall annually place the levy on 52889
the tax list and duplicate of each school district in the county 52890
having territory in the joint vocational or cooperative education 52891
school district. The taxes realized from the levy shall be 52892
collected at the same time and in the same manner as other taxes 52893
on the duplicate, and the taxes, when collected, shall be paid to 52894
the treasurer of the joint vocational or cooperative education 52895
school district and deposited to a special fund, which shall be 52896
established by the joint vocational or cooperative education 52897
school district board of education for all revenue derived from 52898
any tax levied pursuant to this section and for the proceeds of 52899
anticipation notes which shall be deposited in such fund. After 52900
the approval of the levy, the joint vocational or cooperative 52901
education school district board of education may anticipate a 52902
fraction of the proceeds of the levy and from time to time, during 52903
the life of the levy, but in any year prior to the time when the 52904
tax collection from the levy so anticipated can be made for that 52905

year, issue anticipation notes in an amount not exceeding fifty 52906
per cent of the estimated proceeds of the levy to be collected in 52907
each year up to a period of five years after the date of the 52908
issuance of the notes, less an amount equal to the proceeds of the 52909
levy obligated for each year by the issuance of anticipation 52910
notes, provided that the total amount maturing in any one year 52911
shall not exceed fifty per cent of the anticipated proceeds of the 52912
levy for that year. Each issue of notes shall be sold as provided 52913
in Chapter 133. of the Revised Code, and shall, except for such 52914
limitation that the total amount of such notes maturing in any one 52915
year shall not exceed fifty per cent of the anticipated proceeds 52916
of the levy for that year, mature serially in substantially equal 52917
installments, during each year over a period not to exceed five 52918
years after their issuance. 52919

(B) Prior to the application of section 319.301 of the 52920
Revised Code, the rate of a levy that is limited to, or to the 52921
extent that it is apportioned to, purposes other than current 52922
expenses shall be reduced in the same proportion in which the 52923
district's total valuation increases during the life of the levy 52924
because of additions to such valuation that have resulted from 52925
improvements added to the tax list and duplicate. 52926

(C) The form of ballot cast at an election under division (A) 52927
of this section shall be as prescribed by section 5705.25 of the 52928
Revised Code. 52929

Sec. 3311.213. (A) With the approval of the board of 52930
education of a joint vocational school district ~~which~~ that is in 52931
existence, any school district in the county or counties 52932
comprising the joint vocational school district or any school 52933
district in a county adjacent to a county comprising part of a 52934
joint vocational school district may become a part of the joint 52935
vocational school district. On the adoption of a resolution of 52936

approval by the board of education of the joint vocational school 52937
district, it shall advertise a copy of such resolution in a 52938
newspaper of general circulation in the school district proposing 52939
to become a part of such joint vocational school district once 52940
each week for ~~at least~~ two weeks, or as provided in section 7.16 52941
of the Revised Code, immediately following the date of the 52942
adoption of such resolution. Such resolution shall not become 52943
effective until the later of the sixty-first day after its 52944
adoption or until the board of elections certifies the results of 52945
an election in favor of joining of the school district to the 52946
joint vocational school district if such an election is held under 52947
division (B) of this section. 52948

(B) During the sixty-day period following the date of the 52949
adoption of a resolution to join a school district to a joint 52950
vocational school district under division (A) of this section, the 52951
electors of the school district that proposes joining the joint 52952
vocational school district may petition for a referendum vote on 52953
the resolution. The question whether to approve or disapprove the 52954
resolution shall be submitted to the electors of such school 52955
district if a number of qualified electors equal to twenty per 52956
cent of the number of electors in the school district who voted 52957
for the office of governor at the most recent general election for 52958
that office sign a petition asking that the question of whether 52959
the resolution shall be disapproved be submitted to the electors. 52960
The petition shall be filed with the board of elections of the 52961
county in which the school district is located. If the school 52962
district is located in more than one county, the petition shall be 52963
filed with the board of elections of the county in which the 52964
majority of the territory of the school district is located. The 52965
board shall certify the validity and sufficiency of the signatures 52966
on the petition. 52967

The board of elections shall immediately notify the board of 52968

education of the joint vocational school district and the board of 52969
education of the school district that proposes joining the joint 52970
vocational school district that the petition has been filed. 52971

The effect of the resolution shall be stayed until the board 52972
of elections certifies the validity and sufficiency of the 52973
signatures on the petition. If the board of elections determines 52974
that the petition does not contain a sufficient number of valid 52975
signatures and sixty days have passed since the adoption of the 52976
resolution, the resolution shall become effective. 52977

If the board of elections certifies that the petition 52978
contains a sufficient number of valid signatures, the board shall 52979
submit the question to the qualified electors of the school 52980
district on the day of the next general or primary election held 52981
at least ninety days after but no later than six months after the 52982
board of elections certifies the validity and sufficiency of 52983
signatures on the petition. If there is no general or primary 52984
election held at least ninety days after but no later than six 52985
months after the board of elections certifies the validity and 52986
sufficiency of signatures on the petition, the board shall submit 52987
the question to the electors at a special election to be held on 52988
the next day specified for special elections in division (D) of 52989
section 3501.01 of the Revised Code that occurs at least ninety 52990
days after the board certifies the validity and sufficiency of 52991
signatures on the petition. The election shall be conducted and 52992
canvassed and the results shall be certified in the same manner as 52993
in regular elections for the election of members of a board of 52994
education. 52995

If a majority of the electors voting on the question 52996
disapprove the resolution, the resolution shall not become 52997
effective. 52998

(C) If the resolution becomes effective, the board of 52999
education of the joint vocational school district shall notify the 53000

county auditor of the county in which the school district becoming 53001
a part of the joint vocational school district is located, who 53002
shall thereupon have any outstanding levy for building purposes, 53003
bond retirement, or current expenses in force in the joint 53004
vocational school district spread over the territory of the school 53005
district becoming a part of the joint vocational school district. 53006
On the addition of a city or exempted village school district or 53007
an educational service center to the joint vocational school 53008
district, pursuant to this section, the board of education of such 53009
joint vocational school district shall submit to the state board 53010
of education a proposal to enlarge the membership of such board by 53011
the addition of one or more persons at least one of whom shall be 53012
a member of the board of education or governing board of such 53013
additional school district or educational service center, and the 53014
term of each such additional member. On the addition of a local 53015
school district to the joint vocational school district, pursuant 53016
to this section, the board of education of such joint vocational 53017
school district may submit to the state board of education a 53018
proposal to enlarge the membership of such board by the addition 53019
of one or more persons who are members of the educational service 53020
center governing board of such additional local school district. 53021
On approval by the state board of education additional members 53022
shall be added to such joint vocational school district board of 53023
education. 53024

Sec. 3311.214. (A) With the approval of the state board of 53025
education, the boards of education of any two or more joint 53026
vocational school districts may, by the adoption of identical 53027
resolutions by a majority of the members of each such board, 53028
propose that one new joint vocational school district be created 53029
by adding together all of the territory of each of the districts 53030
and dissolving such districts. A copy of each resolution shall be 53031
filed with the state board of education for its approval or 53032

disapproval. The resolutions shall include a provision that the 53033
board of education of the new district shall be composed of the 53034
members from the same boards of education that composed the 53035
membership of the board of each of the districts to be dissolved, 53036
except that, if an even number of districts are to be dissolved, 53037
one additional member shall be added, who may be from any school 53038
district included in the territory of any of the districts to be 53039
dissolved as designated in the resolutions. The members of the new 53040
board shall have the same terms of office as they had under the 53041
respective plans of the districts adopting the resolutions, except 53042
that, if the new board has an additional member, ~~he~~ the additional 53043
member shall have a term as specified in the resolutions. 53044

If the state board approves the resolutions, the board of 53045
education of each district to be dissolved shall advertise a copy 53046
of the resolution in a newspaper of general circulation in its 53047
district once each week for ~~at least~~ two weeks, or as provided in 53048
section 7.16 of the Revised Code, immediately following the date 53049
the resolutions are approved by the state board. The resolutions 53050
shall become effective on the first day of July next succeeding 53051
the sixtieth day following approval by the state board unless 53052
prior to the expiration of such sixty-day period, qualified 53053
electors residing in one of the districts to be dissolved equal in 53054
number to a majority of the qualified electors of that district 53055
voting at the last general election file with the state board a 53056
petition of remonstrance against creation of the proposed new 53057
district. 53058

(B) When a resolution becomes effective under division (A) of 53059
this section, each district in which a resolution was adopted and 53060
the board of each such district are dissolved. The territory of 53061
each dissolved district becomes a part of the new joint vocational 53062
school district. The net indebtedness of each dissolved district 53063
shall be assumed in full by the new district and the funds and 53064

property of each dissolved district shall become in full the funds 53065
and property of the new district. All existing contracts of each 53066
dissolved board shall be honored by the board of the new district 53067
until their expiration dates. The board of the new district shall 53068
notify the county auditor of each county in which each dissolved 53069
district was located that a resolution has become effective and a 53070
new district has been created and shall certify to each auditor 53071
any changes that might be required in the tax rate as a result of 53072
the creation of the new district. 53073

(C) As used in this section, "net indebtedness" means the 53074
difference between the par value of the outstanding and unpaid 53075
bonds and notes of the school district and the amount held in the 53076
sinking fund and other indebtedness retirement funds for their 53077
redemption. 53078

Sec. 3311.29. (A) Except as provided under division (B) or 53079
(C) of this section, no school district shall be created and no 53080
school district shall exist which does not maintain within such 53081
district public schools consisting of grades kindergarten through 53082
twelve and any such existing school district not maintaining such 53083
schools shall be dissolved and its territory joined with another 53084
school district or districts by order of the state board of 53085
education if no agreement is made among the surrounding districts 53086
voluntarily, which order shall provide an equitable division of 53087
the funds, property, and indebtedness of the dissolved school 53088
district among the districts receiving its territory. The state 53089
board of education may authorize exceptions to school districts 53090
where topography, sparsity of population, and other factors make 53091
compliance impracticable. 53092

The superintendent of public instruction is without authority 53093
to distribute funds under Chapter ~~3306.~~ 3317. of the Revised 53094
Code to any school district that does not maintain schools with 53095

grades kindergarten through twelve and to which no exception has 53096
been granted by the state board of education. 53097

(B) Division (A) of this section does not apply to any joint 53098
vocational school district or any cooperative education school 53099
district established pursuant to divisions (A) to (C) of section 53100
3311.52 of the Revised Code. 53101

(C)(1)(a) Except as provided in division (C)(3) of this 53102
section, division (A) of this section does not apply to any 53103
cooperative education school district established pursuant to 53104
section 3311.521 of the Revised Code nor to the city, exempted 53105
village, or local school districts that have territory within such 53106
a cooperative education district. 53107

(b) The cooperative district and each city, exempted village, 53108
or local district with territory within the cooperative district 53109
shall maintain the grades that the resolution adopted or amended 53110
pursuant to section 3311.521 of the Revised Code specifies. 53111

(2) Any cooperative education school district described under 53112
division (C)(1) of this section that fails to maintain the grades 53113
it is specified to operate shall be dissolved by order of the 53114
state board of education unless prior to such an order the 53115
cooperative district is dissolved pursuant to section 3311.54 of 53116
the Revised Code. Any such order shall provide for the equitable 53117
adjustment, division, and disposition of the assets, property, 53118
debts, and obligations of the district among each city, local, and 53119
exempted village school district whose territory is in the 53120
cooperative district and shall provide that the tax duplicate of 53121
each city, local, and exempted village school district whose 53122
territory is in the cooperative district shall be bound for and 53123
assume its share of the outstanding indebtedness of the 53124
cooperative district. 53125

(3) If any city, exempted village, or local school district 53126

described under division (C)(1) of this section fails to maintain 53127
the grades it is specified to operate the cooperative district 53128
within which it has territory shall be dissolved in accordance 53129
with division (C)(2) of this section and upon that dissolution any 53130
city, exempted village, or local district failing to maintain 53131
grades kindergarten through twelve shall be subject to the 53132
provisions for dissolution in division (A) of this section. 53133

Sec. 3311.50. (A) As used in this section, "county school 53134
financing district" means a taxing district consisting of the 53135
following territory: 53136

(1) The territory that constitutes the educational service 53137
center on the date that the governing board of that educational 53138
service center adopts a resolution under division (B) of this 53139
section declaring that the territory of the educational service 53140
center is a county school financing district, exclusive of any 53141
territory subsequently withdrawn from the district under division 53142
(D) of this section; 53143

(2) Any territory that has been added to the county school 53144
financing district under this section. 53145

A county school financing district may include the territory 53146
of a city, local, or exempted village school district whose 53147
territory also is included in the territory of one or more other 53148
county school financing districts. 53149

(B) The governing board of any educational service center 53150
may, by resolution, declare that the territory of the educational 53151
service center is a county school financing district. The 53152
resolution shall state the purpose for which the county school 53153
financing district is created which may be for any one or more of 53154
the following purposes: 53155

(1) To levy taxes for the provision of special education by 53156

the school districts that are a part of the district, including 53157
taxes for permanent improvements for special education; 53158

(2) To levy taxes for the provision of specified educational 53159
programs and services by the school districts that are a part of 53160
the district, as identified in the resolution creating the 53161
district, including the levying of taxes for permanent 53162
improvements for those programs and services; 53163

(3) To levy taxes for permanent improvements of school 53164
districts that are a part of the district. 53165

The governing board of the educational service center that 53166
creates a county school financing district shall serve as the 53167
taxing authority of the district and may use educational service 53168
center governing board employees to perform any of the functions 53169
necessary in the performance of its duties as a taxing authority. 53170
A county school financing district shall not employ any personnel. 53171

With the approval of a majority of the members of the board 53172
of education of each school district within the territory of the 53173
county school financing district, the taxing authority of the 53174
financing district may amend the resolution creating the district 53175
to broaden or narrow the purposes for which it was created. 53176

A governing board of an educational service center may create 53177
more than one county school financing district. If a governing 53178
board of an educational service center creates more than one such 53179
district, it shall clearly distinguish among the districts it 53180
creates by including a designation of each district's purpose in 53181
the district's name. 53182

(C) A majority of the members of a board of education of a 53183
city, local, or exempted village school district may adopt a 53184
resolution requesting that its territory be joined with the 53185
territory of any county school financing district. Copies of the 53186
resolution shall be filed with the state board of education and 53187

the taxing authority of the county school financing district. 53188

Within sixty days of its receipt of such a resolution, the county 53189

school financing district's taxing authority shall vote on the 53190

question of whether to accept the school district's territory as 53191

part of the county school financing district. If a majority of the 53192

members of the taxing authority vote to accept the territory, the 53193

school district's territory shall thereupon become a part of the 53194

county school financing district unless the county school 53195

financing district has in effect a tax imposed under section 53196

5705.211 of the Revised Code. If the county school financing 53197

district has such a tax in effect, the taxing authority shall 53198

certify a copy of its resolution accepting the school district's 53199

territory to the school district's board of education, which may 53200

then adopt a resolution, with the affirmative vote of a majority 53201

of its members, proposing the submission to the electors of the 53202

question of whether the district's territory shall become a part 53203

of the county school financing district and subject to the taxes 53204

imposed by the financing district. The resolution shall set forth 53205

the date on which the question shall be submitted to the electors, 53206

which shall be at a special election held on a date specified in 53207

the resolution, which shall not be earlier than ninety days after 53208

the adoption and certification of the resolution. A copy of the 53209

resolution shall immediately be certified to the board of 53210

elections of the proper county, which shall make arrangements for 53211

the submission of the proposal to the electors of the school 53212

district. The board of the joining district shall publish notice 53213

of the election in ~~one or more newspapers~~ a newspaper of general 53214

circulation in the county once a week for two consecutive weeks, 53215

or as provided in section 7.16 of the Revised Code, prior to the 53216

election. Additionally, if the board of elections operates and 53217

maintains a web site, the board of elections shall post notice of 53218

the election on its web site for thirty days prior to the 53219

election. The question appearing on the ballot shall read: 53220

"Shall the territory within (name of the school district proposing to join the county school financing district) be added to (name) county school financing district, and a property tax for the purposes of (here insert purposes) at a rate of taxation not exceeding (here insert the outstanding tax rate) be in effect for (here insert the number of years the tax is to be in effect or "a continuing period of time," as applicable)?"

If the proposal is approved by a majority of the electors voting on it, the joinder shall take effect on the first day of July following the date of the election, and the county board of elections shall notify the county auditor of each county in which the school district joining its territory to the county school financing district is located.

(D) The board of any city, local, or exempted village school district whose territory is part of a county school financing district may withdraw its territory from the county school financing district thirty days after submitting to the governing board that is the taxing authority of the district and the state board a resolution proclaiming such withdrawal, adopted by a majority vote of its members, but any county school financing district tax levied in such territory on the effective date of the withdrawal shall remain in effect in such territory until such tax expires or is renewed. No board may adopt a resolution withdrawing from a county school financing district that would take effect during the forty-five days preceding the date of an election at which a levy proposed under section 5705.215 of the Revised Code is to be voted upon.

(E) A city, local, or exempted village school district does not lose its separate identity or legal existence by reason of joining its territory to a county school financing district under

this section and an educational service center does not lose its 53253
separate identity or legal existence by reason of creating a 53254
county school financing district that accepts or loses territory 53255
under this section. 53256

Sec. 3311.52. A cooperative education school district may be 53257
established pursuant to divisions (A) to (C) of this section or 53258
pursuant to section 3311.521 of the Revised Code. 53259

(A) A cooperative education school district may be 53260
established upon the adoption of identical resolutions within a 53261
sixty-day period by a majority of the members of the board of 53262
education of each city, local, and exempted village school 53263
district that is within the territory of a county school financing 53264
district. 53265

A copy of each resolution shall be filed with the governing 53266
board of the educational service center which created the county 53267
school financing district. Upon the filing of the last such 53268
resolution, the educational service center governing board shall 53269
immediately notify each board of education filing such a 53270
resolution of the date on which the last resolution was filed. 53271

Ten days after the date on which the last resolution is filed 53272
with the educational service center governing board or ten days 53273
after the last of any notices required under division (C) of this 53274
section is received by the educational service center governing 53275
board, whichever is later, the county school financing district 53276
shall be dissolved and the new cooperative education school 53277
district and the board of education of the cooperative education 53278
school district shall be established. 53279

On the date that any county school financing district is 53280
dissolved and a cooperative education school district is 53281
established under this section, each of the following shall apply: 53282

(1) The territory of the dissolved district becomes the territory of the new district. 53283
53284

(2) Any outstanding tax levy in force in the dissolved district shall be spread over the territory of the new district and shall remain in force in the new district until the levy expires or is renewed. 53285
53286
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(3) Any funds of the dissolved district shall be paid over in full to the new district. 53289
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(4) Any net indebtedness of the dissolved district shall be assumed in full by the new district. As used in division (A)(4) of this section, "net indebtedness" means the difference between the par value of the outstanding and unpaid bonds and notes of the dissolved district and the amount held in the sinking fund and other indebtedness retirement funds for their redemption. 53291
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When a county school financing district is dissolved and a cooperative education school district is established under this section, the governing board of the educational service center that created the dissolved district shall give written notice of this fact to the county auditor and the board of elections of each county having any territory in the new district. 53297
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(B) The resolutions adopted under division (A) of this section shall include all of the following provisions: 53303
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(1) Provision that the governing board of the educational service center which created the county school financing district shall be the board of education of the cooperative education school district, except that provision may be made for the composition, selection, and terms of office of an alternative board of education of the cooperative district, which board shall include at least one member selected from or by the members of the board of education of each city, local, and exempted village school district and at least one member selected from or by the 53305
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members of the educational service center governing board within 53314
the territory of the cooperative district; 53315

(2) Provision that the treasurer and superintendent of the 53316
educational service center which created the county school 53317
financing district shall be the treasurer and superintendent of 53318
the cooperative education school district, except that provision 53319
may be made for the selection of a treasurer or superintendent of 53320
the cooperative district other than the treasurer or 53321
superintendent of the educational service center, which provision 53322
shall require one of the following: 53323

(a) The selection of one person as both the treasurer and 53324
superintendent of the cooperative district, which provision may 53325
require such person to be the treasurer or superintendent of any 53326
city, local, or exempted village school district or educational 53327
service center within the territory of the cooperative district; 53328

(b) The selection of one person as the treasurer and another 53329
person as the superintendent of the cooperative district, which 53330
provision may require either one or both such persons to be 53331
treasurers or superintendents of any city, local, or exempted 53332
village school districts or educational service center within the 53333
territory of the cooperative district. 53334

(3) A statement of the educational program the board of 53335
education of the cooperative education school district will 53336
conduct, including but not necessarily limited to the type of 53337
educational program, the grade levels proposed for inclusion in 53338
the program, the timetable for commencing operation of the 53339
program, and the facilities proposed to be used or constructed to 53340
be used by the program; 53341

(4) A statement of the annual amount, or the method for 53342
determining that amount, of funds or services or facilities that 53343
each city, local, and exempted village school district within the 53344

territory of the cooperative district is required to pay to or 53345
provide for the use of the board of education of the cooperative 53346
education school district; 53347

(5) Provision for adopting amendments to the provisions of 53348
divisions (B)(2) to (4) of this section. 53349

(C) If the resolutions adopted under division (A) of this 53350
section provide for a board of education of the cooperative 53351
education school district that is not the governing board of the 53352
educational service center that created the county school 53353
financing district, each board of education of each city, local, 53354
or exempted village school district and the governing board of the 53355
educational service center within the territory of the cooperative 53356
district shall, within thirty days after the date on which the 53357
last resolution is filed with the educational service center 53358
governing board under division (A) of this section, select one or 53359
more members of the board of education of the cooperative district 53360
as provided in the resolutions filed with the educational service 53361
center governing board. Each such board shall immediately notify 53362
the educational service center governing board of each such 53363
selection. 53364

(D) Except for the powers and duties in this chapter and 53365
Chapters 124., ~~3306.7~~ 3317., 3318., 3323., and 3331. of the 53366
Revised Code, a cooperative education school district established 53367
pursuant to divisions (A) to (C) of this section or pursuant to 53368
section 3311.521 of the Revised Code has all the powers of a city 53369
school district and its board of education has all the powers and 53370
duties of a board of education of a city school district with 53371
respect to the educational program specified in the resolutions 53372
adopted under division (A) of this section. All laws applicable to 53373
a city school district or the board of education or the members of 53374
the board of education of a city school district, except such laws 53375
in this chapter and Chapters 124., ~~3306.7~~ 3317., 3318., 3323., and 53376

3331. of the Revised Code, are applicable to a cooperative 53377
education school district and its board. 53378

The treasurer and superintendent of a cooperative education 53379
school district shall have the same respective duties and powers 53380
as a treasurer and superintendent of a city school district, 53381
except for any powers and duties in this chapter and Chapters 53382
124., ~~3306.~~, 3317., 3318., 3323., and 3331. of the Revised Code. 53383

(E) For purposes of this title, any student included in the 53384
formula ADM certified for any city, exempted village, or local 53385
school district under section 3317.03 of the Revised Code by 53386
virtue of being counted, in whole or in part, in the average daily 53387
membership of a cooperative education school district under 53388
division (A)(2)(f) of that section shall be construed to be 53389
enrolled both in that city, exempted village, or local school 53390
district and in that cooperative education school district. This 53391
division shall not be construed to mean that any such individual 53392
student may be counted more than once for purposes of determining 53393
the average daily membership of any one school district. 53394

Sec. 3311.53. (A)(1) The board of education of any city, 53395
local, or exempted village school district that wishes to become 53396
part of a cooperative education school district established 53397
pursuant to divisions (A) to (C) of section 3311.52 of the Revised 53398
Code may adopt a resolution proposing to become a part of the 53399
cooperative education school district. 53400

(2) The board of education of any city, local, or exempted 53401
village school district that is contiguous to a cooperative 53402
education school district established pursuant to section 3311.521 53403
of the Revised Code and that wishes to become part of that 53404
cooperative district may adopt a resolution proposing to become 53405
part of that cooperative district. 53406

(B) If, after the adoption of a resolution in accordance with 53407

division (A) of this section, the board of education of the 53408
cooperative education school district named in that resolution 53409
also adopts a resolution accepting the new district, the board of 53410
the district wishing to become part of the cooperative district 53411
shall advertise a copy of the cooperative district board's 53412
resolution in a newspaper of general circulation in the school 53413
district proposing to become a part of the cooperative education 53414
school district once each week for ~~at least~~ two weeks, or as 53415
provided in section 7.16 of the Revised Code, immediately 53416
following the date of the adoption of the resolution. The 53417
resolution shall become legally effective on the sixtieth day 53418
after its adoption, unless prior to the expiration of that 53419
sixty-day period qualified electors residing in the school 53420
district proposed to become a part of the cooperative education 53421
school district equal in number to a majority of the qualified 53422
electors voting at the last general election file with the board 53423
of education a petition of remonstrance against the transfer. If 53424
the resolution becomes legally effective, both of the following 53425
shall apply: 53426

(1) The resolution that established the cooperative education 53427
school district pursuant to divisions (A) to (C) of section 53428
3311.52 or section 3311.521 of the Revised Code shall be amended 53429
to reflect the addition of the new district to the cooperative 53430
district. 53431

(2) The board of education of the cooperative education 53432
school district shall give written notice of this fact to the 53433
county auditor and the board of elections of each county in which 53434
the school district becoming a part of the cooperative education 53435
school district has territory. Any such county auditor shall 53436
thereupon have any outstanding levy for building purposes, bond 53437
retirement, or current expenses in force in the cooperative 53438
education school district spread over the territory of the school 53439

district becoming a part of the cooperative education school 53440
district. 53441

(C) If the board of education of the cooperative education 53442
school district is not the governing board of an educational 53443
service center, the board of education of the cooperative 53444
education school district shall, on the addition of a city, local, 53445
or exempted village school district to the district pursuant to 53446
this section, submit to the state board of education a proposal to 53447
enlarge the membership of the board. In the case of a cooperative 53448
district established pursuant to divisions (A) to (C) of section 53449
3311.52 of the Revised Code, the proposal shall add one or more 53450
persons to the district's board, at least one of whom shall be a 53451
member of or selected by the board of education of the additional 53452
school district, and shall specify the term of each such 53453
additional member. In the case of a cooperative district 53454
established pursuant to section 3311.521 of the Revised Code, the 53455
proposal shall add two or more persons to the district's board, at 53456
least two of whom shall be a member of or selected by the board of 53457
education of the additional school district, and shall specify the 53458
term of each such additional member. On approval by the state 53459
board of education, the additional members shall be added to the 53460
cooperative education school district board of education. 53461

Sec. 3311.73. (A) No later than ninety days before the 53462
general election held in the first even-numbered year occurring at 53463
least four years after the date it assumed control of the 53464
municipal school district pursuant to division (B) of section 53465
3311.71 of the Revised Code, the board of education appointed 53466
under that division shall notify the board of elections of each 53467
county containing territory of the municipal school district of 53468
the referendum election required by division (B) of this section. 53469

(B) At the general election held in the first even-numbered 53470

year occurring at least four years after the date the new board 53471
assumed control of a municipal school district pursuant to 53472
division (B) of section 3311.71 of the Revised Code, the following 53473
question shall be submitted to the electors residing in the school 53474
district: 53475

"Shall the mayor of (here insert the name of the 53476
applicable municipal corporation) continue to appoint the members 53477
of the board of education of the (here insert the name of 53478
the municipal school district)?" 53479

The board of elections of the county in which the majority of 53480
the school district's territory is located shall make all 53481
necessary arrangements for the submission of the question to the 53482
electors, and the election shall be conducted, canvassed, and 53483
certified in the same manner as regular elections in the district 53484
for the election of county officers, provided that in any such 53485
election in which only part of the electors of a precinct are 53486
qualified to vote, the board of elections may assign voters in 53487
such part to an adjoining precinct. Such an assignment may be made 53488
to an adjoining precinct in another county with the consent and 53489
approval of the board of elections of such other county. Notice of 53490
the election shall be published in a newspaper of general 53491
circulation in the school district once a week for two consecutive 53492
weeks, or as provided in section 7.16 of the Revised Code, prior 53493
to the election, ~~and, if~~. If the board of elections operates and 53494
maintains a web site, the board of elections shall post notice of 53495
the election on its web site for thirty days prior to the 53496
election. The notice shall state the question on which the 53497
election is being held. The ballot shall be in the form prescribed 53498
by the secretary of state. Costs of submitting the question to the 53499
electors shall be charged to the municipal school district in 53500
accordance with section 3501.17 of the Revised Code. 53501

(C) If a majority of electors voting on the issue proposed in 53502

division (B) of this section approve the question, the mayor shall 53503
appoint a new board on the immediately following first day of July 53504
pursuant to division (F) of section 3311.71 of the Revised Code. 53505

(D) If a majority of electors voting on the issue proposed in 53506
division (B) of this section disapprove the question, a new 53507
seven-member board of education shall be elected at the next 53508
regular election occurring in November of an odd-numbered year. At 53509
such election, four members shall be elected for terms of four 53510
years and three members shall be elected for terms of two years. 53511
Thereafter, their successors shall be elected in the same manner 53512
and for the same terms as members of boards of education of a city 53513
school district. All members of the board of education of a 53514
municipal school district appointed pursuant to division (B) of 53515
section 3311.71 of the Revised Code shall continue to serve after 53516
the end of the terms to which they were appointed until their 53517
successors are qualified and assume office in accordance with 53518
section 3313.09 of the Revised Code. 53519

Sec. 3311.76. (A) Notwithstanding Chapters 3302., ~~3306.~~ and 53520
3317. of the Revised Code, upon written request of the district 53521
chief executive officer the state superintendent of public 53522
instruction may exempt a municipal school district from any rules 53523
adopted under Title XXXIII of the Revised Code except for any rule 53524
adopted under Chapter 3307. or 3309., sections 3319.07 to 3319.21, 53525
or Chapter 3323. of the Revised Code, and may authorize a 53526
municipal school district to apply funds allocated to the district 53527
under ~~Chapters 3306. and Chapter~~ 3317. of the Revised Code, except 53528
those specifically allocated to purposes other than current 53529
expenses, to the payment of debt charges on the district's public 53530
obligations. The request must specify the provisions from which 53531
the district is seeking exemption or the application requested and 53532
the reasons for the request. The state superintendent shall 53533
approve the request if the superintendent finds the requested 53534

exemption or application is in the best interest of the district's 53535
students. The superintendent shall approve or disapprove the 53536
request within thirty days and shall notify the district board and 53537
the district chief executive officer of approval or reasons for 53538
disapproving the request. 53539

(B) In addition to the rights, authority, and duties 53540
conferred upon a municipal school district and its board of 53541
education in sections 3311.71 to 3311.76 of the Revised Code, a 53542
municipal school district and its board shall have all of the 53543
rights, authority, and duties conferred upon a city school 53544
district and its board by law that are not inconsistent with 53545
sections 3311.71 to 3311.76 of the Revised Code. 53546

Sec. 3313.29. The treasurer of each board of education shall 53547
keep an account of all school funds of the district. The treasurer 53548
shall receive all vouchers for payments and disbursements made to 53549
and by the board and preserve such vouchers for a period of ten 53550
years unless copied or reproduced according to the procedure 53551
prescribed in section 9.01 of the Revised Code. Thereafter, such 53552
vouchers may be destroyed by the treasurer upon applying to and 53553
obtaining an order from the school district records commission in 53554
the manner prescribed by section 149.41 of the Revised Code, 53555
except that it shall not be necessary to copy or reproduce such 53556
vouchers before their destruction. The treasurer shall render a 53557
statement to the board and to the superintendent of the school 53558
district, monthly, or more often if required, showing the revenues 53559
and receipts from whatever sources derived, the various 53560
appropriations made by the board, the expenditures and 53561
disbursements therefrom, the purposes thereof, the balances 53562
remaining in each appropriation, and the assets and liabilities of 53563
the school district. At the end of the fiscal year such statement 53564
shall be a complete exhibit of the financial affairs of the school 53565
district which may be published and distributed with the approval 53566

of the board. All monthly and yearly statements as required in 53567
this section shall be available for examination by the public. 53568

On request of the principal or other chief administrator of 53569
any nonpublic school located within the school district's 53570
territory, the treasurer shall provide such principal or 53571
administrator with an account of the moneys received by the 53572
district under division ~~(I)~~(E) of section 3317.024 of the Revised 53573
Code as reported to the district's board in the treasurer's most 53574
recent monthly statement. 53575

Sec. 3313.372. (A) As used in this section, "energy 53576
conservation measure" means an installation or modification of an 53577
installation in, or remodeling of, a building, to reduce energy 53578
consumption. It includes: 53579

(1) Insulation of the building structure and systems within 53580
the building; 53581

(2) Storm windows and doors, multiglazed windows and doors, 53582
heat absorbing or heat reflective glazed and coated window and 53583
door systems, additional glazing, reductions in glass area, and 53584
other window and door system modifications that reduce energy 53585
consumption; 53586

(3) Automatic energy control systems; 53587

(4) Heating, ventilating, or air conditioning system 53588
modifications or replacements; 53589

(5) Caulking and weatherstripping; 53590

(6) Replacement or modification of lighting fixtures to 53591
increase the energy efficiency of the system without increasing 53592
the overall illumination of a facility, unless such increase in 53593
illumination is necessary to conform to the applicable state or 53594
local building code for the proposed lighting system; 53595

(7) Energy recovery systems; 53596

(8) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings; 53597
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(9) Any other modification, installation, or remodeling approved by the Ohio school facilities commission as an energy conservation measure. 53600
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(B) A board of education of a city, exempted village, local, or joint vocational school district may enter into an installment payment contract for the purchase and installation of energy conservation measures. The provisions of such installment payment contracts dealing with interest charges and financing terms shall not be subject to the competitive bidding requirements of section 3313.46 of the Revised Code, and shall be on the following terms: 53603
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(1) Not less than one-fifteenth of the costs thereof shall be paid within two years from the date of purchase. 53610
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(2) The remaining balance of the costs thereof shall be paid within fifteen years from the date of purchase. 53612
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An installment payment contract entered into by a board of education under this section shall require the board to contract in accordance with division (A) of section 3313.46 of the Revised Code for the installation, modification, or remodeling of energy conservation measures unless division (A) of section 3313.46 of the Revised Code does not apply pursuant to division (B)(3) of that section. 53614
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(C) The board may issue the notes of the school district signed by the president and the treasurer of the board and specifying the terms of the purchase and securing the deferred payments provided in this section, payable at the times provided and bearing interest at a rate not exceeding the rate determined as provided in section 9.95 of the Revised Code. The notes may contain an option for prepayment and shall not be subject to 53621
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Chapter 133. of the Revised Code. In the resolution authorizing 53628
the notes, the board may provide, without the vote of the electors 53629
of the district, for annually levying and collecting taxes in 53630
amounts sufficient to pay the interest on and retire the notes, 53631
except that the total net indebtedness of the district without a 53632
vote of the electors incurred under this and all other sections of 53633
the Revised Code, except section 3318.052 of the Revised Code, 53634
shall not exceed one per cent of the district's tax valuation. 53635
Revenues derived from local taxes or otherwise, for the purpose of 53636
conserving energy or for defraying the current operating expenses 53637
of the district, may be applied to the payment of interest and the 53638
retirement of such notes. The notes may be sold at private sale or 53639
given to the contractor under the installment payment contract 53640
authorized by division (B) of this section. 53641

(D) Debt incurred under this section shall not be included in 53642
the calculation of the net indebtedness of a school district under 53643
section 133.06 of the Revised Code. 53644

(E) No school district board shall enter into an installment 53645
payment contract under division (B) of this section unless it 53646
first obtains a report of the costs of the energy conservation 53647
measures and the savings thereof as described under division (G) 53648
of section 133.06 of the Revised Code as a requirement for issuing 53649
energy securities, makes a finding that the amount spent on such 53650
measures is not likely to exceed the amount of money it would save 53651
in energy costs and resultant operational and maintenance costs as 53652
described in that division, except that that finding shall cover 53653
the ensuing fifteen years, and the Ohio school facilities 53654
commission determines that the district board's findings are 53655
reasonable and approves the contract as described in that 53656
division. 53657

The district board shall monitor the savings and maintain a 53658
report of those savings, which shall be ~~available~~ submitted to the 53659

commission in the same manner as required by division (G) of 53660
section 133.06 of the Revised Code in the case of energy 53661
securities. 53662

Sec. 3313.41. (A) Except as provided in divisions (C), (D), 53663
(F), and (G) of this section, when a board of education decides to 53664
dispose of real or personal property that it owns in its corporate 53665
capacity and that exceeds in value ten thousand dollars, it shall 53666
sell the property at public auction, after giving at least thirty 53667
days' notice of the auction by publication in a newspaper of 53668
general circulation in the school district, by publication as 53669
provided in section 7.16 of the Revised Code, or by posting 53670
notices in five of the most public places in the school district 53671
in which the property, if it is real property, is situated, or, if 53672
it is personal property, in the school district of the board of 53673
education that owns the property. The board may offer real 53674
property for sale as an entire tract or in parcels. 53675

(B) When the board of education has offered real or personal 53676
property for sale at public auction at least once pursuant to 53677
division (A) of this section, and the property has not been sold, 53678
the board may sell it at a private sale. Regardless of how it was 53679
offered at public auction, at a private sale, the board shall, as 53680
it considers best, sell real property as an entire tract or in 53681
parcels, and personal property in a single lot or in several lots. 53682

(C) If a board of education decides to dispose of real or 53683
personal property that it owns in its corporate capacity and that 53684
exceeds in value ten thousand dollars, it may sell the property to 53685
the adjutant general; to any subdivision or taxing authority as 53686
respectively defined in divisions (A) and (C) of section 5705.01 53687
of the Revised Code, township park district, board of park 53688
commissioners established under Chapter 755. of the Revised Code, 53689
or park district established under Chapter 1545. of the Revised 53690

Code; to a wholly or partially tax-supported university, 53691
university branch, or college; or to the board of trustees of a 53692
school district library, upon such terms as are agreed upon. The 53693
sale of real or personal property to the board of trustees of a 53694
school district library is limited, in the case of real property, 53695
to a school district library within whose boundaries the real 53696
property is situated, or, in the case of personal property, to a 53697
school district library whose boundaries lie in whole or in part 53698
within the school district of the selling board of education. 53699

(D) When a board of education decides to trade as a part or 53700
an entire consideration, an item of personal property on the 53701
purchase price of an item of similar personal property, it may 53702
trade the same upon such terms as are agreed upon by the parties 53703
to the trade. 53704

(E) The president and the treasurer of the board of education 53705
shall execute and deliver deeds or other necessary instruments of 53706
conveyance to complete any sale or trade under this section. 53707

(F) When a board of education has identified a parcel of real 53708
property that it determines is needed for school purposes, the 53709
board may, upon a majority vote of the members of the board, 53710
acquire that property by exchanging real property that the board 53711
owns in its corporate capacity for the identified real property or 53712
by using real property that the board owns in its corporate 53713
capacity as part or an entire consideration for the purchase price 53714
of the identified real property. Any exchange or acquisition made 53715
pursuant to this division shall be made by a conveyance executed 53716
by the president and the treasurer of the board. 53717

(G)~~(1)~~ When a school district board of education decides to 53718
dispose of real property suitable for use as classroom space, 53719
prior to disposing of that property under divisions (A) to (F) of 53720
this section, it shall first offer that property for sale to the 53721
governing authorities of the start-up community schools 53722

established under Chapter 3314. of the Revised Code located within 53723
the territory of the school district, at a price that is not 53724
higher than the appraised fair market value of that property. If 53725
more than one community school governing authority accepts the 53726
offer made by the school district board, the board shall sell the 53727
property to the governing authority that accepted the offer first 53728
in time. If no community school governing authority accepts the 53729
offer within sixty days after the offer is made by the school 53730
district board, the board may dispose of the property in the 53731
applicable manner prescribed under divisions (A) to (F) of this 53732
section. 53733

~~(2) When a school district board of education has not used 53734
real property suitable for classroom space for academic 53735
instruction, administration, storage, or any other educational 53736
purpose for one full school year and has not adopted a resolution 53737
outlining a plan for using that property for any of those purposes 53738
within the next three school years, it shall offer that property 53739
for sale to the governing authorities of the start up community 53740
schools established under Chapter 3314. of the Revised Code 53741
located within the territory of the school district, at a price 53742
that is not higher than the appraised fair market value of that 53743
property. If more than one community school governing authority 53744
accepts the offer made by the school district board, the board 53745
shall sell the property to the governing authority that accepted 53746
the offer first in time. 53747~~

(H) When a school district board of education has property 53748
that the board, by resolution, finds is not needed for school 53749
district use, is obsolete, or is unfit for the use for which it 53750
was acquired, the board may donate that property in accordance 53751
with this division if the fair market value of the property is, in 53752
the opinion of the board, two thousand five hundred dollars or 53753
less. 53754

The property may be donated to an eligible nonprofit organization that is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating any property under this division, the board shall adopt a resolution expressing its intent to make unneeded, obsolete, or unfit-for-use school district property available to these organizations. The resolution shall include guidelines and procedures the board considers to be necessary to implement the donation program and shall indicate whether the school district will conduct the donation program or the board will contract with a representative to conduct it. If a representative is known when the resolution is adopted, the resolution shall provide contact information such as the representative's name, address, and telephone number.

The resolution shall include within its procedures a requirement that any nonprofit organization desiring to obtain donated property under this division shall submit a written notice to the board or its representative. The written notice shall include evidence that the organization is a nonprofit organization that is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of the organization's primary purpose; a description of the type or types of property the organization needs; and the name, address, and telephone number of a person designated by the organization's governing board to receive donated property and to serve as its agent.

After adoption of the resolution, the board shall publish, in a newspaper of general circulation in the school district or as provided in section 7.16 of the Revised Code, notice of its intent to donate unneeded, obsolete, or unfit-for-use school district property to eligible nonprofit organizations. The notice shall include a summary of the information provided in the resolution

and shall be published ~~at least~~ twice. The second ~~and any~~ 53787
~~subsequent~~ notice shall be published not less than ten nor more 53788
than twenty days after the previous notice. A similar notice also 53789
shall be posted continually in the board's office, ~~and, if.~~ If the 53790
school district maintains a web site on the internet, the notice 53791
shall be posted continually at that web site. 53792

The board or its representatives shall maintain a list of all 53793
nonprofit organizations that notify the board or its 53794
representative of their desire to obtain donated property under 53795
this division and that the board or its representative determines 53796
to be eligible, in accordance with the requirements set forth in 53797
this section and in the donation program's guidelines and 53798
procedures, to receive donated property. 53799

The board or its representative also shall maintain a list of 53800
all school district property the board finds to be unneeded, 53801
obsolete, or unfit for use and to be available for donation under 53802
this division. The list shall be posted continually in a 53803
conspicuous location in the board's office, and, if the school 53804
district maintains a web site on the internet, the list shall be 53805
posted continually at that web site. An item of property on the 53806
list shall be donated to the eligible nonprofit organization that 53807
first declares to the board or its representative its desire to 53808
obtain the item unless the board previously has established, by 53809
resolution, a list of eligible nonprofit organizations that shall 53810
be given priority with respect to the item's donation. Priority 53811
may be given on the basis that the purposes of a nonprofit 53812
organization have a direct relationship to specific school 53813
district purposes of programs provided or administered by the 53814
board. A resolution giving priority to certain nonprofit 53815
organizations with respect to the donation of an item of property 53816
shall specify the reasons why the organizations are given that 53817
priority. 53818

Members of the board shall consult with the Ohio ethics 53819
commission, and comply with Chapters 102. and 2921. of the Revised 53820
Code, with respect to any donation under this division to a 53821
nonprofit organization of which a board member, any member of a 53822
board member's family, or any business associate of a board member 53823
is a trustee, officer, board member, or employee. 53824

Sec. 3313.411. (A) As used in this section, "unused school 53825
facilities" means any real property that has been used by a school 53826
district for school operations, including, but not limited to, 53827
academic instruction or administration, since July 1, 1998, but 53828
has not been used in that capacity for two years. 53829

(B) On and after the effective date of this section, any 53830
school district board of education shall offer any unused school 53831
facilities it owns in its corporate capacity for lease to the 53832
governing authorities of community schools established under 53833
Chapter 3314. of the Revised Code that are located within the 53834
territory of the school district. If more than one community 53835
school governing authority accepts the offer to lease that 53836
property, the district board shall lease the property to the 53837
governing authority of the community school with the highest 53838
ranking according to performance index score, as defined in 53839
section 3302.01 of the Revised Code. 53840

The price offered by the district board shall be as follows: 53841

(1) For community schools ranked in the top fifty per cent of 53842
all school district buildings, community schools, and STEM schools 53843
statewide, one dollar; 53844

(2) For all other community schools, an amount not higher 53845
than the fair market value of the leasehold in the neighborhood 53846
and community. 53847

If no community school governing authority accepts the offer 53848

to lease the property within sixty days after the offer is made, 53849
the district board may offer the property for lease to any other 53850
entity. 53851

(C) Notwithstanding division (B) of this section, a school 53852
district board may renew any agreement it originally entered into 53853
prior to the effective date of this section to lease real property 53854
to an entity other than a community school. Nothing in this 53855
section shall affect the leasehold arrangements between the 53856
district board and that other entity. 53857

Sec. 3313.46. (A) In addition to any other law governing the 53858
bidding for contracts by the board of education of any school 53859
district, when any such board determines to build, repair, 53860
enlarge, improve, or demolish any school building, the cost of 53861
which will exceed twenty-five thousand dollars, except in cases of 53862
urgent necessity, or for the security and protection of school 53863
property, and except as otherwise provided in division (D) of 53864
section 713.23 and in section 125.04 of the Revised Code, all of 53865
the following shall apply: 53866

(1) The board shall cause to be prepared the plans, 53867
specifications, and related information as required in divisions 53868
(A), ~~(B)~~ (1), (2), and ~~(D)~~ (3) of section 153.01 of the Revised Code 53869
unless the board determines that other information is sufficient 53870
to inform any bidders of the board's requirements. However, if the 53871
board determines that such other information is sufficient for 53872
bidding a project, the board shall not engage in the construction 53873
of any such project involving the practice of professional 53874
engineering, professional surveying, or architecture, for which 53875
plans, specifications, and estimates have not been made by, and 53876
the construction thereof inspected by, a licensed professional 53877
engineer, licensed professional surveyor, or registered architect. 53878

(2) The board shall advertise for bids once each week for a 53879
period of not less than two consecutive weeks, or as provided in 53880
section 7.16 of the Revised Code, in a newspaper of general 53881
circulation in the district before the date specified by the board 53882
for receiving bids. The board may also cause notice to be inserted 53883
in trade papers or other publications designated by it or to be 53884
distributed by electronic means, including posting the notice on 53885
the board's internet web site. If the board posts the notice on 53886
its web site, it may eliminate the second notice otherwise 53887
required to be published in a newspaper of general circulation 53888
within the school district, provided that the first notice 53889
published in such newspaper meets all of the following 53890
requirements: 53891

(a) It is published at least two weeks before the opening of 53892
bids. 53893

(b) It includes a statement that the notice is posted on the 53894
board of education's internet web site. 53895

(c) It includes the internet address of the board's internet 53896
web site. 53897

(d) It includes instructions describing how the notice may be 53898
accessed on the board's internet web site. 53899

(3) Unless the board extends the time for the opening of bids 53900
they shall be opened at the time and place specified by the board 53901
in the advertisement for the bids. 53902

(4) Each bid shall contain the name of every person 53903
interested therein. Each bid shall meet the requirements of 53904
section 153.54 of the Revised Code. 53905

(5) When both labor and materials are embraced in the work 53906
bid for, the board may require that each be separately stated in 53907
the bid, with the price thereof, or may require that bids be 53908
submitted without such separation. 53909

(6) None but the lowest responsible bid shall be accepted. 53910
The board may reject all the bids, or accept any bid for both 53911
labor and material for such improvement or repair, which is the 53912
lowest in the aggregate. In all other respects, the award of 53913
contracts for improvement or repair, but not for purchases made 53914
under section 3327.08 of the Revised Code, shall be pursuant to 53915
section 153.12 of the Revised Code. 53916

(7) The contract shall be between the board and the bidders. 53917
The board shall pay the contract price for the work pursuant to 53918
sections 153.13 and 153.14 of the Revised Code. The board shall 53919
approve and retain the estimates referred to in section 153.13 of 53920
the Revised Code and make them available to the auditor of state 53921
upon request. 53922

(8) When two or more bids are equal, in the whole, or in any 53923
part thereof, and are lower than any others, either may be 53924
accepted, but in no case shall the work be divided between such 53925
bidders. 53926

(9) When there is reason to believe there is collusion or 53927
combination among the bidders, or any number of them, the bids of 53928
those concerned therein shall be rejected. 53929

(B) Division (A) of this section does not apply to the board 53930
of education of any school district in any of the following 53931
situations: 53932

(1) The acquisition of educational materials used in 53933
teaching. 53934

(2) If the board determines and declares by resolution 53935
adopted by two-thirds of all its members that any item is 53936
available and can be acquired only from a single source. 53937

(3) If the board declares by resolution adopted by two-thirds 53938
of all its members that division (A) of this section does not 53939
apply to any installation, modification, or remodeling involved in 53940

any energy conservation measure undertaken through an installment 53941
payment contract under section 3313.372 of the Revised Code or 53942
undertaken pursuant to division (G) of section 133.06 of the 53943
Revised Code. 53944

(4) The acquisition of computer software for instructional 53945
purposes and computer hardware for instructional purposes pursuant 53946
to division (B)(4) of section 3313.37 of the Revised Code. 53947

(C) No resolution adopted pursuant to division (B)(2) or (3) 53948
of this section shall have any effect on whether sections 153.12 53949
to 153.14 and 153.54 of the Revised Code apply to the board of 53950
education of any school district with regard to any item. 53951

Sec. ~~3314.20~~ 3313.473. This section does not apply to any 53952
school district declared to be excellent or effective pursuant to 53953
division (B)(1) or (2) of section 3302.03 of the Revised Code. 53954

(A) The state board of education shall adopt rules requiring 53955
school districts with a total student count of over five thousand, 53956
as determined pursuant to section 3317.03 of the Revised Code, to 53957
designate one school building to be operated by a site-based 53958
management council. The rules shall specify the composition of the 53959
council and the manner in which members of the council are to be 53960
selected and removed. 53961

(B) The rules adopted under division (A) of this section 53962
shall specify those powers, duties, functions, and 53963
responsibilities that shall be vested in the management council 53964
and that would otherwise be exercised by the district board of 53965
education. The rules shall also establish a mechanism for 53966
resolving any differences between the council and the district 53967
board if there is disagreement as to their respective powers, 53968
duties, functions, and responsibilities. 53969

(C) The board of education of any school district described 53970

by division (A) of this section may, in lieu of complying with the 53971
rules adopted under this section, file with the department of 53972
education an alternative structure for a district site-based 53973
management program in at least one of its school buildings. The 53974
proposal shall specify the composition of the council, which shall 53975
include an equal number of parents and teachers and the building 53976
principal, and the method of selection and removal of the council 53977
members. The proposal shall also clearly delineate the respective 53978
powers, duties, functions, and responsibilities of the district 53979
board and the council. The district's proposal shall comply 53980
substantially with the rules adopted under division (A) of this 53981
section. 53982

Sec. 3313.482. (A) Annually, prior to the first day of 53983
September, the board of education of each city, local, and 53984
exempted village school district shall adopt a resolution 53985
specifying a contingency plan under which the district's students 53986
will make up days on which it was necessary to close schools for 53987
any of the reasons specified in ~~division (A)(2) of section 3306.01~~ 53988
~~and~~ division (B) of section 3317.01 of the Revised Code, if any 53989
such days must be made up in order to comply with the requirements 53990
of sections ~~3306.01~~, 3313.48, 3313.481, and 3317.01 of the Revised 53991
Code. The plan shall provide for making up at least five school 53992
days. The plan may provide for making up some or all of the days a 53993
school is closed by increasing the length of other school days in 53994
the manner authorized in division (B) of this section. No 53995
resolution adopted pursuant to this division shall conflict with 53996
any collective bargaining agreement into which a board has entered 53997
pursuant to Chapter 4117. of the Revised Code and that is in 53998
effect in the district. 53999

(B) Notwithstanding anything to the contrary in the 54000
contingency plan it adopts under division (A) of this section, if 54001
a school district closes or evacuates any school building for any 54002

of the reasons specified in ~~division (A)(2) of section 3306.01 and~~ 54003
division (B) of section 3317.01 of the Revised Code, or as a 54004
result of a bomb threat or any other report of an alleged or 54005
impending explosion, and if, as a result of the closing or 54006
evacuation, the school district would be unable to meet the 54007
requirements of sections ~~3306.01~~, 3313.48, 3313.481, and 3317.01 54008
of the Revised Code regarding the number of days schools must be 54009
open for instruction or the requirements of the state minimum 54010
standards for the school day that are established by the 54011
department of education regarding the number of hours there must 54012
be in the school day, the school district may increase the length 54013
of one or more other school days for the school that was closed or 54014
evacuated, in increments of one-half hour, to make up the number 54015
of hours or days that the school building in question was so 54016
closed or evacuated for the purpose of satisfying the requirements 54017
of those sections. 54018

A school district that makes up, as described in this 54019
division, all of the hours or days that its school buildings were 54020
closed or evacuated for any of the reasons identified in this 54021
division shall be deemed to have complied with the requirements of 54022
sections ~~3306.01~~, 3313.48, 3313.481, and 3317.01 of the Revised 54023
Code regarding the number of days schools must be open for 54024
instruction and the requirements of the state minimum standards 54025
regarding the number of hours there must be in the school day. 54026

Sec. 3313.533. (A) The board of education of a city, exempted 54027
village, or local school district may adopt a resolution to 54028
establish and maintain an alternative school in accordance with 54029
this section. The resolution shall specify, but not necessarily be 54030
limited to, all of the following: 54031

(1) The purpose of the school, which purpose shall be to 54032
serve students who are on suspension, who are having truancy 54033

problems, who are experiencing academic failure, who have a 54034
history of class disruption, who are exhibiting other academic or 54035
behavioral problems specified in the resolution, or who have been 54036
discharged or released from the custody of the department of youth 54037
services under section 5139.51 of the Revised Code; 54038

(2) The grades served by the school, which may include any of 54039
grades kindergarten through twelve; 54040

(3) A requirement that the school be operated in accordance 54041
with this section. The board of education adopting the resolution 54042
under division (A) of this section shall be the governing board of 54043
the alternative school. The board shall develop and implement a 54044
plan for the school in accordance with the resolution establishing 54045
the school and in accordance with this section. Each plan shall 54046
include, but not necessarily be limited to, all of the following: 54047

(a) Specification of the reasons for which students will be 54048
accepted for assignment to the school and any criteria for 54049
admission that are to be used by the board to approve or 54050
disapprove the assignment of students to the school; 54051

(b) Specification of the criteria and procedures that will be 54052
used for returning students who have been assigned to the school 54053
back to the regular education program of the district; 54054

(c) An evaluation plan for assessing the effectiveness of the 54055
school and its educational program and reporting the results of 54056
the evaluation to the public. 54057

(B) Notwithstanding any provision of Title XXXIII of the 54058
Revised Code to the contrary, the alternative school plan may 54059
include any of the following: 54060

(1) A requirement that on each school day students must 54061
attend school or participate in other programs specified in the 54062
plan or by the chief administrative officer of the school for a 54063
period equal to the minimum school day set by the state board of 54064

education under section 3313.48 of the Revised Code plus any 54065
additional time required in the plan or by the chief 54066
administrative officer; 54067

(2) Restrictions on student participation in extracurricular 54068
or interscholastic activities; 54069

(3) A requirement that students wear uniforms prescribed by 54070
the district board of education. 54071

(C) In accordance with the alternative school plan, the 54072
district board of education may employ teachers and nonteaching 54073
employees necessary to carry out its duties and fulfill its 54074
responsibilities or may contract with a nonprofit or for profit 54075
entity to operate the alternative school, including the provision 54076
of personnel, supplies, equipment, or facilities. 54077

(D) An alternative school may be established in all or part 54078
of a school building. 54079

(E) If a district board of education elects under this 54080
section, or is required by section 3313.534 of the Revised Code, 54081
to establish an alternative school, the district board may join 54082
with the board of education of one or more other districts to form 54083
a joint alternative school by forming a cooperative education 54084
school district under section 3311.52 or 3311.521 of the Revised 54085
Code, or a joint educational program under section 3313.842 of the 54086
Revised Code. The authority to employ personnel or to contract 54087
with a nonprofit or for profit entity under division (C) of this 54088
section applies to any alternative school program established 54089
under this division. 54090

(F) Any individual employed as a teacher at an alternative 54091
school operated by a nonprofit or for profit entity under this 54092
section shall be licensed and shall be subject to background 54093
checks, as described in section 3319.39 of the Revised Code, in 54094
the same manner as an individual employed by a school district. 54095

(G) Division (G) of this section applies only to any alternative school that is operated by a nonprofit or for profit entity under contract with the school district.	54096 54097 54098
(1) In addition to the specifications authorized under division (B) of this section, any plan adopted under that division for an alternative school to which division (G) of this section also applies shall include the following:	54099 54100 54101 54102
(a) A description of the educational program provided at the alternative school, which shall include:	54103 54104
(i) Provisions for the school to be configured in clusters or small learning communities;	54105 54106
(ii) Provisions for the incorporation of education technology into the curriculum;	54107 54108
(iii) Provisions for accelerated learning programs in reading and mathematics.	54109 54110
(b) A method to determine the reading and mathematics level of each student assigned to the alternative school and a method to continuously monitor each student's progress in those areas. The methods employed under this division shall be aligned with the curriculum adopted by the school district board of education under section 3313.60 of the Revised Code.	54111 54112 54113 54114 54115 54116
(c) A plan for social services to be provided at the alternative school, such as, but not limited to, counseling services, psychological support services, and enrichment programs;	54117 54118 54119
(d) A plan for a student's transition from the alternative school back to a school operated by the school district;	54120 54121
(e) A requirement that the alternative school maintain financial records in a manner that is compatible with the form prescribed for school districts by the auditor of state to enable the district to comply with any rules adopted by the auditor of	54122 54123 54124 54125

state. 54126

(2) Notwithstanding division (A)(2) of this section, any 54127
alternative school to which division (G) of this section applies 54128
shall include only grades six through twelve. 54129

(3) Notwithstanding anything in division (A)(3)(a) of this 54130
section to the contrary, the characteristics of students who may 54131
be assigned to an alternative school to which division (G) of this 54132
section applies shall include only disruptive and low-performing 54133
students. 54134

(H) When any district board of education determines to 54135
contract with a nonprofit or for profit entity to operate an 54136
alternative school under this section, the board shall use the 54137
procedure set forth in this division. 54138

(1) The board shall publish notice of a request for proposals 54139
in a newspaper of general circulation in the district once each 54140
week for a period of ~~at least~~ two consecutive weeks, or as 54141
provided in section 7.16 of the Revised Code, prior to the date 54142
specified by the board for receiving proposals. Notices of 54143
requests for proposals shall contain a general description of the 54144
subject of the proposed contract and the location where the 54145
request for proposals may be obtained. The request for proposals 54146
shall include all of the following information: 54147

(a) Instructions and information to respondents concerning 54148
the submission of proposals, including the name and address of the 54149
office where proposals are to be submitted; 54150

(b) Instructions regarding communications, including at least 54151
the names, titles, and telephone numbers of persons to whom 54152
questions concerning a proposal may be directed; 54153

(c) A description of the performance criteria that will be 54154
used to evaluate whether a respondent to which a contract is 54155
awarded is meeting the district's educational standards or the 54156

method by which such performance criteria will be determined; 54157

(d) Factors and criteria to be considered in evaluating 54158
proposals, the relative importance of each factor or criterion, 54159
and a description of the evaluation procedures to be followed; 54160

(e) Any terms or conditions of the proposed contract, 54161
including any requirement for a bond and the amount of such bond; 54162

(f) Documents that may be incorporated by reference into the 54163
request for proposals, provided that the request for proposals 54164
specifies where such documents may be obtained and that such 54165
documents are readily available to all interested parties. 54166

(2) After the date specified for receiving proposals, the 54167
board shall evaluate the submitted proposals and may hold 54168
discussions with any respondent to ensure a complete understanding 54169
of the proposal and the qualifications of such respondent to 54170
execute the proposed contract. Such qualifications shall include, 54171
but are not limited to, all of the following: 54172

(a) Demonstrated competence in performance of the required 54173
services as indicated by effective implementation of educational 54174
programs in reading and mathematics and at least three years of 54175
experience successfully serving a student population similar to 54176
the student population assigned to the alternative school; 54177

(b) Demonstrated performance in the areas of cost 54178
containment, the provision of educational services of a high 54179
quality, and any other areas determined by the board; 54180

(c) Whether the respondent has the resources to undertake the 54181
operation of the alternative school and to provide qualified 54182
personnel to staff the school; 54183

(d) Financial responsibility. 54184

(3) The board shall select for further review at least three 54185
proposals from respondents the board considers qualified to 54186

operate the alternative school in the best interests of the 54187
students and the district. If fewer than three proposals are 54188
submitted, the board shall select each proposal submitted. The 54189
board may cancel a request for proposals or reject all proposals 54190
at any time prior to the execution of a contract. 54191

The board may hold discussions with any of the three selected 54192
respondents to clarify or revise the provisions of a proposal or 54193
the proposed contract to ensure complete understanding between the 54194
board and the respondent of the terms under which a contract will 54195
be entered. Respondents shall be accorded fair and equal treatment 54196
with respect to any opportunity for discussion regarding 54197
clarifications or revisions. The board may terminate or 54198
discontinue any further discussion with a respondent upon written 54199
notice. 54200

(4) Upon further review of the three proposals selected by 54201
the board, the board shall award a contract to the respondent the 54202
board considers to have the most merit, taking into consideration 54203
the scope, complexity, and nature of the services to be performed 54204
by the respondent under the contract. 54205

(5) Except as provided in division (H)(6) of this section, 54206
the request for proposals, submitted proposals, and related 54207
documents shall become public records under section 149.43 of the 54208
Revised Code after the award of the contract. 54209

(6) Any respondent may request in writing that the board not 54210
disclose confidential or proprietary information or trade secrets 54211
contained in the proposal submitted by the respondent to the 54212
board. Any such request shall be accompanied by an offer of 54213
indemnification from the respondent to the board. The board shall 54214
determine whether to agree to the request and shall inform the 54215
respondent in writing of its decision. If the board agrees to 54216
nondisclosure of specified information in a proposal, such 54217
information shall not become a public record under section 149.43 54218

of the Revised Code. If the respondent withdraws its proposal at 54219
any time prior to the execution of a contract, the proposal shall 54220
not be a public record under section 149.43 of the Revised Code. 54221

(I) Upon a recommendation from the department and in 54222
accordance with section 3301.16 of the Revised Code, the state 54223
board of education may revoke the charter of any alternative 54224
school operated by a school district that violates this section. 54225

Sec. 3313.538. (A) No student who attends school in this 54226
state shall be denied the opportunity to participate in 54227
interscholastic athletics solely because the student's parents do 54228
not reside in this state, if the student resides in this state 54229
with the student's grandparent, uncle, aunt, or sibling who has 54230
legal or temporary custody of the student or is the guardian of 54231
the student. 54232

(B) No school district, school, interscholastic conference, 54233
or organization that regulates interscholastic conferences or 54234
events shall have a rule, bylaw, or other regulation that 54235
conflicts with this section. 54236

(C) As used in this section, "legal custody," "temporary 54237
custody," and "guardian" have the same meanings as in section 54238
2151.011 of the Revised Code. 54239

Sec. 3313.55. The board of education of any school district 54240
in which is located a state, district, county, or municipal 54241
hospital for children with epilepsy or any public institution, 54242
except state institutions for the care and treatment of 54243
delinquent, unstable, or socially maladjusted children, shall make 54244
provision for the education of all educable children therein; 54245
except that in the event another school district within the same 54246
county or an adjoining county is the source of sixty per cent or 54247
more of the children in said hospital or institution, the board of 54248

that school district shall make provision for the education of all 54249
the children therein. In any case in which a board provides 54250
educational facilities under this section, the board that provides 54251
the facilities shall be entitled to all moneys authorized for the 54252
attendance of pupils as provided in Chapter ~~3306.~~ or 3317. of the 54253
Revised Code, tuition as provided in section 3317.08 of the 54254
Revised Code, and such additional compensation as is provided for 54255
crippled children in sections 3323.01 to 3323.12 of the Revised 54256
Code. Any board that provides the educational facilities for 54257
children in county or municipal institutions established for the 54258
care and treatment of children who are delinquent, unstable, or 54259
socially maladjusted shall not be entitled to any moneys provided 54260
for crippled children in sections 3323.01 to 3323.12 of the 54261
Revised Code. 54262

Sec. 3313.603. (A) As used in this section: 54263

(1) "One unit" means a minimum of one hundred twenty hours of 54264
course instruction, except that for a laboratory course, "one 54265
unit" means a minimum of one hundred fifty hours of course 54266
instruction. 54267

(2) "One-half unit" means a minimum of sixty hours of course 54268
instruction, except that for physical education courses, "one-half 54269
unit" means a minimum of one hundred twenty hours of course 54270
instruction. 54271

(B) Beginning September 15, 2001, except as required in 54272
division (C) of this section and division (C) of section 3313.614 54273
of the Revised Code, the requirements for graduation from every 54274
high school shall include twenty units earned in grades nine 54275
through twelve and shall be distributed as follows: 54276

(1) English language arts, four units; 54277

(2) Health, one-half unit; 54278

(3) Mathematics, three units;	54279
(4) Physical education, one-half unit;	54280
(5) Science, two units until September 15, 2003, and three units thereafter, which at all times shall include both of the following:	54281 54282 54283
(a) Biological sciences, one unit;	54284
(b) Physical sciences, one unit.	54285
(6) Social studies, three units, which shall include both of the following:	54286 54287
(a) American history, one-half unit;	54288
(b) American government, one-half unit.	54289
(7) Elective units, seven units until September 15, 2003, and six units thereafter.	54290 54291
Each student's electives shall include at least one unit, or two half units, chosen from among the areas of business/technology, fine arts, and/or foreign language.	54292 54293 54294
(C) Beginning with students who enter ninth grade for the first time on or after July 1, 2010, except as provided in divisions (D) to (F) of this section, the requirements for graduation from every public and chartered nonpublic high school shall include twenty units that are designed to prepare students for the workforce and college. The units shall be distributed as follows:	54295 54296 54297 54298 54299 54300 54301
(1) English language arts, four units;	54302
(2) Health, one-half unit, which shall include instruction in nutrition and the benefits of nutritious foods and physical activity for overall health;	54303 54304 54305
(3) Mathematics, four units, which shall include one unit of algebra II or the equivalent of algebra II;	54306 54307

(4) Physical education, one-half unit;	54308
(5) Science, three units with inquiry-based laboratory	54309
experience that engages students in asking valid scientific	54310
questions and gathering and analyzing information, which shall	54311
include the following, or their equivalent:	54312
(a) Physical sciences, one unit;	54313
(b) Life sciences, one unit;	54314
(c) Advanced study in one or more of the following sciences,	54315
one unit:	54316
(i) Chemistry, physics, or other physical science;	54317
(ii) Advanced biology or other life science;	54318
(iii) Astronomy, physical geology, or other earth or space	54319
science.	54320
(6) Social studies, three units, which shall include both of	54321
the following:	54322
(a) American history, one-half unit;	54323
(b) American government, one-half unit.	54324
Each school shall integrate the study of economics and	54325
financial literacy, as expressed in the social studies academic	54326
content standards adopted by the state board of education under	54327
division (A)(1) of section 3301.079 of the Revised Code and the	54328
academic content standards for financial literacy and	54329
entrepreneurship adopted under division (A)(2) of that section,	54330
into one or more existing social studies credits required under	54331
division (C)(6) of this section, or into the content of another	54332
class, so that every high school student receives instruction in	54333
those concepts. In developing the curriculum required by this	54334
paragraph, schools shall use available public-private partnerships	54335
and resources and materials that exist in business, industry, and	54336
through the centers for economics education at institutions of	54337

higher education in the state. 54338

(7) Five units consisting of one or any combination of 54339
foreign language, fine arts, business, career-technical education, 54340
family and consumer sciences, technology, agricultural education, 54341
a junior reserve officer training corps (JROTC) program approved 54342
by the congress of the United States under title 10 of the United 54343
States Code, or English language arts, mathematics, science, or 54344
social studies courses not otherwise required under division (C) 54345
of this section. 54346

Ohioans must be prepared to apply increased knowledge and 54347
skills in the workplace and to adapt their knowledge and skills 54348
quickly to meet the rapidly changing conditions of the 54349
twenty-first century. National studies indicate that all high 54350
school graduates need the same academic foundation, regardless of 54351
the opportunities they pursue after graduation. The goal of Ohio's 54352
system of elementary and secondary education is to prepare all 54353
students for and seamlessly connect all students to success in 54354
life beyond high school graduation, regardless of whether the next 54355
step is entering the workforce, beginning an apprenticeship, 54356
engaging in post-secondary training, serving in the military, or 54357
pursuing a college degree. 54358

The Ohio core curriculum is the standard expectation for all 54359
students entering ninth grade for the first time at a public or 54360
chartered nonpublic high school on or after July 1, 2010. A 54361
student may satisfy this expectation through a variety of methods, 54362
including, but not limited to, integrated, applied, 54363
career-technical, and traditional coursework. 54364

Whereas teacher quality is essential for student success in 54365
completing the Ohio core curriculum, the general assembly shall 54366
appropriate funds for strategic initiatives designed to strengthen 54367
schools' capacities to hire and retain highly qualified teachers 54368
in the subject areas required by the curriculum. Such initiatives 54369

are expected to require an investment of \$120,000,000 over five 54370
years. 54371

Stronger coordination between high schools and institutions 54372
of higher education is necessary to prepare students for more 54373
challenging academic endeavors and to lessen the need for academic 54374
remediation in college, thereby reducing the costs of higher 54375
education for Ohio's students, families, and the state. The state 54376
board and the chancellor of the Ohio board of regents shall 54377
develop policies to ensure that only in rare instances will 54378
students who complete the Ohio core curriculum require academic 54379
remediation after high school. 54380

School districts, community schools, and chartered nonpublic 54381
schools shall integrate technology into learning experiences 54382
~~whenever practicable~~ across the curriculum in order to maximize 54383
efficiency, enhance learning, and prepare students for success in 54384
the technology-driven twenty-first century. Districts and schools 54385
~~may~~ shall use distance and web-based course delivery as a method 54386
of providing or augmenting all instruction required under this 54387
division, including laboratory experience in science. Districts 54388
and schools shall ~~whenever practicable~~ utilize technology access 54389
and electronic learning opportunities provided by the eTech Ohio 54390
commission, the Ohio learning network, education technology 54391
centers, public television stations, and other public and private 54392
providers. 54393

(D) Except as provided in division (E) of this section, a 54394
student who enters ninth grade on or after July 1, 2010, and 54395
before July 1, 2014, may qualify for graduation from a public or 54396
chartered nonpublic high school even though the student has not 54397
completed the Ohio core curriculum prescribed in division (C) of 54398
this section if all of the following conditions are satisfied: 54399

(1) After the student has attended high school for two years, 54400
as determined by the school, the student and the student's parent, 54401

guardian, or custodian sign and file with the school a written 54402
statement asserting the parent's, guardian's, or custodian's 54403
consent to the student's graduating without completing the Ohio 54404
core curriculum and acknowledging that one consequence of not 54405
completing the Ohio core curriculum is ineligibility to enroll in 54406
most state universities in Ohio without further coursework. 54407

(2) The student and parent, guardian, or custodian fulfill 54408
any procedural requirements the school stipulates to ensure the 54409
student's and parent's, guardian's, or custodian's informed 54410
consent and to facilitate orderly filing of statements under 54411
division (D)(1) of this section. 54412

(3) The student and the student's parent, guardian, or 54413
custodian and a representative of the student's high school 54414
jointly develop an individual career plan for the student that 54415
specifies the student matriculating to a two-year degree program, 54416
acquiring a business and industry credential, or entering an 54417
apprenticeship. 54418

(4) The student's high school provides counseling and support 54419
for the student related to the plan developed under division 54420
(D)(3) of this section during the remainder of the student's high 54421
school experience. 54422

(5) The student successfully completes, at a minimum, the 54423
curriculum prescribed in division (B) of this section. 54424

The department of education, in collaboration with the 54425
chancellor, shall analyze student performance data to determine if 54426
there are mitigating factors that warrant extending the exception 54427
permitted by division (D) of this section to high school classes 54428
beyond those entering ninth grade before July 1, 2014. The 54429
department shall submit its findings and any recommendations not 54430
later than August 1, 2014, to the speaker and minority leader of 54431
the house of representatives, the president and minority leader of 54432

the senate, the chairpersons and ranking minority members of the 54433
standing committees of the house of representatives and the senate 54434
that consider education legislation, the state board of education, 54435
and the superintendent of public instruction. 54436

(E) Each school district and chartered nonpublic school 54437
retains the authority to require an even more rigorous minimum 54438
curriculum for high school graduation than specified in division 54439
(B) or (C) of this section. A school district board of education, 54440
through the adoption of a resolution, or the governing authority 54441
of a chartered nonpublic school may stipulate any of the 54442
following: 54443

(1) A minimum high school curriculum that requires more than 54444
twenty units of academic credit to graduate; 54445

(2) An exception to the district's or school's minimum high 54446
school curriculum that is comparable to the exception provided in 54447
division (D) of this section but with additional requirements, 54448
which may include a requirement that the student successfully 54449
complete more than the minimum curriculum prescribed in division 54450
(B) of this section; 54451

(3) That no exception comparable to that provided in division 54452
(D) of this section is available. 54453

(F) A student enrolled in a dropout prevention and recovery 54454
program, which program has received a waiver from the department, 54455
may qualify for graduation from high school by successfully 54456
completing a competency-based instructional program administered 54457
by the dropout prevention and recovery program in lieu of 54458
completing the Ohio core curriculum prescribed in division (C) of 54459
this section. The department shall grant a waiver to a dropout 54460
prevention and recovery program, within sixty days after the 54461
program applies for the waiver, if the program meets all of the 54462
following conditions: 54463

- (1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age. 54464
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- (2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs. 54466
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- (3) The program requires students to attain at least the applicable score designated for each of the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code or, to the extent prescribed by rule of the state board under division ~~(E)~~(D)(6) of section 3301.0712 of the Revised Code, division (B)(2) of that section. 54471
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- (4) The program develops an individual career plan for the student that specifies the student's matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship. 54477
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- (5) The program provides counseling and support for the student related to the plan developed under division (F)(4) of this section during the remainder of the student's high school experience. 54481
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- (6) The program requires the student and the student's parent, guardian, or custodian to sign and file, in accordance with procedural requirements stipulated by the program, a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework. 54485
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- (7) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the 54493
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academic content standards adopted by the state board under 54495
section 3301.079 of the Revised Code will be taught and assessed. 54496

If the department does not act either to grant the waiver or 54497
to reject the program application for the waiver within sixty days 54498
as required under this section, the waiver shall be considered to 54499
be granted. 54500

(G) Every high school may permit students below the ninth 54501
grade to take advanced work. If a high school so permits, it shall 54502
award high school credit for successful completion of the advanced 54503
work and shall count such advanced work toward the graduation 54504
requirements of division (B) or (C) of this section if the 54505
advanced work was both: 54506

(1) Taught by a person who possesses a license or certificate 54507
issued under section 3301.071, 3319.22, or 3319.222 of the Revised 54508
Code that is valid for teaching high school; 54509

(2) Designated by the board of education of the city, local, 54510
or exempted village school district, the board of the cooperative 54511
education school district, or the governing authority of the 54512
chartered nonpublic school as meeting the high school curriculum 54513
requirements. 54514

Each high school shall record on the student's high school 54515
transcript all high school credit awarded under division (G) of 54516
this section. In addition, if the student completed a seventh- or 54517
eighth-grade fine arts course described in division (K) of this 54518
section and the course qualified for high school credit under that 54519
division, the high school shall record that course on the 54520
student's high school transcript. 54521

(H) The department shall make its individual academic career 54522
plan available through its Ohio career information system web site 54523
for districts and schools to use as a tool for communicating with 54524
and providing guidance to students and families in selecting high 54525

school courses. 54526

(I) Units earned in English language arts, mathematics, 54527
science, and social studies that are delivered through integrated 54528
academic and career-technical instruction are eligible to meet the 54529
graduation requirements of division (B) or (C) of this section. 54530

(J) The state board, in consultation with the chancellor, 54531
shall adopt a statewide plan implementing methods for students to 54532
earn units of high school credit based on a demonstration of 54533
subject area competency, instead of or in combination with 54534
completing hours of classroom instruction. The state board shall 54535
adopt the plan not later than March 31, 2009, and commence phasing 54536
in the plan during the 2009-2010 school year. The plan shall 54537
include a standard method for recording demonstrated proficiency 54538
on high school transcripts. Each school district, and community 54539
school, ~~and chartered nonpublic school~~ shall comply with the state 54540
board's plan adopted under this division and award units of high 54541
school credit in accordance with the plan. The state board may 54542
adopt existing methods for earning high school credit based on a 54543
demonstration of subject area competency as necessary prior to the 54544
2009-2010 school year. 54545

(K) This division does not apply to students who qualify for 54546
graduation from high school under division (D) or (F) of this 54547
section, or to students pursuing a career-technical instructional 54548
track as determined by the school district board of education or 54549
the chartered nonpublic school's governing authority. 54550
Nevertheless, the general assembly encourages such students to 54551
consider enrolling in a fine arts course as an elective. 54552

Beginning with students who enter ninth grade for the first 54553
time on or after July 1, 2010, each student enrolled in a public 54554
or chartered nonpublic high school shall complete two semesters or 54555
the equivalent of fine arts to graduate from high school. The 54556
coursework may be completed in any of grades seven to twelve. Each 54557

student who completes a fine arts course in grade seven or eight 54558
may elect to count that course toward the five units of electives 54559
required for graduation under division (C)(7) of this section, if 54560
the course satisfied the requirements of division (G) of this 54561
section. In that case, the high school shall award the student 54562
high school credit for the course and count the course toward the 54563
five units required under division (C)(7) of this section. If the 54564
course in grade seven or eight did not satisfy the requirements of 54565
division (G) of this section, the high school shall not award the 54566
student high school credit for the course but shall count the 54567
course toward the two semesters or the equivalent of fine arts 54568
required by this division. 54569

(L) Notwithstanding anything to the contrary in this section, 54570
the board of education of each school district and the governing 54571
authority of each chartered nonpublic school may adopt a policy to 54572
excuse from the high school physical education requirement each 54573
student who, during high school, has participated in 54574
interscholastic athletics, marching band, or cheerleading for at 54575
least two full seasons or in the junior reserve officer training 54576
corps for at least two full school years. If the board or 54577
authority adopts such a policy, the board or authority shall not 54578
require the student to complete any physical education course as a 54579
condition to graduate. However, the student shall be required to 54580
complete one-half unit, consisting of at least sixty hours of 54581
instruction, in another course of study. In the case of a student 54582
who has participated in the junior reserve officer training corps 54583
for at least two full school years, credit received for that 54584
participation may be used to satisfy the requirement to complete 54585
one-half unit in another course of study. 54586

Sec. 3313.61. (A) A diploma shall be granted by the board of 54587
education of any city, exempted village, or local school district 54588
that operates a high school to any person to whom all of the 54589

following apply: 54590

(1) The person has successfully completed the curriculum in 54591
any high school or the individualized education program developed 54592
for the person by any high school pursuant to section 3323.08 of 54593
the Revised Code, or has qualified under division (D) or (F) of 54594
section 3313.603 of the Revised Code, provided that no school 54595
district shall require a student to remain in school for any 54596
specific number of semesters or other terms if the student 54597
completes the required curriculum early; 54598

(2) Subject to section 3313.614 of the Revised Code, the 54599
person has met the assessment requirements of division (A)(2)(a) 54600
or (b) of this section, as applicable. 54601

(a) If the person entered the ninth grade prior to the date 54602
prescribed by rule of the state board of education under division 54603
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person 54604
either: 54605

(i) Has attained at least the applicable scores designated 54606
under division (B)(1) of section 3301.0710 of the Revised Code on 54607
all the assessments required by that division unless the person 54608
was excused from taking any such assessment pursuant to section 54609
3313.532 of the Revised Code or unless division (H) or (L) of this 54610
section applies to the person; 54611

(ii) Has satisfied the alternative conditions prescribed in 54612
section 3313.615 of the Revised Code. 54613

(b) If the person entered the ninth grade on or after the 54614
date prescribed by rule of the state board under division 54615
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person has 54616
~~attained on~~ met the requirements of the entire assessment system 54617
prescribed under division (B)(2) of section 3301.0710 of the 54618
Revised Code ~~at least the required passing composite score,~~ 54619
~~designated under division (C)(1) of section 3301.0712 of the~~ 54620

~~Revised Code~~, except to the extent that the person is excused from
some portion of that assessment system pursuant to section
3313.532 of the Revised Code or division (H) or (L) of this
section.

(3) The person is not eligible to receive an honors diploma
granted pursuant to division (B) of this section.

Except as provided in divisions (C), (E), (J), and (L) of
this section, no diploma shall be granted under this division to
anyone except as provided under this division.

(B) In lieu of a diploma granted under division (A) of this
section, an honors diploma shall be granted, in accordance with
rules of the state board, by any such district board to anyone who
accomplishes all of the following:

(1) Successfully completes the curriculum in any high school
or the individualized education program developed for the person
by any high school pursuant to section 3323.08 of the Revised
Code;

(2) Subject to section 3313.614 of the Revised Code, has met
the assessment requirements of division (B)(2)(a) or (b) of this
section, as applicable.

(a) If the person entered the ninth grade prior to the date
prescribed by rule of the state board of education under division
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person
either:

(i) Has attained at least the applicable scores designated
under division (B)(1) of section 3301.0710 of the Revised Code on
all the assessments required by that division;

(ii) Has satisfied the alternative conditions prescribed in
section 3313.615 of the Revised Code.

(b) If the person entered the ninth grade on or after the

date prescribed by rule of the state board under division 54651
~~(E)(D)~~(2) of section 3301.0712 of the Revised Code, the person has 54652
~~attained on~~ met the requirements of the entire assessment system 54653
prescribed under division (B)(2) of section 3301.0710 of the 54654
Revised Code ~~at least the required passing composite score,~~ 54655
~~designated under division (C)(1) of section 3301.0712 of the~~ 54656
~~Revised Code.~~ 54657

(3) Has met additional criteria established by the state 54658
board for the granting of such a diploma. 54659

An honors diploma shall not be granted to a student who is 54660
subject to the Ohio core curriculum prescribed in division (C) of 54661
section 3313.603 of the Revised Code but elects the option of 54662
division (D) or (F) of that section. Except as provided in 54663
divisions (C), (E), and (J) of this section, no honors diploma 54664
shall be granted to anyone failing to comply with this division 54665
and no more than one honors diploma shall be granted to any 54666
student under this division. 54667

The state board shall adopt rules prescribing the granting of 54668
honors diplomas under this division. These rules may prescribe the 54669
granting of honors diplomas that recognize a student's achievement 54670
as a whole or that recognize a student's achievement in one or 54671
more specific subjects or both. The rules may prescribe the 54672
granting of an honors diploma recognizing technical expertise for 54673
a career-technical student. In any case, the rules shall designate 54674
two or more criteria for the granting of each type of honors 54675
diploma the board establishes under this division and the number 54676
of such criteria that must be met for the granting of that type of 54677
diploma. The number of such criteria for any type of honors 54678
diploma shall be at least one less than the total number of 54679
criteria designated for that type and no one or more particular 54680
criteria shall be required of all persons who are to be granted 54681
that type of diploma. 54682

(C) Any district board administering any of the assessments 54683
required by section 3301.0710 of the Revised Code to any person 54684
requesting to take such assessment pursuant to division (B)(8)(b) 54685
of section 3301.0711 of the Revised Code shall award a diploma to 54686
such person if the person attains at least the applicable scores 54687
designated under division (B)(1) of section 3301.0710 of the 54688
Revised Code on all the assessments administered and if the person 54689
has previously attained the applicable scores on all the other 54690
assessments required by division (B)(1) of that section or has 54691
been exempted or excused from attaining the applicable score on 54692
any such assessment pursuant to division (H) or (L) of this 54693
section or from taking any such assessment pursuant to section 54694
3313.532 of the Revised Code. 54695

(D) Each diploma awarded under this section shall be signed 54696
by the president and treasurer of the issuing board, the 54697
superintendent of schools, and the principal of the high school. 54698
Each diploma shall bear the date of its issue, be in such form as 54699
the district board prescribes, and be paid for out of the 54700
district's general fund. 54701

(E) A person who is a resident of Ohio and is eligible under 54702
state board of education minimum standards to receive a high 54703
school diploma based in whole or in part on credits earned while 54704
an inmate of a correctional institution operated by the state or 54705
any political subdivision thereof, shall be granted such diploma 54706
by the correctional institution operating the programs in which 54707
such credits were earned, and by the board of education of the 54708
school district in which the inmate resided immediately prior to 54709
the inmate's placement in the institution. The diploma granted by 54710
the correctional institution shall be signed by the director of 54711
the institution, and by the person serving as principal of the 54712
institution's high school and shall bear the date of issue. 54713

(F) Persons who are not residents of Ohio but who are inmates 54714

of correctional institutions operated by the state or any 54715
political subdivision thereof, and who are eligible under state 54716
board of education minimum standards to receive a high school 54717
diploma based in whole or in part on credits earned while an 54718
inmate of the correctional institution, shall be granted a diploma 54719
by the correctional institution offering the program in which the 54720
credits were earned. The diploma granted by the correctional 54721
institution shall be signed by the director of the institution and 54722
by the person serving as principal of the institution's high 54723
school and shall bear the date of issue. 54724

(G) The state board of education shall provide by rule for 54725
the administration of the assessments required by section 54726
3301.0710 of the Revised Code to inmates of correctional 54727
institutions. 54728

(H) Any person to whom all of the following apply shall be 54729
exempted from attaining the applicable score on the assessment in 54730
social studies designated under division (B)(1) of section 54731
3301.0710 of the Revised Code, any social studies end-of-course 54732
examination required under division (B)(2) of that section if such 54733
an exemption is prescribed by rule of the state board under 54734
division ~~(E)~~(D)(4) of section 3301.0712 of the Revised Code, or 54735
the test in citizenship designated under former division (B) of 54736
section 3301.0710 of the Revised Code as it existed prior to 54737
September 11, 2001: 54738

(1) The person is not a citizen of the United States; 54739

(2) The person is not a permanent resident of the United 54740
States; 54741

(3) The person indicates no intention to reside in the United 54742
States after the completion of high school. 54743

(I) Notwithstanding division (D) of section 3311.19 and 54744
division (D) of section 3311.52 of the Revised Code, this section 54745

and section 3311.611 of the Revised Code do not apply to the board 54746
of education of any joint vocational school district or any 54747
cooperative education school district established pursuant to 54748
divisions (A) to (C) of section 3311.52 of the Revised Code. 54749

(J) Upon receipt of a notice under division (D) of section 54750
3325.08 of division (D) of section 3328.25 of the Revised Code 54751
that a student has received a diploma under ~~that~~ either section, 54752
the board of education receiving the notice may grant a high 54753
school diploma under this section to the student, except that such 54754
board shall grant the student a diploma if the student meets the 54755
graduation requirements that the student would otherwise have had 54756
to meet to receive a diploma from the district. The diploma 54757
granted under this section shall be of the same type the notice 54758
indicates the student received under section 3325.08 or 3328.25 of 54759
the Revised Code. 54760

(K) As used in this division, "limited English proficient 54761
student" has the same meaning as in division (C)(3) of section 54762
3301.0711 of the Revised Code. 54763

Notwithstanding division (C)(3) of section 3301.0711 of the 54764
Revised Code, no limited English proficient student who has not 54765
either attained the applicable scores designated under division 54766
(B)(1) of section 3301.0710 of the Revised Code on all the 54767
assessments required by that division, or ~~attained the composite~~ 54768
~~score designated for~~ met the requirements of the assessments 54769
required by division (B)(2) of that section, shall be awarded a 54770
diploma under this section. 54771

(L) Any student described by division (A)(1) of this section 54772
may be awarded a diploma without attaining the applicable scores 54773
designated on the assessments prescribed under division (B) of 54774
section 3301.0710 of the Revised Code provided an individualized 54775
education program specifically exempts the student from attaining 54776
such scores. This division does not negate the requirement for 54777

such a student to take all such assessments or alternate 54778
assessments required by division (C)(1) of section 3301.0711 of 54779
the Revised Code for the purpose of assessing student progress as 54780
required by federal law. 54781

Sec. 3313.611. (A) The state board of education shall adopt, 54782
by rule, standards for awarding high school credit equivalent to 54783
credit for completion of high school academic and vocational 54784
education courses to applicants for diplomas under this section. 54785
The standards may permit high school credit to be granted to an 54786
applicant for any of the following: 54787

(1) Work experiences or experiences as a volunteer; 54788

(2) Completion of academic, vocational, or self-improvement 54789
courses offered to persons over the age of twenty-one by a 54790
chartered public or nonpublic school; 54791

(3) Completion of academic, vocational, or self-improvement 54792
courses offered by an organization, individual, or educational 54793
institution other than a chartered public or nonpublic school; 54794

(4) Other life experiences considered by the board to provide 54795
knowledge and learning experiences comparable to that gained in a 54796
classroom setting. 54797

(B) The board of education of any city, exempted village, or 54798
local school district that operates a high school shall grant a 54799
diploma of adult education to any applicant if all of the 54800
following apply: 54801

(1) The applicant is a resident of the district; 54802

(2) The applicant is over the age of twenty-one and has not 54803
been issued a diploma as provided in section 3313.61 of the 54804
Revised Code; 54805

(3) Subject to section 3313.614 of the Revised Code, the 54806
applicant has met the assessment requirements of division 54807

(B)(3)(a) or (b) of this section, as applicable. 54808

(a) Prior to the date prescribed by rule of the state board 54809
under division ~~(E)~~(D)(3) of section 3301.0712 of the Revised Code, 54810
the applicant either: 54811

(i) Has attained the applicable scores designated under 54812
division (B)(1) of section 3301.0710 of the Revised Code on all of 54813
the assessments required by that division or was excused or 54814
exempted from any such assessment pursuant to section 3313.532 or 54815
was exempted from attaining the applicable score on any such 54816
assessment pursuant to division (H) or (L) of section 3313.61 of 54817
the Revised Code; 54818

(ii) Has satisfied the alternative conditions prescribed in 54819
section 3313.615 of the Revised Code. 54820

(b) On or after the date prescribed by rule of the state 54821
board under division ~~(E)~~(D)(3) of section 3301.0712 of the Revised 54822
Code, has ~~attained on~~ met the requirements of the entire 54823
assessment system prescribed under division (B)(2) of section 54824
3301.0710 of the Revised Code ~~at least the required passing~~ 54825
~~composite score, designated under division (C)(1) of section~~ 54826
~~3301.0712 of the Revised Code~~, except and only to the extent that 54827
the applicant is excused from some portion of that assessment 54828
system pursuant to section 3313.532 of the Revised Code or 54829
division (H) or (L) of section 3313.61 of the Revised Code. 54830

(4) The district board determines, in accordance with the 54831
standards adopted under division (A) of this section, that the 54832
applicant has attained sufficient high school credits, including 54833
equivalent credits awarded under such standards, to qualify as 54834
having successfully completed the curriculum required by the 54835
district for graduation. 54836

(C) If a district board determines that an applicant is not 54837
eligible for a diploma under division (B) of this section, it 54838

shall inform the applicant of the reason the applicant is 54839
ineligible and shall provide a list of any courses required for 54840
the diploma for which the applicant has not received credit. An 54841
applicant may reapply for a diploma under this section at any 54842
time. 54843

(D) If a district board awards an adult education diploma 54844
under this section, the president and treasurer of the board and 54845
the superintendent of schools shall sign it. Each diploma shall 54846
bear the date of its issuance, be in such form as the district 54847
board prescribes, and be paid for from the district's general 54848
fund, except that the state board may by rule prescribe standard 54849
language to be included on each diploma. 54850

(E) As used in this division, "limited English proficient 54851
student" has the same meaning as in division (C)(3) of section 54852
3301.0711 of the Revised Code. 54853

Notwithstanding division (C)(3) of section 3301.0711 of the 54854
Revised Code, no limited English proficient student who has not 54855
either attained the applicable scores designated under division 54856
(B)(1) of section 3301.0710 of the Revised Code on all the 54857
assessments required by that division, or ~~attained the composite~~ 54858
~~score designated for~~ has not met the requirements of the 54859
assessments required by division (B)(2) of that section, shall be 54860
awarded a diploma under this section. 54861

Sec. 3313.612. (A) No nonpublic school chartered by the state 54862
board of education shall grant a high school diploma to any person 54863
unless, subject to section 3313.614 of the Revised Code, the 54864
person has met the assessment requirements of division (A)(1) or 54865
(2) of this section, as applicable. 54866

(1) If the person entered the ninth grade prior to the date 54867
prescribed by rule of the state board under division ~~(E)~~(D)(2) of 54868
section 3301.0712 of the Revised Code, the person has attained at 54869

least the applicable scores designated under division (B)(1) of 54870
section 3301.0710 of the Revised Code on all the assessments 54871
required by that division, or has satisfied the alternative 54872
conditions prescribed in section 3313.615 of the Revised Code. 54873

(2) If the person entered the ninth grade on or after the 54874
date prescribed by rule of the state board under division (E)(2) 54875
of section 3301.0712 of the Revised Code, the person has ~~attained~~ 54876
~~or met the requirements of~~ the entire assessment system prescribed 54877
under division (B)(2) of section 3301.0710 of the Revised Code ~~at~~ 54878
~~least the required passing composite score, designated under~~ 54879
~~division (C)(1) of section 3301.0712 of the Revised Code.~~ 54880

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(B) This section does not apply to either of the following: 54882

(1) Any person with regard to any assessment from which the 54883
person was excused pursuant to division (C)(1)(c) of section 54884
3301.0711 of the Revised Code; 54885

(2) Any person with regard to the social studies assessment 54886
under division (B)(1) of section 3301.0710 of the Revised Code, 54887
any social studies end-of-course examination required under 54888
division (B)(2) of that section if such an exemption is prescribed 54889
by rule of the state board of education under division ~~(E)~~(D)(4) 54890
of section 3301.0712 of the Revised Code, or the citizenship test 54891
under former division (B) of section 3301.0710 of the Revised Code 54892
as it existed prior to September 11, 2001, if all of the following 54893
apply: 54894

(a) The person is not a citizen of the United States; 54895

(b) The person is not a permanent resident of the United 54896
States; 54897

(c) The person indicates no intention to reside in the United 54898
States after completion of high school. 54899

(C) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code. 54900
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Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or ~~attained the composite score designated for~~ met the requirements of the assessments ~~required by~~ under division (B)(2) of that section, shall be awarded a diploma under this section. 54903
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Sec. 3313.614. (A) As used in this section, a person "fulfills the curriculum requirement for a diploma" at the time one of the following conditions is satisfied: 54911
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(1) The person successfully completes the high school curriculum of a school district, a community school, a chartered nonpublic school, or a correctional institution. 54914
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(2) The person successfully completes the individualized education program developed for the person under section 3323.08 of the Revised Code. 54917
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(3) A board of education issues its determination under section 3313.611 of the Revised Code that the person qualifies as having successfully completed the curriculum required by the district. 54920
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(B) This division specifies the assessment requirements that must be fulfilled as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code. 54924
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(1) A person who fulfills the curriculum requirement for a diploma before September 15, 2000, is not required to pass any 54928
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proficiency test or achievement test in science as a condition to receiving a diploma. 54930
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(2) A person who began ninth grade prior to July 1, 2003, is not required to pass the Ohio graduation test prescribed under division (B)(1) of section 3301.0710 or any assessment prescribed under division (B)(2) of that section in any subject as a condition to receiving a diploma once the person has passed the ninth grade proficiency test in the same subject, so long as the person passed the ninth grade proficiency test prior to September 15, 2008. However, any such person who passes the Ohio graduation test in any subject prior to passing the ninth grade proficiency test in the same subject shall be deemed to have passed the ninth grade proficiency test in that subject as a condition to receiving a diploma. For this purpose, the ninth grade proficiency test in citizenship substitutes for the Ohio graduation test in social studies. If a person began ninth grade prior to July 1, 2003, but does not pass a ninth grade proficiency test or the Ohio graduation test in a particular subject before September 15, 2008, and passage of a test in that subject is a condition for the person to receive a diploma, the person must pass the Ohio graduation test instead of the ninth grade proficiency test in that subject to receive a diploma. 54932
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(3) A person who begins ninth grade on or after July 1, 2003, in a school district, community school, or chartered nonpublic school is not eligible to receive a diploma based on passage of ninth grade proficiency tests. Each such person who begins ninth grade prior to the date prescribed by the state board of education under division ~~(E)~~(D)(5) of section 3301.0712 of the Revised Code must pass Ohio graduation tests to meet the assessment requirements applicable to that person as a condition to receiving a diploma. 54952
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(4) A person who begins ninth grade on or after the date 54961

prescribed by the state board of education under division 54962
~~(E)(D)~~(5) of section 3301.0712 of the Revised Code is not eligible 54963
to receive a diploma based on passage of the Ohio graduation 54964
tests. Each such person must ~~attain on~~ meet the requirements of 54965
the entire assessment system prescribed under division (B)(2) of 54966
section 3301.0710 of the Revised Code ~~at least the required~~ 54967
~~passing composite score, designated under division (C)(1) of~~ 54968
~~section 3301.0712 of the Revised Code.~~ 54969

(C) This division specifies the curriculum requirement that 54970
shall be completed as a condition toward granting high school 54971
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 54972
of the Revised Code. 54973

(1) A person who is under twenty-two years of age when the 54974
person fulfills the curriculum requirement for a diploma shall 54975
complete the curriculum required by the school district or school 54976
issuing the diploma for the first year that the person originally 54977
enrolled in high school, except for a person who qualifies for 54978
graduation from high school under either division (D) or (F) of 54979
section 3313.603 of the Revised Code. 54980

(2) Once a person fulfills the curriculum requirement for a 54981
diploma, the person is never required, as a condition of receiving 54982
a diploma, to meet any different curriculum requirements that take 54983
effect pending the person's passage of proficiency tests or 54984
achievement tests or assessments, including changes mandated by 54985
section 3313.603 of the Revised Code, the state board, a school 54986
district board of education, or a governing authority of a 54987
community school or chartered nonpublic school. 54988

Sec. 3313.64. (A) As used in this section and in section 54989
3313.65 of the Revised Code: 54990

(1)(a) Except as provided in division (A)(1)(b) of this 54991
section, "parent" means either parent, unless the parents are 54992

separated or divorced or their marriage has been dissolved or 54993
annulled, in which case "parent" means the parent who is the 54994
residential parent and legal custodian of the child. When a child 54995
is in the legal custody of a government agency or a person other 54996
than the child's natural or adoptive parent, "parent" means the 54997
parent with residual parental rights, privileges, and 54998
responsibilities. When a child is in the permanent custody of a 54999
government agency or a person other than the child's natural or 55000
adoptive parent, "parent" means the parent who was divested of 55001
parental rights and responsibilities for the care of the child and 55002
the right to have the child live with the parent and be the legal 55003
custodian of the child and all residual parental rights, 55004
privileges, and responsibilities. 55005

(b) When a child is the subject of a power of attorney 55006
executed under sections 3109.51 to 3109.62 of the Revised Code, 55007
"parent" means the grandparent designated as attorney in fact 55008
under the power of attorney. When a child is the subject of a 55009
caretaker authorization affidavit executed under sections 3109.64 55010
to 3109.73 of the Revised Code, "parent" means the grandparent 55011
that executed the affidavit. 55012

(2) "Legal custody," "permanent custody," and "residual 55013
parental rights, privileges, and responsibilities" have the same 55014
meanings as in section 2151.011 of the Revised Code. 55015

(3) "School district" or "district" means a city, local, or 55016
exempted village school district and excludes any school operated 55017
in an institution maintained by the department of youth services. 55018

(4) Except as used in division (C)(2) of this section, "home" 55019
means a home, institution, foster home, group home, or other 55020
residential facility in this state that receives and cares for 55021
children, to which any of the following applies: 55022

(a) The home is licensed, certified, or approved for such 55023

purpose by the state or is maintained by the department of youth services. 55024
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(b) The home is operated by a person who is licensed, certified, or approved by the state to operate the home for such purpose. 55026
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(c) The home accepted the child through a placement by a person licensed, certified, or approved to place a child in such a home by the state. 55029
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(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code. 55032
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(5) "Agency" means all of the following: 55034

(a) A public children services agency; 55035

(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption; 55036
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(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39 of the Revised Code or as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code. 55042
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(6) A child is placed for adoption if either of the following occurs: 55046
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(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child. 55048
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(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care 55052
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for and adopt the child. 55054

(7) "Preschool child with a disability" has the same meaning 55055
as in section 3323.01 of the Revised Code. 55056

(8) "Child," unless otherwise indicated, includes preschool 55057
children with disabilities. 55058

(9) "Active duty" means active duty pursuant to an executive 55059
order of the president of the United States, an act of the 55060
congress of the United States, or section 5919.29 or 5923.21 of 55061
the Revised Code. 55062

(B) Except as otherwise provided in section 3321.01 of the 55063
Revised Code for admittance to kindergarten and first grade, a 55064
child who is at least five but under twenty-two years of age and 55065
any preschool child with a disability shall be admitted to school 55066
as provided in this division. 55067

(1) A child shall be admitted to the schools of the school 55068
district in which the child's parent resides. 55069

(2) A child who does not reside in the district where the 55070
child's parent resides shall be admitted to the schools of the 55071
district in which the child resides if any of the following 55072
applies: 55073

(a) The child is in the legal or permanent custody of a 55074
government agency or a person other than the child's natural or 55075
adoptive parent. 55076

(b) The child resides in a home. 55077

(c) The child requires special education. 55078

(3) A child who is not entitled under division (B)(2) of this 55079
section to be admitted to the schools of the district where the 55080
child resides and who is residing with a resident of this state 55081
with whom the child has been placed for adoption shall be admitted 55082
to the schools of the district where the child resides unless 55083

either of the following applies: 55084

(a) The placement for adoption has been terminated. 55085

(b) Another school district is required to admit the child 55086
under division (B)(1) of this section. 55087

Division (B) of this section does not prohibit the board of 55088
education of a school district from placing a child with a 55089
disability who resides in the district in a special education 55090
program outside of the district or its schools in compliance with 55091
Chapter 3323. of the Revised Code. 55092

(C) A district shall not charge tuition for children admitted 55093
under division (B)(1) or (3) of this section. If the district 55094
admits a child under division (B)(2) of this section, tuition 55095
shall be paid to the district that admits the child as provided in 55096
divisions (C)(1) to (3) of this section, unless division (C)(4) of 55097
this section applies to the child: 55098

(1) If the child receives special education in accordance 55099
with Chapter 3323. of the Revised Code, the school district of 55100
residence, as defined in section 3323.01 of the Revised Code, 55101
shall pay tuition for the child in accordance with section 55102
3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code 55103
regardless of who has custody of the child or whether the child 55104
resides in a home. 55105

(2) For a child that does not receive special education in 55106
accordance with Chapter 3323. of the Revised Code, except as 55107
otherwise provided in division (C)(2)(d) of this section, if the 55108
child is in the permanent or legal custody of a government agency 55109
or person other than the child's parent, tuition shall be paid by: 55110

(a) The district in which the child's parent resided at the 55111
time the court removed the child from home or at the time the 55112
court vested legal or permanent custody of the child in the person 55113
or government agency, whichever occurred first; 55114

(b) If the parent's residence at the time the court removed the child from home or placed the child in the legal or permanent custody of the person or government agency is unknown, tuition shall be paid by the district in which the child resided at the time the child was removed from home or placed in legal or permanent custody, whichever occurred first;

(c) If a school district cannot be established under division (C)(2)(a) or (b) of this section, tuition shall be paid by the district determined as required by section 2151.362 of the Revised Code by the court at the time it vests custody of the child in the person or government agency;

(d) If at the time the court removed the child from home or vested legal or permanent custody of the child in the person or government agency, whichever occurred first, one parent was in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, was not known to reside in this state, tuition shall be paid by the district determined under division (D) of section 3313.65 of the Revised Code as the district required to pay any tuition while the parent was in such facility or placement;

(e) If the department of education has determined, pursuant to division (A)(2) of section 2151.362 of the Revised Code, that a school district other than the one named in the court's initial order, or in a prior determination of the department, is responsible to bear the cost of educating the child, the district so determined shall be responsible for that cost.

(3) If the child is not in the permanent or legal custody of a government agency or person other than the child's parent and the child resides in a home, tuition shall be paid by one of the following:

(a) The school district in which the child's parent resides; 55146

(b) If the child's parent is not a resident of this state, 55147
the home in which the child resides. 55148

(4) Division (C)(4) of this section applies to any child who 55149
is admitted to a school district under division (B)(2) of this 55150
section, resides in a home that is not a foster home or a home 55151
maintained by the department of youth services, receives 55152
educational services at the home in which the child resides 55153
pursuant to a contract between the home and the school district 55154
providing those services, and does not receive special education. 55155

In the case of a child to which division (C)(4) of this 55156
section applies, the total educational cost to be paid for the 55157
child shall be determined by a formula approved by the department 55158
of education, which formula shall be designed to calculate a per 55159
diem cost for the educational services provided to the child for 55160
each day the child is served and shall reflect the total actual 55161
cost incurred in providing those services. The department shall 55162
certify the total educational cost to be paid for the child to 55163
both the school district providing the educational services and, 55164
if different, the school district that is responsible to pay 55165
tuition for the child. The department shall deduct the certified 55166
amount from the state basic aid funds payable under Chapter 3317. 55167
of the Revised Code to the district responsible to pay tuition and 55168
shall pay that amount to the district providing the educational 55169
services to the child. 55170

(D) Tuition required to be paid under divisions (C)(2) and 55171
(3)(a) of this section shall be computed in accordance with 55172
section 3317.08 of the Revised Code. Tuition required to be paid 55173
under division (C)(3)(b) of this section shall be computed in 55174
accordance with section 3317.081 of the Revised Code. If a home 55175
fails to pay the tuition required by division (C)(3)(b) of this 55176
section, the board of education providing the education may 55177

recover in a civil action the tuition and the expenses incurred in 55178
prosecuting the action, including court costs and reasonable 55179
attorney's fees. If the prosecuting attorney or city director of 55180
law represents the board in such action, costs and reasonable 55181
attorney's fees awarded by the court, based upon the prosecuting 55182
attorney's, director's, or one of their designee's time spent 55183
preparing and presenting the case, shall be deposited in the 55184
county or city general fund. 55185

(E) A board of education may enroll a child free of any 55186
tuition obligation for a period not to exceed sixty days, on the 55187
sworn statement of an adult resident of the district that the 55188
resident has initiated legal proceedings for custody of the child. 55189

(F) In the case of any individual entitled to attend school 55190
under this division, no tuition shall be charged by the school 55191
district of attendance and no other school district shall be 55192
required to pay tuition for the individual's attendance. 55193
Notwithstanding division (B), (C), or (E) of this section: 55194

(1) All persons at least eighteen but under twenty-two years 55195
of age who live apart from their parents, support themselves by 55196
their own labor, and have not successfully completed the high 55197
school curriculum or the individualized education program 55198
developed for the person by the high school pursuant to section 55199
3323.08 of the Revised Code, are entitled to attend school in the 55200
district in which they reside. 55201

(2) Any child under eighteen years of age who is married is 55202
entitled to attend school in the child's district of residence. 55203

(3) A child is entitled to attend school in the district in 55204
which either of the child's parents is employed if the child has a 55205
medical condition that may require emergency medical attention. 55206
The parent of a child entitled to attend school under division 55207
(F)(3) of this section shall submit to the board of education of 55208

the district in which the parent is employed a statement from the 55209
child's physician certifying that the child's medical condition 55210
may require emergency medical attention. The statement shall be 55211
supported by such other evidence as the board may require. 55212

(4) Any child residing with a person other than the child's 55213
parent is entitled, for a period not to exceed twelve months, to 55214
attend school in the district in which that person resides if the 55215
child's parent files an affidavit with the superintendent of the 55216
district in which the person with whom the child is living resides 55217
stating all of the following: 55218

(a) That the parent is serving outside of the state in the 55219
armed services of the United States; 55220

(b) That the parent intends to reside in the district upon 55221
returning to this state; 55222

(c) The name and address of the person with whom the child is 55223
living while the parent is outside the state. 55224

(5) Any child under the age of twenty-two years who, after 55225
the death of a parent, resides in a school district other than the 55226
district in which the child attended school at the time of the 55227
parent's death is entitled to continue to attend school in the 55228
district in which the child attended school at the time of the 55229
parent's death for the remainder of the school year, subject to 55230
approval of that district board. 55231

(6) A child under the age of twenty-two years who resides 55232
with a parent who is having a new house built in a school district 55233
outside the district where the parent is residing is entitled to 55234
attend school for a period of time in the district where the new 55235
house is being built. In order to be entitled to such attendance, 55236
the parent shall provide the district superintendent with the 55237
following: 55238

(a) A sworn statement explaining the situation, revealing the 55239

location of the house being built, and stating the parent's 55240
intention to reside there upon its completion; 55241

(b) A statement from the builder confirming that a new house 55242
is being built for the parent and that the house is at the 55243
location indicated in the parent's statement. 55244

(7) A child under the age of twenty-two years residing with a 55245
parent who has a contract to purchase a house in a school district 55246
outside the district where the parent is residing and who is 55247
waiting upon the date of closing of the mortgage loan for the 55248
purchase of such house is entitled to attend school for a period 55249
of time in the district where the house is being purchased. In 55250
order to be entitled to such attendance, the parent shall provide 55251
the district superintendent with the following: 55252

(a) A sworn statement explaining the situation, revealing the 55253
location of the house being purchased, and stating the parent's 55254
intent to reside there; 55255

(b) A statement from a real estate broker or bank officer 55256
confirming that the parent has a contract to purchase the house, 55257
that the parent is waiting upon the date of closing of the 55258
mortgage loan, and that the house is at the location indicated in 55259
the parent's statement. 55260

The district superintendent shall establish a period of time 55261
not to exceed ninety days during which the child entitled to 55262
attend school under division (F)(6) or (7) of this section may 55263
attend without tuition obligation. A student attending a school 55264
under division (F)(6) or (7) of this section shall be eligible to 55265
participate in interscholastic athletics under the auspices of 55266
that school, provided the board of education of the school 55267
district where the student's parent resides, by a formal action, 55268
releases the student to participate in interscholastic athletics 55269
at the school where the student is attending, and provided the 55270

student receives any authorization required by a public agency or 55271
private organization of which the school district is a member 55272
exercising authority over interscholastic sports. 55273

(8) A child whose parent is a full-time employee of a city, 55274
local, or exempted village school district, or of an educational 55275
service center, may be admitted to the schools of the district 55276
where the child's parent is employed, or in the case of a child 55277
whose parent is employed by an educational service center, in the 55278
district that serves the location where the parent's job is 55279
primarily located, provided the district board of education 55280
establishes such an admission policy by resolution adopted by a 55281
majority of its members. Any such policy shall take effect on the 55282
first day of the school year and the effective date of any 55283
amendment or repeal may not be prior to the first day of the 55284
subsequent school year. The policy shall be uniformly applied to 55285
all such children and shall provide for the admission of any such 55286
child upon request of the parent. No child may be admitted under 55287
this policy after the first day of classes of any school year. 55288

(9) A child who is with the child's parent under the care of 55289
a shelter for victims of domestic violence, as defined in section 55290
3113.33 of the Revised Code, is entitled to attend school free in 55291
the district in which the child is with the child's parent, and no 55292
other school district shall be required to pay tuition for the 55293
child's attendance in that school district. 55294

The enrollment of a child in a school district under this 55295
division shall not be denied due to a delay in the school 55296
district's receipt of any records required under section 3313.672 55297
of the Revised Code or any other records required for enrollment. 55298
Any days of attendance and any credits earned by a child while 55299
enrolled in a school district under this division shall be 55300
transferred to and accepted by any school district in which the 55301
child subsequently enrolls. The state board of education shall 55302

adopt rules to ensure compliance with this division. 55303

(10) Any child under the age of twenty-two years whose parent 55304
has moved out of the school district after the commencement of 55305
classes in the child's senior year of high school is entitled, 55306
subject to the approval of that district board, to attend school 55307
in the district in which the child attended school at the time of 55308
the parental move for the remainder of the school year and for one 55309
additional semester or equivalent term. A district board may also 55310
adopt a policy specifying extenuating circumstances under which a 55311
student may continue to attend school under division (F)(10) of 55312
this section for an additional period of time in order to 55313
successfully complete the high school curriculum for the 55314
individualized education program developed for the student by the 55315
high school pursuant to section 3323.08 of the Revised Code. 55316

(11) As used in this division, "grandparent" means a parent 55317
of a parent of a child. A child under the age of twenty-two years 55318
who is in the custody of the child's parent, resides with a 55319
grandparent, and does not require special education is entitled to 55320
attend the schools of the district in which the child's 55321
grandparent resides, provided that, prior to such attendance in 55322
any school year, the board of education of the school district in 55323
which the child's grandparent resides and the board of education 55324
of the school district in which the child's parent resides enter 55325
into a written agreement specifying that good cause exists for 55326
such attendance, describing the nature of this good cause, and 55327
consenting to such attendance. 55328

In lieu of a consent form signed by a parent, a board of 55329
education may request the grandparent of a child attending school 55330
in the district in which the grandparent resides pursuant to 55331
division (F)(11) of this section to complete any consent form 55332
required by the district, including any authorization required by 55333
sections 3313.712, 3313.713, 3313.716, and 3313.718 of the Revised 55334

Code. Upon request, the grandparent shall complete any consent 55335
form required by the district. A school district shall not incur 55336
any liability solely because of its receipt of a consent form from 55337
a grandparent in lieu of a parent. 55338

Division (F)(11) of this section does not create, and shall 55339
not be construed as creating, a new cause of action or substantive 55340
legal right against a school district, a member of a board of 55341
education, or an employee of a school district. This section does 55342
not affect, and shall not be construed as affecting, any 55343
immunities from defenses to tort liability created or recognized 55344
by Chapter 2744. of the Revised Code for a school district, 55345
member, or employee. 55346

(12) A child under the age of twenty-two years is entitled to 55347
attend school in a school district other than the district in 55348
which the child is entitled to attend school under division (B), 55349
(C), or (E) of this section provided that, prior to such 55350
attendance in any school year, both of the following occur: 55351

(a) The superintendent of the district in which the child is 55352
entitled to attend school under division (B), (C), or (E) of this 55353
section contacts the superintendent of another district for 55354
purposes of this division; 55355

(b) The superintendents of both districts enter into a 55356
written agreement that consents to the attendance and specifies 55357
that the purpose of such attendance is to protect the student's 55358
physical or mental well-being or to deal with other extenuating 55359
circumstances deemed appropriate by the superintendents. 55360

While an agreement is in effect under this division for a 55361
student who is not receiving special education under Chapter 3323. 55362
of the Revised Code and notwithstanding Chapter 3327. of the 55363
Revised Code, the board of education of neither school district 55364
involved in the agreement is required to provide transportation 55365

for the student to and from the school where the student attends. 55366

A student attending a school of a district pursuant to this 55367
division shall be allowed to participate in all student 55368
activities, including interscholastic athletics, at the school 55369
where the student is attending on the same basis as any student 55370
who has always attended the schools of that district while of 55371
compulsory school age. 55372

(13) All school districts shall comply with the 55373
"McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et 55374
seq., for the education of homeless children. Each city, local, 55375
and exempted village school district shall comply with the 55376
requirements of that act governing the provision of a free, 55377
appropriate public education, including public preschool, to each 55378
homeless child. 55379

When a child loses permanent housing and becomes a homeless 55380
person, as defined in 42 U.S.C.A. 11481(5), or when a child who is 55381
such a homeless person changes temporary living arrangements, the 55382
child's parent or guardian shall have the option of enrolling the 55383
child in either of the following: 55384

(a) The child's school of origin, as defined in 42 U.S.C.A. 55385
11432(g)(3)(C); 55386

(b) The school that is operated by the school district in 55387
which the shelter where the child currently resides is located and 55388
that serves the geographic area in which the shelter is located. 55389

(14) A child under the age of twenty-two years who resides 55390
with a person other than the child's parent is entitled to attend 55391
school in the school district in which that person resides if both 55392
of the following apply: 55393

(a) That person has been appointed, through a military power 55394
of attorney executed under section 574(a) of the "National Defense 55395
Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 55396

U.S.C. 1044b, or through a comparable document necessary to 55397
complete a family care plan, as the parent's agent for the care, 55398
custody, and control of the child while the parent is on active 55399
duty as a member of the national guard or a reserve unit of the 55400
armed forces of the United States or because the parent is a 55401
member of the armed forces of the United States and is on a duty 55402
assignment away from the parent's residence. 55403

(b) The military power of attorney or comparable document 55404
includes at least the authority to enroll the child in school. 55405

The entitlement to attend school in the district in which the 55406
parent's agent under the military power of attorney or comparable 55407
document resides applies until the end of the school year in which 55408
the military power of attorney or comparable document expires. 55409

(G) A board of education, after approving admission, may 55410
waive tuition for students who will temporarily reside in the 55411
district and who are either of the following: 55412

(1) Residents or domiciliaries of a foreign nation who 55413
request admission as foreign exchange students; 55414

(2) Residents or domiciliaries of the United States but not 55415
of Ohio who request admission as participants in an exchange 55416
program operated by a student exchange organization. 55417

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 55418
3327.04, and 3327.06 of the Revised Code, a child may attend 55419
school or participate in a special education program in a school 55420
district other than in the district where the child is entitled to 55421
attend school under division (B) of this section. 55422

(I)(1) Notwithstanding anything to the contrary in this 55423
section or section 3313.65 of the Revised Code, a child under 55424
twenty-two years of age may attend school in the school district 55425
in which the child, at the end of the first full week of October 55426
of the school year, was entitled to attend school as otherwise 55427

provided under this section or section 3313.65 of the Revised Code, if at that time the child was enrolled in the schools of the district but since that time the child or the child's parent has relocated to a new address located outside of that school district and within the same county as the child's or parent's address immediately prior to the relocation. The child may continue to attend school in the district, and at the school to which the child was assigned at the end of the first full week of October of the current school year, for the balance of the school year. Division (I)(1) of this section applies only if both of the following conditions are satisfied:

(a) The board of education of the school district in which the child was entitled to attend school at the end of the first full week in October and of the district to which the child or child's parent has relocated each has adopted a policy to enroll children described in division (I)(1) of this section.

(b) The child's parent provides written notification of the relocation outside of the school district to the superintendent of each of the two school districts.

(2) At the beginning of the school year following the school year in which the child or the child's parent relocated outside of the school district as described in division (I)(1) of this section, the child is not entitled to attend school in the school district under that division.

(3) Any person or entity owing tuition to the school district on behalf of the child at the end of the first full week in October, as provided in division (C) of this section, shall continue to owe such tuition to the district for the child's attendance under division (I)(1) of this section for the lesser of the balance of the school year or the balance of the time that the child attends school in the district under division (I)(1) of this section.

(4) A pupil who may attend school in the district under 55460
division (I)(1) of this section shall be entitled to 55461
transportation services pursuant to an agreement between the 55462
district and the district in which the child or child's parent has 55463
relocated unless the districts have not entered into such 55464
agreement, in which case the child shall be entitled to 55465
transportation services in the same manner as a pupil attending 55466
school in the district under interdistrict open enrollment as 55467
described in division (H) of section 3313.981 of the Revised Code, 55468
regardless of whether the district has adopted an open enrollment 55469
policy as described in division (B)(1)(b) or (c) of section 55470
3313.98 of the Revised Code. 55471

(J) This division does not apply to a child receiving special 55472
education. 55473

A school district required to pay tuition pursuant to 55474
division (C)(2) or (3) of this section or section 3313.65 of the 55475
Revised Code shall have an amount deducted under division ~~(F)~~(C) 55476
of section 3317.023 of the Revised Code equal to its own tuition 55477
rate for the same period of attendance. A school district entitled 55478
to receive tuition pursuant to division (C)(2) or (3) of this 55479
section or section 3313.65 of the Revised Code shall have an 55480
amount credited under division ~~(F)~~(C) of section 3317.023 of the 55481
Revised Code equal to its own tuition rate for the same period of 55482
attendance. If the tuition rate credited to the district of 55483
attendance exceeds the rate deducted from the district required to 55484
pay tuition, the department of education shall pay the district of 55485
attendance the difference from amounts deducted from all 55486
districts' payments under division ~~(F)~~(C) of section 3317.023 of 55487
the Revised Code but not credited to other school districts under 55488
such division and from appropriations made for such purpose. The 55489
treasurer of each school district shall, by the fifteenth day of 55490
January and July, furnish the superintendent of public instruction 55491

a report of the names of each child who attended the district's 55492
schools under divisions (C)(2) and (3) of this section or section 55493
3313.65 of the Revised Code during the preceding six calendar 55494
months, the duration of the attendance of those children, the 55495
school district responsible for tuition on behalf of the child, 55496
and any other information that the superintendent requires. 55497

Upon receipt of the report the superintendent, pursuant to 55498
division ~~(F)~~(C) of section 3317.023 of the Revised Code, shall 55499
deduct each district's tuition obligations under divisions (C)(2) 55500
and (3) of this section or section 3313.65 of the Revised Code and 55501
pay to the district of attendance that amount plus any amount 55502
required to be paid by the state. 55503

(K) In the event of a disagreement, the superintendent of 55504
public instruction shall determine the school district in which 55505
the parent resides. 55506

(L) Nothing in this section requires or authorizes, or shall 55507
be construed to require or authorize, the admission to a public 55508
school in this state of a pupil who has been permanently excluded 55509
from public school attendance by the superintendent of public 55510
instruction pursuant to sections 3301.121 and 3313.662 of the 55511
Revised Code. 55512

(M) In accordance with division (B)(1) of this section, a 55513
child whose parent is a member of the national guard or a reserve 55514
unit of the armed forces of the United States and is called to 55515
active duty, or a child whose parent is a member of the armed 55516
forces of the United States and is ordered to a temporary duty 55517
assignment outside of the district, may continue to attend school 55518
in the district in which the child's parent lived before being 55519
called to active duty or ordered to a temporary duty assignment 55520
outside of the district, as long as the child's parent continues 55521
to be a resident of that district, and regardless of where the 55522
child lives as a result of the parent's active duty status or 55523

temporary duty assignment. However, the district is not 55524
responsible for providing transportation for the child if the 55525
child lives outside of the district as a result of the parent's 55526
active duty status or temporary duty assignment. 55527

Sec. 3313.6410. This section applies to any school that is 55528
operated by a school district and in which the enrolled students 55529
work primarily on assignments in nonclassroom-based learning 55530
opportunities provided via an internet- or other computer-based 55531
instructional method. 55532

(A) Any school to which this section applies shall withdraw 55533
from the school any student who, for two consecutive school years, 55534
has failed to participate in the spring administration of any 55535
assessment prescribed under section 3301.0710 or 3301.0712 of the 55536
Revised Code for the student's grade level and was not excused 55537
from the assessment pursuant to division (C)(1) or (3) of section 55538
3301.0711 of the Revised Code, regardless of whether a waiver was 55539
granted for the student under division (E) of section 3317.03 of 55540
the Revised Code. The school shall report any such student's data 55541
verification code, as assigned pursuant to section 3301.0714 of 55542
the Revised Code, to the department of education to be added to 55543
the list maintained by the department under section 3314.26 of the 55544
Revised Code. 55545

(B) No school to which this section applies shall receive any 55546
state funds under Chapter ~~3306.~~^{or} 3317. of the Revised Code for 55547
any enrolled student whose data verification code appears on the 55548
list maintained by the department under section 3314.26 of the 55549
Revised Code. Notwithstanding any provision of the Revised Code to 55550
the contrary, the parent of any such student shall pay tuition to 55551
the school district that operates the school in an amount equal to 55552
the state funds the district otherwise would receive for that 55553
student, as determined by the department. A school to which this 55554

section applies may withdraw any student for whom the parent does 55555
not pay tuition as required by this division. 55556

Sec. 3313.65. (A) As used in this section and section 3313.64 55557
of the Revised Code: 55558

(1) A person is "in a residential facility" if the person is 55559
a resident or a resident patient of an institution, home, or other 55560
residential facility that is: 55561

(a) Licensed as a nursing home, residential care facility, or 55562
home for the aging by the director of health under section 3721.02 55563
of the Revised Code; 55564

(b) Licensed as an adult care facility by the director of 55565
mental health under Chapter 3722. sections 5119.70 to 5119.88 of 55566
the Revised Code; 55567

(c) Maintained as a county home or district home by the board 55568
of county commissioners or a joint board of county commissioners 55569
under Chapter 5155. of the Revised Code; 55570

(d) Operated or administered by a board of alcohol, drug 55571
addiction, and mental health services under section 340.03 or 55572
340.06 of the Revised Code, or provides residential care pursuant 55573
to contracts made under section 340.03 or 340.033 of the Revised 55574
Code; 55575

(e) Maintained as a state institution for the mentally ill 55576
under Chapter 5119. of the Revised Code; 55577

(f) Licensed by the department of mental health under section 55578
5119.20 or 5119.22 of the Revised Code; 55579

(g) Licensed as a residential facility by the department of 55580
developmental disabilities under section 5123.19 of the Revised 55581
Code; 55582

(h) Operated by the veteran's administration or another 55583

agency of the United States government; 55584

(i) ~~The Operated by the Ohio soldiers' and sailors' veterans'~~ 55585
home. 55586

(2) A person is "in a correctional facility" if any of the 55587
following apply: 55588

(a) The person is an Ohio resident and is: 55589

(i) Imprisoned, as defined in section 1.05 of the Revised 55590
Code; 55591

(ii) Serving a term in a community-based correctional 55592
facility or a district community-based correctional facility; 55593

(iii) Required, as a condition of parole, a post-release 55594
control sanction, a community control sanction, transitional 55595
control, or early release from imprisonment, as a condition of 55596
shock parole or shock probation granted under the law in effect 55597
prior to July 1, 1996, or as a condition of a furlough granted 55598
under the version of section 2967.26 of the Revised Code in effect 55599
prior to March 17, 1998, to reside in a halfway house or other 55600
community residential center licensed under section 2967.14 of the 55601
Revised Code or a similar facility designated by the court of 55602
common pleas that established the condition or by the adult parole 55603
authority. 55604

(b) The person is imprisoned in a state correctional 55605
institution of another state or a federal correctional institution 55606
but was an Ohio resident at the time the sentence was imposed for 55607
the crime for which the person is imprisoned. 55608

(3) A person is "in a juvenile residential placement" if the 55609
person is an Ohio resident who is under twenty-one years of age 55610
and has been removed, by the order of a juvenile court, from the 55611
place the person resided at the time the person became subject to 55612
the court's jurisdiction in the matter that resulted in the 55613

person's removal. 55614

(4) "Community control sanction" has the same meaning as in 55615
section 2929.01 of the Revised Code. 55616

(5) "Post-release control sanction" has the same meaning as 55617
in section 2967.01 of the Revised Code. 55618

(B) If the circumstances described in division (C) of this 55619
section apply, the determination of what school district must 55620
admit a child to its schools and what district, if any, is liable 55621
for tuition shall be made in accordance with this section, rather 55622
than section 3313.64 of the Revised Code. 55623

(C) A child who does not reside in the school district in 55624
which the child's parent resides and for whom a tuition obligation 55625
previously has not been established under division (C)(2) of 55626
section 3313.64 of the Revised Code shall be admitted to the 55627
schools of the district in which the child resides if at least one 55628
of the child's parents is in a residential or correctional 55629
facility or a juvenile residential placement and the other parent, 55630
if living and not in such a facility or placement, is not known to 55631
reside in this state. 55632

(D) Regardless of who has custody or care of the child, 55633
whether the child resides in a home, or whether the child receives 55634
special education, if a district admits a child under division (C) 55635
of this section, tuition shall be paid to that district as 55636
follows: 55637

(1) If the child's parent is in a juvenile residential 55638
placement, by the district in which the child's parent resided at 55639
the time the parent became subject to the jurisdiction of the 55640
juvenile court; 55641

(2) If the child's parent is in a correctional facility, by 55642
the district in which the child's parent resided at the time the 55643
sentence was imposed; 55644

(3) If the child's parent is in a residential facility, by 55645
the district in which the parent resided at the time the parent 55646
was admitted to the residential facility, except that if the 55647
parent was transferred from another residential facility, tuition 55648
shall be paid by the district in which the parent resided at the 55649
time the parent was admitted to the facility from which the parent 55650
first was transferred; 55651

(4) In the event of a disagreement as to which school 55652
district is liable for tuition under division (C)(1), (2), or (3) 55653
of this section, the superintendent of public instruction shall 55654
determine which district shall pay tuition. 55655

(E) If a child covered by division (D) of this section 55656
receives special education in accordance with Chapter 3323. of the 55657
Revised Code, the tuition shall be paid in accordance with section 55658
3323.13 or 3323.14 of the Revised Code. Tuition for children who 55659
do not receive special education shall be paid in accordance with 55660
division (J) of section 3313.64 of the Revised Code. 55661

Sec. 3313.75. (A) The board of education of a city, exempted 55662
village, or local school district may authorize the opening of 55663
schoolhouses for any lawful purposes. ~~This~~ 55664

(B) In accordance with this section and section 3313.77 of 55665
the Revised Code, a district board may rent or lease facilities 55666
under its control to any public or nonpublic institution of higher 55667
education for the institution's use in providing evening and 55668
summer classes. 55669

(C) This section does not authorize a board to rent or lease 55670
a schoolhouse when such rental or lease interferes with the public 55671
schools in such district, or for any purpose other than is 55672
authorized by law. 55673

Sec. 3313.816. ~~(A)~~ No public or chartered nonpublic school 55674

shall permit the sale of a la carte beverage items other than the 55675
following during the regular and extended school day: 55676

~~(1)(A)~~ For a school in which the majority of grades offered 55677
are in the range from kindergarten to grade four: 55678

~~(a)(1)~~ Water; 55679

~~(b)(i)~~ Prior to January 1, 2014, eight ounces or less of 55680
low fat or fat free milk, including flavored milk, that contains 55681
not more than one hundred seventy calories per eight ounces; 55682

~~(ii)~~ Beginning January 1, 2014, eight ounces or less of 55683
low fat or fat free milk, including flavored milk, that contains 55684
not more than one hundred fifty calories per eight ounces. 55685

~~(c)(2)~~ Milk; 55686

(3) Eight ounces or less of one hundred per cent fruit juice, 55687
or a one hundred per cent fruit juice and water blend with no 55688
added sweeteners, that contains not more than one hundred sixty 55689
calories per eight ounces. 55690

~~(2)(B)~~ For a school in which the majority of grades offered 55691
are in the range from grade five to grade eight: 55692

~~(a)(1)~~ Water; 55693

~~(b)(i)~~ Prior to January 1, 2014, eight ounces or less of 55694
low fat or fat free milk, including flavored milk, that contains 55695
not more than one hundred seventy calories per eight ounces; 55696

~~(ii)~~ Beginning January 1, 2014, eight ounces or less of 55697
low fat or fat free milk, including flavored milk, that contains 55698
not more than one hundred fifty calories per eight ounces. 55699

~~(c)(2)~~ Milk; 55700

(3) Ten ounces or less of one hundred per cent fruit juice, 55701
or a one hundred per cent fruit juice and water blend with no 55702
added sweeteners, that contains not more than one hundred sixty 55703

calories per eight ounces. 55704

~~(3)(C)~~ For a school in which the majority of grades offered 55705
are in the range from grade nine to grade twelve: 55706

~~(a)(1)~~ Water; 55707

~~(b)(i)~~ Prior to January 1, 2014, sixteen ounces or less of 55708
low fat or fat free milk, including flavored milk, that contains 55709
not more than one hundred seventy calories per eight ounces; 55710

~~(ii)~~ Beginning January 1, 2014, sixteen ounces or less of 55711
low fat or fat free milk, including flavored milk, that contains 55712
not more than one hundred fifty calories per eight ounces. 55713

~~(e)(2)~~ Milk; 55714

(3) Twelve ounces or less of one hundred per cent fruit 55715
juice, or a one hundred per cent fruit juice and water blend with 55716
no added sweeteners, that contains not more than one hundred sixty 55717
calories per eight ounces; 55718

~~(d)(4)~~ Twelve ounces or less of any beverage that contains 55719
not more than sixty-six calories per eight ounces; 55720

~~(e)(5)~~ Any size of a beverage that contains not more than ten 55721
calories per eight ounces, which may include caffeinated beverages 55722
and beverages with added sweeteners, carbonation, or artificial 55723
flavoring. 55724

~~(B)~~ Each public and chartered nonpublic school shall require 55725
at least fifty per cent of the a la carte beverage items available 55726
for sale from each of the following sources during the regular and 55727
extended school day to be water or other beverages that contain 55728
not more than ten calories per eight ounces: 55729

~~(1)~~ A school food service program; 55730

~~(2)~~ A vending machine located on school property that does 55731
not sell only milk or reimbursable meals; 55732

~~(3) A store operated by the school, a student association, or
other school sponsored organization.~~ 55733
55734

Sec. 3313.842. (A) The boards of education or governing 55735
authorities of any two or more school districts or community 55736
schools may enter into an agreement for joint or cooperative 55737
establishment and operation of any educational program including 55738
any class, course, or program that may be included in a school 55739
district's or community school's graded course of study and staff 55740
development programs for teaching and nonteaching school 55741
employees. Each school district or community school that is party 55742
to such an agreement may contribute funds of the district or 55743
school in support of the agreement and for the establishment and 55744
operation of any educational program established under the 55745
agreement. The agreement shall designate one of the districts or 55746
community schools as ~~the district~~ responsible for receiving and 55747
disbursing the funds contributed by the ~~districts that are parties~~ 55748
to the agreement. 55749

(B) Notwithstanding sections 3313.48 and 3313.64 of the 55750
Revised Code, any school district that is party to an agreement 55751
for joint or cooperative establishment and operation of an 55752
educational program may charge fees or tuition for students who 55753
participate in the program and are entitled to attend school in 55754
the district under section 3313.64 or 3313.65 of the Revised Code. 55755
Except as otherwise provided in division (H) of section 3321.01 of 55756
the Revised Code, no community school that is party to the 55757
agreement shall charge fees or tuition for students who 55758
participate in the program and are reported by the school under 55759
division (B)(2) of section 3314.08 of the Revised Code. 55760

Sec. 3313.843. (A) Notwithstanding division (D) of section 55761
3311.52 of the Revised Code, this section does not apply to ~~either~~ 55762
~~of the following:~~ 55763

~~(1) Any any cooperative education school district+ 55764~~

~~(2) Any city or exempted village school district with a total 55765
student count of thirteen thousand or more determined pursuant to 55766
section 3317.03 of the Revised Code that has not entered into one 55767
or more agreements pursuant to this section prior to July 1, 1993, 55768
unless the district's total student count did not exceed thirteen 55769
thousand at the time it entered into an initial agreement under 55770
this section. 55771~~

~~(B)(1) The board of education of a each city ~~or~~, exempted 55772
village, or local school district ~~and~~ with a student count of 55773
sixteen thousand or less, as defined in section 3301.011 of the 55774
Revised Code, shall enter into an agreement with the governing 55775
board of an educational service center ~~may enter into an~~ 55776
~~agreement, through adoption of identical resolutions,~~ under which 55777
the educational service center governing board will provide 55778
services to the ~~city or exempted village school~~ district. 55779~~

~~(2) The board of education of a city, exempted village, or 55780
local school district with a student count of more than sixteen 55781
thousand may enter into an agreement with the governing board of 55782
an educational service center, under which the educational service 55783
center governing board will provide services to the district. 55784~~

~~(3) Services provided under ~~the~~ an agreement entered into 55785
under division (B)(1) or (2) of this section shall be specified in 55786
the agreement, and may include any ~~one or a combination~~ of the 55787
following: supervisory teachers; in-service and continuing 55788
education programs for ~~city or exempted village school~~ district 55789
personnel; curriculum services ~~as provided to the local school~~ 55790
~~districts under the supervision of the service center governing~~ 55791
~~board;~~ research and development programs; academic instruction for 55792
which the governing board employs teachers pursuant to section 55793
3319.02 of the Revised Code; ~~and~~ assistance in the provision of 55794
special accommodations and classes for students with disabilities; 55795~~

or any other services the district board and service center 55796
governing board agree can be better provided by the service center 55797
and are not provided under an agreement entered into under section 55798
3313.845 of the Revised Code. Services included in the agreement 55799
shall be provided to the ~~city or exempted village~~ district in the 55800
same manner ~~they are provided to local school districts under the~~ 55801
~~governing board's supervision, unless otherwise~~ specified in the 55802
agreement. The ~~city or exempted village~~ district board of 55803
education shall reimburse the educational service center governing 55804
board pursuant to section 3317.11 of the Revised Code. 55805

~~(C) If an educational service center received funding under~~ 55806
~~division (B) of former section 3317.11 or division (F) of section~~ 55807
~~3317.11 of the Revised Code for an agreement under this section~~ 55808
~~involving a city school district whose total student count was~~ 55809
~~less than thirteen thousand, the service center may continue to~~ 55810
~~receive funding under that division for such an agreement in any~~ 55811
~~subsequent year if the city district's total student count exceeds~~ 55812
~~thirteen thousand. However, only the first thirteen thousand~~ 55813
~~pupils in the formula ADM of such district shall be included in~~ 55814
~~determining the amount of the per pupil subsidy the service center~~ 55815
~~shall receive under division (F) of section 3317.11 of the Revised~~ 55816
~~Code.~~ 55817

~~(D)~~ Any agreement entered into pursuant to this section shall 55818
be ~~valid only if a copy is~~ filed with the department of education 55819
by the first day of July of the school year for which the 55820
agreement is in effect. 55821

(D)(1) An agreement for services from an educational service 55822
center entered into under this section may be terminated by the 55823
school district board of education, at its option, by notifying 55824
the governing board of the service center by January 1, 2012, or 55825
by the first day of January of any odd-numbered year thereafter, 55826
that the district board intends to terminate the agreement in that 55827

year, and that termination shall be effective on the thirtieth day 55828
of June of that year. The failure of a district board to notify an 55829
educational service center of its intent to terminate an agreement 55830
by the first day of January of an odd-numbered year shall result 55831
in renewal of the existing agreement for the following two school 55832
years. 55833

(2) If the school district that terminates an agreement for 55834
services under division (D)(1) of this section is also subject to 55835
the requirement of division (B)(1) of this section, the district 55836
board shall enter into a new agreement with a different 55837
educational service center so that the new agreement is effective 55838
on the first day of July of that same year. 55839

Sec. 3313.845. The board of education of a city, exempted 55840
village, or local school district and the governing board of an 55841
educational service center may enter into an agreement, ~~through~~ 55842
~~adoption of identical resolutions,~~ under which the educational 55843
service center will provide services to the school district. 55844
Services provided under the agreement and the amount to be paid 55845
for such services shall be mutually agreed to by the district 55846
board of education and the service center governing board, and 55847
shall be specified in the agreement. Payment for services 55848
specified in the agreement shall be made pursuant to division (D) 55849
of section 3317.11 of the Revised Code and shall not include any 55850
deduction under division (B), (C), or (F) of that section. Any 55851
agreement entered into pursuant to this section shall be valid 55852
only if a copy is filed with the department of education by the 55853
first day of the school year for which the agreement is in effect. 55854

The authority granted under this section to the boards of 55855
education of city ~~and~~, exempted village, and local school 55856
districts is in addition to the authority granted to such boards 55857
under section 3313.843 of the Revised Code. ~~No city or exempted~~ 55858

~~village district that is eligible to receive services from an 55859
educational service center under section 3313.843 of the Revised 55860
Code may receive any of the services described in division (B) of 55861
that section pursuant to an agreement entered into with an 55862
educational service center under this section. 55863~~

~~If a local school district enters into an agreement with an 55864
educational service center under this section and the district is 55865
not located within the territory of the service center, the 55866
agreement shall not require the district to receive any 55867
supervisory services described in division (B) of section 3317.11 55868
of the Revised Code from the service center. The supervisory 55869
services described in that section shall be provided to the 55870
district by the educational service center of the territory in 55871
which the district is located. 55872~~

Sec. 3313.846. The governing board of an educational service 55873
center may enter into a contract with any political subdivision as 55874
defined in section 2744.01 of the Revised Code, not including 55875
school districts, community schools, or STEM schools contracting 55876
for services under section 3313.843, 3313.844, 3313.845, or 55877
3326.45 of the Revised Code, under which the educational service 55878
center will provide services to the political subdivision. 55879
Services provided under the contract and the amount to be paid for 55880
such services shall be mutually agreed to by the parties and shall 55881
be specified in the contract. The political subdivision shall 55882
directly pay an educational service center for services specified 55883
in the contract. The board of the educational service center shall 55884
file a copy of each contract entered into under this section with 55885
the department of education by the first day the contract is in 55886
effect. 55887

Sec. 3313.88. (A)(1) Prior to the first day of August of each 55888
school year, the board of education of any school district or the 55889

governing authority of any chartered nonpublic school may submit 55890
to the department of education a plan to require students to 55891
access and complete classroom lessons posted on the district's or 55892
nonpublic school's web portal or web site in order to make up days 55893
in that school year on which it is necessary to close schools for 55894
any of the reasons specified in division (B) of section 3317.01 of 55895
the Revised Code in excess of the number of days permitted under 55896
sections 3313.48, 3313.481, and 3317.01 of the Revised Code. 55897

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Prior to the first day of August of each school year, the 55899
governing authority of any community school established under 55900
Chapter 3314. that is not an internet- or computer-based community 55901
school, as defined in section 3314.02 of the Revised Code, may 55902
submit to the department a plan to require students to access and 55903
complete classroom lessons posted on the school's web portal or 55904
web site in order to make up days or hours in that school year on 55905
which it is necessary to close the school for any of the reasons 55906
specified in division (L)(4) of section 3314.08 of the Revised 55907
Code so that the school is in compliance with the minimum number 55908
of hours required under Chapter 3314. of the Revised Code. 55909

A plan submitted by a school district board or chartered 55910
nonpublic school governing authority shall provide for making up 55911
any number of days, up to a maximum of three days. A plan 55912
submitted by a community school governing authority shall provide 55913
for making up any number of hours, up to a maximum of the 55914
equivalent of three days. Provided the plan meets all requirements 55915
of this section, the department shall permit the board or 55916
governing authority to implement the plan for the applicable 55917
school year. 55918

(2) Each plan submitted under this section by a school 55919
district board of education shall include the written consent of 55920

the teachers' employee representative designated under division 55921
(B) of section 4117.04 of the Revised Code. 55922

(3) Each plan submitted under this section shall provide for 55923
the following: 55924

(a) Not later than the first day of November of the school 55925
year, each classroom teacher shall develop a sufficient number of 55926
lessons for each course taught by the teacher that school year to 55927
cover the number of make-up days or hours specified in the plan. 55928
The teacher shall designate the order in which the lessons are to 55929
be posted on the district's, community school's, or nonpublic 55930
school's web portal or web site in the event of a school closure. 55931
Teachers may be granted up to one professional development day to 55932
create lesson plans for those lessons. 55933

(b) To the extent possible and necessary, a classroom teacher 55934
shall update or replace, based on current instructional progress, 55935
one or more of the lesson plans developed under division (A)(3)(a) 55936
of this section before they are posted on the web portal or web 55937
site under division (A)(3)(c) of this section or distributed under 55938
division (B) of this section. 55939

(c) As soon as practicable after a school closure, a district 55940
or school employee responsible for web portal or web site 55941
operations shall make the designated lessons available to students 55942
on the district's, community school's, or nonpublic school's 55943
portal or site. A lesson shall be posted for each course that was 55944
scheduled to meet on the day or hours of the closure. 55945

(d) Each student enrolled in a course for which a lesson is 55946
posted on the portal or site shall be granted a two-week period 55947
from the date of posting to complete the lesson. The student's 55948
classroom teacher shall grade the lesson in the same manner as 55949
other lessons. The student may receive an incomplete or failing 55950
grade if the lesson is not completed on time. 55951

(e) If a student does not have access to a computer at the student's residence and the plan does not include blizzard bags under division (B) of this section, the student shall be permitted to work on the posted lessons at school after the student's school reopens. If the lessons were posted prior to the reopening, the student shall be granted a two-week period from the date of the reopening, rather than from the date of posting as otherwise required under division (A)(3)(d) of this section, to complete the lessons. The district board or community school or nonpublic school governing authority may provide the student access to a computer before, during, or after the regularly scheduled school day or may provide a substantially similar paper lesson in order to complete the lessons. 55952
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(B)(1) In addition to posting classroom lessons online under division (A) of this section, the board of education of any school district or governing authority of any community or chartered nonpublic school may include in the plan distribution of "blizzard bags," which are paper copies of the lessons posted online. 55965
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(2) If a school opts to use blizzard bags, teachers shall prepare paper copies in conjunction with the lessons to be posted online and update the paper copies whenever the teacher updates the online lesson plans. 55970
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(3) The board of education of any school district or governing authority of any community or chartered nonpublic school that opts to use blizzard bags shall specify in the plan the method of distribution of blizzard bag lessons, which may include, but not be limited to, requiring distribution by a specific deadline or requiring distribution prior to anticipated school closure as directed by the superintendent of a school district or the principal, director, chief administrative officer, or the equivalent, of a school. 55974
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(4) Students shall turn in completed lessons in accordance 55983

with division (A)(3)(d) of this section. 55984

(C)(1) No school district that implements a plan in 55985
accordance with this section shall be considered to have failed to 55986
comply with division (B) of section 3317.01 of the Revised Code 55987
with respect to the number of make-up days specified in the plan. 55988

(2) No community school that implements a plan in accordance 55989
with this section shall be considered to have failed to comply 55990
with the minimum number of hours required under Chapter 3314. of 55991
the Revised Code with respect to the number of make-up hours 55992
specified in the plan. 55993

Sec. 3313.911. The state board of education may adopt a 55994
resolution assigning a city, exempted village, or local school 55995
district that is not a part of a joint vocational school district 55996
to membership in a joint vocational school district. A copy of the 55997
resolution shall be certified to the board of education of the 55998
joint vocational school district and the board of education of the 55999
district proposed to be assigned. The board of education of the 56000
joint vocational school district shall advertise a copy of the 56001
resolution in a newspaper of general circulation in the district 56002
proposed to be assigned once each week for ~~at least~~ two weeks, or 56003
as provided in section 7.16 of the Revised Code, immediately 56004
following the certification of the resolution to the board. The 56005
assignment shall take effect on the ninety-first day after the 56006
state board adopts the resolution, unless prior to that date 56007
qualified electors residing in the school district proposed for 56008
assignment, equal in number to ten per cent of the qualified 56009
electors of that district voting at the last general election, 56010
file a petition against the assignment. 56011

The petition of referendum shall be filed with the treasurer 56012
of the board of education of the district proposed to be assigned 56013
to the joint vocational school district. The treasurer shall give 56014

the person presenting the petition a receipt showing the time of 56015
day, date, and purpose of the petition. The treasurer shall cause 56016
the board of elections to determine the sufficiency of signatures 56017
on the petition and if the signatures are found to be sufficient, 56018
shall present the petition to the board of education of the 56019
district. The board of education shall promptly certify the 56020
question to the board of elections for the purpose of having the 56021
question placed on the ballot at the next general, primary, or 56022
special election not earlier than sixty days after the date of the 56023
certification. 56024

Only those qualified electors residing in the district 56025
proposed for assignment to the joint vocational school district 56026
are qualified to vote on the question. If a majority of the 56027
electors voting on the question vote against the assignment, it 56028
shall not take place, and the state board of education shall 56029
require the district to contract with the joint vocational school 56030
district or another school district as authorized by section 56031
3313.91 of the Revised Code. 56032

If a majority of the electors voting on the question do not 56033
vote against the assignment, the assignment shall take immediate 56034
effect, and the board of education of the joint vocational school 56035
district shall notify the county auditor of the county in which 56036
the school district becoming a part of the joint vocational school 56037
district is located to have any outstanding levy of the joint 56038
vocational school district spread over the territory of the school 56039
district that has become a part of the joint vocational school 56040
district. 56041

The assignment of a school district to a joint vocational 56042
school district pursuant to this section is subject to any 56043
agreements made between the board of education of the assigned 56044
school district and the board of education of the joint vocational 56045
school district. Such an agreement may include provisions for a 56046

payment by the assigned school district to the joint vocational 56047
school district of an amount to be contributed toward the cost of 56048
the existing facilities of the joint vocational school district. 56049

On the assignment of a school district to a joint vocational 56050
school district pursuant to this section, the joint vocational 56051
school district's board of education shall submit a proposal to 56052
the state board of education to enlarge or reorganize the 56053
membership of the joint vocational school district's board of 56054
education if expansion or reorganization of the board is necessary 56055
in order to comply with section 3311.19 of the Revised Code. 56056

Sec. 3313.97. Notwithstanding division (D) of section 3311.19 56057
and division (D) of section 3311.52 of the Revised Code, this 56058
section does not apply to any joint vocational or cooperative 56059
education school district. 56060

(A) As used in this section: 56061

(1) "Parent" has the same meaning as in section 3313.64 of 56062
the Revised Code. 56063

(2) "Alternative school" means a school building other than 56064
the one to which a student is assigned by the district 56065
superintendent. 56066

(3) "IEP" has the same meaning as in section 3323.01 of the 56067
Revised Code. 56068

(B) The board of education of each city, local, and exempted 56069
village school district shall adopt an open enrollment policy 56070
allowing students entitled to attend school in the district 56071
pursuant to section 3313.64 or 3313.65 of the Revised Code to 56072
enroll in an alternative school. Each policy shall provide for the 56073
following: 56074

(1) Application procedures, including deadlines for 56075
application and for notification of students and principals of 56076

alternative schools whenever a student's application is accepted. 56077
The policy shall require a student to apply only if the student 56078
wishes to attend an alternative school. 56079

(2) The establishment of district capacity limits by grade 56080
level, school building, and education program; 56081

(3) A requirement that students enrolled in a school building 56082
or living in any attendance area of the school building 56083
established by the superintendent or board be given preference 56084
over applicants; 56085

(4) Procedures to ensure that an appropriate racial balance 56086
is maintained in the district schools. 56087

Each policy may permit a student to permanently transfer to 56088
an alternative school so that the student need not reapply 56089
annually for permission to attend the alternative school. 56090

(C) Except as provided in section 3313.982 of the Revised 56091
Code, the procedures for admitting applicants to alternative 56092
schools shall not include: 56093

(1) Any requirement of academic ability, or any level of 56094
athletic, artistic, or other extracurricular skills; 56095

(2) Limitations on admitting applicants because of disabling 56096
conditions, except that a board may require a student receiving 56097
services under Chapter 3323. of the Revised Code to attend school 56098
where the services described in the student's IEP are available; 56099

(3) A requirement that the student be proficient in the 56100
English language; 56101

(4) Rejection of any applicant because the student has been 56102
subject to disciplinary proceedings, except that if an applicant 56103
has been suspended or expelled for ten consecutive days or more in 56104
the term for which admission is sought or in the term immediately 56105
preceding the term for which admission is sought, the procedures 56106

may include a provision denying admission of such applicant to an alternative school.

(D)(1) Notwithstanding Chapter 3327. of the Revised Code, and except as provided in division (D)(2) of this section, a district board is not required to provide transportation to a nondisabled student enrolled in an alternative school unless such student can be picked up and dropped off at a regular school bus stop designated in accordance with the board's transportation policy or unless the board is required to provide additional transportation to the student in accordance with a court-approved desegregation plan.

(2) A district board shall provide transportation to any student described in 20 U.S.C. 6316(b)(1)(F) to the extent required by division (E) of section 3302.04 of the Revised Code, except that no district board shall be required to provide transportation to any such student after the school in which the student was enrolled immediately prior to enrolling in the alternative school makes adequate yearly progress, as defined in section 3302.01 of the Revised Code, for two consecutive school years.

(E) Each school board shall provide information about the policy adopted under this section and the application procedures and deadlines to the parent of each student in the district and to the general public.

(F) The state board of education shall monitor school districts to ensure compliance with this section and the districts' policies.

Sec. 3313.975. As used in this section and in sections 3313.975 to 3313.979 of the Revised Code, "the pilot project school district" or "the district" means any school district included in the pilot project scholarship program pursuant to this

section. 56138

(A) The superintendent of public instruction shall establish 56139
a pilot project scholarship program and shall include in such 56140
program any school districts that are or have ever been under 56141
federal court order requiring supervision and operational 56142
management of the district by the state superintendent. The 56143
program shall provide for a number of students residing in any 56144
such district to receive scholarships to attend alternative 56145
schools, and for an equal number of students to receive tutorial 56146
assistance grants while attending public school in any such 56147
district. 56148

(B) The state superintendent shall establish an application 56149
process and deadline for accepting applications from students 56150
residing in the district to participate in the scholarship 56151
program. In the initial year of the program students may only use 56152
a scholarship to attend school in grades kindergarten through 56153
third. 56154

The state superintendent shall award as many scholarships and 56155
tutorial assistance grants as can be funded given the amount 56156
appropriated for the program. In no case, however, shall more than 56157
fifty per cent of all scholarships awarded be used by students who 56158
were enrolled in a nonpublic school during the school year of 56159
application for a scholarship. 56160

(C)(1) The pilot project program shall continue in effect 56161
each year that the general assembly has appropriated sufficient 56162
money to fund scholarships and tutorial assistance grants. In each 56163
year the program continues, ~~no~~ new students may receive 56164
scholarships ~~unless they are enrolled~~ in grades kindergarten to 56165
~~eight~~ twelve. ~~However, any~~ A student who has received a 56166
scholarship ~~the preceding year~~ may continue to receive one until 56167
the student has completed grade ~~ten~~. ~~Beginning in the 2005-2006~~ 56168
~~academic year, a student who previously has received a scholarship~~ 56169

~~may receive a scholarship in grade eleven. Beginning in the 56170
2006-2007 academic year, a student who previously has received a 56171
scholarship may receive a scholarship in grade twelve. 56172~~

(2) If the general assembly discontinues the scholarship 56173
program, all students who are attending an alternative school 56174
under the pilot project shall be entitled to continued admittance 56175
to that specific school through all grades that are provided in 56176
such school, under the same conditions as when they were 56177
participating in the pilot project. The state superintendent shall 56178
continue to make scholarship payments in accordance with division 56179
(A) or (B) of section 3313.979 of the Revised Code for students 56180
who remain enrolled in an alternative school under this provision 56181
in any year that funds have been appropriated for this purpose. 56182

If funds are not appropriated, the tuition charged to the 56183
parents of a student who remains enrolled in an alternative school 56184
under this provision shall not be increased beyond the amount 56185
equal to the amount of the scholarship plus any additional amount 56186
charged that student's parent in the most recent year of 56187
attendance as a participant in the pilot project, except that 56188
tuition for all the students enrolled in such school may be 56189
increased by the same percentage. 56190

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of 56191
the Revised Code, if the pilot project school district experiences 56192
a decrease in enrollment due to participation in a state-sponsored 56193
scholarship program pursuant to sections 3313.974 to 3313.979 of 56194
the Revised Code, the district board of education may enter into 56195
an agreement with any teacher it employs to provide to that 56196
teacher severance pay or early retirement incentives, or both, if 56197
the teacher agrees to terminate the employment contract with the 56198
district board, provided any collective bargaining agreement in 56199
force pursuant to Chapter 4117. of the Revised Code does not 56200
prohibit such an agreement for termination of a teacher's 56201

employment contract. 56202

Sec. 3313.978. (A) Annually by the first day of November, the 56203
superintendent of public instruction shall notify the pilot 56204
project school district of the number of initial scholarships that 56205
the state superintendent will be awarding in each of grades 56206
kindergarten through ~~eight~~ twelve. 56207

The state superintendent shall provide information about the 56208
scholarship program to all students residing in the district, 56209
shall accept applications from any such students until such date 56210
as shall be established by the state superintendent as a deadline 56211
for applications, and shall establish criteria for the selection 56212
of students to receive scholarships from among all those applying 56213
prior to the deadline, which criteria shall give preference to 56214
students from low-income families. For each student selected, the 56215
state superintendent shall also determine whether the student 56216
qualifies for seventy-five or ninety per cent of the scholarship 56217
amount. Students whose family income is at or above two hundred 56218
per cent of the maximum income level established by the state 56219
superintendent for low-income families shall qualify for 56220
seventy-five per cent of the scholarship amount and students whose 56221
family income is below two hundred per cent of that maximum income 56222
level shall qualify for ninety per cent of the scholarship amount. 56223
The state superintendent shall notify students of their selection 56224
prior to the fifteenth day of January and whether they qualify for 56225
seventy-five or ninety per cent of the scholarship amount. 56226

(1) A student receiving a pilot project scholarship may 56227
utilize it at an alternative public school by notifying the 56228
district superintendent, at any time before the beginning of the 56229
school year, of the name of the public school in an adjacent 56230
school district to which the student has been accepted pursuant to 56231
section 3327.06 of the Revised Code. 56232

(2) A student may decide to utilize a pilot project	56233
scholarship at a registered private school in the district if all	56234
of the following conditions are met:	56235
(a) By the fifteenth day of February of the preceding school	56236
year, or at any time prior to the start of the school year, the	56237
parent makes an application on behalf of the student to a	56238
registered private school.	56239
(b) The registered private school notifies the parent and the	56240
state superintendent as follows that the student has been	56241
admitted:	56242
(i) By the fifteenth day of March of the preceding school	56243
year if the student filed an application by the fifteenth day of	56244
February and was admitted by the school pursuant to division (A)	56245
of section 3313.977 of the Revised Code;	56246
(ii) Within one week of the decision to admit the student if	56247
the student is admitted pursuant to division (C) of section	56248
3313.977 of the Revised Code.	56249
(c) The student actually enrolls in the registered private	56250
school to which the student was first admitted or in another	56251
registered private school in the district or in a public school in	56252
an adjacent school district.	56253
(B) The state superintendent shall also award in any school	56254
year tutorial assistance grants to a number of students equal to	56255
the number of students who receive scholarships under division (A)	56256
of this section. Tutorial assistance grants shall be awarded	56257
solely to students who are enrolled in the public schools of the	56258
district in a grade level covered by the pilot project. Tutorial	56259
assistance grants may be used solely to obtain tutorial assistance	56260
from a provider approved pursuant to division (D) of section	56261
3313.976 of the Revised Code.	56262
All students wishing to obtain tutorial assistance grants	56263

shall make application to the state superintendent by the first 56264
day of the school year in which the assistance will be used. The 56265
state superintendent shall award assistance grants in accordance 56266
with criteria the superintendent shall establish. For each student 56267
awarded a grant, the state superintendent shall also determine 56268
whether the student qualifies for seventy-five or ninety per cent 56269
of the grant amount and so notify the student. Students whose 56270
family income is at or above two hundred per cent of the maximum 56271
income level established by the state superintendent for 56272
low-income families shall qualify for seventy-five per cent of the 56273
grant amount and students whose family income is below two hundred 56274
per cent of that maximum income level shall qualify for ninety per 56275
cent of the grant amount. 56276

(C)(1) In the case of basic scholarships for students in 56277
grades kindergarten through eight, the scholarship amount shall 56278
not exceed the lesser of the tuition charges of the alternative 56279
school the scholarship recipient attends or three thousand dollars 56280
before fiscal year 2007 ~~and~~, three thousand four hundred fifty 56281
dollars in fiscal year 2007 through fiscal year 2011, and four 56282
thousand two hundred fifty dollars in fiscal year 2012 and 56283
thereafter. 56284

In the case of basic scholarships for students in grades nine 56285
through twelve, the scholarship amount shall not exceed the lesser 56286
of the tuition charges of the alternative school the scholarship 56287
recipient attends or two thousand seven hundred dollars before 56288
fiscal year 2007 ~~and~~, three thousand four hundred fifty dollars in 56289
fiscal year 2007 through fiscal year 2011, and five thousand 56290
dollars in fiscal year 2012 and thereafter. 56291

(2) The state superintendent shall provide for an increase in 56292
the basic scholarship amount in the case of any student who is a 56293
mainstreamed student with a disability and shall further increase 56294
such amount in the case of any separately educated student with a 56295

disability. Such increases shall take into account the 56296
instruction, related services, and transportation costs of 56297
educating such students. 56298

(3) In the case of tutorial assistance grants, the grant 56299
amount shall not exceed the lesser of the provider's actual 56300
charges for such assistance or: 56301

(a) Before fiscal year 2007, a percentage established by the 56302
state superintendent, not to exceed twenty per cent, of the amount 56303
of the pilot project school district's average basic scholarship 56304
amount; 56305

(b) In fiscal year 2007 and thereafter, four hundred dollars. 56306

(4) No scholarship or tutorial assistance grant shall be 56307
awarded unless the state superintendent determines that 56308
twenty-five or ten per cent, as applicable, of the amount 56309
specified for such scholarship or grant pursuant to division 56310
(C)(1), (2), or (3) of this section will be furnished by a 56311
political subdivision, a private nonprofit or for profit entity, 56312
or another person. Only seventy-five or ninety per cent of such 56313
amounts, as applicable, shall be paid from state funds pursuant to 56314
section 3313.979 of the Revised Code. 56315

(D)(1) Annually by the first day of November, the state 56316
superintendent shall estimate the maximum per-pupil scholarship 56317
amounts for the ensuing school year. The state superintendent 56318
shall make this estimate available to the general public at the 56319
offices of the district board of education together with the forms 56320
required by division (D)(2) of this section. 56321

(2) Annually by the fifteenth day of January, the chief 56322
administrator of each registered private school located in the 56323
pilot project district and the principal of each public school in 56324
such district shall complete a parental information form and 56325
forward it to the president of the board of education. The 56326

parental information form shall be prescribed by the department of 56327
education and shall provide information about the grade levels 56328
offered, the numbers of students, tuition amounts, achievement 56329
test results, and any sectarian or other organizational 56330
affiliations. 56331

(E)(1) Only for the purpose of administering the pilot 56332
project scholarship program, the department may request from any 56333
of the following entities the data verification code assigned 56334
under division (D)(2) of section 3301.0714 of the Revised Code to 56335
any student who is seeking a scholarship under the program: 56336

(a) The school district in which the student is entitled to 56337
attend school under section 3313.64 or 3313.65 of the Revised 56338
Code; 56339

(b) If applicable, the community school in which the student 56340
is enrolled; 56341

(c) The independent contractor engaged to create and maintain 56342
data verification codes. 56343

(2) Upon a request by the department under division (E)(1) of 56344
this section for the data verification code of a student seeking a 56345
scholarship or a request by the student's parent for that code, 56346
the school district or community school shall submit that code to 56347
the department or parent in the manner specified by the 56348
department. If the student has not been assigned a code, because 56349
the student will be entering kindergarten during the school year 56350
for which the scholarship is sought, the district shall assign a 56351
code to that student and submit the code to the department or 56352
parent by a date specified by the department. If the district does 56353
not assign a code to the student by the specified date, the 56354
department shall assign a code to the student. 56355

The department annually shall submit to each school district 56356
the name and data verification code of each student residing in 56357

the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division (E) of this section to any person except as provided by law.

(F) Any document relative to the pilot project scholarship program that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

(G)(1) The department annually shall compile the scores attained by scholarship students enrolled in registered private schools on the assessments administered to the students pursuant to division (A)(11) of section 3313.976 of the Revised Code. The scores shall be aggregated as follows:

(a) By school district, which shall include all scholarship students residing in the pilot project school district who are enrolled in a registered private school and were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code;

(b) By registered private school, which shall include all scholarship students enrolled in that school who were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code.

(2) The department shall disaggregate the student performance data described in division (G)(1) of this section according to the following categories:

(a) Age;

(b) Race and ethnicity;

(c) Gender;	56388
(d) Students who have participated in the scholarship program for three or more years;	56389 56390
(e) Students who have participated in the scholarship program for more than one year and less than three years;	56391 56392
(f) Students who have participated in the scholarship program for one year or less;	56393 56394
(g) Economically disadvantaged students.	56395
(3) The department shall post the student performance data required under divisions (G)(1) and (2) of this section on its web site and shall include that data in the information about the scholarship program provided to students under division (A) of this section. In reporting student performance data under this division, the department shall not include any data that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report performance data for any group that contains less than ten students.	56396 56397 56398 56399 56400 56401 56402 56403 56404 56405
(4) The department shall provide the parent of each scholarship student enrolled in a registered private school with information comparing the student's performance on the assessments administered pursuant to division (A)(11) of section 3313.976 of the Revised Code with the average performance of similar students enrolled in the building operated by the pilot project school district that the scholarship student would otherwise attend. In calculating the performance of similar students, the department shall consider age, grade, race and ethnicity, gender, and socioeconomic status.	56406 56407 56408 56409 56410 56411 56412 56413 56414 56415
Sec. 3313.981. (A) The state board of education shall adopt rules requiring all of the following:	56416 56417

(1) The board of education of each city, exempted village,
and local school district to annually report to the department of
education all of the following:

(a) The number of adjacent district or other district
students, as applicable, and adjacent district or other district
joint vocational students, as applicable, enrolled in the district
and the number of native students enrolled in adjacent or other
districts, in accordance with a policy adopted under division (B)
of section 3313.98 of the Revised Code;

(b) Each adjacent district or other district student's or
adjacent district or other district joint vocational student's
date of enrollment in the district;

(c) The full-time equivalent number of adjacent district or
other district students enrolled in vocational education programs
or classes described in division (A) of section 3317.014 of the
Revised Code and the full-time equivalent number of such students
enrolled in vocational education programs or classes described in
division (B) of that section;

(d) Each native student's date of enrollment in an adjacent
or other district.

(2) The board of education of each joint vocational school
district to annually report to the department all of the
following:

(a) The number of adjacent district or other district joint
vocational students, as applicable, enrolled in the district;

(b) The full-time equivalent number of adjacent district or
other district joint vocational students enrolled in vocational
education programs or classes described in division (A) of section
3317.014 of the Revised Code and the full-time equivalent number
of such students enrolled in vocational education programs or
classes described in division (B) of that section;

(c) For each adjacent district or other district joint vocational student, the city, exempted village, or local school district in which the student is also enrolled.

(3) Prior to the first full school week in October each year, the superintendent of each city, local, or exempted village school district that admits adjacent district or other district students or adjacent district or other district joint vocational students in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code to notify each adjacent or other district where those students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code of the number of the adjacent or other district's native students who are enrolled in the superintendent's district under the policy.

The rules shall provide for the method of counting students who are enrolled for part of a school year in an adjacent or other district or as an adjacent district or other district joint vocational student.

(B) From the payments made to a city, exempted village, or local school district under Chapter ~~3306~~. 3317. of the Revised Code and, if necessary, from the payments made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract both of the following:

(1) An amount equal to the number of the district's native students reported under division (A)(1) of this section who are enrolled in adjacent or other school districts pursuant to policies adopted by such districts under division (B) of section 3313.98 of the Revised Code multiplied by the adjusted formula amount;

(2) The excess costs computed in accordance with division (E) of this section for any such native students receiving special

education and related services in adjacent or other school 56480
districts or as an adjacent district or other district joint 56481
vocational student; 56482

(3) For the full-time equivalent number of the district's 56483
native students reported under division (A)(1)(c) or (2)(b) of 56484
this section as enrolled in vocational education programs or 56485
classes described in section 3317.014 of the Revised Code, an 56486
amount equal to ~~the formula amount~~ \$5,732 times the applicable 56487
multiple prescribed by that section. 56488

(C) To the payments made to a city, exempted village, or 56489
local school district under Chapter ~~3306.~~ 3317. of the Revised 56490
Code, the department of education shall annually add all of the 56491
following: 56492

(1) An amount equal to the adjusted formula amount multiplied 56493
by the remainder obtained by subtracting the number of adjacent 56494
district or other district joint vocational students from the 56495
number of adjacent district or other district students enrolled in 56496
the district, as reported under division (A)(1) of this section; 56497

(2) The excess costs computed in accordance with division (E) 56498
of this section for any adjacent district or other district 56499
students, except for any adjacent or other district joint 56500
vocational students, receiving special education and related 56501
services in the district; 56502

(3) For the full-time equivalent number of the adjacent or 56503
other district students who are not adjacent district or other 56504
district joint vocational students and are reported under division 56505
(A)(1)(c) of this section as enrolled in vocational education 56506
programs or classes described in section 3317.014 of the Revised 56507
Code, an amount equal to ~~the formula amount~~ \$5,732 times the 56508
applicable multiple prescribed by that section; 56509

(4) An amount equal to the number of adjacent district or 56510

other district joint vocational students reported under division 56511
(A)(1) of this section multiplied by an amount equal to twenty per 56512
cent of the adjusted formula amount. 56513

(D) To the payments made to a joint vocational school 56514
district under Chapter 3317. of the Revised Code, the department 56515
of education shall add, for each adjacent district or other 56516
district joint vocational student reported under division (A)(2) 56517
of this section, both of the following: 56518

(1) The adjusted formula amount; 56519

(2) An amount equal to the full-time equivalent number of 56520
students reported pursuant to division (A)(2)(b) of this section 56521
times ~~the formula amount~~ \$5,732 times the applicable multiple 56522
prescribed by section 3317.014 of the Revised Code. 56523

(E)(1) A city, exempted village, or local school board 56524
providing special education and related services to an adjacent or 56525
other district student in accordance with an IEP shall, pursuant 56526
to rules of the state board, compute the excess costs to educate 56527
such student as follows: 56528

(a) Subtract the adjusted formula amount from the actual 56529
costs to educate the student; 56530

(b) From the amount computed under division (E)(1)(a) of this 56531
section subtract the amount of any funds received by the district 56532
under Chapter ~~3306-~~ 3317. of the Revised Code to provide special 56533
education and related services to the student. 56534

(2) The board shall report the excess costs computed under 56535
this division to the department of education. 56536

(3) If any student for whom excess costs are computed under 56537
division (E)(1) of this section is an adjacent or other district 56538
joint vocational student, the department of education shall add 56539
the amount of such excess costs to the payments made under Chapter 56540

~~3306-~~ 3317. of the Revised Code to the joint vocational school 56541
district enrolling the student. 56542

(F) As provided in division (D)(1)(b) of section 3317.03 of 56543
the Revised Code, no joint vocational school district shall count 56544
any adjacent or other district joint vocational student enrolled 56545
in the district in its formula ADM certified under section 3317.03 56546
of the Revised Code. 56547

(G) No city, exempted village, or local school district shall 56548
receive a payment under division (C) of this section for a 56549
student, and no joint vocational school district shall receive a 56550
payment under division (D) of this section for a student, if for 56551
the same school year that student is counted in the district's 56552
formula ADM certified under section 3317.03 of the Revised Code. 56553

(H) Upon request of a parent, and provided the board offers 56554
transportation to native students of the same grade level and 56555
distance from school under section 3327.01 of the Revised Code, a 56556
city, exempted village, or local school board enrolling an 56557
adjacent or other district student shall provide transportation 56558
for the student within the boundaries of the board's district, 56559
except that the board shall be required to pick up and drop off a 56560
nonhandicapped student only at a regular school bus stop 56561
designated in accordance with the board's transportation policy. 56562
Pursuant to rules of the state board of education, such board may 56563
reimburse the parent from funds received for pupil transportation 56564
under section ~~3306.12~~ 3317.0212 of the Revised Code, or other 56565
provisions of law, for the reasonable cost of transportation from 56566
the student's home to the designated school bus stop if the 56567
student's family has an income below the federal poverty line. 56568

Sec. 3314.012. (A) Within ninety days of September 28, 1999, 56569
the superintendent of public instruction shall appoint 56570
representatives of the department of education, including 56571

employees who work with the education management information 56572
system ~~and employees of the office of community schools~~ 56573
~~established by section 3314.11 of the Revised Code,~~ to a committee 56574
to develop report card models for community schools. ~~The director~~ 56575
~~of the legislative office of education oversight shall also~~ 56576
~~appoint representatives to the committee.~~ The committee shall 56577
design model report cards appropriate for the various types of 56578
community schools approved to operate in the state. Sufficient 56579
models shall be developed to reflect the variety of grade levels 56580
served and the missions of the state's community schools. All 56581
models shall include both financial and academic data. The initial 56582
models shall be developed by March 31, 2000. 56583

(B) The department of education shall issue an annual report 56584
card for each community school, regardless of how long the school 56585
has been in operation. The report card shall report the academic 56586
and financial performance of the school utilizing one of the 56587
models developed under division (A) of this section. The report 56588
card shall include all information applicable to school buildings 56589
under division (A) of section 3302.03 of the Revised Code. The 56590
ratings a community school receives under section 3302.03 of the 56591
Revised Code for its first two full school years shall not be 56592
considered toward automatic closure of the school under section 56593
3314.35 of the Revised Code or any other matter that is based on 56594
report card ratings. 56595

(C) Upon receipt of a copy of a contract between a sponsor 56596
and a community school entered into under this chapter, the 56597
department of education shall notify the community school of the 56598
specific model report card that will be used for that school. 56599

(D) Report cards shall be distributed to the parents of all 56600
students in the community school, to the members of the board of 56601
education of the school district in which the community school is 56602
located, and to any person who requests one from the department. 56603

Sec. 3314.015. (A) The department of education shall be 56604
responsible for the oversight of any and all sponsors of the 56605
community schools established under this chapter and shall provide 56606
technical assistance to schools and sponsors in their compliance 56607
with applicable laws and the terms of the contracts entered into 56608
under section 3314.03 of the Revised Code and in the development 56609
and start-up activities of those schools. In carrying out its 56610
duties under this section, the department shall do all of the 56611
following: 56612

(1) In providing technical assistance to proposing parties, 56613
governing authorities, and sponsors, conduct training sessions and 56614
distribute informational materials; 56615

(2) Approve entities to be sponsors of community schools; 56616

(3) Monitor the effectiveness of any and all sponsors in 56617
their oversight of the schools with which they have contracted; 56618

(4) By December thirty-first of each year, issue a report to 56619
the governor, the speaker of the house of representatives, the 56620
president of the senate, and the chairpersons of the house and 56621
senate committees principally responsible for education matters 56622
regarding the effectiveness of academic programs, operations, and 56623
legal compliance and of the financial condition of all community 56624
schools established under this chapter and on the performance of 56625
community school sponsors; 56626

(5) From time to time, make legislative recommendations to 56627
the general assembly designed to enhance the operation and 56628
performance of community schools. 56629

(B)(1) Except as provided in sections 3314.021 and 3314.027 56630
of the Revised Code, no entity listed in division (C)(1) of 56631
section 3314.02 of the Revised Code shall enter into a preliminary 56632
agreement under division (C)(2) of section 3314.02 of the Revised 56633

Code until it has received approval from the department of 56634
education to sponsor community schools under this chapter and has 56635
entered into a written agreement with the department regarding the 56636
manner in which the entity will conduct such sponsorship. The 56637
department shall adopt in accordance with Chapter 119. of the 56638
Revised Code rules containing criteria, procedures, and deadlines 56639
for processing applications for such approval, for oversight of 56640
sponsors, for revocation of the approval of sponsors, and for 56641
entering into written agreements with sponsors. The rules shall 56642
require an entity to submit evidence of the entity's ability and 56643
willingness to comply with the provisions of division (D) of 56644
section 3314.03 of the Revised Code. The rules also shall require 56645
entities approved as sponsors on and after June 30, 2005, to 56646
demonstrate a record of financial responsibility and successful 56647
implementation of educational programs. If an entity seeking 56648
approval on or after June 30, 2005, to sponsor community schools 56649
in this state sponsors or operates schools in another state, at 56650
least one of the schools sponsored or operated by the entity must 56651
be comparable to or better than the performance of Ohio schools in 56652
need of continuous improvement under section 3302.03 of the 56653
Revised Code, as determined by the department. 56654

~~An Subject to section 3314.016 of the Revised Code, an entity 56655
that sponsors community schools may enter into preliminary 56656
agreements and sponsor up to one hundred schools as follows, 56657
provided each school and the contract for sponsorship meets the 56658
requirements of this chapter:~~ 56659

~~(a) An entity that sponsored fifty or fewer schools that were 56660
open for operation as of May 1, 2005, may sponsor not more than 56661
fifty schools. 56662~~

~~(b) An entity that sponsored more than fifty but not more 56663
than seventy five schools that were open for operation as of May 56664
1, 2005, may sponsor not more than the number of schools the 56665~~

~~entity sponsored that were open for operation as of May 1, 2005.~~ 56666

~~(c) Until June 30, 2006, an entity that sponsored more than 56667
seventy five schools that were open for operation as of May 1, 56668
2005, may sponsor not more than the number of schools the entity 56669
sponsored that were open for operation as of May 1, 2005. After 56670
June 30, 2006, such an entity may sponsor not more than 56671
seventy five schools. 56672~~

~~Upon approval of an entity to be a sponsor under this 56673
division, the department shall notify the entity of the number of 56674
schools the entity may sponsor. 56675~~

~~The limit imposed on an entity to which division (B)(1) of 56676
this section applies shall be decreased by one for each school 56677
sponsored by the entity that permanently closes. 56678~~

~~If at any time an entity exceeds the number of schools it may 56679
sponsor under this division, the department shall assist the 56680
schools in excess of the entity's limit in securing new sponsors. 56681
If a school is unable to secure a new sponsor, the department 56682
shall assume sponsorship of the school in accordance with division 56683
(C) of this section. Those schools for which another sponsor or 56684
the department assumes sponsorship shall be the schools that most 56685
recently entered into contracts with the entity under section 56686
3314.03 of the Revised Code. 56687~~

(2) The department of education shall determine, pursuant to 56688
criteria adopted by rule of the department, whether the mission 56689
proposed to be specified in the contract of a community school to 56690
be sponsored by a state university board of trustees or the 56691
board's designee under division (C)(1)(e) of section 3314.02 of 56692
the Revised Code complies with the requirements of that division. 56693
Such determination of the department is final. 56694

(3) The department of education shall determine, pursuant to 56695
criteria adopted by rule of the department, if any tax-exempt 56696

entity under section 501(c)(3) of the Internal Revenue Code that 56697
is proposed to be a sponsor of a community school is an 56698
education-oriented entity for purpose of satisfying the condition 56699
prescribed in division (C)(1)(f)(iii) of section 3314.02 of the 56700
Revised Code. Such determination of the department is final. 56701

(C) If at any time the state board of education finds that a 56702
sponsor is not in compliance or is no longer willing to comply 56703
with its contract with any community school or with the 56704
department's rules for sponsorship, the state board or designee 56705
shall conduct a hearing in accordance with Chapter 119. of the 56706
Revised Code on that matter. If after the hearing, the state board 56707
or designee has confirmed the original finding, the department of 56708
education may revoke the sponsor's approval to sponsor community 56709
schools and may assume the sponsorship of any schools with which 56710
the sponsor has contracted until the earlier of the expiration of 56711
two school years or until a new sponsor as described in division 56712
(C)(1) of section 3314.02 of the Revised Code is secured by the 56713
school's governing authority. The department may extend the term 56714
of the contract in the case of a school for which it has assumed 56715
sponsorship under this division as necessary to accommodate the 56716
term of the department's authorization to sponsor the school 56717
specified in this division. 56718

(D) The decision of the department to disapprove an entity 56719
for sponsorship of a community school or to revoke approval for 56720
such sponsorship under division (C) of this section, may be 56721
appealed by the entity in accordance with section 119.12 of the 56722
Revised Code. 56723

(E) The department shall adopt procedures for use by a 56724
community school governing authority and sponsor when the school 56725
permanently closes and ceases operation, which shall include at 56726
least procedures for data reporting to the department, handling of 56727
student records, distribution of assets in accordance with section 56728

3314.074 of the Revised Code, and other matters related to ceasing 56729
operation of the school. 56730

(F) In carrying out its duties under this chapter, the 56731
department shall not impose requirements on community schools or 56732
their sponsors that are not permitted by law or duly adopted 56733
rules. 56734

Sec. 3314.016. This section applies to any entity that 56735
sponsors a community school, regardless of whether section 56736
3314.021 or 3314.027 of the Revised Code exempts the entity from 56737
the requirement to be approved for sponsorship under divisions 56738
(A)(2) and (B)(1) of section 3314.015 of the Revised Code. 56739

(A) An entity that sponsors a community school shall be 56740
permitted to enter into contracts under section 3314.03 of the 56741
Revised Code to sponsor additional community schools only if the 56742
entity meets both of the following criteria: 56743

(1) The entity is in compliance with all provisions of this 56744
chapter requiring sponsors of community schools to report data or 56745
information to the department. 56746

(2) The entity has had at least eighty per cent of the 56747
community schools it sponsors ranked, based on performance index 56748
score as defined in section 3302.01 of the Revised Code, in the 56749
highest ninety-five per cent of all public schools statewide for 56750
three consecutive years, beginning with the ranking based on data 56751
from the 2009-2010 school year. 56752

(B) If the governing authority of a community school enters 56753
into a contract with a sponsor prior to the date on which the 56754
sponsor is prohibited from sponsoring additional schools under 56755
division (A) of this section and the school has not opened for 56756
operation as of that date, that contract shall be void and the 56757
school shall not open until the governing authority secures a new 56758

sponsor by entering into a contract with the new sponsor under 56759
section 3314.03 of the Revised Code. 56760

Sec. 3314.02. (A) As used in this chapter: 56761

(1) "Sponsor" means an entity listed in division (C)(1) of 56762
this section, which has been approved by the department of 56763
education to sponsor community schools and with which the 56764
governing authority of the proposed community school enters into a 56765
contract pursuant to this section. 56766

(2) "Pilot project area" means the school districts included 56767
in the territory of the former community school pilot project 56768
established by former Section 50.52 of Am. Sub. H.B. No. 215 of 56769
the 122nd general assembly. 56770

(3) "Challenged school district" means any of the following: 56771

(a) A school district that is part of the pilot project area; 56772

(b) A school district that is either in a state of academic 56773
emergency or in a state of academic watch under section 3302.03 of 56774
the Revised Code; 56775

(c) A big eight school district; 56776

(d) A school district ranked in the lowest five per cent 56777
according to performance index score under section 3302.21 of the 56778
Revised Code. 56779

(4) "Big eight school district" means a school district that 56780
for fiscal year 1997 had both of the following: 56781

(a) A percentage of children residing in the district and 56782
participating in the predecessor of Ohio works first greater than 56783
thirty per cent, as reported pursuant to section 3317.10 of the 56784
Revised Code; 56785

(b) An average daily membership greater than twelve thousand, 56786
as reported pursuant to former division (A) of section 3317.03 of 56787

the Revised Code. 56788

(5) "New start-up school" means a community school other than 56789
one created by converting all or part of an existing public school 56790
or educational service center building, as designated in the 56791
school's contract pursuant to division (A)(17) of section 3314.03 56792
of the Revised Code. 56793

(6) "Urban school district" means one of the state's 56794
twenty-one urban school districts as defined in division (O) of 56795
section 3317.02 of the Revised Code as that section existed prior 56796
to July 1, 1998. 56797

(7) "Internet- or computer-based community school" means a 56798
community school established under this chapter in which the 56799
enrolled students work primarily from their residences on 56800
assignments in nonclassroom-based learning opportunities provided 56801
via an internet- or other computer-based instructional method that 56802
does not rely on regular classroom instruction or via 56803
comprehensive instructional methods that include internet-based, 56804
other computer-based, and noncomputer-based learning 56805
opportunities. 56806

(8) "Operator" means either of the following: 56807

(a) An individual or organization that manages the daily 56808
operations of a community school pursuant to a contract between 56809
the operator and the school's governing authority; 56810

(b) A nonprofit organization that provides programmatic 56811
oversight and support to a community school under a contract with 56812
the school's governing authority and that retains the right to 56813
terminate its affiliation with the school if the school fails to 56814
meet the organization's quality standards. 56815

(B) Any person or group of individuals may initially propose 56816
under this division the conversion of all or a portion of a public 56817
school or a building operated by an educational service center to 56818

a community school. The proposal shall be made to the board of education of the city, local, exempted village, or joint vocational school district in which the public school is proposed to be converted or, in the case of the conversion of a building operated by an educational service center, to the governing board of the service center. Upon receipt of a proposal, a board may enter into a preliminary agreement with the person or group proposing the conversion of the public school or service center building, indicating the intention of the board to support the conversion to a community school. A proposing person or group that has a preliminary agreement under this division may proceed to finalize plans for the school, establish a governing authority for the school, and negotiate a contract with the board. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the board shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code and division (C) of this section.

(C)(1) Any person or group of individuals may propose under this division the establishment of a new start-up school to be located in a challenged school district. The proposal may be made to any of the following entities:

(a) The board of education of the district in which the school is proposed to be located;

(b) The board of education of any joint vocational school district with territory in the county in which is located the majority of the territory of the district in which the school is proposed to be located;

(c) The board of education of any other city, local, or exempted village school district having territory in the same county where the district in which the school is proposed to be located has the major portion of its territory;

(d) The governing board of any educational service center,~~as~~ 56850
~~long as the proposed school will be located in a county within the~~ 56851
~~territory of the service center or in a county contiguous to such~~ 56852
~~county;~~ 56853

(e) A sponsoring authority designated by the board of 56854
trustees of any of the thirteen state universities listed in 56855
section 3345.011 of the Revised Code or the board of trustees 56856
itself as long as a mission of the proposed school to be specified 56857
in the contract under division (A)(2) of section 3314.03 of the 56858
Revised Code and as approved by the department of education under 56859
division (B)(2) of section 3314.015 of the Revised Code will be 56860
the practical demonstration of teaching methods, educational 56861
technology, or other teaching practices that are included in the 56862
curriculum of the university's teacher preparation program 56863
approved by the state board of education; 56864

(f) Any qualified tax-exempt entity under section 501(c)(3) 56865
of the Internal Revenue Code as long as all of the following 56866
conditions are satisfied: 56867

(i) The entity has been in operation for at least five years 56868
prior to applying to be a community school sponsor. 56869

(ii) The entity has assets of at least five hundred thousand 56870
dollars and a demonstrated record of financial responsibility. 56871

(iii) The department of education has determined that the 56872
entity is an education-oriented entity under division (B)(3) of 56873
section 3314.015 of the Revised Code and the entity has a 56874
demonstrated record of successful implementation of educational 56875
programs. 56876

(iv) The entity is not a community school. 56877

Any entity described in division (C)(1) of this section may 56878
enter into a preliminary agreement pursuant to division (C)(2) of 56879
this section with the proposing person or group. 56880

(2) A preliminary agreement indicates the intention of an entity described in division (C)(1) of this section to sponsor the community school. A proposing person or group that has such a preliminary agreement may proceed to finalize plans for the school, establish a governing authority as described in division (E) of this section for the school, and negotiate a contract with the entity. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the entity shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code.

(3) A new start-up school that is established in a school district while that district is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code or ranked in the lowest five per cent according to performance index score under section 3302.21 of the Revised Code may continue in existence once the school district is no longer in a state of academic emergency or academic watch or ranked in the lowest five per cent according to performance index score, provided there is a valid contract between the school and a sponsor.

(4) A copy of every preliminary agreement entered into under this division shall be filed with the superintendent of public instruction.

(D) A majority vote of the board of a sponsoring entity and a majority vote of the members of the governing authority of a community school shall be required to adopt a contract and convert the public school or educational service center building to a community school or establish the new start-up school. Beginning September 29, 2005, adoption of the contract shall occur not later than the fifteenth day of March, and signing of the contract shall occur not later than the fifteenth day of May, prior to the school year in which the school will open. The governing authority shall

notify the department of education when the contract has been 56913
signed. ~~Subject to sections 3314.013, 3314.014, 3314.016, and~~ 56914
~~3314.017 of the Revised Code, an~~ An unlimited number of community 56915
schools may be established in any school district provided that a 56916
contract is entered into for each community school pursuant to 56917
this chapter. 56918

(E)(1) As used in this division, "immediate relatives" are 56919
limited to spouses, children, parents, grandparents, siblings, and 56920
in-laws. 56921

Each new start-up community school established under this 56922
chapter shall be under the direction of a governing authority 56923
which shall consist of a board of not less than five individuals. 56924

No person shall serve on the governing authority or operate 56925
the community school under contract with the governing authority 56926
so long as the person owes the state any money or is in a dispute 56927
over whether the person owes the state any money concerning the 56928
operation of a community school that has closed. 56929

(2) No person shall serve on the governing authorities of 56930
more than two start-up community schools at the same time. 56931

(3) No present or former member, or immediate relative of a 56932
present or former member, of the governing authority of any 56933
community school established under this chapter shall be an owner, 56934
employee, or consultant of any ~~nonprofit~~ sponsor or ~~for-profit~~ 56935
operator of a community school, unless at least one year has 56936
elapsed since the conclusion of the person's membership. 56937

(F)(1) A new start-up school that is established prior to 56938
August 15, 2003, in an urban school district that is not also a 56939
big-eight school district may continue to operate after that date 56940
and the contract between the school's governing authority and the 56941
school's sponsor may be renewed, as provided under this chapter, 56942
after that date, but no additional new start-up schools may be 56943

established in such a district unless the district is a challenged school district as defined in this section as it exists on and after that date.

(2) A community school that was established prior to June 29, 1999, and is located in a county contiguous to the pilot project area and in a school district that is not a challenged school district may continue to operate after that date, provided the school complies with all provisions of this chapter. The contract between the school's governing authority and the school's sponsor may be renewed, but no additional start-up community school may be established in that district unless the district is a challenged school district.

~~(3) Any educational service center that, on June 30, 2007, sponsors a community school that is not located in a county within the territory of the service center or in a county contiguous to such county may continue to sponsor that community school on and after June 30, 2007, and may renew its contract with the school. However, the educational service center shall not enter into a contract with any additional community school unless the school is located in a county within the territory of the service center or in a county contiguous to such county.~~

(G) Notwithstanding anything to the contrary in this section, a person or group of individuals may propose the establishment of a new start-up school to be located in a school district that is not a challenged school district and, upon obtaining a sponsor in accordance with divisions (C)(1) and (2) of this section, may proceed to establish the school, if all of the following conditions are met:

(1) The school will be established as a public benefit corporation in accordance with division (A)(1)(b) of section 3314.03 of the Revised Code;

(2) At least seventy-five per cent of the school's total enrollment will be children with disabilities, as defined in section 3323.01 of the Revised Code; 56975
56976
56977

(3) Either the school district in which the school will be located or the department of education has certified that there is a need for a school serving children with disabilities in that region. 56978
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Sec. 3314.021. (A) This section applies to any entity that is 56982
exempt from taxation under section 501(c)(3) of the Internal 56983
Revenue Code and that satisfies the conditions specified in 56984
divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the 56985
Revised Code but does not satisfy the condition specified in 56986
division (C)(1)(f)(i) of that section. 56987

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 56988
of the Revised Code, an entity described in division (A) of this 56989
section may do both of the following without obtaining the 56990
department of education's initial approval of its sponsorship 56991
under divisions (A)(2) and (B)(1) of section 3314.015 of the 56992
Revised Code: 56993

(1) Succeed the board of trustees of a state university 56994
located in the pilot project area or that board's designee as the 56995
sponsor of a community school established under this chapter; 56996

(2) Continue to sponsor that school in conformance with the 56997
terms of the contract between the board of trustees or its 56998
designee and the governing authority of the community school and 56999
renew that contract as provided in division (E) of section 3314.03 57000
of the Revised Code. 57001

(C) The entity that succeeds the board of trustees or the 57002
board's designee as sponsor of a community school under division 57003
(B) of this section also may enter into contracts to sponsor other 57004

community schools located in any challenged school district, 57005
without obtaining the department's initial approval of its 57006
sponsorship of those schools under divisions (A)(2) and (B)(1) of 57007
section 3314.015 of the Revised Code, ~~and not subject to the~~ 57008
~~restriction of division (A)(7) of section 3314.013 of the Revised~~ 57009
~~Code,~~ as long as the contracts conform with and the entity 57010
complies with all other requirements of this chapter. 57011

(D) Regardless of the entity's authority to sponsor community 57012
schools without the initial approval of the department, the entity 57013
is under the continuing oversight of the department in accordance 57014
with rules adopted under section 3314.015 of the Revised Code. 57015

Sec. 3314.023. In order to provide monitoring and technical 57016
assistance, ~~the sponsor of a community school shall be located or~~ 57017
~~have representatives located within fifty miles of the location of~~ 57018
~~the community school, or in the case of an internet or~~ 57019
~~computer based community school, within fifty miles of the~~ 57020
~~school's base of operation. A~~ a representative of the sponsor of a 57021
community school shall meet with the governing authority or 57022
treasurer of the school and shall review the financial and 57023
enrollment records of the school at least once every ~~two months~~ 57024
month. 57025

Not later than one hundred eighty days after the effective 57026
date of this amendment, the state board of education shall adopt 57027
rules under Chapter 119. of the Revised Code that define what 57028
records constitute financial records for purposes of this section. 57029

Sec. 3314.0210. (A) Notwithstanding anything to the contrary 57030
in this chapter, any organization whose membership consists solely 57031
of entities described in divisions (C)(1)(a) to (f) of section 57032
3314.02 of the Revised Code may sponsor community schools, 57033
provided that, in accordance with division (B) of section 3314.015 57034

of the Revised Code, the department of education approves the 57035
organization as a sponsor and the organization enters into a 57036
written agreement with the department regarding the manner in 57037
which the organization will conduct its sponsorship. 57038

(B) An organization approved under division (A) of this 57039
section may do all of the following: 57040

(1) Assume the sponsorship of any community school with which 57041
a member of the organization has entered into a contract under 57042
section 3314.03 of the Revised Code, provided the transfer of the 57043
sponsorship authority takes effect only at the beginning of a 57044
school year and one of the following conditions is met: 57045

(a) If the contract has expired, the governing authority of 57046
the community school enters into a successor contract with the 57047
organization under section 3314.03 of the Revised Code. 57048

(b) If the contract has not expired, both the governing 57049
authority of the community school and the governing body of the 57050
member adopt a resolution consenting to the organization becoming 57051
the school's sponsor prior to the expiration of the contract, and 57052
the governing authority and the organization amend the contract to 57053
reflect the transfer of the school's sponsorship to the 57054
organization. 57055

(2) Enter into a preliminary agreement with a person or group 57056
proposing to convert all or a portion of a building operated by a 57057
school district or educational service center that is a member of 57058
the organization into a community school and, if the district 57059
board of education or service center governing board adopts a 57060
resolution approving the conversion, enter into a contract with 57061
the governing authority of the school under section 3314.03 of the 57062
Revised Code; 57063

(3) Enter into a preliminary agreement with a person or group 57064

proposing the establishment of a new start-up school to be located 57065
in a challenged school district and enter into a contract with the 57066
governing authority of the school under section 3314.03 of the 57067
Revised Code. 57068

(C) An organization approved under division (A) of this 57069
section shall comply with all applicable requirements of this 57070
chapter in the same manner as any other sponsor. 57071

(D) Nothing in this section prohibits a member of an 57072
organization approved under division (A) of this section from 57073
sponsoring a community school on its own in its capacity as an 57074
autonomous entity authorized to sponsor community schools under 57075
section 3314.02 of the Revised Code. 57076

Sec. 3314.03. A copy of every contract entered into under 57077
this section shall be filed with the superintendent of public 57078
instruction. 57079

(A) Each contract entered into between a sponsor and the 57080
governing authority of a community school shall specify the 57081
following: 57082

(1) That the school shall be established as either of the 57083
following: 57084

(a) A nonprofit corporation established under Chapter 1702. 57085
of the Revised Code, if established prior to April 8, 2003; 57086

(b) A public benefit corporation established under Chapter 57087
1702. of the Revised Code, if established after April 8, 2003. 57088

(2) The education program of the school, including the 57089
school's mission, the characteristics of the students the school 57090
is expected to attract, the ages and grades of students, and the 57091
focus of the curriculum; 57092

(3) The academic goals to be achieved and the method of 57093
measurement that will be used to determine progress toward those 57094

goals, which shall include the statewide achievement assessments;	57095
(4) Performance standards by which the success of the school will be evaluated by the sponsor;	57096 57097
(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;	57098 57099
(6)(a) Dismissal procedures;	57100
(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.	57101 57102 57103 57104 57105 57106
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	57107 57108
(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.	57109 57110 57111 57112 57113 57114
(9) The facilities to be used and their locations;	57115
(10) Qualifications of teachers, including the following:	57116
(a) A requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;	57117 57118 57119 57120 57121
(b) A requirement that each classroom teacher initially hired by the school on or after July 1, 2013, and employed to provide instruction in physical education hold a valid license issued	57122 57123 57124

pursuant to section 3319.22 of the Revised Code for teaching 57125
physical education. 57126

(11) That the school will comply with the following 57127
requirements: 57128

(a) The school will provide learning opportunities to a 57129
minimum of twenty-five students for a minimum of nine hundred 57130
twenty hours per school year. 57131

(b) The governing authority will purchase liability 57132
insurance, or otherwise provide for the potential liability of the 57133
school. 57134

(c) The school will be nonsectarian in its programs, 57135
admission policies, employment practices, and all other 57136
operations, and will not be operated by a sectarian school or 57137
religious institution. 57138

(d) The school will comply with sections 9.90, 9.91, 109.65, 57139
121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 57140
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.608, 57141
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 3313.648, 57142
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 57143
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 57144
3313.718, 3313.719, 3313.80, 3313.814, 3313.816, ~~3314.817~~ 57145
3313.817, 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 57146
3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 57147
3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and 57148
Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., 57149
and 4167. of the Revised Code as if it were a school district and 57150
will comply with section 3301.0714 of the Revised Code in the 57151
manner specified in section 3314.17 of the Revised Code. 57152

(e) The school shall comply with Chapter 102. and section 57153
2921.42 of the Revised Code. 57154

(f) The school will comply with sections 3313.61, 3313.611, 57155

and 3313.614 of the Revised Code, except that for students who 57156
enter ninth grade for the first time before July 1, 2010, the 57157
requirement in sections 3313.61 and 3313.611 of the Revised Code 57158
that a person must successfully complete the curriculum in any 57159
high school prior to receiving a high school diploma may be met by 57160
completing the curriculum adopted by the governing authority of 57161
the community school rather than the curriculum specified in Title 57162
XXXIII of the Revised Code or any rules of the state board of 57163
education. Beginning with students who enter ninth grade for the 57164
first time on or after July 1, 2010, the requirement in sections 57165
3313.61 and 3313.611 of the Revised Code that a person must 57166
successfully complete the curriculum of a high school prior to 57167
receiving a high school diploma shall be met by completing the 57168
Ohio core curriculum prescribed in division (C) of section 57169
3313.603 of the Revised Code, unless the person qualifies under 57170
division (D) or (F) of that section. Each school shall comply with 57171
the plan for awarding high school credit based on demonstration of 57172
subject area competency, adopted by the state board of education 57173
under division (J) of section 3313.603 of the Revised Code. 57174

(g) The school governing authority will submit within four 57175
months after the end of each school year a report of its 57176
activities and progress in meeting the goals and standards of 57177
divisions (A)(3) and (4) of this section and its financial status 57178
to the sponsor and the parents of all students enrolled in the 57179
school. 57180

(h) The school, unless it is an internet- or computer-based 57181
community school, will comply with ~~sections 3313.674 and section~~ 57182
3313.801 of the Revised Code as if it were a school district. 57183

(12) Arrangements for providing health and other benefits to 57184
employees; 57185

(13) The length of the contract, which shall begin at the 57186
beginning of an academic year. No contract shall exceed five years 57187

unless such contract has been renewed pursuant to division (E) of 57188
this section. 57189

(14) The governing authority of the school, which shall be 57190
responsible for carrying out the provisions of the contract; 57191

(15) A financial plan detailing an estimated school budget 57192
for each year of the period of the contract and specifying the 57193
total estimated per pupil expenditure amount for each such year. 57194
The plan shall specify for each year the base formula amount that 57195
will be used for purposes of funding calculations under section 57196
3314.08 of the Revised Code. This base formula amount for any year 57197
shall not exceed the formula amount defined under section 3317.02 57198
of the Revised Code. The plan may also specify for any year a 57199
percentage figure to be used for reducing the per pupil amount of 57200
the subsidy calculated pursuant to section 3317.029 of the Revised 57201
Code the school is to receive that year under section 3314.08 of 57202
the Revised Code. 57203

(16) Requirements and procedures regarding the disposition of 57204
employees of the school in the event the contract is terminated or 57205
not renewed pursuant to section 3314.07 of the Revised Code; 57206

(17) Whether the school is to be created by converting all or 57207
part of an existing public school or educational service center 57208
building or is to be a new start-up school, and if it is a 57209
converted public school or service center building, specification 57210
of any duties or responsibilities of an employer that the board of 57211
education or service center governing board that operated the 57212
school or building before conversion is delegating to the 57213
governing authority of the community school with respect to all or 57214
any specified group of employees provided the delegation is not 57215
prohibited by a collective bargaining agreement applicable to such 57216
employees; 57217

(18) Provisions establishing procedures for resolving 57218

disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code and, at the sole discretion of the authority, shall do one of the following:

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;

(c) Permit the enrollment of students who reside in any other district in the state.

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;

(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;

(22) A provision recognizing both of the following:

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;

(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the

school that pose an imminent danger to the health and safety of 57249
the school's students and employees and the sponsor refuses to 57250
take such action; 57251

(23) A description of the learning opportunities that will be 57252
offered to students including both classroom-based and 57253
non-classroom-based learning opportunities that is in compliance 57254
with criteria for student participation established by the 57255
department under division (L)(2) of section 3314.08 of the Revised 57256
Code; 57257

(24) The school will comply with sections 3302.04 and 57258
3302.041 of the Revised Code, except that any action required to 57259
be taken by a school district pursuant to those sections shall be 57260
taken by the sponsor of the school. However, the sponsor shall not 57261
be required to take any action described in division (F) of 57262
section 3302.04 of the Revised Code. 57263

(25) Beginning in the 2006-2007 school year, the school will 57264
open for operation not later than the thirtieth day of September 57265
each school year, unless the mission of the school as specified 57266
under division (A)(2) of this section is solely to serve dropouts. 57267
In its initial year of operation, if the school fails to open by 57268
the thirtieth day of September, or within one year after the 57269
adoption of the contract pursuant to division (D) of section 57270
3314.02 of the Revised Code if the mission of the school is solely 57271
to serve dropouts, the contract shall be void. 57272

(B) The community school shall also submit to the sponsor a 57273
comprehensive plan for the school. The plan shall specify the 57274
following: 57275

(1) The process by which the governing authority of the 57276
school will be selected in the future; 57277

(2) The management and administration of the school; 57278

(3) If the community school is a currently existing public 57279

school or educational service center building, alternative 57280
arrangements for current public school students who choose not to 57281
attend the converted school and for teachers who choose not to 57282
teach in the school or building after conversion; 57283

(4) The instructional program and educational philosophy of 57284
the school; 57285

(5) Internal financial controls. 57286

(C) A contract entered into under section 3314.02 of the 57287
Revised Code between a sponsor and the governing authority of a 57288
community school may provide for the community school governing 57289
authority to make payments to the sponsor, which is hereby 57290
authorized to receive such payments as set forth in the contract 57291
between the governing authority and the sponsor. The total amount 57292
of such payments for oversight and monitoring of the school shall 57293
not exceed three per cent of the total amount of payments for 57294
operating expenses that the school receives from the state. 57295

(D) The contract shall specify the duties of the sponsor 57296
which shall be in accordance with the written agreement entered 57297
into with the department of education under division (B) of 57298
section 3314.015 of the Revised Code and shall include the 57299
following: 57300

(1) Monitor the community school's compliance with all laws 57301
applicable to the school and with the terms of the contract; 57302

(2) Monitor and evaluate the academic and fiscal performance 57303
and the organization and operation of the community school on at 57304
least an annual basis; 57305

(3) Report on an annual basis the results of the evaluation 57306
conducted under division (D)(2) of this section to the department 57307
of education and to the parents of students enrolled in the 57308
community school; 57309

(4) Provide technical assistance to the community school in 57310
complying with laws applicable to the school and terms of the 57311
contract; 57312

(5) Take steps to intervene in the school's operation to 57313
correct problems in the school's overall performance, declare the 57314
school to be on probationary status pursuant to section 3314.073 57315
of the Revised Code, suspend the operation of the school pursuant 57316
to section 3314.072 of the Revised Code, or terminate the contract 57317
of the school pursuant to section 3314.07 of the Revised Code as 57318
determined necessary by the sponsor; 57319

(6) Have in place a plan of action to be undertaken in the 57320
event the community school experiences financial difficulties or 57321
closes prior to the end of a school year. 57322

(E) Upon the expiration of a contract entered into under this 57323
section, the sponsor of a community school may, with the approval 57324
of the governing authority of the school, renew that contract for 57325
a period of time determined by the sponsor, but not ending earlier 57326
than the end of any school year, if the sponsor finds that the 57327
school's compliance with applicable laws and terms of the contract 57328
and the school's progress in meeting the academic goals prescribed 57329
in the contract have been satisfactory. Any contract that is 57330
renewed under this division remains subject to the provisions of 57331
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 57332

(F) If a community school fails to open for operation within 57333
one year after the contract entered into under this section is 57334
adopted pursuant to division (D) of section 3314.02 of the Revised 57335
Code or permanently closes prior to the expiration of the 57336
contract, the contract shall be void and the school shall not 57337
enter into a contract with any other sponsor. A school shall not 57338
be considered permanently closed because the operations of the 57339
school have been suspended pursuant to section 3314.072 of the 57340
Revised Code. ~~Any contract that becomes void under this division~~ 57341

~~shall not count toward any statewide limit on the number of such~~ 57342
~~contracts prescribed by section 3314.013 of the Revised Code.~~ 57343

Sec. 3314.05. (A) The contract between the community school 57344
and the sponsor shall specify the facilities to be used for the 57345
community school and the method of acquisition. Except as provided 57346
in ~~division~~ divisions (B)(3) and (4) of this section, no community 57347
school shall be established in more than one school district under 57348
the same contract. 57349

(B) Division (B) of this section shall not apply to internet- 57350
or computer-based community schools. 57351

(1) A community school may be located in multiple facilities 57352
under the same contract only if the limitations on availability of 57353
space prohibit serving all the grade levels specified in the 57354
contract in a single facility or ~~division (B)(2) or (3), or (4)~~ 57355
of this section applies to the school. The school shall not offer 57356
the same grade level classrooms in more than one facility. 57357

(2) A community school may be located in multiple facilities 57358
under the same contract and, notwithstanding division (B)(1) of 57359
this section, may assign students in the same grade level to 57360
multiple facilities, as long as all of the following apply: 57361

(a) The governing authority of the community school filed a 57362
copy of its contract with the school's sponsor under section 57363
3314.03 of the Revised Code with the superintendent of public 57364
instruction on or before May 15, 2008. 57365

(b) The school was not open for operation prior to July 1, 57366
2008. 57367

(c) The governing authority has entered into and maintains a 57368
contract with an operator of the type described in division 57369
(A) ~~(2)(8)(b)~~ of section ~~3314.014~~ 3314.02 of the Revised Code. 57370

(d) The contract with that operator qualified the school to 57371

be established pursuant to division (A) of former section 3314.016 57372
of the Revised Code. 57373

(e) The school's rating under section 3302.03 of the Revised 57374
Code does not fall below "in need of continuous improvement" for 57375
two or more consecutive years. 57376

(3) A new start-up community school may be established in two 57377
school districts under the same contract if all of the following 57378
apply: 57379

(a) At least one of the school districts in which the school 57380
is established is a challenged school district; 57381

(b) The school operates not more than one facility in each 57382
school district and, in accordance with division (B)(1) of this 57383
section, the school does not offer the same grade level classrooms 57384
in both facilities; and 57385

(c) Transportation between the two facilities does not 57386
require more than thirty minutes of direct travel time as measured 57387
by school bus. 57388

In the case of a community school to which division (B)(3) of 57389
this section applies, if only one of the school districts in which 57390
the school is established is a challenged school district, that 57391
district shall be considered the school's primary location and the 57392
district in which the school is located for the purposes of 57393
division (A)(19) of section 3314.03 and divisions (C) and (H) of 57394
section 3314.06 of the Revised Code and for all other purposes of 57395
this chapter. If both of the school districts in which the school 57396
is established are challenged school districts, the school's 57397
governing authority shall designate one of those districts to be 57398
considered the school's primary location and the district in which 57399
the school is located for the purposes of those divisions and all 57400
other purposes of this chapter and shall notify the department of 57401
education of that designation. 57402

(4) A community school may be located in multiple facilities under the same contract and, notwithstanding division (B)(1) of this section, may assign students in the same grade level to multiple facilities, as long as both of the following apply: 57403
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(a) The facilities are all located in the same county. 57407

(b) The governing authority has entered into and maintains a contract with an operator. 57408
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In the case of a community school to which division (B)(4) of this section applies and that maintains facilities in more than one school district, the school's governing authority shall designate one of those districts to be considered the school's primary location and the district in which the school is located for the purposes of division (A)(19) of section 3314.03 and divisions (C) and (H) of section 3314.06 of the Revised Code and for all other purposes of this chapter and shall notify the department of that designation. 57410
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(5) Any facility used for a community school shall meet all health and safety standards established by law for school buildings. 57419
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(C) In the case where a community school is proposed to be located in a facility owned by a school district or educational service center, the facility may not be used for such community school unless the district or service center board owning the facility enters into an agreement for the community school to utilize the facility. Use of the facility may be under any terms and conditions agreed to by the district or service center board and the school. 57422
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(D) Two or more separate community schools may be located in the same facility. 57430
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Sec. 3314.051. (A) When the governing authority of a 57432

community school that acquired real property from a school 57433
district pursuant to former division (G)(2) of section 3313.41 of 57434
the Revised Code decides to dispose of that property, it first 57435
shall offer that property for sale to the school district board of 57436
education from which it acquired the property, at a price that is 57437
not higher than the appraised fair market value of that property. 57438
If the district board does not accept the offer within sixty days 57439
after the offer is made, the community school may dispose of the 57440
property in another lawful manner. 57441

(B) When a community school that acquired real property from 57442
a school district pursuant to former division (G)(2) of section 57443
3313.41 of the Revised Code permanently closes, in distributing 57444
the school's assets under section 3314.074 of the Revised Code, 57445
that property first shall be offered for sale to the school 57446
district board of education from which the community school 57447
acquired the property, at a price that is not higher than the 57448
appraised fair market value of that property. If the district 57449
board does not accept the offer within sixty days after the offer 57450
is made, the property may be disposed in another lawful manner. 57451

Sec. 3314.07. (A) The expiration of the contract for a 57452
community school between a sponsor and a school shall be the date 57453
provided in the contract. A successor contract may be entered into 57454
pursuant to division (E) of section 3314.03 of the Revised Code 57455
unless the contract is terminated or not renewed pursuant to this 57456
section. 57457

(B)(1) A sponsor may choose not to renew a contract at its 57458
expiration or may choose to terminate a contract prior to its 57459
expiration for any of the following reasons: 57460

(a) Failure to meet student performance requirements stated 57461
in the contract; 57462

(b) Failure to meet generally accepted standards of fiscal management; 57463
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(c) Violation of any provision of the contract or applicable state or federal law; 57465
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(d) Other good cause. 57467

(2) A sponsor may choose to terminate a contract prior to its expiration if the sponsor has suspended the operation of the contract under section 3314.072 of the Revised Code. 57468
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(3) ~~At least ninety days prior to the termination or nonrenewal of a~~ Not later than the first day of March in the year in which the sponsor intends to terminate or take actions not to renew the community school's contract, the sponsor shall notify the school of the proposed action in writing. The notice shall include the reasons for the proposed action in detail, the effective date of the termination or nonrenewal, and a statement that the school may, within fourteen days of receiving the notice, request an informal hearing before the sponsor. Such request must be in writing. The informal hearing shall be held within ~~seventy~~ fourteen days of the receipt of a request for the hearing. ~~Promptly following~~ Not later than fourteen days after the informal hearing, the sponsor shall issue a written decision either affirming or rescinding the decision to terminate or not renew the contract. 57471
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(4) A decision by the sponsor to terminate a contract may be appealed to the state board of education. The notice of appeal shall be filed with the state board not later than fourteen days following receipt of the sponsor's written decision to terminate the contract. Within sixty days of receipt of the notice of appeal, the state board shall conduct a hearing and issue a written decision on the appeal. The written decision of the state board shall include the reasons for affirming or rescinding the 57486
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decision of the sponsor. The decision by the state board 57494
pertaining to an appeal under this division is final. If the 57495
sponsor is the state board, its decision to terminate a contract 57496
under division (B)(3) of this section shall be final. 57497

(5) The termination of a contract under this section shall be 57498
effective upon the occurrence of the later of the following 57499
events: 57500

(a) ~~Ninety days following the~~ The date the sponsor notifies 57501
the school of its decision to terminate the contract as prescribed 57502
in division (B)(3) of this section; 57503

(b) If an informal hearing is requested under division (B)(3) 57504
of this section and as a result of that hearing the sponsor 57505
affirms its decision to terminate the contract, the effective date 57506
of the termination specified in the notice issued under division 57507
(B)(3) of this section, or if that decision is appealed to the 57508
state board under division (B)(4) of this section and the state 57509
board affirms that decision, the date established in the 57510
resolution of the state board affirming the sponsor's decision. 57511

(6) Any community school whose contract is terminated under 57512
division (B) of this section shall close permanently at the end of 57513
the current school year or on a date specified in the notification 57514
of termination under (B)(3) of this section. Any community school 57515
whose contract is terminated under this division shall not enter 57516
into a contract with any other sponsor. 57517

(C) A child attending a community school whose contract has 57518
been terminated, nonrenewed, or suspended or that closes for any 57519
reason shall be admitted to the schools of the district in which 57520
the child is entitled to attend under section 3313.64 or 3313.65 57521
of the Revised Code. Any deadlines established for the purpose of 57522
admitting students under section 3313.97 or 3313.98 of the Revised 57523
Code shall be waived for students to whom this division pertains. 57524

(D) If a community school does not intend to renew a contract with its sponsor, the community school shall notify its sponsor in writing of that fact at least one hundred eighty days prior to the expiration of the contract. Such a community school may enter into a contract with a new sponsor in accordance with section 3314.03 of the Revised Code upon the expiration of the previous contract.

(E) A sponsor of a community school and the officers, directors, or employees of such a sponsor are immune from civil liability for any action authorized under this chapter or the contract entered into with the school under section 3314.03 of the Revised Code that is taken to fulfill the sponsor's responsibility to oversee and monitor the school. The sponsor and its officers, directors, or employees are not liable in damages in a tort or other civil action for harm allegedly arising from either of the following:

(1) A failure of the community school or any of its officers, directors, or employees to perform any statutory or common law duty or responsibility or any other legal obligation;

(2) An action or omission of the community school or any of its officers, directors, or employees that results in harm.

(F) As used in this section:

(1) "Harm" means injury, death, or loss to person or property.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons.

Sec. 3314.08. The deductions under division (C) and the payments under division (D) of this section for fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance with section

3314.088 of the Revised Code.	57555
(A) As used in this section:	57556
(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.	57557 57558 57559
(2) "IEP" has the same meaning as in section 3323.01 of the Revised Code.	57560 57561
(3) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section.	57562 57563 57564
(4) "Applicable vocational education weight" means:	57565
(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;	57566 57567 57568
(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.	57569 57570 57571
(5) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.	57572 57573 57574
(6) A community school student is "included in the poverty student count" of a school district if the student is entitled to attend school in the district and the student's family receives assistance under the Ohio works first program.	57575 57576 57577 57578
(7) "Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of poverty-based assistance a community school is entitled to receive pursuant to divisions (D)(5) to (9) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.	57579 57580 57581 57582 57583 57584

(8) "All-day kindergarten" has the same meaning as in section 57585
~~3317.029~~ 3321.05 of the Revised Code. 57586

(9) "State education aid" has the same meaning as in section 57587
5751.20 of the Revised Code. 57588

(B) The state board of education shall adopt rules requiring 57589
both of the following: 57590

(1) The board of education of each city, exempted village, 57591
and local school district to annually report the number of 57592
students entitled to attend school in the district who are 57593
enrolled in grades one through twelve in a community school 57594
established under this chapter, the number of students entitled to 57595
attend school in the district who are enrolled in kindergarten in 57596
a community school, the number of those kindergartners who are 57597
enrolled in all-day kindergarten in their community school, and 57598
for each child, the community school in which the child is 57599
enrolled. 57600

(2) The governing authority of each community school 57601
established under this chapter to annually report all of the 57602
following: 57603

(a) The number of students enrolled in grades one through 57604
twelve and the number of students enrolled in kindergarten in the 57605
school who are not receiving special education and related 57606
services pursuant to an IEP; 57607

(b) The number of enrolled students in grades one through 57608
twelve and the number of enrolled students in kindergarten, who 57609
are receiving special education and related services pursuant to 57610
an IEP; 57611

(c) The number of students reported under division (B)(2)(b) 57612
of this section receiving special education and related services 57613
pursuant to an IEP for a disability described in each of divisions 57614
(A) to (F) of section 3317.013 of the Revised Code; 57615

(d) The full-time equivalent number of students reported 57616
under divisions (B)(2)(a) and (b) of this section who are enrolled 57617
in vocational education programs or classes described in each of 57618
divisions (A) and (B) of section 3317.014 of the Revised Code that 57619
are provided by the community school; 57620

(e) Twenty per cent of the number of students reported under 57621
divisions (B)(2)(a) and (b) of this section who are not reported 57622
under division (B)(2)(d) of this section but who are enrolled in 57623
vocational education programs or classes described in each of 57624
divisions (A) and (B) of section 3317.014 of the Revised Code at a 57625
joint vocational school district under a contract between the 57626
community school and the joint vocational school district and are 57627
entitled to attend school in a city, local, or exempted village 57628
school district whose territory is part of the territory of the 57629
joint vocational school district; 57630

(f) The number of enrolled preschool children with 57631
disabilities receiving special education services in a 57632
state-funded unit; 57633

(g) The community school's base formula amount; 57634

(h) For each student, the city, exempted village, or local 57635
school district in which the student is entitled to attend school; 57636

(i) Any poverty-based assistance reduction factor that 57637
applies to a school year. 57638

(C) From the state education aid calculated for a city, 57639
exempted village, or local school district and, if necessary, from 57640
the payment made to the district under sections 321.24 and 323.156 57641
of the Revised Code, the department of education shall annually 57642
subtract the sum of the amounts described in divisions (C)(1) to 57643
(9) of this section. However, when deducting payments on behalf of 57644
students enrolled in internet- or computer-based community 57645
schools, the department shall deduct only those amounts described 57646

in divisions (C)(1) and (2) of this section. Furthermore, the 57647
aggregate amount deducted under this division shall not exceed the 57648
sum of the district's state education aid and its payment under 57649
sections 321.24 and 323.156 of the Revised Code. 57650

(1) An amount equal to the sum of the amounts obtained when, 57651
for each community school where the district's students are 57652
enrolled, the number of the district's students reported under 57653
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 57654
in grades one through twelve, and one-half the number of students 57655
reported under those divisions who are enrolled in kindergarten, 57656
in that community school is multiplied by the sum of the base 57657
formula amount of that community school plus the per pupil amount 57658
of the base funding supplements specified in divisions (C)(1) to 57659
(4) of section 3317.012 of the Revised Code. 57660

(2) The sum of the amounts calculated under divisions 57661
(C)(2)(a) and (b) of this section: 57662

(a) For each of the district's students reported under 57663
division (B)(2)(c) of this section as enrolled in a community 57664
school in grades one through twelve and receiving special 57665
education and related services pursuant to an IEP for a disability 57666
described in section 3317.013 of the Revised Code, the product of 57667
the applicable special education weight times the community 57668
school's base formula amount; 57669

(b) For each of the district's students reported under 57670
division (B)(2)(c) of this section as enrolled in kindergarten in 57671
a community school and receiving special education and related 57672
services pursuant to an IEP for a disability described in section 57673
3317.013 of the Revised Code, one-half of the amount calculated as 57674
prescribed in division (C)(2)(a) of this section. 57675

(3) For each of the district's students reported under 57676
division (B)(2)(d) of this section for whom payment is made under 57677

division (D)(4) of this section, the amount of that payment; 57678

(4) An amount equal to the sum of the amounts obtained when, 57679
for each community school where the district's students are 57680
enrolled, the number of the district's students enrolled in that 57681
community school who are included in the district's poverty 57682
student count is multiplied by the per pupil amount of 57683
poverty-based assistance the school district receives that year 57684
pursuant to division (C) of section 3317.029 of the Revised Code, 57685
as adjusted by any poverty-based assistance reduction factor of 57686
that community school. The per pupil amount of that aid for the 57687
district shall be calculated by the department. 57688

(5) An amount equal to the sum of the amounts obtained when, 57689
for each community school where the district's students are 57690
enrolled, the district's per pupil amount of aid received under 57691
division (E) of section 3317.029 of the Revised Code, as adjusted 57692
by any poverty-based assistance reduction factor of the community 57693
school, is multiplied by the sum of the following: 57694

(a) The number of the district's students reported under 57695
division (B)(2)(a) of this section who are enrolled in grades one 57696
to three in that community school and who are not receiving 57697
special education and related services pursuant to an IEP; 57698

(b) One-half of the district's students who are enrolled in 57699
all-day or any other kindergarten class in that community school 57700
and who are not receiving special education and related services 57701
pursuant to an IEP; 57702

(c) One-half of the district's students who are enrolled in 57703
all-day kindergarten in that community school and who are not 57704
receiving special education and related services pursuant to an 57705
IEP. 57706

The district's per pupil amount of aid under division (E) of 57707
section 3317.029 of the Revised Code is the quotient of the amount 57708

the district received under that division divided by the 57709
district's kindergarten through third grade ADM, as defined in 57710
that section. 57711

(6) An amount equal to the sum of the amounts obtained when, 57712
for each community school where the district's students are 57713
enrolled, the district's per pupil amount received under division 57714
(F) of section 3317.029 of the Revised Code, as adjusted by any 57715
poverty-based assistance reduction factor of that community 57716
school, is multiplied by the number of the district's students 57717
enrolled in the community school who are identified as 57718
limited-English proficient. 57719

(7) An amount equal to the sum of the amounts obtained when, 57720
for each community school where the district's students are 57721
enrolled, the district's per pupil amount received under division 57722
(G) of section 3317.029 of the Revised Code, as adjusted by any 57723
poverty-based assistance reduction factor of that community 57724
school, is multiplied by the sum of the following: 57725

(a) The number of the district's students enrolled in grades 57726
one through twelve in that community school; 57727

(b) One-half of the number of the district's students 57728
enrolled in kindergarten in that community school. 57729

The district's per pupil amount under division (G) of section 57730
3317.029 of the Revised Code is the district's amount per teacher 57731
calculated under division (G)(1) or (2) of that section divided by 57732
17. 57733

(8) An amount equal to the sum of the amounts obtained when, 57734
for each community school where the district's students are 57735
enrolled, the district's per pupil amount received under divisions 57736
(H) and (I) of section 3317.029 of the Revised Code, as adjusted 57737
by any poverty-based assistance reduction factor of that community 57738
school, is multiplied by the sum of the following: 57739

(a) The number of the district's students enrolled in grades one through twelve in that community school; 57740
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(b) One-half of the number of the district's students enrolled in kindergarten in that community school. 57742
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The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code is the amount calculated under each division divided by the district's formula ADM, as defined in section 3317.02 of the Revised Code. 57744
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(9) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one-half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section. 57748
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(D) The department shall annually pay to a community school established under this chapter the sum of the amounts described in divisions (D)(1) to (10) of this section. However, the department shall calculate and pay to each internet- or computer-based community school only the amounts described in divisions (D)(1) to (3) of this section. Furthermore, the sum of the payments to all community schools under divisions (D)(1), (2), and (4) to (10) of this section for the students entitled to attend school in any particular school district shall not exceed the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code. If the sum of the payments calculated under those divisions for the students entitled to attend school in a particular school district exceeds the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all 57756
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community schools under those divisions for the students entitled 57772
to attend school in that district. 57773

~~(1) Subject to section 3314.085 of the Revised Code, an An 57774
amount equal to the sum of the amounts obtained when the number of 57775
students enrolled in grades one through twelve, plus one-half of 57776
the kindergarten students in the school, reported under divisions 57777
(B)(2)(a), (b), and (e) of this section who are not receiving 57778
special education and related services pursuant to an IEP for a 57779
disability described in section 3317.013 of the Revised Code is 57780
multiplied by the sum of the community school's base formula 57781
amount plus the per pupil amount of the base funding supplements 57782
specified in divisions (C)(1) to (4) of section 3317.012 of the 57783
Revised Code. 57784~~

~~(2) Prior to fiscal year 2007, the greater of the amount 57785
calculated under division (D)(2)(a) or (b) of this section, and in 57786
fiscal year 2007 and thereafter, the amount calculated under 57787
division (D)(2)(b) of this section: 57788~~

~~(a) The aggregate amount that the department paid to the 57789
community school in fiscal year 1999 for students receiving 57790
special education and related services pursuant to IEPs, excluding 57791
federal funds and state disadvantaged pupil impact aid funds; 57792~~

~~(b) The sum of the following amounts ~~calculated under~~ 57793
divisions (D)(2)(b)(i) and (ii) of this section: 57794~~

~~(i)(a) For each student reported under division (B)(2)(c) of 57795
this section as enrolled in the school in grades one through 57796
twelve and receiving special education and related services 57797
pursuant to an IEP for a disability described in section 3317.013 57798
of the Revised Code, the following amount: 57799~~

~~(the school's base formula amount plus 57800
the per pupil amount of the base funding supplements specified in 57801
divisions (C)(1) to (4) of section 3317.012 of the Revised Code) 57802~~

+ (the applicable special education weight X the 57803
community school's base formula amount); 57804

~~(ii)~~(b) For each student reported under division (B)(2)(c) of 57805
this section as enrolled in kindergarten and receiving special 57806
education and related services pursuant to an IEP for a disability 57807
described in section 3317.013 of the Revised Code, one-half of the 57808
amount calculated under the formula prescribed in division 57809
(D)(2)~~(b)~~(i)(a) of this section. 57810

(3) An amount received from federal funds to provide special 57811
education and related services to students in the community 57812
school, as determined by the superintendent of public instruction. 57813

(4) For each student reported under division (B)(2)(d) of 57814
this section as enrolled in vocational education programs or 57815
classes that are described in section 3317.014 of the Revised 57816
Code, are provided by the community school, and are comparable as 57817
determined by the superintendent of public instruction to school 57818
district vocational education programs and classes eligible for 57819
state weighted funding under section 3317.014 of the Revised Code, 57820
an amount equal to the applicable vocational education weight 57821
times the community school's base formula amount times the 57822
percentage of time the student spends in the vocational education 57823
programs or classes. 57824

(5) An amount equal to the sum of the amounts obtained when, 57825
for each school district where the community school's students are 57826
entitled to attend school, the number of that district's students 57827
enrolled in the community school who are included in the 57828
district's poverty student count is multiplied by the per pupil 57829
amount of poverty-based assistance that school district receives 57830
that year pursuant to division (C) of section 3317.029 of the 57831
Revised Code, as adjusted by any poverty-based assistance 57832
reduction factor of the community school. The per pupil amount of 57833
aid shall be determined as described in division (C)(4) of this 57834

section. 57835

(6) An amount equal to the sum of the amounts obtained when, 57836
for each school district where the community school's students are 57837
entitled to attend school, the district's per pupil amount of aid 57838
received under division (E) of section 3317.029 of the Revised 57839
Code, as adjusted by any poverty-based assistance reduction factor 57840
of the community school, is multiplied by the sum of the 57841
following: 57842

(a) The number of the district's students reported under 57843
division (B)(2)(a) of this section who are enrolled in grades one 57844
to three in that community school and who are not receiving 57845
special education and related services pursuant to an IEP; 57846

(b) One-half of the district's students who are enrolled in 57847
all-day or any other kindergarten class in that community school 57848
and who are not receiving special education and related services 57849
pursuant to an IEP; 57850

(c) One-half of the district's students who are enrolled in 57851
all-day kindergarten in that community school and who are not 57852
receiving special education and related services pursuant to an 57853
IEP. 57854

The district's per pupil amount of aid under division (E) of 57855
section 3317.029 of the Revised Code shall be determined as 57856
described in division (C)(5) of this section. 57857

(7) An amount equal to the sum of the amounts obtained when, 57858
for each school district where the community school's students are 57859
entitled to attend school, the number of that district's students 57860
enrolled in the community school who are identified as 57861
limited-English proficient is multiplied by the district's per 57862
pupil amount received under division (F) of section 3317.029 of 57863
the Revised Code, as adjusted by any poverty-based assistance 57864
reduction factor of the community school. 57865

(8) An amount equal to the sum of the amounts obtained when, 57866
for each school district where the community school's students are 57867
entitled to attend school, the district's per pupil amount 57868
received under division (G) of section 3317.029 of the Revised 57869
Code, as adjusted by any poverty-based assistance reduction factor 57870
of the community school, is multiplied by the sum of the 57871
following: 57872

(a) The number of the district's students enrolled in grades 57873
one through twelve in that community school; 57874

(b) One-half of the number of the district's students 57875
enrolled in kindergarten in that community school. 57876

The district's per pupil amount under division (G) of section 57877
3317.029 of the Revised Code shall be determined as described in 57878
division (C)(7) of this section. 57879

(9) An amount equal to the sum of the amounts obtained when, 57880
for each school district where the community school's students are 57881
entitled to attend school, the district's per pupil amount 57882
received under divisions (H) and (I) of section 3317.029 of the 57883
Revised Code, as adjusted by any poverty-based assistance 57884
reduction factor of the community school, is multiplied by the sum 57885
of the following: 57886

(a) The number of the district's students enrolled in grades 57887
one through twelve in that community school; 57888

(b) One-half of the number of the district's students 57889
enrolled in kindergarten in that community school. 57890

The district's per pupil amount under divisions (H) and (I) 57891
of section 3317.029 of the Revised Code shall be determined as 57892
described in division (C)(8) of this section. 57893

(10) An amount equal to the sum of the amounts obtained when, 57894
for each school district where the community school's students are 57895

entitled to attend school, the district's per pupil amount of 57896
state parity aid funding calculated under either division (C) or 57897
(D) of section 3317.0217 of the Revised Code is multiplied by the 57898
sum of the number of that district's students enrolled in grades 57899
one through twelve, and one-half of the number of that district's 57900
students enrolled in kindergarten, in the community school as 57901
reported under ~~division~~ divisions (B)(2)(a) and (b) of this 57902
section. 57903

(E)(1) If a community school's costs for a fiscal year for a 57904
student receiving special education and related services pursuant 57905
to an IEP for a disability described in divisions (B) to (F) of 57906
section 3317.013 of the Revised Code exceed the threshold 57907
catastrophic cost for serving the student as specified in division 57908
(C)(3)(b) of section 3317.022 of the Revised Code, the school may 57909
submit to the superintendent of public instruction documentation, 57910
as prescribed by the superintendent, of all its costs for that 57911
student. Upon submission of documentation for a student of the 57912
type and in the manner prescribed, the department shall pay to the 57913
community school an amount equal to the school's costs for the 57914
student in excess of the threshold catastrophic costs. 57915

(2) The community school shall only report under division 57916
(E)(1) of this section, and the department shall only pay for, the 57917
costs of educational expenses and the related services provided to 57918
the student in accordance with the student's individualized 57919
education program. Any legal fees, court costs, or other costs 57920
associated with any cause of action relating to the student may 57921
not be included in the amount. 57922

(F) A community school may apply to the department of 57923
education for preschool children with disabilities ~~or-gifted~~ unit 57924
funding the school would receive if it were a school district. 57925
Upon request of its governing authority, a community school that 57926
received such unit funding as a school district-operated school 57927

before it became a community school shall retain any units awarded 57928
to it as a school district-operated school provided the school 57929
continues to meet eligibility standards for the unit. 57930

A community school shall be considered a school district and 57931
its governing authority shall be considered a board of education 57932
for the purpose of applying to any state or federal agency for 57933
grants that a school district may receive under federal or state 57934
law or any appropriations act of the general assembly. The 57935
governing authority of a community school may apply to any private 57936
entity for additional funds. 57937

(G) A board of education sponsoring a community school may 57938
utilize local funds to make enhancement grants to the school or 57939
may agree, either as part of the contract or separately, to 57940
provide any specific services to the community school at no cost 57941
to the school. 57942

(H) A community school may not levy taxes or issue bonds 57943
secured by tax revenues. 57944

(I) No community school shall charge tuition for the 57945
enrollment of any student. 57946

(J)(1)(a) A community school may borrow money to pay any 57947
necessary and actual expenses of the school in anticipation of the 57948
receipt of any portion of the payments to be received by the 57949
school pursuant to division (D) of this section. The school may 57950
issue notes to evidence such borrowing. The proceeds of the notes 57951
shall be used only for the purposes for which the anticipated 57952
receipts may be lawfully expended by the school. 57953

(b) A school may also borrow money for a term not to exceed 57954
fifteen years for the purpose of acquiring facilities. 57955

(2) Except for any amount guaranteed under section 3318.50 of 57956
the Revised Code, the state is not liable for debt incurred by the 57957
governing authority of a community school. 57958

(K) For purposes of determining the number of students for which divisions (D)(5) and (6) of this section applies in any school year, a community school may submit to the department of job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of job and family services shall determine, for each school district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in each school district who were included in the department's report under section 3317.10 of the Revised Code. In complying with this division, the department of job and family services shall not report to the state department of education any personally identifiable information on any student.

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year. The state board of education within ninety days after April 8, 2003, shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section and section 3314.13 of the Revised Code including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from

school district accounts as provided under divisions (C) and (D) 57992
of this section and section 3314.13 of the Revised Code. For 57993
purposes of this section and section 3314.13 of the Revised Code: 57994

(1) A student shall be considered enrolled in the community 57995
school for any portion of the school year the student is 57996
participating at a college under Chapter 3365. of the Revised 57997
Code. 57998

(2) A student shall be considered to be enrolled in a 57999
community school ~~during a school year~~ for the period of time 58000
beginning on the later of the date on which the school both has 58001
received documentation of the student's enrollment from a parent 58002
and the student has commenced participation in learning 58003
opportunities as defined in the contract with the sponsor, or 58004
thirty days prior to the date on which the student is entered into 58005
the education management information system established under 58006
section 3301.0714 of the Revised Code. For purposes of applying 58007
this division and divisions (L)(3) and (4) of this section to a 58008
community school student, "learning opportunities" shall be 58009
defined in the contract, which shall describe both classroom-based 58010
and non-classroom-based learning opportunities and shall be in 58011
compliance with criteria and documentation requirements for 58012
student participation which shall be established by the 58013
department. Any student's instruction time in non-classroom-based 58014
learning opportunities shall be certified by an employee of the 58015
community school. A student's enrollment shall be considered to 58016
cease on the date on which any of the following occur: 58017

(a) The community school receives documentation from a parent 58018
terminating enrollment of the student. 58019

(b) The community school is provided documentation of a 58020
student's enrollment in another public or private school. 58021

(c) The community school ceases to offer learning 58022

opportunities to the student pursuant to the terms of the contract 58023
with the sponsor or the operation of any provision of this 58024
chapter. 58025

(3) The department shall determine each community school 58026
student's percentage of full-time equivalency based on the 58027
percentage of learning opportunities offered by the community 58028
school to that student, reported either as number of hours or 58029
number of days, is of the total learning opportunities offered by 58030
the community school to a student who attends for the school's 58031
entire school year. However, no internet- or computer-based 58032
community school shall be credited for any time a student spends 58033
participating in learning opportunities beyond ten hours within 58034
any period of twenty-four consecutive hours. Whether it reports 58035
hours or days of learning opportunities, each community school 58036
shall offer not less than nine hundred twenty hours of learning 58037
opportunities during the school year. 58038

(4) With respect to the calculation of full-time equivalency 58039
under division (L)(3) of this section, the department shall waive 58040
the number of hours or days of learning opportunities not offered 58041
to a student because the community school was closed during the 58042
school year due to disease epidemic, hazardous weather conditions, 58043
inoperability of school buses or other equipment necessary to the 58044
school's operation, damage to a school building, or other 58045
temporary circumstances due to utility failure rendering the 58046
school building unfit for school use, so long as the school was 58047
actually open for instruction with students in attendance during 58048
that school year for not less than the minimum number of hours 58049
required by this chapter. The department shall treat the school as 58050
if it were open for instruction with students in attendance during 58051
the hours or days waived under this division. 58052

(M) The department of education shall reduce the amounts paid 58053
under division (D) of this section to reflect payments made to 58054

colleges under division (B) of section 3365.07 of the Revised Code 58055
or through alternative funding agreements entered into under rules 58056
adopted under section 3365.12 of the Revised Code. 58057

(N)(1) No student shall be considered enrolled in any 58058
internet- or computer-based community school or, if applicable to 58059
the student, in any community school that is required to provide 58060
the student with a computer pursuant to division (C) of section 58061
3314.22 of the Revised Code, unless both of the following 58062
conditions are satisfied: 58063

(a) The student possesses or has been provided with all 58064
required hardware and software materials and all such materials 58065
are operational so that the student is capable of fully 58066
participating in the learning opportunities specified in the 58067
contract between the school and the school's sponsor as required 58068
by division (A)(23) of section 3314.03 of the Revised Code; 58069

(b) The school is in compliance with division (A) of section 58070
3314.22 of the Revised Code, relative to such student. 58071

(2) In accordance with policies adopted jointly by the 58072
superintendent of public instruction and the auditor of state, the 58073
department shall reduce the amounts otherwise payable under 58074
division (D) of this section to any community school that includes 58075
in its program the provision of computer hardware and software 58076
materials to any student, if such hardware and software materials 58077
have not been delivered, installed, and activated for each such 58078
student in a timely manner or other educational materials or 58079
services have not been provided according to the contract between 58080
the individual community school and its sponsor. 58081

The superintendent of public instruction and the auditor of 58082
state shall jointly establish a method for auditing any community 58083
school to which this division pertains to ensure compliance with 58084
this section. 58085

The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such schools.

(O)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons:

(a) The department and the community school mutually agree to the extension.

(b) Delays in data submission caused by either a community school or its sponsor.

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is 58117
final. 58118

(3) If it is decided that the community school owes moneys to 58119
the state, the department shall deduct such amount from the 58120
school's future payments in accordance with guidelines issued by 58121
the superintendent of public instruction. 58122

(P) The department shall not subtract from a school 58123
district's state aid account under division (C) of this section 58124
and shall not pay to a community school under division (D) of this 58125
section any amount for any of the following: 58126

(1) Any student who has graduated from the twelfth grade of a 58127
public or nonpublic high school; 58128

(2) Any student who is not a resident of the state; 58129

(3) Any student who was enrolled in the community school 58130
during the previous school year when assessments were administered 58131
under section 3301.0711 of the Revised Code but did not take one 58132
or more of the assessments required by that section and was not 58133
excused pursuant to division (C)(1) or (3) of that section, unless 58134
the superintendent of public instruction grants the student a 58135
waiver from the requirement to take the assessment and a parent is 58136
not paying tuition for the student pursuant to section 3314.26 of 58137
the Revised Code. The superintendent may grant a waiver only for 58138
good cause in accordance with rules adopted by the state board of 58139
education. 58140

(4) Any student who has attained the age of twenty-two years, 58141
except for veterans of the armed services whose attendance was 58142
interrupted before completing the recognized twelve-year course of 58143
the public schools by reason of induction or enlistment in the 58144
armed forces and who apply for enrollment in a community school 58145
not later than four years after termination of war or their 58146
honorable discharge. If, however, any such veteran elects to 58147

enroll in special courses organized for veterans for whom tuition 58148
is paid under federal law, or otherwise, the department shall not 58149
subtract from a school district's state aid account under division 58150
(C) of this section and shall not pay to a community school under 58151
division (D) of this section any amount for that veteran. 58152

Sec. 3314.087. (A) As used in this section: 58153

(1) "Career-technical program" means vocational programs or 58154
classes described in division (A) or (B) of section 3317.014 of 58155
the Revised Code in which a student is enrolled. 58156

(2) "Formula ADM," "category one or two vocational education 58157
ADM," and "FTE basis" have the same meanings as in section 3317.02 58158
of the Revised Code. 58159

(3) "Resident school district" means the city, exempted 58160
village, or local school district in which a student is entitled 58161
to attend school under section 3313.64 or 3313.65 of the Revised 58162
Code. 58163

(B) Notwithstanding anything to the contrary in this chapter 58164
or Chapter ~~3306.~~ or 3317. of the Revised Code, a student enrolled 58165
in a community school may simultaneously enroll in the 58166
career-technical program operated by the student's resident school 58167
district. On an FTE basis, the student's resident school district 58168
shall count the student in the category one or two vocational 58169
education ADM for the proportion of the time the student is 58170
enrolled in the district's career-technical program and, 58171
accordingly, the department of education shall calculate funds 58172
under ~~Chapters 3306. and Chapter~~ Chapter 3317. for the district 58173
attributable to the student for the proportion of time the student 58174
attends the career-technical program. The community school shall 58175
count the student in its enrollment report under section 3314.08 58176
of the Revised Code and shall report to the department the 58177
proportion of time that the student attends classes at the 58178

community school. The department shall pay the community school 58179
and deduct from the student's resident school district the amount 58180
computed for the student under section 3314.08 of the Revised Code 58181
in proportion to the fraction of the time on an FTE basis that the 58182
student attends classes at the community school. "Full-time 58183
equivalency" for a community school student, as defined in 58184
division (L) of section 3314.08 of the Revised Code, does not 58185
apply to the student. 58186

Sec. 3314.088. ~~(A)~~ For purposes of applying sections 3314.08 58187
and 3314.13 of the Revised Code to fiscal years ~~2010~~ 2012 and ~~2011~~ 58188
2013: 58189

~~(1)(A)~~ The base formula amount for community schools for each 58190
of fiscal year 2010 is \$5,718 and for fiscal year 2011 is \$5,703. 58191
~~These respective amounts~~ years 2012 and 2013 is \$5,653. That 58192
amount shall be applied wherein sections 3314.08 and 3314.13 of 58193
the Revised Code the base formula amount is specified, except for 58194
deducting and paying amounts for special education weighted 58195
funding and vocational education weighted funding. 58196

~~(2)(B)~~ The base funding supplements under section 3317.012 of 58197
the Revised Code shall be deemed in each year to be the amounts 58198
specified in that section for fiscal year 2009. Accordingly, when 58199
computing the per-pupil base funding supplements for a community 58200
school under that section for fiscal years 2012 and 2013, the 58201
department of education shall substitute \$5,732 for the "formula 58202
amount" as used in divisions (C)(2), (3), and (4) of that section. 58203

~~(3)(C)~~ Special education additional weighted funding shall be 58204
calculated by first grouping children with disabilities into the 58205
appropriate disability categories prescribed by section 3317.013 58206
of the Revised Code as amended by H.B. 153 of the 129th general 58207
assembly, and then by multiplying the applicable weight respective 58208
multiple specified for fiscal year 2009 in that section 3317.013 58209

~~of the Revised Code, as it existed for that fiscal year 2009,~~ 58210
times \$5,732. 58211

~~(4)(D)~~ Vocational education additional weighted funding shall 58212
be calculated by multiplying the applicable weight specified in 58213
section 3317.014 of the Revised Code for fiscal year 2009 times 58214
\$5,732. 58215

~~(5)(E)~~ The per pupil amounts paid to a school district under 58216
sections 3317.029 and 3317.0217 of the Revised Code shall be 58217
deemed to be the respective per pupil amounts paid under those 58218
sections to that district for fiscal year 2009. 58219

~~(6)(F)~~ A community school may receive all-day kindergarten 58220
payments under section 3314.13 of the Revised Code only for 58221
all-day kindergarten students who are entitled to attend school in 58222
school districts that, for fiscal year 2009, met the eligibility 58223
requirements of division (D) of section 3317.029 of the Revised 58224
Code. For students entitled to attend school in such school 58225
districts that actually received payment for all-day kindergarten 58226
for fiscal year 2009, the payments to community schools under 58227
section 3314.13 of the Revised Code shall be deducted from the 58228
school district's state education aid. For students entitled to 58229
attend school in such school districts that did not receive 58230
payment for all-day kindergarten for fiscal year 2009, the 58231
payments to community schools under section 3314.13 of the Revised 58232
Code shall be paid out of the funds appropriated under 58233
appropriation item 200550, foundation funding, ~~as appropriated in~~ 58234
~~section 265.10 of Am. Sub. H.B. 1 of the 128th General Assembly.~~ 58235
As used in this division, "entitled to attend school" has the same 58236
meaning as in section 3314.08 of the Revised Code. 58237

~~(B)~~ For purposes of applying section 3314.085 of the Revised 58238
Code to fiscal years 2010 and 2011, the minimum per pupil 58239
expenditure required for pupil instruction under that section is 58240
\$2,931, which equals the minimum amount required by that section 58241

~~for fiscal year 2009.~~ 58242

Sec. 3314.091. (A) A school district is not required to 58243
provide transportation for any native student enrolled in a 58244
community school if the district board of education has entered 58245
into an agreement with the community school's governing authority 58246
that designates the community school as responsible for providing 58247
or arranging for the transportation of the district's native 58248
students to and from the community school. For any such agreement 58249
to be effective, it must be certified by the superintendent of 58250
public instruction as having met all of the following 58251
requirements: 58252

(1) It is submitted to the department of education by a 58253
deadline which shall be established by the department. 58254

(2) In accordance with divisions (C)(1) and (2) of this 58255
section, it specifies qualifications, such as residing a minimum 58256
distance from the school, for students to have their 58257
transportation provided or arranged. 58258

(3) The transportation provided by the community school is 58259
subject to all provisions of the Revised Code and all rules 58260
adopted under the Revised Code pertaining to pupil transportation. 58261

(4) The sponsor of the community school also has signed the 58262
agreement. 58263

(B)(1) For the school year that begins on July 1, 2007, a 58264
school district is not required to provide transportation for any 58265
native student enrolled in a community school, if the community 58266
school during the previous school year transported the students 58267
enrolled in the school or arranged for the students' 58268
transportation, even if that arrangement consisted of having 58269
parents transport their children to and from the school, but did 58270
not enter into an agreement to transport or arrange for 58271

transportation for those students under division (A) of this 58272
section, and if the governing authority of the community school by 58273
July 15, 2007, submits written notification to the district board 58274
of education stating that the governing authority is accepting 58275
responsibility for providing or arranging for the transportation 58276
of the district's native students to and from the community 58277
school. 58278

(2) For any school year subsequent to the school year that 58279
begins on July 1, 2007, a school district is not required to 58280
provide transportation for any native student enrolled in a 58281
community school if the governing authority of the community 58282
school, by the thirty-first day of January of the previous school 58283
year, submits written notification to the district board of 58284
education stating that the governing authority is accepting 58285
responsibility for providing or arranging for the transportation 58286
of the district's native students to and from the community 58287
school. If the governing authority of the community school has 58288
previously accepted responsibility for providing or arranging for 58289
the transportation of a district's native students to and from the 58290
community school, under division (B)(1) or (2) of this section, 58291
and has since relinquished that responsibility under division 58292
(B)(3) of this section, the governing authority shall not accept 58293
that responsibility again unless the district board consents to 58294
the governing authority's acceptance of that responsibility. 58295

(3) A governing authority's acceptance of responsibility 58296
under division (B)(1) or (2) of this section shall cover an entire 58297
school year, and shall remain in effect for subsequent school 58298
years unless the governing authority submits written notification 58299
to the district board that the governing authority is 58300
relinquishing the responsibility. However, a governing authority 58301
shall not relinquish responsibility for transportation before the 58302
end of a school year, and shall submit the notice relinquishing 58303

responsibility by the thirty-first day of January, in order to 58304
allow the school district reasonable time to prepare 58305
transportation for its native students enrolled in the school. 58306

(C)(1) A community school governing authority that enters 58307
into an agreement under division (A) of this section, or that 58308
accepts responsibility under division (B) of this section, shall 58309
provide or arrange transportation free of any charge for each of 58310
its enrolled students who is required to be transported under 58311
section 3327.01 of the Revised Code or who would otherwise be 58312
transported by the school district under the district's 58313
transportation policy. The governing authority shall report to the 58314
department of education the number of students transported or for 58315
whom transportation is arranged under this section in accordance 58316
with rules adopted by the state board of education. 58317

(2) The governing authority may provide or arrange 58318
transportation for any other enrolled student who is not eligible 58319
for transportation in accordance with division (C)(1) of this 58320
section and may charge a fee for such service up to the actual 58321
cost of the service. 58322

(3) Notwithstanding anything to the contrary in division 58323
(C)(1) or (2) of this section, a community school governing 58324
authority shall provide or arrange transportation free of any 58325
charge for any disabled student enrolled in the school for whom 58326
the student's individualized education program developed under 58327
Chapter 3323. of the Revised Code specifies transportation. 58328

(D)(1) If a school district board and a community school 58329
governing authority elect to enter into an agreement under 58330
division (A) of this section, the department of education shall 58331
make payments to the community school according to the terms of 58332
the agreement for each student actually transported under division 58333
(C)(1) of this section. 58334

If a community school governing authority accepts 58335
transportation responsibility under division (B) of this section, 58336
the department shall make payments to the community school for 58337
each student actually transported or for whom transportation is 58338
arranged by the community school under division (C)(1) of this 58339
section, calculated as follows: 58340

(a) For any fiscal year which the general assembly has 58341
specified that transportation payments to school districts be 58342
based on an across-the-board percentage of the district's payment 58343
for the previous school year, the per pupil payment to the 58344
community school shall be the following quotient: 58345

(i) The total amount calculated for the school district in 58346
which the child is entitled to attend school for student 58347
transportation other than transportation of children with 58348
disabilities; divided by 58349

(ii) The number of students included in the district's 58350
transportation ADM for the current fiscal year, as reported under 58351
division (B)(13) of section 3317.03 of the Revised Code, plus the 58352
number of students enrolled in the community school not counted in 58353
the district's transportation ADM who are transported under 58354
division (B)(1) or (2) of this section. 58355

(b) For any fiscal year which the general assembly has 58356
specified that the transportation payments to school districts be 58357
calculated in accordance with section ~~3306.12~~ 3317.0212 of the 58358
Revised Code and any rules of the state board of education 58359
implementing that section, the payment to the community school 58360
shall be the amount so calculated that otherwise would be paid to 58361
the school district in which the student is entitled to attend 58362
school by the method of transportation the district would have 58363
used. The community school, however, is not required to use the 58364
same method to transport that student. 58365

(c) Divisions (D)(1)(a) and (b) of this section do not apply to fiscal years 2012 and 2013. Rather, for each of those fiscal years, the per pupil payment to a community school for transporting a student shall be the total amount paid under former section 3306.12 of the Revised Code for fiscal year 2011 to the school district in which the child is entitled to attend school divided by that district's "qualifying ridership," as defined in that section for fiscal year 2011.

As used in this division "entitled to attend school" means entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(2) The department shall deduct the payment under division (D)(1) of this section from the state education aid, as defined in section 3314.08 of the Revised Code, and, if necessary, the payment under sections 321.14 and 323.156 of the Revised Code, that is otherwise paid to the school district in which the student enrolled in the community school is entitled to attend school. The department shall include the number of the district's native students for whom payment is made to a community school under division (D)(1) of this section in the calculation of the district's transportation payment under section ~~3306.12~~ 3317.0212 of the Revised Code and the operating appropriations act.

(3) A community school shall be paid under division (D)(1) of this section only for students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, and whose transportation to and from school is actually provided, who actually utilized transportation arranged, or for whom a payment in lieu of transportation is made by the community school's governing authority. To qualify for the payments, the community school shall report to the department, in the form and manner required by the department, data on the number of students transported or whose transportation is arranged, the number of

miles traveled, cost to transport, and any other information 58398
requested by the department. 58399

(4) A community school shall use payments received under this 58400
section solely to pay the costs of providing or arranging for the 58401
transportation of students who are eligible as specified in 58402
section 3327.01 of the Revised Code and division (C)(1) of this 58403
section, which may include payments to a parent, guardian, or 58404
other person in charge of a child in lieu of transportation. 58405

(E) Except when arranged through payment to a parent, 58406
guardian, or person in charge of a child, transportation provided 58407
or arranged for by a community school pursuant to an agreement 58408
under this section is subject to all provisions of the Revised 58409
Code, and all rules adopted under the Revised Code, pertaining to 58410
the construction, design, equipment, and operation of school buses 58411
and other vehicles transporting students to and from school. The 58412
drivers and mechanics of the vehicles are subject to all 58413
provisions of the Revised Code, and all rules adopted under the 58414
Revised Code, pertaining to drivers and mechanics of such 58415
vehicles. The community school also shall comply with sections 58416
3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) 58417
of section 3327.16 of the Revised Code and, subject to division 58418
(C)(1) of this section, sections 3327.01 and 3327.02 of the 58419
Revised Code, as if it were a school district. 58420

Sec. 3314.10. (A)(1) The governing authority of any community 58421
school established under this chapter may employ teachers and 58422
nonteaching employees necessary to carry out its mission and 58423
fulfill its contract. 58424

(2) Except as provided under division (A)(3) of this section, 58425
employees hired under this section may organize and collectively 58426
bargain pursuant to Chapter 4117. of the Revised Code. 58427
Notwithstanding division (D)(1) of section 4117.06 of the Revised 58428

Code, a unit containing teaching and nonteaching employees 58429
employed under this section shall be considered an appropriate 58430
unit. As applicable, employment under this section is subject to 58431
either Chapter 3307. or 3309. of the Revised Code. 58432

(3) If a school is created by converting all or part of an 58433
existing public school rather than by establishment of a new 58434
start-up school, at the time of conversion, the employees of the 58435
governing authority community school shall remain part of any 58436
collective bargaining unit in which they were included immediately 58437
prior to the conversion and shall remain subject to any collective 58438
bargaining agreement for that unit in effect on the first day of 58439
July of the year in which the community school initially begins 58440
operation and shall be subject to any subsequent collective 58441
bargaining agreement for that unit, unless a petition is certified 58442
as sufficient under division (A)(6) of this section with regard to 58443
those employees. Any new employees of the community school 58444
governing authority shall also be included in the unit to which 58445
they would have been assigned had not the conversion taken place 58446
and shall be subject to the collective bargaining agreement for 58447
that unit unless a petition is certified as sufficient under 58448
division (A)(6) of this section with regard to those employees. 58449

Notwithstanding division (B) of section 4117.01 of the 58450
Revised Code, the board of education of a school district and not 58451
the governing authority of a community school shall be regarded, 58452
for purposes of Chapter 4117. of the Revised Code, as the "public 58453
employer" of the employees of a conversion community school 58454
subject to a collective bargaining agreement pursuant to division 58455
(A)(3) of this section unless a petition is certified under 58456
division (A)(6) of this section with regard to those employees. 58457
Only on and after the effective date of a petition certified as 58458
sufficient under division (A)(6) of this section shall division 58459
(A)(2) of this section apply to those employees of that community 58460

school and only on and after the effective date of that petition 58461
shall Chapter 4117. of the Revised Code apply to the governing 58462
authority of that community school with regard to those employees. 58463

(4) Notwithstanding sections 4117.03 to 4117.18 of the 58464
Revised Code and Section 4 of Amended Substitute Senate Bill No. 58465
133 of the 115th general assembly, the employees of a conversion 58466
community school who are subject to a collective bargaining 58467
agreement pursuant to division (A)(3) of this section shall cease 58468
to be subject to that agreement and all subsequent agreements 58469
pursuant to that division and shall cease to be part of the 58470
collective bargaining unit that is subject to that and all 58471
subsequent agreements, if a majority of the employees of that 58472
community school who are subject to that collective bargaining 58473
agreement sign and submit to the state employment relations board 58474
a petition requesting all of the following: 58475

(a) That all the employees of the community school who are 58476
subject to that agreement be removed from the bargaining unit that 58477
is subject to that agreement and be designated by the state 58478
employment relations board as a new and separate bargaining unit 58479
for purposes of Chapter 4117. of the Revised Code; 58480

(b) That the employee organization certified as the exclusive 58481
representative of the employees of the bargaining unit from which 58482
the employees are to be removed be certified as the exclusive 58483
representative of the new and separate bargaining unit for 58484
purposes of Chapter 4117. of the Revised Code; 58485

(c) That the governing authority of the community school be 58486
regarded as the "public employer" of these employees for purposes 58487
of Chapter 4117. of the Revised Code. 58488

(5) Notwithstanding sections 4117.03 to 4117.18 of the 58489
Revised Code and Section 4 of Amended Substitute Senate Bill No. 58490
133 of the 115th general assembly, the employees of a conversion 58491

community school who are subject to a collective bargaining 58492
agreement pursuant to division (A)(3) of this section shall cease 58493
to be subject to that agreement and all subsequent agreements 58494
pursuant to that division, shall cease to be part of the 58495
collective bargaining unit that is subject to that and all 58496
subsequent agreements, and shall cease to be represented by any 58497
exclusive representative of that collective bargaining unit, if a 58498
majority of the employees of the community school who are subject 58499
to that collective bargaining agreement sign and submit to the 58500
state employment relations board a petition requesting all of the 58501
following: 58502

(a) That all the employees of the community school who are 58503
subject to that agreement be removed from the bargaining unit that 58504
is subject to that agreement; 58505

(b) That any employee organization certified as the exclusive 58506
representative of the employees of that bargaining unit be 58507
decertified as the exclusive representative of the employees of 58508
the community school who are subject to that agreement; 58509

(c) That the governing authority of the community school be 58510
regarded as the "public employer" of these employees for purposes 58511
of Chapter 4117. of the Revised Code. 58512

(6) Upon receipt of a petition under division (A)(4) or (5) 58513
of this section, the state employment relations board shall check 58514
the sufficiency of the signatures on the petition. If the 58515
signatures are found sufficient, the board shall certify the 58516
sufficiency of the petition and so notify the parties involved, 58517
including the board of education, the governing authority of the 58518
community school, and any exclusive representative of the 58519
bargaining unit. The changes requested in a certified petition 58520
shall take effect on the first day of the month immediately 58521
following the date on which the sufficiency of the petition is 58522
certified under division (A)(6) of this section. 58523

(B)(1) The board of education of each city, local, and 58524
exempted village school district sponsoring a community school and 58525
the governing board of each educational service center in which a 58526
community school is located shall adopt a policy that provides a 58527
leave of absence of at least three years to each teacher or 58528
nonteaching employee of the district or service center who is 58529
employed by a conversion or new start-up community school 58530
sponsored by the district or located in the district or center for 58531
the period during which the teacher or employee is continuously 58532
employed by the community school. The policy shall also provide 58533
that any teacher or nonteaching employee may return to employment 58534
by the district or service center if the teacher or employee 58535
leaves or is discharged from employment with the community school 58536
for any reason, unless, in the case of a teacher, the board of the 58537
district or service center determines that the teacher was 58538
discharged for a reason for which the board would have sought to 58539
discharge the teacher under section 3319.16 of the Revised Code, 58540
in which case the board may proceed to discharge the teacher 58541
utilizing the procedures of that section. Upon termination of such 58542
a leave of absence, any seniority that is applicable to the person 58543
shall be calculated to include all of the following: all 58544
employment by the district or service center prior to the leave of 58545
absence; all employment by the community school during the leave 58546
of absence; and all employment by the district or service center 58547
after the leave of absence. The policy shall also provide that if 58548
any teacher holding valid certification returns to employment by 58549
the district or service center upon termination of such a leave of 58550
absence, the teacher shall be restored to the previous position 58551
and salary or to a position and salary similar thereto. If, as a 58552
result of teachers returning to employment upon termination of 58553
such leaves of absence, a school district or educational service 58554
center reduces the number of teachers it employs, it shall make 58555
such reductions in accordance with section ~~3319.17~~ or, if 58556

~~applicable,~~ 3319.171 of the Revised Code. 58557

Unless a collective bargaining agreement providing otherwise 58558
is in effect for an employee of a conversion community school 58559
pursuant to division (A)(3) of this section, an employee on a 58560
leave of absence pursuant to this division shall remain eligible 58561
for any benefits that are in addition to benefits under Chapter 58562
3307. or 3309. of the Revised Code provided by the district or 58563
service center to its employees provided the employee pays the 58564
entire cost associated with such benefits, except that personal 58565
leave and vacation leave cannot be accrued for use as an employee 58566
of a school district or service center while in the employ of a 58567
community school unless the district or service center board 58568
adopts a policy expressly permitting this accrual. 58569

(2) While on a leave of absence pursuant to division (B)(1) 58570
of this section, a conversion community school shall permit a 58571
teacher to use sick leave accrued while in the employ of the 58572
school district from which the leave of absence was taken and 58573
prior to commencing such leave. If a teacher who is on such a 58574
leave of absence uses sick leave so accrued, the cost of any 58575
salary paid by the community school to the teacher for that time 58576
shall be reported to the department of education. The cost of 58577
employing a substitute teacher for that time shall be paid by the 58578
community school. The department of education shall add amounts to 58579
the payments made to a community school under this chapter as 58580
necessary to cover the cost of salary reported by a community 58581
school as paid to a teacher using sick leave so accrued pursuant 58582
to this section. The department shall subtract the amounts of any 58583
payments made to community schools under this division from 58584
payments made to such sponsoring school district under ~~Chapters~~ 58585
~~3306. and Chapter~~ Chapter 3317. of the Revised Code. 58586

A school district providing a leave of absence and employee 58587
benefits to a person pursuant to this division is not liable for 58588

any action of that person while the person is on such leave and 58589
employed by a community school. 58590

Sec. 3314.13. Payments and deductions under this section for 58591
fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance 58592
with section 3314.088 of the Revised Code. 58593

(A) As used in this section: 58594

(1) "All-day kindergarten" has the same meaning as in section 58595
3317.029 of the Revised Code. 58596

(2) "Formula amount" has the same meaning as in section 58597
3317.02 of the Revised Code. 58598

(B) Except as provided in division (C) of this section, the 58599
department of education annually shall pay each community school 58600
established under this chapter one-half of the formula amount for 58601
each student to whom both of the following apply: 58602

(1) The student is entitled to attend school under section 58603
3313.64 or 3313.65 of the Revised Code in a school district that 58604
is eligible to receive a payment under division (D) of section 58605
3317.029 of the Revised Code if it provides all-day kindergarten; 58606

(2) The student is reported by the community school as 58607
enrolled in all-day kindergarten at the community school. 58608

(C) The department shall make no payments under this section 58609
to any internet- or computer-based community school. 58610

(D) If a student for whom payment is made under division (B) 58611
of this section is entitled to attend school in a district that 58612
receives any payment for all-day kindergarten under division (D) 58613
of section 3317.029 of the Revised Code, the department shall 58614
deduct the payment to the community school under this section from 58615
the amount paid that school district under that division. If that 58616
school district does not receive payment for all-day kindergarten 58617
under that division because it does not provide all-day 58618

kindergarten, the department shall pay the community school from 58619
state funds appropriated generally for poverty-based assistance to 58620
school districts. 58621

(E) The department shall adjust the amounts deducted from 58622
school districts and paid to community schools under this section 58623
to reflect any enrollments of students in all-day kindergarten in 58624
community schools for less than the equivalent of a full school 58625
year. 58626

Sec. 3314.19. The sponsor of each community school annually 58627
shall provide the following assurances in writing to the 58628
department of education not later than ten business days prior to 58629
the opening of the school: 58630

(A) That a current copy of the contract between the sponsor 58631
and the governing authority of the school entered into under 58632
section 3314.03 of the Revised Code has been filed with the ~~state~~ 58633
~~office of community schools established under section 3314.11 of~~ 58634
~~the Revised Code~~ department and that any subsequent modifications 58635
to that contract will be filed with the ~~office~~ department; 58636

(B) That the school has submitted to the sponsor a plan for 58637
providing special education and related services to students with 58638
disabilities and has demonstrated the capacity to provide those 58639
services in accordance with Chapter 3323. of the Revised Code and 58640
federal law; 58641

(C) That the school has a plan and procedures for 58642
administering the achievement and diagnostic assessments 58643
prescribed by sections 3301.0710, 3301.0712, and 3301.0715 of the 58644
Revised Code; 58645

(D) That school personnel have the necessary training, 58646
knowledge, and resources to properly use and submit information to 58647
all databases maintained by the department for the collection of 58648

education data, including the education management information system established under section 3301.0714 of the Revised Code in accordance with methods and timelines established under section 3314.17 of the Revised Code;

(E) That all required information about the school has been submitted to the Ohio education directory system or any successor system;

(F) That the school will enroll at least the minimum number of students required by division (A)(11)(a) of section 3314.03 of the Revised Code in the school year for which the assurances are provided;

(G) That all classroom teachers are licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except for noncertificated persons engaged to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(H) That the school's fiscal officer is in compliance with section 3314.011 of the Revised Code;

(I) That the school has complied with sections 3319.39 and 3319.391 of the Revised Code with respect to all employees and that the school has conducted a criminal records check of each of its governing authority members;

(J) That the school holds all of the following:

(1) Proof of property ownership or a lease for the facilities used by the school;

(2) A certificate of occupancy;

(3) Liability insurance for the school, as required by division (A)(11)(b) of section 3314.03 of the Revised Code, that the sponsor considers sufficient to indemnify the school's facilities, staff, and governing authority against risk;

(4) A satisfactory health and safety inspection;

(5) A satisfactory fire inspection;	58679
(6) A valid food permit, if applicable.	58680
(K) That the sponsor has conducted a pre-opening site visit to the school for the school year for which the assurances are provided;	58681 58682 58683
(L) That the school has designated a date it will open for the school year for which the assurances are provided that is in compliance with division (A)(25) of section 3314.03 of the Revised Code;	58684 58685 58686 58687
(M) That the school has met all of the sponsor's requirements for opening and any other requirements of the sponsor.	58688 58689
Sec. 3314.22. (A)(1) Each child enrolled in an internet- or computer-based community school is entitled to a computer supplied by the school; however, the parent of any child enrolled in the school may waive this entitlement in the manner specified in division (A)(3) of this section. In no case shall an internet- or computer-based community school provide a stipend or other substitute to an enrolled child or the child's parent in lieu of supplying a computer to the child. The prohibition contained in the preceding sentence is intended to clarify the meaning of this division as it existed prior to September 29, 2005, and is not intended to change that meaning in any way.	58690 58691 58692 58693 58694 58695 58696 58697 58698 58699 58700
(2) Notwithstanding division (A)(1) of this section, if more than one child living in a single residence is enrolled in an internet- or computer-based community school, at the option of the parent of those children, the school may supply less than one computer per child, as long as at least one computer is supplied to the residence. An internet- or computer-based community school may supply no computer at all only if the parent has waived the entitlement prescribed in division (A)(1) of this section in the	58701 58702 58703 58704 58705 58706 58707 58708

manner specified in division (A)(3) of this section. The parent 58709
may amend the decision to accept less than one computer per child 58710
anytime during the school year, and, in such case, within thirty 58711
days after the parent notifies the school of such amendment, the 58712
school shall provide any additional computers requested by the 58713
parent up to the number necessary to comply with division (A)(1) 58714
of this section. 58715

(3) The parent of any child enrolled in an internet- or 58716
computer-based community school may waive the entitlement to one 58717
computer per child, and have no computer at all supplied by the 58718
school, if the school and parent set forth that waiver in writing 58719
with both parties attesting that there is a computer available to 58720
the child in the child's residence with sufficient hardware, 58721
software, programming, and connectivity so that the child may 58722
fully participate in all of the learning opportunities offered to 58723
the child by the school. The parent may amend the decision to 58724
waive the entitlement at any time during the school year and, in 58725
such case, within thirty days after the parent notifies the school 58726
of that decision, the school shall provide any additional 58727
computers requested by the parent up to the number necessary to 58728
comply with division (A)(1) of this section, regardless of whether 58729
there is any change in the conditions attested to in the waiver. 58730

(4) A copy of a waiver executed under division (A)(3) of this 58731
section shall be retained by the internet- or computer-based 58732
community school and the parent who attested to the conditions 58733
prescribed in that division. The school shall submit a copy of the 58734
waiver to the ~~office of community schools, established under~~ 58735
~~section 3314.11 of the Revised Code, department of education~~ 58736
immediately upon execution of the waiver. 58737

(5) The school shall notify the ~~office of community schools~~ 58738
department of education, in the manner specified by the ~~office~~ 58739
department, of any parent's decision under division (A)(2) of this 58740

section to accept less than one computer per child or the parent's 58741
amendment to that decision, and of any parent's decision to amend 58742
the waiver executed under division (A)(3) of this section. 58743

(B) Each internet- or computer-based community school shall 58744
provide to each parent who is considering enrolling the parent's 58745
child in the school and to the parent of each child already 58746
enrolled in the school a written notice of the provisions 58747
prescribed in division (A) of this section. 58748

(C) If a community school that is not an internet- or 58749
computer-based community school provides any of its enrolled 58750
students with nonclassroom-based learning opportunities provided 58751
via an internet- or other computer-based instructional method and 58752
requires such students to participate in any of those learning 58753
opportunities from their residences, the school shall be subject 58754
to this section and division (C)(1) of section 3314.21 of the 58755
Revised Code relative to each such student in the same manner as 58756
an internet- or computer-based community school, unless both of 58757
the following conditions apply to the student: 58758

(1) The nonclassroom-based learning opportunities in which 58759
the student is required to participate from the student's 58760
residence are supplemental in nature or do not constitute a 58761
significant portion of the total classroom-based and 58762
nonclassroom-based learning opportunities provided to the student 58763
by the school; 58764

(2) The student's residence is equipped with a computer 58765
available for the student's use. 58766

Sec. 3314.35. (A)(1) ~~Except as provided in division (A)(3) of~~ 58767
~~this section, this section applies to any community school that~~ 58768
~~meets one of the following criteria after July 1, 2008, but before~~ 58769
~~July 1, 2009:~~ 58770

~~(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for four consecutive school years.~~ 58771
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~~(b) The school satisfies all of the following conditions:~~ 58775

~~(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.~~ 58776
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~~(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.~~ 58778
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~~(iii) For two of those school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department of education in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.~~ 58781
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~~(c) The school satisfies all of the following conditions:~~ 58786

~~(i) The school offers any of grade levels ten to twelve.~~ 58787

~~(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.~~ 58788
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~~(iii) For two of those school years, the school showed less than two standard years of academic growth in either reading or mathematics, as determined by the department in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.~~ 58791
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~~(2) Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2009, but before July 1, 2011:~~ 58796
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~~(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under~~ 58799
58800

section 3302.03 of the Revised Code for three of the four most recent school years. 58801
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(b) The school satisfies all of the following conditions: 58803

(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine. 58804
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(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years. 58806
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(iii) In at least two of the three most recent school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department of education in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code. 58809
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(c) The school offers any of grade levels ten to twelve and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years. 58814
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(2) Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2011: 58818
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(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years. 58821
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(b) The school satisfies all of the following conditions: 58825

(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine. 58826
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(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years. 58828
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(iii) In at least two of the three most recent school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code. 58831
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(c) The school offers any of grade levels ten to twelve and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years. 58836
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(3) This section does not apply to either of the following: 58840

(a) Any community school in which a majority of the students are enrolled in a dropout prevention and recovery program that is operated by the school and that has been granted a waiver under section 3314.36 of the Revised Code; 58841
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(b) Any community school in which a majority of the enrolled students are children with disabilities receiving special education and related services in accordance with Chapter 3323. of the Revised Code. 58845
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(B) Any community school to which this section applies shall permanently close at the conclusion of the school year in which the school first becomes subject to this section. The sponsor and governing authority of the school shall comply with all procedures for closing a community school adopted by the department under division (E) of section 3314.015 of the Revised Code. The governing authority of the school shall not enter into a contract with any other sponsor under section 3314.03 of the Revised Code after the school closes. 58849
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~~(C) Not later than July 1, 2008, the department shall determine the feasibility of using the value added progress dimension, as defined in section 3302.01 of the Revised Code, as a factor in evaluating the academic performance of community schools~~ 58858
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~~described in division (A)(1)(c)(i) of this section. 58862
Notwithstanding divisions (A)(1)(c)(ii) and (iii) of this section, 58863
if the department determines that using the value added progress 58864
dimension to evaluate community schools described in division 58865
(A)(1)(c)(i) of this section is not feasible, a community school 58866
described in that division shall be required to permanently close 58867
under this section only if it has been declared to be in a state 58868
of academic emergency under section 3302.03 of the Revised Code 58869
for four consecutive school years. 58870~~

~~(D) In accordance with division (B) of section 3314.012 of 58871
the Revised Code, the department shall not consider the 58872
performance ratings assigned to a community school for its first 58873
two years of operation when determining whether the school meets 58874
the criteria prescribed by division (A)(1) or (2) of this section. 58875
The department shall reevaluate each community school that the 58876
department directed to close at the conclusion of the 2009-2010 58877
school year to determine if the school still meets the criteria 58878
prescribed by division (A)(2) of this section when the school's 58879
performance ratings for its first two years of operation are not 58880
considered and, if the school no longer meets those criteria, the 58881
department shall not require the school to close at the conclusion 58882
of that school year. 58883~~

Sec. 3314.36. (A) Section 3314.35 of the Revised Code does 58884
not apply to any community school in which a majority of the 58885
students are enrolled in a dropout prevention and recovery program 58886
that is operated by the school and that has been granted a waiver 58887
by the department of education. The department shall grant a 58888
waiver to a dropout prevention and recovery program, within sixty 58889
days after the program applies for the waiver, if the program 58890
meets all of the following conditions: 58891

(1) The program serves only students not younger than sixteen 58892

years of age and not older than twenty-one years of age. 58893

(2) The program enrolls students who, at the time of their 58894
initial enrollment, either, or both, are at least one grade level 58895
behind their cohort age groups or experience crises that 58896
significantly interfere with their academic progress such that 58897
they are prevented from continuing their traditional programs. 58898

(3) The program requires students to attain at least the 58899
applicable score designated for each of the assessments prescribed 58900
under division (B)(1) of section 3301.0710 of the Revised Code or, 58901
to the extent prescribed by rule of the state board of education 58902
under division ~~(E)~~(D)(6) of section 3301.0712 of the Revised Code, 58903
division (B)(2) of that section. 58904

(4) The program develops an individual career plan for the 58905
student that specifies the student's matriculating to a two-year 58906
degree program, acquiring a business and industry credential, or 58907
entering an apprenticeship. 58908

(5) The program provides counseling and support for the 58909
student related to the plan developed under division (A)(4) of 58910
this section during the remainder of the student's high school 58911
experience. 58912

(6) Prior to receiving the waiver, the program has submitted 58913
to the department an instructional plan that demonstrates how the 58914
academic content standards adopted by the state board of education 58915
under section 3301.079 of the Revised Code will be taught and 58916
assessed. 58917

If the department does not act either to grant the waiver or 58918
to reject the program application for the waiver within sixty days 58919
as required under this section, the waiver shall be considered to 58920
be granted. 58921

(B) Notwithstanding division (A) of this section, the 58922
department shall not grant a waiver to any community school that 58923

did not qualify for a waiver under this section when it initially 58924
began operations, unless the state board of education approves the 58925
waiver. 58926

Sec. 3314.46. As used in this section, "sponsor" includes any 58927
officer, director, employee, agent, representative, subsidiary, or 58928
independent contractor of the sponsor of a community school. 58929

(A) Except as provided in division (B) of this section, no 58930
sponsor of a community school shall sell any goods or services to 58931
any community school it sponsors. 58932

(B) If the sponsor of a community school entered into a 58933
contract prior to the effective date of this section that involves 58934
the sale of goods or services to a community school it sponsors, 58935
the sponsor shall not be required to comply with division (A) of 58936
this section with respect to that school until the expiration of 58937
the contract. 58938

Sec. 3315.01. (A) Except as provided in division (B) of this 58939
section and notwithstanding sections 3315.12 and 3315.14 of the 58940
Revised Code, the board of education of any school district may 58941
adopt a resolution requiring the treasurer of the district to 58942
credit the earnings made on the investment of the principal of the 58943
moneys specified in the resolution to the fund from which the 58944
earnings arose or any other fund of the district as the board 58945
specifies in its resolution. 58946

(B) This section does not apply to the earnings made on the 58947
investment of the bond retirement fund, the sinking fund, a 58948
project construction fund established pursuant to sections 3318.01 58949
to 3318.20 of the Revised Code, or the payments received by school 58950
districts pursuant to division ~~(I)~~(E) of section 3317.024 of the 58951
Revised Code. 58952

Sec. 3316.041. (A) Notwithstanding any provision of Chapter 58953
133. or sections 3313.483 to 3313.4811 of the Revised Code, and 58954
subject to the approval of the superintendent of public 58955
instruction, a school district that is in a state of fiscal watch 58956
declared under section 3316.03 of the Revised Code may restructure 58957
or refinance loans obtained or in the process of being obtained 58958
under section 3313.483 of the Revised Code if all of the following 58959
requirements are met: 58960

(1) The operating deficit certified for the school district 58961
for the current or preceding fiscal year under section 3313.483 of 58962
the Revised Code exceeds fifteen per cent of the district's 58963
general revenue fund for the fiscal year preceding the year for 58964
which the certification of the operating deficit is made. 58965

(2) The school district voters have, during the period of the 58966
fiscal watch, approved the levy of a tax under section 718.09, 58967
718.10, 5705.194, 5705.21, ~~or 5748.02,~~ or 5748.09 of the Revised 58968
Code that is not a renewal or replacement levy, or a levy under 58969
section 5705.199 of the Revised Code, and that will provide new 58970
operating revenue. 58971

(3) The board of education of the school district has adopted 58972
or amended the financial plan required by section 3316.04 of the 58973
Revised Code to reflect the restructured or refinanced loans, and 58974
sets forth the means by which the district will bring projected 58975
operating revenues and expenditures, and projected debt service 58976
obligations, into balance for the life of any such loan. 58977

(B) Subject to the approval of the superintendent of public 58978
instruction, the school district may issue securities to evidence 58979
the restructuring or refinancing authorized by this section. Such 58980
securities may extend the original period for repayment not to 58981
exceed ten years, and may alter the frequency and amount of 58982
repayments, interest or other financing charges, and other terms 58983

or agreements under which the loans were originally contracted, 58984
provided the loans received under sections 3313.483 of the Revised 58985
Code are repaid from funds the district would otherwise receive 58986
under Chapter ~~3306~~. 3317. of the Revised Code, as required under 58987
division (E)(3) of section 3313.483 of the Revised Code. 58988
Securities issued for the purpose of restructuring or refinancing 58989
under this section shall be repaid in equal payments and at equal 58990
intervals over the term of the debt and are not eligible to be 58991
included in any subsequent proposal to restructure or refinance. 58992

(C) Unless the district is declared to be in a state of 58993
fiscal emergency under division (D) of section 3316.04 of the 58994
Revised Code, a school district shall remain in a state of fiscal 58995
watch for the duration of the repayment period of any loan 58996
restructured or refinanced under this section. 58997

Sec. 3316.06. (A) Within one hundred twenty days after the 58998
first meeting of a school district financial planning and 58999
supervision commission, the commission shall adopt a financial 59000
recovery plan regarding the school district for which the 59001
commission was created. During the formulation of the plan, the 59002
commission shall seek appropriate input from the school district 59003
board and from the community. This plan shall contain the 59004
following: 59005

(1) Actions to be taken to: 59006

(a) Eliminate all fiscal emergency conditions declared to 59007
exist pursuant to division (B) of section 3316.03 of the Revised 59008
Code; 59009

(b) Satisfy any judgments, past-due accounts payable, and all 59010
past-due and payable payroll and fringe benefits; 59011

(c) Eliminate the deficits in all deficit funds, except that 59012
any prior year deficits in the capital and maintenance fund 59013

established pursuant to section 3315.18 of the Revised Code shall 59014
be forgiven; 59015

(d) Restore to special funds any moneys from such funds that 59016
were used for purposes not within the purposes of such funds, or 59017
borrowed from such funds by the purchase of debt obligations of 59018
the school district with the moneys of such funds, or missing from 59019
the special funds and not accounted for, if any; 59020

(e) Balance the budget, avoid future deficits in any funds, 59021
and maintain on a current basis payments of payroll, fringe 59022
benefits, and all accounts; 59023

(f) Avoid any fiscal emergency condition in the future; 59024

(g) Restore the ability of the school district to market 59025
long-term general obligation bonds under provisions of law 59026
applicable to school districts generally. 59027

(2) The management structure that will enable the school 59028
district to take the actions enumerated in division (A)(1) of this 59029
section. The plan shall specify the level of fiscal and management 59030
control that the commission will exercise within the school 59031
district during the period of fiscal emergency, and shall 59032
enumerate respectively, the powers and duties of the commission 59033
and the powers and duties of the school board during that period. 59034
The commission may elect to assume any of the powers and duties of 59035
the school board it considers necessary, including all powers 59036
related to personnel, curriculum, and legal issues in order to 59037
successfully implement the actions described in division (A)(1) of 59038
this section. 59039

(3) The target dates for the commencement, progress upon, and 59040
completion of the actions enumerated in division (A)(1) of this 59041
section and a reasonable period of time expected to be required to 59042
implement the plan. The commission shall prepare a reasonable time 59043
schedule for progress toward and achievement of the requirements 59044

for the plan, and the plan shall be consistent with that time schedule. 59045
59046

(4) The amount and purpose of any issue of debt obligations 59047
that will be issued, together with assurances that any such debt 59048
obligations that will be issued will not exceed debt limits 59049
supported by appropriate certifications by the fiscal officer of 59050
the school district and the county auditor. Debt obligations 59051
issued pursuant to section 133.301 of the Revised Code shall 59052
include assurances that such debt shall be in an amount not to 59053
exceed the amount certified under division (B) of such section. If 59054
the commission considers it necessary in order to maintain or 59055
improve educational opportunities of pupils in the school 59056
district, the plan may include a proposal to restructure or 59057
refinance outstanding debt obligations incurred by the board under 59058
section 3313.483 of the Revised Code contingent upon the approval, 59059
during the period of the fiscal emergency, by district voters of a 59060
tax levied under section 718.09, 718.10, 5705.194, 5705.21, 59061
5748.02, ~~or 5748.08~~, or 5748.09 of the Revised Code that is not a 59062
renewal or replacement levy, or a levy under section 5705.199 of 59063
the Revised Code, and that will provide new operating revenue. 59064
Notwithstanding any provision of Chapter 133. or sections 3313.483 59065
to 3313.4811 of the Revised Code, following the required approval 59066
of the district voters and with the approval of the commission, 59067
the school district may issue securities to evidence the 59068
restructuring or refinancing. Those securities may extend the 59069
original period for repayment, not to exceed ten years, and may 59070
alter the frequency and amount of repayments, interest or other 59071
financing charges, and other terms of agreements under which the 59072
debt originally was contracted, at the discretion of the 59073
commission, provided that any loans received pursuant to section 59074
3313.483 of the Revised Code shall be paid from funds the district 59075
would otherwise receive under Chapter ~~3306~~. 3317. of the Revised 59076
Code, as required under division (E)(3) of section 3313.483 of the 59077

Revised Code. The securities issued for the purpose of 59078
restructuring or refinancing the debt shall be repaid in equal 59079
payments and at equal intervals over the term of the debt and are 59080
not eligible to be included in any subsequent proposal for the 59081
purpose of restructuring or refinancing debt under this section. 59082

(B) Any financial recovery plan may be amended subsequent to 59083
its adoption. Each financial recovery plan shall be updated 59084
annually. 59085

(C) Each school district financial planning and supervision 59086
commission shall submit the financial recovery plan it adopts or 59087
updates under this section to the state superintendent of public 59088
instruction for approval immediately following its adoption or 59089
updating. The state superintendent shall evaluate the plan and 59090
either approve or disapprove it within thirty calendar days from 59091
the date of its submission. If the plan is disapproved, the state 59092
superintendent shall recommend modifications that will render it 59093
acceptable. No financial planning and supervision commission shall 59094
implement a financial recovery plan that is adopted or updated on 59095
or after April 10, 2001, unless the state superintendent has 59096
approved it. 59097

Sec. 3316.08. During a school district's fiscal emergency 59098
period, the auditor of state shall determine annually, or at any 59099
other time upon request of the financial planning and supervision 59100
commission, whether the school district will incur an operating 59101
deficit. If the auditor of state determines that a school district 59102
will incur an operating deficit, the auditor of state shall 59103
certify that determination to the superintendent of public 59104
instruction, the financial planning and supervision commission, 59105
and the board of education of the school district. Upon receiving 59106
the auditor of state's certification, the commission shall adopt a 59107
resolution requesting that the board of education work with the 59108

county auditor or tax commissioner to estimate the amount and rate 59109
of a tax levy that is needed under section 5705.194, 5709.199, or 59110
5705.21 or Chapter 5748. of the Revised Code to produce a positive 59111
fund balance not later than the fifth year of the five-year 59112
forecast submitted under section 5705.391 of the Revised Code. 59113

The board of education shall recommend to the commission 59114
whether the board supports or opposes a tax levy under section 59115
5705.194, 5709.199, or 5705.21 or Chapter 5748. of the Revised 59116
Code and shall provide supporting documentation to the commission 59117
of its recommendation. 59118

After considering the board of education's recommendation and 59119
supporting documentation, the commission shall adopt a resolution 59120
to either submit a ballot question proposing a tax levy or not to 59121
submit such a question. 59122

Except as otherwise provided in this division, the tax shall 59123
be levied in the manner prescribed for a tax levied under section 59124
5705.194, 5709.199, or 5705.21 or under Chapter 5748. of the 59125
Revised Code. If the commission decides that a tax should be 59126
levied, the tax shall be levied for the purpose of paying current 59127
operating expenses of the school district. The rate of a property 59128
tax levied under section 5705.194, 5709.199, ~~or~~ 5705.21, or 59129
5748.09 of the Revised Code shall be determined by the county 59130
auditor, and the rate of a an income tax levied under section 59131
5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised Code shall be 59132
determined by the tax commissioner, upon the request of the 59133
commission. The commission, in consultation with the board of 59134
education, shall determine the election at which the question of 59135
the tax shall appear on the ballot, and the commission shall 59136
submit a copy of its resolution to the board of elections not 59137
later than ninety days prior to the day of that election. The 59138
board of elections conducting the election shall certify the 59139
results of the election to the board of education and to the 59140

financial planning and supervision commission. 59141

Sec. 3316.20. (A)(1) The school district solvency assistance 59142
fund is hereby created in the state treasury, to consist of such 59143
amounts designated for the purposes of the fund by the general 59144
assembly. The fund shall be used to provide assistance and grants 59145
to school districts to enable them to remain solvent and to pay 59146
unforeseeable expenses of a temporary or emergency nature that 59147
they are unable to pay from existing resources. 59148

(2) There is hereby created within the fund an account known 59149
as the school district shared resource account, which shall 59150
consist of money appropriated to it by the general assembly. The 59151
money in the account shall be used solely for solvency assistance 59152
to school districts that have been declared under division (B) of 59153
section 3316.03 of the Revised Code to be in a state of fiscal 59154
emergency. 59155

(3) There is hereby created within the fund an account known 59156
as the catastrophic expenditures account, which shall consist of 59157
money appropriated to the account by the general assembly plus all 59158
investment earnings of the fund. Money in the account shall be 59159
used solely for the following: 59160

(a) Solvency assistance to school districts that have been 59161
declared under division (B) of section 3316.03 of the Revised Code 59162
to be in a state of fiscal emergency, in the event that all money 59163
in the shared resource account is utilized for solvency 59164
assistance; 59165

(b) Grants to school districts under division (C) of this 59166
section. 59167

(B) Solvency assistance payments under division (A)(2) or 59168
(3)(a) of this section shall be made from the fund by the 59169
superintendent of public instruction in accordance with rules 59170

adopted by the director of budget and management, after consulting 59171
with the superintendent, specifying approval criteria and 59172
procedures necessary for administering the fund. 59173

The fund shall be reimbursed for any solvency assistance 59174
amounts paid under division (A)(2) or (3)(a) of this section not 59175
later than the end of the ~~second~~ fourth fiscal year following the 59176
fiscal year in which the solvency assistance payment was made, 59177
except that the fund may be reimbursed not later than the end of 59178
the tenth fiscal year following the fiscal year in which the 59179
solvency assistance payment was made upon the approval of the 59180
director of budget and management and the superintendent of public 59181
instruction. If not made directly by the school district, such 59182
reimbursement shall be made by the director of budget and 59183
management from the amounts the school district would otherwise 59184
receive pursuant to Chapter ~~3306-~~ 3317. of the Revised Code, or 59185
from any other funds appropriated for the district by the general 59186
assembly. Reimbursements shall be credited to the respective 59187
account from which the solvency assistance paid to the district 59188
was deducted. 59189

(C) The superintendent of public instruction may make 59190
recommendations, and the controlling board may grant money from 59191
the catastrophic expenditures account to any school district that 59192
suffers an unforeseen catastrophic event that severely depletes 59193
the district's financial resources. The superintendent shall make 59194
recommendations for the grants in accordance with rules adopted by 59195
the director of budget and management, after consulting with the 59196
superintendent. A school district shall not be required to repay 59197
any grant awarded to the district under this division, unless the 59198
district receives money from this state or a third party, 59199
including an agency of the government of the United States, 59200
specifically for the purpose of compensating the district for 59201
revenue lost or expenses incurred as a result of the unforeseen 59202

catastrophic event. If a school district receives a grant from the 59203
catastrophic expenditures account on the basis of the same 59204
circumstances for which an adjustment or recomputation is 59205
authorized under section 3317.025, 3317.026, 3317.027, 3317.028, 59206
3317.0210, or 3317.0211 of the Revised Code, the department of 59207
education shall reduce the adjustment or recomputation by an 59208
amount not to exceed the total amount of the grant, and an amount 59209
equal to the reduction shall be transferred, from the funding 59210
source from which the adjustment or recomputation would be paid, 59211
to the catastrophic expenditures account. Any adjustment or 59212
recomputation under such sections that is in excess of the total 59213
amount of the grant shall be paid to the school district. 59214

Sec. 3316.21. (A) If a school district has been declared to 59215
be in a state of fiscal emergency by the auditor of state under 59216
section 3316.03 of the Revised Code, and if the auditor of state 59217
has further determined upon examination of the district's 59218
financial recovery plan that implementing that plan cannot 59219
reasonably be expected to correct and eliminate all of the 59220
district's fiscal emergency conditions within five fiscal years,
the auditor of state shall notify the superintendent of public 59221
instruction of that determination. 59222
59223

(B) Not later than ninety days after the state superintendent 59224
receives the auditor of state's notification under division (A) of 59225
this section, the state superintendent shall develop an operations 59226
plan for the district and submit that plan to the state board of 59227
education for approval. Upon approval of the plan, the state board 59228
shall suspend the charter of the district and shall take over the 59229
operation of the district. The state board shall continue to 59230
operate the school district until such time as the district's 59231
board and its financial planning and supervision commission submit 59232
an acceptable financial recovery plan to the state superintendent 59233
and the auditor of state has determined that the district does 59234

have a plan that can reasonably be expected to correct and 59235
eliminate the district's fiscal emergency conditions within five 59236
fiscal years. 59237

(C) While the state board is operating the district, all of 59238
the following apply: 59239

(1) The state board shall exercise all powers granted to the 59240
school district board under the Revised Code for management and 59241
control of the schools of the district, except for the power to 59242
propose property tax or school district income tax levies under 59243
Title LVII of the Revised Code, and shall carry out such powers in 59244
the place of the district board. 59245

(2) Subject to approval of the state board, the district 59246
board shall continue to propose tax levies necessary to operate 59247
the district and to resolve the district's fiscal emergency 59248
conditions. 59249

(3) Employees and officers of the district shall be deemed 59250
employees of the state board. 59251

(4) The state board may delegate any management and control 59252
functions of the district to the district's financial planning and 59253
supervision commission. 59254

(5) The state board shall not revoke the charter of the 59255
district or transfer its territory to other districts. 59256

Sec. 3317.01. ~~As used in this section and section 3317.011 of~~ 59257
~~the Revised Code, "school district," unless otherwise specified,~~ 59258
means any city, local, exempted village, joint vocational, or 59259
cooperative education school district and any educational service 59260
center. 59261

This chapter shall be administered by the state board of 59262
education. The superintendent of public instruction shall 59263
calculate the amounts payable to each school district and shall 59264

certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. As soon as possible after such amounts are calculated, the superintendent shall certify to the treasurer of each school district the district's adjusted charge-off increase, as defined in section 5705.211 of the Revised Code. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. The moneys appropriated for each fiscal year shall be distributed periodically to each school district unless otherwise provided for. ~~The state board, in June of each year, shall submit a yearly distribution plan to the controlling board at its first meeting in July. The state board shall submit any proposed midyear revision of the plan to the controlling board in January. Any year end revision of the plan shall be submitted to the controlling board in June. If moneys appropriated for each fiscal year are distributed other than monthly, such distribution shall be on the same basis for each school district the state board's year-end distributions pursuant to this chapter.~~

Except as otherwise provided, payments under this chapter shall be made only to those school districts in which:

(A) The school district, except for any educational service center and any joint vocational or cooperative education school district, levies for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing districts, limited to or to

the extent apportioned to current expenses, shall be included in 59297
this qualification requirement. School district income tax levies 59298
under Chapter 5748. of the Revised Code, limited to or to the 59299
extent apportioned to current operating expenses, shall be 59300
included in this qualification requirement to the extent 59301
determined by the tax commissioner under division (D) of section 59302
3317.021 of the Revised Code. 59303

(B) The school year next preceding the fiscal year for which 59304
such payments are authorized meets the requirement of section 59305
3313.48 or 3313.481 of the Revised Code, with regard to the 59306
minimum number of days or hours school must be open for 59307
instruction with pupils in attendance, for individualized 59308
parent-teacher conference and reporting periods, and for 59309
professional meetings of teachers. This requirement shall be 59310
waived by the superintendent of public instruction if it had been 59311
necessary for a school to be closed because of disease epidemic, 59312
hazardous weather conditions, inoperability of school buses or 59313
other equipment necessary to the school's operation, damage to a 59314
school building, or other temporary circumstances due to utility 59315
failure rendering the school building unfit for school use, 59316
provided that for those school districts operating pursuant to 59317
section 3313.48 of the Revised Code the number of days the school 59318
was actually open for instruction with pupils in attendance and 59319
for individualized parent-teacher conference and reporting periods 59320
is not less than one hundred seventy-five, or for those school 59321
districts operating on a trimester plan the number of days the 59322
school was actually open for instruction with pupils in attendance 59323
not less than seventy-nine days in any trimester, for those school 59324
districts operating on a quarterly plan the number of days the 59325
school was actually open for instruction with pupils in attendance 59326
not less than fifty-nine days in any quarter, or for those school 59327
districts operating on a pentamester plan the number of days the 59328
school was actually open for instruction with pupils in attendance 59329

not less than forty-four days in any pentamester. 59330

A school district shall not be considered to have failed to 59331
comply with this division or section 3313.481 of the Revised Code 59332
because schools were open for instruction but either twelfth grade 59333
students were excused from attendance for up to three days or only 59334
a portion of the kindergarten students were in attendance for up 59335
to three days in order to allow for the gradual orientation to 59336
school of such students. 59337

The superintendent of public instruction shall waive the 59338
requirements of this section with reference to the minimum number 59339
of days or hours school must be in session with pupils in 59340
attendance for the school year succeeding the school year in which 59341
a board of education initiates a plan of operation pursuant to 59342
section 3313.481 of the Revised Code. The minimum requirements of 59343
this section shall again be applicable to such a district 59344
beginning with the school year commencing the second July 59345
succeeding the initiation of one such plan, and for each school 59346
year thereafter. 59347

A school district shall not be considered to have failed to 59348
comply with this division or section 3313.48 or 3313.481 of the 59349
Revised Code because schools were open for instruction but the 59350
length of the regularly scheduled school day, for any number of 59351
days during the school year, was reduced by not more than two 59352
hours due to hazardous weather conditions. 59353

(C) The school district has on file, and is paying in 59354
accordance with, a teachers' salary schedule which complies with 59355
section 3317.13 of the Revised Code. 59356

A board of education or governing board of an educational 59357
service center which has not conformed with other law and the 59358
rules pursuant thereto, shall not participate in the distribution 59359
of funds authorized by ~~sections 3317.022 to 3317.0211, 3317.11,~~ 59360

~~3317.16, 3317.17, and 3317.19~~ of the Revised Code this chapter, 59361
except for good and sufficient reason established to the 59362
satisfaction of the state board of education and the state 59363
controlling board. 59364

All funds allocated to school districts under this chapter, 59365
except those specifically allocated for other purposes, shall be 59366
used to pay current operating expenses only. 59367

Sec. 3317.013. Except for a preschool child with a disability 59368
for whom a scholarship has been awarded under section 3310.41 of 59369
the Revised Code, this section does not apply to preschool 59370
children with disabilities. 59371

Analysis of special education cost data has resulted in a 59372
finding that the average special education additional cost per 59373
pupil, including the costs of related services, can be expressed 59374
as a multiple of the ~~base cost per pupil calculated under section~~ 59375
~~3317.012 of the Revised Code~~ formula amount. The multiples for the 59376
following categories of special education programs, as these 59377
programs are defined for purposes of Chapter 3323. of the Revised 59378
Code, and adjusted as provided in this section, are as follows: 59379

(A) A multiple of ~~0.2892~~ 0.2906 for students whose primary or 59380
only identified disability is a speech and language disability, as 59381
this term is defined pursuant to Chapter 3323. of the Revised 59382
Code; 59383

(B) A multiple of ~~0.3691~~ 0.7374 for students identified as 59384
specific learning disabled or developmentally disabled, as these 59385
terms are defined pursuant to Chapter 3323. of the Revised Code, 59386
or as having an other health impairment-minor; 59387

(C) A multiple of ~~1.7695~~ 1.7716 for students identified as 59388
hearing disabled, ~~vision impaired~~, or severe behavior disabled, as 59389
these terms are defined pursuant to Chapter 3323. of the Revised 59390

Code; 59391

(D) A multiple of ~~2.3646~~ 2.3643 for students identified as ~~orthopedically disabled~~ vision impaired, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-major; 59392
59393
59394
59395

(E) A multiple of ~~3.1129~~ 3.2022 for students identified as ~~orthopedically disabled or as~~ having multiple disabilities, as ~~this term is~~ these terms are defined pursuant to Chapter 3323. of the Revised Code; 59396
59397
59398
59399

(F) A multiple of ~~4.7342~~ 4.7205 for students identified as autistic, having traumatic brain injuries, or as both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. of the Revised Code. 59400
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In fiscal years 2008, 2009, 2010, ~~and~~ 2011, 2012, and 2013, the multiples specified in divisions (A) to (F) of this section shall be adjusted by multiplying them by 0.90. 59404
59405
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~~Not later than the thirtieth day of December in 2007, 2008, and 2009, the department of education shall submit to the office of budget and management a report that specifies for each city, local, exempted village, and joint vocational school district the fiscal year allocation of the state and local shares of special education and related services additional weighted funding and federal special education funds passed through to the district.~~ 59407
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59413

Sec. 3317.014. The average vocational education additional cost per pupil can be expressed as a multiple of the ~~base cost per pupil calculated under section 3317.012 of the Revised Code~~ formula amount. The multiples for the following categories of vocational education programs are as follows: 59414
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59416
59417
59418

(A) A multiple of 0.57 for students enrolled in vocational education job-training and workforce development programs approved 59419
59420

by the department of education in accordance with rules adopted 59421
under section 3313.90 of the Revised Code. 59422

(B) A multiple of 0.28 for students enrolled in vocational 59423
education classes other than job-training and workforce 59424
development programs. 59425

Vocational education associated services costs can be 59426
expressed as a multiple of 0.05 of the ~~base cost per pupil~~ 59427
~~calculated under section 3317.012 of the Revised Code~~ formula 59428
amount. 59429

~~By the thirtieth day of each December, the department of~~ 59430
~~education shall report to the office of budget and management and~~ 59431
~~the general assembly the amount of weighted funding for vocational~~ 59432
~~education and associated services that was spent by each city,~~ 59433
~~local, exempted village, and joint vocational school district~~ 59434
~~specifically for vocational educational and associated services~~ 59435
~~during the previous fiscal year.~~ 59436

Sec. 3317.018. (A) The department of education shall make no 59437
calculations or payments under ~~Chapter 3317. of the Revised Code~~ 59438
this chapter for any fiscal year except as prescribed in this 59439
section. The payments authorized under this section are in 59440
addition to payments computed and paid for fiscal years 2012 and 59441
2013 under the section of H.B. 153 of the 129th general assembly 59442
entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL 59443
DISTRICTS." 59444

(B) School districts shall report student enrollment data as 59445
prescribed by section 3317.03 of the Revised Code, which data the 59446
department shall use to make payments under ~~Chapters 3306. and~~ 59447
~~3317. of the Revised Code.~~ this chapter and the section of H.B. 59448
153 of the 129th general assembly entitled "FUNDING FOR CITY, 59449
EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS." 59450

(C) The tax commissioner shall report data regarding tax 59451
valuation and receipts for school districts as prescribed by 59452
sections 3317.015, 3317.021, 3317.025, 3317.026, 3317.027, 59453
3317.028, 3317.0210, 3317.0211, and 3317.08 and by division ~~(M)~~(K) 59454
of section 3317.02 of the Revised Code, which data the department 59455
shall use to make payments under ~~Chapters 3306. and 3317. of the~~ 59456
~~Revised Code.~~ this chapter and the section of H.B. 153 of the 59457
129th general assembly entitled "FUNDING FOR CITY, EXEMPTED 59458
VILLAGE, AND LOCAL SCHOOL DISTRICTS." 59459

(D) Unless otherwise specified by another provision of law, 59460
~~in addition to the payments prescribed by Chapter 3306. of the~~ 59461
~~Revised Code,~~ the department shall continue to make payments to or 59462
adjustments for school districts in fiscal years after fiscal year 59463
2009 under the following provisions of ~~Chapter 3317. of the~~ 59464
~~Revised Code~~ this chapter: 59465

(1) The catastrophic cost reimbursement under division (C)(3) 59466
of section 3317.022 of the Revised Code; however, when computing 59467
that payment, the department shall use the disability categories 59468
and multiples specified in section 3317.013 of the Revised Code as 59469
that section existed prior to the effective date of this 59470
amendment. No other payments shall be made under ~~that~~ section 59471
3317.022 of the Revised Code. 59472

(2) All payments or adjustments under section 3317.023 of the 59473
Revised Code, ~~except no payments or adjustments shall be made~~ 59474
~~under divisions (B), (C), and (D) of that section.;~~ 59475

(3) All payments or adjustments under section 3317.024 of the 59476
Revised Code, ~~except no payments or adjustments shall be made~~ 59477
~~under divisions (F) and (N) of that section for fiscal years after~~ 59478
~~fiscal year 2009 or under division (L) of that section for fiscal~~ 59479
~~years 2010 and 2011.;~~ 59480

(4) All payments and adjustments under sections 3317.025, 59481

3317.026, 3317.027, 3317.028, 3317.0210, and 3317.0211 of the Revised Code;	59482 59483
(5) Payments under section 3317.04 of the Revised Code;	59484
(6) Unit payments under sections 3317.05, 3317.051, 3317.052, and 3317.053 of the Revised Code, except that no units for gifted funding are authorized for <u>after</u> fiscal years 2010 and 2011 year <u>2009</u> .	59485 59486 59487 59488
(7) <u>(6)</u> Payments under sections 3317.06, 3317.063, and 3317.064 of the Revised Code;	59489 59490
(8) Payments under section 3317.07 of the Revised Code;	59491
(9) <u>(7)</u> Payments to educational service centers under section 3317.11 of the Revised Code;	59492 59493
(10) <u>(8)</u> The catastrophic cost reimbursement under division (E) of section 3317.16 of the Revised Code and excess cost reimbursements under division (G) of that section; <u>however, when computing that payment, the department shall use the disability categories and multiples specified in section 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment</u> . No other payments shall be made under that section 3317.16 <u>of the Revised Code</u> .	59494 59495 59496 59497 59498 59499 59500 59501
(11) Payments under section 3317.17 of the Revised Code;	59502
(12) <u>(9)</u> Adjustments under section 3317.18 of the Revised Code;	59503 59504
(13) <u>(10)</u> Payments to cooperative education school districts under section 3317.19 of the Revised Code;	59505 59506
(14) <u>(11)</u> Payments to county MR/DD <u>DD</u> boards under section 3317.20 of the Revised Code;	59507 59508
(15) <u>(12)</u> Payments to state institutions for weighted special education funding under section 3317.201 of the Revised Code.	59509 59510

(E) ~~Sections 3317.016 and 3317.017 shall not apply to fiscal years after fiscal year 2009.~~ 59511
59512

~~(F)~~ This section does not affect the provisions of sections 59513
3317.031, 3317.032, 3317.033, 3317.035, 3317.061, 3317.08, 59514
3317.081, 3317.082, 3317.09, 3317.12, 3317.13, 3317.14, 3317.141, 59515
3317.15, 3317.50, and 3317.51, ~~3317.62, 3317.63, and 3317.64~~ of 59516
the Revised Code. 59517

(F) The department shall make no payments for fiscal years 2012 or 2013 under section 3317.0212 of the Revised Code. 59518
59519

Sec. 3317.02. As used in this chapter: 59520

(A) Unless otherwise specified, "school district" means city, 59521
local, and exempted village school districts. 59522

(B) "Formula amount" means ~~\$5,732~~ \$5,653 for fiscal year ~~2010~~ 59523
2012 and fiscal year ~~2011~~ 2013. 59524

(C) "FTE basis" means a count of students based on full-time 59525
equivalency, in accordance with rules adopted by the department of 59526
education pursuant to section 3317.03 of the Revised Code. In 59527
adopting its rules under this division, the department shall 59528
provide for counting any student in category one, two, three, 59529
four, five, or six special education ADM or in category one or two 59530
vocational education ADM in the same proportion the student is 59531
counted in formula ADM. 59532

(D)(1) "Formula ADM" means, for a city, local, or exempted 59533
village school district, ~~"formula ADM" as defined in section~~ 59534
~~3306.02 of the Revised Code.~~ the average daily membership 59535
described in division (A) of section 3317.03 of the Revised Code, 59536
as verified by the superintendent of public instruction and 59537
adjusted if so ordered under division (K) of that section, and as 59538
further adjusted by the department of education, as follows: 59539

(a) Count only twenty per cent of the number of joint 59540

vocational school district students counted under division (A)(3) 59541
of section 3317.03 of the Revised Code; 59542

(b) Add twenty per cent of the number of students who are 59543
entitled to attend school in the district under section 3313.64 or 59544
3313.65 of the Revised Code and are enrolled in another school 59545
district under a career-technical educational compact. 59546

(2) "Formula ADM" means, for a joint vocational school 59547
district, the final number verified by the superintendent of 59548
public instruction, based on the number reported pursuant to 59549
division (D) of section 3317.03 of the Revised Code, as adjusted, 59550
if so ordered, under division (K) of that section. ~~For purposes of~~ 59551
the calculation of payments to or adjustments for a city, exempted 59552
village, local, or joint vocational school district under this 59553
chapter or under Chapter 3306. of the Revised Code, calculations 59554
required under Chapter 3318. of the Revised Code, or adjustments 59555
required under Chapter 3365. of the Revised Code, the department 59556
of education shall use the district's formula ADM for the previous 59557
fiscal year, unless the district's average daily membership 59558
reported and verified for the current fiscal year is at least two 59559
per cent greater than the formula ADM reported for the previous 59560
fiscal year, in which case the department shall use the district's 59561
formula ADM for the current fiscal year. 59562

(E) "Three-year average formula ADM" means the average of 59563
formula ADMs for the preceding three fiscal years. 59564

(F)(1) "Category one special education ADM" means the average 59565
daily membership of children with disabilities receiving special 59566
education services for the disability specified in division 59567
~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and 59568
reported under division (B)(5) or (D)(2)(b) of section 3317.03 of 59569
the Revised Code. 59570

(2) "Category two special education ADM" means the average 59571

daily membership of children with disabilities receiving special 59572
education services for those disabilities specified in division 59573
~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and 59574
reported under division (B)(6) or (D)(2)(c) of section 3317.03 of 59575
the Revised Code. 59576

(3) "Category three special education ADM" means the average 59577
daily membership of students receiving special education services 59578
for those disabilities specified in division ~~(D)(3)(C)~~ of section 59579
~~3306.02~~ 3317.013 of the Revised Code, and reported under division 59580
(B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code. 59581

(4) "Category four special education ADM" means the average 59582
daily membership of students receiving special education services 59583
for those disabilities specified in division (D)~~(4)~~ of section 59584
~~3306.02~~ 3317.013 of the Revised Code and reported under division 59585
(B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code. 59586

(5) "Category five special education ADM" means the average 59587
daily membership of students receiving special education services 59588
for the disabilities specified in division ~~(D)(5)(E)~~ of section 59589
~~3306.02~~ 3317.013 of the Revised Code and reported under division 59590
(B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code. 59591

(6) "Category six special education ADM" means the average 59592
daily membership of students receiving special education services 59593
for the disabilities specified in division ~~(D)(6)(F)~~ of section 59594
~~3306.02~~ 3317.013 of the Revised Code and reported under division 59595
(B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code. 59596

(7) "Category one vocational education ADM" means the average 59597
daily membership of students receiving vocational education 59598
services described in division (A) of section 3317.014 of the 59599
Revised Code and reported under division (B)(11) or (D)(2)(h) of 59600
section 3317.03 of the Revised Code. 59601

(8) "Category two vocational education ADM" means the average 59602

daily membership of students receiving vocational education 59603
services described in division (B) of section 3317.014 of the 59604
Revised Code and reported under division (B)(12) or (D)(2)(i) of 59605
section 3317.03 of the Revised Code. 59606

(G) "Preschool child with a disability" means a child with a 59607
disability, as defined in section 3323.01 of the Revised Code, who 59608
is at least age three but is not of compulsory school age, as 59609
defined in section 3321.01 of the Revised Code, and who is not 59610
currently enrolled in kindergarten. 59611

(H) "County DD board" means a county board of developmental 59612
disabilities. 59613

(I) "Recognized valuation" means the amount calculated for a 59614
school district pursuant to section 3317.015 of the Revised Code. 59615

~~(J) "Transportation ADM" means the number of children 59616
reported under division (B)(13) of section 3317.03 of the Revised 59617
Code. 59618~~

~~(K) "Average efficient transportation use cost per student" 59619
means a statistical representation of transportation costs as 59620
calculated under division (D)(2) of section 3317.022 of the 59621
Revised Code. 59622~~

~~(L)~~ "Taxes charged and payable" means the taxes charged and 59623
payable against real and public utility property after making the 59624
reduction required by section 319.301 of the Revised Code, plus 59625
the taxes levied against tangible personal property. 59626

~~(M)~~(K) "Total taxable value" means the sum of the amounts 59627
certified for a city, local, exempted village, or joint vocational 59628
school district under divisions (A)(1) and (2) of section 3317.021 59629
of the Revised Code. 59630

~~(N)~~(L) "Tax exempt value" of a school district means the 59631
amount certified for a school district under division (A)(4) of 59632

section 3317.021 of the Revised Code. 59633

~~(O)~~(M) "Potential value" of a school district means the 59634
recognized valuation of a school district plus the tax exempt 59635
value of the district. 59636

~~(P)~~(N) "District median income" means the median Ohio 59637
adjusted gross income certified for a school district. On or 59638
before the first day of July of each year, the tax commissioner 59639
shall certify to the department of education and the office of 59640
budget and management for each city, exempted village, and local 59641
school district the median Ohio adjusted gross income of the 59642
residents of the school district determined on the basis of tax 59643
returns filed for the second preceding tax year by the residents 59644
of the district. 59645

~~(Q)~~(O) "Statewide median income" means the median district 59646
median income of all city, exempted village, and local school 59647
districts in the state. 59648

~~(R)~~(P) "Income factor" for a city, exempted village, or local 59649
school district means the quotient obtained by dividing that 59650
district's median income by the statewide median income. 59651

~~(S)~~(O) "Medically fragile child" means a child to whom all of 59652
the following apply: 59653

(1) The child requires the services of a doctor of medicine 59654
or osteopathic medicine at least once a week due to the 59655
instability of the child's medical condition. 59656

(2) The child requires the services of a registered nurse on 59657
a daily basis. 59658

(3) The child is at risk of institutionalization in a 59659
hospital, skilled nursing facility, or intermediate care facility 59660
for the mentally retarded. 59661

~~(T)~~(R) A child may be identified as having an "other health 59662

impairment-major" if the child's condition meets the definition of 59663
"other health impaired" established in rules adopted by the state 59664
board of education prior to July 1, 2001, and if either of the 59665
following apply: 59666

(1) The child is identified as having a medical condition 59667
that is among those listed by the superintendent of public 59668
instruction as conditions where a substantial majority of cases 59669
fall within the definition of "medically fragile child." The 59670
superintendent of public instruction shall issue an initial list 59671
no later than September 1, 2001. 59672

(2) The child is determined by the superintendent of public 59673
instruction to be a medically fragile child. A school district 59674
superintendent may petition the superintendent of public 59675
instruction for a determination that a child is a medically 59676
fragile child. 59677

~~(U)~~(S) A child may be identified as having an "other health 59678
impairment-minor" if the child's condition meets the definition of 59679
"other health impaired" established in rules adopted by the state 59680
board of education prior to July 1, 2001, but the child's 59681
condition does not meet either of the conditions specified in 59682
division ~~(T)~~(R)(1) or (2) of this section. 59683

~~(V)~~(T) "State education aid" has the same meaning as in 59684
section 5751.20 of the Revised Code. 59685

~~(W)~~(U) "Property exemption value" means zero in fiscal year 59686
2006, and in fiscal year 2007 and each fiscal year thereafter, the 59687
amount certified for a school district under divisions (A)(6) and 59688
(7) of section 3317.021 of the Revised Code. 59689

~~(X)~~(V) "Internet- or computer-based community school" has the 59690
same meaning as in section 3314.02 of the Revised Code. 59691

~~(Y)~~(W) "State share percentage" ~~has the same meaning as in,~~ 59692
for a city, exempted village, or local school district, for fiscal 59693

years 2012 and 2013, means the district's state share percentage 59694
as computed for fiscal year 2011 under former section 3306.02 of 59695
the Revised Code. "State share percentage," for a joint vocational 59696
school district, for fiscal years 2012 and 2013, means the 59697
district's state share percentage as computed for fiscal year 2009 59698
under section 3317.16 of the Revised Code as that section existed 59699
for that fiscal year. 59700

~~Sec. 3317.021. The information certified under this section~~ 59701
~~shall be used to calculate payments under this chapter and Chapter~~ 59702
~~3306. of the Revised Code.~~ 59703

(A) On or before the first day of June of each year, the tax 59704
commissioner shall certify to the department of education and the 59705
office of budget and management the information described in 59706
divisions (A)(1) to (7) of this section for each city, exempted 59707
village, and local school district, and the information required 59708
by divisions (A)(1) and (2) of this section for each joint 59709
vocational school district, and it shall be used, along with the 59710
information certified under division (B) of this section, in 59711
making the computations for the district under this chapter ~~and~~ 59712
~~Chapter 3306. of the Revised Code.~~ 59713

(1) The taxable value of real and public utility real 59714
property in the school district subject to taxation in the 59715
preceding tax year, by class and by county of location. 59716

(2) The taxable value of tangible personal property, 59717
including public utility personal property, subject to taxation by 59718
the district for the preceding tax year. 59719

(3)(a) The total property tax rate and total taxes charged 59720
and payable for the current expenses for the preceding tax year 59721
and the total property tax rate and the total taxes charged and 59722
payable to a joint vocational district for the preceding tax year 59723
that are limited to or to the extent apportioned to current 59724

expenses.	59725
(b) The portion of the amount of taxes charged and payable reported for each city, local, and exempted village school district under division (A)(3)(a) of this section attributable to a joint vocational school district.	59726 59727 59728 59729
(4) The value of all real and public utility real property in the school district exempted from taxation minus both of the following:	59730 59731 59732
(a) The value of real and public utility real property in the district owned by the United States government and used exclusively for a public purpose;	59733 59734 59735
(b) The value of real and public utility real property in the district exempted from taxation under Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code.	59736 59737 59738 59739
(5) The total federal adjusted gross income of the residents of the school district, based on tax returns filed by the residents of the district, for the most recent year for which this information is available.	59740 59741 59742 59743
(6) The sum of the school district compensation value as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code as if such property had been assessed for taxation that year and the other compensation value for the school district, minus the amounts described in divisions (A)(6)(c) to (i) of this section. The portion of school district compensation value or other compensation value attributable to an incentive district exemption may be subtracted only once even if that incentive district satisfies more than one of the criteria in divisions (A)(6)(c) to (i) of this section.	59744 59745 59746 59747 59748 59749 59750 59751 59752 59753 59754
(a) "School district compensation value" means the aggregate	59755

value of real property in the school district exempted from 59756
taxation pursuant to an ordinance or resolution adopted under 59757
division (C) of section 5709.40, division (C) of section 5709.73, 59758
or division (B) of section 5709.78 of the Revised Code to the 59759
extent that the exempted value results in the charging of payments 59760
in lieu of taxes required to be paid to the school district under 59761
division (D)(1) or (2) of section 5709.40, division (D) of section 59762
5709.73, or division (C) of section 5709.78 of the Revised Code. 59763

(b) "Other compensation value" means the quotient that 59764
results from dividing (i) the dollar value of compensation 59765
received by the school district during the preceding tax year 59766
pursuant to division (B), (C), or (D) of section 5709.82 of the 59767
Revised Code and the amounts received pursuant to an agreement as 59768
specified in division (D)(2) of section 5709.40, division (D) of 59769
section 5709.73, or division (C) of section 5709.78 of the Revised 59770
Code to the extent those amounts were not previously reported or 59771
included in division (A)(6)(a) of this section, and so that any 59772
such amount is reported only once under division (A)(6)(b) of this 59773
section, in relation to exemptions from taxation granted pursuant 59774
to an ordinance or resolution adopted under division (C) of 59775
section 5709.40, division (C) of section 5709.73, or division (B) 59776
of section 5709.78 of the Revised Code, by (ii) the real property 59777
tax rate in effect for the preceding tax year for 59778
nonresidential/agricultural real property after making the 59779
reductions required by section 319.301 of the Revised Code. 59780

(c) The portion of school district compensation value or 59781
other compensation value that was exempted from taxation pursuant 59782
to such an ordinance or resolution for the preceding tax year, if 59783
the ordinance or resolution is adopted prior to January 1, 2006, 59784
and the legislative authority or board of township trustees or 59785
county commissioners, prior to January 1, 2006, executes a 59786
contract or agreement with a developer, whether for-profit or 59787

not-for-profit, with respect to the development of a project 59788
undertaken or to be undertaken and identified in the ordinance or 59789
resolution, and upon which parcels such project is being, or will 59790
be, undertaken; 59791

(d) The portion of school district compensation value that 59792
was exempted from taxation for the preceding tax year and for 59793
which payments in lieu of taxes for the preceding tax year were 59794
provided to the school district under division (D)(1) of section 59795
5709.40 of the Revised Code. 59796

(e) The portion of school district compensation value that 59797
was exempted from taxation for the preceding tax year pursuant to 59798
such an ordinance or resolution, if and to the extent that, on or 59799
before April 1, 2006, the fiscal officer of the municipal 59800
corporation that adopted the ordinance, or of the township or 59801
county that adopted the resolution, certifies and provides 59802
appropriate supporting documentation to the tax commissioner and 59803
the director of development that, based on hold-harmless 59804
provisions in any agreement between the school district and the 59805
legislative authority of the municipal corporation, board of 59806
township trustees, or board of county commissioners that was 59807
entered into on or before June 1, 2005, the ability or obligation 59808
of the municipal corporation, township, or county to repay bonds, 59809
notes, or other financial obligations issued or entered into prior 59810
to January 1, 2006, will be impaired, including obligations to or 59811
of any other body corporate and politic with whom the legislative 59812
authority of the municipal corporation or board of township 59813
trustees or county commissioners has entered into an agreement 59814
pertaining to the use of service payments derived from the 59815
improvements exempted; 59816

(f) The portion of school district compensation value that 59817
was exempted from taxation for the preceding tax year pursuant to 59818
such an ordinance or resolution, if the ordinance or resolution is 59819

adopted prior to January 1, 2006, in a municipal corporation with 59820
a population that exceeds one hundred thousand, as shown by the 59821
most recent federal decennial census, that includes a major 59822
employment center and that is adjacent to historically distressed 59823
neighborhoods, if the legislative authority of the municipal 59824
corporation that exempted the property prepares an economic 59825
analysis that demonstrates that all taxes generated within the 59826
incentive district accruing to the state by reason of improvements 59827
constructed within the district during its existence exceed the 59828
amount the state pays the school district under section 3317.022 59829
of the Revised Code attributable to such property exemption from 59830
the school district's recognized valuation. The analysis shall be 59831
submitted to and approved by the department of development prior 59832
to January 1, 2006, and the department shall not unreasonably 59833
withhold approval. 59834

(g) The portion of school district compensation value that 59835
was exempted from taxation for the preceding tax year under such 59836
an ordinance or resolution, if the ordinance or resolution is 59837
adopted prior to January 1, 2006, and if service payments have 59838
been pledged to be used for mixed-use riverfront entertainment 59839
development in any county with a population that exceeds six 59840
hundred thousand, as shown by the most recent federal decennial 59841
census; 59842

(h) The portion of school district compensation value that 59843
was exempted from taxation for the preceding tax year under such 59844
an ordinance or resolution, if, prior to January 1, 2006, the 59845
legislative authority of a municipal corporation, board of 59846
township trustees, or board of county commissioners has pledged 59847
service payments for a designated transportation capacity project 59848
approved by the transportation review advisory council under 59849
Chapter 5512. of the Revised Code; 59850

(i) The portion of school district compensation value that 59851

was exempted from taxation for the preceding tax year under such 59852
an ordinance or resolution if the legislative authority of a 59853
municipal corporation, board of township trustees, or board of 59854
county commissioners have, by January 1, 2006, pledged proceeds 59855
for designated transportation improvement projects that involve 59856
federal funds for which the proceeds are used to meet a local 59857
share match requirement for such funding. 59858

As used in division (A)(6) of this section, "project" has the 59859
same meaning as in section 5709.40 of the Revised Code. 59860

(7) The aggregate value of real property in the school 59861
district for which an exemption from taxation is granted by an 59862
ordinance or resolution adopted on or after January 1, 2006, under 59863
Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 59864
5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised 59865
Code, as indicated on the list of exempted property for the 59866
preceding tax year under section 5713.08 of the Revised Code and 59867
as if such property had been assessed for taxation that year, 59868
minus the product determined by multiplying (a) the aggregate 59869
value of the real property in the school district exempted from 59870
taxation for the preceding tax year under any of the chapters or 59871
sections specified in this division, by (b) a fraction, the 59872
numerator of which is the difference between (i) the amount of 59873
anticipated revenue such school district would have received for 59874
the preceding tax year if the real property exempted from taxation 59875
had not been exempted from taxation and (ii) the aggregate amount 59876
of payments in lieu of taxes on the exempt real property for the 59877
preceding tax year and other compensation received for the 59878
preceding tax year by the school district pursuant to any 59879
agreements entered into on or after January 1, 2006, under section 59880
5709.82 of the Revised Code between the school district and the 59881
legislative authority of a political subdivision that acted under 59882
the authority of a chapter or statute specified in this division, 59883

that were entered into in relation to such exemption, and the 59884
denominator of which is the amount of anticipated revenue such 59885
school district would have received in the preceding fiscal year 59886
if the real property exempted from taxation had not been exempted. 59887

(B) On or before the first day of May each year, the tax 59888
commissioner shall certify to the department of education and the 59889
office of budget and management the total taxable real property 59890
value of railroads and, separately, the total taxable tangible 59891
personal property value of all public utilities for the preceding 59892
tax year, by school district and by county of location. 59893

(C) If a public utility has properly and timely filed a 59894
petition for reassessment under section 5727.47 of the Revised 59895
Code with respect to an assessment issued under section 5727.23 of 59896
the Revised Code affecting taxable property apportioned by the tax 59897
commissioner to a school district, the taxable value of public 59898
utility tangible personal property included in the certification 59899
under divisions (A)(2) and (B) of this section for the school 59900
district shall include only the amount of taxable value on the 59901
basis of which the public utility paid tax for the preceding year 59902
as provided in division (B)(1) or (2) of section 5727.47 of the 59903
Revised Code. 59904

(D) If on the basis of the information certified under 59905
division (A) of this section, the department determines that any 59906
district fails in any year to meet the qualification requirement 59907
specified in ~~division (A)(1) of section 3306.01~~ and division (A) 59908
of section 3317.01 of the Revised Code, the department shall 59909
immediately request the tax commissioner to determine the extent 59910
to which any school district income tax levied by the district 59911
under Chapter 5748. of the Revised Code shall be included in 59912
meeting that requirement. Within five days of receiving such a 59913
request from the department, the tax commissioner shall make the 59914
determination required by this division and report the quotient 59915

obtained under division (D)(3) of this section to the department 59916
and the office of budget and management. This quotient represents 59917
the number of mills that the department shall include in 59918
determining whether the district meets the qualification 59919
requirement of ~~division (A)(1) of section 3306.01~~ and division (A) 59920
of section 3317.01 of the Revised Code. 59921

The tax commissioner shall make the determination required by 59922
this division as follows: 59923

(1) Multiply one mill times the total taxable value of the 59924
district as determined in divisions (A)(1) and (2) of this 59925
section; 59926

(2) Estimate the total amount of tax liability for the 59927
current tax year under taxes levied by Chapter 5748. of the 59928
Revised Code that are apportioned to current operating expenses of 59929
the district, excluding any income tax receipts allocated for the 59930
project cost, debt service, or maintenance set-aside associated 59931
with a state-assisted classroom facilities project as authorized 59932
by section 3318.052 of the Revised Code; 59933

(3) Divide the amount estimated under division (D)(2) of this 59934
section by the product obtained under division (D)(1) of this 59935
section. 59936

(E)(1) On or before June 1, 2006, and the first day of April 59937
of each year thereafter, the director of development shall report 59938
to the department of education, the tax commissioner, and the 59939
director of budget and management the total amounts of payments 59940
received by each city, local, exempted village, or joint 59941
vocational school district for the preceding tax year pursuant to 59942
division (D) of section 5709.40, division (D) of section 5709.73, 59943
division (C) of section 5709.78, or division (B)(1), (B)(2), (C), 59944
or (D) of section 5709.82 of the Revised Code in relation to 59945
exemptions from taxation granted pursuant to an ordinance adopted 59946

by the legislative authority of a municipal corporation under 59947
division (C) of section 5709.40 of the Revised Code, or a 59948
resolution adopted by a board of township trustees or board of 59949
county commissioners under division (C) of section 5709.73 or 59950
division (B) of section 5709.78 of the Revised Code, respectively. 59951
On or before April 1, 2006, and the first day of March of each 59952
year thereafter, the treasurer of each city, local, exempted 59953
village, or joint vocational school district that has entered into 59954
such an agreement shall report to the director of development the 59955
total amounts of such payments the district received for the 59956
preceding tax year as provided in this section. The state board of 59957
education, in accordance with sections 3319.31 and 3319.311 of the 59958
Revised Code, may suspend or revoke the license of a treasurer 59959
found to have willfully reported erroneous, inaccurate, or 59960
incomplete data under this division. 59961

(2) On or before April 1, 2007, and the first day of April of 59962
each year thereafter, the director of development shall report to 59963
the department of education, the tax commissioner, and the 59964
director of budget and management the total amounts of payments 59965
received by each city, local, exempted village, or joint 59966
vocational school district for the preceding tax year pursuant to 59967
divisions (B), (C), and (D) of section 5709.82 of the Revised Code 59968
in relation to exemptions from taxation granted pursuant to 59969
ordinances or resolutions adopted on or after January 1, 2006, 59970
under Chapter 725. or 1728., sections 3735.65 to 3735.70, or 59971
section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the 59972
Revised Code. On or before March 1, 2007, and the first day of 59973
March of each year thereafter, the treasurer of each city, local, 59974
exempted village, or joint vocational school district that has 59975
entered into such an agreement shall report to the director of 59976
development the total amounts of such payments the district 59977
received for the preceding tax year as provided by this section. 59978
The state board of education, in accordance with sections 3319.31 59979

and 3319.311 of the Revised Code, may suspend or revoke the 59980
license of a treasurer found to have willfully reported erroneous, 59981
inaccurate, or incomplete data under this division. 59982

Sec. 3317.022. (A)(1) The department of education shall 59983
compute and distribute state base cost funding to each eligible 59984
school district for the fiscal year, using the information 59985
obtained under section 3317.021 of the Revised Code in the 59986
calendar year in which the fiscal year begins, according to the 59987
following formula: 59988

{[the formula amount X (formula ADM + 59989
preschool scholarship ADM)] + 59990
the sum of the base funding supplements 59991
prescribed in divisions (C)(1) to (4) 59992
of section 3317.012 of the Revised Code} - 59993
[.023 x (the sum of recognized valuation 59994
and property exemption value)] + 59995
the amounts calculated for the district under 59996
sections 3317.029 and 3317.0217 of the Revised Code 59997

If the difference obtained is a negative number, the 59998
district's computation shall be zero. 59999

(2)(a) For each school district for which the tax exempt 60000
value of the district equals or exceeds twenty-five per cent of 60001
the potential value of the district, the department of education 60002
shall calculate the difference between the district's tax exempt 60003
value and twenty-five per cent of the district's potential value. 60004

(b) For each school district to which division (A)(2)(a) of 60005
this section applies, the department shall adjust the recognized 60006
valuation used in the calculation under division (A)(1) of this 60007
section by subtracting from it the amount calculated under 60008
division (A)(2)(a) of this section. 60009

(B) As used in this section: 60010

(1) The "total special education weight" for a district means 60011
the sum of the following amounts: 60012

(a) The district's category one special education ADM 60013
multiplied by the multiple specified in division (A) of section 60014
3317.013 of the Revised Code; 60015

(b) The district's category two special education ADM 60016
multiplied by the multiple specified in division (B) of section 60017
3317.013 of the Revised Code; 60018

(c) The district's category three special education ADM 60019
multiplied by the multiple specified in division (C) of section 60020
3317.013 of the Revised Code; 60021

(d) The district's category four special education ADM 60022
multiplied by the multiple specified in division (D) of section 60023
3317.013 of the Revised Code; 60024

(e) The district's category five special education ADM 60025
multiplied by the multiple specified in division (E) of section 60026
3317.013 of the Revised Code; 60027

(f) The district's category six special education ADM 60028
multiplied by the multiple specified in division (F) of section 60029
3317.013 of the Revised Code. 60030

(2) "Related services" includes: 60031

(a) Child study, special education supervisors and 60032
coordinators, speech and hearing services, adaptive physical 60033
development services, occupational or physical therapy, teacher 60034
assistants for children with disabilities whose disabilities are 60035
described in division (B) of section 3317.013 or division (F)(3) 60036
of section 3317.02 of the Revised Code, behavioral intervention, 60037
interpreter services, work study, nursing services, and 60038
specialized integrative services as those terms are defined by the 60039
department; 60040

(b) Speech and language services provided to any student with a disability, including any student whose primary or only disability is a speech and language disability;

(c) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;

(d) Any service included in units funded under former division (O)(1) of section 3317.024 of the Revised Code;

(e) Any other related service needed by children with disabilities in accordance with their individualized education programs.

(3) The "total vocational education weight" for a district means the sum of the following amounts:

(a) The district's category one vocational education ADM multiplied by the multiple specified in division (A) of section 3317.014 of the Revised Code;

(b) The district's category two vocational education ADM multiplied by the multiple specified in division (B) of section 3317.014 of the Revised Code.

(4) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code.

(C)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each school district in accordance with the following formula:

The district's state share percentage X
the formula amount for the year for which
the aid is calculated X the district's
total special education weight

(2) The attributed local share of special education and related services additional weighted costs equals: 60071
(1 - the district's state share percentage) X the district's total special education weight X the formula amount 60072
60073
60074

(3)(a) The department shall compute and pay in accordance with this division additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following: 60075
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(i) One-half of the district's costs for the student in excess of the threshold catastrophic cost; 60087
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(ii) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage. 60089
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60091

(b) For purposes of division (C)(3)(a) of this section, the threshold catastrophic cost for serving a student equals: 60092
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(i) For a student in the school district's category two, three, four, or five special education ADM, twenty-seven thousand three hundred seventy-five dollars; 60094
60095
60096

(ii) For a student in the district's category six special education ADM, thirty-two thousand eight hundred fifty dollars. 60097
60098

(c) The district shall only report under division (C)(3)(a) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the 60099
60100
60101

student in accordance with the student's individualized education 60102
program. Any legal fees, court costs, or other costs associated 60103
with any cause of action relating to the student may not be 60104
included in the amount. 60105

(4)(a) As used in this division, the "personnel allowance" 60106
means thirty thousand dollars in fiscal years 2008 and 2009. 60107

(b) For the provision of speech language pathology services 60108
to students, including students who do not have individualized 60109
education programs prepared for them under Chapter 3323. of the 60110
Revised Code, and for no other purpose, the department of 60111
education shall pay each school district an amount calculated 60112
under the following formula: 60113

(formula ADM divided by 2000) X 60114

the personnel allowance X 60115

the state share percentage 60116

(5) In any fiscal year, a school district shall spend for 60117
purposes that the department designates as approved for special 60118
education and related services expenses at least the amount 60119
calculated as follows: 60120

(formula amount X the sum of categories 60121

one through six special education ADM) + 60122

(total special education weight X formula amount) 60123

The purposes approved by the department for special education 60124
expenses shall include, but shall not be limited to, 60125
identification of children with disabilities, compliance with 60126
state rules governing the education of children with disabilities 60127
and prescribing the continuum of program options for children with 60128
disabilities, provision of speech language pathology services, and 60129
the portion of the school district's overall administrative and 60130
overhead costs that are attributable to the district's special 60131
education student population. 60132

The scholarships deducted from the school district's account 60133
under section 3310.41 of the Revised Code shall be considered to 60134
be an approved special education and related services expense for 60135
the purpose of the school district's compliance with division 60136
(C)(5) of this section. 60137

The department shall require school districts to report data 60138
annually to allow for monitoring compliance with division (C)(5) 60139
of this section. The department shall annually report to the 60140
governor and the general assembly the amount of money spent by 60141
each school district for special education and related services. 60142

(6) In any fiscal year, a school district shall spend for the 60143
provision of speech language pathology services not less than the 60144
sum of the amount calculated under division (C)(1) of this section 60145
for the students in the district's category one special education 60146
ADM and the amount calculated under division (C)(4) of this 60147
section. 60148

~~(D)(1) As used in this division:~~ 60149

~~(a) "Daily bus miles per student" equals the number of bus 60150
miles traveled per day, divided by transportation base. 60151~~

~~(b) "Transportation base" equals total student count as 60152
defined in section 3301.011 of the Revised Code, minus the number 60153
of students enrolled in units for preschool children with 60154
disabilities, plus the number of nonpublic school students 60155
included in transportation ADM. 60156~~

~~(c) "Transported student percentage" equals transportation 60157
ADM divided by transportation base. 60158~~

~~(d) "Transportation cost per student" equals total operating 60159
costs for board owned or contractor operated school buses divided 60160
by transportation base. 60161~~

~~(2) Analysis of student transportation cost data has resulted 60162~~

~~in a finding that an average efficient transportation use cost per student can be calculated by means of a regression formula that has as its two independent variables the number of daily bus miles per student and the transported student percentage. For fiscal year 1998 transportation cost data, the average efficient transportation use cost per student is expressed as follows:~~

$$\begin{aligned} & \del{51.79027 + (139.62626 \times \text{daily bus miles per student}) +} \\ & \del{(116.25573 \times \text{transported student percentage})} \end{aligned}$$

~~The department of education shall annually determine the average efficient transportation use cost per student in accordance with the principles stated in division (D)(2) of this section, updating the intercept and regression coefficients of the regression formula modeled in this division, based on an annual statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update by the fifteenth day of February of each year.~~

~~(3) In addition to funds paid under divisions (A), (C), and (E) of this section, each district with a transported student percentage greater than zero shall receive a payment equal to a percentage of the product of the district's transportation base from the prior fiscal year times the annually updated average efficient transportation use cost per student, times an inflation factor of two and eight tenths per cent to account for the one year difference between the data used in updating the formula and calculating the payment and the year in which the payment is made. The percentage shall be the following percentage of that product specified for the corresponding fiscal year:~~

FISCAL YEAR	PERCENTAGE	
2000	52.5%	60196
2001	55%	60197
2002	57.5%	60198
2003 and thereafter	The greater of 60% or the district's state share percentage	60199

~~The payments made under division (D)(3) of this section each year shall be calculated based on all of the same prior year's data used to update the formula.~~ 60200
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~~(4) In addition to funds paid under divisions (D)(2) and (3) of this section, a school district shall receive a rough road subsidy if both of the following apply:~~ 60203
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~~(a) Its county rough road percentage is higher than the statewide rough road percentage, as those terms are defined in division (D)(5) of this section;~~ 60206
60207
60208

~~(b) Its district student density is lower than the statewide student density, as those terms are defined in that division.~~ 60209
60210

~~(5) The rough road subsidy paid to each district meeting the qualifications of division (D)(4) of this section shall be calculated in accordance with the following formula:~~ 60211
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60213

~~(per rough mile subsidy X total rough road miles)
X density multiplier~~ 60214
60215

~~where:~~ 60216

~~(a) "Per rough mile subsidy" equals the amount calculated in accordance with the following formula:~~ 60217
60218

~~$0.75 \times \{0.75 \times [(\text{maximum rough road percentage} - \text{county rough road percentage}) / (\text{maximum rough road percentage} - \text{statewide rough road percentage})]\}$~~ 60219
60220
60221

~~(i) "Maximum rough road percentage" means the highest county rough road percentage in the state.~~ 60222
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~~(ii) "County rough road percentage" equals the percentage of the mileage of state, municipal, county, and township roads that is rated by the department of transportation as type A, B, C, E2, or F in the county in which the school district is located or, if the district is located in more than one county, the county to which it is assigned for purposes of determining its cost of doing business factor.~~

~~(iii) "Statewide rough road percentage" means the percentage of the statewide total mileage of state, municipal, county, and township roads that is rated as type A, B, C, E2, or F by the department of transportation.~~

~~(b) "Total rough road miles" means a school district's total bus miles traveled in one year times its county rough road percentage.~~

~~(c) "Density multiplier" means a figure calculated in accordance with the following formula:~~

$$1 - \left[\frac{\text{minimum student density} - \text{district student density}}{\text{minimum student density} - \text{statewide student density}} \right]$$

~~(i) "Minimum student density" means the lowest district student density in the state.~~

~~(ii) "District student density" means a school district's transportation base divided by the number of square miles in the district.~~

~~(iii) "Statewide student density" means the sum of the transportation bases for all school districts divided by the sum of the square miles in all school districts.~~

~~(6) In addition to funds paid under divisions (D)(2) to (5) of this section, each district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than board owned or~~

~~contractor operated buses and whose transportation is not funded~~ 60255
~~under division (G) of section 3317.024 of the Revised Code. The~~ 60256
~~rules shall include provisions for school district reporting of~~ 60257
~~such students.~~ 60258

~~(E)(1)~~ The department shall compute and distribute state 60259
vocational education additional weighted costs funds to each 60260
school district in accordance with the following formula: 60261

state share percentage X 60262
the formula amount X 60263
total vocational education weight 60264

In any fiscal year, a school district receiving funds under 60265
division ~~(E)~~(D)(1) of this section shall spend those funds only 60266
for the purposes that the department designates as approved for 60267
vocational education expenses. Vocational educational expenses 60268
approved by the department shall include only expenses connected 60269
to the delivery of career-technical programming to 60270
career-technical students. The department shall require the school 60271
district to report data annually so that the department may 60272
monitor the district's compliance with the requirements regarding 60273
the manner in which funding received under division ~~(E)~~(D)(1) of 60274
this section may be spent. 60275

(2) The department shall compute for each school district 60276
state funds for vocational education associated services in 60277
accordance with the following formula: 60278

state share percentage X .05 X the formula amount X 60279
the sum of categories one and two vocational education ADM 60280

In any fiscal year, a school district receiving funds under 60281
division ~~(E)~~(D)(2) of this section, or through a transfer of funds 60282
pursuant to division ~~(E)~~(I) of section 3317.023 of the Revised 60283
Code, shall spend those funds only for the purposes that the 60284
department designates as approved for vocational education 60285
associated services expenses, which may include such purposes as 60286

apprenticeship coordinators, coordinators for other vocational 60287
education services, vocational evaluation, and other purposes 60288
designated by the department. The department may deny payment 60289
under division ~~(E)~~(D)(2) of this section to any district that the 60290
department determines is not operating those services or is using 60291
funds paid under division ~~(E)~~(D)(2) of this section, or through a 60292
transfer of funds pursuant to division ~~(L)~~(I) of section 3317.023 60293
of the Revised Code, for other purposes. 60294

~~(F)~~(E) The actual local share in any fiscal year for the 60295
combination of special education and related services additional 60296
weighted costs funding calculated under division (C)(1) of this 60297
section, transportation ~~funding~~ base payment calculated under 60298
divisions ~~(D)(2) and (3)~~ division (E) of ~~this~~ section 3317.0212 of 60299
the Revised Code, and vocational education and associated services 60300
additional weighted costs funding calculated under divisions 60301
~~(E)~~(D)(1) and (2) of this section shall not exceed for any school 60302
district the product of three and three-tenths mills times the 60303
district's recognized valuation. The department annually shall pay 60304
each school district as an excess cost supplement any amount by 60305
which the sum of the district's attributed local shares for that 60306
funding exceeds that product. For purposes of calculating the 60307
excess cost supplement: 60308

(1) The attributed local share for special education and 60309
related services additional weighted costs funding is the amount 60310
specified in division (C)(2) of this section. 60311

(2) The attributed local share of the district's 60312
transportation ~~funding~~ base payment equals the difference of the 60313
total amount calculated for the district ~~using the formula~~ 60314
~~developed~~ under division ~~(D)(2)~~(E) of ~~this~~ section 3317.0212 of 60315
the Revised Code minus the actual amount paid to the district 60316
after applying the percentage specified in division ~~(D)~~(E)(3) of 60317
~~this~~ that section. 60318

(3) The attributed local share of vocational education and associated services additional weighted costs funding is the amount determined as follows:

(1 - state share percentage) X
[(total vocational education weight X
the formula amount) + the payment under
division ~~(E)~~(D)(2) of this section]

Sec. 3317.023. (A) The amounts required to be paid to a district under this chapter ~~and Chapter 3306.~~ of the Revised Code shall be adjusted by the amount of the computations made under divisions (B) to ~~(N)~~(K) of this section. ~~The department of education shall not make payments or adjustments under divisions (B), (C), and (D) of this section for any fiscal year after fiscal year 2009.~~

As used in this section:

(1) ~~"Classroom teacher" means a licensed employee who provides direct instruction to pupils, excluding teachers funded from money paid to the district from federal sources; educational service personnel; and vocational and special education teachers.~~

~~(2) "Educational service personnel" shall not include such specialists funded from money paid to the district from federal sources or assigned full time to vocational or special education students and classes and may only include those persons employed in the eight specialist areas in a pattern approved by the department of education under guidelines established by the state board of education.~~

~~(3) "Annual salary" means the annual base salary stated in the state minimum salary schedule for the performance of the teacher's regular teaching duties that the teacher earns for services rendered for the first full week of October of the fiscal year for which the adjustment is made under division (C) of this~~

~~section. It shall not include any salary payments for supplemental teachers contracts.~~ 60350
60351

~~(4) "Regular student population" means the formula ADM plus the number of students reported as enrolled in the district pursuant to division (A)(1) of section 3313.981 of the Revised Code; minus the number of students reported under division (A)(2) of section 3317.03 of the Revised Code; minus the FTE of students reported under division (B)(6), (7), (8), (9), (10), (11), or (12) of that section who are enrolled in a vocational education class or receiving special education; and minus twenty per cent of the students enrolled concurrently in a joint vocational school district.~~ 60352
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~~(5) "VEPD" means a school district or group of school districts designated by the department of education as being responsible for the planning for and provision of vocational education services to students within the district or group.~~ 60362
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~~(6)(2) "Lead district" means a school district, including a joint vocational school district, designated by the department as a VEPD, or designated to provide primary vocational education leadership within a VEPD composed of a group of districts.~~ 60366
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~~(B) If the district employs less than one full-time equivalent classroom teacher for each twenty-five pupils in the regular student population in any school district, deduct the sum of the amounts obtained from the following computations:~~ 60370
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~~(1) Divide the number of the district's full-time equivalent classroom teachers employed by one twenty-fifth;~~ 60374
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~~(2) Subtract the quotient in (1) from the district's regular student population;~~ 60376
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~~(3) Multiply the difference in (2) by seven hundred fifty-two dollars.~~ 60378
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~~(C) If a positive amount, add one half of the amount obtained by multiplying the number of full time equivalent classroom teachers by:~~ 60380
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~~(1) The mean annual salary of all full time equivalent classroom teachers employed by the district at their respective training and experience levels minus;~~ 60383
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~~(2) The mean annual salary of all such teachers at their respective levels in all school districts receiving payments under this section.~~ 60386
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~~The number of full time equivalent classroom teachers used in this computation shall not exceed one twenty fifth of the district's regular student population. In calculating the district's mean salary under this division, those full time equivalent classroom teachers with the highest training level shall be counted first, those with the next highest training level second, and so on, in descending order. Within the respective training levels, teachers with the highest years of service shall be counted first, the next highest years of service second, and so on, in descending order.~~ 60389
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~~(D) This division does not apply to a school district that has entered into an agreement under division (A) of section 3313.42 of the Revised Code. Deduct the amount obtained from the following computations if the district employs fewer than five full time equivalent educational service personnel, including elementary school art, music, and physical education teachers, counselors, librarians, visiting teachers, school social workers, and school nurses for each one thousand pupils in the regular student population:~~ 60399
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~~(1) Divide the number of full time equivalent educational service personnel employed by the district by five one thousandths;~~ 60408
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~~(2) Subtract the quotient in (1) from the district's regular student population;~~ 60411
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~~(3) Multiply the difference in (2) by ninety four dollars.~~ 60413

~~(E)~~ If a local school district, or a city or exempted village school district to which a governing board of an educational service center provides services pursuant to section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under section 3317.11 of the Revised Code. 60414
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~~(F)~~(C)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (J) of section 3313.64 or section 3317.08 of the Revised Code. 60420
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(2) For each child for whom the district is responsible for tuition or payment under division (A)(1) of section 3317.082 or section 3323.091 of the Revised Code, deduct the amount of tuition or payment for which the district is responsible. 60428
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~~(G)~~(D) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under ~~Chapter 3306. of the Revised Code~~ this chapter. 60432
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~~(H)~~(E) If the district has received a loan from a commercial lending institution for which payments are made by the superintendent of public instruction pursuant to division (E)(3) of section 3313.483 of the Revised Code, deduct an amount equal to 60438
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60440
60441

such payments. 60442

~~(I)~~(F)(1) If the district is a party to an agreement entered 60443
into under division (D), (E), or (F) of section 3311.06 or 60444
division (B) of section 3311.24 of the Revised Code and is 60445
obligated to make payments to another district under such an 60446
agreement, deduct an amount equal to such payments if the district 60447
school board notifies the department in writing that it wishes to 60448
have such payments deducted. 60449

(2) If the district is entitled to receive payments from 60450
another district that has notified the department to deduct such 60451
payments under division ~~(I)~~(F)(1) of this section, add the amount 60452
of such payments. 60453

~~(J)~~(G) If the district is required to pay an amount of funds 60454
to a cooperative education district pursuant to a provision 60455
described by division (B)(4) of section 3311.52 or division (B)(8) 60456
of section 3311.521 of the Revised Code, deduct such amounts as 60457
provided under that provision and credit those amounts to the 60458
cooperative education district for payment to the district under 60459
division (B)(1) of section 3317.19 of the Revised Code. 60460

~~(K)~~(H)(1) If a district is educating a student entitled to 60461
attend school in another district pursuant to a shared education 60462
contract, compact, or cooperative education agreement other than 60463
an agreement entered into pursuant to section 3313.842 of the 60464
Revised Code, credit to that educating district on an FTE basis 60465
both of the following: 60466

(a) An amount equal to the formula amount. 60467

(b) An amount equal to ~~the current formula amount~~ \$5,732 60468
times the state share percentage times any multiple applicable to 60469
the student for fiscal year 2009 pursuant to section ~~3306.11~~ 60470
3317.013 or 3317.014 of the Revised Code, as those sections 60471
existed for that fiscal year. 60472

(2) Deduct any amount credited pursuant to division ~~(K)~~(H)(1) 60473
of this section from amounts paid to the school district in which 60474
the student is entitled to attend school pursuant to section 60475
3313.64 or 3313.65 of the Revised Code. 60476

(3) If the district is required by a shared education 60477
contract, compact, or cooperative education agreement to make 60478
payments to an educational service center, deduct the amounts from 60479
payments to the district and add them to the amounts paid to the 60480
service center pursuant to section 3317.11 of the Revised Code. 60481

~~(L)~~(I)(1) If a district, including a joint vocational school 60482
district, is a lead district of a VEPD, credit to that district 60483
the following amounts calculated for all the school districts 60484
within that VEPD ~~pursuant to~~: 60485

(a) In any fiscal year except fiscal year 2012 or 2013, the 60486
amount computed under division ~~(E)~~(D)(2) of section 3317.022 of 60487
the Revised Code; 60488

(b) In fiscal years 2012 and 2013, an amount equal to the 60489
following: 60490

state share percentage X .05 X \$5,732 X 60491

the sum of categories one 60492

and two vocational education ADM 60493

(2) Deduct from each appropriate district that is not a lead 60494
district, the amount attributable to that district that is 60495
credited to a lead district under division ~~(L)~~(I)(1) of this 60496
section. 60497

~~(M)~~(J) If the department pays a joint vocational school 60498
district under division (G)(4) of section 3317.16 of the Revised 60499
Code for excess costs of providing special education and related 60500
services to a student with a disability, as calculated under 60501
division (G)(2) of that section, the department shall deduct the 60502
amount of that payment from the city, local, or exempted village 60503

school district that is responsible as specified in that section 60504
for the excess costs. 60505

~~(N)~~(K)(1) If the district reports an amount of excess cost 60506
for special education services for a child under division (C) of 60507
section 3323.14 of the Revised Code, the department shall pay that 60508
amount to the district. 60509

(2) If the district reports an amount of excess cost for 60510
special education services for a child under division (C) of 60511
section 3323.14 of the Revised Code, the department shall deduct 60512
that amount from the district of residence of that child. 60513

Sec. 3317.024. The following shall be distributed monthly, 60514
quarterly, or annually as may be determined by the state board of 60515
education, ~~except that the department of education shall not make~~ 60516
~~payments under divisions (F) and (N) of this section for any~~ 60517
~~fiscal year after fiscal year 2009 or under division (L) of this~~ 60518
~~section for fiscal year 2010 or 2011:~~ 60519

(A) An amount for each island school district and each joint 60520
state school district for the operation of each high school and 60521
each elementary school maintained within such district and for 60522
capital improvements for such schools. Such amounts shall be 60523
determined on the basis of standards adopted by the state board of 60524
education. However, for fiscal years 2012 and 2013, an island 60525
district shall receive the lesser of its actual cost of operation, 60526
as certified to the department of education, or ninety-three per 60527
cent of the amount the district received in state operating 60528
funding for fiscal year 2011. If an island district received no 60529
funding for fiscal year 2011, it shall receive no funding for 60530
either of fiscal year 2012 or 2013. 60531

~~(B) An amount for each school district operating classes for~~ 60532
~~children of migrant workers who are unable to be in attendance in~~ 60533
~~an Ohio school during the entire regular school year. The amounts~~ 60534

~~shall be determined on the basis of standards adopted by the state board of education, except that payment shall be made only for subjects regularly offered by the school district providing the classes.~~

~~(C) An amount for each school district with guidance, testing, and counseling programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.~~

~~(D) An amount for the emergency purchase of school buses as provided for in section 3317.07 of the Revised Code;~~

~~(E) An amount for each school district required to pay tuition for a child in an institution maintained by the department of youth services pursuant to section 3317.082 of the Revised Code, provided the child was not included in the calculation of the district's average daily membership for the preceding school year.~~

~~(F) An amount for adult basic literacy education for each district participating in programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.~~

~~(G)~~(C) An amount for the approved cost of transporting eligible pupils with disabilities attending a special education program approved by the department of education whom it is impossible or impractical to transport by regular school bus in the course of regular route transportation provided by the school district or educational service center. No district or service center is eligible to receive a payment under this division for the cost of transporting any pupil whom it transports by regular school bus and who is included in the district's transportation ADM. The state board of education shall establish standards and guidelines for use by the department of education in determining

the approved cost of such transportation for each district or 60566
service center. 60567

~~(H)(D)~~ An amount to each school district, including each 60568
cooperative education school district, pursuant to section 3313.81 60569
of the Revised Code to assist in providing free lunches to needy 60570
children ~~and an amount to assist needy school districts in~~ 60571
~~purchasing necessary equipment for food preparation.~~ The amounts 60572
shall be determined on the basis of rules adopted by the state 60573
board of education. 60574

~~(I)(E)~~ An amount to each school district, for each pupil 60575
attending a chartered nonpublic elementary or high school within 60576
the district. The amount shall equal the amount appropriated for 60577
the implementation of section 3317.06 of the Revised Code divided 60578
by the average daily membership in grades kindergarten through 60579
twelve in nonpublic elementary and high schools within the state 60580
as determined during the first full week in October of each school 60581
year. 60582

~~(J)(F)~~ An amount for each county DD board, distributed on the 60583
basis of standards adopted by the state board of education, for 60584
the approved cost of transportation required for children 60585
attending special education programs operated by the county DD 60586
board under section 3323.09 of the Revised Code; 60587

~~(K)~~ An amount for each school district that establishes a 60588
mentor teacher program that complies with rules of the state board 60589
of education. No school district shall be required to establish or 60590
maintain such a program in any year unless sufficient funds are 60591
appropriated to cover the district's total costs for the program. 60592

~~(L)~~ An amount to each school district or educational service 60593
center for the total number of gifted units approved pursuant to 60594
section 3317.05 of the Revised Code. The amount for each such unit 60595
shall be the sum of the minimum salary for the teacher of the 60596

~~unit, calculated on the basis of the teacher's training level and 60597
years of experience pursuant to the salary schedule prescribed in 60598
the version of section 3317.13 of the Revised Code in effect prior 60599
to July 1, 2001, plus fifteen per cent of that minimum salary 60600
amount, plus two thousand six hundred seventy eight dollars. 60601~~

~~(M)(G) An amount to each institution defined under section 60602
3317.082 of the Revised Code providing elementary or secondary 60603
education to children other than children receiving special 60604
education under section 3323.091 of the Revised Code. This amount 60605
for any institution in any fiscal year shall equal the total of 60606
all tuition amounts required to be paid to the institution under 60607
division (A)(1) of section 3317.082 of the Revised Code. 60608~~

~~(N) A grant to each school district and joint vocational 60609
school district that operates a "graduation, reality, and 60610
dual role skills" (GRADS) program for pregnant and parenting 60611
students that is approved by the department. The amount of the 60612
payment shall be the district's state share percentage, as defined 60613
in section 3317.022 or 3317.16 of the Revised Code, times the 60614
GRADS personnel allowance times the full time equivalent number of 60615
GRADS teachers approved by the department. The GRADS personnel 60616
allowance is \$47,555 in fiscal years 2008 and 2009. The GRADS 60617
program shall include instruction on adoption as an option for 60618
unintended pregnancies. 60619~~

The state board of education or any other board of education 60620
or governing board may provide for any resident of a district or 60621
educational service center territory any educational service for 60622
which funds are made available to the board by the United States 60623
under the authority of public law, whether such funds come 60624
directly or indirectly from the United States or any agency or 60625
department thereof or through the state or any agency, department, 60626
or political subdivision thereof. 60627

Sec. 3317.025. On or before the first day of June of each 60628
year, the tax commissioner shall certify the following information 60629
to the department of education and the office of budget and 60630
management, for each school district in which the value of the 60631
property described under division (A) of this section exceeds one 60632
per cent of the taxable value of all real and tangible personal 60633
property in the district or in which is located tangible personal 60634
property designed for use or used in strip mining operations, 60635
whose taxable value exceeds five million dollars, and the taxes 60636
upon which the district is precluded from collecting by virtue of 60637
legal proceedings to determine the value of such property: 60638

(A) The total taxable value of all property in the district 60639
owned by a public utility or railroad that has filed a petition 60640
for reorganization under the "Bankruptcy Act," 47 Stat. 1474 60641
(1898), 11 U.S.C. 205, as amended, and all tangible personal 60642
property in the district designed for use or used in strip mining 60643
operations whose taxable value exceeds five million dollars upon 60644
which have not been paid in full on or before the first day of 60645
April of that calendar year all real and tangible personal 60646
property taxes levied for the preceding calendar year and which 60647
the district was precluded from collecting by virtue of 60648
proceedings under section 205 of said act or by virtue of legal 60649
proceedings to determine the tax liability of such strip mining 60650
equipment; 60651

(B) The percentage of the total operating taxes charged and 60652
payable for school district purposes levied against such valuation 60653
for the preceding calendar year that have not been paid by such 60654
date; 60655

(C) The product obtained by multiplying the value certified 60656
under division (A) of this section by the percentage certified 60657
under division (B) of this section. If the value certified under 60658

division (A) of this section includes taxable property owned by a 60659
public utility or railroad that has filed a petition for 60660
reorganization under the bankruptcy act, the amount used in making 60661
the calculation under this division shall be reduced by one per 60662
cent of the total value of all real and tangible personal property 60663
in the district or the value of the utility's or railroad's 60664
property, whichever is less. 60665

Upon receipt of the certification, the department shall 60666
recompute the payments required under ~~Chapter 3306. of the Revised~~ 60667
~~Code~~ this chapter in the manner the payments would have been 60668
computed if: 60669

(1) The amount certified under division (C) of this section 60670
was not subject to taxation by the district and was not included 60671
in the certification made under division (A)(1), (A)(2), or (D) of 60672
section 3317.021 of the Revised Code. 60673

(2) The amount of taxes charged and payable and unpaid and 60674
used to make the computation under division (B) of this section 60675
had not been levied and had not been used in the computation 60676
required by division (B) of section 3317.021 of the Revised Code. 60677
The department shall pay the district that amount in the ensuing 60678
fiscal year in lieu of the amounts computed under ~~Chapter 3306. of~~ 60679
~~the Revised Code~~ this chapter. 60680

If a school district received a grant from the catastrophic 60681
expenditures account pursuant to division (C) of section 3316.20 60682
of the Revised Code on the basis of the same circumstances for 60683
which a recomputation is made under this section, the amount of 60684
the recomputation shall be reduced and transferred in accordance 60685
with division (C) of section 3316.20 of the Revised Code. 60686

Sec. 3317.0210. (A) As used in this section: 60687

(1) "Bankruptcy Reform Act" means the "Bankruptcy Reform Act 60688

of 1978," 92 Stat. 2558, 11 U.S.C. 301, as amended. 60689

(2) "Chapter 11 corporation" means a corporation, company, or 60690
other business organization that has filed a petition for 60691
reorganization under Chapter 11 of the "Bankruptcy Reform Act," 92 60692
Stat. 2626, 11 U.S.C. 1101, as amended. 60693

(3) "Uncollectable taxes" means property taxes payable in a 60694
calendar year by a Chapter 11 corporation on its property that a 60695
school district is precluded from collecting by virtue of 60696
proceedings under the Bankruptcy Reform Act. 60697

(4) "Basic state aid" means ~~the a school district's state~~ 60698
~~education aid calculated for a school district under Chapter 3306.~~ 60699
~~of the Revised Code.~~ 60700

(5) "Effective value" means the amount obtained by 60701
multiplying the total taxable value certified in a calendar year 60702
under section 3317.021 of the Revised Code by a fraction, the 60703
numerator of which is the total taxes charged and payable in that 60704
calendar year exclusive of the uncollectable taxes payable in that 60705
year, and the denominator of which is the total taxes charged and 60706
payable in that year. 60707

(6) "Total taxes charged and payable" has the same meaning 60708
given "taxes charged and payable" in section 3317.02 of the 60709
Revised Code. 60710

(B)(1) Between the first day of January and the first day of 60711
February of any year, a school district shall notify the 60712
department of education if it has uncollectable taxes payable in 60713
the preceding calendar year from one Chapter 11 corporation. 60714

(2) The department shall verify whether the district has such 60715
uncollectable taxes from such a corporation, and if the district 60716
does, shall immediately request the tax commissioner to certify 60717
the district's total taxes charged and payable in the preceding 60718
calendar year, and the tax commissioner shall certify that 60719

information to the department within thirty days after receiving 60720
the request. For the purposes of this section, taxes are payable 60721
in the calendar year that includes the day prescribed by law for 60722
their payment, including any lawful extension thereof. 60723

(C) Upon receiving the certification from the tax 60724
commissioner, the department shall determine whether the amount of 60725
uncollectable taxes from the corporation equals at least one per 60726
cent of the total taxes charged and payable as certified by the 60727
tax commissioner. If it does, the department shall compute the 60728
district's effective value and shall recompute the basic state aid 60729
payable to the district for the current fiscal year using the 60730
effective value in lieu of the total taxable value used to compute 60731
the basic state aid for the current fiscal year. The difference 60732
between the basic state aid amount originally computed for the 60733
district for the current fiscal year and the recomputed amount 60734
shall be paid to the district from the lottery profits education 60735
fund before the end of the current fiscal year. 60736

(D) Except as provided in division (E) of this section, 60737
amounts received by a school district under division (C) of this 60738
section shall be repaid to the department of education in any 60739
future year to the extent the district receives payments of 60740
uncollectable taxes in such future year. The district shall notify 60741
the department of any amount owed under this division. 60742

(E) If a school district received a grant from the 60743
catastrophic expenditures account pursuant to division (C) of 60744
section 3316.20 of the Revised Code on the basis of the same 60745
circumstances for which a recomputation is made under this 60746
section, the amount of the recomputation shall be reduced and 60747
transferred in accordance with division (C) of section 3316.20 of 60748
the Revised Code. 60749

Sec. 3317.0211. (A) As used in this section: 60750

- (1) "Port authority" means any port authority as defined in section 4582.01 or 4582.21 of the Revised Code. 60751
60752
- (2) "Real property" includes public utility real property and "personal property" includes public utility personal property. 60753
60754
- (3) "Uncollected taxes" means property taxes charged and payable against the property of a port authority for a tax year that a school district has not collected. 60755
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- (4) "Basic state aid" means ~~the a school district's state education aid calculated for a school district under Chapter 3306. of the Revised Code.~~ 60758
60759
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- (5) "Effective value" means the sum of the effective residential/agricultural real property value, the effective nonresidential/agricultural real property value, and the effective personal value. 60761
60762
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- (6) "Effective residential/agricultural real property value" means, for a tax year, the amount obtained by multiplying the value for that year of residential/agricultural real property subject to taxation in the district by a fraction, the numerator of which is the total taxes charged and payable for that year against the residential/agricultural real property subject to taxation in the district, exclusive of the uncollected taxes for that year on all real property subject to taxation in the district, and the denominator of which is the total taxes charged and payable for that year against the residential/agricultural real property subject to taxation in the district. 60765
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- (7) "Effective nonresidential/agricultural real property value" means, for a tax year, the amount obtained by multiplying the value for that year of nonresidential/agricultural real property subject to taxation in the district by a fraction, the numerator of which is the total taxes charged and payable for that year against the nonresidential/agricultural real property subject 60776
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to taxation in the district, exclusive of the uncollected taxes 60782
for that year on all real property subject to taxation in the 60783
district, and the denominator of which is the total taxes charged 60784
and payable for that year against the nonresidential/agricultural 60785
real property subject to taxation in the district. 60786

(8) "Effective personal value" means, for a tax year, the 60787
amount obtained by multiplying the value for that year certified 60788
under division (A)(2) of section 3317.021 of the Revised Code by a 60789
fraction, the numerator of which is the total taxes charged and 60790
payable for that year against personal property subject to 60791
taxation in the district, exclusive of the uncollected taxes for 60792
that year on that property, and the denominator of which is the 60793
total taxes charged and payable for that year against personal 60794
property subject to taxation in the district. 60795

(9) "Nonresidential/agricultural real property value" means, 60796
for a tax year, the sum of the values certified for a school 60797
district for that year under division (B)(2)(a) of this section, 60798
and "residential/agricultural real property value" means, for a 60799
tax year, the sum of the values certified for a school district 60800
under division (B)(2)(b) of this section. 60801

(10) "Taxes charged and payable against real property" means 60802
the taxes charged and payable against that property after making 60803
the reduction required by section 319.301 of the Revised Code. 60804

(11) "Total taxes charged and payable" has the same meaning 60805
given "taxes charged and payable" in section 3317.02 of the 60806
Revised Code. 60807

(B)(1) By the first day of August of any calendar year, a 60808
school district shall notify the department of education if it has 60809
any uncollected taxes from one port authority for the second 60810
preceding tax year whose taxes charged and payable represent at 60811
least one-half of one per cent of the district's total taxes 60812

charged and payable for that tax year. 60813

(2) The department shall verify whether the district has such 60814
uncollected taxes by the first day of September, and if the 60815
district does, shall immediately request the county auditor of 60816
each county in which the school district has territory to certify 60817
the following information concerning the district's property 60818
values and taxes for the second preceding tax year, and each such 60819
auditor shall certify that information to the department within 60820
thirty days of receiving the request: 60821

(a) The value of the property subject to taxation in the 60822
district that was classified as nonresidential/agricultural real 60823
property pursuant to section 5713.041 of the Revised Code, and the 60824
taxes charged and payable on that property; and 60825

(b) The value of the property subject to taxation in the 60826
district that was classified as residential/agricultural real 60827
property under section 5713.041 of the Revised Code. 60828

(C) By the fifteenth day of November, the department shall 60829
compute the district's effective nonresidential/agricultural real 60830
property value, effective residential/agricultural real property 60831
value, effective personal value, and effective value, and shall 60832
determine whether the school district's effective value for the 60833
second preceding tax year is at least one per cent less than its 60834
total value for that year certified under divisions (A)(1) and (2) 60835
of section 3317.021 of the Revised Code. If it is, the department 60836
shall recompute the basic state aid payable to the district for 60837
the immediately preceding fiscal year using the effective value in 60838
lieu of the amounts previously certified under section 3317.021 of 60839
the Revised Code. The difference between the original basic state 60840
aid amount computed for the district for the preceding fiscal year 60841
and the recomputed amount shall be paid to the district from the 60842
lottery profits education fund before the end of the current 60843
fiscal year. 60844

(D) Except as provided in division (E) of this section, 60845
amounts received by a school district under division (C) of this 60846
section shall be repaid to the department of education in any 60847
future year to the extent the district receives payments of 60848
uncollectable taxes in such future year. The department shall 60849
notify a district of any amount owed under this division. 60850

(E) If a school district received a grant from the 60851
catastrophic expenditures account pursuant to division (C) of 60852
section 3316.20 of the Revised Code on the basis of the same 60853
circumstances for which a recomputation is made under this 60854
section, the amount of the recomputation shall be reduced and 60855
transferred in accordance with division (C) of section 3316.20 of 60856
the Revised Code. 60857

Sec. ~~3306.12~~ 3317.0212. ~~(A)~~ The department of education shall 60858
make no payments under this section for fiscal year 2012 or 2013. 60859

(A) As used in this section: 60860

(1) "Assigned bus" means a school bus used to transport 60861
qualifying riders. 60862

(2) "Nontraditional ridership" means the average number of 60863
qualifying riders who are enrolled in a community school 60864
established under Chapter 3314. of the Revised Code, in a STEM 60865
school established under Chapter 3326. of the Revised Code, or in 60866
a nonpublic school and are provided school bus service by a school 60867
district during the first full week of October. 60868

(3) "Qualifying riders" means resident students enrolled in 60869
regular education in grades kindergarten to twelve who are 60870
provided school bus service by a school district and who live more 60871
than one mile from the school they attend, including students with 60872
dual enrollment in a joint vocational school district or a 60873
cooperative education school district, and students enrolled in a 60874

community school, STEM school, or nonpublic school. 60875

(4) "Qualifying ridership" means the average number of 60876
qualifying riders who are provided school bus service by a school 60877
district during the first full week of October. 60878

(5) "Rider density" means the number of qualifying riders per 60879
square mile of a school district. 60880

(6) "School bus service" means a school district's 60881
transportation of qualifying riders in any of the following types 60882
of vehicles: 60883

(a) School buses owned or leased by the district; 60884

(b) School buses operated by a private contractor hired by 60885
the district; 60886

(c) School buses operated by another school district or 60887
entity with which the district has contracted, either as part of a 60888
consortium for the provision of transportation or otherwise. 60889

(B) Not later than the fifteenth day of October each year, 60890
each city, local, and exempted village school district shall 60891
report to the department of education its qualifying ridership, 60892
nontraditional ridership, number of qualifying riders per assigned 60893
bus, and any other information requested by the department. 60894
Subsequent adjustments to the reported numbers shall be made only 60895
in accordance with rules adopted by the department. 60896

(C) The department shall calculate the statewide 60897
transportation cost per student as follows: 60898

(1) Determine each city, local, and exempted village school 60899
district's transportation cost per student by dividing the 60900
district's total costs for school bus service in the previous 60901
fiscal year by its qualifying ridership in the previous fiscal 60902
year. 60903

(2) After excluding districts that do not provide school bus 60904

service and the ten districts with the highest transportation 60905
costs per student and the ten districts with the lowest 60906
transportation costs per student, divide the aggregate cost for 60907
school bus service for the remaining districts in the previous 60908
fiscal year by the aggregate qualifying ridership of those 60909
districts in the previous fiscal year. 60910

(D) The department shall calculate the statewide 60911
transportation cost per mile as follows: 60912

(1) Determine each city, local, and exempted village school 60913
district's transportation cost per mile by dividing the district's 60914
total costs for school bus service in the previous fiscal year by 60915
its total number of miles driven for school bus service in the 60916
previous fiscal year. 60917

(2) After excluding districts that do not provide school bus 60918
service and the ten districts with the highest transportation 60919
costs per mile and the ten districts with the lowest 60920
transportation costs per mile, divide the aggregate cost for 60921
school bus service for the remaining districts in the previous 60922
fiscal year by the aggregate miles driven for school bus service 60923
in those districts in the previous fiscal year. 60924

(E) The department shall calculate each city, local, and 60925
exempted village school district's transportation base payment as 60926
follows: 60927

(1) Multiply the statewide transportation cost per student by 60928
the district's qualifying ridership for the current fiscal year. 60929

(2) Multiply the statewide transportation cost per mile by 60930
the district's total number of miles driven for school bus service 60931
in the current fiscal year. 60932

(3) Multiply the greater of the amounts calculated under 60933
divisions (E)(1) and (2) of this section by the greater of sixty 60934
per cent or the district's state share percentage, as defined in 60935

section 3317.02 of the Revised Code. 60936

(F) The department shall calculate each city, local, and 60937
exempted village school district's nontraditional ridership 60938
adjustment according to the following formula: 60939

(nontraditional ridership for the current fiscal year / 60940
qualifying ridership for the current fiscal year) X 0.1 X 60941
transportation base payment 60942

(G) If a city, local, ~~and~~ or exempted village school district 60943
offers school bus service to all resident students who are 60944
enrolled in regular education in district schools in grades nine 60945
to twelve and who live more than one mile from the school they 60946
attend, the department shall calculate the district's high school 60947
ridership adjustment according to the following formula: 60948

0.025 X transportation base payment 60949

(H) If a city, local, ~~and~~ or exempted village school district 60950
offers school bus service to students enrolled in grades 60951
kindergarten to eight who live more than one mile, but two miles 60952
or less, from the school they attend, the department shall 60953
calculate an additional adjustment according to the following 60954
formula: 60955

0.025 X transportation base payment 60956

(I)(1) The department annually shall establish a target 60957
number of qualifying riders per assigned bus for each city, local, 60958
and exempted village school district. The department shall use the 60959
most recently available data in establishing the target number. 60960
The target number shall be based on the statewide median number of 60961
qualifying riders per assigned bus as adjusted to reflect the 60962
district's rider density in comparison to the rider density of all 60963
other districts. The department shall post on the department's web 60964
site each district's target number of qualifying riders per 60965
assigned bus and a description of how the target number was 60966
determined. 60967

(2) The department shall determine each school district's efficiency index by dividing the district's median number of qualifying riders per assigned bus by its target number of qualifying riders per assigned bus.

(3) The department shall determine each city, local, and exempted village school district's efficiency adjustment as follows:

(a) If the district's efficiency index is equal to or greater than 1.5, the efficiency adjustment shall be calculated according to the following formula:

0.1 X transportation base payment

(b) If the district's efficiency index is less than 1.5 but equal to or greater than 1.0, the efficiency adjustment shall be calculated according to the following formula:

$[(\text{efficiency index} - 1) / 5] \times \text{transportation base payment}$

(c) If the district's efficiency index is less than 1.0, the efficiency adjustment shall be zero.

(J) The department shall pay each city, local, and exempted village school district the lesser of the following:

(1) The sum of the amounts calculated under divisions (E) to (H) and (I)(3) of this section;

(2) The district's total costs for school bus service for the prior fiscal year.

(K) In addition to funds paid under division (J) of this section, each city, local, and exempted village district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than school bus service and whose transportation is not funded under division ~~(G)~~(C) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such

students. 60998

~~(L)(1) In fiscal years 2010 and 2011, the department shall 60999
pay each district a pro rata portion of the amounts calculated 61000
under division (J) of this section and described in division (K) 61001
of this section, based on state appropriations. 61002~~

~~(2) In addition to the prorated payment under division (L)(1) 61003
of this section, in fiscal years 2010 and 2011, the department 61004
shall pay each school district that meets the conditions 61005
prescribed in division (L)(3) of this section an additional amount 61006
equal to the following product: 61007~~

~~(a) The difference of (i) the amounts calculated under 61008
division (J) of this section and prescribed in division (K) of 61009
this section minus (ii) that prorated payment; times 61010~~

~~(b) 0.30 in fiscal year 2010 and 0.70 in fiscal year 2011. 61011~~

~~(3) Division (L)(2) of this section applies to each school 61012
district that meets all of the following conditions: 61013~~

~~(a) The district qualifies for the calculation of a payment 61014
under division (J) of this section because it transports students 61015
on board owned or contractor owned school buses. 61016~~

~~(b) The district's local wealth per pupil, calculated as 61017
prescribed in section 3317.0217 of the Revised Code, is at or 61018
below the median local wealth per pupil of all districts that 61019
qualify for calculation of a payment under division (J) of this 61020
section. 61021~~

~~(c) The district's rider density is at or below the median 61022
rider density of all districts that qualify for calculation of a 61023
payment under division (J) of this section. 61024~~

~~Sec. 3317.03. The information certified and verified under 61025
this section shall be used to calculate payments under this 61026
chapter and Chapter 3306. of the Revised Code. 61027~~

(A) The superintendent of each city, local, and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the average daily membership of students receiving services from schools under the superintendent's supervision, and the numbers of other students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code the superintendent is required to report under this section, so that the department of education can calculate the district's formula ADM. If a school under the superintendent's supervision is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the average daily membership for that school for that week and specify an alternate week for certifying the average daily membership of that school.

The average daily membership during such week shall consist of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code;

(e) Students receiving services in the district through a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education

district;	61089
(f) Another school district under a cooperative education agreement, compact, or contract;	61090 61091
(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	61092 61093
(h) An alternative public provider or a registered private provider with a scholarship awarded under <u>either</u> section 3310.41 or <u>sections 3310.51 to 3310.64</u> of the Revised Code.	61094 61095 61096
As used in this section, "alternative public provider" and "registered private provider" have the same meanings as in section 3310.41 <u>or 3310.51</u> of the Revised Code, <u>as applicable</u> .	61097 61098 61099
(i) A science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	61100 61101 61102 61103
<u>(j) A college-preparatory boarding school established under Chapter 3328. of the Revised Code.</u>	61104 61105
(3) The number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;	61106 61107 61108 61109 61110 61111 61112 61113
(4) The number of children with disabilities, other than preschool children with disabilities, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed by the district with a county DD board, minus the number of such children placed with a county DD board in	61114 61115 61116 61117 61118

fiscal year 1998. If this calculation produces a negative number, 61119
the number reported under division (A)(4) of this section shall be 61120
zero. 61121

(B) To enable the department of education to obtain the data 61122
needed to complete the calculation of payments pursuant to this 61123
chapter ~~and Chapter 3306. of the Revised Code~~, in addition to the 61124
average daily membership, each superintendent shall report 61125
separately the following student counts for the same week for 61126
which average daily membership is certified: 61127

(1) The total average daily membership in regular learning 61128
day classes included in the report under division (A)(1) or (2) of 61129
this section for each of the individual grades kindergarten 61130
through twelve in schools under the superintendent's supervision; 61131

(2) The number of all preschool children with disabilities 61132
enrolled as of the first day of December in classes in the 61133
district that are eligible for approval under division (B) of 61134
section 3317.05 of the Revised Code and the number of those 61135
classes, which shall be reported not later than the fifteenth day 61136
of December, in accordance with rules adopted under that section; 61137

(3) The number of children entitled to attend school in the 61138
district pursuant to section 3313.64 or 3313.65 of the Revised 61139
Code who are: 61140

(a) Participating in a pilot project scholarship program 61141
established under sections 3313.974 to 3313.979 of the Revised 61142
Code as described in division (I)(2)(a) or (b) of this section; 61143

(b) Enrolled in a college under Chapter 3365. of the Revised 61144
Code, except when the student is enrolled in the college while 61145
also enrolled in a community school pursuant to Chapter 3314. or a 61146
science, technology, engineering, and mathematics school 61147
established under Chapter 3326. of the Revised Code; 61148

(c) Enrolled in an adjacent or other school district under 61149

section 3313.98 of the Revised Code;	61150
(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;	61151 61152 61153 61154 61155 61156
(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	61157 61158 61159 61160
(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	61161 61162
(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	61163 61164 61165
(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	61166 61167 61168
(i) Participating in a program operated by a county DD board or a state institution;	61169 61170
(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	61171 61172 61173 61174
<u>(k) Enrolled in a college-preparatory boarding school established under Chapter 3328. of the Revised Code.</u>	61175 61176
(4) The number of pupils enrolled in joint vocational schools;	61177 61178
(5) The <u>combined</u> average daily membership of children with	61179

disabilities reported under division (A)(1) or (2) of this section 61180
receiving special education services for the category one 61181
disability described in division ~~(D)(1)(A)~~ of section ~~3306.02~~ 61182
3317.013 of the Revised Code, including children attending a 61183
special education program operated by an alternative public 61184
provider or a registered private provider with a scholarship 61185
awarded under sections 3310.51 to 3310.64 of the Revised Code; 61186

(6) The combined average daily membership of children with 61187
disabilities reported under division (A)(1) or (2) of this section 61188
receiving special education services for category two disabilities 61189
described in division ~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the 61190
Revised Code, including children attending a special education 61191
program operated by an alternative public provider or a registered 61192
private provider with a scholarship awarded under sections 3310.51 61193
to 3310.64 of the Revised Code; 61194

(7) The combined average daily membership of children with 61195
disabilities reported under division (A)(1) or (2) of this section 61196
receiving special education services for category three 61197
disabilities described in division ~~(D)(3)(C)~~ of section ~~3306.02~~ 61198
3317.013 of the Revised Code, including children attending a 61199
special education program operated by an alternative public 61200
provider or a registered private provider with a scholarship 61201
awarded under sections 3310.51 to 3310.64 of the Revised Code; 61202

(8) The combined average daily membership of children with 61203
disabilities reported under division (A)(1) or (2) of this section 61204
receiving special education services for category four 61205
disabilities described in division (D)~~(4)~~ of section ~~3306.02~~ 61206
3317.013 of the Revised Code, including children attending a 61207
special education program operated by an alternative public 61208
provider or a registered private provider with a scholarship 61209
awarded under sections 3310.51 to 3310.64 of the Revised Code; 61210

(9) The combined average daily membership of children with 61211

disabilities reported under division (A)(1) or (2) of this section 61212
receiving special education services for the category five 61213
disabilities described in division ~~(D)(5)(E)~~ of section ~~3306.02~~ 61214
3317.013 of the Revised Code, including children attending a 61215
special education program operated by an alternative public 61216
provider or a registered private provider with a scholarship 61217
awarded under sections 3310.51 to 3310.64 of the Revised Code; 61218

(10) The combined average daily membership of children with 61219
disabilities reported under division (A)(1) or (2) and under 61220
division (B)(3)(h) of this section receiving special education 61221
services for category six disabilities described in division 61222
~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code, 61223
including children attending a special education program operated 61224
by an alternative public provider or a registered private provider 61225
with a scholarship awarded under either section 3310.41 or 61226
sections 3310.51 to 3310.64 of the Revised Code; 61227

(11) The average daily membership of pupils reported under 61228
division (A)(1) or (2) of this section enrolled in category one 61229
vocational education programs or classes, described in division 61230
(A) of section 3317.014 of the Revised Code, operated by the 61231
school district or by another district, other than a joint 61232
vocational school district, or by an educational service center, 61233
excluding any student reported under division (B)(3)(e) of this 61234
section as enrolled in an internet- or computer-based community 61235
school, notwithstanding division (C) of section 3317.02 of the 61236
Revised Code and division (C)(3) of this section; 61237

(12) The average daily membership of pupils reported under 61238
division (A)(1) or (2) of this section enrolled in category two 61239
vocational education programs or services, described in division 61240
(B) of section 3317.014 of the Revised Code, operated by the 61241
school district or another school district, other than a joint 61242
vocational school district, or by an educational service center, 61243

excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

Beginning with fiscal year 2010, vocational education ADM shall not be used to calculate a district's funding but shall be reported under divisions (B)(11) and (12) of this section for statistical purposes.

(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

(14)(a) The number of children, other than preschool children with disabilities, the district placed with a county DD board in fiscal year 1998;

(b) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category one disability described in division ~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(c) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category two disabilities described in division ~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(d) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category three disabilities described in division ~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(e) The number of children with disabilities, other than

preschool children with disabilities, placed with a county DD 61275
board in the current fiscal year to receive special education 61276
services for category four disabilities described in division 61277
(D)(4) of section ~~3306.02~~ 3317.013 of the Revised Code; 61278

(f) The number of children with disabilities, other than 61279
preschool children with disabilities, placed with a county DD 61280
board in the current fiscal year to receive special education 61281
services for the category five disabilities described in division 61282
~~(D)(5)~~(E) of section ~~3306.02~~ 3317.013 of the Revised Code; 61283

(g) The number of children with disabilities, other than 61284
preschool children with disabilities, placed with a county DD 61285
board in the current fiscal year to receive special education 61286
services for category six disabilities described in division 61287
~~(D)(6)~~(F) of section ~~3306.02~~ 3317.013 of the Revised Code. 61288

(C)(1) The average daily membership in divisions (B)(1) to 61289
(12) of this section shall be based upon the number of full-time 61290
equivalent students. The state board of education shall adopt 61291
rules defining full-time equivalent students and for determining 61292
the average daily membership therefrom for the purposes of 61293
divisions (A), (B), and (D) of this section. 61294

(2) A student enrolled in a community school established 61295
under Chapter 3314. ~~or~~ a science, technology, engineering, and 61296
mathematics school established under Chapter 3326., or a 61297
college-preparatory boarding school established under Chapter 61298
3328. of the Revised Code shall be counted in the formula ADM and, 61299
if applicable, the category one, two, three, four, five, or six 61300
special education ADM of the school district in which the student 61301
is entitled to attend school under section 3313.64 or 3313.65 of 61302
the Revised Code for the same proportion of the school year that 61303
the student is counted in the enrollment of the community school 61304
~~or~~ the science, technology, engineering, and mathematics school, 61305
or the college-preparatory boarding school for purposes of section 61306

3314.08 ~~or~~, 3326.33, or 3328.24 of the Revised Code. 61307

Notwithstanding the number of students reported pursuant to 61308
division (B)(3)(d), (e), ~~or (j), or (k)~~ of this section, the 61309
department may adjust the formula ADM of a school district to 61310
account for students entitled to attend school in the district 61311
under section 3313.64 or 3313.65 of the Revised Code who are 61312
enrolled in a community school ~~or~~, a science, technology, 61313
engineering, and mathematics school, or a college-preparatory
boarding school for only a portion of the school year. 61314
61315

(3) No child shall be counted as more than a total of one 61316
child in the sum of the average daily memberships of a school 61317
district under division (A), divisions (B)(1) to (12), or division 61318
(D) of this section, except as follows: 61319

(a) A child with a disability described in ~~division (D) of~~ 61320
section ~~3306.02~~ 3317.013 of the Revised Code may be counted both 61321
in formula ADM and in category one, two, three, four, five, or six 61322
special education ADM and, if applicable, in category one or two 61323
vocational education ADM. As provided in division (C) of section 61324
3317.02 of the Revised Code, such a child shall be counted in 61325
category one, two, three, four, five, or six special education ADM 61326
in the same proportion that the child is counted in formula ADM. 61327

(b) A child enrolled in vocational education programs or 61328
classes described in section 3317.014 of the Revised Code may be 61329
counted both in formula ADM and category one or two vocational 61330
education ADM and, if applicable, in category one, two, three, 61331
four, five, or six special education ADM. Such a child shall be 61332
counted in category one or two vocational education ADM in the 61333
same proportion as the percentage of time that the child spends in 61334
the vocational education programs or classes. 61335

(4) Based on the information reported under this section, the 61336
department of education shall determine the total student count, 61337
as defined in section 3301.011 of the Revised Code, for each 61338

school district. 61339

(D)(1) The superintendent of each joint vocational school 61340
district shall certify to the superintendent of public instruction 61341
on or before the fifteenth day of October in each year for the 61342
first full school week in October the formula ADM, for purposes of 61343
section 3318.42 of the Revised Code and for any other purpose 61344
prescribed by law for which "formula ADM" of the joint vocational 61345
district is a factor. If a school operated by the joint vocational 61346
school district is closed for one or more days during that week 61347
due to hazardous weather conditions or other circumstances 61348
described in the first paragraph of division (B) of section 61349
3317.01 of the Revised Code, the superintendent may apply to the 61350
superintendent of public instruction for a waiver, under which the 61351
superintendent of public instruction may exempt the district 61352
superintendent from certifying the formula ADM for that school for 61353
that week and specify an alternate week for certifying the formula 61354
ADM of that school. 61355

The formula ADM, except as otherwise provided in this 61356
division, shall consist of the average daily membership during 61357
such week, on an FTE basis, of the number of students receiving 61358
any educational services from the district, including students 61359
enrolled in a community school established under Chapter 3314. or 61360
a science, technology, engineering, and mathematics school 61361
established under Chapter 3326. of the Revised Code who are 61362
attending the joint vocational district under an agreement between 61363
the district board of education and the governing authority of the 61364
community school or the governing body of the science, technology, 61365
engineering, and mathematics school and are entitled to attend 61366
school in a city, local, or exempted village school district whose 61367
territory is part of the territory of the joint vocational 61368
district. 61369

The following categories of students shall not be included in 61370

the determination made under division (D)(1) of this section:	61371
(a) Students enrolled in adult education classes;	61372
(b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;	61373 61374 61375
(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;	61376 61377 61378 61379 61380
(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.	61381 61382
(2) In <u>To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in</u> addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students for the same week for which formula ADM is certified:	61383 61384 61385 61386 61387 61388 61389
(a) Students enrolled in each individual grade included in the joint vocational district schools;	61390 61391
(b) Children with disabilities receiving special education services for the category one disability described in division (D)(1)(A) of section 3306.02 <u>3317.013</u> of the Revised Code;	61392 61393 61394
(c) Children with disabilities receiving special education services for the category two disabilities described in division (D)(2)(B) of section 3306.02 <u>3317.013</u> of the Revised Code;	61395 61396 61397
(d) Children with disabilities receiving special education services for category three disabilities described in division (D)(3)(C) of section 3306.02 <u>3317.013</u> of the Revised Code;	61398 61399 61400

(e) Children with disabilities receiving special education services for category four disabilities described in division (D)~~(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(f) Children with disabilities receiving special education services for the category five disabilities described in division ~~(D)(5)~~(E) of section ~~3306.02~~ 3317.013 of the Revised Code;

(g) Children with disabilities receiving special education services for category six disabilities described in division ~~(D)(6)~~(F) of section ~~3306.02~~ 3317.013 of the Revised Code;

(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;

(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.

The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for

any cause a pupil permanently withdraws from the school that pupil 61432
shall not be counted as in membership from and after the date of 61433
such withdrawal. There shall not be included in the membership of 61434
any school any of the following: 61435

(1) Any pupil who has graduated from the twelfth grade of a 61436
public or nonpublic high school; 61437

(2) Any pupil who is not a resident of the state; 61438

(3) Any pupil who was enrolled in the schools of the district 61439
during the previous school year when assessments were administered 61440
under section 3301.0711 of the Revised Code but did not take one 61441
or more of the assessments required by that section and was not 61442
excused pursuant to division (C)(1) or (3) of that section; 61443

(4) Any pupil who has attained the age of twenty-two years, 61444
except for veterans of the armed services whose attendance was 61445
interrupted before completing the recognized twelve-year course of 61446
the public schools by reason of induction or enlistment in the 61447
armed forces and who apply for reenrollment in the public school 61448
system of their residence not later than four years after 61449
termination of war or their honorable discharge. 61450

If, however, any veteran described by division (E)(4) of this 61451
section elects to enroll in special courses organized for veterans 61452
for whom tuition is paid under the provisions of federal laws, or 61453
otherwise, that veteran shall not be included in average daily 61454
membership. 61455

Notwithstanding division (E)(3) of this section, the 61456
membership of any school may include a pupil who did not take an 61457
assessment required by section 3301.0711 of the Revised Code if 61458
the superintendent of public instruction grants a waiver from the 61459
requirement to take the assessment to the specific pupil and a 61460
parent is not paying tuition for the pupil pursuant to section 61461
3313.6410 of the Revised Code. The superintendent may grant such a 61462

waiver only for good cause in accordance with rules adopted by the 61463
state board of education. 61464

Except as provided in divisions (B)(2) and (F) of this 61465
section, the average daily membership figure of any local, city, 61466
exempted village, or joint vocational school district shall be 61467
determined by dividing the figure representing the sum of the 61468
number of pupils enrolled during each day the school of attendance 61469
is actually open for instruction during the week for which the 61470
average daily membership is being certified by the total number of 61471
days the school was actually open for instruction during that 61472
week. For purposes of state funding, "enrolled" persons are only 61473
those pupils who are attending school, those who have attended 61474
school during the current school year and are absent for 61475
authorized reasons, and those children with disabilities currently 61476
receiving home instruction. 61477

The average daily membership figure of any cooperative 61478
education school district shall be determined in accordance with 61479
rules adopted by the state board of education. 61480

(F)(1) If the formula ADM for the first full school week in 61481
February is at least three per cent greater than that certified 61482
for the first full school week in the preceding October, the 61483
superintendent of schools of any city, exempted village, or joint 61484
vocational school district or educational service center shall 61485
certify such increase to the superintendent of public instruction. 61486
Such certification shall be submitted no later than the fifteenth 61487
day of February. For the balance of the fiscal year, beginning 61488
with the February payments, the superintendent of public 61489
instruction shall use the increased formula ADM in calculating or 61490
recalculating the amounts to be allocated in accordance with 61491
section 3317.022 or 3317.16 of the Revised Code. In no event shall 61492
the superintendent use an increased membership certified to the 61493
superintendent after the fifteenth day of February. Division 61494

(F)(1) of this section does not apply after fiscal year 2006. 61495

(2) If on the first school day of April the total number of 61496
classes or units for preschool children with disabilities that are 61497
eligible for approval under division (B) of section 3317.05 of the 61498
Revised Code exceeds the number of units that have been approved 61499
for the year under that division, the superintendent of schools of 61500
any city, exempted village, or cooperative education school 61501
district or educational service center shall make the 61502
certifications required by this section for that day. If the 61503
department determines additional units can be approved for the 61504
fiscal year within any limitations set forth in the acts 61505
appropriating moneys for the funding of such units, the department 61506
shall approve additional units for the fiscal year on the basis of 61507
such average daily membership. For each unit so approved, the 61508
department shall pay an amount computed in the manner prescribed 61509
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 61510
Code. 61511

(3) If a student attending a community school under Chapter 61512
3314. ~~or~~, a science, technology, engineering, and mathematics 61513
school established under Chapter 3326., or a college-preparatory 61514
boarding school established under Chapter 3328. of the Revised 61515
Code is not included in the formula ADM certified for the school 61516
district in which the student is entitled to attend school under 61517
section 3313.64 or 3313.65 of the Revised Code, the department of 61518
education shall adjust the formula ADM of that school district to 61519
include the student in accordance with division (C)(2) of this 61520
section, and shall recalculate the school district's payments 61521
under this chapter ~~and Chapter 3306. of the Revised Code~~ for the 61522
entire fiscal year on the basis of that adjusted formula ADM. This 61523
requirement applies regardless of whether the student was 61524
enrolled, as defined in division (E) of this section, in the 61525
community school ~~or~~, the science, technology, engineering, and 61526

mathematics school, or the college-preparatory boarding school 61527
during the week for which the formula ADM is being certified. 61528

(4) If a student awarded an educational choice scholarship is 61529
not included in the formula ADM of the school district from which 61530
the department deducts funds for the scholarship under section 61531
3310.08 of the Revised Code, the department shall adjust the 61532
formula ADM of that school district to include the student to the 61533
extent necessary to account for the deduction, and shall 61534
recalculate the school district's payments under this chapter ~~and~~ 61535
~~Chapter 3306. of the Revised Code~~ for the entire fiscal year on 61536
the basis of that adjusted formula ADM. This requirement applies 61537
regardless of whether the student was enrolled, as defined in 61538
division (E) of this section, in the chartered nonpublic school, 61539
the school district, or a community school during the week for 61540
which the formula ADM is being certified. 61541

(5) If a student awarded a scholarship under the special 61542
education scholarship program is not included in the formula ADM 61543
of the school district from which the department deducts funds for 61544
the scholarship under section 3310.55 of the Revised Code, the 61545
department shall adjust the formula ADM of that school district to 61546
include the student to the extent necessary to account for the 61547
deduction, and shall recalculate the school district's payments 61548
under this chapter for the entire fiscal year on the basis of that 61549
adjusted formula ADM. This requirement applies regardless of 61550
whether the student was enrolled, as defined in division (E) of 61551
this section, in an alternative public provider, a registered 61552
private provider, or the school district during the week for which 61553
the formula ADM is being certified. 61554

(G)(1)(a) The superintendent of an institution operating a 61555
special education program pursuant to section 3323.091 of the 61556
Revised Code shall, for the programs under such superintendent's 61557
supervision, certify to the state board of education, in the 61558

manner prescribed by the superintendent of public instruction, 61559
both of the following: 61560

(i) The average daily membership of all children with 61561
disabilities other than preschool children with disabilities 61562
receiving services at the institution for each category of 61563
disability described in divisions ~~(D)(1) to (6)~~(A) to (F) of 61564
section ~~3306.02~~ 3317.013 of the Revised Code; 61565

(ii) The average daily membership of all preschool children 61566
with disabilities in classes or programs approved annually by the 61567
department of education for unit funding under section 3317.05 of 61568
the Revised Code. 61569

(b) The superintendent of an institution with vocational 61570
education units approved under division (A) of section 3317.05 of 61571
the Revised Code shall, for the units under the superintendent's 61572
supervision, certify to the state board of education the average 61573
daily membership in those units, in the manner prescribed by the 61574
superintendent of public instruction. 61575

(2) The superintendent of each county DD board that maintains 61576
special education classes under section 3317.20 of the Revised 61577
Code or units approved pursuant to section 3317.05 of the Revised 61578
Code shall do both of the following: 61579

(a) Certify to the state board, in the manner prescribed by 61580
the board, the average daily membership in classes under section 61581
3317.20 of the Revised Code for each school district that has 61582
placed children in the classes; 61583

(b) Certify to the state board, in the manner prescribed by 61584
the board, the number of all preschool children with disabilities 61585
enrolled as of the first day of December in classes eligible for 61586
approval under division (B) of section 3317.05 of the Revised 61587
Code, and the number of those classes. 61588

(3)(a) If on the first school day of April the number of 61589

classes or units maintained for preschool children with 61590
disabilities by the county DD board that are eligible for approval 61591
under division (B) of section 3317.05 of the Revised Code is 61592
greater than the number of units approved for the year under that 61593
division, the superintendent shall make the certification required 61594
by this section for that day. 61595

(b) If the department determines that additional classes or 61596
units can be approved for the fiscal year within any limitations 61597
set forth in the acts appropriating moneys for the funding of the 61598
classes and units described in division (G)(3)(a) of this section, 61599
the department shall approve and fund additional units for the 61600
fiscal year on the basis of such average daily membership. For 61601
each unit so approved, the department shall pay an amount computed 61602
in the manner prescribed in sections 3317.052 and 3317.053 of the 61603
Revised Code. 61604

(H) Except as provided in division (I) of this section, when 61605
any city, local, or exempted village school district provides 61606
instruction for a nonresident pupil whose attendance is 61607
unauthorized attendance as defined in section 3327.06 of the 61608
Revised Code, that pupil's membership shall not be included in 61609
that district's membership figure used in the calculation of that 61610
district's formula ADM or included in the determination of any 61611
unit approved for the district under section 3317.05 of the 61612
Revised Code. The reporting official shall report separately the 61613
average daily membership of all pupils whose attendance in the 61614
district is unauthorized attendance, and the membership of each 61615
such pupil shall be credited to the school district in which the 61616
pupil is entitled to attend school under division (B) of section 61617
3313.64 or section 3313.65 of the Revised Code as determined by 61618
the department of education. 61619

(I)(1) A city, local, exempted village, or joint vocational 61620
school district admitting a scholarship student of a pilot project 61621

district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership. 61622
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(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership: 61625
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(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code; 61630
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(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend ~~any such~~ an alternative school. 61633
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(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 61636
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(K) If the superintendent of public instruction determines that a component of the average daily membership certified or reported by a district superintendent, or other reporting entity, is not correct, the superintendent of public instruction may order that the formula ADM used for the purposes of payments under any section of Title XXXVIII of the Revised Code be adjusted in the amount of the error. 61644
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Sec. 3317.031. A membership record shall be kept by grade 61651

level in each city, local, exempted village, joint vocational, and 61652
cooperative education school district and such a record shall be 61653
kept by grade level in each educational service center that 61654
provides academic instruction to pupils, classes for pupils with 61655
disabilities, or any other direct instructional services to 61656
pupils. Such membership record shall show the following 61657
information for each pupil enrolled: Name, date of birth, name of 61658
parent, date entered school, date withdrawn from school, days 61659
present, days absent, and the number of days school was open for 61660
instruction while the pupil was enrolled. At the end of the school 61661
year this membership record shall show the total days present, the 61662
total days absent, and the total days due for all pupils in each 61663
grade. Such membership record shall show the pupils that are 61664
transported to and from school and it shall also show the pupils 61665
that are transported living within one mile of the school 61666
attended. This membership record shall also show any other 61667
information prescribed by the state board of education. 61668

This membership record shall be kept intact for at least five 61669
years and shall be made available to the state board of education 61670
or its representative in making an audit of the average daily 61671
membership or the transportation of the district or educational 61672
service center. ~~The membership records of local school districts~~ 61673
~~shall be filed at the close of each school year in the office of~~ 61674
~~the educational service center superintendent.~~ 61675

The state board of education may withhold any money due any 61676
school district or educational service center under this chapter 61677
~~and Chapter 3306. of the Revised Code~~ until it has satisfactory 61678
evidence that the board of education or educational service center 61679
governing board has fully complied with all of the provisions of 61680
this section. 61681

Nothing in this section shall require any person to release, 61682
or to permit access to, public school records in violation of 61683

section 3319.321 of the Revised Code. 61684

Sec. 3317.05. (A) For the purpose of calculating payments 61685
under sections 3317.052 and 3317.053 of the Revised Code, the 61686
department of education shall determine for each institution, by 61687
the last day of January of each year and based on information 61688
certified under section 3317.03 of the Revised Code, the number of 61689
vocational education units or fractions of units approved by the 61690
department on the basis of standards and rules adopted by the 61691
state board of education. As used in this division, "institution" 61692
means an institution operated by a department specified in section 61693
3323.091 of the Revised Code and that provides vocational 61694
education programs under the supervision of the division of 61695
vocational education of the department that meet the standards and 61696
rules for these programs, including licensure of professional 61697
staff involved in the programs, as established by the state board. 61698

(B) For the purpose of calculating payments under sections 61699
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 61700
department shall determine, based on information certified under 61701
section 3317.03 of the Revised Code, the following by the last day 61702
of January of each year for each educational service center, for 61703
each school district, including each cooperative education school 61704
district, for each institution eligible for payment under section 61705
3323.091 of the Revised Code, and for each county DD board: the 61706
number of classes operated by the school district, service center, 61707
institution, or county DD board for preschool children with 61708
disabilities, or fraction thereof, including in the case of a 61709
district or service center that is a funding agent, classes taught 61710
by a licensed teacher employed by that district or service center 61711
under section 3313.841 of the Revised Code, approved annually by 61712
the department on the basis of standards and rules adopted by the 61713
state board. 61714

(C) For the purpose of calculating payments under sections 61715
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 61716
department shall determine, based on information certified under 61717
section 3317.03 of the Revised Code, the following by the last day 61718
of January of each year for each school district, including each 61719
cooperative education school district, for each institution 61720
eligible for payment under section 3323.091 of the Revised Code, 61721
and for each county DD board: the number of units for related 61722
services, as defined in section 3323.01 of the Revised Code, for 61723
preschool children with disabilities approved annually by the 61724
department on the basis of standards and rules adopted by the 61725
state board. 61726

(D) All of the arithmetical calculations made under this 61727
section shall be carried to the second decimal place. The total 61728
number of units for school districts, service centers, and 61729
institutions approved annually under this section shall not exceed 61730
the number of units included in the estimate of cost for these 61731
units and appropriations made for them by the general assembly. 61732

In the case of units for preschool children with disabilities 61733
described in division (B) of this section, the department shall 61734
approve only preschool units for children who are under age six on 61735
the thirtieth day of September of the academic year, or on the 61736
first day of August of the academic year if the school district in 61737
which the child is enrolled has adopted a resolution under 61738
division (A)(3) of section 3321.01 of the Revised Code, but not 61739
less than age three on the first day of December of the academic 61740
year, except that such a unit may include one or more children who 61741
are under age three or are age six or over on the applicable date, 61742
as reported under division (B)(2) or (G)(2)(b) of section 3317.03 61743
of the Revised Code, if such children have been admitted to the 61744
unit pursuant to rules of the state board. The number of units for 61745
county DD boards and institutions eligible for payment under 61746

section 3323.091 of the Revised Code approved under this section 61747
shall not exceed the number that can be funded with appropriations 61748
made for such purposes by the general assembly. 61749

No unit shall be approved under divisions (B) and (C) of this 61750
section unless a plan has been submitted and approved under 61751
Chapter 3323. of the Revised Code. 61752

~~(E) The department shall approve units or fractions thereof 61753
for gifted children on the basis of standards and rules adopted by 61754
the state board. 61755~~

Sec. 3317.051. ~~(A)(1) Notwithstanding sections 3317.05 and 61756
3317.11 of the Revised Code, a unit funded pursuant to division 61757
(L) of section 3317.024 or division (A)(2) of section 3317.052 of 61758
the Revised Code shall not be approved for state funding in one 61759
school district, including any cooperative education school 61760
district or any educational service center, to the extent that 61761
such unit provides programs in or services to another district 61762
which receives payment pursuant to section 3317.04 of the Revised 61763
Code. 61764~~

~~(2) Any city, local, exempted village, or cooperative 61765
education school district or any educational service center may 61766
combine partial unit eligibility for programs for preschool 61767
children with disabilities pursuant to section 3317.05 of the 61768
Revised Code, and such combined partial units may be approved for 61769
state funding in one school district or service center. 61770~~

~~(B) After units have been initially approved for any fiscal 61771
year under section 3317.05 of the Revised Code, no unit shall be 61772
subsequently transferred from a school district or educational 61773
service center to another city, exempted village, local, or 61774
cooperative education school district or educational service 61775
center or to an institution or county DD board solely for the 61776
purpose of reducing the financial obligations of the school 61777~~

~~district in a fiscal year it receives payment pursuant to section 61778
3317.04 of the Revised Code. 61779~~

Sec. 3317.053. (A) As used in this section: 61780

(1) "State share percentage" has the same meaning as in 61781
section 3317.022 of the Revised Code. 61782

(2) "Dollar amount" means the amount shown in the following 61783
table for the corresponding type of unit: 61784

TYPE OF UNIT	DOLLAR AMOUNT	61785
Division (B) of section 3317.05		61786
of the Revised Code	\$8,334	61787
Division (C) of that section	\$3,234	61788
Division (E) of that section	\$5,550	61789

(3) "Average unit amount" means the amount shown in the 61790
following table for the corresponding type of unit: 61791

TYPE OF UNIT	AVERAGE UNIT AMOUNT	61792
Division (B) of section 3317.05		61793
of the Revised Code	\$7,799	61794
Division (C) of that section	\$2,966	61795
Division (E) of that section	\$5,251	61796

(B) In the case of each unit described in division (B), or 61797
(C), ~~or (E)~~ of section 3317.05 of the Revised Code and allocated 61798
to a city, local, or exempted village school district, the 61799
department of education, in addition to the amounts specified in 61800
~~division (L) of section 3317.024 and~~ sections 3317.052 and 3317.19 61801
of the Revised Code, shall pay a supplemental unit allowance equal 61802
to the sum of the following amounts: 61803

(1) An amount equal to 50% of the average unit amount for the 61804
unit; 61805

(2) An amount equal to the percentage of the dollar amount 61806
for the unit that equals the district's state share percentage. 61807

If, prior to the fifteenth day of May of a fiscal year, a school district's aid computed under section 3317.022 of the Revised Code is recomputed pursuant to section 3317.027 or 3317.028 of the Revised Code, the department shall also recompute the district's entitlement to payment under this section utilizing a new state share percentage. Such new state share percentage shall be determined using the district's recomputed basic aid amount pursuant to section 3317.027 or 3317.028 of the Revised Code. During the last six months of the fiscal year, the department shall pay the district a sum equal to one-half of the recomputed payment in lieu of one-half the payment otherwise calculated under this section.

(C)(1) In the case of each unit allocated to an institution pursuant to division (A) of section 3317.05 of the Revised Code, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$7,227.

(2) In the case of each unit described in division (B) of section 3317.05 of the Revised Code that is allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$7,799.

(3) In the case of each unit described in division (C) of section 3317.05 of the Revised Code and allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amounts specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$2,966.

~~(4) In the case of each unit described in division (E) of section 3317.05 of the Revised Code and allocated to an educational service center, the department, in addition to the~~

~~amounts specified in division (L) of section 3317.024 of the~~ 61840
~~Revised Code, shall pay a supplemental unit allowance of \$5,251.~~ 61841

Sec. 3317.06. Moneys paid to school districts under division 61842
~~(I)~~(E) of section 3317.024 of the Revised Code shall be used for 61843
the following independent and fully severable purposes: 61844

(A) To purchase such secular textbooks or electronic 61845
textbooks as have been approved by the superintendent of public 61846
instruction for use in public schools in the state and to loan 61847
such textbooks or electronic textbooks to pupils attending 61848
nonpublic schools within the district or to their parents and to 61849
hire clerical personnel to administer such lending program. Such 61850
loans shall be based upon individual requests submitted by such 61851
nonpublic school pupils or parents. Such requests shall be 61852
submitted to the school district in which the nonpublic school is 61853
located. Such individual requests for the loan of textbooks or 61854
electronic textbooks shall, for administrative convenience, be 61855
submitted by the nonpublic school pupil or the pupil's parent to 61856
the nonpublic school, which shall prepare and submit collective 61857
summaries of the individual requests to the school district. As 61858
used in this section: 61859

(1) "Textbook" means any book or book substitute that a pupil 61860
uses as a consumable or nonconsumable text, text substitute, or 61861
text supplement in a particular class or program in the school the 61862
pupil regularly attends. 61863

(2) "Electronic textbook" means ~~computer software,~~ 61864
~~interactive videodisc, magnetic media, CD-ROM, computer~~ 61865
~~courseware, local and remote computer assisted instruction,~~ 61866
~~on-line service, electronic medium, or other means of conveying~~ 61867
~~information to the student or otherwise contributing~~ any book or 61868
book substitute that a student accesses through the use of a 61869
computer or other electronic medium or that is available through 61870

an internet-based provider of course content, or any other 61871
material that contributes to the learning process through 61872
electronic means. 61873

(B) To provide speech and hearing diagnostic services to 61874
pupils attending nonpublic schools within the district. Such 61875
service shall be provided in the nonpublic school attended by the 61876
pupil receiving the service. 61877

(C) To provide physician, nursing, dental, and optometric 61878
services to pupils attending nonpublic schools within the 61879
district. Such services shall be provided in the school attended 61880
by the nonpublic school pupil receiving the service. 61881

(D) To provide diagnostic psychological services to pupils 61882
attending nonpublic schools within the district. Such services 61883
shall be provided in the school attended by the pupil receiving 61884
the service. 61885

(E) To provide therapeutic psychological and speech and 61886
hearing services to pupils attending nonpublic schools within the 61887
district. Such services shall be provided in the public school, in 61888
nonpublic schools, in public centers, or in mobile units located 61889
on or off of the nonpublic premises. If such services are provided 61890
in the public school or in public centers, transportation to and 61891
from such facilities shall be provided by the school district in 61892
which the nonpublic school is located. 61893

(F) To provide guidance, counseling, and social work services 61894
to pupils attending nonpublic schools within the district. Such 61895
services shall be provided in the public school, in nonpublic 61896
schools, in public centers, or in mobile units located on or off 61897
of the nonpublic premises. If such services are provided in the 61898
public school or in public centers, transportation to and from 61899
such facilities shall be provided by the school district in which 61900
the nonpublic school is located. 61901

(G) To provide remedial services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(H) To supply for use by pupils attending nonpublic schools within the district such standardized tests and scoring services as are in use in the public schools of the state;

(I) To provide programs for children who attend nonpublic schools within the district and are children with disabilities as defined in section 3323.01 of the Revised Code or gifted children. Such programs shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such programs are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(J) To hire clerical personnel to assist in the administration of programs pursuant to divisions (B), (C), (D), (E), (F), (G), and (I) of this section and to hire supervisory personnel to supervise the providing of services and textbooks pursuant to this section.

(K) To purchase or lease any secular, neutral, and nonideological computer application software ~~(including designed to assist students in performing a single task or multiple related tasks, device management software, learning management software, site-licensing)~~, ~~prerecorded video laserdiscs~~, digital video on demand (DVD), ~~compact discs, and video cassette cartridges~~, wide area connectivity and related technology as it relates to internet

access, mathematics or science equipment and materials, 61934
instructional materials, and school library materials that are in 61935
general use in the public schools of the state and loan such items 61936
to pupils attending nonpublic schools within the district or to 61937
their parents, and to hire clerical personnel to administer the 61938
lending program. Only such items that are incapable of diversion 61939
to religious use and that are susceptible of loan to individual 61940
pupils and are furnished for the use of individual pupils shall be 61941
purchased and loaned under this division. As used in this section, 61942
"instructional materials" means prepared learning materials that 61943
are secular, neutral, and nonideological in character and are of 61944
benefit to the instruction of school children, and may include 61945
educational resources and services developed by the eTech Ohio 61946
commission. 61947

(L) To purchase or lease instructional equipment, including 61948
computer hardware and related equipment in general use in the 61949
public schools of the state, for use by pupils attending nonpublic 61950
schools within the district and to loan such items to pupils 61951
attending nonpublic schools within the district or to their 61952
parents, and to hire clerical personnel to administer the lending 61953
program. "Computer hardware and related equipment" includes 61954
desktop computers and workstations; laptop computers, computer 61955
tablets, and other mobile handheld devices; and their operating 61956
systems and accessories. 61957

(M) To purchase mobile units to be used for the provision of 61958
services pursuant to divisions (E), (F), (G), and (I) of this 61959
section and to pay for necessary repairs and operating costs 61960
associated with these units. 61961

(N) To reimburse costs the district incurred to store the 61962
records of a chartered nonpublic school that closes. 61963
Reimbursements under this division shall be made one time only for 61964
each chartered nonpublic school that closes. 61965

(O) To purchase life-saving medical or other emergency equipment for placement in nonpublic schools within the district or to maintain such equipment. 61966
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Clerical and supervisory personnel hired pursuant to division (J) of this section shall perform their services in the public schools, in nonpublic schools, public centers, or mobile units where the services are provided to the nonpublic school pupil, except that such personnel may accompany pupils to and from the service sites when necessary to ensure the safety of the children receiving the services. 61969
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All services provided pursuant to this section may be provided under contract with educational service centers, the department of health, city or general health districts, or private agencies whose personnel are properly licensed by an appropriate state board or agency. 61976
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Transportation of pupils provided pursuant to divisions (E), (F), (G), and (I) of this section shall be provided by the school district from its general funds and not from moneys paid to it under division ~~(I)~~(E) of section 3317.024 of the Revised Code unless a special transportation request is submitted by the parent of the child receiving service pursuant to such divisions. If such an application is presented to the school district, it may pay for the transportation from moneys paid to it under division ~~(I)~~(E) of section 3317.024 of the Revised Code. 61981
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No school district shall provide health or remedial services to nonpublic school pupils as authorized by this section unless such services are available to pupils attending the public schools within the district. 61990
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Materials, equipment, computer hardware or software, textbooks, electronic textbooks, and health and remedial services provided for the benefit of nonpublic school pupils pursuant to 61994
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this section and the admission of pupils to such nonpublic schools 61997
shall be provided without distinction as to race, creed, color, or 61998
national origin of such pupils or of their teachers. 61999

No school district shall provide services, materials, or 62000
equipment that contain religious content for use in religious 62001
courses, devotional exercises, religious training, or any other 62002
religious activity. 62003

As used in this section, "parent" includes a person standing 62004
in loco parentis to a child. 62005

Notwithstanding section 3317.01 of the Revised Code, payments 62006
shall be made under this section to any city, local, or exempted 62007
village school district within which is located one or more 62008
nonpublic elementary or high schools and any payments made to 62009
school districts under division ~~(I)~~(E) of section 3317.024 of the 62010
Revised Code for purposes of this section may be disbursed without 62011
submission to and approval of the controlling board. 62012

The allocation of payments for materials, equipment, 62013
textbooks, electronic textbooks, health services, and remedial 62014
services to city, local, and exempted village school districts 62015
shall be on the basis of the state board of education's estimated 62016
annual average daily membership in nonpublic elementary and high 62017
schools located in the district. 62018

Payments made to city, local, and exempted village school 62019
districts under this section shall be equal to specific 62020
appropriations made for the purpose. All interest earned by a 62021
school district on such payments shall be used by the district for 62022
the same purposes and in the same manner as the payments may be 62023
used. 62024

The department of education shall adopt guidelines and 62025
procedures under which such programs and services shall be 62026
provided, under which districts shall be reimbursed for 62027

administrative costs incurred in providing such programs and 62028
services, and under which any unexpended balance of the amounts 62029
appropriated by the general assembly to implement this section may 62030
be transferred to the auxiliary services personnel unemployment 62031
compensation fund established pursuant to section 4141.47 of the 62032
Revised Code. The department shall also adopt guidelines and 62033
procedures limiting the purchase and loan of the items described 62034
in division (K) of this section to items that are in general use 62035
in the public schools of the state, that are incapable of 62036
diversion to religious use, and that are susceptible to individual 62037
use rather than classroom use. Within thirty days after the end of 62038
each biennium, each board of education shall remit to the 62039
department all moneys paid to it under division ~~(I)~~(E) of section 62040
3317.024 of the Revised Code and any interest earned on those 62041
moneys that are not required to pay expenses incurred under this 62042
section during the biennium for which the money was appropriated 62043
and during which the interest was earned. If a board of education 62044
subsequently determines that the remittal of moneys leaves the 62045
board with insufficient money to pay all valid expenses incurred 62046
under this section during the biennium for which the remitted 62047
money was appropriated, the board may apply to the department of 62048
education for a refund of money, not to exceed the amount of the 62049
insufficiency. If the department determines the expenses were 62050
lawfully incurred and would have been lawful expenditures of the 62051
refunded money, it shall certify its determination and the amount 62052
of the refund to be made to the director of job and family 62053
services who shall make a refund as provided in section 4141.47 of 62054
the Revised Code. 62055

Each school district shall label materials, equipment, 62056
computer hardware or software, textbooks, and electronic textbooks 62057
purchased or leased for loan to a nonpublic school under this 62058
section, acknowledging that they were purchased or leased with 62059
state funds under this section. However, a district need not label 62060

materials, equipment, computer hardware or software, textbooks, or 62061
electronic textbooks that the district determines are consumable 62062
in nature or have a value of less than two hundred dollars. 62063

Sec. 3317.061. The superintendent of each school district, 62064
including each cooperative education and joint vocational school 62065
district and the superintendent of each educational service 62066
center, shall, on forms prescribed and furnished by the state 62067
board of education, certify to the state board of education, on or 62068
before the fifteenth day of October of each year, the name of each 62069
licensed employee employed, on an annual salary, in each school 62070
under such superintendent's supervision during the first full 62071
school week of said month of October, the number of years of 62072
recognized college training such licensed employee has completed, 62073
the college degrees from a recognized college earned by such 62074
licensed employee, the type of teaching license held by such 62075
licensed employee, the number of months such licensed employee is 62076
employed in the school district, the annual salary of such 62077
licensed employee, and such other information as the state board 62078
of education may request. For the purposes of ~~Chapters 3306. and~~ 62079
Chapter 3317. of the Revised Code, a licensed employee is any 62080
employee in a position that requires a license issued pursuant to 62081
sections 3319.22 to 3319.31 of the Revised Code. 62082

Pursuant to standards adopted by the state board of 62083
education, experience of vocational teachers in trade and industry 62084
shall be recognized by such board for the purpose of complying 62085
with the requirements of recognized college training provided by 62086
~~Chapters 3306. and~~ Chapter 3317. of the Revised Code. 62087

~~**Sec. 3317.07.** The state board of education shall establish 62088
rules for the purpose of distributing subsidies for the purchase 62089
of school buses under division (D) of section 3317.024 of the 62090
Revised Code. 62091~~

~~No school bus subsidy payments shall be paid to any district unless such district can demonstrate that pupils residing more than one mile from the school could not be transported without such additional aid.~~ 62092
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~~The amount paid to a county DD board for buses purchased for transportation of children in special education programs operated by the board shall be based on a per pupil allocation for eligible students.~~ 62096
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~~The amount paid to a school district for buses purchased for transportation of pupils with disabilities and nonpublic school pupils shall be determined by a per pupil allocation based on the number of special education and nonpublic school pupils for whom transportation is provided.~~ 62100
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~~The state board of education shall adopt a formula to determine the amount of payments that shall be distributed to school districts to purchase school buses for pupils other than pupils with disabilities or nonpublic school pupils.~~ 62105
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~~If any district or county DD board obtains bus services for pupil transportation pursuant to a contract, such district or board may use payments received under this section to defray the costs of contracting for bus services in lieu of for purchasing buses.~~ 62109
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If the department of education determines that a county DD board no longer needs a school bus because the board no longer transports children to a special education program operated by the board, or if the department determines that a school district no longer needs a school bus to transport pupils to a nonpublic school or special education program, the department may reassign a bus that was funded with payments provided pursuant to the version of this section in effect prior to the effective date of this amendment for the purpose of transporting such pupils. The 62114
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department may reassign a bus to a county DD board or school 62123
district that transports children to a special education program 62124
designated in the children's individualized education plans, or to 62125
a school district that transports pupils to a nonpublic school, 62126
and needs an additional school bus. 62127

Sec. 3317.08. A board of education may admit to its schools a 62128
child it is not required by section 3313.64 or 3313.65 of the 62129
Revised Code to admit, if tuition is paid for the child. 62130

Unless otherwise provided by law, tuition shall be computed 62131
in accordance with this section. A district's tuition charge for a 62132
school year shall be one of the following: 62133

(A) For any child, except a preschool child with a disability 62134
described in division (B) of this section, the quotient obtained 62135
by dividing the sum of the amounts described in divisions (A)(1) 62136
and (2) of this section by the district's formula ADM. 62137

(1) The district's total taxes charged and payable for 62138
current expenses for the tax year preceding the tax year in which 62139
the school year begins as certified under division (A)(3) of 62140
section 3317.021 of the Revised Code. 62141

(2) The district's total taxes collected for current expenses 62142
under a school district income tax adopted pursuant to section 62143
5748.03 ~~or~~, 5748.08, or 5748.09 of the Revised Code that are 62144
disbursed to the district during the fiscal year, excluding any 62145
income tax receipts allocated for the project cost, debt service, 62146
or maintenance set-aside associated with a state-assisted 62147
classroom facilities project as authorized by section 3318.052 of 62148
the Revised Code. On or before the first day of June of each year, 62149
the tax commissioner shall certify the amount to be used in the 62150
calculation under this division for the next fiscal year to the 62151
department of education and the office of budget and management 62152
for each city, local, and exempted village school district that 62153

levies a school district income tax. 62154

(B) For any preschool child with a disability not included in 62155
a unit approved under division (B) of section 3317.05 of the 62156
Revised Code, an amount computed for the school year as follows: 62157

(1) For each type of special education service provided to 62158
the child for whom tuition is being calculated, determine the 62159
amount of the district's operating expenses in providing that type 62160
of service to all preschool children with disabilities not 62161
included in units approved under division (B) of section 3317.05 62162
of the Revised Code; 62163

(2) For each type of special education service for which 62164
operating expenses are determined under division (B)(1) of this 62165
section, determine the amount of such operating expenses that was 62166
paid from any state funds received under this chapter; 62167

(3) For each type of special education service for which 62168
operating expenses are determined under division (B)(1) of this 62169
section, divide the difference between the amount determined under 62170
division (B)(1) of this section and the amount determined under 62171
division (B)(2) of this section by the total number of preschool 62172
children with disabilities not included in units approved under 62173
division (B) of section 3317.05 of the Revised Code who received 62174
that type of service; 62175

(4) Determine the sum of the quotients obtained under 62176
division (B)(3) of this section for all types of special education 62177
services provided to the child for whom tuition is being 62178
calculated. 62179

The state board of education shall adopt rules defining the 62180
types of special education services and specifying the operating 62181
expenses to be used in the computation under this section. 62182

If any child for whom a tuition charge is computed under this 62183
section for any school year is enrolled in a district for only 62184

part of that school year, the amount of the district's tuition 62185
charge for the child for the school year shall be computed in 62186
proportion to the number of school days the child is enrolled in 62187
the district during the school year. 62188

Except as otherwise provided in division (J) of section 62189
3313.64 of the Revised Code, whenever a district admits a child to 62190
its schools for whom tuition computed in accordance with this 62191
section is an obligation of another school district, the amount of 62192
the tuition shall be certified by the treasurer of the board of 62193
education of the district of attendance, to the board of education 62194
of the district required to pay tuition for its approval and 62195
payment. If agreement as to the amount payable or the district 62196
required to pay the tuition cannot be reached, or the board of 62197
education of the district required to pay the tuition refuses to 62198
pay that amount, the board of education of the district of 62199
attendance shall notify the superintendent of public instruction. 62200
The superintendent shall determine the correct amount and the 62201
district required to pay the tuition and shall deduct that amount, 62202
if any, under division ~~(G)~~(D) of section 3317.023 of the Revised 62203
Code, from the district required to pay the tuition and add that 62204
amount to the amount allocated to the district attended under such 62205
division. The superintendent of public instruction shall send to 62206
the district required to pay the tuition an itemized statement 62207
showing such deductions at the time of such deduction. 62208

When a political subdivision owns and operates an airport, 62209
welfare, or correctional institution or other project or facility 62210
outside its corporate limits, the territory within which the 62211
facility is located is exempt from taxation by the school district 62212
within which such territory is located, and there are school age 62213
children residing within such territory, the political subdivision 62214
owning such tax exempt territory shall pay tuition to the district 62215
in which such children attend school. The tuition for these 62216

children shall be computed as provided for in this section. 62217

Sec. 3317.081. (A) Tuition shall be computed in accordance 62218
with this section if: 62219

(1) The tuition is required by division (C)(3)(b) of section 62220
3313.64 of the Revised Code; or 62221

(2) Neither the child nor the child's parent resides in this 62222
state and tuition is required by section 3327.06 of the Revised 62223
Code. 62224

(B) Tuition computed in accordance with this section shall 62225
equal the attendance district's tuition rate computed under 62226
section 3317.08 of the Revised Code plus the amount in state 62227
education aid that district would have received for the child 62228
~~pursuant to Chapter 3306. and sections 3317.023 and 3317.025 to~~ 62229
~~3317.0211 of the Revised Code~~ during the school year had the 62230
attendance district been authorized to count the child in its 62231
formula ADM for that school year under section 3317.03 of the 62232
Revised Code. 62233

Sec. 3317.082. As used in this section, "institution" means a 62234
residential facility that receives and cares for children 62235
maintained by the department of youth services and that operates a 62236
school chartered by the state board of education under section 62237
3301.16 of the Revised Code. 62238

(A) On or before the thirty-first day of each January and 62239
July, the superintendent of each institution that during the 62240
six-month period immediately preceding each January or July 62241
provided an elementary or secondary education for any child, other 62242
than a child receiving special education under section 3323.091 of 62243
the Revised Code, shall prepare and submit to the department of 62244
education, a statement for each such child indicating the child's 62245
name, any school district responsible to pay tuition for the child 62246

as determined by the superintendent in accordance with division 62247
(C)(2) or (3) of section 3313.64 of the Revised Code, and the 62248
period of time during that six-month period that the child 62249
received an elementary or secondary education. If any school 62250
district is responsible to pay tuition for any such child, the 62251
department of education, no later than the immediately succeeding 62252
last day of February or August, as applicable, shall calculate the 62253
amount of the tuition of the district under section 3317.08 of the 62254
Revised Code for the period of time indicated on the statement and 62255
do one of the following: 62256

(1) If the tuition amount is equal to or less than the ~~amount~~ 62257
~~of state basic aid funds payable to the district under Chapter~~ 62258
~~3306. and section 3317.023 of the Revised Code~~ district's state 62259
education aid, pay to the institution submitting the statement an 62260
amount equal to the tuition amount, as provided under division 62261
(~~M~~)(G) of section 3317.024 of the Revised Code, and deduct the 62262
tuition amount from the state basic aid funds payable to the 62263
district, as provided under division (~~F~~)(C)(2) of section 3317.023 62264
of the Revised Code; 62265

(2) If the tuition amount is greater than the ~~amount of state~~ 62266
~~basic aid funds payable to the district under Chapter 3306. and~~ 62267
~~section 3317.023 of the Revised Code~~ district's state education 62268
aid, require the district to pay to the institution submitting the 62269
statement an amount equal to the tuition amount. 62270

(B) In the case of any disagreement about the school district 62271
responsible to pay tuition for a child pursuant to this section, 62272
the superintendent of public instruction shall make the 62273
determination in any such case in accordance with division (C)(2) 62274
or (3) of section 3313.64 of the Revised Code. 62275

Sec. 3317.09. All moneys distributed to a school district, 62276
including any cooperative education or joint vocational school 62277

district and all moneys distributed to any educational service 62278
center, by the state whether from a state or federal source, shall 62279
be accounted for by the division of school finance of the 62280
department of education. All moneys distributed shall be coded as 62281
to county, school district or educational service center, source, 62282
and other pertinent information, and at the end of each month, a 62283
report of such distribution shall be made by such division of 62284
school finance to each school district and educational service 62285
center. If any board of education fails to make the report 62286
required in section 3319.33 of the Revised Code, the 62287
superintendent of public instruction shall be without authority to 62288
distribute funds to that school district or educational service 62289
center ~~pursuant to sections 3317.022 to 3317.0211, 3317.11,~~ 62290
~~3317.16, 3317.17, or 3317.19 of the Revised Code~~ under this 62291
chapter until such time as the required reports are filed with all 62292
specified officers, boards, or agencies. 62293

Sec. 3317.11. (A) As used in this section: 62294

(1) "Client school district" means a city or exempted village 62295
school district that has entered into an agreement under section 62296
3313.843 of the Revised Code to receive any services from an 62297
educational service center. 62298

(2) "Service center ADM" means the sum of the total student 62299
counts of all local school districts within an educational service 62300
center's territory and all of the service center's client school 62301
districts. 62302

(3) "STEM school" means a science, technology, engineering, 62303
and mathematics school established under Chapter 3326. of the 62304
Revised Code. 62305

(4) "Total student count" has the same meaning as in section 62306
3301.011 of the Revised Code. 62307

(B)(1) The governing board of each educational service center 62308
shall provide supervisory services to each local school district 62309
within the service center's territory. Each city or exempted 62310
village school district that enters into an agreement under 62311
section 3313.843 of the Revised Code for a governing board to 62312
provide any services also is considered to be provided supervisory 62313
services by the governing board. Except as provided in division 62314
(B)(2) of this section, the supervisory services shall not exceed 62315
one supervisory teacher for the first fifty classroom teachers 62316
required to be employed in the districts, as calculated in the 62317
manner prescribed under former division (B) of section 3317.023 of 62318
the Revised Code, as that division existed prior to the effective 62319
date of this amendment, and one for each additional one hundred 62320
required classroom teachers, as so calculated. 62321

The supervisory services shall be financed annually through 62322
supervisory units. Except as provided in division (B)(2) of this 62323
section, the number of supervisory units assigned to each district 62324
shall not exceed one unit for the first fifty classroom teachers 62325
required to be employed in the district, as calculated in the 62326
manner prescribed under former division (B) of section 3317.023 of 62327
the Revised Code, as that division existed prior to the effective 62328
date of this amendment, and one for each additional one hundred 62329
required classroom teachers, as so calculated. The cost of each 62330
supervisory unit shall be the sum of: 62331

(a) The minimum salary prescribed by section 3317.13 of the 62332
Revised Code for the licensed supervisory employee of the 62333
governing board; 62334

(b) An amount equal to fifteen per cent of ~~the~~ that salary 62335
~~prescribed by section 3317.13 of the Revised Code;~~ 62336

(c) An allowance for necessary travel expenses, limited to 62337
the lesser of two hundred twenty-three dollars and sixteen cents 62338
per month or two thousand six hundred seventy-eight dollars per 62339

year. 62340

(2) If a majority of the boards of education, or 62341
superintendents acting on behalf of the boards, of the local and 62342
client school districts receiving services from the educational 62343
service center agree to receive additional supervisory services 62344
and to pay the cost of a corresponding number of supervisory units 62345
in excess of the services and units specified in division (B)(1) 62346
of this section, the service center shall provide the additional 62347
services as agreed to by the majority of districts to, and the 62348
department of education shall apportion the cost of the 62349
corresponding number of additional supervisory units pursuant to 62350
division (B)(3) of this section among, all of the service center's 62351
local and client school districts. 62352

(3) The department shall apportion the total cost for all 62353
supervisory units among the service center's local and client 62354
school districts based on each district's total student count. The 62355
department shall deduct each district's apportioned share pursuant 62356
to division ~~(E)~~(B) of section 3317.023 of the Revised Code and pay 62357
the apportioned share to the service center. 62358

(C) The department annually shall deduct from each local and 62359
client school district of each educational service center, 62360
pursuant to division ~~(E)~~(B) of section 3317.023 of the Revised 62361
Code, and pay to the service center an amount equal to six dollars 62362
and fifty cents times the school district's total student count. 62363
The board of education, or the superintendent acting on behalf of 62364
the board, of any local or client school district may agree to pay 62365
an amount in excess of six dollars and fifty cents per student in 62366
total student count. If a majority of the boards of education, or 62367
superintendents acting on behalf of the boards, of the local 62368
school districts within a service center's territory approve an 62369
amount in excess of six dollars and fifty cents per student in 62370
total student count, the department shall deduct the approved 62371

excess per student amount from all of the local school districts 62372
within the service center's territory and pay the excess amount to 62373
the service center. 62374

(D) The department shall pay each educational service center 62375
the amounts due to it from school districts pursuant to contracts, 62376
compacts, or agreements under which the service center furnishes 62377
services to the districts or their students. In order to receive 62378
payment under this division, an educational service center shall 62379
furnish either a copy of the contract, compact, or agreement 62380
clearly indicating the amounts of the payments, or a written 62381
statement that clearly indicates the payments owed and is signed 62382
by the superintendent or treasurer of the responsible school 62383
district. The amounts paid to service centers under this division 62384
shall be deducted from payments to school districts pursuant to 62385
division ~~(K)~~(H)(3) of section 3317.023 of the Revised Code. 62386

(E) Each school district's deduction under this section and 62387
divisions ~~(E)~~(B) and ~~(K)~~(H)(3) of section 3317.023 of the Revised 62388
Code shall be made from the total payment computed for the 62389
district under this chapter, after making any other adjustments in 62390
that payment required by law. 62391

(F)(1) Except as provided in division (F)(2) of this section, 62392
the department annually shall pay the governing board of each 62393
educational service center state funds equal to thirty-seven 62394
dollars times its service center ADM. 62395

(2) The department annually shall pay state funds equal to 62396
forty dollars and fifty-two cents times the service center ADM to 62397
each educational service center comprising territory that was 62398
included in the territory of at least three former service centers 62399
or county school districts, which former centers or districts 62400
engaged in one or more mergers under section 3311.053 of the 62401
Revised Code to form the present center. 62402

(G) Each city, exempted village, local, joint vocational, or cooperative education school district shall pay to the governing board of an educational service center any amounts agreed to for each child enrolled in the district who receives special education and related services or career-technical education from the educational service center, unless these educational services are provided pursuant to a contract, compact, or agreement for which the department deducts and transfers payments under division (D) of this section and division ~~(K)~~(H)(3) of section 3317.023 of the Revised Code.

(H) The department annually shall pay the governing board of each educational service center that has entered into a contract with a STEM school for the provision of services described in division (B) of section 3326.45 of the Revised Code state funds equal to the per-pupil amount specified in the contract for the provision of those services times the number of students enrolled in the STEM school.

(I) An educational service center:

(1) May provide special education and career-technical education to students in its local or client school districts;

(2) Is eligible for transportation funding under division ~~(G)~~(C) of section 3317.024 of the Revised Code ~~and for state subsidies for the purchase of school buses under section 3317.07 of the Revised Code;~~

(3) May apply for and receive gifted education units and provide gifted education services to students in its local or client school districts;

(4) May conduct driver education for high school students in accordance with Chapter 4508. of the Revised Code.

Sec. 3317.12. Any board of education participating in funds

distributed under ~~Chapters 3306.~~ and Chapter 3317. of the Revised 62433
Code shall annually adopt a salary schedule for nonteaching school 62434
employees based upon training, experience, and qualifications with 62435
initial salaries no less than the salaries in effect on October 62436
13, 1967. Each board of education shall prepare and may amend from 62437
time to time, specifications descriptive of duties, 62438
responsibilities, requirements, and desirable qualifications of 62439
the classifications of employees required to perform the duties 62440
specified in the salary schedule. All nonteaching school employees 62441
are to be notified of the position classification to which they 62442
are assigned and the salary for the classification. The 62443
compensation of all employees working for a particular school 62444
board shall be uniform for like positions except as compensation 62445
would be affected by salary increments based upon length of 62446
service. 62447

On the fifteenth day of October each year the salary schedule 62448
and the list of job classifications and salaries in effect on that 62449
date shall be filed by each board of education with the 62450
superintendent of public instruction. If such salary schedule and 62451
classification plan is not filed the superintendent of public 62452
instruction shall order the board to file such schedules 62453
forthwith. If this condition is not corrected within ten days 62454
after receipt of the order from the superintendent of public 62455
instruction, no money shall be distributed to the district under 62456
~~Chapters 3306.~~ and Chapter 3317. of the Revised Code until the 62457
superintendent has satisfactory evidence of the board of 62458
education's full compliance with such order. 62459

Sec. 3317.16. (A) As used in this section: 62460

(1) The "total special education weight" for a joint 62461
vocational school district shall be calculated in the same manner 62462
as prescribed in section 3317.022 of the Revised Code. 62463

(2) The "total vocational education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in section 3317.022 of the Revised Code.

(3) The "total recognized valuation" of a joint vocational school district shall be determined by adding the recognized valuations of all its constituent school districts that were subject to the joint vocational school district's tax levies for both the current and preceding tax years.

(4) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(5) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district for the fiscal year in accordance with the following formula:

$$\begin{aligned} & (\text{formula amount X formula ADM}) - \\ & (.0005 \text{ X total recognized valuation}) \end{aligned}$$

If the difference obtained under this division is a negative number, the district's computation shall be zero.

(C)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each joint vocational school district in accordance with the following formula:

$$\begin{aligned} & \text{state share percentage X formula amount X} \\ & \text{total vocational education weight} \end{aligned}$$

In each fiscal year, a joint vocational school district receiving funds under division (C)(1) of this section shall spend those funds only for the purposes the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses

connected to the delivery of career-technical programming to 62495
career-technical students. The department shall require the joint 62496
vocational school district to report data annually so that the 62497
department may monitor the district's compliance with the 62498
requirements regarding the manner in which funding received under 62499
division (C)(1) of this section may be spent. 62500

(2) The department shall compute for each joint vocational 62501
school district state funds for vocational education associated 62502
services costs in accordance with the following formula: 62503

state share percentage X .05 X 62504
the formula amount X the sum of 62505
categories one and two vocational 62506
education ADM 62507

In any fiscal year, a joint vocational school district 62508
receiving funds under division (C)(2) of this section, or through 62509
a transfer of funds pursuant to division ~~(L)~~(I) of section 62510
3317.023 of the Revised Code, shall spend those funds only for the 62511
purposes that the department designates as approved for vocational 62512
education associated services expenses, which may include such 62513
purposes as apprenticeship coordinators, coordinators for other 62514
vocational education services, vocational evaluation, and other 62515
purposes designated by the department. The department may deny 62516
payment under division (C)(2) of this section to any district that 62517
the department determines is not operating those services or is 62518
using funds paid under division (C)(2) of this section, or through 62519
a transfer of funds pursuant to division ~~(L)~~(I) of section 62520
3317.023 of the Revised Code, for other purposes. 62521

(D)(1) The department shall compute and distribute state 62522
special education and related services additional weighted costs 62523
funds to each joint vocational school district in accordance with 62524
the following formula: 62525

state share percentage X formula amount X 62526

total special education weight 62527

(2)(a) As used in this division, the "personnel allowance" 62528
means thirty thousand dollars in fiscal years 2008 and 2009. 62529

(b) For the provision of speech language pathology services 62530
to students, including students who do not have individualized 62531
education programs prepared for them under Chapter 3323. of the 62532
Revised Code, and for no other purpose, the department shall pay 62533
each joint vocational school district an amount calculated under 62534
the following formula: 62535

(formula ADM divided by 2000) X the personnel 62536
allowance X state share percentage 62537

(3) In any fiscal year, a joint vocational school district 62538
shall spend for purposes that the department designates as 62539
approved for special education and related services expenses at 62540
least the amount calculated as follows: 62541

(formula amount X 62542
the sum of categories one through 62543
six special education ADM) + 62544
(total special education weight X 62545
formula amount) 62546

The purposes approved by the department for special education 62547
expenses shall include, but shall not be limited to, compliance 62548
with state rules governing the education of children with 62549
disabilities, providing services identified in a student's 62550
individualized education program as defined in section 3323.01 of 62551
the Revised Code, provision of speech language pathology services, 62552
and the portion of the district's overall administrative and 62553
overhead costs that are attributable to the district's special 62554
education student population. 62555

The department shall require joint vocational school 62556
districts to report data annually to allow for monitoring 62557
compliance with division (D)(3) of this section. The department 62558

shall annually report to the governor and the general assembly the amount of money spent by each joint vocational school district for special education and related services.

(4) In any fiscal year, a joint vocational school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (D)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (D)(2) of this section.

(E)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(a) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(b) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(2) The district shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) Each fiscal year, the department shall pay each joint vocational school district an amount for adult technical and vocational education and specialized consultants.

(G)(1) A joint vocational school district's local share of special education and related services additional weighted costs equals:

(1 - state share percentage) X
Total special education weight X
~~the formula amount~~ \$5,732

(2) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section.

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:

(a) The formula amount;

(b) The product of ~~the formula amount~~ \$5,732 times the applicable multiple specified in section ~~3306.11~~ 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment;

(c) Any funds paid under division (E) of this section for the student;

(d) Any other funds received by the joint vocational school district under this chapter to provide special education and

related services to the student, not including the amount 62621
calculated under division (G)(2) of this section. 62622

(3) The board of education of the joint vocational school 62623
district may report the excess costs calculated under division 62624
(G)(2) of this section to the department of education. 62625

(4) If the board of education of the joint vocational school 62626
district reports excess costs under division (G)(3) of this 62627
section, the department shall pay the amount of excess cost 62628
calculated under division (G)(2) of this section to the joint 62629
vocational school district and shall deduct that amount as 62630
provided in division (G)(4)(a) or (b) of this section, as 62631
applicable: 62632

(a) If the student is not enrolled in a community school, the 62633
department shall deduct the amount from the account of the 62634
student's resident district pursuant to division ~~(M)~~(J) of section 62635
3317.023 of the Revised Code. 62636

(b) If the student is enrolled in a community school, the 62637
department shall deduct the amount from the account of the 62638
community school pursuant to section 3314.083 of the Revised Code. 62639

Sec. 3317.18. (A) As used in this section, the terms "Chapter 62640
133. securities," "credit enhancement facilities," "debt charges," 62641
"general obligation," "legislation," "public obligations," and 62642
"securities" have the same meanings as in section 133.01 of the 62643
Revised Code. 62644

(B) The board of education of any school district authorizing 62645
the issuance of securities under section 133.10, 133.301, or 62646
3313.372 of the Revised Code or general obligation Chapter 133. 62647
securities may adopt legislation requesting the state department 62648
of education to approve, and enter into an agreement with the 62649
school district and the primary paying agent or fiscal agent for 62650

such securities providing for, the withholding and deposit of 62651
funds, otherwise due the district under ~~Chapters 3306.~~ and Chapter 62652
3317. of the Revised Code, for the payment of debt service charges 62653
on such securities. 62654

The board of education shall deliver to the state department 62655
a copy of such resolution and any additional pertinent information 62656
the state department may require. 62657

The department of education and the office of budget and 62658
management shall evaluate each request received from a school 62659
district under this section and the department, with the advice 62660
and consent of the director of budget and management, shall 62661
approve or deny each request based on all of the following: 62662

(1) Whether approval of the request will enhance the 62663
marketability of the securities for which the request is made; 62664

(2) Any other pertinent factors or limitations established in 62665
rules made under division (I) of this section, including: 62666

(a) Current and projected obligations of funds due to the 62667
requesting school district under ~~Chapters 3306.~~ and Chapter 3317. 62668
of the Revised Code including obligations of those funds to public 62669
obligations or relevant credit enhancement facilities under this 62670
section, Chapter 133. and section 3313.483 of the Revised Code, 62671
and under any other similar provisions of law; 62672

(b) Whether the department of education or the office of 62673
budget and management has any reason to believe the requesting 62674
school district will be unable to pay when due the debt charges on 62675
the securities for which the request is made. 62676

The department may require a school district to establish 62677
schedules for the payment of all debt charges that take into 62678
account the amount and timing of anticipated distributions of 62679
funds to the district under Chapter 3317. of the Revised Code. 62680

(C) If the department approves the request of a school district to withhold and deposit funds pursuant to this section, the department shall enter into a written agreement with the district and the primary paying agent or fiscal agent for the securities which shall provide for the withholding of funds pursuant to this section for the payment of debt charges on those securities, and may include both of the following:

(1) Provisions for certification by the district to the department, at a time prior to any date for the payment of applicable debt charges, whether the district is able to pay those debt charges when due;

(2) Requirements that the district deposit amounts for the payment of debt charges on the securities with the primary paying agent or fiscal agent for the securities prior to the date on which those debt charge payments are due to the owners or holders of the securities.

(D) Whenever a district notifies the department of education that it will be unable to pay debt charges when they are due, subject to the withholding provisions of this section, or whenever the applicable paying agent or fiscal agent notifies the department that it has not timely received from a school district the full amount needed for the payment when due of those debt charges to the holders or owners of such securities, the department shall immediately contact the school district and the paying agent or fiscal agent to confirm or determine whether the district is unable to make the required payment by the date on which it is due.

Upon demand of the treasurer of state while holding a school district obligation purchased under division (G)(1) of section 135.143 of the Revised Code, the state department of education, without a request of the school district, shall withhold and deposit funds pursuant to this section for payment of debt service

charges on that obligation. 62713

If the department confirms or determines that the district 62714
will be unable to make such payment and payment will not be made 62715
pursuant to a credit enhancement facility, the department shall 62716
promptly pay to the applicable primary paying agent or fiscal 62717
agent the lesser of the amount due for debt charges or the amount 62718
due the district for the remainder of the fiscal year under 62719
Chapter 3317. of the Revised Code. If this amount is insufficient 62720
to pay the total amount then due the agent for the payment of debt 62721
charges, the department shall pay to the agent each fiscal year 62722
thereafter, and until the full amount due the agent for unpaid 62723
debt charges is paid in full, the lesser of the remaining amount 62724
due the agent for debt charges or the amount due the district for 62725
the fiscal year under Chapter 3317. of the Revised Code. 62726

(E) The state department may make any payments under this 62727
division by direct deposit of funds by electronic transfer. 62728

Any amount received by a paying agent or fiscal agent under 62729
this section shall be applied only to the payment of debt charges 62730
on the securities of the school district subject to this section 62731
or to the reimbursement to the provider of a credit enhancement 62732
facility that has paid such debt charges. 62733

(F) To the extent a school district whose securities are 62734
subject to this section is unable to pay applicable debt charges 62735
because of the failure to collect property taxes levied for the 62736
payment of those debt charges, the district may transfer to or 62737
deposit into any fund that would have received payments under 62738
~~3306.~~ Chapter 3317. of the Revised Code that were withheld 62739
under this section any such delinquent property taxes when later 62740
collected, provided that transfer or deposit shall be limited to 62741
the amounts withheld from that fund under this section. 62742

(G) The department may make payments under this section to 62743

paying agents or fiscal agents only from and to the extent that 62744
money is appropriated by the general assembly for Chapter 3317. of 62745
the Revised Code or for the purposes of this section. No 62746
securities of a school district to which this section is made 62747
applicable constitute an obligation or a debt or a pledge of the 62748
faith, credit, or taxing power of the state, and the holders or 62749
owners of such securities have no right to have taxes levied or 62750
appropriations made by the general assembly for the payment of 62751
debt charges on those securities, and those securities, if the 62752
department requires, shall contain a statement to that effect. The 62753
agreement for or the actual withholding and payment of moneys 62754
under this section does not constitute the assumption by the state 62755
of any debt of a school district. 62756

(H) In the case of securities subject to the withholding 62757
provisions of this section, the issuing board of education shall 62758
appoint a paying agent or fiscal agent who is not an officer or 62759
employee of the school district. 62760

(I) The department of education, with the advice of the 62761
office of budget and management, may adopt reasonable rules not 62762
inconsistent with this section for the implementation of this 62763
section and division (B) of section 133.25 of the Revised Code as 62764
it relates to the withholding and depositing of payments under 62765
~~Chapters 3306. and Chapter~~ 3317. of the Revised Code to secure 62766
payment of debt charges on school district securities. Those rules 62767
shall include criteria for the evaluation and approval or denial 62768
of school district requests for withholding under this section and 62769
limits on the obligation for the purpose of paying debt charges or 62770
reimbursing credit enhancement facilities of funds otherwise to be 62771
paid to school districts under Chapter 3317. of the Revised Code. 62772

(J) The authority granted by this section is in addition to 62773
and not a limitation on any other authorizations granted by or 62774
pursuant to law for the same or similar purposes. 62775

Sec. 3317.19. (A) As used in this section, "total unit allowance" means an amount equal to the sum of the following:

(1) The total of the salary allowances for the teachers employed in the cooperative education school district for all units approved under division (B) or (C) of section 3317.05 of the Revised Code. The salary allowance for each unit shall equal the minimum salary for the teacher of the unit calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001.

(2) Fifteen per cent of the total computed under division (A)(1) of this section;

(3) The total of the unit operating allowances for all approved units. The amount of each allowance shall equal one of the following:

(a) Eight thousand twenty-three dollars times the number of units for preschool children with disabilities or fraction thereof approved for the year under division (B) of section 3317.05 of the Revised Code;

(b) Two thousand one hundred thirty-two dollars times the number of units or fraction thereof approved for the year under division (C) of section 3317.05 of the Revised Code.

(B) The state board of education shall compute and distribute to each cooperative education school district for each fiscal year an amount equal to the sum of the following:

(1) An amount equal to the total of the amounts credited to the cooperative education school district pursuant to division ~~(K)~~(H) of section 3317.023 of the Revised Code;

(2) The total unit allowance;

(3) An amount for assisting in providing free lunches to

needy children and an amount for assisting needy school districts 62806
in purchasing necessary equipment for food preparation pursuant to 62807
division ~~(H)~~(D) of section 3317.024 of the Revised Code. 62808

(C) If a cooperative education school district has had 62809
additional special education units approved for the year under 62810
division (F)(2) of section 3317.03 of the Revised Code, the 62811
district shall receive an additional amount during the last half 62812
of the fiscal year. For each unit, the additional amount shall 62813
equal fifty per cent of the amount computed under division (A) of 62814
this section for a unit approved under division (B) of section 62815
3317.05 of the Revised Code. 62816

Sec. 3317.20. This section does not apply to preschool 62817
children with disabilities. 62818

(A) As used in this section: 62819

(1) "Applicable weight" means the multiple specified in 62820
section ~~3306.11~~ 3317.013 of the Revised Code for a disability 62821
described in that section. 62822

(2) "Child's school district" means the school district in 62823
which a child is entitled to attend school pursuant to section 62824
3313.64 or 3313.65 of the Revised Code. 62825

(3) "State share percentage" means the state share percentage 62826
of the child's school district. 62827

(B) Except as provided in division (C) of this section, the 62828
department shall annually pay each county DD board for each child 62829
with a disability, other than a preschool child with a disability, 62830
for whom the county DD board provides special education and 62831
related services an amount equal to the formula amount + (state 62832
share percentage X formula amount X the applicable weight). 62833

(C) If any school district places with a county DD board more 62834
children with disabilities than it had placed with a county DD 62835

board in fiscal year 1998, the department shall not make a payment 62836
under division (B) of this section for the number of children 62837
exceeding the number placed in fiscal year 1998. The department 62838
instead shall deduct from the district's payments under this 62839
chapter ~~and Chapter 3306. of the Revised Code~~, and pay to the 62840
county DD board, an amount calculated in accordance with the 62841
formula prescribed in division (B) of this section for each child 62842
over the number of children placed in fiscal year 1998. 62843

(D) The department shall calculate for each county DD board 62844
receiving payments under divisions (B) and (C) of this section the 62845
following amounts: 62846

(1) The amount received by the county DD board for approved 62847
special education and related services units, other than units for 62848
preschool children with disabilities, in fiscal year 1998, divided 62849
by the total number of children served in the units that year; 62850

(2) The product of the quotient calculated under division 62851
(D)(1) of this section times the number of children for whom 62852
payments are made under divisions (B) and (C) of this section. 62853

If the amount calculated under division (D)(2) of this 62854
section is greater than the total amount calculated under 62855
divisions (B) and (C) of this section, the department shall pay 62856
the county DD board one hundred per cent of the difference in 62857
addition to the payments under divisions (B) and (C) of this 62858
section. 62859

(E) Each county DD board shall report to the department, in 62860
the manner specified by the department, the name of each child for 62861
whom the county DD board provides special education and related 62862
services and the child's school district. 62863

(F)(1) For the purpose of verifying the accuracy of the 62864
payments under this section, the department may request from 62865
either of the following entities the data verification code 62866

assigned under division (D)(2) of section 3301.0714 of the Revised Code to any child who is placed with a county DD board: 62867
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(a) The child's school district; 62869

(b) The independent contractor engaged to create and maintain data verification codes. 62870
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(2) Upon a request by the department under division (F)(1) of this section for the data verification code of a child, the child's school district shall submit that code to the department in the manner specified by the department. If the child has not been assigned a code, the district shall assign a code to that child and submit the code to the department by a date specified by the department. If the district does not assign a code to the child by the specified date, the department shall assign a code to the child. 62872
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The department annually shall submit to each school district the name and data verification code of each child residing in the district for whom the department has assigned a code under this division. 62881
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(3) The department shall not release any data verification code that it receives under division (F) of this section to any person except as provided by law. 62885
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(G) Any document relative to special education and related services provided by a county DD board that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code. 62888
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Sec. 3317.201. This section does not apply to preschool children with disabilities. 62894
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(A) As used in this section, the "total special education 62896

weight" for an institution means the sum of the following amounts: 62897

(1) The number of children reported by the institution under 62898
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 62899
receiving services for a disability described in division 62900
~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 62901
multiplied by the multiple specified in that division; 62902

(2) The number of children reported by the institution under 62903
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 62904
receiving services for a disability described in division 62905
~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 62906
multiplied by the multiple specified in that division; 62907

(3) The number of children reported by the institution under 62908
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 62909
receiving services for a disability described in division 62910
~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 62911
multiplied by the multiple specified in that division; 62912

(4) The number of children reported by the institution under 62913
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 62914
receiving services for a disability described in division (D)~~(4)~~ 62915
of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the 62916
multiple specified in that division; 62917

(5) The number of children reported by the institution under 62918
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 62919
receiving services for a disability described in division 62920
~~(D)(5)(E)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 62921
multiplied by the multiple specified in that division; 62922

(6) The number of children reported by the institution under 62923
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 62924
receiving services for a disability described in division 62925
~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 62926
multiplied by the multiple specified in that division. 62927

(B) For each fiscal year, the department of education shall pay each state institution required to provide special education services under division (A) of section 3323.091 of the Revised Code an amount equal to the greater of:

(1) The formula amount times the institution's total special education weight;

(2) The aggregate amount of special education and related services unit funding the institution received for all children with disabilities other than preschool children with disabilities in fiscal year 2005 under sections 3317.052 and 3317.053 of the Revised Code, as those sections existed prior to June 30, 2005.

Sec. 3318.011. For purposes of providing assistance under sections 3318.01 to 3318.20 of the Revised Code, the department of education shall annually do all of the following:

(A) Calculate the adjusted valuation per pupil of each city, local, and exempted village school district according to the following formula:

The district's valuation per pupil -
[\$30,000 X (1 - the district's income factor)].

For purposes of this calculation:

(1) Except for a district with an open enrollment net gain that is ten per cent or more of its formula ADM, "valuation per pupil" for a district means its average taxable value, divided by its formula ADM for the previous fiscal year. "Valuation per pupil," for a district with an open enrollment net gain that is ten per cent or more of its formula ADM, means its average taxable value, divided by the sum of its formula ADM for the previous fiscal year plus its open enrollment net gain for the previous fiscal year.

(2) ~~Average~~ Except for a tangible personal property

phase-out impacted district, "average taxable value" means the 62958
average of the sum of the amounts certified for a district under 62959
divisions (A)(1) and (2) of section 3317.021 of the Revised Code 62960
in the second, third, and fourth preceding fiscal years. For a 62961
tangible personal property phase-out impacted district, "average 62962
taxable value" means the average of the sum of the amounts 62963
certified for the district under division (A)(1) and as public 62964
utility personal property under division (A)(2) of section 62965
3317.021 of the Revised Code in the second, third, and fourth 62966
preceding fiscal years. 62967

(3) "Entitled to attend school" means entitled to attend 62968
school in a city, local, or exempted village school district under 62969
section 3313.64 or 3313.65 of the Revised Code. 62970

(4) "Formula ADM" and "income factor" have the same meanings 62971
as in section 3317.02 of the Revised Code. 62972

(5) "Native student" has the same meaning as in section 62973
3313.98 of the Revised Code. 62974

(6) "Open enrollment net gain" for a district means (a) the 62975
number of the students entitled to attend school in another 62976
district but who are enrolled in the schools of the district under 62977
its open enrollment policy minus (b) the number of the district's 62978
native students who are enrolled in the schools of another 62979
district under the other district's open enrollment policy, both 62980
numbers as certified to the department under section 3313.981 of 62981
the Revised Code. If the difference is a negative number, the 62982
district's "open enrollment net gain" is zero. 62983

(7) "Open enrollment policy" means an interdistrict open 62984
enrollment policy adopted under section 3313.98 of the Revised 62985
Code. 62986

(8) "Tangible personal property phase-out impacted district" 62987
means a school district for which the taxable value of its 62988

tangible personal property certified under division (A)(2) of 62989
section 3317.021 of the Revised Code for tax year 2005, excluding 62990
the taxable value of public utility personal property, made up 62991
eighteen per cent or more of its total taxable value for tax year 62992
2005 as certified under that section. 62993

(B) Calculate for each district the three-year average of the 62994
adjusted valuations per pupil calculated for the district for the 62995
current and two preceding fiscal years; 62996

(C) Rank all such districts in order of adjusted valuation 62997
per pupil from the district with the lowest three-year average 62998
adjusted valuation per pupil to the district with the highest 62999
three-year average adjusted valuation per pupil; 63000

(D) Divide such ranking into percentiles with the first 63001
percentile containing the one per cent of school districts having 63002
the lowest three-year average adjusted valuations per pupil and 63003
the one-hundredth percentile containing the one per cent of school 63004
districts having the highest three-year average adjusted 63005
valuations per pupil; 63006

(E) Determine the school districts that have three-year 63007
average adjusted valuations per pupil that are greater than the 63008
median three-year average adjusted valuation per pupil for all 63009
school districts in the state; 63010

(F) On or before the first day of September, certify the 63011
information described in divisions (A) to (E) of this section to 63012
the Ohio school facilities commission. 63013

Sec. 3318.032. (A) Except as otherwise provided in divisions 63014
(C) and (D) of this section, the portion of the basic project cost 63015
supplied by the school district shall be the greater of: 63016

(1) The required percentage of the basic project costs; 63017

(2)(a) For all districts except a district that opts to 63018

divide its entire classroom facilities needs into segments to be 63019
completed separately as authorized by section 3318.034 of the 63020
Revised Code, an amount necessary to raise the school district's 63021
net bonded indebtedness, as of the date the controlling board 63022
approved the project, to within five thousand dollars of the 63023
required level of indebtedness; 63024

(b) For a district that opts to divide its entire classroom 63025
facilities needs into segments to be completed separately as 63026
authorized by section 3318.034 of the Revised Code, an amount 63027
necessary to raise the school district's net bonded indebtedness, 63028
as of the date the controlling board approved the project, to 63029
within five thousand dollars of the following: 63030

The required level of indebtedness X (the basic 63031
project cost of the segment as approved 63032
by the controlling board / the estimated basic 63033
project cost of the district's entire classroom facilities 63034
needs as determined jointly by the staff of the Ohio 63035
school facilities commission and the district) 63036

(B) The amount of the district's share determined under this 63037
section shall be calculated only as of the date the controlling 63038
board approved the project, and that amount applies throughout the 63039
~~one-year~~ thirteen-month period permitted under section 3318.05 of 63040
the Revised Code for the district's electors to approve the 63041
propositions described in that section. If the amount reserved and 63042
encumbered for a project is released because the electors do not 63043
approve those propositions within that ~~year~~ period, and the school 63044
district later receives the controlling board's approval for the 63045
project, subject to a new project scope and estimated costs under 63046
section 3318.054 of the Revised Code, the district's portion shall 63047
be recalculated in accordance with this section as of the date of 63048
the controlling board's subsequent approval. 63049

(C) At no time shall a school district's portion of the basic 63050

project cost be greater than ninety-five per cent of the total 63051
basic project cost. 63052

(D) If the controlling board approves a project under 63053
sections 3318.01 to 3318.20 of the Revised Code for a school 63054
district that previously received assistance under those sections 63055
or section 3318.37 of the Revised Code within the twenty-year 63056
period prior to the date on which the controlling board approves 63057
the new project, the district's portion of the basic project cost 63058
for the new project shall be the lesser of the following: 63059

(1) The portion calculated under division (A) of this 63060
section; 63061

(2) The greater of the following: 63062

(a) The required percentage of the basic project costs for 63063
the new project; 63064

(b) The percentage of the basic project cost paid by the 63065
district for the previous project. 63066

Sec. 3318.034. (A) This section applies to both of the 63067
following: 63068

(1) Any school district that has not executed an agreement 63069
for a project under sections 3318.01 to 3318.20 of the Revised 63070
Code prior to ~~the effective date of this section~~ June 24, 2008; 63071

(2) Any school district that is eligible for additional 63072
assistance under sections 3318.01 to 3318.20 of the Revised Code 63073
pursuant to division (B)(2) of section 3318.04 of the Revised 63074
Code. 63075

Notwithstanding any provision of this chapter to the 63076
contrary, with the approval of the Ohio school facilities 63077
commission, any school district to which this section applies may 63078
opt to divide the district's entire classroom facilities needs, as 63079
those needs are jointly determined by the staff of the commission 63080

and the school district, into discrete segments and shall comply 63081
with all of the provisions of those sections unless otherwise 63082
provided in this section. 63083

(B) ~~Each~~ Except as provided in division (C) of this section, 63084
each segment shall comply with all of the following: 63085

(1) The segment shall consist of the new construction of one 63086
or more entire buildings or the complete renovation of one or more 63087
entire existing buildings, with any necessary additions to that 63088
building. 63089

(2) The segment shall not include any construction of or 63090
renovation or repair to any building that does not complete the 63091
needs of the district with respect to that particular building at 63092
the time the segment is completed. 63093

(3) The segment shall consist of new construction, 63094
renovations, additions, reconstruction, or repair of classroom 63095
facilities to the extent that the school district portion, as 63096
determined under section 3318.032 of the Revised Code, is an 63097
amount not less than the product of 0.040 times the district's 63098
valuation at the time the agreement for the segment is executed, 63099
unless the district previously has undertaken a segment under this 63100
section and the district's portion of the estimated basic project 63101
cost of the remainder of its entire classroom facilities needs, as 63102
determined jointly by the staff of the commission and the 63103
district, is less than the amount otherwise required by this 63104
division. 63105

(C) A district described in division (A)(2) of this section 63106
that has not received the additional assistance authorized under 63107
division (B)(2) of section 3318.04 of the Revised Code may 63108
undertake a segment, with commission approval, for the purpose of 63109
renovating or replacing work performed on a facility under the 63110
district's prior project. The commission may approve that segment 63111

if the commission determines that the renovation or replacement is necessary to protect the facility. The basic project cost of the segment shall be allocated between the state and the district in accordance with section 3318.032 of the Revised Code. However, the requirements of division (B) of this section shall not apply to a segment undertaken under this division.

(D) The commission shall conditionally approve and seek controlling board approval in accordance with division (A) of section 3318.04 of the Revised Code of each segment.

~~(D)~~(E) The school district's maintenance levy requirement, as defined in section 3318.18 of the Revised Code, shall run for twenty-three years from the date the first segment is undertaken; however, the maintenance levy requirement does not apply to a segment undertaken under division (C) of this section.

Sec. 3318.05. The conditional approval of the Ohio school facilities commission for a project shall lapse and the amount reserved and encumbered for such project shall be released unless the school district board accepts such conditional approval within one hundred twenty days following the date of certification of the conditional approval to the school district board and the electors of the school district vote favorably on both of the propositions described in divisions (A) and (B) of this section within ~~one year~~ thirteen months of the date of such certification, except that a school district described in division (C) of this section does not need to submit the proposition described in division (B) of this section. The propositions described in divisions (A) and (B) of this section shall be combined in a single proposal. If the district board or the district's electors fail to meet such requirements and the amount reserved and encumbered for the district's project is released, the district shall be given first priority for project funding as such funds become available.

subject to section 3318.054 of the Revised Code. 63143

(A) On the question of issuing bonds of the school district 63144
board, for the school district's portion of the basic project 63145
cost, in an amount equal to the school district's portion of the 63146
basic project cost less the amount of the proceeds of any 63147
securities authorized or to be authorized under division (J) of 63148
section 133.06 of the Revised Code and dedicated by the school 63149
district board to payment of the district's portion of the basic 63150
project cost; and 63151

(B) On the question of levying a tax the proceeds of which 63152
shall be used to pay the cost of maintaining the classroom 63153
facilities included in the project. Such tax shall be at the rate 63154
of not less than one-half mill for each dollar of valuation for a 63155
period of twenty-three years, subject to any extension approved 63156
under section 3318.061 of the Revised Code. 63157

(C) If a school district has in place a tax levied under 63158
section 5705.21 of the Revised Code for general permanent 63159
improvements for a continuing period of time and the proceeds of 63160
such tax can be used for maintenance, or if a district agrees to 63161
the transfers described in section 3318.051 of the Revised Code, 63162
the school district need not levy the additional tax required 63163
under division (B) of this section, provided the school district 63164
board includes in the agreement entered into under section 3318.08 63165
of the Revised Code provisions either: 63166

(1) Earmarking an amount from the proceeds of that permanent 63167
improvement tax for maintenance of classroom facilities equivalent 63168
to the amount of the additional tax and for the equivalent number 63169
of years otherwise required under this section; 63170

(2) Requiring the transfer of money in accordance with 63171
section 3318.051 of the Revised Code. 63172

The district board subsequently may rescind the agreement to 63173

make the transfers under section 3318.051 of the Revised Code only 63174
so long as the electors of the district have approved, in 63175
accordance with section 3318.063 of the Revised Code, the levy of 63176
a tax for the maintenance of the classroom facilities acquired 63177
under the district's project and that levy continues to be 63178
collected as approved by the electors. 63179

(D) Proceeds of the tax to be used for maintenance of the 63180
classroom facilities under either division (B) or (C)(1) of this 63181
section, and transfers of money in accordance with section 63182
3318.051 of the Revised Code shall be deposited into a separate 63183
fund established by the school district for such purpose. 63184

Sec. 3318.051. (A) Any city, exempted village, or local 63185
school district that commences a project under sections 3318.01 to 63186
3318.20, 3318.36, 3318.37, or 3318.38 of the Revised Code on or 63187
after September 5, 2006, need not levy the tax otherwise required 63188
under division (B) of section 3318.05 of the Revised Code, if the 63189
district board of education adopts a resolution petitioning the 63190
Ohio school facilities commission to approve the transfer of money 63191
in accordance with this section and the commission approves that 63192
transfer. If so approved, the commission and the district board 63193
shall enter into an agreement under which the board, in each of 63194
twenty-three consecutive years beginning in the year in which the 63195
board and the commission enter into the project agreement under 63196
section 3318.08 of the Revised Code, shall transfer into the 63197
maintenance fund required by division (D) of section 3318.05 of 63198
the Revised Code not less than an amount equal to one-half mill 63199
for each dollar of the district's valuation unless and until the 63200
agreement to make those transfers is rescinded by the district 63201
board pursuant to division (F) of this section. 63202

(B) On the first day of July each year, or on an alternative 63203
date prescribed by the commission, the district treasurer shall 63204

certify to the commission and the auditor of state that the amount 63205
required for the year has been transferred. The auditor of state 63206
shall include verification of the transfer as part of any audit of 63207
the district under section 117.11 of the Revised Code. If the 63208
auditor of state finds that less than the required amount has been 63209
deposited into a district's maintenance fund, the auditor of state 63210
shall notify the district board of education in writing of that 63211
fact and require the board to deposit into the fund, within ninety 63212
days after the date of the notice, the amount by which the fund is 63213
deficient for the year. If the district board fails to demonstrate 63214
to the auditor of state's satisfaction that the board has made the 63215
deposit required in the notice, the auditor of state shall notify 63216
the department of education. At that time, the department shall 63217
withhold an amount equal to ten per cent of the district's funds 63218
calculated for the current fiscal year under ~~Chapters 3306.~~ and 63219
Chapter 3317. of the Revised Code until the auditor of state 63220
notifies the department that the auditor of state is satisfied 63221
that the board has made the required transfer. 63222

(C) Money transferred to the maintenance fund shall be used 63223
for the maintenance of the facilities acquired under the 63224
district's project. 63225

(D) The transfers to the maintenance fund under this section 63226
does not affect a district's obligation to establish and maintain 63227
a capital and maintenance fund under section 3315.18 of the 63228
Revised Code. 63229

(E) Any decision by the commission to approve or not approve 63230
the transfer of money under this section is final and not subject 63231
to appeal. The commission shall not be responsible for errors or 63232
miscalculations made in deciding whether to approve a petition to 63233
make transfers under this section. 63234

(F) If the district board determines that it no longer can 63235
continue making the transfers agreed to under this section, the 63236

board may rescind the agreement only so long as the electors of 63237
the district have approved, in accordance with section 3318.063 of 63238
the Revised Code, the levy of a tax for the maintenance of the 63239
classroom facilities acquired under the district's project and 63240
that levy continues to be collected as approved by the electors. 63241
That levy shall be for a number of years that is equal to the 63242
difference between twenty-three years and the number of years that 63243
the district made transfers under this section and shall be at the 63244
rate of not less than one-half mill for each dollar of the 63245
district's valuation. The district board shall continue to make 63246
the transfers agreed to under this section until that levy has 63247
been approved by the electors. 63248

Sec. 3318.054. (A) If conditional approval of a city, 63249
exempted village, or local school district's project lapses as 63250
provided in section 3318.05 of the Revised Code, or if conditional 63251
approval of a joint vocational school district's project lapses as 63252
provided in division (D) of section 3318.41 of the Revised Code, 63253
because the district's electors have not approved the ballot 63254
measures necessary to generate the district's portion of the basic 63255
project cost, and if the district board desires to seek a new 63256
conditional approval of the project, the district board shall 63257
request that the Ohio school facilities commission set the scope, 63258
basic project cost, and school district portion of the basic 63259
project cost prior to resubmitting the ballot measures to the 63260
electors. To do so, the commission shall use the district's 63261
current assessed tax valuation and the district's percentile for 63262
the prior fiscal year. For a district that has entered into an 63263
agreement under section 3318.36 of the Revised Code and desires to 63264
proceed with a project under sections 3318.01 to 3318.20 of the 63265
Revised Code, the district's portion of the basic project cost 63266
shall be the percentage specified in that agreement. The project 63267
scope and basic costs established under this division shall be 63268

valid for one year from the date the commission approves them. 63269

(B) Upon the commission's approval under division (A) of this section, the district board may submit the ballot measures to the district's electors for approval of the project based on the new project scope and estimated costs. Upon electoral approval of those measures, the district shall be given first priority for project funding as such funds become available. 63270
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(C) When the commission determines that funds are available for the district's project, the commission shall do all of the following: 63276
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(1) Determine the school district portion of the basic project cost under section 3318.032 of the Revised Code, in the case of a city, exempted village, or local school district, or under section 3318.42 of the Revised Code, in the case of a joint vocational school district; 63279
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(2) Conditionally approve the project and submit it to the controlling board for approval pursuant to section 3318.04 of the Revised Code; 63284
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(3) Encumber funds for the project under section 3318.11 of the Revised Code; 63287
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(4) Enter into an agreement with the district board under section 3318.08 of the Revised Code. 63289
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Sec. 3318.08. Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of 63291
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either the results of the election or the resolution under section 63299
3318.052 of the Revised Code, shall enter into a written agreement 63300
with the school district board for the construction and sale of 63301
the project. In the case of a joint vocational school district 63302
that receives assistance under sections 3318.40 to 3318.45 of the 63303
Revised Code, if the school district board of education and the 63304
school district electors have satisfied the conditions prescribed 63305
in division (D)(1) of section 3318.41 of the Revised Code, the 63306
commission shall enter into an agreement with the school district 63307
board for the construction and sale of the project. In either 63308
case, the agreement shall include, but need not be limited to, the 63309
following provisions: 63310

(A) The sale and issuance of bonds or notes in anticipation 63311
thereof, as soon as practicable after the execution of the 63312
agreement, in an amount equal to the school district's portion of 63313
the basic project cost, including any securities authorized under 63314
division (J) of section 133.06 of the Revised Code and dedicated 63315
by the school district board to payment of the district's portion 63316
of the basic project cost of the project; provided, that if at 63317
that time the county treasurer of each county in which the school 63318
district is located has not commenced the collection of taxes on 63319
the general duplicate of real and public utility property for the 63320
year in which the controlling board approved the project, the 63321
school district board shall authorize the issuance of a first 63322
installment of bond anticipation notes in an amount specified by 63323
the agreement, which amount shall not exceed an amount necessary 63324
to raise the net bonded indebtedness of the school district as of 63325
the date of the controlling board's approval to within five 63326
thousand dollars of the required level of indebtedness for the 63327
preceding year. In the event that a first installment of bond 63328
anticipation notes is issued, the school district board shall, as 63329
soon as practicable after the county treasurer of each county in 63330
which the school district is located has commenced the collection 63331

of taxes on the general duplicate of real and public utility 63332
property for the year in which the controlling board approved the 63333
project, authorize the issuance of a second and final installment 63334
of bond anticipation notes or a first and final issue of bonds. 63335

The combined value of the first and second installment of 63336
bond anticipation notes or the value of the first and final issue 63337
of bonds shall be equal to the school district's portion of the 63338
basic project cost. The proceeds of any such bonds shall be used 63339
first to retire any bond anticipation notes. Otherwise, the 63340
proceeds of such bonds and of any bond anticipation notes, except 63341
the premium and accrued interest thereon, shall be deposited in 63342
the school district's project construction fund. In determining 63343
the amount of net bonded indebtedness for the purpose of fixing 63344
the amount of an issue of either bonds or bond anticipation notes, 63345
gross indebtedness shall be reduced by moneys in the bond 63346
retirement fund only to the extent of the moneys therein on the 63347
first day of the year preceding the year in which the controlling 63348
board approved the project. Should there be a decrease in the tax 63349
valuation of the school district so that the amount of 63350
indebtedness that can be incurred on the tax duplicates for the 63351
year in which the controlling board approved the project is less 63352
than the amount of the first installment of bond anticipation 63353
notes, there shall be paid from the school district's project 63354
construction fund to the school district's bond retirement fund to 63355
be applied against such notes an amount sufficient to cause the 63356
net bonded indebtedness of the school district, as of the first 63357
day of the year following the year in which the controlling board 63358
approved the project, to be within five thousand dollars of the 63359
required level of indebtedness for the year in which the 63360
controlling board approved the project. The maximum amount of 63361
indebtedness to be incurred by any school district board as its 63362
share of the cost of the project is either an amount that will 63363
cause its net bonded indebtedness, as of the first day of the year 63364

following the year in which the controlling board approved the 63365
project, to be within five thousand dollars of the required level 63366
of indebtedness, or an amount equal to the required percentage of 63367
the basic project costs, whichever is greater. All bonds and bond 63368
anticipation notes shall be issued in accordance with Chapter 133. 63369
of the Revised Code, and notes may be renewed as provided in 63370
section 133.22 of the Revised Code. 63371

(B) The transfer of such funds of the school district board 63372
available for the project, together with the proceeds of the sale 63373
of the bonds or notes, except premium, accrued interest, and 63374
interest included in the amount of the issue, to the school 63375
district's project construction fund; 63376

(C) For all school districts except joint vocational school 63377
districts that receive assistance under sections 3318.40 to 63378
3318.45 of the Revised Code, the following provisions as 63379
applicable: 63380

(1) If section 3318.052 of the Revised Code applies, the 63381
earmarking of the proceeds of a tax levied under section 5705.21 63382
of the Revised Code for general permanent improvements or under 63383
section 5705.218 of the Revised Code for the purpose of permanent 63384
improvements, or the proceeds of a school district income tax 63385
levied under Chapter 5748. of the Revised Code, or the proceeds 63386
from a combination of those two taxes, in an amount to pay all or 63387
part of the service charges on bonds issued to pay the school 63388
district portion of the project and an amount equivalent to all or 63389
part of the tax required under division (B) of section 3318.05 of 63390
the Revised Code; 63391

(2) If section 3318.052 of the Revised Code does not apply, 63392
one of the following: 63393

(a) The levy of the tax authorized at the election for the 63394
payment of maintenance costs, as specified in division (B) of 63395

section 3318.05 of the Revised Code; 63396

(b) If the school district electors have approved a 63397
continuing tax for general permanent improvements under section 63398
5705.21 of the Revised Code and that tax can be used for 63399
maintenance, the earmarking of an amount of the proceeds from such 63400
tax for maintenance of classroom facilities as specified in 63401
division (B) of section 3318.05 of the Revised Code; 63402

(c) If, in lieu of the tax otherwise required under division 63403
(B) of section 3318.05 of the Revised Code, the commission has 63404
approved the transfer of money to the maintenance fund in 63405
accordance with section 3318.051 of the Revised Code, a 63406
requirement that the district board comply with the provisions 63407
that section. The district board may rescind the provision 63408
prescribed under division (C)(2)(c) of this section only so long 63409
as the electors of the district have approved, in accordance with 63410
section 3318.063 of the Revised Code, the levy of a tax for the 63411
maintenance of the classroom facilities acquired under the 63412
district's project and that levy continues to be collected as 63413
approved by the electors. 63414

(D) For joint vocational school districts that receive 63415
assistance under sections 3318.40 to 3318.45 of the Revised Code, 63416
provision for deposit of school district moneys dedicated to 63417
maintenance of the classroom facilities acquired under those 63418
sections as prescribed in section 3318.43 of the Revised Code; 63419

(E) Dedication of any local donated contribution as provided 63420
for under section 3318.084 of the Revised Code, including a 63421
schedule for depositing such moneys applied as an offset of the 63422
district's obligation to levy the tax described in division (B) of 63423
section 3318.05 of the Revised Code as required under division 63424
(D)(2) of section 3318.084 of the Revised Code; 63425

(F) Ownership of or interest in the project during the period 63426

of construction, which shall be divided between the commission and 63427
the school district board in proportion to their respective 63428
contributions to the school district's project construction fund; 63429

(G) Maintenance of the state's interest in the project until 63430
any obligations issued for the project under section 3318.26 of 63431
the Revised Code are no longer outstanding; 63432

(H) The insurance of the project by the school district from 63433
the time there is an insurable interest therein and so long as the 63434
state retains any ownership or interest in the project pursuant to 63435
division (F) of this section, in such amounts and against such 63436
risks as the commission shall require; provided, that the cost of 63437
any required insurance until the project is completed shall be a 63438
part of the basic project cost; 63439

(I) The certification by the director of budget and 63440
management that funds are available and have been set aside to 63441
meet the state's share of the basic project cost as approved by 63442
the controlling board pursuant to either section 3318.04 or 63443
division (B)(1) of section 3318.41 of the Revised Code; 63444

(J) Authorization of the school district board to advertise 63445
for and receive construction bids for the project, for and on 63446
behalf of the commission, and to award contracts in the name of 63447
the state subject to approval by the commission; 63448

(K) Provisions for the disbursement of moneys from the school 63449
district's project account upon issuance by the commission or the 63450
commission's designated representative of vouchers for work done 63451
to be certified to the commission by the treasurer of the school 63452
district board; 63453

(L) Disposal of any balance left in the school district's 63454
project construction fund upon completion of the project; 63455

(M) Limitations upon use of the project or any part of it so 63456
long as any obligations issued to finance the project under 63457

section 3318.26 of the Revised Code are outstanding; 63458

(N) Provision for vesting the state's interest in the project 63459
to the school district board when the obligations issued to 63460
finance the project under section 3318.26 of the Revised Code are 63461
outstanding; 63462

(O) Provision for deposit of an executed copy of the 63463
agreement in the office of the commission; 63464

(P) Provision for termination of the contract and release of 63465
the funds encumbered at the time of the conditional approval, if 63466
the proceeds of the sale of the bonds of the school district board 63467
are not paid into the school district's project construction fund 63468
and if bids for the construction of the project have not been 63469
taken within such period after the execution of the agreement as 63470
may be fixed by the commission; 63471

(Q) Provision for the school district to maintain the project 63472
in accordance with a plan approved by the commission; 63473

~~(R)(1) For all school districts except a district undertaking 63474
a project under section 3318.38 of the Revised Code or a joint 63475
vocational school district undertaking a project under sections 63476
3318.40 to 3318.45 of the Revised Code, provision Provision that 63477
all state funds reserved and encumbered to pay the state share of 63478
the cost of the project pursuant to section 3318.03 of the Revised 63479
Code be spent on the construction or acquisition of the project 63480
prior to the expenditure of any and the funds provided by the 63481
school district to pay for its share of the project cost, ~~unless~~ 63482
including the respective shares of the cost of a segment if the 63483
project is divided into segments, be spent on the construction and 63484
acquisition of the project or segment simultaneously in proportion 63485
to the state's and the school district's respective shares of that 63486
basic project cost as determined under section 3318.032 of the 63487
Revised Code or, if the district is a joint vocational school 63488~~

district, under section 3318.42 of the Revised Code. However, if 63489
the school district certifies to the commission that expenditure 63490
by the school district is necessary to maintain the federal tax 63491
status or tax-exempt status of notes or bonds issued by the school 63492
district to pay for its share of the project cost or to comply 63493
with applicable temporary investment periods or spending 63494
exceptions to rebate as provided for under federal law in regard 63495
to those notes or bonds, ~~in which cases,~~ the school district may 63496
commit to spend, or spend, a greater portion of the funds it 63497
provides; 63498

~~(2) For a school district undertaking a project under section 63499
3318.38 of the Revised Code or a joint vocational school district 63500
undertaking a project under sections 3318.40 to 3318.45 of the 63501
Revised Code, provision that the state funds reserved and 63502
encumbered and the funds provided by the school district to pay 63503
the basic project cost of any segment of the project, or of the 63504
entire project if it is not divided into segments, be spent on the 63505
construction and acquisition of the project simultaneously in 63506
proportion to the state's and the school district's respective 63507
shares of that basic project cost as determined under section 63508
3318.032 of the Revised Code or, if the district is a joint 63509
vocational school district, under section 3318.42 of the Revised 63510
Code during any specific period than would otherwise be required 63511
under this division. 63512~~

(S) A provision stipulating that the commission may prohibit 63513
the district from proceeding with any project if the commission 63514
determines that the site is not suitable for construction 63515
purposes. The commission may perform soil tests in its 63516
determination of whether a site is appropriate for construction 63517
purposes. 63518

(T) A provision stipulating that, unless otherwise authorized 63519
by the commission, any contingency reserve portion of the 63520

construction budget prescribed by the commission shall be used 63521
only to pay costs resulting from unforeseen job conditions, to 63522
comply with rulings regarding building and other codes, to pay 63523
costs related to design clarifications or corrections to contract 63524
documents, and to pay the costs of settlements or judgments 63525
related to the project as provided under section 3318.086 of the 63526
Revised Code; 63527

(U) Provision stipulating that for continued release of 63528
project funds the school district board shall comply with section 63529
3313.41 of the Revised Code throughout the project and shall 63530
notify the department of education and the Ohio community school 63531
association when the board plans to dispose of facilities by sale 63532
under that section; 63533

(V) Provision that the commission shall not approve a 63534
contract for demolition of a facility until the school district 63535
board has complied with section 3313.41 of the Revised Code 63536
relative to that facility, unless demolition of that facility is 63537
to clear a site for construction of a replacement facility 63538
included in the district's project. 63539

Sec. 3318.12. (A) The Ohio school facilities commission shall 63540
cause to be transferred to the school district's project 63541
construction fund the necessary amounts from amounts appropriated 63542
by the general assembly and set aside for such purpose, from time 63543
to time as may be necessary to pay obligations chargeable to such 63544
fund when due. All investment earnings of a school district's 63545
project construction fund shall be credited to the fund. 63546

(B)(1) The treasurer of the school district board shall 63547
disburse funds from the school district's project construction 63548
fund, including investment earnings credited to the fund, only 63549
upon the approval of the commission or the commission's designated 63550
representative. The commission or the commission's designated 63551

representative shall issue vouchers against such fund, in such 63552
amounts, and at such times as required by the contracts for 63553
construction of the project. 63554

(2) Notwithstanding anything to the contrary in division 63555
(B)(1) of this section, the school district board may, by a duly 63556
adopted resolution, choose to use all or part of the investment 63557
earnings of the district's project construction fund that are 63558
attributable to the district's contribution to the fund to pay the 63559
cost of classroom facilities or portions or components of 63560
classroom facilities that are not included in the district's basic 63561
project cost but that are related to the district's project. If 63562
the district board adopts a resolution in favor of using those 63563
investment earnings as authorized under division (B)(2) of this 63564
section, the treasurer shall disburse the amount as designated and 63565
directed by the board. However, if the district board chooses to 63566
use any part of the investment earnings for classroom facilities 63567
or portions or components of classroom facilities that are not 63568
included in the basic project cost, as authorized under division 63569
(B)(2) of this section, and, subsequently, the cost of the project 63570
exceeds the amount in the project construction fund, the district 63571
board shall restore to the project construction fund the full 63572
amount of the investment earnings used under division (B)(2) of 63573
this section before any additional state moneys shall be released 63574
for the project. 63575

(C) After ~~the~~ a certificate of completion has been issued for 63576
a project has been completed under section 3318.48 of the Revised 63577
Code: 63578

(1) At the discretion of the school district board, any 63579
investment earnings remaining in the project construction fund 63580
that are attributable to the school district's contribution to the 63581
fund shall be: 63582

(a) Retained in the project construction fund for future 63583

projects; 63584

(b) Transferred to the district's maintenance fund required 63585
by division (B) of section 3318.05 or section 3318.43 of the 63586
Revised Code, and the money so transferred shall be used solely 63587
for maintaining the classroom facilities included in the project; 63588

(c) Transferred to the district's permanent improvement fund. 63589

(2) Any investment earnings remaining in the project 63590
construction fund that are attributable to the state's 63591
contribution to the fund shall be transferred to the commission 63592
for expenditure pursuant to sections 3318.01 to 3318.20 or 63593
sections 3318.40 to 3318.45 of the Revised Code. 63594

(3) Any other surplus remaining in the school district's 63595
project construction fund ~~after the project has been completed~~ 63596
shall be transferred to the commission and the school district 63597
board in proportion to their respective contributions to the fund. 63598
The commission shall use the money transferred to it under this 63599
division for expenditure pursuant to sections 3318.01 to 3318.20 63600
or sections 3318.40 to 3318.45 of the Revised Code. 63601

(D) Pursuant to appropriations of the general assembly, any 63602
moneys transferred to the commission under division (C)(2) or (3) 63603
of this section from a project construction fund for a project 63604
under sections 3318.40 to 3318.45 of the Revised Code may be used 63605
for future expenditures for projects under sections 3318.40 to 63606
3318.45 of the Revised Code, notwithstanding the two per cent 63607
annual limit specified in division (B) of section 3318.40 of the 63608
Revised Code. 63609

Sec. 3318.31. (A) The Ohio school facilities commission may 63610
perform any act and ensure the performance of any function 63611
necessary or appropriate to carry out the purposes of, and 63612
exercise the powers granted under, Chapter 3318. of the Revised 63613

Code, including any of the following: 63614

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 63615
the Revised Code, rules for the administration of programs 63616
authorized under Chapter 3318. of the Revised Code. 63617

(2) Contract with, retain the services of, or designate, and 63618
fix the compensation of, such agents, accountants, consultants, 63619
advisers, and other independent contractors as may be necessary or 63620
desirable to carry out the programs authorized under Chapter 3318. 63621
of the Revised Code, or authorize the executive director to 63622
perform such powers and duties. 63623

(3) Receive and accept any gifts, grants, donations, and 63624
pledges, and receipts therefrom, to be used for the programs 63625
authorized under Chapter 3318. of the Revised Code. 63626

(4) Make and enter into all contracts, commitments, and 63627
agreements, and execute all instruments, necessary or incidental 63628
to the performance of its duties and the execution of its rights 63629
and powers under Chapter 3318. of the Revised Code, or authorize 63630
the executive director to perform such powers and duties. 63631

(5) Request the director of administrative services to debar 63632
a contractor as provided in section 153.02 of the Revised Code. 63633

(B) The commission shall appoint and fix the compensation of 63634
an executive director who shall serve at the pleasure of the 63635
commission. The executive director shall supervise the operations 63636
of the commission and perform such other duties as delegated by 63637
the commission. The executive director also shall employ and fix 63638
the compensation of such employees as will facilitate the 63639
activities and purposes of the commission, who shall serve at the 63640
pleasure of the executive director. The employees of the 63641
commission shall be exempt from Chapter 4117. of the Revised Code 63642
and shall not be public employees as defined in section 4117.01 of 63643
the Revised Code. 63644

(C) The attorney general shall serve as the legal 63645
representative for the commission and may appoint other counsel as 63646
necessary for that purpose in accordance with section 109.07 of 63647
the Revised Code. 63648

Sec. 3318.36. (A)(1) As used in this section: 63649

(a) "Ohio school facilities commission," "classroom 63650
facilities," "school district," "school district board," "net 63651
bonded indebtedness," "required percentage of the basic project 63652
costs," "basic project cost," "valuation," and "percentile" have 63653
the same meanings as in section 3318.01 of the Revised Code. 63654

(b) "Required level of indebtedness" means five per cent of 63655
the school district's valuation for the year preceding the year in 63656
which the commission and school district enter into an agreement 63657
under division (B) of this section, plus [two one-hundredths of 63658
one per cent multiplied by (the percentile in which the district 63659
ranks minus one)]. 63660

(c) "Local resources" means any moneys generated in any 63661
manner permitted for a school district board to raise the school 63662
district portion of a project undertaken with assistance under 63663
sections 3318.01 to 3318.20 of the Revised Code. 63664

(d) "Tangible personal property phase-out impacted district" 63665
has the same meaning as in section 3318.11 of the Revised Code. 63666

(2) For purposes of determining the required level of 63667
indebtedness, the required percentage of the basic project costs 63668
under division (C)(1) of this section, and priority for assistance 63669
under sections 3318.01 to 3318.20 of the Revised Code, the 63670
percentile ranking of a school district with which the commission 63671
has entered into an agreement under this section between the first 63672
day of July and the thirty-first day of August in each fiscal year 63673
is the percentile ranking calculated for that district for the 63674

immediately preceding fiscal year, and the percentile ranking of a 63675
school district with which the commission has entered into such 63676
agreement between the first day of September and the thirtieth day 63677
of June in each fiscal year is the percentile ranking calculated 63678
for that district for the current fiscal year. However, in the 63679
case of a tangible personal property phase-out impacted district, 63680
the district's priority for assistance under sections 3318.01 to 63681
3318.20 of the Revised Code and its portion of the basic project 63682
cost under those sections shall be determined in the manner 63683
prescribed, respectively, in divisions (B)(3)(b) and (E)(1)(b) of 63684
this section. 63685

(B)(1) There is hereby established the school building 63686
assistance expedited local partnership program. Under the program, 63687
the Ohio school facilities commission may enter into an agreement 63688
with the school district board of any school district under which 63689
the school district board may proceed with the new construction or 63690
major repairs of a part of the school district's classroom 63691
facilities needs, as determined under sections 3318.01 to 3318.20 63692
of the Revised Code, through the expenditure of local resources 63693
prior to the school district's eligibility for state assistance 63694
under those sections and may apply that expenditure toward meeting 63695
the school district's portion of the basic project cost of the 63696
total of the school district's classroom facilities needs, as 63697
determined under sections 3318.01 to 3318.20 of the Revised Code 63698
and as recalculated under division (E) of this section, that are 63699
eligible for state assistance under sections 3318.01 to 3318.20 of 63700
the Revised Code when the school district becomes eligible for 63701
that assistance. Any school district that is reasonably expected 63702
to receive assistance under sections 3318.01 to 3318.20 of the 63703
Revised Code within two fiscal years from the date the school 63704
district adopts its resolution under division (B) of this section 63705
shall not be eligible to participate in the program established 63706
under this section. 63707

(2) To participate in the program, a school district board 63708
shall first adopt a resolution certifying to the commission the 63709
board's intent to participate in the program. 63710

The resolution shall specify the approximate date that the 63711
board intends to seek elector approval of any bond or tax measures 63712
or to apply other local resources to use to pay the cost of 63713
classroom facilities to be constructed under this section. The 63714
resolution may specify the application of local resources or 63715
elector-approved bond or tax measures after the resolution is 63716
adopted by the board, and in such case the board may proceed with 63717
a discrete portion of its project under this section as soon as 63718
the commission and the controlling board have approved the basic 63719
project cost of the district's classroom facilities needs as 63720
specified in division (D) of this section. The board shall submit 63721
its resolution to the commission not later than ten days after the 63722
date the resolution is adopted by the board. 63723

The commission shall not consider any resolution that is 63724
submitted pursuant to division (B)(2) of this section, as amended 63725
by this amendment, sooner than September 14, 2000. 63726

(3) For purposes of determining when a district that enters 63727
into an agreement under this section becomes eligible for 63728
assistance under sections 3318.01 to 3318.20 of the Revised Code, 63729
the commission shall use one of the following as applicable: 63730

(a) Except for a tangible personal property phase-out 63731
impacted district, the district's percentile ranking determined at 63732
the time the district entered into the agreement under this 63733
section, as prescribed by division (A)(2) of this section; 63734

(b) For a tangible personal property phase-out impacted 63735
district, the least of (i) the district's percentile ranking 63736
determined at the time the district entered into the agreement 63737
under this section, as prescribed by division (A)(2) of this 63738

section, (ii) the district's current percentile ranking under 63739
section 3318.011 of the Revised Code, or (iii) for a project 63740
approved for fiscal year 2012, the district's percentile ranking 63741
under the alternate equity list prescribed by Section of 63742
H.B. 153 of the 129th general assembly. 63743

(4) Any project under this section shall comply with section 63744
3318.03 of the Revised Code and with any specifications for plans 63745
and materials for classroom facilities adopted by the commission 63746
under section 3318.04 of the Revised Code. 63747

(5) If a school district that enters into an agreement under 63748
this section has not begun a project applying local resources as 63749
provided for under that agreement at the time the district is 63750
notified by the commission that it is eligible to receive state 63751
assistance under sections 3318.01 to 3318.20 of the Revised Code, 63752
all assessment and agreement documents entered into under this 63753
section are void. 63754

(6) Only construction of or repairs to classroom facilities 63755
that have been approved by the commission and have been therefore 63756
included as part of a district's basic project cost qualify for 63757
application of local resources under this section. 63758

(C) Based on the results of on-site visits and assessment, 63759
the commission shall determine the basic project cost of the 63760
school district's classroom facilities needs. The commission shall 63761
determine the school district's portion of such basic project 63762
cost, which shall be the greater of: 63763

(1) The required percentage of the basic project costs, 63764
determined based on the school district's percentile ranking; 63765

(2) An amount necessary to raise the school district's net 63766
bonded indebtedness, as of the fiscal year the commission and the 63767
school district enter into the agreement under division (B) of 63768
this section, to within five thousand dollars of the required 63769

level of indebtedness. 63770

(D)(1) When the commission determines the basic project cost 63771
of the classroom facilities needs of a school district and the 63772
school district's portion of that basic project cost under 63773
division (C) of this section, the project shall be conditionally 63774
approved. Such conditional approval shall be submitted to the 63775
controlling board for approval thereof. The controlling board 63776
shall forthwith approve or reject the commission's determination, 63777
conditional approval, and the amount of the state's portion of the 63778
basic project cost; however, no state funds shall be encumbered 63779
under this section. Upon approval by the controlling board, the 63780
school district board may identify a discrete part of its 63781
classroom facilities needs, which shall include only new 63782
construction of or additions or major repairs to a particular 63783
building, to address with local resources. Upon identifying a part 63784
of the school district's basic project cost to address with local 63785
resources, the school district board may allocate any available 63786
school district moneys to pay the cost of that identified part, 63787
including the proceeds of an issuance of bonds if approved by the 63788
electors of the school district. 63789

All local resources utilized under this division shall first 63790
be deposited in the project construction account required under 63791
section 3318.08 of the Revised Code. 63792

(2) Unless the school district board exercises its option 63793
under division (D)(3) of this section, for a school district to 63794
qualify for participation in the program authorized under this 63795
section, one of the following conditions shall be satisfied: 63796

(a) The electors of the school district by a majority vote 63797
shall approve the levy of taxes outside the ten-mill limitation 63798
for a period of twenty-three years at the rate of not less than 63799
one-half mill for each dollar of valuation to be used to pay the 63800
cost of maintaining the classroom facilities included in the basic 63801

project cost as determined by the commission. The form of the 63802
ballot to be used to submit the question whether to approve the 63803
tax required under this division to the electors of the school 63804
district shall be the form for an additional levy of taxes 63805
prescribed in section 3318.361 of the Revised Code, which may be 63806
combined in a single ballot question with the questions prescribed 63807
under section 5705.218 of the Revised Code. 63808

(b) As authorized under division (C) of section 3318.05 of 63809
the Revised Code, the school district board shall earmark from the 63810
proceeds of a permanent improvement tax levied under section 63811
5705.21 of the Revised Code, an amount equivalent to the 63812
additional tax otherwise required under division (D)(2)(a) of this 63813
section for the maintenance of the classroom facilities included 63814
in the basic project cost as determined by the commission. 63815

(c) As authorized under section 3318.051 of the Revised Code, 63816
the school district board shall, if approved by the commission, 63817
annually transfer into the maintenance fund required under section 63818
3318.05 of the Revised Code the amount prescribed in section 63819
3318.051 of the Revised Code in lieu of the tax otherwise required 63820
under division (D)(2)(a) of this section for the maintenance of 63821
the classroom facilities included in the basic project cost as 63822
determined by the commission. 63823

(d) If the school district board has rescinded the agreement 63824
to make transfers under section 3318.051 of the Revised Code, as 63825
provided under division (F) of that section, the electors of the 63826
school district, in accordance with section 3318.063 of the 63827
Revised Code, first shall approve the levy of taxes outside the 63828
ten-mill limitation for the period specified in that section at a 63829
rate of not less than one-half mill for each dollar of valuation. 63830

(e) The school district board shall apply the proceeds of a 63831
tax to leverage bonds as authorized under section 3318.052 of the 63832
Revised Code or dedicate a local donated contribution in the 63833

manner described in division (B) of section 3318.084 of the Revised Code in an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(3) A school district board may opt to delay taking any of the actions described in division (D)(2) of this section until the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code. In order to exercise this option, the board shall certify to the commission a resolution indicating the board's intent to do so prior to entering into an agreement under division (B) of this section.

(4) If pursuant to division (D)(3) of this section a district board opts to delay levying an additional tax until the district becomes eligible for state assistance, it shall submit the question of levying that tax to the district electors as follows:

(a) In accordance with section 3318.06 of the Revised Code if it will also be necessary pursuant to division (E) of this section to submit a proposal for approval of a bond issue;

(b) In accordance with section 3318.361 of the Revised Code if it is not necessary to also submit a proposal for approval of a bond issue pursuant to division (E) of this section.

(5) No state assistance under sections 3318.01 to 3318.20 of the Revised Code shall be released until a school district board that adopts and certifies a resolution under division (D) of this section also demonstrates to the satisfaction of the commission compliance with the provisions of division (D)(2) of this section.

Any amount required for maintenance under division (D)(2) of this section shall be deposited into a separate fund as specified in division (B) of section 3318.05 of the Revised Code.

(E)(1) If the school district becomes eligible for state

assistance under sections 3318.01 to 3318.20 of the Revised Code 63865
based on its percentile ranking under division (B)(3) of this 63866
section, the commission shall conduct a new assessment of the 63867
school district's classroom facilities needs and shall recalculate 63868
the basic project cost based on this new assessment. The basic 63869
project cost recalculated under this division shall include the 63870
amount of expenditures made by the school district board under 63871
division (D)(1) of this section. The commission shall then 63872
recalculate the school district's portion of the new basic project 63873
cost, which shall be one of the following as applicable: 63874

(a) Except for a tangible personal property phase-out 63875
impacted district, the percentage of the original basic project 63876
cost assigned to the school district as its portion under division 63877
(C) of this section; 63878

(b) For a tangible personal property phase-out impacted 63879
district, the least of (i) the percentage of the original basic 63880
project cost assigned to the school district as its portion under 63881
division (C) of this section, (ii) the percentage of the new basic 63882
project cost determined under section 3318.032 of the Revised Code 63883
using the district's current percentile ranking under section 63884
3318.011 of the Revised Code, or (iii) for a project approved for 63885
fiscal year 2012, the percentage of the new basic project cost 63886
determined under section 3318.032 of the Revised Code using the 63887
district's percentile ranking under the alternate equity list 63888
prescribed by Section of H.B. 153 of the 129th general 63889
assembly. The 63890

The commission shall deduct the expenditure of school 63891
district moneys made under division (D)(1) of this section from 63892
the school district's portion of the basic project cost as 63893
recalculated under this division. If the amount of school district 63894
resources applied by the school district board to the school 63895
district's portion of the basic project cost under this section is 63896

less than the total amount of such portion as recalculated under 63897
this division, the school district board by a majority vote of all 63898
of its members shall, if it desires to seek state assistance under 63899
sections 3318.01 to 3318.20 of the Revised Code, adopt a 63900
resolution as specified in section 3318.06 of the Revised Code to 63901
submit to the electors of the school district the question of 63902
approval of a bond issue in order to pay any additional amount of 63903
school district portion required for state assistance. Any tax 63904
levy approved under division (D) of this section satisfies the 63905
requirements to levy the additional tax under section 3318.06 of 63906
the Revised Code. 63907

(2) If the amount of school district resources applied by the 63908
school district board to the school district's portion of the 63909
basic project cost under this section is more than the total 63910
amount of such portion as recalculated under ~~this~~ division (E)(1) 63911
of this section, within one year after the school district's 63912
portion is so recalculated ~~under division (E)(1) of this section~~ 63913
the commission may grant to the school district the difference 63914
between the two calculated portions, but at no time shall the 63915
commission expend any state funds on a project in an amount 63916
greater than the state's portion of the basic project cost as 63917
recalculated under ~~this~~ division (E)(1) of this section. 63918

Any reimbursement under this division shall be only for local 63919
resources the school district has applied toward construction cost 63920
expenditures for the classroom facilities approved by the 63921
commission, which shall not include any financing costs associated 63922
with that construction. 63923

The school district board shall use any moneys reimbursed to 63924
the district under this division to pay off any debt service the 63925
district owes for classroom facilities constructed under its 63926
project under this section before such moneys are applied to any 63927
other purpose. However, the district board first may deposit 63928

moneys reimbursed under this division into the district's general 63929
fund or a permanent improvement fund to replace local resources 63930
the district withdrew from those funds, as long as, and to the 63931
extent that, those local resources were used by the district for 63932
constructing classroom facilities included in the district's basic 63933
project cost. 63934

(3) A tangible personal property phase-out impacted district 63935
shall receive credit under division (E) of this section for the 63936
expenditure of local resources pursuant to any prior agreement 63937
authorized by this section, notwithstanding any recalculation of 63938
its average taxable value. 63939

Sec. 3318.37. (A)(1) As used in this section: 63940

(a) "Large land area school district" means a school district 63941
with a territory of greater than three hundred square miles in any 63942
percentile as determined under section 3318.011 of the Revised 63943
Code. 63944

(b) "Low wealth school district" means a school district in 63945
the first through seventy-fifth percentiles as determined under 63946
section 3318.011 of the Revised Code. 63947

(c) A "school district with an exceptional need for immediate 63948
classroom facilities assistance" means a low wealth or large land 63949
area school district with an exceptional need for new facilities 63950
in order to protect the health and safety of all or a portion of 63951
its students. 63952

~~(2) No school district reasonably expected to be eligible for 63953~~
~~state assistance under sections 3318.01 to 3318.20 of the Revised 63954~~
~~Code within three fiscal years after the year of the application 63955~~
~~for assistance under this section shall be eligible for assistance 63956~~
~~under this section, unless the district's entire classroom 63957~~
~~facilities plan consists of only a single building designed to 63958~~

~~house grades kindergarten through twelve and the district~~ 63959
~~satisfies the conditions prescribed in divisions (A)(3)(a) and (b)~~ 63960
~~of this section.~~ 63961

~~(3)~~ No school district that participates in the school 63962
building assistance expedited local partnership program under 63963
section 3318.36 of the Revised Code shall receive assistance under 63964
the program established under this section unless the following 63965
conditions are satisfied: 63966

(a) The district board adopted a resolution certifying its 63967
intent to participate in the school building assistance expedited 63968
local partnership program under section 3318.36 of the Revised 63969
Code prior to September 14, 2000. 63970

(b) The district was selected by the Ohio school facilities 63971
commission for participation in the school building assistance 63972
expedited local partnership program under section 3318.36 of the 63973
Revised Code in the manner prescribed by the commission under that 63974
section as it existed prior to September 14, 2000. 63975

(B)(1) There is hereby established the exceptional needs 63976
school facilities assistance program. Under the program, the Ohio 63977
school facilities commission may set aside from the moneys 63978
annually appropriated to it for classroom facilities assistance 63979
projects up to twenty-five per cent for assistance to school 63980
districts with exceptional needs for immediate classroom 63981
facilities assistance. 63982

(2)(a) After consulting with education and construction 63983
experts, the commission shall adopt guidelines for identifying 63984
school districts with an exceptional need for immediate classroom 63985
facilities assistance. 63986

(b) The guidelines shall include application forms and 63987
instructions for school districts to use in applying for 63988
assistance under this section. 63989

(3) The commission shall evaluate the classroom facilities, 63990
and the need for replacement classroom facilities from the 63991
applications received under this section. The commission, 63992
utilizing the guidelines adopted under division (B)(2)(a) of this 63993
section, shall prioritize the school districts to be assessed. 63994

Notwithstanding section 3318.02 of the Revised Code, the 63995
commission may conduct on-site evaluation of the school districts 63996
prioritized under this section and approve and award funds until 63997
such time as all funds set aside under division (B)(1) of this 63998
section have been encumbered. However, the commission need not 63999
conduct the evaluation of facilities if the commission determines 64000
that a district's assessment conducted under section 3318.36 of 64001
the Revised Code is sufficient for purposes of this section. 64002

(4) Notwithstanding division (A) of section 3318.05 of the 64003
Revised Code, the school district's portion of the basic project 64004
cost under this section shall be the "required percentage of the 64005
basic project costs," as defined in division (K) of section 64006
3318.01 of the Revised Code. 64007

(5) Except as otherwise specified in this section, any 64008
project undertaken with assistance under this section shall comply 64009
with all provisions of sections 3318.01 to 3318.20 of the Revised 64010
Code. A school district may receive assistance under sections 64011
3318.01 to 3318.20 of the Revised Code for the remainder of the 64012
district's classroom facilities needs as assessed under this 64013
section when the district is eligible for such assistance pursuant 64014
to section 3318.02 of the Revised Code, but any classroom facility 64015
constructed with assistance under this section shall not be 64016
included in a district's project at that time unless the 64017
commission determines the district has experienced the increased 64018
enrollment specified in division (B)(1) of section 3318.04 of the 64019
Revised Code. 64020

(C) No school district shall receive assistance under this 64021

section for a classroom facility that has been included in the 64022
discrete part of the district's classroom facilities needs 64023
identified and addressed in the district's project pursuant to an 64024
agreement entered into under section 3318.36 of the Revised Code, 64025
unless the district's entire classroom facilities plan consists of 64026
only a single building designed to house grades kindergarten 64027
through twelve. 64028

Sec. 3318.371. The Ohio school facilities commission may 64029
provide assistance under the exceptional needs school facilities 64030
program established by section 3318.37 of the Revised Code to any 64031
school district for the purpose of the relocation or replacement 64032
of classroom facilities required as a result of any contamination 64033
of air, soil, or water that impacts the occupants of the facility. 64034
Assistance under this section is not limited to school districts 64035
in the first through seventy-fifth percentiles as determined under 64036
section 3318.011 of the Revised Code. 64037

The commission shall make a determination in accordance with 64038
guidelines adopted by the commission regarding eligibility and 64039
funding for projects under this section. The commission may 64040
contract with an independent environmental consultant to conduct a 64041
study to assist the commission in making the determination. 64042

If the federal government or other public or private entity 64043
provides funds for restitution of costs incurred by the state or 64044
school district in the relocation or replacement of the classroom 64045
facilities, the school district shall use such funds in excess of 64046
the school district's share to refund the state for the state's 64047
contribution to the environmental contamination portion of the 64048
project. The school district may apply an amount of such 64049
restitution funds up to an amount equal to the school district's 64050
portion of the project, as defined by the commission, toward 64051
paying its portion of that project to reduce the amount of bonds 64052

the school district otherwise must issue to receive state 64053
assistance under sections 3318.01 to 3318.20 of the Revised Code. 64054

Sec. 3318.38. (A) As used in this section, "big-eight school 64055
district" has the same meaning as in section 3314.02 of the 64056
Revised Code. 64057

(B) There is hereby established the accelerated urban school 64058
building assistance program. Under the program, notwithstanding 64059
section 3318.02 of the Revised Code, any big-eight school district 64060
that has not been approved to receive assistance under sections 64061
3318.01 to 3318.20 of the Revised Code by July 1, 2002, may 64062
beginning on that date apply for approval of and be approved for 64063
such assistance. Except as otherwise provided in this section, any 64064
project approved and undertaken pursuant to this section shall 64065
comply with all provisions of sections 3318.01 to 3318.20 of the 64066
Revised Code. 64067

The Ohio school facilities commission shall provide 64068
assistance to any big-eight school district eligible for 64069
assistance under this section in the following manner: 64070

(1) Notwithstanding section 3318.02 of the Revised Code: 64071

(a) Not later than June 30, 2002, the commission shall 64072
conduct an on-site visit and shall assess the classroom facilities 64073
needs of each big-eight school district eligible for assistance 64074
under this section; 64075

(b) Beginning July 1, 2002, any big-eight school district 64076
eligible for assistance under this section may apply to the 64077
commission for conditional approval of its project as determined 64078
by the assessment conducted under division (B)(1)(a) of this 64079
section. The commission may conditionally approve that project and 64080
submit it to the controlling board for approval pursuant to 64081
section 3318.04 of the Revised Code. 64082

(2) If the controlling board approves the project of a big-eight school district eligible for assistance under this section, the commission and the school district shall enter into an agreement as prescribed in section 3318.08 of the Revised Code. Any agreement executed pursuant to this division shall include any applicable segmentation provisions as approved by the commission under division (B)(3) of this section.

(3) Notwithstanding any provision to the contrary in sections 3318.05, 3318.06, and 3318.08 of the Revised Code, a big-eight school district eligible for assistance under this section may with the approval of the commission opt to divide the project as approved under division (B)(1)(b) of this section into discrete segments to be completed sequentially. Any project divided into segments shall comply with all other provisions of sections 3318.05, 3318.06, and 3318.08 of the Revised Code except as otherwise specified in this division.

If a project is divided into segments under this division:

(a) The school district need raise only the amount equal to its proportionate share, as determined under section 3318.032 of the Revised Code, of each segment at any one time and may seek voter approval of each segment separately;

(b) The state's proportionate share, as determined under section 3318.032 of the Revised Code, of only the segment which has been approved by the school district electors or for which the district has applied a local donated contribution under section 3318.084 of the Revised Code shall be encumbered in accordance with section 3318.11 of the Revised Code. Encumbrance of additional amounts to cover the state's proportionate share of later segments shall be approved separately as they are approved by the school district electors or as the district applies a local donated contribution to the segments under section 3318.084 of the Revised Code.

(c) The school district's maintenance levy requirement, as 64115
defined in section 3318.18 of the Revised Code, shall run for 64116
twenty-three years from the date the first segment is undertaken. 64117

~~(4) For any project under this section~~ (C) In accordance with 64118
division (R) of section 3318.08 of the Revised Code, the state 64119
funds reserved and encumbered and the funds provided by the school 64120
district to pay the basic project cost of any segment of the 64121
project under this section, or of the entire project if it is not 64122
divided into segments, shall be spent on the construction and 64123
acquisition of the project simultaneously in proportion to the 64124
state's and the school district's respective shares of that basic 64125
project cost as determined under section 3318.032 of the Revised 64126
Code. 64127

Sec. 3318.41. (A)(1) The Ohio school facilities commission 64128
annually shall assess the classroom facilities needs of the number 64129
of joint vocational school districts that the commission 64130
reasonably expects to be able to provide assistance to in a fiscal 64131
year, based on the amount set aside for that fiscal year under 64132
division (B) of section 3318.40 of the Revised Code and the order 64133
of priority prescribed in division (B) of section 3318.42 of the 64134
Revised Code, except that in fiscal year 2004 the commission shall 64135
conduct at least the five assessments prescribed in division (E) 64136
of section 3318.40 of the Revised Code. 64137

Upon conducting an assessment of the classroom facilities 64138
needs of a school district, the commission shall make a 64139
determination of all of the following: 64140

(a) The number of classroom facilities to be included in a 64141
project and the basic project cost of acquiring the classroom 64142
facilities included in the project. The number of facilities and 64143
basic project cost shall be determined in accordance with the 64144
specifications adopted under section 3318.311 of the Revised Code 64145

except to the extent that compliance with such specifications is 64146
waived by the commission pursuant to the rule of the commission 64147
adopted under division (F) of section 3318.40 of the Revised Code. 64148

(b) The school district's portion of the basic project cost 64149
as determined under division (C) of section 3318.42 of the Revised 64150
Code; 64151

(c) The remaining portion of the basic project cost that 64152
shall be supplied by the state; 64153

(d) The amount of the state's portion of the basic project 64154
cost to be encumbered in accordance with section 3318.11 of the 64155
Revised Code in the current and subsequent fiscal years from funds 64156
set aside under division (B) of section 3318.40 of the Revised 64157
Code. 64158

(2) Divisions (A), (C), and (D) of section 3318.03 of the 64159
Revised Code apply to any project under sections 3318.40 to 64160
3318.45 of the Revised Code. 64161

(B)(1) If the commission makes a determination under division 64162
(A) of this section in favor of the acquisition of classroom 64163
facilities for a project under sections 3318.40 to 3318.45 of the 64164
Revised Code, such project shall be conditionally approved. Such 64165
conditional approval shall be submitted to the controlling board 64166
for approval. The controlling board shall immediately approve or 64167
reject the commission's determination, conditional approval, the 64168
amount of the state's portion of the basic project cost, and the 64169
amount of the state's portion of the basic project cost to be 64170
encumbered in the current fiscal year. In the event of approval by 64171
the controlling board, the commission shall certify the 64172
conditional approval to the joint vocational school district board 64173
of education and shall encumber the approved funds for the current 64174
fiscal year. 64175

(2) No school district that receives assistance under 64176

sections 3318.40 to 3318.45 of the Revised Code shall have another 64177
such project conditionally approved until the expiration of twenty 64178
years after the school district's prior project was conditionally 64179
approved, unless the school district board demonstrates to the 64180
satisfaction of the commission that the school district has 64181
experienced since conditional approval of its prior project an 64182
exceptional increase in enrollment or program requirements 64183
significantly above the school district's design capacity under 64184
that prior project as determined by rule of the commission. Any 64185
rule adopted by the commission to implement this division shall be 64186
tailored to address the classroom facilities needs of joint 64187
vocational school districts. 64188

(C) In addition to generating the amount of the school 64189
district's portion of the basic project cost as determined under 64190
division (C) of section 3318.42 of the Revised Code, in order for 64191
a school district to receive assistance under sections 3318.40 to 64192
3318.45 of the Revised Code, the school district board shall set 64193
aside school district moneys for the maintenance of the classroom 64194
facilities included in the school district's project in the amount 64195
and manner prescribed in section 3318.43 of the Revised Code. 64196

(D)(1) The conditional approval for a project certified under 64197
division (B)(1) of this section shall lapse and the amount 64198
reserved and encumbered for such project shall be released unless 64199
both of the following conditions are satisfied: 64200

(a) Within one hundred twenty days following the date of 64201
certification of the conditional approval to the joint vocational 64202
school district board, the school district board accepts the 64203
conditional approval and certifies to the commission the school 64204
district board's plan to generate the school district's portion of 64205
the basic project cost, as determined under division (C) of 64206
section 3318.42 of the Revised Code, and to set aside moneys for 64207
maintenance of the classroom facilities acquired under the 64208

project, as prescribed in section 3318.43 of the Revised Code. 64209

(b) Within ~~one year~~ thirteen months following the date of 64210
certification of the conditional approval to the school district 64211
board, the electors of the school district vote favorably on any 64212
ballot measures proposed by the school district board to generate 64213
the school district's portion of the basic project cost. 64214

(2) If the school district board or electors fail to satisfy 64215
the conditions prescribed in division (D)(1) of this section and 64216
the amount reserved and encumbered for the school district's 64217
project is released, the school district shall be given first 64218
priority over other joint vocational school districts for project 64219
funding under sections 3318.40 to 3318.45 of the Revised Code as 64220
such funds become available, subject to section 3318.054 of the 64221
Revised Code. 64222

(E) If the conditions prescribed in division (D)(1) of this 64223
section are satisfied, the commission and the school district 64224
board shall enter into an agreement as prescribed in section 64225
3318.08 of the Revised Code and shall proceed with the development 64226
of plans, cost estimates, designs, drawings, and specifications as 64227
prescribed in section 3318.091 of the Revised Code. 64228

(F) Costs in excess of those approved by the commission under 64229
section 3318.091 of the Revised Code shall be payable only as 64230
provided in sections 3318.042 and 3318.083 of the Revised Code. 64231

(G) Advertisement for bids and the award of contracts for 64232
construction of any project under sections 3318.40 to 3318.45 of 64233
the Revised Code shall be conducted in accordance with section 64234
3318.10 of the Revised Code. 64235

(H) ~~The~~ In accordance with division (R) of section 3318.08 of 64236
the Revised Code, the state funds reserved and encumbered and the 64237
funds provided by the school district to pay the basic project 64238
cost of a project under sections 3318.40 to 3318.45 of the Revised 64239

Code shall be spent simultaneously in proportion to the state's 64240
and the school district's respective portions of that basic 64241
project cost. 64242

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised 64243
Code apply to projects under sections 3318.40 to 3318.45 of the 64244
Revised Code. 64245

Sec. 3318.48. (A) When all of the following have occurred, a 64246
project undertaken by a school district pursuant to this chapter 64247
shall be considered complete and the Ohio school facilities 64248
commission shall issue a certificate of completion to the district 64249
board of education: 64250

(1) All facilities to be constructed under the project, as 64251
specified in the project agreement entered into under section 64252
3318.08 of the Revised Code, have been completed and the board has 64253
received a permanent certificate of occupancy for each of those 64254
facilities. 64255

(2) The commission has issued certificates of contract 64256
completion on all prime construction contracts entered into by the 64257
board under section 3318.10 of the Revised Code. 64258

(3) The commission has completed a final accounting of the 64259
district's project construction fund and has determined that all 64260
payments from the fund were made in compliance with all policies 64261
of the commission. 64262

(4) Any litigation concerning the project has been finally 64263
resolved with no chance of appeal. 64264

(5) All construction management services typically provided 64265
by the commission to school districts have been delivered and the 64266
commission has canceled any remaining encumbrance of funds for 64267
those services. 64268

(B) The commission may issue a certificate of completion to a 64269

district board prior to all of the conditions described in 64270
division (A) of this section being satisfied, if the commission 64271
determines that the circumstances preventing the conditions from 64272
being satisfied are so minor in nature that the project should be 64273
considered complete. When issuing a certificate of completion 64274
under this division, the commission may specify any of the 64275
following: 64276

(1) Any construction or work that has yet to be completed and 64277
the manner in which the board shall oversee its completion, which 64278
may include procedures for reporting progress to the commission 64279
and for accounting of expenditures; 64280

(2) Terms and conditions for the resolution of any pending 64281
litigation; 64282

(3) Any remaining responsibilities of the construction 64283
manager regarding the project. 64284

(C) The commission may issue a certificate of completion to a 64285
district board that does not voluntarily participate in the 64286
process of closing out the district's project, if the construction 64287
manager for the project verifies that all facilities to be 64288
constructed under the project, as specified in the project 64289
agreement entered into under section 3318.08 of the Revised Code, 64290
have been completed and the commission determines that those 64291
facilities have been occupied for at least one year. In that case, 64292
all funds due to the commission under division (C) of section 64293
3318.12 of the Revised Code shall be returned to the commission 64294
not later than thirty days after receipt of the certificate of 64295
completion. If the funds due to the commission have not been 64296
returned within sixty days after receipt of the certificate of 64297
completion, the auditor of state shall issue a finding for 64298
recovery against the school district and shall request legal 64299
action under section 117.42 of the Revised Code. 64300

(D) Upon issuance of a certificate of completion under this section, the commission's ownership of and interest in the project, as specified in division (F) of section 3318.08 of the Revised Code, shall cease. This cessation shall not alter or otherwise affect the state's or commission's interest in the project or any limitations on the use of the project as specified in the project agreement pursuant to divisions (G), (M), and (N) of that section or as specified in section 3318.16 of the Revised Code. 64301
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Sec. 3318.49. (A) The corrective action program is hereby established to provide funding for the correction of work, in connection with a project funded under sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code, that is found after occupancy of the facility to be defective or to have been omitted. 64310
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(B) The Ohio school facilities commission may provide funding under this section only if the school district notifies the executive director of the commission of the defective or omitted work within five years after occupancy of the facility for which the district seeks the funding. 64316
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(C) The commission shall establish procedures and deadlines for school districts to follow in applying for assistance under this section. The procedures shall include definitions of "defective" and "omitted," and shall require that remediation efforts focus first on engaging the respective contractors that designed and constructed the areas that have design or construction-related issues. The commission shall consider applications on a case-by-case basis, taking into account the amount of money appropriated and available for purposes of this section. 64321
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(D) The commission may provide funding assistance necessary 64331

to take corrective measures after evaluating the defective or omitted work. 64332
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(1) If the work to be corrected or remediated is part of a project not yet completed, the commission may amend the project agreement to increase the project budget and use corrective action funding to provide the state portion of the amendment. If the work to be corrected or remediated is part of a completed project and funds were retained or transferred pursuant to division (C) of section 3318.12 of the Revised Code, the commission may enter into a new agreement to address the corrective action. 64334
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(2) Whether or not the project is completed, the district shall contribute a portion of the cost of the corrective action, to be determined in accordance with section 3318.032 of the Revised Code or, if the district is a joint vocational school district, section 3318.42 of the Revised Code. A district that is unable to provide its portion so that remediation can proceed may apply to the commission for additional assistance under section 3318.042 of the Revised Code. 64342
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(E) The commission shall assess responsibility for the defective or omitted work and seek cost recovery from responsible parties, if applicable. Any recovery of the expense of remediation shall be applied first to the district portion of the cost of the corrective action. Any remaining funds shall be applied to the state portion and deposited into the school building program assistance fund established under section 3318.25 of the Revised Code. 64350
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Sec. 3318.60. (A) As used in this section: 64358

(1) "Acquisition of classroom facilities" means constructing, reconstructing, repairing, or making additions to classroom facilities. 64359
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(2) "Ohio school facilities commission" and "classroom facilities" have the same meanings as in section 3318.01 of the Revised Code. 64362
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(B) There is hereby established the college-preparatory boarding school facilities program. Under the program, the Ohio school facilities commission shall provide assistance to the boards of trustees of college-preparatory boarding schools established under Chapter 3328. of the Revised Code for the acquisition of classroom facilities. 64365
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(C) To be eligible for assistance under this program, a board of trustees shall secure at least twenty million dollars of private money to satisfy its share of facilities acquisition. A board of trustees that receives assistance under the program shall fund the acquisition of residential facilities and any other facilities other than classroom facilities through private means. 64371
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(D) The lease payments made by the boards of trustees of college-preparatory boarding schools receiving assistance under the program shall be deposited into the state treasury and credited to the common schools capital facilities bond service fund created in section 151.03 of the Revised Code. 64377
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(E) The acquisition of classroom facilities with assistance provided under the program shall not be subject to sections 3318.01 to 3318.20 of the Revised Code. 64382
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(F) Within the ninety-day period immediately following the effective date of this section, the commission shall adopt rules necessary for the implementation and administration of the program. 64385
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Sec. 3319.081. Except as otherwise provided in division (G) of this section, in all school districts wherein the provisions of Chapter 124. of the Revised Code do not apply, the following 64389
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employment contract system shall control for employees whose 64392
contracts of employment are not otherwise provided by law: 64393

(A) Newly hired regular nonteaching school employees, 64394
including regular hourly rate and per diem employees, shall enter 64395
into written contracts for their employment which shall be for a 64396
period of not more than one year. If such employees are rehired, 64397
their subsequent contract shall be for a period of two years. 64398

(B) After the termination of the two-year contract provided 64399
in division (A) of this section, if the contract of a nonteaching 64400
employee is renewed, the employee shall be continued in 64401
employment, and the salary provided in the contract may be 64402
increased but not reduced unless such reduction is a part of a 64403
uniform plan affecting the nonteaching employees of the entire 64404
district. 64405

(C) The contracts as provided for in this section may be 64406
terminated by a majority vote of the board of education. Except as 64407
provided in ~~section~~ sections 3319.0810 and 3319.172 of the Revised 64408
Code, the contracts may be terminated only for violation of 64409
written rules and regulations as set forth by the board of 64410
education or for incompetency, inefficiency, dishonesty, 64411
drunkenness, immoral conduct, insubordination, discourteous 64412
treatment of the public, neglect of duty, or any other acts of 64413
misfeasance, malfeasance, or nonfeasance. In addition to the right 64414
of the board of education to terminate the contract of an 64415
employee, the board may suspend an employee for a definite period 64416
of time or demote the employee for the reasons set forth in this 64417
division. The action of the board of education terminating the 64418
contract of an employee or suspending or demoting the employee 64419
shall be served upon the employee by certified mail. Within ten 64420
days following the receipt of such notice by the employee, the 64421
employee may file an appeal, in writing, with the court of common 64422
pleas of the county in which such school board is situated. After 64423

hearing the appeal the common pleas court may affirm, disaffirm, 64424
or modify the action of the school board. 64425

A violation of division (A)(7) of section 2907.03 of the 64426
Revised Code is grounds for termination of employment of a 64427
nonteaching employee under this division. 64428

(D) All employees who have been employed by a school district 64429
where the provisions of Chapter 124. of the Revised Code do not 64430
apply, for a period of at least three years on November 24, 1967, 64431
shall hold continuing contracts of employment pursuant to this 64432
section. 64433

(E) Any nonteaching school employee may terminate the 64434
nonteaching school employee's contract of employment thirty days 64435
subsequent to the filing of a written notice of such termination 64436
with the treasurer of the board. 64437

(F) A person hired exclusively for the purpose of replacing a 64438
nonteaching school employee while such employee is on leave of 64439
absence granted under section 3319.13 of the Revised Code is not a 64440
regular nonteaching school employee under this section. 64441

(G) All nonteaching employees employed pursuant to this 64442
section and Chapter 124. of the Revised Code shall be paid for all 64443
time lost when the schools in which they are employed are closed 64444
owing to an epidemic or other public calamity. Nothing in this 64445
division shall be construed as requiring payment in excess of an 64446
employee's regular wage rate or salary for any time worked while 64447
the school in which the employee is employed is officially closed 64448
for the reasons set forth in this division. 64449

Sec. 3319.0810. (A) The board of education of any school 64450
district wherein the provisions of Chapter 124. of the Revised 64451
Code do not apply may terminate any of its transportation staff 64452
positions for reasons of economy and efficiency if the board 64453

instead of employing its own staff to transport some or all of the 64454
students enrolled in the district schools enters into a contract 64455
with an independent agent for the provision of transportation 64456
services for such students. Such a contract may be entered into 64457
only if all of the following conditions are satisfied: 64458

(1) Any collective bargaining agreement between the employee 64459
organization representing the employees whose positions are 64460
terminated under this section and the board has expired or will 64461
expire within sixty days and has not been renewed in conformance 64462
with provisions of that agreement and with Chapter 4117. of the 64463
Revised Code, or the agreement contains provisions permitting the 64464
termination of positions for reasons of economy and efficiency 64465
while the agreement is in force and the board is in conformance 64466
with those provisions. 64467

(2) The board permits any employee whose position is 64468
terminated under this section to fill any vacancy within the 64469
district's organization for which the employee is qualified. The 64470
board shall select from among similarly qualified employees to 64471
fill such vacancies pursuant to procedures established under any 64472
collective bargaining agreement between the employee organization 64473
representing the terminated employees and the board that is in 64474
force at the time of the termination, or in absence of such 64475
provisions on the basis of seniority of employment by the board 64476
with the employee with the greatest seniority having highest 64477
priority. 64478

(3) Unless a collective bargaining agreement between the 64479
employee organization representing the terminated employees and 64480
the board that is in force at the time of the termination provides 64481
otherwise, the board permits any employee whose position is 64482
terminated under this section to fill the employee's former 64483
position in the event that the board reinstates that position 64484
within one year after the date the position is terminated under 64485

this section. 64486

(4) The board permits any employee whose position is 64487
terminated under this section to appeal in accordance with section 64488
119.12 of the Revised Code the board's decision to terminate the 64489
employee's position, not to hire that employee for another 64490
position pursuant to division (A)(2) of this section, or not to 64491
rehire that employee for the position if it is reinstated within 64492
one year after the position is terminated pursuant to division 64493
(A)(3) of this section. 64494

(5) The contract entered into by the board and an independent 64495
agent for the provision of transportation services contains a 64496
stipulation requiring the agent to consider hiring any employees 64497
of the school district whose positions are terminated under this 64498
section for similar positions within the agent's organization. 64499

(6) The contract entered into by the board and an independent 64500
agent for the provision of transportation services contains a 64501
stipulation requiring the agent to recognize for purposes of 64502
employee representation in collective bargaining any employee 64503
organization that represented the employees whose positions are 64504
terminated under this section in collective bargaining with the 64505
board at the time of the termination provided: 64506

(a) A majority of all employees in the bargaining unit agree 64507
to such representation; 64508

(b) Such representation is not prohibited by federal law, 64509
including any ruling of the national labor relations board; 64510

(c) The employee organization is not prohibited from 64511
representing nonpublic employees by other provisions of law or its 64512
own governing instruments. 64513

However, any employee whose position is terminated under this 64514
section shall not be compelled to be included in such bargaining 64515
unit if there is another bargaining unit within the agent's 64516

organization that is applicable to the employee. 64517

(B) If after terminating any positions of employment under this section the board fails to comply with any condition prescribed in division (A) of this section or fails to enforce on the agent its contractual obligations prescribed in divisions (A)(5) and (6) of this section, the terminations shall be void and the board shall reinstate the positions and fill them with the employees who filled those positions just prior to the terminations. Such employees shall be compensated at a rate equal to their rate of compensation in those positions just prior to the terminations plus any increases paid since the terminations to other nonteaching employees. The employees shall also be entitled to back pay at such rate for the period from the date of the terminations to the date of the reinstatements minus any pay received by the employees during any time the board was in compliance with such conditions or during any time the board enforced those obligations. 64518
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Any employee aggrieved by the failure of the board to comply with any condition prescribed in division (A) of this section or to enforce on the agent its contractual obligations prescribed in divisions (A)(5) and (6) of this section shall have the right to sue the board for reinstatement of the employee's former position as provided for in this division in the court of common pleas for the county in which the school district is located or, if the school district is located in more than one county, in the court of common pleas for the county in which the majority of the territory of the school district is located. 64534
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Sec. 3319.17. (A) As used in this section, "interdistrict contract" means any contract or agreement entered into by an educational service center governing board and another board or other public entity pursuant to section 3313.17, 3313.841, 64544
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3313.842, 3313.843, 3313.844, 3313.845, 3313.91, or 3323.08 of the Revised Code, including any such contract or agreement for the provision of services funded under division ~~(I)~~(E) of section 3317.024 of the Revised Code or provided in any unit approved under section 3317.05 of the Revised Code.

(B) When, for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including ~~leaves provided pursuant to division (B) of section 3314.10 of the Revised Code,~~ suspension of schools, territorial changes affecting the district or center, or financial reasons;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these

interdistrict contracts. 64579

(C) In making any such reduction, ~~any city, exempted village,~~ 64580
~~local, or joint vocational school~~ the district board or service 64581
center governing board shall proceed to suspend contracts in 64582
accordance with the recommendation of the superintendent of 64583
schools who shall, within each teaching field affected, give 64584
preference first to teachers on continuing contracts and then to 64585
teachers who have greater seniority. In making any such reduction, 64586
any governing board of a service center shall proceed to suspend 64587
contracts in accordance with the recommendation of the 64588
superintendent who shall, within each teaching field or service 64589
area affected, give preference first to teachers on continuing 64590
contracts and then to teachers who have greater seniority. 64591

On a case-by-case basis, in lieu of suspending a contract in 64592
whole, a board may suspend a contract in part, so that an 64593
individual is required to work a percentage of the time the 64594
employee otherwise is required to work under the contract and 64595
receives a commensurate percentage of the full compensation the 64596
employee otherwise would receive under the contract. 64597

The teachers whose continuing contracts are suspended by any 64598
board pursuant to this section shall have the right of restoration 64599
to continuing service status by that board in the order of 64600
seniority of service in the district or service center if and when 64601
teaching positions become vacant or are created for which any of 64602
such teachers are or become qualified. No teacher whose continuing 64603
contract has been suspended pursuant to this section shall lose 64604
that right of restoration to continuing service status by reason 64605
of having declined recall to a position that is less than 64606
full-time or, if the teacher was not employed full-time just prior 64607
to suspension of the teacher's continuing contract, to a position 64608
requiring a lesser percentage of full-time employment than the 64609
position the teacher last held while employed in the district or 64610

service center. 64611

(D) Notwithstanding any provision to the contrary in Chapter 64612
4117. of the Revised Code, the requirements of this section 64613
prevail over any conflicting provisions of agreements between 64614
employee organizations and public employers entered into after 64615
September 29, 2005. 64616

Sec. 3319.19. (A) Except as provided in division (D) of this 64617
section or division (A)(2) of section 3313.37 of the Revised Code, 64618
upon request, the board of county commissioners shall provide and 64619
equip offices in the county for the use of the superintendent of 64620
an educational service center, and shall provide heat, light, 64621
water, and janitorial services for such offices. Such offices 64622
shall be the permanent headquarters of the superintendent and 64623
shall be used by the governing board of the service center when it 64624
is in session. Except as provided in division (B) of this section, 64625
such offices shall be located in the county seat or, upon the 64626
approval of the governing board, may be located outside of the 64627
county seat. 64628

(B) In the case of a service center formed under section 64629
3311.053 ~~or 3311.059~~ of the Revised Code, the governing board 64630
shall designate the site of its offices. Except as provided in 64631
division (D) of this section or division (A)(2) of section 3313.37 64632
of the Revised Code, the board of county commissioners of the 64633
county in which the designated site is located shall provide and 64634
equip the offices as under division (A) of this section, but the 64635
costs of such offices and equipment shall be apportioned among the 64636
boards of county commissioners of all counties having any 64637
territory in the area under the control of the governing board, 64638
according to the proportion of local school district pupils under 64639
the supervision of such board residing in the respective counties. 64640
Where there is a dispute as to the amount any board of county 64641

commissioners is required to pay, the probate judge of the county 64642
in which the greatest number of pupils under the supervision of 64643
the governing board reside shall apportion such costs among the 64644
boards of county commissioners and notify each such board of its 64645
share of the costs. 64646

(C) As used in division (C) of this section, in the case of a 64647
building, facility, or office space that a board of county 64648
commissioners leases or rents, "actual cost per square foot" means 64649
all cost on a per square foot basis incurred by the board under 64650
the lease or rental agreement. In the case of a building, 64651
facility, or office space that the board owns in fee simple, 64652
"actual cost per square foot" means the fair rental value on a per 64653
square foot basis of the building, facility, or office space 64654
either as compared to a similarly situated building, facility, or 64655
office space in the general vicinity or as calculated under a 64656
formula that accounts for depreciation, amortization of 64657
improvements, and other reasonable factors, including, but not 64658
limited to, parking space and other amenities. 64659

Not later than the thirty-first day of March of 2002, 2003, 64660
2004, and 2005 a board of county commissioners required to provide 64661
or equip offices pursuant to division (A) or (B) of this section 64662
shall make a written estimate of the total cost it will incur for 64663
the ensuing fiscal year to provide and equip the offices and to 64664
provide heat, light, water, and janitorial services for such 64665
offices. The total estimate of cost shall include: 64666

(1) The total square feet of space to be utilized by the 64667
educational service center; 64668

(2) The total square feet of any common areas that should be 64669
reasonably allocated to the center and the methodology for making 64670
this allocation; 64671

(3) The actual cost per square foot for both the space 64672

utilized by and the common area allocated to the center; 64673

(4) An explanation of the methodology used to determine the 64674
actual cost per square foot; 64675

(5) The estimated cost of providing heat, light, and water, 64676
including an explanation of how these costs were determined; 64677

(6) The estimated cost of providing janitorial services 64678
including an explanation of the methodology used to determine this 64679
cost; 64680

(7) Any other estimated costs that the board anticipates it 64681
will ~~occur~~ incur and a detailed explanation of the costs and the 64682
rationale used to determine such costs. 64683

A copy of the total estimate of costs under this division 64684
shall be sent to the superintendent of the educational service 64685
center not later than the fifth day of April. The superintendent 64686
shall review the total estimate and shall notify the board of 64687
county commissioners not later than twenty days after receipt of 64688
the estimate of either agreement with the estimate or any specific 64689
objections to the estimates and the reasons for the objections. If 64690
the superintendent agrees with the estimate, it shall become the 64691
final total estimate of cost. Failure of the superintendent to 64692
make objections to the estimate by the twentieth day after receipt 64693
of it shall be deemed to mean that the superintendent is in 64694
agreement with the estimate. 64695

If the superintendent provides specific objections to the 64696
board of county commissioners, the board shall review the 64697
objections and may modify the original estimate and shall send a 64698
revised total estimate to the superintendent within ten days after 64699
the receipt of the superintendent's objections. The superintendent 64700
shall respond to the revised estimate within ten days after its 64701
receipt. If the superintendent agrees with it, it shall become the 64702
final total estimated cost. If the superintendent fails to respond 64703

within the required time, the superintendent shall be deemed to 64704
have agreed with the revised estimate. If the superintendent 64705
disagrees with the revised estimate, the superintendent shall send 64706
specific objections to the county commissioners. 64707

If a superintendent has sent specific objections to the 64708
revised estimate within the required time, the probate judge of 64709
the county which has the greatest number of resident local school 64710
district pupils under the supervision of the educational service 64711
center shall determine the final estimated cost and certify this 64712
amount to the superintendent and the board of county commissioners 64713
prior to the first day of July. 64714

(D)(1) A board of county commissioners shall be responsible 64715
for the following percentages of the final total estimated cost 64716
established by division (C) of this section: 64717

(a) Eighty per cent for fiscal year 2003; 64718

(b) Sixty per cent for fiscal year 2004; 64719

(c) Forty per cent for fiscal year 2005; 64720

(d) Twenty per cent for fiscal year 2006. 64721

In fiscal years 2003, 2004, 2005, and 2006 the educational 64722
service center shall be responsible for the remainder of any costs 64723
in excess of the amounts specified in division (D)(1)(a), (b), (c), 64724
or (d) of this section, as applicable, associated with the 64725
provision and equipment of offices for the educational service 64726
center and for provision of heat, light, water, and janitorial 64727
services for such offices, including any unanticipated or 64728
unexpected increases in the costs beyond the final estimated cost 64729
amount. 64730

Beginning in fiscal year 2007, no board of county 64731
commissioners shall have any obligation to provide and equip 64732
offices for an educational service center or to provide heat, 64733

light, water, or janitorial services for such offices. 64734

(2) Nothing in this section shall prohibit the board of 64735
county commissioners and the governing board of an educational 64736
service center from entering into a contract for providing and 64737
equipping offices for the use of an educational service center and 64738
for providing heat, light, water, and janitorial services for such 64739
offices. The term of any such contract shall not exceed a period 64740
of four years and may be renewed for additional periods not to 64741
exceed four years. Any such contract shall supersede the 64742
provisions of division (D)(1) of this section and no educational 64743
service center may be charged, at any time, any additional amount 64744
for the county's provision of an office and equipment, heat, 64745
light, water, and janitorial services beyond the amount specified 64746
in such contract. 64747

(3) No contract entered into under division (D)(2) of this 64748
section in any year prior to fiscal year 2007 between an 64749
educational service center formed under section 3311.053 ~~or~~ 64750
~~3311.059~~ of the Revised Code and the board of county commissioners 64751
required to provide and equip its office pursuant to division (B) 64752
of this section shall take effect unless the boards of county 64753
commissioners of all other counties required to participate in the 64754
funding for such offices pursuant to division (B) of this section 64755
adopt resolutions approving the contract. 64756

Sec. 3319.227. (A) Notwithstanding any other provision of the 64757
Revised Code or any rule adopted by the state board of education 64758
to the contrary, the state board shall issue a resident educator 64759
license under section 3319.22 of the Revised Code to each person 64760
who is assigned to teach in this state as a participant in the 64761
teach for America program and who meets the following conditions: 64762
64763

(1) Holds a bachelor's degree from an accredited institution 64764

of higher education; 64765

(2) Maintained a cumulative undergraduate grade point average 64766
of at least 2.5 out of 4.0, or its equivalent; 64767

(3) Has passed an examination prescribed by the state board 64768
in the subject area to be taught; 64769

(4) Has successfully completed the summer training institute 64770
operated by teach for America. 64771

(B) The state board shall issue a resident educator license 64772
under this section for teaching in any grade level or subject area 64773
for which a person may obtain a resident educator license under 64774
section 3319.22 of the Revised Code. The state board shall not 64775
adopt rules establishing any additional qualifications for the 64776
license beyond those specified in this section. 64777

(C) Notwithstanding any other provision of the Revised Code 64778
or any rule adopted by the state board to the contrary, the state 64779
board shall issue a resident educator license under section 64780
3319.22 of the Revised Code to any applicant who has completed at 64781
least two years of teaching in another state as a participant in 64782
the teach for America program and meets all of the conditions of 64783
divisions (A)(1) to (4) of this section. The state board shall 64784
credit an applicant under this division as having completed two 64785
years of the teacher residency program under section 3319.223 of 64786
the Revised Code. 64787

(D) In order to place teachers in this state, the ~~Teach~~ teach 64788
for America program shall enter into an agreement with one or more 64789
accredited four-year public or private institutions of higher 64790
education in the state to provide optional training of ~~Teach~~ teach 64791
for America participants for the purpose of enabling those 64792
participants to complete an optional master's degree or an 64793
equivalent amount of coursework. Nothing in this division shall 64794
require any ~~Teach~~ teach for America participant to complete a 64795

master's degree as a condition of holding a license issued under 64796
this section. 64797

Sec. 3319.228. (A) This section applies only to a person who 64798
meets the following conditions: 64799

(1) Holds a minimum of a baccalaureate degree; 64800

(2) Has been licensed and employed as a teacher in another 64801
state for each of the preceding five years; 64802

(3) Was initially licensed as a teacher in any state within 64803
the preceding fifteen years; 64804

(4) Has not had a teacher's license suspended or revoked in 64805
any state. 64806

(B)(1) Not later than July 1, 2012, the superintendent of 64807
public instruction shall develop a list of states that the 64808
superintendent considers to have standards for teacher licensure 64809
that are inadequate to ensure that a person to whom this section 64810
applies and who was most recently licensed to teach in that state 64811
is qualified for a professional educator license issued under 64812
section 3319.22 of the Revised Code. 64813

(2) Following development of the list, the superintendent 64814
shall establish a panel of experts to evaluate the adequacy of the 64815
teacher licensure standards of each state on the list. Each person 64816
selected by the superintendent to be a member of the panel shall 64817
be approved by the state board of education. In evaluating the 64818
superintendent's list, the panel shall provide an opportunity for 64819
representatives of the department of education, or similar 64820
state-level agency, of each state on the list to provide evidence 64821
to refute the state's placement on the list. 64822

Not later than April 1, 2013, the panel shall recommend to 64823
the state board that the list be approved without changes or that 64824
specified states be removed from the list prior to approval. Not 64825

later than July 1, 2013, the state board shall approve a final 64826
list of states with standards for teacher licensure that are 64827
inadequate to ensure that a person to whom this section applies 64828
and who was most recently licensed to teach in that state is 64829
qualified for a professional educator license issued under section 64830
3319.22 of the Revised Code. 64831

(C) Except as otherwise provided in division (E)(1) of this 64832
section, until the date on which the state board approves a final 64833
list of states with inadequate teacher licensure standards under 64834
division (B)(2) of this section, the state board shall issue a 64835
one-year provisional educator license to any applicant to whom 64836
this section applies. On and after that date, neither the state 64837
board nor the department of education shall be party to any 64838
reciprocity agreement with a state on that list that requires the 64839
state board to issue a person to whom this section applies any 64840
type of professional educator license on the basis of the person's 64841
licensure and teaching experience in that state. 64842

(D) Upon the expiration of a provisional license issued to a 64843
person under division (C) of this section, the state board shall 64844
issue the person a professional educator license, if the person 64845
satisfies either of the following conditions: 64846

(1) The person was issued the provisional license prior to 64847
the development of the list by the state superintendent under 64848
division (B)(1) of this section and, prior to issuance of the 64849
provisional license, the person was most recently licensed to 64850
teach by a state not on the superintendent's list or, if the final 64851
list of states with inadequate teacher licensure standards has 64852
been approved by the state board under division (B)(2) of this 64853
section, by a state not on that list. 64854

(2) All of the following apply to the person: 64855

(a) Prior to obtaining the provisional license, the person 64856

was most recently licensed to teach by a state on the 64857
superintendent's list or, if the final list of states with 64858
inadequate teacher licensure standards has been approved by the 64859
state board under division (B)(2) of this section, by a state on 64860
that list. 64861

(b) The person was employed under the provisional license by 64862
a school district; community school established under Chapter 64863
3314. of the Revised Code; science, technology, engineering, and 64864
mathematics school established under Chapter 3326. of the Revised 64865
Code; or an entity contracted by such a district or school to 64866
provide internet- or computer-based instruction or distance 64867
learning programs to students. 64868

(c) The district or school certifies to the state board that 64869
the person's teaching was satisfactory while employed or 64870
contracted by the district or school. 64871

(E)(1) From July 1, 2012, until the date on which the state 64872
board approves a final list of states with inadequate teacher 64873
licensure standards under division (B)(2) of this section, the 64874
state board shall issue a professional educator license to any 64875
applicant to whom this section applies and who was most recently 64876
licensed to teach by a state that is not on the list developed by 64877
the state superintendent under division (B)(1) of this section. 64878

(2) Beginning on the date on which the state board approves a 64879
final list of states with inadequate teacher licensure standards 64880
under division (B)(2) of this section, the state board shall issue 64881
a professional educator license to any applicant to whom this 64882
section applies and who was most recently licensed to teach by a 64883
state that is not on that list. 64884

Sec. 3319.26. (A) The state board of education shall adopt 64885
rules establishing the standards and requirements for obtaining an 64886
alternative resident educator license for teaching in grades ~~four~~ 64887

~~kindergarten to twelve, or the equivalent, in a designated subject area. However, an alternative resident educator license or in the area of intervention specialist, as defined by rule of the state board, shall be valid for teaching in grades kindergarten to twelve.~~

(B) The superintendent of public instruction and the chancellor of the Ohio board of regents jointly shall develop an intensive pedagogical training institute to provide instruction in the principles and practices of teaching for individuals seeking an alternative resident educator license. The instruction shall cover such topics as student development and learning, pupil assessment procedures, curriculum development, classroom management, and teaching methodology.

(C) The rules adopted under this section shall require applicants for the alternative resident educator license to satisfy the following conditions prior to issuance of the license, but they shall not require applicants to have completed a major in the subject area for which application is being made:

(1) Hold a minimum of a baccalaureate degree;

(2) Successfully complete the pedagogical training institute described in division (B) of this section ~~or a summer training institute provided to participants of a teacher preparation program that is operated by a nonprofit organization and has been approved by the chancellor. The chancellor shall approve any such program that requires participants to hold a bachelor's degree;~~ have a cumulative undergraduate grade point average of at least 2.5 out of 4.0, or its equivalent; and successfully complete the program's summer training institute.

(3) Pass an examination in the subject area for which application is being made.

(D) An alternative resident educator license shall be valid

for four years, except that the state board, on a case-by-case basis, may extend the license's duration as necessary to enable the license holder to complete the Ohio teacher residency program established under section 3319.223 of the Revised Code.

(E) The rules shall require the holder of an alternative resident educator license, as a condition of continuing to hold the license, to do all of the following:

(1) Participate in the Ohio teacher residency program;

(2) Show satisfactory progress in taking and successfully completing ~~at~~ one of the following:

(a) At least twelve additional semester hours, or the equivalent, of college coursework in the principles and practices of teaching in such topics as student development and learning, pupil assessment procedures, curriculum development, classroom management, and teaching methodology;

(b) Professional development provided by a teacher preparation program that has been approved by the chancellor under division (C)(2) of this section.

(3) Take an assessment of professional knowledge in the second year of teaching under the license.

(F) The rules shall provide for the granting of a professional educator license to a holder of an alternative resident educator license upon successfully completing all of the following:

(1) Four years of teaching under the alternative license;

(2) The ~~twelve semester hours, or the equivalent, of the~~ additional college coursework or professional development described in division (E)(2) of this section;

(3) The assessment of professional knowledge described in division (E)(3) of this section. The standards for successfully

completing this assessment and the manner of conducting the 64949
assessment shall be the same as for any other individual who is 64950
required to take the assessment pursuant to rules adopted by the 64951
state board under section 3319.22 of the Revised Code. 64952

(4) The Ohio teacher residency program; 64953

(5) All other requirements for a professional educator 64954
license adopted by the state board under section 3319.22 of the 64955
Revised Code. 64956

(G) A person who is assigned to teach in this state as a 64957
participant in the teach for America program or who has completed 64958
two years of teaching in another state as a participant in that 64959
program shall be eligible for a license only under section 64960
3319.227 of the Revised Code and shall not be eligible for a 64961
license under this section. 64962

Sec. 3319.31. (A) As used in this section and sections 64963
3123.41 to 3123.50 and 3319.311 of the Revised Code, "license" 64964
means a certificate, license, or permit described in this chapter 64965
or in division (B) of section 3301.071 or in section 3301.074 of 64966
the Revised Code. 64967

(B) For any of the following reasons, the state board of 64968
education, in accordance with Chapter 119. and section 3319.311 of 64969
the Revised Code, may refuse to issue a license to an applicant; 64970
may limit a license it issues to an applicant; may suspend, 64971
revoke, or limit a license that has been issued to any person; or 64972
may revoke a license that has been issued to any person and has 64973
expired: 64974

(1) Engaging in an immoral act, incompetence, negligence, or 64975
conduct that is unbecoming to the applicant's or person's 64976
position; 64977

(2) A plea of guilty to, a finding of guilt by a jury or 64978

court of, or a conviction of any of the following: 64979

(a) A felony other than a felony listed in division (C) of 64980
this section; 64981

(b) An offense of violence other than an offense of violence 64982
listed in division (C) of this section; 64983

(c) A theft offense, as defined in section 2913.01 of the 64984
Revised Code, other than a theft offense listed in division (C) of 64985
this section; 64986

(d) A drug abuse offense, as defined in section 2925.01 of 64987
the Revised Code, that is not a minor misdemeanor, other than a 64988
drug abuse offense listed in division (C) of this section; 64989

(e) A violation of an ordinance of a municipal corporation 64990
that is substantively comparable to an offense listed in divisions 64991
(B)(2)(a) to (d) of this section. 64992

(3) A judicial finding of eligibility for intervention in 64993
lieu of conviction under section 2951.041 of the Revised Code, or 64994
agreeing to participate in a pre-trial diversion program under 64995
section 2935.36 of the Revised Code, or a similar diversion 64996
program under rules of a court, for any offense listed in division 64997
(B)(2) or (C) of this section; 64998

(4) Failure to comply with section 3314.40, 3319.313, 64999
3326.24, 3328.19, or 5126.253 of the Revised Code. 65000

(C) Upon learning of a plea of guilty to, a finding of guilt 65001
by a jury or court of, or a conviction of any of the offenses 65002
listed in this division by a person who holds a current or expired 65003
license or is an applicant for a license or renewal of a license, 65004
the state board or the superintendent of public instruction, if 65005
the state board has delegated the duty pursuant to division (D) of 65006
this section, shall by a written order revoke the person's license 65007
or deny issuance or renewal of the license to the person. The 65008

state board or the superintendent shall revoke a license that has 65009
been issued to a person to whom this division applies and has 65010
expired in the same manner as a license that has not expired. 65011

Revocation of a license or denial of issuance or renewal of a 65012
license under this division is effective immediately at the time 65013
and date that the board or superintendent issues the written order 65014
and is not subject to appeal in accordance with Chapter 119. of 65015
the Revised Code. Revocation of a license or denial of issuance or 65016
renewal of license under this division remains in force during the 65017
pendency of an appeal by the person of the plea of guilty, finding 65018
of guilt, or conviction that is the basis of the action taken 65019
under this division. 65020

The state board or superintendent shall take the action 65021
required by this division for a violation of division (B)(1), (2), 65022
(3), or (4) of section 2919.22 of the Revised Code; a violation of 65023
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 65024
2903.12, 2903.15, 2905.01, 2905.02, 2905.05, 2905.11, 2907.02, 65025
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.21, 2907.22, 65026
2907.23, 2907.24, 2907.241, 2907.25, 2907.31, 2907.311, 2907.32, 65027
2907.321, 2907.322, 2907.323, 2907.33, 2907.34, 2909.02, 2909.22, 65028
2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.44, 65029
2917.01, 2917.02, 2917.03, 2917.31, 2917.33, 2919.12, 2919.121, 65030
2919.13, 2921.02, 2921.03, 2921.04, 2921.05, 2921.11, 2921.34, 65031
2921.41, 2923.122, 2923.123, 2923.161, 2923.17, 2923.21, 2925.02, 65032
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 65033
2925.23, 2925.24, 2925.32, 2925.36, 2925.37, 2927.24, or 3716.11 65034
of the Revised Code; a violation of section 2905.04 of the Revised 65035
Code as it existed prior to July 1, 1996; a violation of section 65036
2919.23 of the Revised Code that would have been a violation of 65037
section 2905.04 of the Revised Code as it existed prior to July 1, 65038
1996, had the violation been committed prior to that date; 65039
felonious sexual penetration in violation of former section 65040

2907.12 of the Revised Code; or a violation of an ordinance of a municipal corporation that is substantively comparable to an offense listed in this paragraph.

(D) The state board may delegate to the superintendent of public instruction the authority to revoke a person's license or to deny issuance or renewal of a license to a person under division (C) or (F) of this section.

(E)(1) If the plea of guilty, finding of guilt, or conviction that is the basis of the action taken under division (B)(2) or (C) of this section, or under the version of division (F) of section 3319.311 of the Revised Code in effect prior to ~~the effective date of this amendment~~ September 12, 2008, is overturned on appeal, upon exhaustion of the criminal appeal, the clerk of the court that overturned the plea, finding, or conviction or, if applicable, the clerk of the court that accepted an appeal from the court that overturned the plea, finding, or conviction, shall notify the state board that the plea, finding, or conviction has been overturned. Within thirty days after receiving the notification, the state board shall initiate proceedings to reconsider the revocation or denial of the person's license in accordance with division (E)(2) of this section. In addition, the person whose license was revoked or denied may file with the state board a petition for reconsideration of the revocation or denial along with appropriate court documents.

(2) Upon receipt of a court notification or a petition and supporting court documents under division (E)(1) of this section, the state board, after offering the person an opportunity for an adjudication hearing under Chapter 119. of the Revised Code, shall determine whether the person committed the act in question in the prior criminal action against the person that is the basis of the revocation or denial and may continue the revocation or denial, may reinstate the person's license, with or without limits, or may

grant the person a new license, with or without limits. The 65073
decision of the board shall be based on grounds for revoking, 65074
denying, suspending, or limiting a license adopted by rule under 65075
division (G) of this section and in accordance with the 65076
evidentiary standards the board employs for all other licensure 65077
hearings. The decision of the board under this division is subject 65078
to appeal under Chapter 119. of the Revised Code. 65079

(3) A person whose license is revoked or denied under 65080
division (C) of this section shall not apply for any license if 65081
the plea of guilty, finding of guilt, or conviction that is the 65082
basis of the revocation or denial, upon completion of the criminal 65083
appeal, either is upheld or is overturned but the state board 65084
continues the revocation or denial under division (E)(2) of this 65085
section and that continuation is upheld on final appeal. 65086

(F) The state board may take action under division (B) of 65087
this section, and the state board or the superintendent shall take 65088
the action required under division (C) of this section, on the 65089
basis of substantially comparable conduct occurring in a 65090
jurisdiction outside this state or occurring before a person 65091
applies for or receives any license. 65092

(G) The state board may adopt rules in accordance with 65093
Chapter 119. of the Revised Code to carry out this section and 65094
section 3319.311 of the Revised Code. 65095

Sec. 3319.311. (A)(1) The state board of education, or the 65096
superintendent of public instruction on behalf of the board, may 65097
investigate any information received about a person that 65098
reasonably appears to be a basis for action under section 3319.31 65099
of the Revised Code, including information received pursuant to 65100
section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, 65101
or 5153.176 of the Revised Code. Except as provided in division 65102
(A)(2) of this section, the board shall contract with the office 65103

of the Ohio attorney general to conduct any investigation of that 65104
nature. The board shall pay for the costs of the contract only 65105
from moneys in the state board of education licensure fund 65106
established under section 3319.51 of the Revised Code. Except as 65107
provided in division (A)(2) of this section, all information 65108
received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 65109
3328.19, 5126.253, or 5153.176 of the Revised Code, and all 65110
information obtained during an investigation is confidential and 65111
is not a public record under section 149.43 of the Revised Code. 65112
If an investigation is conducted under this division regarding 65113
information received about a person and no action is taken against 65114
the person under this section or section 3319.31 of the Revised 65115
Code within two years of the completion of the investigation, all 65116
records of the investigation shall be expunged. 65117

(2) In the case of a person about whom the board has learned 65118
of a plea of guilty to, finding of guilt by a jury or court of, or 65119
a conviction of an offense listed in division (C) of section 65120
3319.31 of the Revised Code, or substantially comparable conduct 65121
occurring in a jurisdiction outside this state, the board or the 65122
superintendent of public instruction need not conduct any further 65123
investigation and shall take the action required by division (C) 65124
or (F) of that section. Except as provided in division (G) of this 65125
section, all information obtained by the board or the 65126
superintendent of public instruction pertaining to the action is a 65127
public record under section 149.43 of the Revised Code. 65128

(B) The superintendent of public instruction shall review the 65129
results of each investigation of a person conducted under division 65130
(A)(1) of this section and shall determine, on behalf of the state 65131
board, whether the results warrant initiating action under 65132
division (B) of section 3319.31 of the Revised Code. The 65133
superintendent shall advise the board of such determination at a 65134
meeting of the board. Within fourteen days of the next meeting of 65135

the board, any member of the board may ask that the question of 65136
initiating action under section 3319.31 of the Revised Code be 65137
placed on the board's agenda for that next meeting. Prior to 65138
initiating that action against any person, the person's name and 65139
any other personally identifiable information shall remain 65140
confidential. 65141

(C) The board shall take no action against a person under 65142
division (B) of section 3319.31 of the Revised Code without 65143
providing the person with written notice of the charges and with 65144
an opportunity for a hearing in accordance with Chapter 119. of 65145
the Revised Code. 65146

(D) For purposes of an investigation under division (A)(1) of 65147
this section or a hearing under division (C) of this section or 65148
under division (E)(2) of section 3319.31 of the Revised Code, the 65149
board, or the superintendent on behalf of the board, may 65150
administer oaths, order the taking of depositions, issue 65151
subpoenas, and compel the attendance of witnesses and the 65152
production of books, accounts, papers, records, documents, and 65153
testimony. The issuance of subpoenas under this division may be by 65154
certified mail or personal delivery to the person. 65155

(E) The superintendent, on behalf of the board, may enter 65156
into a consent agreement with a person against whom action is 65157
being taken under division (B) of section 3319.31 of the Revised 65158
Code. The board may adopt rules governing the superintendent's 65159
action under this division. 65160

(F) No surrender of a license shall be effective until the 65161
board takes action to accept the surrender unless the surrender is 65162
pursuant to a consent agreement entered into under division (E) of 65163
this section. 65164

(G) The name of any person who is not required to report 65165
information under section 3314.40, 3319.313, 3326.24, 3328.19, 65166

5126.253, or 5153.176 of the Revised Code, but who in good faith provides information to the state board or superintendent of public instruction about alleged misconduct committed by a person who holds a license or has applied for issuance or renewal of a license, shall be confidential and shall not be released. Any such person shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the provision of that information.

(H)(1) No person shall knowingly make a false report to the superintendent of public instruction or the state board of education alleging misconduct by an employee of a public or chartered nonpublic school or an employee of the operator of a community school established under Chapter 3314. or a college-preparatory boarding school established under Chapter 3328. of the Revised Code.

(2)(a) In any civil action brought against a person in which it is alleged and proved that the person violated division (H)(1) of this section, the court shall award the prevailing party reasonable attorney's fees and costs that the prevailing party incurred in the civil action or as a result of the false report that was the basis of the violation.

(b) If a person is convicted of or pleads guilty to a violation of division (H)(1) of this section, if the subject of the false report that was the basis of the violation was charged with any violation of a law or ordinance as a result of the false report, and if the subject of the false report is found not to be guilty of the charges brought against the subject as a result of the false report or those charges are dismissed, the court that sentences the person for the violation of division (H)(1) of this section, as part of the sentence, shall order the person to pay restitution to the subject of the false report, in an amount equal to reasonable attorney's fees and costs that the subject of the

false report incurred as a result of or in relation to the 65199
charges. 65200

Sec. 3319.39. (A)(1) Except as provided in division (F)(2)(b) 65201
of section 109.57 of the Revised Code, the appointing or hiring 65202
officer of the board of education of a school district, the 65203
governing board of an educational service center, or of a 65204
chartered nonpublic school shall request the superintendent of the 65205
bureau of criminal identification and investigation to conduct a 65206
criminal records check with respect to any applicant who has 65207
applied to the school district, educational service center, or 65208
school for employment in any position. The appointing or hiring 65209
officer shall request that the superintendent include information 65210
from the federal bureau of investigation in the criminal records 65211
check, unless all of the following apply to the applicant: 65212

(a) The applicant is applying to be an instructor of adult 65213
education. 65214

(b) The duties of the position for which the applicant is 65215
applying do not involve routine interaction with a child or 65216
regular responsibility for the care, custody, or control of a 65217
child or, if the duties do involve such interaction or 65218
responsibility, during any period of time in which the applicant, 65219
if hired, has such interaction or responsibility, another employee 65220
of the school district, educational service center, or chartered 65221
nonpublic school will be present in the same room with the child 65222
or, if outdoors, will be within a thirty-yard radius of the child 65223
or have visual contact with the child. 65224

(c) The applicant presents proof that the applicant has been 65225
a resident of this state for the five-year period immediately 65226
prior to the date upon which the criminal records check is 65227
requested or provides evidence that within that five-year period 65228
the superintendent has requested information about the applicant 65229

from the federal bureau of investigation in a criminal records check. 65230
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(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section. 65232
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(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the board of education of a school district, governing board of an educational service center, or governing authority of a chartered nonpublic school shall not employ that applicant for any position. 65243
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(4) Notwithstanding any provision of this section to the contrary, an applicant who meets the conditions prescribed in divisions (A)(1)(a) and (b) of this section and who, within the two-year period prior to the date of application, was the subject of a criminal records check under this section prior to being 65257
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hired for short-term employment with the school district, 65262
educational service center, or chartered nonpublic school to which 65263
application is being made shall not be required to undergo a 65264
criminal records check prior to the applicant's rehiring by that 65265
district, service center, or school. 65266

(B)(1) Except as provided in rules adopted by the department 65267
of education in accordance with division (E) of this section and 65268
as provided in division (B)(3) of this section, no board of 65269
education of a school district, no governing board of an 65270
educational service center, and no governing authority of a 65271
chartered nonpublic school shall employ a person if the person 65272
previously has been convicted of or pleaded guilty to any of the 65273
following: 65274

(a) A violation of section 2903.01, 2903.02, 2903.03, 65275
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 65276
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 65277
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 65278
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 65279
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 65280
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 65281
2925.06, or 3716.11 of the Revised Code, a violation of section 65282
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 65283
violation of section 2919.23 of the Revised Code that would have 65284
been a violation of section 2905.04 of the Revised Code as it 65285
existed prior to July 1, 1996, had the violation been committed 65286
prior to that date, a violation of section 2925.11 of the Revised 65287
Code that is not a minor drug possession offense, or felonious 65288
sexual penetration in violation of former section 2907.12 of the 65289
Revised Code; 65290

(b) A violation of an existing or former law of this state, 65291
another state, or the United States that is substantially 65292
equivalent to any of the offenses or violations described in 65293

division (B)(1)(a) of this section. 65294

(2) A board, governing board of an educational service 65295
center, or a governing authority of a chartered nonpublic school 65296
may employ an applicant conditionally until the criminal records 65297
check required by this section is completed and the board or 65298
governing authority receives the results of the criminal records 65299
check. If the results of the criminal records check indicate that, 65300
pursuant to division (B)(1) of this section, the applicant does 65301
not qualify for employment, the board or governing authority shall 65302
release the applicant from employment. 65303

(3) No board and no governing authority of a chartered 65304
nonpublic school shall employ a teacher who previously has been 65305
convicted of or pleaded guilty to any of the offenses listed in 65306
section 3319.31 of the Revised Code. 65307

(C)(1) Each board and each governing authority of a chartered 65308
nonpublic school shall pay to the bureau of criminal 65309
identification and investigation the fee prescribed pursuant to 65310
division (C)(3) of section 109.572 of the Revised Code for each 65311
criminal records check conducted in accordance with that section 65312
upon the request pursuant to division (A)(1) of this section of 65313
the appointing or hiring officer of the board or governing 65314
authority. 65315

(2) A board and the governing authority of a chartered 65316
nonpublic school may charge an applicant a fee for the costs it 65317
incurs in obtaining a criminal records check under this section. A 65318
fee charged under this division shall not exceed the amount of 65319
fees the board or governing authority pays under division (C)(1) 65320
of this section. If a fee is charged under this division, the 65321
board or governing authority shall notify the applicant at the 65322
time of the applicant's initial application for employment of the 65323
amount of the fee and that, unless the fee is paid, the board or 65324
governing authority will not consider the applicant for 65325

employment. 65326

(D) The report of any criminal records check conducted by the 65327
bureau of criminal identification and investigation in accordance 65328
with section 109.572 of the Revised Code and pursuant to a request 65329
under division (A)(1) of this section is not a public record for 65330
the purposes of section 149.43 of the Revised Code and shall not 65331
be made available to any person other than the applicant who is 65332
the subject of the criminal records check or the applicant's 65333
representative, the board or governing authority requesting the 65334
criminal records check or its representative, and any court, 65335
hearing officer, or other necessary individual involved in a case 65336
dealing with the denial of employment to the applicant. 65337

(E) The department of education shall adopt rules pursuant to 65338
Chapter 119. of the Revised Code to implement this section, 65339
including rules specifying circumstances under which the board or 65340
governing authority may hire a person who has been convicted of an 65341
offense listed in division (B)(1) or (3) of this section but who 65342
meets standards in regard to rehabilitation set by the department. 65343

The department shall amend rule 3301-83-23 of the Ohio 65344
Administrative Code that took effect August 27, 2009, and that 65345
specifies the offenses that disqualify a person for employment as 65346
a school bus or school van driver and establishes rehabilitation 65347
standards for school bus and school van drivers. 65348

(F) Any person required by division (A)(1) of this section to 65349
request a criminal records check shall inform each person, at the 65350
time of the person's initial application for employment, of the 65351
requirement to provide a set of fingerprint impressions and that a 65352
criminal records check is required to be conducted and 65353
satisfactorily completed in accordance with section 109.572 of the 65354
Revised Code if the person comes under final consideration for 65355
appointment or employment as a precondition to employment for the 65356
school district, educational service center, or school for that 65357

position. 65358

(G) As used in this section: 65359

(1) "Applicant" means a person who is under final 65360
consideration for appointment or employment in a position with a 65361
board of education, governing board of an educational service 65362
center, or a chartered nonpublic school, except that "applicant" 65363
does not include a person already employed by a board or chartered 65364
nonpublic school who is under consideration for a different 65365
position with such board or school. 65366

(2) "Teacher" means a person holding an educator license or 65367
permit issued under section 3319.22 or 3319.301 of the Revised 65368
Code and teachers in a chartered nonpublic school. 65369

(3) "Criminal records check" has the same meaning as in 65370
section 109.572 of the Revised Code. 65371

(4) "Minor drug possession offense" has the same meaning as 65372
in section 2925.01 of the Revised Code. 65373

(H) If the board of education of a local school district 65374
adopts a resolution requesting the assistance of the educational 65375
service center in which the local district has territory in 65376
conducting criminal records checks of substitute teachers and 65377
substitutes for other district employees under this section, the 65378
appointing or hiring officer of such educational service center 65379
shall serve for purposes of this section as the appointing or 65380
hiring officer of the local board in the case of hiring substitute 65381
teachers and other substitute employees for the local district. 65382

Sec. 3319.57. (A) A grant program is hereby established under 65383
which the department of education shall award grants to assist 65384
certain schools in a city, exempted village, local, or joint 65385
vocational school district in implementing one of the following 65386
innovations: 65387

(1) The use of instructional specialists to mentor and support classroom teachers;	65388 65389
(2) The use of building managers to supervise the administrative functions of school operation so that a school principal can focus on supporting instruction, providing instructional leadership, and engaging teachers as part of the instructional leadership team;	65390 65391 65392 65393 65394
(3) The reconfiguration of school leadership structure in a manner that allows teachers to serve in leadership roles so that teachers may share the responsibility for making and implementing school decisions;	65395 65396 65397 65398
(4) The adoption of new models for restructuring the school day or school year, such as including teacher planning and collaboration time as part of the school day;	65399 65400 65401
(5) The creation of smaller schools or smaller units within larger schools for the purpose of facilitating teacher collaboration to improve and advance the professional practice of teaching;	65402 65403 65404 65405
(6) The implementation of "grow your own" recruitment strategies that are designed to assist individuals who show a commitment to education become licensed teachers, to assist experienced teachers obtain licensure in subject areas for which there is need, and to assist teachers in becoming principals;	65406 65407 65408 65409 65410
(7) The provision of better conditions for new teachers, such as reduced teaching load and reduced class size;	65411 65412
(8) The provision of incentives to attract qualified mathematics, science, or special education teachers;	65413 65414
(9) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas;	65415 65416 65417

(10) The implementation of a program to increase the cultural competency of both new and veteran teachers; 65418
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(11) The implementation of a program to increase the subject matter competency of veteran teachers. 65420
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(B) To qualify for a grant to implement one of the innovations described in division (A) of this section, a school must meet both of the following criteria: 65422
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(1) Be hard to staff, as defined by the department. 65425

(2) Use existing school district funds for the implementation of the innovation in an amount equal to the grant amount multiplied by (1 - the district's state share percentage for the fiscal year in which the grant is awarded). 65426
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For purposes of division (B)(2) of this section, "state share percentage" has the same meaning as in section ~~3306.02~~ 3317.02 of the Revised Code. 65430
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(C) The amount and number of grants awarded under this section shall be determined by the department based on any appropriations made by the general assembly for grants under this section. 65433
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(D) The state board of education shall adopt rules for the administration of this grant program. 65437
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Sec. 3319.58. (A) As used in this section, "core subject area" has the same meaning as in section 3319.074 of the Revised Code. 65439
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(B) Each year, the board of education of each city, exempted village, and local school district, governing authority of each community school established under Chapter 3314. of the Revised Code, and governing body of each STEM school established under Chapter 3326. of the Revised Code with a building in the lowest ten percentiles of performance index score, as ranked under 65442
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section 3302.21 of the Revised Code, shall require each classroom teacher teaching in a core subject area in such a building to register for and take all written examinations prescribed by the state board of education for licensure to teach that core subject area and the grade level to which the teacher is assigned under section 3319.22 of the Revised Code.

(C) Each district board of education, each community school governing authority, and each STEM school governing body may use the results of a teacher's examinations required under division (B) of this section in developing and revising professional development plans and in deciding whether or not to continue employing the teacher in accordance with the provisions of this chapter or Chapter 3314. or 3326. of the Revised Code. However, no decision to terminate or not to renew a teacher's employment contract shall be made solely on the basis of the results of a teacher's examination under this section until and unless the teacher has not attained a passing score on the same required examination for at least three consecutive administrations of that examination.

Sec. 3319.71. (A) The school health services advisory council shall make recommendations on the following topics:

(1) The content of the course of instruction required to obtain a school nurse license under section 3319.221 of the Revised Code;

(2) The content of the course of instruction required to obtain a school nurse wellness coordinator license under section 3319.221 of the Revised Code;

(3) Best practices for the use of school nurses and school nurse wellness coordinators in providing health and wellness programs for students and employees of school districts, community schools established under Chapter 3314. of the Revised Code, and

STEM schools established under Chapter 3326. of the Revised Code. 65479

(B) The council shall issue its initial recommendations not 65480
later than March 31, 2010, and may issue subsequent 65481
recommendations as it considers necessary. Copies of all 65482
recommendations shall be provided to the state board of education, 65483
the chancellor of the Ohio board of regents, and the board of 65484
nursing, ~~and the health care coverage and quality council.~~ 65485

Sec. 3323.052. Not later than sixty days after the effective 65486
date of this section, the department of education shall develop a 65487
document that compares a parent's and child's rights under this 65488
chapter and 20 U.S.C. 1400 et seq. with the parent's and child's 65489
rights under the special education scholarship program, 65490
established in sections 3310.51 to 3310.64 of the Revised Code, 65491
including the deadline for application for a scholarship or 65492
renewal of a scholarship and notice of that application to the 65493
child's school district, prescribed in division (C) of section 65494
3310.52 of the Revised Code, and the provisions of divisions (A) 65495
and (B) of section 3310.53 of the Revised Code. The department 65496
shall revise that document as necessary to reflect any pertinent 65497
changes in state or federal statutory law, rule, or regulation 65498
enacted or adopted after the initial document is developed. The 65499
department and each school district shall ensure that the document 65500
prescribed in this section is included in, appended to, or 65501
otherwise distributed in conjunction with the notice required 65502
under 20 U.S.C. 1415(d), and any provision of the Code of Federal 65503
Regulations implementing that requirement, in the manner and at 65504
all the times specified for such notice in federal law or 65505
regulation. As used in this section, a "child's school district" 65506
means the school district in which the child is entitled to attend 65507
school under section 3313.64 or 3313.65 of the Revised Code. 65508

Sec. 3323.09. (A) As used in this section: 65509

(1) "Home" has the meaning given in section 3313.64 of the Revised Code. 65510
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(2) "Preschool child" means a child who is at least age three but under age six on the thirtieth day of September of an academic year. 65512
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(B) Each county DD board shall establish special education programs for all children with disabilities who in accordance with section 3323.04 of the Revised Code have been placed in special education programs operated by the county board and for preschool children who are developmentally delayed or at risk of being developmentally delayed. The board annually shall submit to the department of education a plan for the provision of these programs and, if applicable, a request for approval of units under section 3317.05 of the Revised Code. The superintendent of public instruction shall review the plan and approve or modify it in accordance with rules adopted by the state board of education under section 3301.07 of the Revised Code. The superintendent of public instruction shall compile the plans submitted by county boards and shall submit a comprehensive plan to the state board. 65515
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A county DD board may combine transportation for children enrolled in classes funded under section 3317.20 or units approved under section 3317.05 with transportation for children and adults enrolled in programs and services offered by the board under ~~section 5126.12~~ Chapter 5126. of the Revised Code. 65529
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(C) A county DD board that during the school year provided special education pursuant to this section for any child with mental disabilities under twenty-two years of age shall prepare and submit the following reports and statements: 65534
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(1) The board shall prepare a statement for each child who at the time of receiving such special education was a resident of a home and was not in the legal or permanent custody of an Ohio 65538
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resident or a government agency in this state, and whose natural 65541
or adoptive parents are not known to have been residents of this 65542
state subsequent to the child's birth. The statement shall contain 65543
the child's name, the name of the child's school district of 65544
residence, the name of the county board providing the special 65545
education, and the number of months, including any fraction of a 65546
month, it was provided. Not later than the thirtieth day of June, 65547
the board shall forward a certified copy of such statement to both 65548
the director of developmental disabilities and to the home. 65549

Within thirty days after its receipt of a statement, the home 65550
shall pay tuition to the county board computed in the manner 65551
prescribed by section 3323.141 of the Revised Code. 65552

(2) The board shall prepare a report for each school district 65553
that is the school district of residence of one or more of such 65554
children for whom statements are not required by division (C)(1) 65555
of this section. The report shall contain the name of the county 65556
board providing special education, the name of each child 65557
receiving special education, the number of months, including 65558
fractions of a month, that the child received it, and the name of 65559
the child's school district of residence. Not later than the 65560
thirtieth day of June, the board shall forward certified copies of 65561
each report to the school district named in the report, the 65562
superintendent of public instruction, and the director of 65563
developmental disabilities. 65564

Sec. 3323.091. (A) The department of mental health, the 65565
department of developmental disabilities, the department of youth 65566
services, and the department of rehabilitation and correction 65567
shall establish and maintain special education programs for 65568
children with disabilities in institutions under their 65569
jurisdiction according to standards adopted by the state board of 65570
education. 65571

(B) The superintendent of each state institution required to provide services under division (A) of this section, and each county DD board, providing special education for preschool children with disabilities under this chapter may apply to the state department of education for unit funding, which shall be paid in accordance with sections 3317.052 and 3317.053 of the Revised Code.

The superintendent of each state institution required to provide services under division (A) of this section may apply to the department of education for special education and related services weighted funding for children with disabilities other than preschool children with disabilities, calculated in accordance with section 3317.201 of the Revised Code.

Each county DD board providing special education for children with disabilities other than preschool children with disabilities may apply to the department of education for base cost and special education and related services weighted funding calculated in accordance with section 3317.20 of the Revised Code.

(C) In addition to the authorization to apply for state funding described in division (B) of this section, each state institution required to provide services under division (A) of this section is entitled to tuition payments calculated in the manner described in division (C) of this section.

On or before the thirtieth day of June of each year, the superintendent of each institution that during the school year provided special education pursuant to this section shall prepare a statement for each child with a disability under twenty-two years of age who has received special education. The statement shall contain the child's data verification code assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code and the name of the child's school district of residence. Within sixty days after receipt of such statement, the department of education

shall perform one of the following: 65604

(1) For any child except a preschool child with a disability 65605
described in division (C)(2) of this section, pay to the 65606
institution submitting the statement an amount equal to the 65607
tuition calculated under division (A) of section 3317.08 of the 65608
Revised Code for the period covered by the statement, and deduct 65609
the same from the amount of state funds, if any, payable under 65610
~~sections 3306.13 and 3317.023~~ Chapter 3317. of the Revised Code, 65611
to the child's school district of residence or, if the amount of 65612
such state funds is insufficient, require the child's school 65613
district of residence to pay the institution submitting the 65614
statement an amount equal to the amount determined under this 65615
division. 65616

(2) For any preschool child with a disability not included in 65617
a unit approved under division (B) of section 3317.05 of the 65618
Revised Code, perform the following: 65619

(a) Pay to the institution submitting the statement an amount 65620
equal to the tuition calculated under division (B) of section 65621
3317.08 of the Revised Code for the period covered by the 65622
statement, except that in calculating the tuition under that 65623
section the operating expenses of the institution submitting the 65624
statement under this section shall be used instead of the 65625
operating expenses of the school district of residence; 65626

(b) Deduct from the amount of state funds, if any, payable 65627
under ~~sections 3317.022 or 3306.13 and 3317.023~~ Chapter 3317. of 65628
the Revised Code to the child's school district of residence an 65629
amount equal to the amount paid under division (C)(2)(a) of this 65630
section. 65631

Sec. 3323.14. This section does not apply to any preschool 65632
child with a disability except if included in a unit approved 65633
under division (B) of section 3317.05 of the Revised Code. 65634

(A) Where a child who is a school resident of one school district receives special education from another district and the per capita cost to the educating district for that child exceeds the sum of the amount received by the educating district for that child under division (A) of section 3317.08 of the Revised Code and the amount received by the district from the state board of education for that child, then the board of education of the district of residence shall pay to the board of the school district that is providing the special education such excess cost as is determined by using a formula approved by the department of education and agreed upon in contracts entered into by the boards of the districts concerned at the time the district providing such special education accepts the child for enrollment. The department shall certify the amount of the payments under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code for such pupils with disabilities for each school year ending on the thirtieth day of July.

(B) In the case of a child described in division (A) of this section who has been placed in a home, as defined in section 3313.64 of the Revised Code, pursuant to the order of a court and who is not subject to section 3323.141 of the Revised Code, the district providing the child with special education and related services may charge to the child's district of residence the excess cost determined by formula approved by the department, regardless of whether the district of residence has entered into a contract with the district providing the services. If the district providing the services chooses to charge excess costs, the district may report the amount calculated under this division to the department.

(C) If a district providing special education for a child reports an amount for the excess cost of those services, as authorized and calculated under division (A) or (B) of this

section, the department shall pay that amount of excess cost to 65667
the district providing the services and shall deduct that amount 65668
from the child's district of residence in accordance with division 65669
(~~N~~)(K) of section 3317.023 of the Revised Code. 65670

Sec. 3323.142. This section does not apply to any preschool 65671
child with a disability except if included in a unit approved 65672
under division (B) of section 3317.05 of the Revised Code. 65673

As used in this section, "per pupil amount" for a preschool 65674
child with a disability included in such an approved unit means 65675
the amount determined by dividing the amount received for the 65676
classroom unit in which the child has been placed by the number of 65677
children in the unit. For any other child, "per pupil amount" 65678
means the amount paid for the child under section 3317.20 of the 65679
Revised Code. 65680

When a school district places or has placed a child with a 65681
county DD board for special education, but another district is 65682
responsible for tuition under section 3313.64 or 3313.65 of the 65683
Revised Code and the child is not a resident of the territory 65684
served by the county DD board, the board may charge the district 65685
responsible for tuition with the educational costs in excess of 65686
the per pupil amount received by the board under ~~Chapters 3306-~~ 65687
~~and Chapter~~ 3317. of the Revised Code. The amount of the excess 65688
cost shall be determined by the formula established by rule of the 65689
department of education under section 3323.14 of the Revised Code, 65690
and the payment for such excess cost shall be made by the school 65691
district directly to the county DD board. 65692

A school district board of education and the county DD board 65693
that serves the school district may negotiate and contract, at or 65694
after the time of placement, for payments by the board of 65695
education to the county DD board for additional services provided 65696
to a child placed with the county DD board and whose 65697

individualized education program established pursuant to section 65698
3323.08 of the Revised Code requires additional services that are 65699
not routinely provided children in the county DD board's program 65700
but are necessary to maintain the child's enrollment and 65701
participation in the program. Additional services may include, but 65702
are not limited to, specialized supplies and equipment for the 65703
benefit of the child and instruction, training, or assistance 65704
provided by staff members other than staff members for which 65705
funding is received under Chapter ~~3306.~~ or 3317. of the Revised 65706
Code. 65707

Sec. 3323.31. The Franklin county educational service center 65708
shall establish the Ohio ~~Center~~ center for ~~Autism~~ autism and ~~Low~~ 65709
~~Incidence~~ low incidence. The ~~Center~~ center shall administer 65710
programs and coordinate services for infants, preschool and 65711
school-age children, and adults with autism and low incidence 65712
disabilities. The ~~Center's~~ center's principal focus shall be 65713
programs and services for persons with autism. The ~~Center~~ center 65714
shall be under the direction of an executive director, appointed 65715
by the superintendent of the service center in consultation with 65716
the advisory board established under section 3323.33 of the 65717
Revised Code. 65718

In addition to its other duties, the Ohio ~~Center~~ center for 65719
~~Autism~~ autism and ~~Low Incidence~~ low incidence shall participate as 65720
a member of ~~an~~ the interagency workgroup on autism, as it is 65721
established by the ~~department~~ director of developmental 65722
disabilities ~~and~~ under section 5123.0419 of the Revised Code. The 65723
center shall provide technical assistance and support to the 65724
department of developmental disabilities in the department's 65725
leadership role to develop and implement the ~~initiatives~~ 65726
~~identified by~~ projects and activities of the workgroup. 65727

Sec. 3324.05. (A) Each school district shall submit an annual 65728

report to the department of education specifying the number of 65729
students in each of grades kindergarten through ~~twelfth~~ twelve 65730
screened, the number assessed, and the number identified as gifted 65731
in each category specified in section 3324.03 of the Revised Code. 65732

(B) The department of education shall audit each school 65733
district's identification numbers at least once every three years 65734
and may select any district at random or upon complaint or 65735
suspicion of noncompliance for a further audit to determine 65736
compliance with sections 3324.03 to 3324.06 of the Revised Code. 65737

(C) The department shall provide technical assistance to any 65738
district found in noncompliance under division (B) of this 65739
section. The department may reduce funds received by the district 65740
under ~~Chapters 3306.~~ and Chapter 3317. of the Revised Code by any 65741
amount if the district continues to be noncompliant. 65742

Sec. 3325.08. (A) A diploma shall be granted by the 65743
superintendent of the state school for the blind and the 65744
superintendent of the state school for the deaf to any student 65745
enrolled in one of these state schools to whom all of the 65746
following apply: 65747

(1) The student has successfully completed the individualized 65748
education program developed for the student for the student's high 65749
school education pursuant to section 3323.08 of the Revised Code; 65750

(2) Subject to section 3313.614 of the Revised Code, the 65751
student has met the assessment requirements of division (A)(2)(a) 65752
or (b) of this section, as applicable. 65753

(a) If the student entered the ninth grade prior to the date 65754
prescribed by rule of the state board of education under division 65755
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student 65756
either: 65757

(i) Has attained at least the applicable scores designated 65758

under division (B)(1) of section 3301.0710 of the Revised Code on 65759
all the assessments prescribed by that division unless division 65760
(L) of section 3313.61 of the Revised Code applies to the student; 65761

(ii) Has satisfied the alternative conditions prescribed in 65762
section 3313.615 of the Revised Code. 65763

(b) If the student entered the ninth grade on or after the 65764
date prescribed by rule of the state board under division 65765
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student 65766
has ~~attained on~~ met the requirements of the entire assessment 65767
system prescribed under division (B)(2) of section 3301.0710 of 65768
the Revised Code ~~at least the required passing composite score,~~ 65769
~~designated under division (C)(1) of section 3301.0712 of the~~ 65770
~~Revised Code,~~ except to the extent that division (L) of section 65771
3313.61 of the Revised Code applies to the student. 65772

(3) The student is not eligible to receive an honors diploma 65773
granted pursuant to division (B) of this section. 65774

No diploma shall be granted under this division to anyone 65775
except as provided under this division. 65776

(B) In lieu of a diploma granted under division (A) of this 65777
section, the superintendent of the state school for the blind and 65778
the superintendent of the state school for the deaf shall grant an 65779
honors diploma, in the same manner that the boards of education of 65780
school districts grant such diplomas under division (B) of section 65781
3313.61 of the Revised Code, to any student enrolled in one of 65782
these state schools who accomplishes all of the following: 65783

(1) Successfully completes the individualized education 65784
program developed for the student for the student's high school 65785
education pursuant to section 3323.08 of the Revised Code; 65786

(2) Subject to section 3313.614 of the Revised Code, has met 65787
the assessment requirements of division (B)(2)(a) or (b) of this 65788
section, as applicable. 65789

(a) If the student entered the ninth grade prior to the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed under that division;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the student entered the ninth grade on or after the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code.~~

(3) Has met additional criteria for granting an honors diploma.

These additional criteria shall be the same as those prescribed by the state board under division (B) of section 3313.61 of the Revised Code for the granting of such diplomas by school districts. No honors diploma shall be granted to anyone failing to comply with this division and not more than one honors diploma shall be granted to any student under this division.

(C) A diploma or honors diploma awarded under this section shall be signed by the superintendent of public instruction and the superintendent of the state school for the blind or the superintendent of the state school for the deaf, as applicable. Each diploma shall bear the date of its issue and be in such form as the school superintendent prescribes.

(D) Upon granting a diploma to a student under this section,

the superintendent of the state school in which the student is 65821
enrolled shall provide notice of receipt of the diploma to the 65822
board of education of the school district where the student is 65823
entitled to attend school under section 3313.64 or 3313.65 of the 65824
Revised Code when not residing at the state school for the blind 65825
or the state school for the deaf. The notice shall indicate the 65826
type of diploma granted. 65827

Sec. 3326.11. Each science, technology, engineering, and 65828
mathematics school established under this chapter and its 65829
governing body shall comply with sections 9.90, 9.91, 109.65, 65830
121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, 65831
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 65832
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 65833
3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 65834
3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 65835
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 65836
3313.671, 3313.672, 3313.673, 3313.674, 3313.69, 3313.71, 65837
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 65838
3313.816, 3313.817, 3313.86, 3313.88, 3313.96, 3319.073, 3319.21, 65839
3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 65840
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 65841
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 65842
102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 65843
4123., 4141., and 4167. of the Revised Code as if it were a school 65844
district. 65845

Sec. 3326.33. Payments and deductions under this section for 65846
fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance 65847
with section 3326.39 of the Revised Code. 65848

For each student enrolled in a science, technology, 65849
engineering, and mathematics school established under this 65850
chapter, the department of education annually shall deduct from 65851

the state education aid of a student's resident school district 65852
and, if necessary, from the payment made to the district under 65853
sections 321.24 and 323.156 of the Revised Code and pay to the 65854
school the sum of the following: 65855

(A) The sum of the formula amount plus the per pupil amount 65856
of the base funding supplements specified in divisions (C)(1) to 65857
(4) of section 3317.012 of the Revised Code. 65858

(B) If the student is receiving special education and related 65859
services pursuant to an IEP, the product of the applicable special 65860
education weight times the formula amount; 65861

(C) If the student is enrolled in vocational education 65862
programs or classes that are described in section 3317.014 of the 65863
Revised Code, are provided by the school, and are comparable as 65864
determined by the superintendent of public instruction to school 65865
district vocational education programs and classes eligible for 65866
state weighted funding under section 3317.014 of the Revised Code, 65867
the product of the applicable vocational education weight times 65868
the formula amount times the percentage of time the student spends 65869
in the vocational education programs or classes; 65870

(D) If the student is included in the poverty student count 65871
of the student's resident district, the per pupil amount of the 65872
district's payment under division (C) of section 3317.029 of the 65873
Revised Code; 65874

(E) If the student is identified as limited English 65875
proficient and the student's resident district receives a payment 65876
for services to limited English proficient students under division 65877
(F) of section 3317.029 of the Revised Code, the per pupil amount 65878
of the district's payment under that division, calculated in the 65879
same manner as per pupil payments are calculated under division 65880
(C)(6) of section 3314.08 of the Revised Code; 65881

(F) If the student's resident district receives a payment 65882

under division (G), (H), or (I) of section 3317.029 of the Revised Code, the per pupil amount of the district's payments under each division, calculated in the same manner as per pupil payments are calculated under divisions (C)(7) and (8) of section 3314.08 of the Revised Code;

(G) If the student's resident district receives a parity aid payment under section 3317.0217 of the Revised Code, the per pupil amount calculated for the district under division (C) or (D) of that section.

Sec. 3326.39. For purposes of applying sections 3326.31 to 3326.37 of the Revised Code to fiscal years ~~2010~~ 2012 and ~~2011~~ 2013:

(A) The formula amount for STEM schools for each of fiscal year ~~2010 is \$5,718, and for fiscal year 2011 is \$5,703. These respective amounts~~ years 2012 and 2013 is \$5,653. That amount shall be applied wherein sections 3326.31 to 3326.37 of the Revised Code the formula amount is specified, except for deducting and paying amounts for special education weighted funding and vocational education weighted funding.

(B) The base funding supplements under section 3317.012 of the Revised Code shall be deemed in each year to be the amounts specified in that section for fiscal year 2009. Accordingly, when computing the per-pupil base funding supplements for a STEM school under that section for fiscal years 2012 and 2013, the department of education shall substitute \$5,732 for the "formula amount" as used in divisions (C)(2), (3), and (4) of that section.

(C) Special education additional weighted funding shall be calculated by first grouping children with disabilities into the appropriate disability categories prescribed by section 3317.013 of the Revised Code as amended by H.B. 153 of the 129th general assembly, and then by multiplying the applicable weight respective

~~multiple specified for fiscal year 2009 in that section 3317.013~~ 65914
~~of the Revised Code, as it existed for that fiscal year 2009,~~ 65915
times \$5,732. 65916

(D) Vocational education additional weighted funding shall be 65917
calculated by multiplying the applicable weight specified in 65918
section 3317.014 of the Revised Code for fiscal year 2009 times 65919
\$5,732. 65920

(E) The per pupil amounts paid to a school district under 65921
sections 3317.029 and 3317.0217 of the Revised Code shall be 65922
deemed to be the respective per pupil amounts paid under those 65923
sections to that district for fiscal year 2009. 65924

Sec. 3327.02. (A) After considering each of the following 65925
factors, the board of education of a city, exempted village, or 65926
local school district may determine that it is impractical to 65927
transport a pupil who is eligible for transportation to and from a 65928
school under section 3327.01 of the Revised Code: 65929

(1) The time and distance required to provide the 65930
transportation; 65931

(2) The number of pupils to be transported; 65932

(3) The cost of providing transportation in terms of 65933
equipment, maintenance, personnel, and administration; 65934

(4) Whether similar or equivalent service is provided to 65935
other pupils eligible for transportation; 65936

(5) Whether and to what extent the additional service 65937
unavoidably disrupts current transportation schedules; 65938

(6) Whether other reimbursable types of transportation are 65939
available. 65940

(B)(1) Based on its consideration of the factors established 65941
in division (A) of this section, the board may pass a resolution 65942

declaring the impracticality of transportation. The resolution 65943
shall include each pupil's name and the reason for impracticality. 65944

(2) The board shall report its determination to the state 65945
board of education in a manner determined by the state board. 65946

(3) The board of education of a local school district 65947
additionally shall submit the resolution for concurrence to the 65948
educational service center that contains the local district's 65949
territory. If the educational service center governing board 65950
considers transportation by school conveyance practicable, it 65951
shall so inform the local board and transportation shall be 65952
provided by such local board. If the educational service center 65953
board agrees with the view of the local board, the local board may 65954
offer payment in lieu of transportation as provided in this 65955
section. 65956

(C) After passing the resolution declaring the impracticality 65957
of transportation, the district board shall offer to provide 65958
payment in lieu of transportation by doing the following: 65959

(1) In accordance with guidelines established by the 65960
department of education, informing the pupil's parent, guardian, 65961
or other person in charge of the pupil of both of the following: 65962

(a) The board's resolution; 65963

(b) The right of the pupil's parent, guardian, or other 65964
person in charge of the pupil to accept the offer of payment in 65965
lieu of transportation or to reject the offer and instead request 65966
the department to initiate mediation procedures. 65967

(2) Issuing the pupil's parent, guardian, or other person in 65968
charge of the pupil a contract or other form on which the parent, 65969
guardian, or other person in charge of the pupil is given the 65970
option to accept or reject the board's offer of payment in lieu of 65971
transportation. 65972

(D) If the parent, guardian, or other person in charge of the pupil accepts the offer of payment in lieu of providing transportation, the board shall pay the parent, guardian, or other person in charge of the ~~child~~ pupil an amount that shall be not less than the amount determined by the department of education as the minimum for payment in lieu of transportation, and not more than the amount determined by the department as the average cost of pupil transportation for the previous school year. Payment may be prorated if the time period involved is only a part of the school year.

(E)(1)(a) Upon the request of a parent, guardian, or other person in charge of the pupil who rejected the payment in lieu of transportation, the department shall conduct mediation procedures.

(b) If the mediation does not resolve the dispute, the state board of education shall conduct a hearing in accordance with Chapter 119. of the Revised Code. The state board may approve the payment in lieu of transportation or may order the board of education to provide transportation. The decision of the state board is binding in subsequent years and on future parties in interest provided the facts of the determination remain comparable.

(2) The school district shall provide transportation for the pupil from the time the parent, guardian, or other person in charge of the pupil requests mediation until the matter is resolved under division (E)(1)(a) or (b) of this section.

(F)(1) If the department determines that a school district board has failed or is failing to provide transportation as required by division (E)(2) of this section or as ordered by the state board under division (E)(1)(b) of this section, the department shall order the school district board to pay to the pupil's parent, guardian, or other person in charge of the pupil, an amount equal to the state average daily cost of transportation

as determined by the state board of education for the previous 66005
year. The school district board shall make payments on a schedule 66006
ordered by the department. 66007

(2) If the department subsequently finds that a school 66008
district board is not in compliance with an order issued under 66009
division (F)(1) of this section and the affected pupils are 66010
enrolled in a nonpublic or community school, the department shall 66011
deduct the amount that the board is required to pay under that 66012
order from any pupil transportation payments the department makes 66013
to the school district board under section ~~3306.12~~ 3317.0212 of 66014
the Revised Code or other provisions of law. The department shall 66015
use the moneys so deducted to make payments to the nonpublic or 66016
community school attended by the pupil. The department shall 66017
continue to make the deductions and payments required under this 66018
division until the school district board either complies with the 66019
department's order issued under division (F)(1) of this section or 66020
begins providing transportation. 66021

(G) A nonpublic or community school that receives payments 66022
from the department under division (F)(2) of this section shall do 66023
either of the following: 66024

(1) Disburse the entire amount of the payments to the parent, 66025
guardian, or other person in ~~control~~ charge of the pupil affected 66026
by the failure of the school district of residence to provide 66027
transportation; 66028

(2) Use the entire amount of the payments to provide 66029
acceptable transportation for the affected pupil. 66030

Sec. 3327.04. (A) The board of education of any city, 66031
exempted village, or local school district may contract with the 66032
board of another district for the admission or transportation, or 66033
both, of pupils into any school in such other district, on terms 66034
agreed upon by such boards. 66035

(B) The boards of two school districts may enter into a contract under this section to share the provision of transportation to a child who resides in one school district and attends school in the other district. Under such an agreement, one district may claim the total transportation subsidy available for such child under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law and may agree to pay any portion of such subsidy to the other district sharing the provision of transportation to that child. The contract shall delineate the transportation responsibilities of each district.

A school district that enters into a contract under this section is not liable for any injury, death, or loss to the person or property of a student that may occur while the student is being furnished transportation by the other school district that is a party to the contract.

(C) Whenever a board not maintaining a high school enters into an agreement with one or more boards maintaining such school for the schooling of all its high school pupils, the board making such agreement is exempt from the payment of tuition at other high schools of pupils living within three miles of the school designated in the agreement. In case no such agreement is entered into, the high school to be attended can be selected by the pupil holding an eighth grade diploma, and the tuition shall be paid by the board of the district of school residence.

Sec. 3327.05. (A) Except as provided in division (B) of this section, no board of education of any school district shall provide transportation for any pupil who is a school resident of another school district unless the pupil is enrolled pursuant to section 3313.98 of the Revised Code or the board of the other district has given its written consent thereto. If the board of any school district files with the state board of education a

written complaint that transportation for resident pupils is being 66067
provided by the board of another school district contrary to this 66068
division, the state board of education shall make an investigation 66069
of such complaint. If the state board of education finds that 66070
transportation is being provided contrary to this section, it may 66071
withdraw from state funds due the offending district any part of 66072
the amount that has been approved for transportation pursuant to 66073
section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions 66074
of law. 66075

(B) Notwithstanding division (D) of section 3311.19 and 66076
division (D) of section 3311.52 of the Revised Code, this division 66077
does not apply to any joint vocational or cooperative education 66078
school district. 66079

A board of education may provide transportation to and from 66080
the nonpublic school of attendance if both of the following apply: 66081

(1) The parent, guardian, or other person in charge of the 66082
pupil agrees to pay the board for all costs incurred in providing 66083
the transportation that are not reimbursed pursuant to Chapter 66084
~~3306.~~ ~~or~~ 3317. of the Revised Code; 66085

(2) The pupil's school district of residence does not provide 66086
transportation for public school pupils of the same grade as the 66087
pupil being transported under this division, or that district is 66088
not required under section 3327.01 of the Revised Code to 66089
transport the pupil to and from the nonpublic school because the 66090
direct travel time to the nonpublic school is more than thirty 66091
minutes. 66092

Upon receipt of the request to provide transportation, the 66093
board shall review the request and determine whether the board 66094
will accommodate the request. If the board agrees to transport the 66095
pupil, the board may transport the pupil to and from the nonpublic 66096
school and a collection point in the district, as determined by 66097

the board. If the board transports the pupil, the board may 66098
include the pupil in the district's transportation ADM reported to 66099
the department of education under section 3317.03 of the Revised 66100
Code and, accordingly, may receive a state payment under section 66101
~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law 66102
for transporting the pupil. 66103

If the board declines to transport the pupil, the board, in a 66104
written communication to the parent, guardian, or other person in 66105
charge of the pupil, shall state the reasons for declining the 66106
request. 66107

Sec. 3328.01. As used in this chapter: 66108

(A) "Child with a disability," "IEP," and "school district of 66109
residence" have the same meanings as in section 3323.01 of the 66110
Revised Code. 66111

(B) "Eligible student" means a student who is entitled to 66112
attend school in a participating school district; is at risk of 66113
academic failure; is from a family whose income is below two 66114
hundred per cent of the federal poverty guidelines, as defined in 66115
section 5101.46 of the Revised Code; meets any additional criteria 66116
prescribed by agreement between the state board of education and 66117
the operator of the college-preparatory boarding school in which 66118
the student seeks enrollment; and meets at least two of the 66119
following additional conditions: 66120

(1) The student has a record of in-school disciplinary 66121
actions, suspensions, expulsions, or truancy. 66122

(2) The student has not attained at least a proficient score 66123
on the state achievement assessments in English language arts, 66124
reading, or mathematics prescribed under section 3301.0710 of the 66125
Revised Code, after those assessments have been administered to 66126
the student at least once, or the student has not attained at 66127

least a score designated by the board of trustees of the 66128
college-preparatory boarding school in which the student seeks 66129
enrollment under this chapter on an end-of-course examination in 66130
English language arts or mathematics prescribed under section 66131
3301.0712 of the Revised Code. 66132

(3) The student is a child with a disability. 66133

(4) The student has been referred for academic intervention 66134
services. 66135

(5) The student's head of household is a single parent. As 66136
used in this division and in division (B)(6) of this section, 66137
"head of household" means a person who occupies the same household 66138
as the student and who is financially responsible for the student. 66139

(6) The student's head of household is not the student's 66140
custodial parent. 66141

(7) A member of the student's family has been imprisoned, as 66142
defined in section 1.05 of the Revised Code. 66143

(C) "Entitled to attend school" means entitled to attend 66144
school in a school district under section 3313.64 or 3313.65 of 66145
the Revised Code. 66146

(D) "Formula ADM" and "category one through six special 66147
education ADM" have the same meanings as in section 3306.02 of the 66148
Revised Code. 66149

(E) "Operator" means the operator of a college-preparatory 66150
boarding school selected under section 3328.11 of the Revised 66151
Code. 66152

(F) "Participating school district" means either of the 66153
following: 66154

(1) The school district in which a college-preparatory 66155
boarding school established under this chapter is located; 66156

(2) A school district other than one described in division 66157

(F)(1) of this section that, pursuant to procedures adopted by the state board of education under section 3328.04 of the Revised Code, agrees to be a participating school district so that eligible students entitled to attend school in that district may enroll in a college-preparatory boarding school established under this chapter.

(G) "State education aid" has the same meaning as in section 3317.02 of the Revised Code.

Sec. 3328.02. Each college-preparatory boarding school established under this chapter is a public school and is part of the state's program of education, subject to a charter granted by the state board of education under section 3301.16 of the Revised Code.

Sec. 3328.03. In accordance with Section 22 of Article II, Ohio Constitution, no agreement or contract entered into under this chapter shall create an obligation of state funds for a period longer than two years; however, the general assembly, every two years, may authorize renewal of any such obligation.

Sec. 3328.04. The city, exempted village, or local school district in which a college-preparatory boarding school established under this chapter is located is a participating school district under this chapter. Any other city, exempted village, or local school district may agree to be a participating school district. The state board of education shall adopt procedures for districts to agree to be participating school districts.

Sec. 3328.11. (A) In accordance with the procedures prescribed in division (B) of this section, the state board of education shall select a private nonprofit corporation that meets

the following qualifications to operate each college-preparatory 66187
boarding school established under this chapter: 66188

(1) The corporation has experience operating a school or 66189
program similar to the schools authorized under this chapter. 66190

(2) The school or program described in division (A)(1) of 66191
this section has demonstrated to the satisfaction of the state 66192
board success in improving the academic performance of students. 66193

(3) The corporation has demonstrated to the satisfaction of 66194
the state board that the corporation has the capacity to secure 66195
private funds for the development of the school authorized under 66196
this chapter. 66197

(B)(1) Not later than sixty days after the effective date of 66198
this section, the state board shall issue a request for proposals 66199
from private nonprofit corporations qualified to operate a 66200
college-preparatory boarding school established under this 66201
chapter. If the state board subsequently determines that the 66202
establishment of one or more additional college-preparatory 66203
boarding schools is advisable, the state board shall issue 66204
requests for proposals from private nonprofit corporations 66205
qualified to operate those additional schools. 66206

In all cases, the state board shall select the school's 66207
operator from among the qualified responders within one hundred 66208
eighty days after the issuance of the request for proposals. If no 66209
qualified responder submits a proposal, the state board may issue 66210
another request for proposals. 66211

(2) Each proposal submitted to the state board shall contain 66212
the following information: 66213

(a) The proposed location of the college-preparatory boarding 66214
school, which may differ from any location recommended by the 66215
state board in the request for proposals; 66216

(b) A plan for offering grade six in the school's initial year of operation and a plan for increasing the grade levels offered by the school in subsequent years; 66217
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(c) Any other information about the proposed educational program, facilities, or operations of the school considered necessary by the state board. 66220
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Sec. 3328.12. The state board of education shall enter into a contract with the operator of each college-preparatory boarding school established under this chapter. The contract shall stipulate the following: 66223
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(A) The school may operate only if and to the extent the school holds a valid charter granted by the state board under section 3301.16 of the Revised Code. 66227
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(B) The operator shall oversee the acquisition of a facility for the school. 66230
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(C) The operator shall operate the school in accordance with the terms of the proposal accepted by the state board under section 3328.11 of the Revised Code, including the plan for increasing the grade levels offered by the school. 66232
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(D) The school shall comply with the provisions of this chapter. 66236
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(E) The school shall comply with any other provisions of law specified in the contract, the charter granted by the state board, and the rules adopted by the state board under section 3328.50 of the Revised Code. 66238
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(F) The school shall comply with the bylaws adopted by the operator under section 3328.13 of the Revised Code. 66242
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(G) The school shall meet the academic goals and other performance standards specified in the contract. 66244
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(H) The state board or the operator may terminate the contract in accordance with the procedures specified in the contract, which shall include at least a requirement that the party seeking termination give prior notice of the intent to terminate the contract and a requirement that the party receiving such notice be granted an opportunity to redress any grievances cited in the notice prior to the termination. 66246
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(I) If the school closes for any reason, the school's board of trustees shall execute the closing in the manner specified in the contract. 66253
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Sec. 3328.13. Each operator of a college-preparatory boarding school established under this chapter shall adopt bylaws for the oversight and operation of the school that are consistent with the provisions of this chapter, the rules adopted under section 3328.50 of the Revised Code, the contract between the operator and the state board of education, and the charter granted to the school by the state board. The bylaws shall include procedures for the appointment of members of the school's board of trustees, whose terms of office shall be as prescribed in section 3328.15 of the Revised Code. The bylaws also shall include standards for the admission of students to the school and their dismissal from the school. The bylaws shall be subject to the approval of the state board. 66256
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Sec. 3328.14. Each operator of a college-preparatory boarding school established under this chapter shall adopt a program of outreach to inform every city, local, and exempted village school district about the school and the procedures for admission to the school and for becoming a participating school district. 66269
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Sec. 3328.15. (A) Each college-preparatory boarding school established under this chapter shall be governed by a board of 66274
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trustees consisting of up to twenty-five members. Five of those 66276
members shall be appointed by the governor, with the advice and 66277
consent of the senate. The governor's appointments may be based on 66278
nonbinding recommendations made by the superintendent of public 66279
instruction. The remaining members shall be appointed pursuant to 66280
the bylaws adopted under section 3328.13 of the Revised Code. 66281

(B) The terms of office of the initial members shall be as 66282
follows: 66283

(1) Two members appointed by the governor shall serve for an 66284
initial term of three years. 66285

(2) Two members appointed by the governor shall serve for an 66286
initial term of two years. 66287

(3) One member appointed by the governor shall serve for an 66288
initial term of one year. 66289

(4) One-third of the members appointed pursuant to the 66290
bylaws, rounded down to the nearest whole number, shall serve for 66291
an initial term of three years. 66292

(5) One-third of the members appointed pursuant to the 66293
bylaws, rounded down to the nearest whole number, shall serve for 66294
an initial term of two years. 66295

(6) One-third of the members appointed pursuant to the 66296
bylaws, rounded down to the nearest whole number, shall serve for 66297
an initial term of one year. 66298

(7) Any remaining members appointed pursuant to the bylaws 66299
shall serve for an initial term of one year. 66300

Thereafter the terms of office of all members shall be for 66301
three years. 66302

The beginning date and ending date of terms of office shall 66303
be as prescribed in the bylaws adopted under section 3328.13 of 66304

the Revised Code. 66305

(C) Vacancies on the board shall be filled in the same manner 66306
as the initial appointments. A member appointed to an unexpired 66307
term shall serve for the remainder of that term and may be 66308
reappointed subject to division (D) of this section. 66309

(D) No member may serve for more than three consecutive 66310
three-year terms. 66311

(E) The officers of the board shall be selected by and from 66312
among the members of the board. 66313

(F) Compensation for the members of the board, if any, shall 66314
be as prescribed in the bylaws adopted under section 3328.13 of 66315
the Revised Code. 66316

Sec. 3328.17. Employees of a college-preparatory boarding 66317
school established under this chapter may organize and 66318
collectively bargain pursuant to Chapter 4117. of the Revised 66319
Code. Notwithstanding division (D)(1) of section 4117.06 of the 66320
Revised Code, a unit containing teaching and nonteaching employees 66321
employed under this section may be considered an appropriate unit. 66322

Sec. 3328.18. (A) As used in this section, "license" has the 66323
same meaning as in section 3319.31 of the Revised Code. 66324

(B) If a person who is employed by a college-preparatory 66325
boarding school established under this chapter or its operator is 66326
arrested, summoned, or indicted for an alleged violation of an 66327
offense listed in division (C) of section 3319.31 of the Revised 66328
Code, if the person holds a license, or an offense listed in 66329
division (B)(1) of section 3319.39 of the Revised Code, if the 66330
person does not hold a license, the chief administrator of the 66331
school in which that person works shall suspend that person from 66332
all duties that require the care, custody, or control of a child 66333
during the pendency of the criminal action against the person. If 66334

the person who is arrested, summoned, or indicted for an alleged violation of an offense listed in division (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code is the chief administrator of the school, the board of trustees of the school shall suspend the chief administrator from all duties that require the care, custody, or control of a child. 66335
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(C) When a person who holds a license is suspended in accordance with this section, the chief administrator or board that imposed the suspension promptly shall report the person's suspension to the department of education. The report shall include the offense for which the person was arrested, summoned, or indicted. 66341
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Sec. 3328.19. (A) As used in this section: 66347

(1) "Conduct unbecoming to the teaching profession" shall be as described in rules adopted by the state board of education. 66348
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(2) "Intervention in lieu of conviction" means intervention in lieu of conviction under section 2951.041 of the Revised Code. 66350
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(3) "License" has the same meaning as in section 3319.31 of the Revised Code. 66352
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(4) "Pre-trial diversion program" means a pre-trial diversion program under section 2935.36 of the Revised Code or a similar diversion program under rules of a court. 66354
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(B) The chief administrator of each college-preparatory boarding school established under this chapter, or the president or chairperson of the board of trustees of the school if division (C) of this section applies, shall promptly submit to the superintendent of public instruction the information prescribed in division (D) of this section when any of the following conditions applies to a person employed to work in the school who holds a license issued by the state board of education: 66357
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(1) The chief administrator, or president or chairperson, knows that the employee has pleaded guilty to, has been found guilty by a jury or court of, has been convicted of, has been found to be eligible for intervention in lieu of conviction for, or has agreed to participate in a pre-trial diversion program for an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(2) The board of trustees of the school, or the operator, has initiated termination or nonrenewal proceedings against, has terminated, or has not renewed the contract of the employee because the board or operator has reasonably determined that the employee has committed an act that is unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(3) The employee has resigned under threat of termination or nonrenewal as described in division (B)(2) of this section.

(4) The employee has resigned because of or in the course of an investigation by the board or operator regarding whether the employee has committed an act that is unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(C) If the employee to whom any of the conditions prescribed in divisions (B)(1) to (4) of this section applies is the chief administrator of the school, the president or chairperson of the board of trustees of the school shall make the report required under this section.

(D) If a report is required under this section, the chief administrator, or president or chairperson, shall submit to the superintendent of public instruction the name and social security

number of the employee about whom the information is required and 66396
a factual statement regarding any of the conditions prescribed in 66397
divisions (B)(1) to (4) of this section that apply to the 66398
employee. 66399

(E) A determination made by the board or operator as 66400
described in division (B)(2) of this section or a termination, 66401
nonrenewal, resignation, or other separation described in 66402
divisions (B)(2) to (4) of this section does not create a 66403
presumption of the commission or lack of the commission by the 66404
employee of an act unbecoming to the teaching profession or an 66405
offense described in division (B)(2) or (C) of section 3319.31 or 66406
division (B)(1) of section 3319.39 of the Revised Code. 66407

(F) No individual required to submit a report under division 66408
(B) of this section shall knowingly fail to comply with that 66409
division. 66410

(G) An individual who provides information to the 66411
superintendent of public instruction in accordance with this 66412
section in good faith shall be immune from any civil liability 66413
that otherwise might be incurred or imposed for injury, death, or 66414
loss to person or property as a result of the provision of that 66415
information. 66416

Sec. 3328.191. The board of trustees of each 66417
college-preparatory boarding school established under this chapter 66418
shall require that the reports of any investigation by the board 66419
or by the school's operator of an employee who works in the 66420
school, regarding whether the employee has committed an act or 66421
offense for which the chief administrator of the school or the 66422
president or chairperson of the board is required to make a report 66423
to the superintendent of public instruction under section 3328.19 66424
of the Revised Code, be kept in the employee's personnel file. If, 66425
after an investigation under division (A) of section 3319.311 of 66426

the Revised Code, the superintendent of public instruction 66427
determines that the results of that investigation do not warrant 66428
initiating action under section 3319.31 of the Revised Code, the 66429
board shall require the reports of the investigation to be moved 66430
from the employee's personnel file to a separate public file. 66431

Sec. 3328.192. Notwithstanding any provision to the contrary 66432
in Chapter 4117. of the Revised Code, the provisions of sections 66433
3328.19 and 3328.191 of the Revised Code prevail over any 66434
conflicting provisions of a collective bargaining agreement or 66435
contract for employment entered into on or after the effective 66436
date of this section. 66437

Sec. 3328.193. (A) As used in this section, "license" has the 66438
same meaning as in section 3319.31 of the Revised Code. 66439

(B) No employee of a college-preparatory boarding school 66440
established under this chapter or its operator shall do either of 66441
the following: 66442

(1) Knowingly make a false report to the chief administrator 66443
of the school, or the chief administrator's designee, alleging 66444
misconduct by another employee of the school or its operator; 66445

(2) Knowingly cause the chief administrator, or the chief 66446
administrator's designee, to make a false report of the alleged 66447
misconduct to the superintendent of public instruction or the 66448
state board of education. 66449

(C) Any employee of a college-preparatory boarding school 66450
established under this chapter or its operator who in good faith 66451
reports to the chief administrator of the school, or the chief 66452
administrator's designee, information about alleged misconduct 66453
committed by another employee of the school or operator shall be 66454
immune from any civil liability that otherwise might be incurred 66455

or imposed for injury, death, or loss to person or property as a 66456
result of the reporting of that information. 66457

If the alleged misconduct involves a person who holds a 66458
license but the chief administrator is not required to submit a 66459
report to the superintendent of public instruction under section 66460
3328.19 of the Revised Code and the chief administrator, or the 66461
chief administrator's designee, in good faith reports the alleged 66462
misconduct to the superintendent of public instruction or the 66463
state board, the chief administrator, or the chief administrator's 66464
designee, shall be immune from any civil liability that otherwise 66465
might be incurred or imposed for injury, death, or loss to person 66466
or property as a result of the reporting of that information. 66467

(D)(1) In any civil action brought against a person in which 66468
it is alleged and proved that the person violated division (B) of 66469
this section, the court shall award the prevailing party 66470
reasonable attorney's fees and costs that the prevailing party 66471
incurred in the civil action or as a result of the false report 66472
that was the basis of the violation. 66473

(2) If a person is convicted of or pleads guilty to a 66474
violation of division (B) of this section, if the subject of the 66475
false report that was the basis of the violation was charged with 66476
any violation of a law or ordinance as a result of the false 66477
report, and if the subject of the false report is found not to be 66478
guilty of the charges brought against the subject as a result of 66479
the false report or those charges are dismissed, the court that 66480
sentences the person for the violation of division (B) of this 66481
section, as part of the sentence, shall order the person to pay 66482
restitution to the subject of the false report, in an amount equal 66483
to reasonable attorney's fees and costs that the subject of the 66484
false report incurred as a result of or in relation to the 66485
charges. 66486

Sec. 3328.20. (A) As used in this section: 66487

(1) "Designated official" means the chief administrator of a college-preparatory boarding school established under this chapter, or the chief administrator's designee. 66488
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(2) "Essential school services" means services provided by a private company under contract with a college-preparatory boarding school established under this chapter that the chief administrator of the school has determined are necessary for the operation of the school and that would need to be provided by persons employed by the school or its operator if the services were not provided by the private company. 66491
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(3) "License" has the same meaning as in section 3319.31 of the Revised Code. 66498
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(B) This section applies to any person who is an employee of a private company under contract with a college-preparatory boarding school established under this chapter to provide essential school services and who will work in the school in a position that does not require a license issued by the state board of education, is not for the operation of a vehicle for pupil transportation, and that involves routine interaction with a child or regular responsibility for the care, custody, or control of a child. 66500
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(C) No college-preparatory boarding school established under this chapter shall permit a person to whom this section applies to work in the school, unless one of the following applies to the person: 66509
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(1) The person's employer presents proof of both of the following to the designated official: 66513
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(a) That the person has been the subject of a criminal records check conducted in accordance with division (D) of this 66515
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section within the five-year period immediately prior to the date 66517
on which the person will begin working in the school; 66518

(b) That the criminal records check indicates that the person 66519
has not been convicted of or pleaded guilty to any offense 66520
described in division (B)(1) of section 3319.39 of the Revised 66521
Code. 66522

(2) During any period of time in which the person will have 66523
routine interaction with a child or regular responsibility for the 66524
care, custody, or control of a child, the designated official has 66525
arranged for an employee of the school to be present in the same 66526
room with the child or, if outdoors, to be within a thirty-yard 66527
radius of the child or to have visual contact with the child. 66528

(D) Any private company that has been hired or seeks to be 66529
hired by a college-preparatory boarding school established under 66530
this chapter to provide essential school services may request the 66531
bureau of criminal identification and investigation to conduct a 66532
criminal records check of any of its employees for the purpose of 66533
complying with division (C)(1) of this section. Each request for a 66534
criminal records check under this division shall be made to the 66535
superintendent of the bureau in the manner prescribed in section 66536
3319.39 of the Revised Code. Upon receipt of a request, the bureau 66537
shall conduct the criminal records check in accordance with 66538
section 109.572 of the Revised Code as if the request had been 66539
made under section 3319.39 of the Revised Code. 66540

Notwithstanding division (H) of section 109.57 of the Revised 66541
Code, the private company may share the results of any criminal 66542
records check conducted under this division with the designated 66543
official for the purpose of complying with division (C)(1) of this 66544
section, but in no case shall the designated official release that 66545
information to any other person. 66546

Sec. 3328.21. (A) Any eligible student may apply for 66547

admission to a college-preparatory boarding school established 66548
under this chapter in a grade level offered by the school that is 66549
appropriate for the student and shall be admitted to the school in 66550
that grade level to the extent the student's admission is within 66551
the capacity of the school as established by the school's board of 66552
trustees, subject to division (B) of this section. If more 66553
eligible students apply for admission than the number of students 66554
permitted by the capacity established by the board of trustees, 66555
admission shall be by lot. 66556

(B) In the first year of operation, each school established 66557
under this chapter shall offer only grade six and shall not admit 66558
more than eighty students to the school. In each subsequent year 66559
of operation, the school may add additional grade levels as 66560
specified in the contract under section 3328.12 of the Revised 66561
Code, but at no time shall the school's total student population 66562
exceed four hundred students. 66563

Sec. 3328.22. The educational program of a 66564
college-preparatory boarding school established under this chapter 66565
shall include at least all of the following: 66566

(A) A remedial curriculum for students in grades lower than 66567
grade nine; 66568

(B) A college-preparatory curriculum for high school students 66569
that, at a minimum, shall comply with section 3313.603 of the 66570
Revised Code as that section applies to school districts; 66571

(C) Extracurricular activities, including athletic and 66572
cultural activities; 66573

(D) College admission counseling; 66574

(E) Health and mental health services; 66575

(F) Tutoring services; 66576

(G) Community services opportunities; 66577

(H) A residential student life program. 66578

Sec. 3328.23. (A) A college-preparatory boarding school 66579
established under this chapter and the school's operator shall 66580
comply with Chapter 3323. of the Revised Code as if the school 66581
were a school district. For each child with a disability enrolled 66582
in the school for whom an IEP has been developed, the school and 66583
its operator shall verify in the manner prescribed by the 66584
department of education that the school is providing the services 66585
required under the child's IEP. 66586

(B) The school district in which a child with a disability 66587
enrolled in the college-preparatory boarding school is entitled to 66588
attend school and the child's school district of residence, if 66589
different, are not obligated to provide the student with a free 66590
appropriate public education under Chapter 3323. of the Revised 66591
Code for as long as the child is enrolled in the 66592
college-preparatory boarding school. 66593

Sec. 3328.24. A college-preparatory boarding school 66594
established under this chapter, its operator, and its board of 66595
trustees shall comply with sections 3301.0710, 3301.0711, 66596
3301.0712, 3301.0714, 3319.39, and 3319.391 of the Revised Code as 66597
if the school and the operator were a school district and the 66598
school's board of trustees were a district board of education. 66599

Sec. 3328.25. (A) The board of trustees of a 66600
college-preparatory boarding school established under this chapter 66601
shall grant a diploma to any student enrolled in the school to 66602
whom all of the following apply: 66603

(1) The student has successfully completed the school's high 66604
school curriculum or the IEP developed for the student by the 66605
school pursuant to section 3323.08 of the Revised Code or has 66606
qualified under division (D) or (F) of section 3313.603 of the 66607

Revised Code, provided that the school shall not require a student to remain in school for any specific number of semesters or other terms if the student completes the required curriculum early. 66608
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(2) Subject to section 3313.614 of the Revised Code, the student has met the assessment requirements of division (A)(2)(a) or (b) of this section, as applicable. 66611
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(a) If the student entered ninth grade prior to the date prescribed by rule of the state board of education under division (D)(2) of section 3301.0712 of the Revised Code, the student either: 66614
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(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed by that division unless division (L) of section 3313.61 of the Revised Code applies to the student; 66618
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(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code. 66622
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(b) If the person entered ninth grade on or after the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student has met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code, except to the extent that the student is excused from some portion of that assessment system pursuant to division (L) of section 3313.61 of the Revised Code. 66624
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(3) The student is not eligible to receive an honors diploma granted under division (B) of this section. 66632
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No diploma shall be granted under this division to anyone except as provided in this division. 66634
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(B) In lieu of a diploma granted under division (A) of this section, the board of trustees shall grant an honors diploma, in 66636
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the same manner that boards of education of school districts grant 66638
honors diplomas under division (B) of section 3313.61 of the 66639
Revised Code, to any student enrolled in the school who 66640
accomplishes all of the following: 66641

(1) Successfully completes the school's high school 66642
curriculum or the IEP developed for the student by the school 66643
pursuant to section 3323.08 of the Revised Code; 66644

(2) Subject to section 3313.614 of the Revised Code, has met 66645
the assessment requirements of division (B)(2)(a) or (b) of this 66646
section, as applicable. 66647

(a) If the student entered ninth grade prior to the date 66648
prescribed by rule of the state board under division (D)(2) of 66649
section 3301.0712 of the Revised Code, the student either: 66650

(i) Has attained at least the applicable scores designated 66651
under division (B)(1) of section 3301.0710 of the Revised Code on 66652
all the assessments prescribed under that division; 66653

(ii) Has satisfied the alternative conditions prescribed in 66654
section 3313.615 of the Revised Code. 66655

(b) If the person entered ninth grade on or after the date 66656
prescribed by rule of the state board under division (D)(2) of 66657
section 3301.0712 of the Revised Code, the student has met the 66658
requirements of the entire assessment system prescribed under 66659
division (B)(2) of section 3301.0710 of the Revised Code. 66660

(3) Has met the additional criteria for granting an honors 66661
diploma prescribed by the state board under division (B) of 66662
section 3313.61 of the Revised Code for the granting of honors 66663
diplomas by school districts. 66664

An honors diploma shall not be granted to a student who is 66665
subject to the Ohio core curriculum prescribed in division (C) of 66666
section 3313.603 of the Revised Code but elects the option of 66667

division (D) or (F) of that section. No honors diploma shall be granted to anyone failing to comply with this division, and not more than one honors diploma shall be granted to any student under this division. 66668
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(C) A diploma or honors diploma awarded under this section shall be signed by the presiding officer of the board of trustees. Each diploma shall bear the date of its issue and be in such form as the board of trustees prescribes. 66672
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(D) Upon granting a diploma to a student under this section, the presiding officer of the board of trustees shall provide notice of receipt of the diploma to the board of education of the city, exempted village, or local school district where the student is entitled to attend school when not residing at the college-preparatory boarding school. The notice shall indicate the type of diploma granted. 66676
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Sec. 3328.26. (A) The department of education shall issue an annual report card for each college-preparatory boarding school established under this chapter that includes all information applicable to school buildings under section 3302.03 of the Revised Code. 66683
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(B) For each student enrolled in the school, the department shall combine data regarding the academic performance of that student with comparable data from the school district in which the student is entitled to attend school for the purpose of calculating the performance of the district as a whole on the report card issued for the district under section 3302.03 of the Revised Code. 66688
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(C) Each college-preparatory boarding school and its operator shall comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the school. 66695
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Sec. 3328.31. Each college-preparatory boarding school 66699
established under this chapter shall report to the department of 66700
education, in the form and manner prescribed by the department, 66701
the following information: 66702

(A) The total number of students enrolled in the school; 66703

(B) The number of students enrolled in the school who are 66704
receiving special education and related services pursuant to an 66705
IEP; 66706

(C) The city, exempted village, or local school district in 66707
which each student reported under division (A) of this section is 66708
entitled to attend school; 66709

(D) Any additional information the department determines 66710
necessary to make payments to the school under this chapter. 66711

Sec. 3328.32. The city, exempted village, or local school 66712
district in which each child enrolled in a college-preparatory 66713
boarding school established under this chapter is entitled to 66714
attend school shall count that child in the district's average 66715
daily membership and in the district's category one through six 66716
special education ADM, as appropriate, as reported under divisions 66717
(A) and (B)(5) to (10) of section 3317.03 of the Revised Code. 66718

The department of education shall count that child in the 66719
district's formula ADM. 66720

Sec. 3328.33. For each child enrolled in a 66721
college-preparatory boarding school, as reported under section 66722
3328.31 of the Revised Code, the department of education shall 66723
deduct from the state education aid and, if necessary, from the 66724
payment under sections 321.24 and 323.156 of the Revised Code, for 66725
the city, exempted village, or local school district in which the 66726
child is entitled to attend school an amount equal to eighty-five 66727

per cent of the operating expenditure per pupil of that district. 66728

As used in this section, a district's "operating expenditure 66729
per pupil" is the total amount of state payments and other 66730
nonfederal revenue spent by the district for operating expenses 66731
during the previous fiscal year, divided by the district's formula 66732
ADM for the previous fiscal year. 66733

Sec. 3328.34. (A) For each child enrolled in a 66734
college-preparatory boarding school, as reported under section 66735
3328.31 of the Revised Code, the department of education shall pay 66736
to the school the sum of the amount deducted from a participating 66737
school district's account for that child under section 3328.33 of 66738
the Revised Code plus the per-pupil boarding amount specified in 66739
division (B) of this section. 66740

(B) For the first fiscal year in which a college-preparatory 66741
boarding school may be established under this chapter, the 66742
"per-pupil boarding amount" is twenty-five thousand dollars. For 66743
each fiscal year thereafter, that amount shall be adjusted by the 66744
rate of inflation, as measured by the consumer price index (all 66745
urban consumers, all items) prepared by the bureau of labor 66746
statistics of the United States department of labor, for the 66747
previous twelve-month period. 66748

(C) The state board of education may accept funds from 66749
federal and state noneducation support services programs for the 66750
purpose of funding the per pupil boarding amount prescribed in 66751
division (B) of this section. Notwithstanding any other provision 66752
of the Revised Code, the state board shall coordinate and 66753
streamline any noneducation program requirements in order to 66754
eliminate redundant or conflicting requirements, licensing 66755
provisions, and oversight by government programs or agencies. The 66756
applicable regulatory entities shall, to the maximum extent 66757

possible, use independent reports and financial audits provided by 66758
the operator and coordinated by the department of education to 66759
eliminate or reduce contract and administrative reviews. 66760
Regulatory entities other than the state board may suggest 66761
reasonable additional items to be included in such independent 66762
reports and financial audits to meet any requirements of federal 66763
law. Reporting paperwork prepared for the state board shall be 66764
shared with and accepted by other state and local entities to the 66765
maximum extent feasible. 66766

(D)(1) Notwithstanding division (A) of this section, if, in 66767
any fiscal year, the operator of a college-preparatory boarding 66768
school receives federal funds for the purpose of supporting the 66769
school's operations, the amount of those federal funds shall be 66770
deducted from the total per-pupil boarding amount for all enrolled 66771
students paid by the department to the school for that fiscal 66772
year, unless the operator and the department determine otherwise 66773
in a written agreement. Any portion of the total per-pupil 66774
boarding amount for all enrolled students remaining after the 66775
deduction of the federal funds shall be paid by the department to 66776
the school from state funds appropriated to the department. 66777

(2) Notwithstanding division (A) of this section, if, in any 66778
fiscal year, the department receives federal funds for the purpose 66779
of supporting the operations of a college-preparatory boarding 66780
school, the department shall use those federal funds first to pay 66781
the school the total per-pupil boarding amount for all enrolled 66782
students for that fiscal year. Any portion of the total per-pupil 66783
boarding amount for all enrolled students remaining after the use 66784
of the federal funds shall be paid by the department to the school 66785
from state funds appropriated to the department. 66786

(3) If any federal funds are used for the purpose prescribed 66787
in division (D)(1) or (2) of this section, the department shall 66788
comply with all requirements upon which the acceptance of the 66789

federal funds is conditioned, including any requirements set forth 66790
in the funding application submitted by the operator or the 66791
department and, to the extent sufficient funds are appropriated by 66792
the general assembly, any requirements regarding maintenance of 66793
effort in expenditures. 66794

Sec. 3328.35. To the extent permitted by federal law, the 66795
department of education shall include college-preparatory boarding 66796
schools established under this chapter in its annual allocation of 66797
federal moneys under Title I of the "Elementary and Secondary 66798
Education Act of 1965," 20 U.S.C. 6301, et seq. The department may 66799
apply for any other federal moneys that may be used to support the 66800
operations of college-preparatory boarding schools established 66801
under this chapter. 66802

Sec. 3328.36. A college-preparatory boarding school 66803
established under this chapter shall be considered a school 66804
district and its board of trustees, on behalf of the school's 66805
operator, shall be considered a board of education for the purpose 66806
of applying to any state or federal agency for grants that a 66807
school district or public school may receive under federal or 66808
state law or any appropriations act of the general assembly. The 66809
college-preparatory boarding school and its operator may apply to 66810
any private entity to receive and accept funds. 66811

Sec. 3328.41. Each participating school district shall be 66812
responsible for providing transportation on a weekly basis for 66813
each student enrolled in a college-preparatory boarding school 66814
established under this chapter who is entitled to attend school in 66815
the district to and from that college-preparatory boarding school. 66816

Sec. 3328.45. (A) If the state board of education determines 66817
that a college-preparatory boarding school established under this 66818

chapter is not in compliance with any provision of this chapter or 66819
the terms of the contract entered into under section 3328.12 of 66820
the Revised Code, or that the school has failed to meet the 66821
academic goals or performance standards specified in that 66822
contract, the state board may initiate the termination procedures 66823
specified in the contract. No termination shall take effect prior 66824
to the end of a school year. Upon the effective date of a 66825
termination, the school shall close. 66826

(B) If a college-preparatory boarding school is required to 66827
close under division (A) of this section or closes for any other 66828
reason, the school's board of trustees shall execute the closing 66829
as provided in the contract under section 3328.12 of the Revised 66830
Code. 66831

Sec. 3328.50. The state board of education shall adopt rules 66832
in accordance with Chapter 119. of the Revised Code prescribing 66833
procedures necessary for the implementation of this chapter. 66834

Sec. 3328.99. (A) Whoever violates division (F) of section 66835
3328.19 of the Revised Code shall be punished as follows: 66836

(1) Except as otherwise provided in division (A)(2) of this 66837
section, the person is guilty of a misdemeanor of the fourth 66838
degree. 66839

(2) The person is guilty of a misdemeanor of the first degree 66840
if both of the following conditions apply: 66841

(a) The employee who is the subject of the report that the 66842
person fails to submit was required to be reported for the 66843
commission or alleged commission of an act or offense involving 66844
the infliction on a child of any physical or mental wound, injury, 66845
disability, or condition of a nature that constitutes abuse or 66846
neglect of the child. 66847

(b) During the period between the violation of division (F) of section 3328.19 of the Revised Code and the conviction of or plea of guilty by the person for that violation, the employee who is the subject of the report that the person fails to submit inflicts on any child attending a school district, educational service center, public or nonpublic school, or county board of developmental disabilities where the employee works any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child.

(B) Whoever violates division (B) of section 3328.193 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 3329.08. At any regular meeting, the board of education of each local ~~school district, from lists adopted by the educational service center governing board, and the board of education of each~~ city, and exempted village school district shall determine by a majority vote of all members elected or appointed under division (B) or (F) of section 3311.71 of the Revised Code which of such textbooks or electronic textbooks so filed shall be used in the schools under its control.

Sec. 3331.01. (A) As used in this chapter:

(1) "Superintendent" or "superintendent of schools" of a school district means the person employed as the superintendent or that person's designee. ~~In the case of a local school district, such designee may be the superintendent of the educational service center to which the school district belongs.~~

(2) "Chief administrative officer" means the chief administrative officer of a nonpublic or community school or that person's designee.

(B)(1) Except as provided in division (B)(2) of this section, an age and schooling certificate may be issued only by the

superintendent of the city, local, joint vocational, or exempted 66878
village school district in which the child in whose name such 66879
certificate is issued resides or by the chief administrative 66880
officer of the nonpublic or community school the child attends, 66881
and only upon satisfactory proof that the child to whom the 66882
certificate is issued is at least fourteen years of age. 66883

(2) A child who resides in this state shall apply for an age 66884
and schooling certificate to the superintendent of the school 66885
district in which the child resides, or to the chief 66886
administrative officer of the school that the child attends. 66887
Residents of other states who work in Ohio shall apply to the 66888
superintendent of the school district in which the place of 66889
employment is located, as a condition of employment or service. 66890

(C) Any such age and schooling certificate may be issued only 66891
upon satisfactory proof that the employment contemplated by the 66892
child is not prohibited by any law regulating the employment of 66893
such children. Section 4113.08 of the Revised Code does not apply 66894
to such employer in respect to such child while engaged in an 66895
employment legal for a child of the age stated therein. 66896

(D) Age and schooling certificate forms shall be approved by 66897
the state board of education, including forms submitted 66898
electronically. Forms shall not display the social security number 66899
of the child. Except as otherwise provided in this section, every 66900
application for an age and schooling certificate must be signed in 66901
the presence of the officer issuing it by the child in whose name 66902
it is issued. 66903

(E) A child shall furnish the superintendent or chief 66904
administrative officer all information required by this chapter in 66905
support of the issuance of a certificate. 66906

(F) On and after September 1, 2002, each superintendent and 66907
chief administrative officer who issues an age and schooling 66908

certificate shall file electronically the certificate with the 66909
director of commerce in accordance with rules adopted by the 66910
director of administrative services pursuant to section 1306.21 of 66911
the Revised Code. On and after September 1, 2002, only 66912
electronically filed certificates are valid to satisfy the 66913
requirements of Chapter 4109. of the Revised Code. 66914

Sec. 3333.03. (A) The governor, with the advice and consent 66915
of the senate, shall appoint the chancellor of the Ohio board of 66916
regents. ~~The governor may remove the chancellor in accordance with~~ 66917
~~section 3.04 of the Revised Code, except that the removal shall~~ 66918
~~not require the advice and consent of the senate.~~ The chancellor 66919
shall serve at the pleasure of the governor, and the governor 66920
shall prescribe the chancellor's duties in addition to the 66921
chancellor's duties prescribed by law. ~~In no case shall the~~ 66922
~~chancellor assume any duties prescribed by the governor or law~~ 66923
~~until the senate has consented to the chancellor's appointment.~~ 66924
The governor shall fix the compensation for the chancellor. The 66925
chancellor shall be a member of the governor's cabinet. 66926

(B) ~~The term of office of the chancellor shall be five years.~~ 66927
~~Any person appointed chancellor to fill a vacancy occurring prior~~ 66928
~~to the expiration of the term for which the predecessor was~~ 66929
~~appointed shall hold office for the remainder of that term. Any~~ 66930
~~vacancy in the office shall be filled within sixty days after the~~ 66931
~~vacancy occurs. Each chancellor shall continue in office~~ 66932
~~subsequent to the expiration date of the term for which the~~ 66933
~~chancellor was appointed until a successor takes office, or until~~ 66934
~~a period of sixty days has elapsed, whichever occurs first. The~~ 66935
~~chancellor may be reappointed.~~ The term of the chancellor in 66936
office on the effective date of this amendment shall coincide with 66937
the term of that chancellor's appointing governor. Subsequent 66938
appointments to the office of chancellor shall be made pursuant to 66939
division (A) of this section. 66940

(C) The chancellor is responsible for appointing and fixing 66941
the compensation of all professional, administrative, and clerical 66942
employees and staff members necessary to assist in the performance 66943
of the chancellor's duties. All employees and staff shall serve at 66944
the chancellor's pleasure. 66945

(D) The chancellor shall be a person qualified by training 66946
and experience to understand the problems and needs of the state 66947
in the field of higher education and to devise programs, plans, 66948
and methods of solving the problems and meeting the needs. 66949

(E) Neither the chancellor nor any staff member or employee 66950
of the chancellor shall be a trustee, officer, or employee of any 66951
public or private college or university while serving as 66952
chancellor, staff member, or employee. 66953

Sec. 3333.043. (A) As used in this section: 66954

(1) "Institution of higher education" means the state 66955
universities listed in section 3345.011 of the Revised Code, 66956
municipal educational institutions established under Chapter 3349. 66957
of the Revised Code, community colleges established under Chapter 66958
3354. of the Revised Code, university branches established under 66959
Chapter 3355. of the Revised Code, technical colleges established 66960
under Chapter 3357. of the Revised Code, state community colleges 66961
established under Chapter 3358. of the Revised Code, any 66962
institution of higher education with a certificate of registration 66963
from the state board of career colleges and schools, and any 66964
institution for which the chancellor of the Ohio board of regents 66965
receives a notice pursuant to division (C) of this section. 66966

(2) "Community service" has the same meaning as in section 66967
3313.605 of the Revised Code. 66968

(B)(1) The board of trustees or other governing entity of 66969
each institution of higher education shall encourage and promote 66970

participation of students in community service through a program 66971
appropriate to the mission, student population, and environment of 66972
each institution. The program may include, but not be limited to, 66973
providing information about community service opportunities during 66974
student orientation or in student publications; providing awards 66975
for exemplary community service; encouraging faculty members to 66976
incorporate community service into students' academic experiences 66977
wherever appropriate to the curriculum; encouraging recognized 66978
student organizations to undertake community service projects as 66979
part of their purposes; and establishing advisory committees of 66980
students, faculty members, and community and business leaders to 66981
develop cooperative programs that benefit the community and 66982
enhance student experience. The program shall be flexible in 66983
design so as to permit participation by the greatest possible 66984
number of students, including part-time students and students for 66985
whom participation may be difficult due to financial, academic, 66986
personal, or other considerations. The program shall emphasize 66987
community service opportunities that can most effectively use the 66988
skills of students, such as tutoring or literacy programs. The 66989
programs shall encourage students to perform services that will 66990
not supplant the hiring of, result in the displacement of, or 66991
impair any existing employment contracts of any particular 66992
employee of any private or governmental entity for which services 66993
are performed. 66994

(2) The chancellor of the Ohio board of regents shall 66995
encourage all institutions of higher education in the development 66996
of community service programs. With the assistance of the Ohio 66997
~~community~~ commission on service council and volunteerism created 66998
in section 121.40 of the Revised Code, the chancellor shall make 66999
available information about higher education community service 67000
programs to institutions of higher education and to statewide 67001
organizations involved with or promoting volunteerism, including 67002
information about model community service programs, teacher 67003

training courses, and community service curricula and teaching 67004
materials for possible use by institutions of higher education in 67005
their programs. The chancellor shall encourage institutions of 67006
higher education to jointly coordinate higher education community 67007
service programs through consortia of institutions or other 67008
appropriate means of coordination. 67009

(C) The board of trustees of any nonprofit institution with a 67010
certificate of authorization issued pursuant to Chapter 1713. of 67011
the Revised Code or the governing authority of a private 67012
institution exempt from regulation under Chapter 3332. of the 67013
Revised Code as prescribed in section 3333.046 of the Revised Code 67014
may notify the chancellor that it is making itself subject to 67015
divisions (A) and (B) of this section. Upon receipt of such a 67016
notice, these divisions shall apply to that institution. 67017

Sec. 3333.0411. Not later than December 31, 2012, and 67018
annually thereafter, the chancellor of the Ohio board of regents 67019
shall report aggregate academic growth data for students assigned 67020
to graduates of teacher preparation programs approved under 67021
section 3333.048 of the Revised Code who teach English language 67022
arts or mathematics in any of grades four to eight in a public 67023
school in Ohio. For this purpose, the chancellor shall use the 67024
value-added progress dimension prescribed by section 3302.021 of 67025
the Revised Code. The chancellor shall aggregate the data by 67026
graduating class for each approved teacher preparation program, 67027
except that if a particular class has ten or fewer graduates to 67028
which this section applies, the chancellor shall report the data 67029
for a group of classes over a three-year period. In no case shall 67030
the report identify any individual graduate. The department of 67031
education shall share any data necessary for the report with the 67032
chancellor. 67033

Sec. 3333.31. (A) For state subsidy and tuition surcharge 67034

purposes, status as a resident of Ohio shall be defined by the 67035
chancellor of the Ohio board of regents by rule promulgated 67036
pursuant to Chapter 119. of the Revised Code. No adjudication as 67037
to the status of any person under such rule, however, shall be 67038
required to be made pursuant to Chapter 119. of the Revised Code. 67039
The term "resident" for these purposes shall not be equated with 67040
the definition of that term as it is employed elsewhere under the 67041
laws of this state and other states, and shall not carry with it 67042
any of the legal connotations appurtenant thereto. Rather, except 67043
as provided in ~~division~~ divisions (B) and (D) of this section, for 67044
such purposes, the rule promulgated under this section shall have 67045
the objective of excluding from treatment as residents those who 67046
are present in the state primarily for the purpose of attending a 67047
state-supported or state-assisted institution of higher education, 67048
and may prescribe presumptive rules, rebuttable or conclusive, as 67049
to such purpose based upon the source or sources of support of the 67050
student, residence prior to first enrollment, evidence of 67051
intention to remain in the state after completion of studies, or 67052
such other factors as the chancellor deems relevant. 67053

(B) The rules of the chancellor for determining student 67054
residency shall grant residency status to a veteran and to the 67055
veteran's spouse and any dependent of the veteran, if both of the 67056
following conditions are met: 67057

(1) The veteran either: 67058

(a) Served one or more years on active military duty and was 67059
honorably discharged or received a medical discharge that was 67060
related to the military service; 67061

(b) Was killed while serving on active military duty or has 67062
been declared to be missing in action or a prisoner of war. 67063

(2) If the veteran seeks residency status for tuition 67064
surcharge purposes, the veteran has established domicile in this 67065

state as of the first day of a term of enrollment in an 67066
institution of higher education. If the spouse or a dependent of 67067
the veteran seeks residency status for tuition surcharge purposes, 67068
the veteran and the spouse or dependent seeking residency status 67069
have established domicile in this state as of the first day of a 67070
term of enrollment in an institution of higher education, except 67071
that if the veteran was killed while serving on active military 67072
duty or has been declared to be missing in action or a prisoner of 67073
war, only the spouse or dependent seeking residency status shall 67074
be required to have established domicile in accordance with this 67075
division. 67076

(C) The rules of the chancellor for determining student 67077
residency shall not deny residency status to a student who is 67078
either a dependent child of a parent, or the spouse of a person 67079
who, as of the first day of a term of enrollment in an institution 67080
of higher education, has accepted full-time employment and 67081
established domicile in this state for reasons other than gaining 67082
the benefit of favorable tuition rates. 67083

Documentation of full-time employment and domicile shall 67084
include both of the following documents: 67085

(1) A sworn statement from the employer or the employer's 67086
representative on the letterhead of the employer or the employer's 67087
representative certifying that the parent or spouse of the student 67088
is employed full-time in Ohio; 67089

(2) A copy of the lease under which the parent or spouse is 67090
the lessee and occupant of rented residential property in the 67091
state, a copy of the closing statement on residential real 67092
property of which the parent or spouse is the owner and occupant 67093
in this state or, if the parent or spouse is not the lessee or 67094
owner of the residence in which the parent or spouse has 67095
established domicile, a letter from the owner of the residence 67096
certifying that the parent or spouse resides at that residence. 67097

Residency officers may also evaluate, in accordance with the 67098
chancellor's rule, requests for immediate residency status from 67099
dependent students whose parents are not living and whose domicile 67100
follows that of a legal guardian who has accepted full-time 67101
employment and established domicile in the state for reasons other 67102
than gaining the benefit of favorable tuition rates. 67103

(D) The rules of the chancellor for determining student 67104
residency shall grant residency status to a person who, while a 67105
resident of this state for state subsidy and tuition surcharge 67106
purposes, graduated from a high school in this state, if the 67107
person enrolls in an institution of higher education and 67108
establishes domicile in this state within ten years after 67109
graduating from high school, regardless of the student's residence 67110
prior to that enrollment. 67111

(E) "Dependent," "domicile," "institution of higher 67112
education," and "residency officer" have the meanings ascribed in 67113
the chancellor's rules adopted under this section. 67114

Sec. 3333.38. (A) As used in this section: 67115

(1) "Institution of higher education" includes all of the 67116
following: 67117

(a) A state institution of higher education, as defined in 67118
section 3345.011 of the Revised Code; 67119

(b) A nonprofit institution issued a certificate of 67120
authorization under Chapter 1713. of the Revised Code; 67121

(c) A private institution exempt from regulation under 67122
Chapter 3332. of the Revised Code, as prescribed in section 67123
3333.046 of the Revised Code; 67124

(d) An institution of higher education with a certificate of 67125
registration from the state board of career colleges and schools 67126
under Chapter 3332. of the Revised Code. 67127

(2) "Student financial assistance supported by state funds" 67128
includes assistance granted under sections 3315.33, 3333.12, 67129
3333.122, 3333.21, 3333.26, 3333.28, 3333.372, 3333.391, 3333.93, 67130
5910.03, 5910.032, and 5919.34 of the Revised Code, financed by an 67131
award under the choose Ohio first scholarship program established 67132
under section 3333.61 of the Revised Code, or financed by an award 67133
under the Ohio co-op/internship program established under section 67134
3333.72 of the Revised Code, and any other post-secondary student 67135
financial assistance supported by state funds. 67136

(B) An individual who is convicted of, pleads guilty to, or 67137
is adjudicated a delinquent child for one of the following 67138
violations shall be ineligible to receive any student financial 67139
assistance supported by state funds at an institution of higher 67140
education for two calendar years from the time the individual 67141
applies for assistance of that nature: 67142

(1) A violation of section 2917.02 or 2917.03 of the Revised 67143
Code; 67144

(2) A violation of section 2917.04 of the Revised Code that 67145
is a misdemeanor of the fourth degree; 67146

(3) A violation of section 2917.13 of the Revised Code that 67147
is a misdemeanor of the fourth or first degree and occurs within 67148
the proximate area where four or more others are acting in a 67149
course of conduct in violation of section 2917.11 of the Revised 67150
Code. 67151

(C) If an individual is convicted of, pleads guilty to, or is 67152
adjudicated a delinquent child for committing a violation of 67153
section 2917.02 or 2917.03 of the Revised Code, and if the 67154
individual is enrolled in a state-supported institution of higher 67155
education, the institution in which the individual is enrolled 67156
shall immediately dismiss the individual. No state-supported 67157
institution of higher education shall admit an individual of that 67158

nature for one academic year after the individual applies for admission to a state-supported institution of higher education. This division does not limit or affect the ability of a state-supported institution of higher education to suspend or otherwise discipline its students.

Sec. 3333.43. This section does not apply to any baccalaureate degree program that is a cooperative education program, as defined in section 3333.71 of the Revised Code.

(A) The chancellor of the Ohio board of regents shall require all state institutions of higher education that offer baccalaureate degrees, as a condition of reauthorization for certification of each baccalaureate program offered by the institution, to submit a statement describing how each major for which the school offers a baccalaureate degree may be completed within three academic years. The chronology of the statement shall begin with the fall semester of a student's first year of the baccalaureate program.

(B) The statement required under this section may include, but not be limited to, any of the following methods to contribute to earning a baccalaureate degree in three years:

(1) Advanced placement credit;

(2) International baccalaureate program credit;

(3) A waiver of degree and credit-hour requirements by completion of courses that are widely available at community colleges in the state or through online programs offered by state institutions of higher education or private nonprofit institutions of higher education holding certificates of authorization under Chapter 1713. of the Revised Code, and through courses taken by the student through the post-secondary enrollment options program under Chapter 3365. of the Revised Code;

<u>(4) Completion of coursework during summer sessions;</u>	67189
<u>(5) A waiver of foreign-language degree requirements based on a proficiency examination specified by the institution.</u>	67190 67191
<u>(C)(1) Not later than October 15, 2012, each state institution of higher education shall provide statements required under this section for ten per cent of all baccalaureate degree programs offered by the institution.</u>	67192 67193 67194 67195
<u>(2) Not later than June 30, 2014, each state institution of higher education shall provide statements required under this section for sixty per cent of all baccalaureate degree programs offered by the institution.</u>	67196 67197 67198 67199
<u>(D) Each state institution of higher education required to submit statements under this section shall post its three-year option on its web site and also provide that information to the department of education. The department shall distribute that information to the superintendent, high school principal, and guidance counselor, or equivalents, of each school district, community school established under Chapter 3314. of the Revised Code, and STEM school established under Chapter 3326. of the Revised Code.</u>	67200 67201 67202 67203 67204 67205 67206 67207 67208
<u>(E) Nothing in this section requires an institution to take any action that would violate the requirements of any independent association accrediting baccalaureate degree programs.</u>	67209 67210 67211
Sec. 3333.66. (A)(1) Except as provided in division (A)(2) of this section, in each academic year, no student who receives a choose Ohio first scholarship shall receive less than one thousand five hundred dollars or more than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities. For this purpose, if Miami university is implementing the pilot tuition restructuring plan originally	67212 67213 67214 67215 67216 67217 67218

recognized in Am. Sub. H.B. 95 of the 125th general assembly, that 67219
university's instructional and general fees shall be considered to 67220
be the average full-time in-state undergraduate instructional and 67221
general fee amount after taking into account the Ohio resident and 67222
Ohio leader scholarships and any other credit provided to all Ohio 67223
residents. 67224

(2) The chancellor of the Ohio board of regents may authorize 67225
a state university or college or a nonpublic Ohio institution of 67226
higher education to award a choose Ohio first scholarship in an 67227
amount greater than one-half of the highest in-state undergraduate 67228
instructional and general fees charged by all state universities 67229
to either of the following: 67230

(a) Any undergraduate student who qualifies for a scholarship 67231
and is enrolled in a program leading to a teaching profession in 67232
science, technology, engineering, mathematics, or medicine; 67233

(b) Any graduate student who qualifies for a scholarship, if 67234
any initiatives are selected for award under division (B) of this 67235
section. 67236

(B) The chancellor shall encourage state universities and 67237
colleges, alone or in collaboration with other state institutions 67238
of higher education, nonpublic Ohio universities and colleges, or 67239
other public or private Ohio entities, to submit proposals under 67240
the choose Ohio first scholarship program for initiatives that 67241
recruit either of the following: 67242

(1) Ohio residents who enrolled in colleges and universities 67243
in other states or other countries to return to Ohio and enroll in 67244
state universities or colleges as graduate students in the fields 67245
of science, technology, engineering, mathematics, and medicine, or 67246
in the fields of science, technology, engineering, mathematics, or 67247
medical education. If such proposals are submitted and meet the 67248
chancellor's competitive criteria for awards, the chancellor, 67249

subject to approval by the controlling board, shall give at least 67250
one of the proposals preference for an award. 67251

(2) Graduates, or undergraduates who will graduate in time to 67252
participate in the program described in this division by the 67253
subsequent school year, from an Ohio college or university who 67254
received, or will receive, a degree in science, technology, 67255
engineering, mathematics, or medicine to participate in a 67256
graduate-level teacher education masters program in one of those 67257
fields that requires the student to establish a domicile in the 67258
state and to commit to teach for a minimum of three years in a 67259
hard-to-staff school district in the state upon completion of the 67260
master's degree program. The chancellor may require a college or 67261
university to give priority to qualified candidates who graduated 67262
from a high school in this state. 67263

"Hard-to-staff" shall be as defined by the department of 67264
education. 67265

(C) The general assembly intends that money appropriated for 67266
the choose Ohio first scholarship program in each fiscal year be 67267
used for scholarships in the following academic year. 67268

Sec. 3333.81. As used in sections 3333.81 to 3333.88 of the 67269
Revised Code: 67270

(A) "Clearinghouse" means the clearinghouse established under 67271
section 3333.82 of the Revised Code. 67272

(B) "Community school" means a community school established 67273
under Chapter 3314. of the Revised Code. 67274

(C) "Common statewide platform" means a software program that 67275
facilitates the delivery of courses via computers from multiple 67276
course providers to multiple end users, tracks the progress of the 67277
end user, and includes an integrated searchable database of 67278
standards-based course content. 67279

(D) "Course provider" means a school district, community school, STEM school, state institution of higher education, private college or university, or nonprofit or for-profit private entity that creates or is an agent of the creator of original course content for a course offered through the clearinghouse.

(E) "Instructor" means an individual who holds a license issued by the state board of education, as defined in section 3319.31 of the Revised Code, or an individual employed as an instructor or professor by a state institution of higher education or a private college or university.

(F) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(G) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

(H) A "student's community school" means the community school in which the student is enrolled instead of being enrolled in a school operated by a school district.

(I) A "student's school district" means the school district operating the school in which the student is lawfully enrolled.

(J) "A student's STEM school" means the STEM school in which the student is enrolled instead of being enrolled in a school operated by a school district.

(K) "School district" means a city, exempted village, local, or joint vocational school district.

Sec. 3333.82. (A) The chancellor of the Ohio board of regents shall establish a clearinghouse of interactive distance learning courses and other distance learning courses delivered via a computer-based method offered by school districts, community schools, STEM schools, state institutions of higher education,

private colleges and universities, and other nonprofit and 67310
for-profit course providers for sharing with other school 67311
districts, community schools, STEM schools, state institutions of 67312
higher education, private colleges and universities, and 67313
individuals for the fee set pursuant to section 3333.84 of the 67314
Revised Code. The chancellor shall not be responsible for the 67315
content of courses offered through the clearinghouse; however, all 67316
such courses shall be delivered only in accordance with technical 67317
specifications approved by the chancellor and on a common 67318
statewide platform administered by the chancellor. 67319

The clearinghouse's distance learning program for students in 67320
grades kindergarten to twelve shall be based on the following 67321
principles: 67322

(1) All Ohio students shall have access to high quality 67323
distance learning courses at any point in their educational 67324
careers. 67325

(2) All students shall be able to customize their education 67326
using distance learning courses offered through the clearinghouse 67327
and no student shall be denied access to any course in the 67328
clearinghouse in which the student is eligible to enroll. 67329

(3) Students may take distance learning courses for all or 67330
any portion of their curriculum requirements and may utilize a 67331
combination of distance learning courses and courses taught in a 67332
traditional classroom setting. 67333

(4) Students may earn an unlimited number of academic credits 67334
through distance learning courses. 67335

(5) Students may take distance learning courses at any time 67336
of the calendar year. 67337

(6) Student advancement to higher coursework shall be based 67338
on a demonstration of subject area competency instead of 67339
completion of any particular number of hours of instruction. 67340

(B) To offer a course through the clearinghouse, a course 67341
provider shall apply to the chancellor in a form and manner 67342
prescribed by the chancellor. The application for each course 67343
shall describe the course of study in as much detail as required 67344
by the chancellor, whether an instructor is provided, the 67345
qualification and credentials of the instructor, the number of 67346
hours of instruction, and any other information required by the 67347
chancellor. The chancellor may require course providers to include 67348
in their applications information recommended by the state board 67349
of education under former section 3353.30 of the Revised Code. 67350

(C) The chancellor shall review the technical specifications 67351
of each application submitted under division (B) of this section. 67352
In reviewing applications, the chancellor may consult with the 67353
department of education; however, the responsibility to either 67354
approve or not approve a course for the clearinghouse belongs to 67355
the chancellor. The chancellor may request additional information 67356
from a course provider that submits an application under division 67357
(B) of this section, if the chancellor determines that such 67358
information is necessary. The chancellor may negotiate changes in 67359
the proposal to offer a course, if the chancellor determines that 67360
changes are necessary in order to approve the course. 67361

(D) The chancellor shall catalog each course approved for the 67362
clearinghouse, through a print or electronic medium, displaying 67363
the following: 67364

(1) Information necessary for a student and the student's 67365
parent, guardian, or custodian and the student's school district, 67366
community school, STEM school, college, or university to decide 67367
whether to enroll in or subscribe to the course; 67368

(2) Instructions for enrolling in that course, including 67369
deadlines for enrollment. 67370

(E) Any expenses related to the installation of a course into 67371

the common statewide platform shall be borne by the course 67372
provider. 67373

~~(F) The chancellor may contract with an entity to perform any 67374
or all of the chancellor's duties under sections 3333.81 to 67375
3333.88 of the Revised Code. The eTech Ohio commission, in 67376
consultation with the chancellor and the state board, shall 67377
distribute information to students and parents describing the 67378
clearinghouse. The information shall be provided in an easily 67379
understandable format. 67380~~

Sec. 3333.83. ~~(A) A student who is enrolled in a school 67381
operated by a school district or in a community school or STEM 67382
school may enroll in a course through the clearinghouse only if 67383
both of the following conditions are satisfied: 67384~~

~~(1) The student's enrollment in the course is approved by the 67385
student's school district, community school, or STEM school. 67386~~

~~(2) The student's school district, community school, or STEM 67387
school agrees to accept for credit the grade assigned by the 67388
course provider, if that provider is another school district, 67389
community school, or STEM school. Each school district, community 67390
school, and STEM school shall encourage students to take advantage 67391
of the distance learning opportunities offered through the 67392
clearinghouse and shall assist any student electing to participate 67393
in the clearinghouse with the selection and scheduling of courses 67394
that satisfy the district's or school's curriculum requirements 67395
and promote the student's post-secondary college or career plans. 67396~~

(B) For each student enrolled in a school operated by a 67397
school district or in a community school or STEM school who is 67398
enrolling in a course provided through the clearinghouse by 67399
another school district, community school, or STEM school, the 67400
student's school district, community school, or STEM school shall 67401
transmit the student's name to the course provider. 67402

The course provider may request from the student's school district, community school, or STEM school other information from the student's school record. The district or school shall provide the requested information only in accordance with section 3319.321 of the Revised Code.

(C) The student's school district, community school, or STEM school shall determine the manner in which and facilities at which the student shall participate in the course consistent with specifications for technology and connectivity adopted by the chancellor of the Ohio board of regents.

(D) A student may withdraw from a course prior to the end of the course only by a date and in a manner prescribed by the student's school district, community school, or STEM school.

(E) A student who is enrolled in a school operated by a school district or in a community school or STEM school and who takes a course through the clearinghouse shall be counted in the formula ADM of a school district under section 3317.03 of the Revised Code as if the student were taking the course from the student's school district, community school, or STEM school.

Sec. 3333.84. (A) The fee charged for any course offered through the clearinghouse shall be set by the course provider.

(B) The chancellor of the Ohio board of regents shall prescribe the manner in which the fee for a course shall be collected or deducted from the school district, school, college or university, or individual subscribing to the course and in which manner the fee shall be paid to the course provider.

(C) The chancellor may retain a percentage of the fee charged for a course to offset the cost of maintaining and operating the clearinghouse, including the payment of compensation for an entity or a private entity that is under contract with the chancellor

under division (F) of section 3333.82 of the Revised Code. The 67433
percentage retained shall be determined by the chancellor. 67434

(D) Nothing in this section shall be construed to require the 67435
school district, community school, or STEM school in which a 67436
student is enrolled to pay the fee charged for a course taken by 67437
the student. 67438

Sec. 3333.85. (A) The grade for a student enrolled in a 67439
school operated by a school district or in a community school or 67440
STEM school for a course provided through the clearinghouse by 67441
another school district, community school, or STEM school shall be 67442
assigned by the course provider and shall be transmitted to the 67443
student's school district, community school, or STEM school. 67444

(B) The district or school enrolling the student shall award 67445
the student credit for successful completion of the course. The 67446
credit awarded shall be equivalent to any credit that would be 67447
granted for successful completion of a similar course offered by 67448
the district or school. 67449

(C) No district or school shall prohibit or otherwise limit 67450
any student's access to or participation in courses offered 67451
through the clearinghouse, or refuse to recognize such courses as 67452
fulfilling curriculum requirements, including the requirements for 67453
a high school diploma under section 3313.603 of the Revised Code. 67454

Sec. 3333.87. The chancellor of the Ohio board of regents and 67455
the state board of education jointly, and in consultation with the 67456
director of the governor's office of 21st century education, shall 67457
adopt rules in accordance with Chapter 119. of the Revised Code 67458
prescribing procedures for the implementation of sections 3333.81 67459
to 3333.86 of the Revised Code. 67460

Sec. 3333.90. (A) As used in this section: 67461

(1) "Allocated state share of instruction" means, for any fiscal year, the amount of the state share of instruction appropriated to the Ohio board of regents by the general assembly that is allocated to a community or technical college or community or technical college district for such fiscal year.

(2) "~~Authority~~ Issuing authority" ~~means the Ohio building authority~~ has the same meaning as in section 154.01 of the Revised Code.

(3) "Bond service charges" has the same meaning as in section ~~152.09~~ 154.01 of the Revised Code.

(4) "Chancellor" means the chancellor of the Ohio board of regents.

(5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education:

(a) A community college as defined in section 3354.01 of the Revised Code;

(b) A technical college as defined in section 3357.01 of the Revised Code;

(c) A state community college as defined in section 3358.01 of the Revised Code.

(6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted:

(a) A community college district as defined in section 3354.01 of the Revised Code;

(b) A technical college district as defined in section 3357.01 of the Revised Code;

(c) A state community college district as defined in section 3358.01 of the Revised Code.

(7) "Credit enhancement facilities" has the same meaning as 67492
in section 133.01 of the Revised Code. 67493

(8) "Obligations" has the meaning as in section ~~152.09~~ 154.01 67494
or 3345.12 of the Revised Code, as the context requires. 67495

(B) The board of trustees of any community or technical 67496
college district authorizing the issuance of obligations under 67497
section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the 67498
Revised Code, or for whose benefit and on whose behalf the issuing 67499
authority proposes to issue obligations under ~~division (G) of~~ 67500
section ~~152.09~~ 154.25 of the Revised Code, may adopt a resolution 67501
requesting the chancellor to enter into an agreement with the 67502
community or technical college district and the primary paying 67503
agent or fiscal agent for such obligations, providing for the 67504
withholding and deposit of funds otherwise due the district or the 67505
community or technical college it operates in respect of its 67506
allocated state share of instruction, for the payment of bond 67507
service charges on such obligations. 67508

The board of trustees shall deliver to the chancellor a copy 67509
of the resolution and any additional pertinent information the 67510
chancellor may require. 67511

The chancellor and the office of budget and management, and 67512
the issuing authority in the case of obligations to be issued by 67513
the issuing authority, shall evaluate each request received from a 67514
community or technical college district under this section. The 67515
chancellor, with the advice and consent of the director of budget 67516
and management and the issuing authority in the case of 67517
obligations to be issued by the issuing authority, shall approve 67518
each request if all of the following conditions are met: 67519

(1) Approval of the request will enhance the marketability of 67520
the obligations for which the request is made; 67521

(2) The chancellor and the office of budget and management, 67522

and the issuing authority in the case of obligations to be issued 67523
by the issuing authority, have no reason to believe the requesting 67524
community or technical college district or the community or 67525
technical college it operates will be unable to pay when due the 67526
bond service charges on the obligations for which the request is 67527
made, and bond service charges on those obligations are therefore 67528
not anticipated to be paid pursuant to this section from the 67529
allocated state share of instruction for purposes of Section 17 of 67530
Article VIII, Ohio Constitution. 67531

(3) Any other pertinent conditions established in rules 67532
adopted under division (H) of this section. 67533

(C) If the chancellor approves the request of a community or 67534
technical college district to withhold and deposit funds pursuant 67535
to this section, the chancellor shall enter into a written 67536
agreement with the district and the primary paying agent or fiscal 67537
agent for the obligations, which agreement shall provide for the 67538
withholding of funds pursuant to this section for the payment of 67539
bond service charges on those obligations. The agreement may also 67540
include both of the following: 67541

(1) Provisions for certification by the district to the 67542
chancellor, prior to the deadline for payment of the applicable 67543
bond service charges, whether the district and the community or 67544
technical college it operates are able to pay those bond service 67545
charges when due; 67546

(2) Requirements that the district or the community or 67547
technical college it operates deposits amounts for the payment of 67548
those bond service charges with the primary paying agent or fiscal 67549
agent for the obligations prior to the date on which the bond 67550
service charges are due to the owners or holders of the 67551
obligations. 67552

(D) Whenever a district or the community or technical college 67553

it operates notifies the chancellor that it will not be able to 67554
pay the bond service charges when they are due, subject to the 67555
withholding provisions of this section, or whenever the applicable 67556
paying agent or fiscal agent notifies the chancellor that it has 67557
not timely received from a district or from the college it 67558
operates the full amount needed for payment of the bond service 67559
charges when due to the holders or owners of such obligations, the 67560
chancellor shall immediately contact the district or college and 67561
the paying agent or fiscal agent to confirm that the district and 67562
the college are not able to make the required payment by the date 67563
on which it is due. 67564

If the chancellor confirms that the district and the college 67565
are not able to make the payment and the payment will not be made 67566
pursuant to a credit enhancement facility, the chancellor shall 67567
promptly pay to the applicable primary paying agent or fiscal 67568
agent the lesser of the amount due for bond service charges or the 67569
amount of the next periodic distribution scheduled to be made to 67570
the district or to the college in respect of its allocated state 67571
share of instruction. If this amount is insufficient to pay the 67572
total amount then due the agent for the payment of bond service 67573
charges, the chancellor shall continue to pay to the agent from 67574
each periodic distribution thereafter, and until the full amount 67575
due the agent for unpaid bond service charges is paid in full, the 67576
lesser of the remaining amount due the agent for bond service 67577
charges or the amount of the next periodic distribution scheduled 67578
to be made to the district or college in respect of its allocated 67579
state share of instruction. 67580

(E) The chancellor may make any payments under this section 67581
by direct deposit of funds by electronic transfer. 67582

Any amount received by a paying agent or fiscal agent under 67583
this section shall be applied only to the payment of bond service 67584
charges on the obligations of the community or technical college 67585

district or community or technical college subject to this section 67586
or to the reimbursement of the provider of a credit enhancement 67587
facility that has paid the bond service charges. 67588

(F) The chancellor may make payments under this section to 67589
paying agents or fiscal agents during any fiscal biennium of the 67590
state only from and to the extent that money is appropriated to 67591
the board of regents by the general assembly for distribution 67592
during such biennium for the state share of instruction and only 67593
to the extent that a portion of the state share of instruction has 67594
been allocated to the community or technical college district or 67595
community or technical college. Obligations of the issuing 67596
authority or of a community or technical college district to which 67597
this section is made applicable do not constitute an obligation or 67598
a debt or a pledge of the faith, credit, or taxing power of the 67599
state, and the holders or owners of those obligations have no 67600
right to have excises or taxes levied or appropriations made by 67601
the general assembly for the payment of bond service charges on 67602
the obligations, and the obligations shall contain a statement to 67603
that effect. The agreement for or the actual withholding and 67604
payment of money under this section does not constitute the 67605
assumption by the state of any debt of a community or technical 67606
college district or a community or technical college, and bond 67607
service charges on the related obligations are not anticipated to 67608
be paid from the state general revenue fund for purposes of 67609
Section 17 of Article VIII, Ohio Constitution. 67610

(G) In the case of obligations subject to the withholding 67611
provisions of this section, the issuing community or technical 67612
college district, or the issuing authority in the case of 67613
obligations issued by the issuing authority, shall appoint a 67614
paying agent or fiscal agent who is not an officer or employee of 67615
the district or college. 67616

(H) The chancellor, with the advice and consent of the office 67617

of budget and management, may adopt reasonable rules not 67618
inconsistent with this section for the implementation of this 67619
section to secure payment of bond service charges on obligations 67620
issued by a community or technical college district or by the 67621
issuing authority for the benefit of a community or technical 67622
college district or the community or technical college it 67623
operates. Those rules shall include criteria for the evaluation 67624
and approval or denial of community or technical college district 67625
requests for withholding under this section. 67626

(I) The authority granted by this section is in addition to 67627
and not a limitation on any other authorizations granted by or 67628
pursuant to law for the same or similar purposes. 67629

Sec. 3333.93. (A) The Ohio out-of-state tuition surcharge 67630
forgiveness program is hereby created. The chancellor of the Ohio 67631
board of regents shall defer payment of the out-of-state tuition 67632
surcharge for nonresident undergraduate and graduate students 67633
enrolled in a state institution of higher education who qualify 67634
for the program. In order to receive such a deferment, nonresident 67635
students must commit to living and working in the state for five 67636
years after receiving a degree from a state institution of higher 67637
education. For each year a deferment recipient lives and works in 67638
Ohio, a percentage of the total amount of out-of-state tuition 67639
owed by the recipient shall be forgiven until the end of the fifth 67640
year of employment and residency in the state after graduation, at 67641
which time the remaining amount owed shall be forgiven under 67642
division (C) of section 3333.94 of the Revised Code. 67643

(B) The chancellor shall adopt rules in accordance with 67644
Chapter 119. of the Revised Code to establish and administer the 67645
program. Such rules shall include, but not be limited to, all of 67646
the following: 67647

(1) Student eligibility to receive a deferment, and any 67648

<u>academic requirements to continue receiving the deferment;</u>	67649
<u>(2) An application, selection, and award process for</u>	67650
<u>deferments;</u>	67651
<u>(3) A process for accounting for the amount of out-of-state</u>	67652
<u>tuition owed by the deferment recipient, calculated in conjunction</u>	67653
<u>with state institutions of higher education;</u>	67654
<u>(4) The maximum amount of out-of-state tuition surcharges a</u>	67655
<u>recipient may defer;</u>	67656
<u>(5) A procedure for recipients who transfer to other state</u>	67657
<u>institutions of higher education;</u>	67658
<u>(6) Conditions under which a deferment shall be canceled.</u>	67659
<u>The chancellor shall require that all applicants to the</u>	67660
<u>deferment program shall file a statement of selective service</u>	67661
<u>status in compliance with section 3345.32 of the Revised Code, if</u>	67662
<u>applicable, and that all applicants have not been convicted of,</u>	67663
<u>plead guilty to, or adjudicated a delinquent child for any</u>	67664
<u>violation listed in section 3333.38 of the Revised Code.</u>	67665
<u>(C)(1) Tuition surcharge deferment recipients shall reside</u>	67666
<u>and work in the state for not less than five years immediately</u>	67667
<u>subsequent to receiving a degree from a state institution of</u>	67668
<u>higher education.</u>	67669
<u>(2) If a student who receives a deferral under this section</u>	67670
<u>as an undergraduate enrolls in a graduate program at a state</u>	67671
<u>institution of higher education in the academic year subsequent to</u>	67672
<u>graduation, division (C)(1) of this section shall not apply until</u>	67673
<u>the student graduates from the graduate program in which that</u>	67674
<u>student is enrolled.</u>	67675
<u>(D) The board of trustees of any state institution of higher</u>	67676
<u>education may do either of the following:</u>	67677
<u>(1) Limit the number of nonresident students enrolled in that</u>	67678

state institution who may participate in the program established 67679
in this section; 67680

(2) Establish eligibility standards for students enrolled in 67681
that state institution to qualify for and to continue 67682
participating in the program established under this section. 67683

Sec. 3333.94. (A) Each recipient who accepts an out-of-state 67684
tuition surcharge payment deferment under section 3333.93 of the 67685
Revised Code, or the recipient's parent if the recipient is 67686
younger than eighteen years of age, shall sign a promissory note 67687
payable to the state in the event the recipient does not satisfy 67688
the requirements of division (C) of section 3333.93 of the Revised 67689
Code or the deferment is terminated. The amount payable under the 67690
note shall be the amount of deferred total out-of-state tuition 67691
surcharge accrued by the recipient. The period of repayment under 67692
the note shall be determined by the chancellor of the Ohio board 67693
of regents. The note shall stipulate that the obligation to make 67694
payments under the note is canceled after the recipient has lived 67695
and worked in the state for five years after graduation in 67696
accordance with division (C) of section 3333.93 of the Revised 67697
Code, or if the recipient dies or becomes totally and permanently 67698
disabled. 67699

(B) Repayment of the principal amount of the deferred 67700
surcharge and interest accrued shall be deferred while the 67701
recipient is enrolled in a state institution of higher education, 67702
while the recipient is seeking employment to fulfill the 67703
employment obligation, for a period not to exceed six months, or 67704
while the recipient lives and works in the state. 67705

(C) During the five-year period following the recipient's 67706
graduation from a state institution of higher education, the 67707
chancellor shall deduct from the outstanding balance that may be 67708
converted to a loan an amount as follows at the end of each year 67709

the recipient lives and works in the state: 67710

(1) Ten per cent of the total amount deferred, at the end of the first year of employment and residence after graduation; 67711
67712

(2) Twenty per cent of the total amount deferred, at the end of the second year of employment and residence; 67713
67714

(3) Thirty per cent of the total amount deferred, at the end of the third year of employment and residence after graduation; 67715
67716

(4) Fifty per cent of the total amount deferred, at the end of the fourth year of employment and residence after graduation; 67717
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(5) One hundred per cent of the total amount deferred, at the end of the fifth year of employment and residence after graduation. 67719
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(D) The chancellor may terminate the deferment in accordance with the rules adopted under section 3333.93 of the Revised Code, in which case the amount deferred shall be converted to a loan to be repaid under division (A) of this section. 67722
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(E) Except as provided in division (B)(5) of section 3333.93 of the Revised Code, the deferment shall be deemed terminated upon the recipient's withdrawal from school or the recipient's failure to meet the standards of the deferment, as determined by the chancellor or the state institution of higher education from which the recipient received a degree, and shall be converted to a loan to be repaid under division (A) of this section. 67726
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(F) The chancellor and the attorney general shall collect payments on the converted loan in accordance with section 131.02 of the Revised Code. 67733
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Sec. 3334.19. (A) The Ohio tuition trust authority shall 67736
adopt an investment plan that sets forth investment policies and 67737
guidelines to be utilized in administering the variable college 67738
savings program and investment options offered by the authority. 67739

The investment options shall include a default option to benefit contributors who are first-time investors or have low to moderate incomes. Except as provided in section 3334.20 of the Revised Code, the authority shall contract with one or more insurance companies, banks, or other financial institutions to act as its investment agents and to provide such services as the authority considers appropriate to the investment plan, including:

(1) Purchase, control, and safekeeping of assets;

(2) Record keeping and accounting for individual accounts and for the program as a whole;

(3) Provision of consolidated statements of account.

(B) The authority or its investment agents shall maintain a separate account for the beneficiary of each contract entered into under the variable college savings program. If a beneficiary has more than one such account, the authority or its agents shall track total contributions and earnings and provide a consolidated system of account distributions to institutions of higher education.

(C) The authority or its investment agents may place assets of the program in savings accounts and may purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the investment plan.

(D) Contributors shall not direct the investment of their contributions under the investment plan. The authority shall impose other limits on contributors' investment discretion to the extent required under section 529 of the Internal Revenue Code.

(E) The investment agents with which the authority contracts shall discharge their duties with respect to program funds with the care and diligence that a prudent person familiar with such matters and with the character and aims of the program would use.

(F) The assets of the program shall be preserved, invested, 67771
and expended solely for the purposes of this chapter and shall not 67772
be loaned or otherwise transferred or used by the state for any 67773
other purpose. This section shall not be construed to prohibit the 67774
investment agents of the authority from investing, by purchase or 67775
otherwise, in bonds, notes, or other obligations of the state or 67776
any agency or instrumentality of the state. Unless otherwise 67777
specified by the authority, assets of the program shall be 67778
expended in the following order of priority: 67779

(1) To make payments on behalf of beneficiaries; 67780

(2) To make refunds upon termination of variable college 67781
savings program contracts; 67782

(3) To pay the authority's costs of administering the 67783
program; 67784

(4) To pay or cover any other expenditure or disbursement the 67785
authority determines necessary or appropriate. 67786

(G) Fees, charges, and other costs imposed or collected by 67787
the authority in connection with the variable college savings 67788
program, including any fees or other payments that the authority 67789
requires an investment agent to pay to the authority, shall be 67790
credited to either the variable operating fund or the index 67791
operating fund at the discretion of the authority. These funds are 67792
hereby created in the state treasury. Expenses incurred in the 67793
administration of the variable college savings program, as well as 67794
other expenses, disbursements, or payments the authority considers 67795
appropriate for the benefit of any college savings programs 67796
administered by the authority, the state of Ohio and its citizens, 67797
shall be paid from the variable operating fund or the index 67798
operating fund at the discretion of the authority. 67799

(H) No records of the authority indicating the identity of 67800
purchasers, contributors, and beneficiaries under the program or 67801

amounts contributed to, earned by, or distributed from program 67802
accounts are public records within the meaning of section 149.43 67803
of the Revised Code. 67804

Sec. 3345.023. (A) No state institution of higher education 67805
shall take any action or enforce any policy that would deny a 67806
religious student group any benefit available to any other student 67807
group based on the religious student group's requirement that its 67808
leaders or members adhere to its sincerely held religious beliefs 67809
or standards of conduct. 67810

(B) As used in this section: 67811

(1) "Benefits" include, without limitation: 67812

(a) Recognition; 67813

(b) Registration; 67814

(c) The use of facilities of the state institution of higher 67815
education for meetings or speaking purposes, subject to section 67816
3345.021 of the Revised Code; 67817

(d) The use of channels of communication of the state 67818
institution of higher education; 67819

(e) Funding sources that are otherwise available to any other 67820
student group in the state institution of higher education. 67821

(2) "State institution of higher education" has the same 67822
meaning as in section 3345.011 of the Revised Code. 67823

Sec. 3345.061. (A) Ohio's two-year institutions of higher 67824
education are respected points of entry for students embarking on 67825
post-secondary careers and courses completed at those institutions 67826
are transferable to state universities in accordance with 67827
articulation and transfer agreements developed under sections 67828
3333.16, 3333.161, and 3333.162 of the Revised Code. 67829

(B) Beginning with undergraduate students who commence 67830
undergraduate studies in the 2014-2015 academic year, no state 67831
university listed in section 3345.011 of the Revised Code, except 67832
Central state university, Shawnee state university, and Youngstown 67833
state university, shall receive any state operating subsidies for 67834
any academic remedial or developmental courses for undergraduate 67835
students, including courses prescribed in the Ohio core curriculum 67836
for high school graduation under division (C) of section 3313.603 67837
of the Revised Code, offered at its main campus, except as 67838
provided in divisions (B)(1) to (4) of this section. 67839

(1) In the 2014-2015 and 2015-2016 academic years, a state 67840
university may receive state operating subsidies for academic 67841
remedial or developmental courses for not more than three per cent 67842
of the total undergraduate credit hours provided by the university 67843
at its main campus. 67844

(2) In the 2016-2017 academic year, a state university may 67845
receive state operating subsidies for academic remedial or 67846
developmental courses for not more than fifteen per cent of the 67847
first-year students who have graduated from high school within the 67848
previous twelve months and who are enrolled in the university at 67849
its main campus, as calculated on a full-time-equivalent basis. 67850

(3) In the 2017-2018 academic year, a state university may 67851
receive state operating subsidies for academic remedial or 67852
developmental courses for not more than ten per cent of the 67853
first-year students who have graduated from high school within the 67854
previous twelve months and who are enrolled in the university at 67855
its main campus, as calculated on a full-time-equivalent basis. 67856

(4) In the 2018-2019 academic year, a state university may 67857
receive state operating subsidies for academic remedial or 67858
developmental courses for not more than five per cent of the 67859
first-year students who have graduated from high school within the 67860
previous twelve months and who are enrolled in the university at 67861

its main campus, as calculated on a full-time-equivalent basis. 67862

Each state university may continue to offer academic remedial 67863
and developmental courses at its main campus beyond the extent for 67864
which state operating subsidies may be paid under this division 67865
and may continue to offer such courses beyond the 2018-2019 67866
academic year. However, the university shall not receive any state 67867
operating subsidies for such courses above the maximum amounts 67868
permitted in this division. 67869

(C) Except as otherwise provided in division (B) of this 67870
section, beginning with students who commence undergraduate 67871
studies in the 2014-2015 academic year, state operating subsidies 67872
for academic remedial or developmental courses offered by state 67873
institutions of higher education may be paid only to Central state 67874
university, Shawnee state university, Youngstown state university, 67875
any university branch, any community college, any state community 67876
college, or any technical college. 67877

(D) Each state university shall grant credit for academic 67878
remedial or developmental courses successfully completed at an 67879
institution described in division (C) of this section pursuant to 67880
any applicable articulation and transfer agreements the university 67881
has entered into in accordance with policies and procedures 67882
adopted under section 3333.16, 3333.161, or 3333.162 of the 67883
Revised Code. 67884

(E) The chancellor of the Ohio board of regents shall do all 67885
of the following: 67886

(1) Withhold state operating subsidies for academic remedial 67887
or developmental courses provided by a state university as 67888
required in order to conform to divisions (B) and (C) of this 67889
section; 67890

(2) Adopt uniform statewide standards for academic remedial 67891
and developmental courses offered by all state institutions of 67892

higher education, as defined in section 3345.011 of the Revised Code; 67893
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(3) Encourage and assist in the design and establishment of academic remedial and developmental courses by institutions of higher education; 67895
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(4) Define "academic year" for purposes of this section and section 3345.06 of the Revised Code; 67898
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(5) Encourage and assist in the development of articulation and transfer agreements between state universities and other institutions of higher education in accordance with policies and procedures adopted under sections 3333.16, 3333.161, and 3333.162 of the Revised Code. 67900
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(F) Not later than December 31, 2012, the presidents, or equivalent position, of all state institutions of higher education, or their designees, jointly shall establish uniform statewide standards in mathematics, science, reading, and writing each student enrolled in a state institution of higher education must meet to be considered in remediation-free status. The presidents also shall establish assessments, if they deem necessary, to determine if a student meets the standards adopted under this division. Each institution is responsible for assessing the needs of its enrolled students in the manner adopted by the presidents. The board of trustees or managing authority of each state institution of higher education shall adopt the remediation-free status standard, and any related assessments, into the institution's policies. 67905
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The chancellor shall assist in coordinating the work of the presidents under this division. 67919
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(G) Each year, not later than a date established by the chancellor, each state institution of higher education shall report to the governor, the general assembly, the chancellor, and 67921
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the superintendent of public instruction all of the following for 67924
the prior academic year: 67925

(1) The institution's aggregate costs for providing academic 67926
remedial or developmental courses; 67927

(2) The amount of those costs disaggregated according to the 67928
city, local, or exempted village school districts from which the 67929
students taking those courses received their high school diplomas; 67930

(3) Any other information with respect to academic remedial 67931
and developmental courses that the chancellor considers 67932
appropriate. 67933

(H) Not later than December 31, 2011, and the thirty-first 67934
day of each December thereafter, the chancellor and the 67935
superintendent of public instruction shall issue a report 67936
recommending policies and strategies for reducing the need for 67937
academic remediation and developmental courses at state 67938
institutions of higher education. 67939

(I) As used in this section, "state institution of higher 67940
education" has the same meaning as in section 3345.011 of the 67941
Revised Code. 67942

Sec. 3345.14. (A) As used in this section, "state college or 67943
university" means any state university or college defined in 67944
division (A)(1) of section 3345.12 of the Revised Code, and any 67945
other institution of higher education defined in division (A)(2) 67946
of that section. 67947

(B) All rights to and interests in discoveries, inventions, 67948
or patents which result from research or investigation conducted 67949
in any experiment station, bureau, laboratory, research facility, 67950
or other facility of any state college or university, or by 67951
employees of any state college or university acting within the 67952
scope of their employment or with funding, equipment, or 67953

infrastructure provided by or through any state college or 67954
university, shall be the sole property of that college or 67955
university. No person, firm, association, corporation, or 67956
governmental agency which uses the facilities of such college or 67957
university in connection with such research or investigation and 67958
no faculty member, employee, or student of such college or 67959
university participating in or making such discoveries or 67960
inventions, shall have any rights to or interests in such 67961
discoveries or inventions, including income therefrom, except as 67962
may, by determination of the board of trustees of such college or 67963
university, be assigned, licensed, transferred, or paid to such 67964
persons or entities in accordance with division (C) of this 67965
section or in accordance with rules adopted under division (D) of 67966
this section. 67967

(C) As may be determined from time to time by the board of 67968
trustees of any state college or university, the college or 67969
university may retain, assign, license, transfer, sell, or 67970
otherwise dispose of, in whole or in part and upon such terms as 67971
the board of trustees may direct, any and all rights to, interests 67972
in, or income from any such discoveries, inventions, or patents 67973
which the college or university owns or may acquire. Such 67974
dispositions may be to any individual, firm, association, 67975
corporation, or governmental agency, or to any faculty member, 67976
employee, or student of the college or university as the board of 67977
trustees may direct. Any and all income or proceeds derived or 67978
retained from such dispositions shall be applied to the general or 67979
special use of the college or university as determined by the 67980
board of trustees of such college or university. 67981

(D)(1) Notwithstanding any provision of the Revised Code to 67982
the contrary, including but not limited to sections 102.03, 67983
102.04, 2921.42, and 2921.43 of the Revised Code, the board of 67984
trustees of any state college or university may adopt rules in 67985

accordance with section 111.15 of the Revised Code that set forth 67986
circumstances under which an employee of the college or university 67987
may solicit or accept, and under which a person may give or 67988
promise to give to such an employee, a financial interest in any 67989
firm, corporation, or other association to which the board has 67990
assigned, licensed, transferred, or sold the college or 67991
university's interests in its intellectual property, including 67992
discoveries or inventions made or created by that employee or in 67993
patents issued to that employee. 67994

(2) Rules established under division (D)(1) of this section 67995
shall include the following: 67996

(a) A requirement that each college or university employee 67997
disclose to the college or university board of trustees any 67998
financial interest the employee holds in a firm, corporation, or 67999
other association as described in division (D)(1) of this section; 68000

(b) A requirement that all disclosures made under division 68001
(D)(2)(a) of this section are reviewed by officials designated by 68002
the college or university board of trustees. The officials 68003
designated under this division shall determine the information 68004
that shall be disclosed and safeguards that shall be applied in 68005
order to manage, reduce, or eliminate any actual or potential 68006
conflict of interest. 68007

(c) A requirement that in implementing division (D) of this 68008
section all members of the college or university board of trustees 68009
shall be governed by Chapter 102. and sections 2921.42 and 2921.43 68010
of the Revised Code. 68011

(d) Guidelines to ensure that any financial interest held by 68012
any employee of the college or university does not result in 68013
misuse of the students, employees, or resources of the college or 68014
university for the benefit of the firm, corporation, or other 68015
association in which such interest is held or does not otherwise 68016

interfere with the duties and responsibilities of the employee who holds such an interest. 68017
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(3) Rules established under division (D)(1) of this section may include other provisions at the discretion of the college or university board of trustees. 68019
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(E) Notwithstanding division (D) of this section, the Ohio ethics commission retains authority to provide assistance to a college or university board of trustees in the implementation of division (D)(2) of this section and to address any matter that is outside the scope of the exception to division (B) of this section as set forth in division (D) of this section or as set forth in rules established under division (D) of this section. 68022
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Sec. 3345.32. (A) As used in this section: 68029

(1) "State university or college" means the institutions described in section 3345.27 of the Revised Code and the northeastern Ohio universities college of medicine. 68030
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(2) "Resident" has the meaning specified by rule of the chancellor of the Ohio board of regents. 68033
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(3) "Statement of selective service status" means a statement certifying one of the following: 68035
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(a) That the individual filing the statement has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended; 68037
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(b) That the individual filing the statement is not required to register with the selective service for one of the following reasons: 68041
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(i) The individual is under eighteen or over twenty-six years of age. 68044
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(ii) The individual is on active duty with the armed forces of the United States other than for training in a reserve or national guard unit. 68046
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(iii) The individual is a nonimmigrant alien lawfully in the United States in accordance with section 101 (a)(15) of the "Immigration and Nationality Act," 8 U.S.C. 1101, as amended. 68049
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(iv) The individual is not a citizen of the United States and is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands. 68052
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(4) "Institution of higher education" means any eligible institution approved by the United States department of education pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as amended, or any institution whose students are eligible for financial assistance under any of the programs described by division (E) of this section. 68055
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(B) The chancellor shall, by rule, specify the form of statements of selective service status to be filed in compliance with divisions (C) to ~~(F)~~(E) of this section. Each statement of selective service status shall contain a section wherein a male student born after December 31, 1959, certifies that the student has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended. For those students not required to register with the selective service, as specified in divisions (A)(2)(b)(i) to (iv) of this section, a section shall be provided on the statement of selective service status for the certification of nonregistration and for an explanation of the reason for the exemption. The chancellor may require that such statements be accompanied by documentation specified by rule of the chancellor. 68061
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(C) A state university or college that enrolls in any course, class, or program a male student born after December 31, 1959, who 68075
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has not filed a statement of selective service status with the 68077
university or college shall, regardless of the student's 68078
residency, charge the student any tuition surcharge charged 68079
students who are not residents of this state. 68080

(D) No male born after December 31, 1959, shall be eligible 68081
to receive any loan, grant, scholarship, or other financial 68082
assistance for educational expenses granted under section 3315.33, 68083
3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.391, 3333.93, 68084
5910.03, 5910.032, or 5919.34 of the Revised Code, financed by an 68085
award under the choose Ohio first scholarship program established 68086
under section 3333.61 of the Revised Code, or financed by an award 68087
under the Ohio co-op/internship program established under section 68088
3333.72 of the Revised Code, unless that person has filed a 68089
statement of selective service status with that person's 68090
institution of higher education. 68091

(E) If an institution of higher education receives a 68092
statement from an individual certifying that the individual has 68093
registered with the selective service system in accordance with 68094
the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 68095
453, as amended or that the individual is exempt from registration 68096
for a reason other than that the individual is under eighteen 68097
years of age, the institution shall not require the individual to 68098
file any further statements. If it receives a statement certifying 68099
that the individual is not required to register because the 68100
individual is under eighteen years of age, the institution shall 68101
require the individual to file a new statement of selective 68102
service status each time the individual seeks to enroll for a new 68103
academic term or makes application for a new loan or loan 68104
guarantee or for any form of financial assistance for educational 68105
expenses, until it receives a statement certifying that the 68106
individual has registered with the selective service system or is 68107
exempt from registration for a reason other than that the 68108

individual is under eighteen years of age. 68109

Sec. 3345.55. (A) For purposes of this section, "university" 68110
includes a state institution of higher education as defined in 68111
section 3345.011 of the Revised Code and a university housing 68112
commission created under section 3347.01 of the Revised Code. 68113

(B) Each university may enter into a lease agreement with a 68114
nonpublic vendor to provide housing services in campus housing 68115
facilities to students of the university. The lease agreement may 68116
require the vendor to construct new campus housing facilities to 68117
serve students. The vendor with whom the university enters into an 68118
agreement shall be responsible for the operation and maintenance 68119
of the housing facilities. The lease shall be for a term of at 68120
least twenty years but shall not exceed thirty years. The lease 68121
agreement shall specify that the vendor is required to lease 68122
housing units to students of the university. Any university 68123
housing policies shall extend to and be enforced by the vendors 68124
with whom the university contracts. 68125

(C) If the vendors with whom the university has entered into 68126
a lease agreement violate the terms of the lease, the university 68127
may revoke the lease and regain operational control over the 68128
dormitory. 68129

Sec. 3345.81. (A) The chancellor of the Ohio board of regents 68130
shall develop a plan for designating public institutions of higher 68131
education as charter universities. In developing the plan, the 68132
chancellor shall: 68133

(1) Study the administrative and financial relationships 68134
between the state and its public institutions of higher education 68135
to determine the extent to which public colleges and universities 68136
can manage their operations more effectively when accorded 68137
flexibility through selected delegation of authority; 68138

(2) Examine legal and other issues related to the feasibility and practicability of restructuring the administrative and financial relationships between the state and its public institutions of higher education; 68139
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(3) Consult with the presidents of the institutions of higher education of the university system of Ohio. 68143
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(B) The office of budget and management, the department of administrative services, and each state institution of higher education shall provide the chancellor, upon the chancellor's request, with research assistance, fiscal and policy analysis, and other services in conducting the study and developing the plan under this section. Each state agency shall provide the chancellor with any other assistance requested by the chancellor in conducting the study and developing the plan. 68145
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(C) The chancellor shall specify in the plan: 68153

(1) The manner in which a state institution of higher education may become eligible for restructured financial and operational authority, and performance measures and criteria to determine eligibility. The performance measures and criteria shall address the institution's ability to manage successfully its administrative and financial operations without jeopardizing the financial integrity and stability of the institution. 68154
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(2) Specific areas of financial and operational authority that are subject to increased flexibility; 68161
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(3) The nature and term of the management agreement required between the state and an institution. 68163
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(D) Not later than August 15, 2011, the chancellor shall submit to the general assembly and the governor a report of findings and recommendations for use in developing policy, statutory, and administrative rule changes necessary to implement the plan. No institution shall be designated a charter university 68165
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until the general assembly, after considering the chancellor's 68170
plan, has enacted legislation establishing a procedure for making 68171
the designation. The chancellor shall not adopt, amend, or rescind 68172
any rules with respect to designating institutions as charter 68173
universities until that legislation is enacted. The general 68174
assembly intends that the general assembly, governor, and 68175
chancellor will take actions necessary for implementation of the 68176
plan for charter universities to commence July 1, 2012. 68177

Sec. 3349.29. An agreement made pursuant to sections 3349.27 68178
and 3349.28 of the Revised Code is not effective unless it has 68179
been approved by the legislative authority of the municipal 68180
corporation with which the municipal university is identified, 68181
upon such legislative authority's determination that such 68182
agreement will be beneficial to the municipal corporation, and 68183
also approved by the Ohio board of regents, and, if required by 68184
any applicable appropriation measure, by the state controlling 68185
board, and any payment from state tax moneys provided for in the 68186
agreement will be subject to appropriations made by the general 68187
assembly. If provision is to be made under such agreement for the 68188
transfer of, or grant of the right to use, all or a substantial 68189
part of the assets of the municipal university to the state 68190
university and assumption by the state university of educational 68191
functions of the municipal university, such agreement shall not 68192
become effective, under sections 3349.27 to 3349.30 of the Revised 68193
Code until the electors of the municipal corporation have approved 68194
such transfer or grant. 68195

The legislative authority of the municipal corporation shall, 68196
by ordinance, submit the question to the electors at a general, 68197
primary, or a special election to be held on the date specified in 68198
the ordinance. The ordinance shall be certified to the board of 68199
elections not later than the forty-fifth day preceding the date of 68200
the election. Notice of the election shall be published in one ~~or~~ 68201

~~more newspapers~~ newspaper of general circulation in the municipal corporation once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, prior to the election ~~and,~~ if. If the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The form of the ballot to be used at the election shall be substantially as follows, with such variations as may be appropriate to reflect the general nature of the transfer or grant of use of assets and the transfer of educational functions contemplated:

"Shall assets of the municipal university known as be transferred to (make available for use by) a state university known as and the state university assume educational functions of the municipal university and provide higher education in (or in close proximity to) the city of to the residents of the city of and of the state of Ohio and such others as shall be admitted?"

The favorable vote of a majority of those voting on the proposition constitutes such approval as is required by this section.

Sec. 3353.04. (A) The eTech Ohio commission may perform any act necessary to carry out the functions of this chapter, including any of the following:

(1) Make grants to institutions and other organizations as prescribed by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts, community schools established under Chapter 3314. of the Revised Code, other educational institutions, and affiliates to utilize educational technology;

(2) Establish a reporting system for school districts,

community schools, other educational institutions, affiliates, and 68233
educational technology organizations that receive financial 68234
assistance from the commission. The system may require the 68235
reporting of information regarding the manner in which the 68236
assistance was expended, the manner in which the equipment or 68237
services purchased with the assistance is being utilized, the 68238
results or outcome of the utilization, the manner in which the 68239
utilization is compatible with the statewide academic standards 68240
adopted by the state board of education pursuant to section 68241
3301.079 of the Revised Code, and any other information determined 68242
by the commission. 68243

(3) Ensure that, where appropriate, products produced by any 68244
entity to which the commission provides financial assistance for 68245
use in elementary and secondary education are aligned with the 68246
statewide academic standards adopted by the state board pursuant 68247
to section 3301.079 of the Revised Code; 68248

(4) Promote accessibility to educational products aligned 68249
with the statewide academic standards, adopted by the state board 68250
pursuant to section 3301.079 of the Revised Code, for school 68251
districts, community schools, and other entities serving grades 68252
kindergarten through twelve; 68253

(5) Own or operate transmission facilities and 68254
interconnection facilities, or contract for transmission 68255
facilities and interconnection facilities, for an educational 68256
television, radio, or radio reading service network; 68257

(6) Establish standards for interconnection facilities used 68258
by the commission in the transmission of educational television, 68259
radio, or radio reading service programming; 68260

(7) Enter into agreements with noncommercial educational 68261
television or radio broadcasting stations or radio reading 68262
services for the operation of the interconnection; 68263

(8) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the production and use of educational television, radio, or radio reading service programs to be transmitted by the educational telecommunications network;	68264 68265 68266 68267 68268
(9) Execute contracts and other agreements necessary and desirable to carry out the purposes of this chapter and other duties prescribed to the commission by law or authorize the executive director of the commission to execute such contracts and agreements on the commission's behalf;	68269 68270 68271 68272 68273
(10) Act as consultant with educational television and educational radio stations and radio reading services toward coordination within the state of the distribution of federal funds that may become available for equipment for educational broadcasting or radio reading services;	68274 68275 68276 68277 68278
(11) Make payments to noncommercial Ohio educational television or radio broadcasting stations or radio reading services to sustain the operation of such stations or services;	68279 68280 68281
(12) In consultation with participants in programs administered by the commission, establish guidelines governing purchasing and procurement that facilitate the timely and effective implementation of such programs;	68282 68283 68284 68285
(13) In consultation with participants in programs administered by the commission, consider the efficiency and cost savings of statewide procurement prior to allocating and releasing funds for such programs;	68286 68287 68288 68289
(14) In consultation with participants in programs administered by the commission, establish a systems support network to facilitate the timely implementation of the programs and other projects and activities for which the commission provides assistance.	68290 68291 68292 68293 68294

(B) Chapters 123., 124., 125., and 153. of the Revised Code 68295
and sections 9.331, ~~9.332~~, and ~~9.333~~ to 9.336 of the Revised Code 68296
do not apply to contracts, programs, projects, or activities of 68297
the commission. 68298

Sec. 3353.15. There is hereby created in the state treasury 68299
the information technology service fund. The fund shall consist of 68300
money received by the eTech Ohio commission pursuant to agreements 68301
with educational entities for the provision of information 68302
technology services to support initiatives to align education from 68303
preschool through college, and any other money deposited into the 68304
fund by the commission. Money in the fund shall be used to provide 68305
the services specified in the agreements, including implementation 68306
and maintenance of an electronic clearinghouse for student 68307
transcript transfers and development of the education data 68308
repository described in section 3301.94 of the Revised Code. 68309
Investment earnings of the fund shall be credited to the fund. 68310

Sec. 3354.12. (A) Upon the request by resolution approved by 68311
the board of trustees of a community college district, and upon 68312
certification to the board of elections not less than ninety days 68313
prior to the election, the boards of elections of the county or 68314
counties comprising such district shall place upon the ballot in 68315
their respective counties the question of levying a tax on all the 68316
taxable property in the community college district outside the 68317
ten-mill limitation, for a specified period of years or for a 68318
continuing period of time, to provide funds for any one or more of 68319
the following purposes: the acquisition of sites, the erection, 68320
furnishing, and equipment of buildings, the acquisition, 68321
construction, or improvement of any property which the board of 68322
trustees of a community college district is authorized to acquire, 68323
construct, or improve and which has an estimated life of 68324
usefulness of five years or more as certified by the fiscal 68325

officer, and the payment of operating costs. Not more than two 68326
special elections shall be held in any one calendar year. Levies 68327
for a continuing period of time adopted under this section may be 68328
reduced in accordance with section 5705.261 of the Revised Code. 68329

If such proposal is to be or include the renewal of an 68330
existing levy at the expiration thereof, the ballot for such 68331
election shall state whether it is a renewal of a tax; a renewal 68332
of a stated number of mills and an increase of a stated number of 68333
mills, or a renewal of a part of an existing levy with a reduction 68334
of a stated number of mills; the year of the tax duplicate on 68335
which such renewal will first be made; and if earlier, the year of 68336
the tax duplicate on which such additional levy will first be 68337
made, which may include the tax duplicate for the current year 68338
unless the election is to be held after the first Tuesday after 68339
the first Monday in November of the current tax year. The ballot 68340
shall also state the period of years for such levy or that it is 68341
for a continuing period of time. If a levy for a continuing period 68342
of time provides for but is not limited to current expenses, the 68343
resolution of the board of trustees providing for the election on 68344
such levy shall apportion the annual rate of the levy between 68345
current expenses and the other purpose or purposes. Such 68346
apportionment need not be the same for each year of the levy, but 68347
the respective portions of the rate actually levied each year for 68348
current expenses and the other purpose or purposes shall be 68349
limited by such apportionment. The portion of the rate apportioned 68350
to the other purpose or purposes shall be reduced as provided in 68351
division (B) of this section. 68352

If a majority of the electors in such district voting on such 68353
question approve thereof, the county auditor or auditors of the 68354
county or counties comprising such district shall annually, for 68355
the applicable years, place such levy on the tax duplicate in such 68356
district, in an amount determined by the board of trustees, but 68357

not to exceed the amount set forth in the proposition approved by the electors.

The boards of trustees of a community college district shall establish a special fund for all revenue derived from any tax levied pursuant to this section.

The boards of elections of the county or counties comprising the district shall cause to be published in a newspaper of general circulation in each such county an advertisement of the proposed tax levy question once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election at which the question is to appear on the ballot, ~~and,~~ if, If a board of elections operates and maintains a web site, that board also shall post ~~a similar~~ the advertisement on its web site for thirty days prior to that election.

After the approval of such levy by vote, the board of trustees of a community college district may anticipate a fraction of the proceeds of such levy and from time to time issue anticipation notes having such maturity or maturities that the aggregate principal amount of all such notes maturing in any calendar year shall not exceed seventy-five per cent of the anticipated proceeds from such levy for such year, and that no note shall mature later than the thirty-first day of December of the tenth calendar year following the calendar year in which such note is issued. Each issue of notes shall be sold as provided in Chapter 133. of the Revised Code.

The amount of bonds or anticipatory notes authorized pursuant to Chapter 3354. of the Revised Code, may include sums to repay moneys previously borrowed, advanced, or granted and expended for the purposes of such bond or anticipatory note issues, whether such moneys were advanced from the available funds of the community college district or by other persons, and the community college district may restore and repay to such funds or persons

from the proceeds of such issues the moneys so borrowed, advanced 68390
or granted. 68391

All operating costs of such community college may be paid out 68392
of any gift or grant from the state, pursuant to division (K) of 68393
section 3354.09 of the Revised Code; out of student fees and 68394
tuition collected pursuant to division (G) of section 3354.09 of 68395
the Revised Code; or out of unencumbered funds from any other 68396
source of the community college income not prohibited by law. 68397

(B) Prior to the application of section 319.301 of the 68398
Revised Code, the rate of a levy that is limited to, or to the 68399
extent that it is apportioned to, purposes other than current 68400
expenses shall be reduced in the same proportion in which the 68401
district's total valuation increases during the life of the levy 68402
because of additions to such valuation that have resulted from 68403
improvements added to the tax list and duplicate. 68404

Sec. 3354.16. (A) When the board of trustees of a community 68405
college district has by resolution determined to let by contract 68406
the work of improvements pursuant to the official plan of such 68407
district, contracts in amounts exceeding a dollar amount set by 68408
the board, which dollar amount shall not exceed fifty two hundred 68409
thousand dollars, shall be advertised after notices calling for 68410
bids have been published once a week for three consecutive weeks 68411
or as provided in section 7.16 of the Revised Code, in at least 68412
one a newspaper of general circulation within the community 68413
college district wherein the work is to be done. Subject to 68414
section 3354.10 of the Revised Code, the board of trustees of the 68415
district may let such contract to the lowest responsive and 68416
responsible bidder, in accordance with section 9.312 of the 68417
Revised Code, who meets the requirements of section 153.54 of the 68418
Revised Code. Such contract shall be in writing and shall be 68419
accompanied by or shall refer to plans and specifications for the 68420

work to be done. Such contract shall be approved by the board of 68421
trustees and signed by the president of the board and by the 68422
contractor. 68423

(B) On the first day of January of every even-numbered year, 68424
the chancellor of the board of regents shall adjust the ~~fifty two~~ 68425
hundred thousand dollar contract limit set forth in division (A) 68426
of this section, as adjusted in any previous year pursuant to this 68427
division. The chancellor shall adjust the limit according to the 68428
average increase or decrease for each of the two years immediately 68429
preceding the adjustment as set forth in the United States 68430
department of commerce, bureau of economic analysis implicit price 68431
deflator for gross domestic product, nonresidential structures, or 68432
an alternative if the federal government ceases to publish this 68433
metric, provided that no increase or decrease for any year shall 68434
exceed three per cent of the contract limit in existence at the 68435
time of the adjustment. Notwithstanding division (A) of this 68436
section, the limit adjusted under this division shall be used 68437
thereafter in lieu of the limit in division (A) of this section. 68438

(C) Before entering into an improvement pursuant to division 68439
(A) of this section, and except for contracts made with a 68440
construction manager at risk or a design-build firm, as those 68441
terms are defined in section 153.50 of the Revised Code, the board 68442
of trustees of a community college district shall require separate 68443
and distinct proposals to be made for furnishing materials or 68444
doing work on the improvement, or both, in the board's discretion, 68445
for each separate and distinct branch or class of work entering 68446
into the improvement. The board of trustees also may require a 68447
single, combined proposal for the entire project for materials or 68448
doing work, or both, in the board's discretion, that includes each 68449
separate and distinct branch or class of work entering into the 68450
improvement. The board of trustees need not solicit separate 68451
proposals for a branch or class of work for an improvement if the 68452

estimate cost for that branch or class of work is less than ~~five~~ 68453
twenty thousand dollars. 68454

(D) When more than one branch or class of work is required, 68455
no contract for the entire job, or for a greater portion thereof 68456
than is embraced in one such branch or class of work shall be 68457
awarded, unless the separate bids do not cover all the work and 68458
materials required or the bids for the whole or for two or more 68459
kinds of work or materials are lower than the separate bids in the 68460
aggregate. The board of trustees need not award separate contracts 68461
for a branch or class of work entering into an improvement if the 68462
estimated cost for that branch or class of work is less than ~~five~~ 68463
twenty thousand dollars. 68464

Sec. 3355.09. Upon receipt of a request from the university 68465
branch district managing authority, the boards of elections of the 68466
county or counties comprising such district shall place upon the 68467
ballot in the district at the next primary or general election 68468
occurring not less than ninety days after submission of such 68469
request by such managing authority, the question of levying a tax 68470
outside the ten-mill limitation, for a specified period of years, 68471
to provide funds for any of the following purposes: 68472

(A) Purchasing a site or enlargement thereof; 68473

(B) The erection and equipment of buildings; 68474

(C) Enlarging, improving, or rebuilding buildings; 68475

(D) The acquisition, construction, or improvement of any 68476
property which the university branch district managing authority 68477
is authorized to acquire, construct, or improve and which has been 68478
certified by the fiscal officer to have an estimated useful life 68479
of five or more years. 68480

If a majority of the electors in such district voting on such 68481
question approve, the county auditor of the county or counties 68482

comprising such district shall annually place such levy on the tax 68483
duplicate in such district, in the amount set forth in the 68484
proposition approved by the electors. 68485

The managing authority of the university branch district 68486
shall establish a special fund pursuant to section 3355.07 of the 68487
Revised Code for all revenue derived from any tax levied pursuant 68488
to provisions of this section. 68489

The boards of election of the county or counties comprising 68490
the district shall cause to be published in a newspaper of general 68491
circulation in each such county an advertisement of the proposed 68492
tax levy question once a week for two consecutive weeks, or as 68493
provided in section 7.16 of the Revised Code, prior to the 68494
election at which the question is to appear on the ballot, ~~and,~~ 68495
~~if.~~ If a board of elections operates and maintains a web site, 68496
that board also shall post ~~a similar~~ the advertisement on its web 68497
site for thirty days prior to the election. 68498

After the approval of such levy by vote, the managing 68499
authority of the university branch district may anticipate a 68500
fraction of the proceeds of such levy and from time to time, 68501
during the life of such levy, issue anticipation notes in an 68502
amount not to exceed seventy-five per cent of the estimated 68503
proceeds of such levy to be collected in each year over a period 68504
of five years after the date of the issuance of such notes, less 68505
an amount equal to the proceeds of such levy previously obligated 68506
for such year by the issuance of anticipation notes, provided, 68507
that the total amount maturing in any one year shall not exceed 68508
seventy-five per cent of the anticipated proceeds of such levy for 68509
that year. 68510

Each issue of notes shall be sold as provided in Chapter 133. 68511
of the Revised Code and shall mature serially in substantially 68512
equal amounts, during each remaining year of the levy, not to 68513
exceed five, after their issuance. 68514

Sec. 3357.16. (A) When the board of trustees of a technical 68515
college district has by resolution determined to let by contract 68516
the work of improvements pursuant to the official plan of such 68517
district, contracts in amounts exceeding a dollar amount set by 68518
the board, which dollar amount shall not exceed fifty two hundred 68519
thousand dollars, shall be advertised after notice calling for 68520
bids has been published once a week for three consecutive weeks or 68521
as provided in section 7.16 of the Revised Code, in ~~at least one a~~ 68522
newspaper of general circulation within the technical college 68523
district where the work is to be done. The board of trustees of 68524
the technical college district may let such contract to the lowest 68525
responsive and responsible bidder, in accordance with section 68526
9.312 of the Revised Code, who meets the requirements of section 68527
153.54 of the Revised Code. Such contract shall be in writing and 68528
shall be accompanied by or shall refer to plans and specifications 68529
for the work to be done. Such contract shall be approved by the 68530
board of trustees and signed by the president of the board and by 68531
the contractor. 68532

(B) On the first day of January of every even-numbered year, 68533
the chancellor of the board of regents shall adjust the fifty two 68534
hundred thousand dollar contract limit set forth in division (A) 68535
of this section, as adjusted in any previous year pursuant to this 68536
division. The chancellor shall adjust the limit according to the 68537
average increase or decrease for each of the two years immediately 68538
preceding the adjustment as set forth in the United States 68539
department of commerce, bureau of economic analysis implicit price 68540
deflator for gross domestic product, nonresidential structures, or 68541
an alternative if the federal government ceases to publish this 68542
metric, provided that no increase or decrease for any year shall 68543
exceed three per cent of the contract limit in existence at the 68544
time of the adjustment. Notwithstanding division (A) of this 68545
section, the limit adjusted under this division shall be used 68546

thereafter in lieu of the limit in division (A) of this section. 68547

(C) Before entering into an improvement pursuant to division 68548
(A) of this section, and except for contracts made with a 68549
construction manager at risk or a design-build firm, as those 68550
terms are defined in section 153.50 of the Revised Code, the board 68551
of trustees of a technical college district shall require separate 68552
and distinct proposals to be made for furnishing materials or 68553
doing work on the improvement, or both, in the board's discretion, 68554
for each separate and distinct branch or class of work entering 68555
into the improvement. The board of trustees also may require a 68556
single, combined proposal for the entire project for materials or 68557
doing work, or both, in the board's discretion, that includes each 68558
separate and distinct branch or class of work entering into the 68559
improvement. The board of trustees need not solicit separate 68560
proposals for a branch or class of work for an improvement if the 68561
estimate cost for that branch or class of work is less than ~~five~~ 68562
twenty thousand dollars. 68563

(D) When more than one branch or class of work is required, 68564
no contract for the entire job, or for a greater portion thereof 68565
than is embraced in one such branch or class of work shall be 68566
awarded, unless the separate bids do not cover all the work and 68567
materials required or the bids for the whole or for two or more 68568
kinds of work or materials are lower than the separate bids in the 68569
aggregate. The board of trustees need not award separate contracts 68570
for a branch or class of work entering into an improvement if the 68571
estimated cost for that branch or class of work is less than ~~five~~ 68572
twenty thousand dollars. 68573

Sec. 3365.01. As used in this chapter: 68574

(A) "College" means any state-assisted college or university 68575
described in section 3333.041 of the Revised Code, any nonprofit 68576
institution holding a certificate of authorization pursuant to 68577

Chapter 1713. of the Revised Code, any private institution exempt 68578
from regulation under Chapter 3332. of the Revised Code as 68579
prescribed in section 3333.046 of the Revised Code, and any 68580
institution holding a certificate of registration from the state 68581
board of career colleges and schools and program authorization for 68582
an associate or bachelor's degree program issued under section 68583
3332.05 of the Revised Code. 68584

(B) "School district," except as specified in division (G) of 68585
this section, means any school district to which a student is 68586
admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of 68587
the Revised Code and does not include a joint vocational or 68588
cooperative education school district. 68589

(C) "Parent" has the same meaning as in section 3313.64 of 68590
the Revised Code. 68591

(D) "Participant" means a student enrolled in a college under 68592
the post-secondary enrollment options program established by this 68593
chapter. 68594

(E) "Secondary grade" means the ninth through twelfth grades. 68595

(F) "School foundation payments" means the amount required to 68596
be paid to a school district for a fiscal year under ~~Chapters~~ 68597
~~3306. and Chapter~~ Chapter 3317. of the Revised Code. 68598

(G) "Tuition base" means, with respect to a participant's 68599
school district, the sum of the formula amount plus the per pupil 68600
amount of the base funding supplements specified in divisions 68601
(C)(1) to (4) of section 3317.012 of the Revised Code for fiscal 68602
year 2009. 68603

The participant's "school district" in the case of a 68604
participant enrolled in a community school shall be the school 68605
district in which the student is entitled to attend school under 68606
section 3313.64 or 3313.65 of the Revised Code. 68607

(H) "Educational program" means enrollment in one or more school districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code. 68608
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(I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code. 68611
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(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June. 68615
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(K) "Community school" means any school established pursuant to Chapter 3314. of the Revised Code that includes secondary grades. 68617
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(L) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code. 68620
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Sec. 3365.08. (A) A college that expects to receive or receives reimbursement under section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code shall furnish to a participant all textbooks and materials directly related to a course taken by the participant under division (B) of section 3365.04 of the Revised Code. No college shall charge such participant for tuition, textbooks, materials, or other fees directly related to any such course. 68623
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(B) No student enrolled under this chapter in a course for which credit toward high school graduation is awarded shall receive direct financial aid through any state or federal program. 68632
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(C) If a school district provides transportation for resident school students in grades eleven and twelve under section 3327.01 of the Revised Code, a parent of a pupil enrolled in a course 68635
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under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the board of education for full or partial reimbursement for the necessary costs of transporting the student between the secondary school the student attends and the college in which the student is enrolled. Reimbursement may be paid solely from funds received by the district for pupil transportation under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law. The state board of education shall establish guidelines, based on financial need, under which a district may provide such reimbursement.

(D) If a community school provides or arranges transportation for its pupils in grades nine through twelve under section 3314.091 of the Revised Code, a parent of a pupil of the community school who is enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the governing authority of the community school for full or partial reimbursement of the necessary costs of transporting the student between the community school and the college. The governing authority may pay the reimbursement in accordance with the state board's rules adopted under division (C) of this section solely from funds paid to it under section 3314.091 of the Revised Code.

Sec. 3375.41. When a board of library trustees appointed pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, or 3375.30 of the Revised Code determines to construct, demolish, alter, repair, or reconstruct a library or make any improvements or repairs, the cost of which will exceed twenty-five thousand dollars, except in cases of urgent necessity or for the security and protection of library property, it shall proceed as follows:

(A) The board shall advertise for a period of two weeks for sealed bids in ~~some~~ a newspaper of general circulation in the district, ~~and, if there are two such newspapers, the board shall~~

~~advertise in both of them~~ or as provided in section 7.16 of the 68669
Revised Code. If no newspaper has a general circulation in the 68670
district, the board shall post the advertisement in three public 68671
places in the district. The advertisement shall be entered in full 68672
by the fiscal officer on the record of proceedings of the board. 68673

(B) The sealed bids shall be filed with the fiscal officer by 68674
twelve noon of the last day stated in the advertisement. 68675

(C) The sealed bids shall be opened at the next meeting of 68676
the board, shall be publicly read by the fiscal officer, and shall 68677
be entered in full on the records of the board; provided that the 68678
board, by resolution, may provide for the public opening and 68679
reading of the bids by the fiscal officer, immediately after the 68680
time for their filing has expired, at the usual place of meeting 68681
of the board, and for the tabulation of the bids and a report of 68682
the tabulation to the board at its next meeting. 68683

(D) Each sealed bid shall contain the name of every person 68684
interested in it and shall meet the requirements of section 153.54 68685
of the Revised Code. 68686

(E) When both labor and materials are embraced in the work 68687
bid for, the board may require that each be separately stated in 68688
the sealed bid, with their price, or may require that bids be 68689
submitted without the separation. 68690

(F) None but the lowest responsible bid shall be accepted. 68691
The board may reject all the bids or accept any bid for both labor 68692
and material for the improvement or repair which is the lowest in 68693
the aggregate. 68694

(G) The contract shall be between the board and the bidders. 68695
The board shall pay the contract price for the work in cash at the 68696
times and in the amounts as provided by sections 153.12, 153.13, 68697
and 153.14 of the Revised Code. 68698

(H) When two or more bids are equal, in whole or in part, and 68699

are lower than any others, either may be accepted, but in no case shall the work be divided between these bidders.

(I) When there is reason to believe there is collusion or combination among the bidders, the bids of those concerned in the collusion or combination shall be rejected.

Sec. 3381.11. The board of trustees of a regional arts and cultural district or any officer or employee designated by such board may make any contract for the purchase of supplies or material or for labor for any work, under the supervision of the board, the cost of which shall not exceed ten thousand dollars. When an expenditure, other than for the acquisition of real estate, the discharge of noncontractual claims, personal services, or for the product or services of public utilities, exceeds ten thousand dollars, such expenditure shall be made only after a notice calling for bids has been published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation within the territory of the district or as provided in section 7.16 of the Revised Code. The board may then let said contract to the lowest and best bidder, who shall give a good and approved bond with ample security conditioned on the carrying out of the contract. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done, approved by the board. The plans and specifications shall at all times be made and considered part of the contract. The contract shall be approved by the board and signed on behalf of the district and by the contractor. No sale of any real or personal property or a lease thereof having a term thereof in excess of five years shall be made except with the highest and best bidder after publication of notice for bids in the manner above provided.

Competitive bidding under this section is not required when:

(A) The board, by a two-thirds affirmative vote of its members, determines that a real and present emergency exists and such determination and the reasons therefor are entered in the proceedings of the board, when:

(1) The estimated cost is less than fifteen thousand dollars;
or

(2) There is actual physical damage to structures or equipment.

(B) Such purchase consists of supplies or a replacement or supplemental part or parts for a product or equipment owned or leased by the district and the only source of supply for such supplies, part, or parts is limited to a single supplier;

(C) The lease is a renewal of a lease for electronic data processing equipment, services, or systems;

(D) Services or supplies are available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code;

(E) With respect to any contract, agreement, or lease by a district with any arts or cultural organization or any governmental body or agency.

Sec. 3501.03. At least ten days before the time for holding an election the board of elections shall give public notice by a proclamation, posted in a conspicuous place in the courthouse and city hall, or by one insertion in a newspaper published of general circulation in the county, ~~but if no newspaper is published in such county, then in a newspaper of general circulation therein.~~

The board shall have authority to publicize information relative to registration or elections.

Sec. 3501.17. (A) The expenses of the board of elections

shall be paid from the county treasury, in pursuance of 68760
appropriations by the board of county commissioners, in the same 68761
manner as other county expenses are paid. If the board of county 68762
commissioners fails to appropriate an amount sufficient to provide 68763
for the necessary and proper expenses of the board of elections 68764
pertaining to the conduct of elections, the board of elections may 68765
apply to the court of common pleas within the county, which shall 68766
fix the amount necessary to be appropriated and the amount shall 68767
be appropriated. Payments shall be made upon vouchers of the board 68768
of elections certified to by its chairperson or acting chairperson 68769
and the director or deputy director, upon warrants of the county 68770
auditor. 68771

The board of elections shall not incur any obligation 68772
involving the expenditure of money unless there are moneys 68773
sufficient in the funds appropriated therefor to meet the 68774
obligation. If the board of elections requests a transfer of funds 68775
from one of its appropriation items to another, the board of 68776
county commissioners shall adopt a resolution providing for the 68777
transfer except as otherwise provided in section 5705.40 of the 68778
Revised Code. The expenses of the board of elections shall be 68779
apportioned among the county and the various subdivisions as 68780
provided in this section, and the amount chargeable to each 68781
subdivision shall be withheld by the county auditor from the 68782
moneys payable thereto at the time of the next tax settlement. At 68783
the time of submitting budget estimates in each year, the board of 68784
elections shall submit to the taxing authority of each 68785
subdivision, upon the request of the subdivision, an estimate of 68786
the amount to be withheld from the subdivision during the next 68787
fiscal year. 68788

A board of township trustees may, by resolution, request that 68789
the county auditor withhold expenses charged to the township from 68790
a specified township fund that is to be credited with revenue at a 68791

tax settlement. The resolution shall specify the tax levy ballot 68792
issue, the date of the election on the levy issue, and the 68793
township fund from which the expenses the board of elections 68794
incurs related to that ballot issue shall be withheld. 68795

(B) Except as otherwise provided in division (F) of this 68796
section, the compensation of the members of the board of elections 68797
and of the director, deputy director, and regular employees in the 68798
board's offices, other than compensation for overtime worked; the 68799
expenditures for the rental, furnishing, and equipping of the 68800
office of the board and for the necessary office supplies for the 68801
use of the board; the expenditures for the acquisition, repair, 68802
care, and custody of the polling places, booths, guardrails, and 68803
other equipment for polling places; the cost of tally sheets, 68804
maps, flags, ballot boxes, and all other permanent records and 68805
equipment; the cost of all elections held in and for the state and 68806
county; and all other expenses of the board which are not 68807
chargeable to a political subdivision in accordance with this 68808
section shall be paid in the same manner as other county expenses 68809
are paid. 68810

(C) The compensation of judges of elections and intermittent 68811
employees in the board's offices; the cost of renting, moving, 68812
heating, and lighting polling places and of placing and removing 68813
ballot boxes and other fixtures and equipment thereof, including 68814
voting machines, marking devices, and automatic tabulating 68815
equipment; the cost of printing and delivering ballots, cards of 68816
instructions, registration lists required under section 3503.23 of 68817
the Revised Code, and other election supplies, including the 68818
supplies required to comply with division (H) of section 3506.01 68819
of the Revised Code; the cost of contractors engaged by the board 68820
to prepare, program, test, and operate voting machines, marking 68821
devices, and automatic tabulating equipment; and all other 68822
expenses of conducting primaries and elections in the odd-numbered 68823

years shall be charged to the subdivisions in and for which such primaries or elections are held. The charge for each primary or general election in odd-numbered years for each subdivision shall be determined in the following manner: first, the total cost of all chargeable items used in conducting such elections shall be ascertained; second, the total charge shall be divided by the number of precincts participating in such election, in order to fix the cost per precinct; third, the cost per precinct shall be prorated by the board of elections to the subdivisions conducting elections for the nomination or election of offices in such precinct; fourth, the total cost for each subdivision shall be determined by adding the charges prorated to it in each precinct within the subdivision.

(D) The entire cost of special elections held on a day other than the day of a primary or general election, both in odd-numbered or in even-numbered years, shall be charged to the subdivision. Where a special election is held on the same day as a primary or general election in an even-numbered year, the subdivision submitting the special election shall be charged only for the cost of ballots and advertising. Where a special election is held on the same day as a primary or general election in an odd-numbered year, the subdivision submitting the special election shall be charged for the cost of ballots and advertising for such special election, in addition to the charges prorated to such subdivision for the election or nomination of candidates in each precinct within the subdivision, as set forth in the preceding paragraph.

(E) Where a special election is held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, for the purpose of submitting to the voters of the state constitutional amendments proposed by the general assembly, and a subdivision conducts a special election on

the same day, the entire cost of the special election shall be 68856
divided proportionally between the state and the subdivision based 68857
upon a ratio determined by the number of issues placed on the 68858
ballot by each, except as otherwise provided in division (G) of 68859
this section. Such proportional division of cost shall be made 68860
only to the extent funds are available for such purpose from 68861
amounts appropriated by the general assembly to the secretary of 68862
state. If a primary election is also being conducted in the 68863
subdivision, the costs shall be apportioned as otherwise provided 68864
in this section. 68865

(F) When a precinct is open during a general, primary, or 68866
special election solely for the purpose of submitting to the 68867
voters a statewide ballot issue, the state shall bear the entire 68868
cost of the election in that precinct and shall reimburse the 68869
county for all expenses incurred in opening the precinct. 68870

(G)(1) The state shall bear the entire cost of advertising in 68871
newspapers statewide ballot issues, explanations of those issues, 68872
and arguments for or against those issues, as required by Section 68873
1g of Article II and Section 1 of Article XVI, Ohio Constitution, 68874
and any other section of law. Appropriations made to the 68875
controlling board shall be used to reimburse the secretary of 68876
state for all expenses the secretary of state incurs for such 68877
advertising under division (G) of section 3505.062 of the Revised 68878
Code. 68879

(2) There is hereby created in the state treasury the 68880
statewide ballot advertising fund. The fund shall receive 68881
transfers approved by the controlling board, and shall be used by 68882
the secretary of state to pay the costs of advertising state 68883
ballot issues as required under division (G)(1) of this section. 68884
Any such transfers may be requested from and approved by the 68885
controlling board prior to placing the advertising, in order to 68886
facilitate timely provision of the required advertising. 68887

(H) The cost of renting, heating, and lighting registration places; the cost of the necessary books, forms, and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists shall be charged to the subdivision in which such registration is held.

(I) At the request of a majority of the members of the board of elections, the board of county commissioners may, by resolution, establish an elections revenue fund. Except as otherwise provided in this division, the purpose of the fund shall be to accumulate revenue withheld by or paid to the county under this section for the payment of any expense related to the duties of the board of elections specified in section 3501.11 of the Revised Code, upon approval of a majority of the members of the board of elections. The fund shall not accumulate any revenue withheld by or paid to the county under this section for the compensation of the members of the board of elections or of the director, deputy director, or other regular employees in the board's offices, other than compensation for overtime worked.

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the Revised Code, the board of county commissioners may, by resolution, transfer money to the elections revenue fund from any other fund of the political subdivision from which such payments lawfully may be made. Following an affirmative vote of a majority of the members of the board of elections, the board of county commissioners may, by resolution, rescind an elections revenue fund established under this division. If an elections revenue fund is rescinded, money that has accumulated in the fund shall be transferred to the county general fund.

(J) As used in this section:

(1) "Political subdivision" and "subdivision" mean any board of county commissioners, board of township trustees, legislative authority of a municipal corporation, board of education, or any

other board, commission, district, or authority that is empowered 68920
to levy taxes or permitted to receive the proceeds of a tax levy, 68921
regardless of whether the entity receives tax settlement moneys as 68922
described in division (A) of this section; 68923

(2) "Statewide ballot issue" means any ballot issue, whether 68924
proposed by the general assembly or by initiative or referendum, 68925
that is submitted to the voters throughout the state. 68926

Sec. 3505.13. A contract for the printing of ballots 68927
involving a cost in excess of ten thousand dollars shall not be 68928
let until after five days' notice published once in a ~~leading~~ 68929
newspaper ~~published~~ of general circulation in the county or upon 68930
notice given by mail by the board of elections, addressed to the 68931
responsible printing offices within the state. Except as otherwise 68932
provided in this section, each bid for such printing must be 68933
accompanied by a bond with at least two sureties, or a surety 68934
company, satisfactory to the board, in a sum double the amount of 68935
the bid, conditioned upon the faithful performance of the contract 68936
for such printing as is awarded and for the payment as damages by 68937
such bidder to the board of any excess of cost over the bid which 68938
it may be obliged to pay for such work by reason of the failure of 68939
the bidder to complete the contract. No bid unaccompanied by such 68940
bond shall be considered by the board. The board may, however, 68941
waive the requirement that each bid be accompanied by a bond if 68942
the cost of the contract is ten thousand dollars or less. The 68943
contract shall be let to the lowest responsible bidder in the 68944
state. All ballots shall be printed within the state. 68945

Sec. 3506.05. (A) As used in this section, except when used 68946
as part of the phrase "tabulating equipment" or "automatic 68947
tabulating equipment": 68948

(1) "Equipment" means a voting machine, marking device, 68949

automatic tabulating equipment, or software. 68950

(2) "Vendor" means the person that owns, manufactures, 68951
distributes, or has the legal right to control the use of 68952
equipment, or the person's agent. 68953

(B) No voting machine, marking device, automatic tabulating 68954
equipment, or software for the purpose of casting or tabulating 68955
votes or for communications among systems involved in the 68956
tabulation, storage, or casting of votes shall be purchased, 68957
leased, put in use, or continued to be used, except for 68958
experimental use as provided in division (B) of section 3506.04 of 68959
the Revised Code, unless it, a manual of procedures governing its 68960
use, and training materials, service, and other support 68961
arrangements have been certified by the secretary of state and 68962
unless the board of elections of each county where the equipment 68963
will be used has assured that a demonstration of the use of the 68964
equipment has been made available to all interested electors. The 68965
secretary of state shall appoint a board of voting machine 68966
examiners to examine and approve equipment and its related manuals 68967
and support arrangements. The board shall consist of four members, 68968
who shall be appointed as follows: 68969

(1) Two members appointed by the secretary of state. 68970

(2) One member appointed by either the speaker of the house 68971
of representatives or the minority leader of the house of 68972
representatives, whichever is a member of the opposite political 68973
party from the one to which the secretary of state belongs. 68974

(3) One member appointed by either the president of the 68975
senate or the minority leader of the senate, whichever is a member 68976
of the opposite political party from the one to which the 68977
secretary of state belongs. 68978

In all cases of a tie vote or a disagreement in the board, if 68979
no decision can be arrived at, the board shall submit the matter 68980

in controversy to the secretary of state, who shall summarily 68981
decide the question, and the secretary of state's decision shall 68982
be final. Each member of the board shall be a competent and 68983
experienced election officer or a person who is knowledgeable 68984
about the operation of voting equipment and shall serve during the 68985
secretary of state's term. Any vacancy on the board shall be 68986
filled in the same manner as the original appointment. The 68987
secretary of state shall provide staffing assistance to the board, 68988
at the board's request. 68989

For the member's service, each member of the board shall 68990
receive three hundred dollars per day for each combination of 68991
marking device, tabulating equipment, and voting machine examined 68992
and reported, but in no event shall a member receive more than six 68993
hundred dollars to examine and report on any one marking device, 68994
item of tabulating equipment, or voting machine. Each member of 68995
the board shall be reimbursed for expenses the member incurs 68996
during an examination or during the performance of any related 68997
duties that may be required by the secretary of state. 68998
Reimbursement of these expenses shall be made in accordance with, 68999
and shall not exceed, the rates provided for under section 126.31 69000
of the Revised Code. 69001

Neither the secretary of state nor the board, nor any public 69002
officer who participates in the authorization, examination, 69003
testing, or purchase of equipment, shall have any pecuniary 69004
interest in the equipment or any affiliation with the vendor. 69005

(C)(1) A vendor who desires to have the secretary of state 69006
certify equipment shall first submit the equipment, all current 69007
related procedural manuals, and a current description of all 69008
related support arrangements to the board of voting machine 69009
examiners for examination, testing, and approval. The submission 69010
shall be accompanied by a fee of ~~eighteen~~ two thousand four 69011
hundred dollars and a detailed explanation of the construction and 69012

method of operation of the equipment, a full statement of its 69013
advantages, and a list of the patents and copyrights used in 69014
operations essential to the processes of vote recording and 69015
tabulating, vote storage, system security, and other crucial 69016
operations of the equipment as may be determined by the board. An 69017
additional fee, in an amount to be set by rules promulgated by the 69018
board, may be imposed to pay for the costs of alternative testing 69019
or testing by persons other than board members, record-keeping, 69020
and other extraordinary costs incurred in the examination process. 69021
Moneys not used shall be returned to the person or entity 69022
submitting the equipment for examination. 69023

(2) Fees collected by the secretary of state under this 69024
section shall be deposited into the state treasury to the credit 69025
of the board of voting machine examiners fund, which is hereby 69026
created. All moneys credited to this fund shall be used solely for 69027
the purpose of paying for the services and expenses of each member 69028
of the board or for other expenses incurred relating to the 69029
examination, testing, reporting, or certification of voting 69030
machine devices, the performance of any related duties as required 69031
by the secretary of state, or the reimbursement of any person 69032
submitting an examination fee as provided in this chapter. 69033

(D) Within sixty days after the submission of the equipment 69034
and payment of the fee, or as soon thereafter as is reasonably 69035
practicable, but in any event within not more than ninety days 69036
after the submission and payment, the board of voting machine 69037
examiners shall examine the equipment and file with the secretary 69038
of state a written report on the equipment with its 69039
recommendations and its determination or condition of approval 69040
regarding whether the equipment, manual, and other related 69041
materials or arrangements meet the criteria set forth in sections 69042
3506.07 and 3506.10 of the Revised Code and can be safely used by 69043
the voters at elections under the conditions prescribed in Title 69044

XXXV of the Revised Code, or a written statement of reasons for 69045
which testing requires a longer period. The board may grant 69046
temporary approval for the purpose of allowing experimental use of 69047
equipment. If the board finds that the equipment meets the 69048
criteria set forth in sections 3506.06, 3506.07, and 3506.10 of 69049
the Revised Code, can be used safely and can be depended upon to 69050
record and count accurately and continuously the votes of 69051
electors, and has the capacity to be warranted, maintained, and 69052
serviced, it shall approve the equipment and recommend that the 69053
secretary of state certify the equipment. The secretary of state 69054
shall notify all boards of elections of any such certification. 69055
Equipment of the same model and make, if it provides for recording 69056
of voter intent, system security, voter privacy, retention of 69057
vote, and communication of voting records in an identical manner, 69058
may then be adopted for use at elections. 69059

(E) The vendor shall notify the secretary of state, who shall 69060
then notify the board of voting machine examiners, of any 69061
enhancement and any significant adjustment to the hardware or 69062
software that could result in a patent or copyright change or that 69063
significantly alters the methods of recording voter intent, system 69064
security, voter privacy, retention of the vote, communication of 69065
voting records, and connections between the system and other 69066
systems. The vendor shall provide the secretary of state with an 69067
updated operations manual for the equipment, and the secretary of 69068
state shall forward the manual to the board. Upon receiving such a 69069
notification and manual, the board may require the vendor to 69070
submit the equipment to an examination and test in order for the 69071
equipment to remain certified. The board or the secretary of state 69072
shall periodically examine, test, and inspect certified equipment 69073
to determine continued compliance with the requirements of this 69074
chapter and the initial certification. Any examination, test, or 69075
inspection conducted for the purpose of continuing certification 69076
of any equipment in which a significant problem has been uncovered 69077

or in which a record of continuing problems exists shall be performed pursuant to divisions (C) and (D) of this section, in the same manner as the examination, test, or inspection is performed for initial approval and certification.

(F) If, at any time after the certification of equipment, the board of voting machine examiners or the secretary of state is notified by a board of elections of any significant problem with the equipment or determines that the equipment fails to meet the requirements necessary for approval or continued compliance with the requirements of this chapter, or if the board of voting machine examiners determines that there are significant enhancements or adjustments to the hardware or software, or if notice of such enhancements or adjustments has not been given as required by division (E) of this section, the secretary of state shall notify the users and vendors of that equipment that certification of the equipment may be withdrawn.

(G)(1) The notice given by the secretary of state under division (F) of this section shall be in writing and shall specify both of the following:

(a) The reasons why the certification may be withdrawn;

(b) The date on which certification will be withdrawn unless the vendor takes satisfactory corrective measures or explains why there are no problems with the equipment or why the enhancements or adjustments to the equipment are not significant.

(2) A vendor who receives a notice under division (F) of this section shall, within thirty days after receiving it, submit to the board of voting machine examiners in writing a description of the corrective measures taken and the date on which they were taken, or the explanation required under division (G)(1)(b) of this section.

(3) Not later than fifteen days after receiving a written

description or explanation under division (G)(2) of this section 69109
from a vendor, the board shall determine whether the corrective 69110
measures taken or the explanation is satisfactory to allow 69111
continued certification of the equipment, and the secretary of 69112
state shall send the vendor a written notice of the board's 69113
determination, specifying the reasons for it. If the board has 69114
determined that the measures taken or the explanation given is 69115
unsatisfactory, the notice shall include the effective date of 69116
withdrawal of the certification. This date may be different from 69117
the date originally specified in division (G)(1)(b) of this 69118
section. 69119

(4) A vendor who receives a notice under division (G)(3) of 69120
this section indicating a decision to withdraw certification may, 69121
within thirty days after receiving it, request in writing that the 69122
board hold a hearing to reconsider its decision. Any interested 69123
party shall be given the opportunity to submit testimony or 69124
documentation in support of or in opposition to the board's 69125
recommendation to withdraw certification. Failure of the vendor to 69126
take appropriate steps as described in division (G)(1)(b) or to 69127
comply with division (G)(2) of this section results in a waiver of 69128
the vendor's rights under division (G)(4) of this section. 69129

(H)(1) The secretary of state, in consultation with the board 69130
of voting machine examiners, shall establish, by rule, guidelines 69131
for the approval, certification, and continued certification of 69132
the voting machines, marking devices, and tabulating equipment to 69133
be used under Title XXXV of the Revised Code. The guidelines shall 69134
establish procedures requiring vendors or computer software 69135
developers to place in escrow with an independent escrow agent 69136
approved by the secretary of state a copy of all source code and 69137
related documentation, together with periodic updates as they 69138
become known or available. The secretary of state shall require 69139
that the documentation include a system configuration and that the 69140

source code include all relevant program statements in low- or 69141
high-level languages. As used in this division, "source code" does 69142
not include variable codes created for specific elections. 69143

(2) Nothing in any rule adopted under division (H) of this 69144
section shall be construed to limit the ability of the secretary 69145
of state to follow or adopt, or to preclude the secretary of state 69146
from following or adopting, any guidelines proposed by the federal 69147
election commission, any entity authorized by the federal election 69148
commission to propose guidelines, the election assistance 69149
commission, or any entity authorized by the election assistance 69150
commission to propose guidelines. 69151

(3)(a) Before the initial certification of any direct 69152
recording electronic voting machine with a voter verified paper 69153
audit trail, and as a condition for the continued certification 69154
and use of those machines, the secretary of state shall establish, 69155
by rule, standards for the certification of those machines. Those 69156
standards shall include, but are not limited to, all of the 69157
following: 69158

(i) A definition of a voter verified paper audit trail as a 69159
paper record of the voter's choices that is verified by the voter 69160
prior to the casting of the voter's ballot and that is securely 69161
retained by the board of elections; 69162

(ii) Requirements that the voter verified paper audit trail 69163
shall not be retained by any voter and shall not contain 69164
individual voter information; 69165

(iii) A prohibition against the production by any direct 69166
recording electronic voting machine of anything that legally could 69167
be removed by the voter from the polling place, such as a receipt 69168
or voter confirmation; 69169

(iv) A requirement that paper used in producing a voter 69170
verified paper audit trail be sturdy, clean, and resistant to 69171

degradation; 69172

(v) A requirement that the voter verified paper audit trail 69173
shall be capable of being optically scanned for the purpose of 69174
conducting a recount or other audit of the voting machine and 69175
shall be readable in a manner that makes the voter's ballot 69176
choices obvious to the voter without the use of computer or 69177
electronic codes; 69178

(vi) A requirement, for office-type ballots, that the voter 69179
verified paper audit trail include the name of each candidate 69180
selected by the voter; 69181

(vii) A requirement, for questions and issues ballots, that 69182
the voter verified paper audit trail include the title of the 69183
question or issue, the name of the entity that placed the question 69184
or issue on the ballot, and the voter's ballot selection on that 69185
question or issue, but not the entire text of the question or 69186
issue. 69187

(b) The secretary of state, by rule adopted under Chapter 69188
119. of the Revised Code, may waive the requirement under division 69189
(H)(3)(a)(v) of this section, if the secretary of state determines 69190
that the requirement is cost prohibitive. 69191

(4)(a) Except as otherwise provided in division (H)(4)(c) of 69192
this section, any voting machine, marking device, or automatic 69193
tabulating equipment initially certified or acquired on or after 69194
December 1, 2008, shall have the most recent federal certification 69195
number issued by the election assistance commission. 69196

(b) Any voting machine, marking device, or automatic 69197
tabulating equipment certified for use in this state on ~~the~~ 69198
~~effective date of this amendment~~ September 12, 2008, shall meet, 69199
as a condition of continued certification and use, the voting 69200
system standards adopted by the federal election commission in 69201
2002. 69202

(c) A county that acquires additional voting machines, marking devices, or automatic tabulating equipment on or after December 1, 2008, shall not be considered to have acquired those machines, devices, or equipment on or after December 1, 2008, for the purpose of division (H)(4)(a) of this section if all of the following apply:

(i) The voting machines, marking devices, or automatic tabulating equipment acquired are the same as the machines, devices, or equipment currently used in that county.

(ii) The acquisition of the voting machines, marking devices, or automatic tabulating equipment does not replace or change the primary voting system used in that county.

(iii) The acquisition of the voting machines, marking devices, or automatic tabulating equipment is for the purpose of replacing inoperable machines, devices, or equipment or for the purpose providing additional machines, devices, or equipment required to meet the allocation requirements established pursuant to division (I) of section 3501.11 of the Revised Code.

Sec. 3701.021. (A) The public health council shall adopt, in accordance with Chapter 119. of the Revised Code, such rules as are necessary to carry out sections 3701.021 to 3701.0210 of the Revised Code, including, but not limited to, rules to establish the following:

(1) Medical and financial eligibility requirements for the program for medically handicapped children;

(2) Eligibility requirements for providers of services for medically handicapped children;

(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division (A)(2) of this section;

(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section 3701.023 of the Revised Code and payment for those services under division (E) of that section;	69233 69234 69235 69236
(5) Standards for the provision of service coordination by the department of health and city and general health districts;	69237 69238
(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code;	69239 69240 69241 69242 69243
(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;	69244 69245 69246
(8) Criteria for payment of approved providers who provide services for medically handicapped children;	69247 69248
(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;	69249 69250 69251
(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;	69252 69253 69254
(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;	69255 69256 69257
(12) Eligibility requirements for the hemophilia program, including income and hardship requirements;	69258 69259
<u>(13) If a manufacturer discount program is established under division (J)(1) of section 3701.023 of the Revised Code, procedures for administering the program, including criteria and</u>	69260 69261 69262

other requirements for participation in the program by 69263
manufacturers of drugs and nutritional formulas. 69264

(B) The department of health shall develop a manual of 69265
operational procedures and guidelines for the program for 69266
medically handicapped children to implement sections 3701.021 to 69267
3701.0210 of the Revised Code. 69268

Sec. 3701.023. (A) The department of health shall review 69269
applications for eligibility for the program for medically 69270
handicapped children that are submitted to the department by city 69271
and general health districts and physician providers approved in 69272
accordance with division (C) of this section. The department shall 69273
determine whether the applicants meet the medical and financial 69274
eligibility requirements established by the public health council 69275
pursuant to division (A)(1) of section 3701.021 of the Revised 69276
Code, and by the department in the manual of operational 69277
procedures and guidelines for the program for medically 69278
handicapped children developed pursuant to division (B) of that 69279
section. Referrals of potentially eligible children for the 69280
program may be submitted to the department on behalf of the child 69281
by parents, guardians, public health nurses, or any other 69282
interested person. The department of health may designate other 69283
agencies to refer applicants to the department of health. 69284

(B) In accordance with the procedures established in rules 69285
adopted under division (A)(4) of section 3701.021 of the Revised 69286
Code, the department of health shall authorize a provider or 69287
providers to provide to any Ohio resident under twenty-one years 69288
of age, without charge to the resident or the resident's family 69289
and without restriction as to the economic status of the resident 69290
or the resident's family, diagnostic services necessary to 69291
determine whether the resident has a medically handicapping or 69292
potentially medically handicapping condition. 69293

(C) The department of health shall review the applications of health professionals, hospitals, medical equipment suppliers, and other individuals, groups, or agencies that apply to become providers. The department shall enter into a written agreement with each applicant who is determined, pursuant to the requirements set forth in rules adopted under division (A)(2) of section 3701.021 of the Revised Code, to be eligible to be a provider in accordance with the provider agreement required by the medical assistance program established under section 5111.01 of the Revised Code. No provider shall charge a medically handicapped child or the child's parent or guardian for services authorized by the department under division (B) or (D) of this section.

The department, in accordance with rules adopted under division (A)(3) of section 3701.021 of the Revised Code, may disqualify any provider from further participation in the program for violating any requirement set forth in rules adopted under division (A)(2) of that section. The disqualification shall not take effect until a written notice, specifying the requirement violated and describing the nature of the violation, has been delivered to the provider and the department has afforded the provider an opportunity to appeal the disqualification under division (H) of this section.

(D) The department of health shall evaluate applications from city and general health districts and approved physician providers for authorization to provide treatment services, service coordination, and related goods to children determined to be eligible for the program for medically handicapped children pursuant to division (A) of this section. The department shall authorize necessary treatment services, service coordination, and related goods for each eligible child in accordance with an individual plan of treatment for the child. As an alternative, the department may authorize payment of health insurance premiums on

behalf of eligible children when the department determines, in 69326
accordance with criteria set forth in rules adopted under division 69327
(A)(9) of section 3701.021 of the Revised Code, that payment of 69328
the premiums is cost-effective. 69329

(E) The department of health shall pay, from appropriations 69330
to the department, any necessary expenses, including but not 69331
limited to, expenses for diagnosis, treatment, service 69332
coordination, supportive services, transportation, and accessories 69333
and their upkeep, provided to medically handicapped children, 69334
provided that the provision of the goods or services is authorized 69335
by the department under division (B) or (D) of this section. Money 69336
appropriated to the department of health may also be expended for 69337
reasonable administrative costs incurred by the program. The 69338
department of health also may purchase liability insurance 69339
covering the provision of services under the program for medically 69340
handicapped children by physicians and other health care 69341
professionals. 69342

Payments made to providers by the department of health 69343
pursuant to this division for inpatient hospital care, outpatient 69344
care, and all other medical assistance furnished to eligible 69345
recipients shall be made in accordance with rules adopted by the 69346
public health council pursuant to division (A) of section 3701.021 69347
of the Revised Code. 69348

The departments of health and job and family services shall 69349
jointly implement procedures to ensure that duplicate payments are 69350
not made under the program for medically handicapped children and 69351
the medical assistance program established under section 5111.01 69352
of the Revised Code and to identify and recover duplicate 69353
payments. 69354

(F) At the time of applying for participation in the program 69355
for medically handicapped children, a medically handicapped child 69356
or the child's parent or guardian shall disclose the identity of 69357

any third party against whom the child or the child's parent or guardian has or may have a right of recovery for goods and services provided under division (B) or (D) of this section. The department of health shall require a medically handicapped child who receives services from the program or the child's parent or guardian to apply for all third-party benefits for which the child may be eligible and require the child, parent, or guardian to apply all third-party benefits received to the amount determined under division (E) of this section as the amount payable for goods and services authorized under division (B) or (D) of this section. The department is the payer of last resort and shall pay for authorized goods or services, up to the amount determined under division (E) of this section for the authorized goods or services, only to the extent that payment for the authorized goods or services is not made through third-party benefits. When a third party fails to act on an application or claim for benefits by a medically handicapped child or the child's parent or guardian, the department shall pay for the goods or services only after ninety days have elapsed since the date the child, parents, or guardians made an application or claim for all third-party benefits. Third-party benefits received shall be applied to the amount determined under division (E) of this section. Third-party payments for goods and services not authorized under division (B) or (D) of this section shall not be applied to payment amounts determined under division (E) of this section. Payment made by the department shall be considered payment in full of the amount determined under division (E) of this section. Medicaid payments for persons eligible for the medical assistance program established under section 5111.01 of the Revised Code shall be considered payment in full of the amount determined under division (E) of this section.

(G) The department of health shall administer a program to provide services to Ohio residents who are twenty-one or more

years of age who have cystic fibrosis and who meet the eligibility requirements established by the rules of the public health council pursuant to division (A)(7) of section 3701.021 of the Revised Code, subject to all provisions of this section, but not subject to section 3701.024 of the Revised Code.

(H) The department of health shall provide for appeals, in accordance with rules adopted under section 3701.021 of the Revised Code, of denials of applications for the program for medically handicapped children under division (A) or (D) of this section, disqualification of providers, or amounts paid under division (E) of this section. Appeals under this division are not subject to Chapter 119. of the Revised Code.

The department may designate ombudspersons to assist medically handicapped children or their parents or guardians, upon the request of the children, parents, or guardians, in filing appeals under this division and to serve as children's, parents', or guardians' advocates in matters pertaining to the administration of the program for medically handicapped children and eligibility for program services. The ombudspersons shall receive no compensation but shall be reimbursed by the department, in accordance with rules of the office of budget and management, for their actual and necessary travel expenses incurred in the performance of their duties.

(I) The department of health, and city and general health districts providing service coordination pursuant to division (A)(2) of section 3701.024 of the Revised Code, shall provide service coordination in accordance with the standards set forth in the rules adopted under section 3701.021 of the Revised Code, without charge, and without restriction as to economic status.

(J)(1) The department of health may establish a manufacturer discount program under which a manufacturer of a drug or nutritional formula is permitted to enter into an agreement with

the department to provide a discount on the price of the drug or 69423
nutritional formula distributed to medically handicapped children 69424
participating in the program for medically handicapped children. 69425
The program shall be administered in accordance with rules adopted 69426
under section 3701.021 of the Revised Code. 69427

(2) If a manufacturer enters into an agreement with the 69428
department as described in division (J)(1) of this section, the 69429
manufacturer and the department shall negotiate the amount and 69430
terms of the discount. 69431

(3) In lieu of establishing a discount program as described 69432
in division (J)(1) of this section, the department and a 69433
manufacturer of a drug or nutritional formula may discuss a 69434
donation of drugs or nutritional formulas or a grant of money by 69435
the manufacturer to the department. 69436

Sec. 3701.0211. For each year that federal funds are made 69437
available to states under Title V of the "Social Security Act," 69438
124 Stat. 352 (2010), 42 U.S.C. 710, as amended, for use in 69439
providing abstinence education, the director of health shall 69440
submit to the United States secretary of health and human services 69441
an application for the allotment of those funds that is available 69442
to this state. The director shall use the funds received in 69443
accordance with any conditions under which the application was 69444
approved. 69445

Sec. 3701.032. The director of health may adopt rules 69446
defining what constitutes a "health home" for the purpose of any 69447
entity that is authorized to provide care coordination services. 69448
The rules shall be adopted in accordance with Chapter 119. of the 69449
Revised Code. 69450

Sec. 3701.07. (A) The public health council shall adopt rules 69451
in accordance with Chapter 119. of the Revised Code defining and 69452

classifying hospitals and dispensaries and providing for the 69453
reporting of information by hospitals and dispensaries. Except as 69454
otherwise provided in the Revised Code, the rules providing for 69455
the reporting of information shall not require inclusion of any 69456
confidential patient data or any information concerning the 69457
financial condition, income, expenses, or net worth of the 69458
facilities other than that financial information already contained 69459
in those portions of the medicare or medicaid cost report that is 69460
necessary for the department of health to certify the per diem 69461
cost under section 3701.62 of the Revised Code. The rules may 69462
require the reporting of information in the following categories: 69463

(1) Information needed to identify and classify the 69464
institution; 69465

(2) Information on facilities and type and volume of services 69466
provided by the institution; 69467

(3) The number of beds listed by category of care provided; 69468

(4) The number of licensed or certified professional 69469
employees by classification; 69470

(5) The number of births that occurred at the institution the 69471
previous calendar year; 69472

(6) Any other information that the council considers relevant 69473
to the safety of patients served by the institution. 69474

Every hospital and dispensary, public or private, annually 69475
shall register with and report to the department of health. 69476
Reports shall be submitted in the manner prescribed in rules 69477
adopted under this division. 69478

(B) Every governmental entity or private nonprofit 69479
corporation or association whose employees or representatives are 69480
defined as residents' rights advocates under divisions (E)(1) and 69481
(2) of section 3721.10 ~~or division (A)(10) of section 3722.01~~ of 69482

the Revised Code shall register with the department of health on 69483
forms furnished by the director of health and shall provide such 69484
reasonable identifying information as the director may prescribe. 69485

The department shall compile a list of the governmental 69486
entities, corporations, or associations registering under this 69487
division and shall update the list annually. Copies of the list 69488
shall be made available to nursing home administrators as defined 69489
in division (C) of section 3721.10 of the Revised Code and to 69490
adult care facility managers as defined in section ~~3722.01~~ 5119.70 69491
of the Revised Code. 69492

Sec. 3701.61. (A) The department of health shall establish 69493
the help me grow program ~~for the purpose of encouraging to~~ 69494
encourage early prenatal and well-baby care, provide parenting 69495
education to promote the comprehensive health and development of 69496
children, and provide early intervention services in accordance 69497
with part C of the "Individuals with Disabilities Education Act," 69498
118 Stat. 2744 (2004), 20 U.S.C. 1431 et seq. The program shall 69499
include ~~distributing subsidies to counties to provide the~~ 69500
following services: 69501

(1) ~~Home visiting~~ Home visiting services to ~~newborn infants~~ 69502
~~and their families with a pregnant woman or an infant or toddler~~ 69503
under three years of age who meet the eligibility requirements 69504
established in rules adopted under this section; 69505

(2) ~~Services~~ Part C early intervention services to infants 69506
and toddlers under three years of age who ~~are at risk for, or who~~ 69507
~~have, a developmental delay or disability and their families meet~~ 69508
the eligibility requirements established in rules adopted under 69509
this section. 69510

(B) The ~~department shall not provide home visiting services~~ 69511
~~under the help me grow program unless requested in writing by a~~ 69512
~~parent of the infant or toddler~~ director of health may enter into 69513

an interagency agreement with one or more state agencies to 69514
implement the help me grow program and ensure coordination of 69515
early childhood programs. 69516

(C) The director may distribute help me grow program funds 69517
through contracts, grants, or subsidies to entities providing 69518
services under the program. 69519

(D) To the extent funds are available, the department shall 69520
establish a system of payment to providers of home visiting and 69521
part C early intervention services. 69522

~~(C)~~(E) As a condition of receiving payments for home visiting 69523
services, providers shall report to the director data on the 69524
program performance indicators that are used to assess progress 69525
toward achieving the goals of the program. The report shall 69526
include data on the performance indicator of birth outcomes, 69527
including risk indicators of low birth weight and preterm births, 69528
and data on all other performance indicators specified in rules 69529
adopted under this section. The providers shall report the data in 69530
the format and within the time frames specified in the rules. 69531

The director shall prepare an annual report on the data 69532
received from the providers. 69533

(F) Pursuant to Chapter 119. of the Revised Code, the 69534
department director shall adopt rules that are necessary and 69535
proper to implement this section. The rules shall specify all of 69536
the following: 69537

(1) Eligibility requirements for home visiting services and 69538
part C early intervention services; 69539

(2) Eligibility requirements for providers of home visiting 69540
services and providers of part C early intervention services; 69541

(3) Standards and procedures for the provision of program 69542
services, including data collection, program monitoring, and 69543

<u>program evaluation;</u>	69544
<u>(4) Procedures for appealing the denial of an application for program services or the termination of services;</u>	69545
<u>(5) Procedures for appealing the denial of an application to become a provider of program services or the termination of the department's approval of a provider;</u>	69547
<u>(6) Procedures for addressing complaints;</u>	69548
<u>(7) The program performance indicators on which data must be reported by providers of home visiting services under division (E) of this section, which, to the extent possible, shall be consistent with federal reporting requirements for federally funded home visiting services;</u>	69549
<u>(8) The format in which reports must be submitted under division (E) of this section and the time frames within which the reports must be submitted;</u>	69550
<u>(9) Criteria for payment of approved providers of program services;</u>	69551
<u>(10) Any other rules necessary to implement the program.</u>	69552
<u>(G) A family enrolled in the help me grow at-risk program on the effective date of this amendment shall be eligible for at-risk services until December 31, 2013, or until the eligible child reaches three years of age, whichever occurs first.</u>	69553
Sec. 3701.74. (A) As used in this section and section 3701.741 of the Revised Code:	69554
(1) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home	69555
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health agency, inpatient hospice, birthing center, radiation 69573
therapy center, emergency facility, and an urgent care center. 69574
"Ambulatory care facility" does not include the private office of 69575
a physician or dentist, whether the office is for an individual or 69576
group practice. 69577

(2) "Chiropractor" means an individual licensed under Chapter 69578
4734. of the Revised Code to practice chiropractic. 69579

(3) "Emergency facility" means a hospital emergency 69580
department or any other facility that provides emergency medical 69581
services. 69582

(4) "Health care practitioner" means all of the following: 69583

(a) A dentist or dental hygienist licensed under Chapter 69584
4715. of the Revised Code; 69585

(b) A registered or licensed practical nurse licensed under 69586
Chapter 4723. of the Revised Code; 69587

(c) An optometrist licensed under Chapter 4725. of the 69588
Revised Code; 69589

(d) A dispensing optician, spectacle dispensing optician, 69590
contact lens dispensing optician, or spectacle-contact lens 69591
dispensing optician licensed under Chapter 4725. of the Revised 69592
Code; 69593

(e) A pharmacist licensed under Chapter 4729. of the Revised 69594
Code; 69595

(f) A physician; 69596

(g) A physician assistant authorized under Chapter 4730. of 69597
the Revised Code to practice as a physician assistant; 69598

(h) A practitioner of a limited branch of medicine issued a 69599
certificate under Chapter 4731. of the Revised Code; 69600

(i) A psychologist licensed under Chapter 4732. of the 69601

Revised Code;	69602
(j) A chiropractor;	69603
(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	69604 69605
(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	69606 69607
(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	69608 69609
(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	69610 69611
(o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	69612 69613 69614 69615
(p) A dietitian licensed under Chapter 4759. of the Revised Code;	69616 69617
(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;	69618 69619
(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	69620 69621 69622
(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.	69623 69624 69625
(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	69626 69627
(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; an adult care	69628 69629 69630

facility, as defined in section ~~3722.01~~ 5119.70 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.

(9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative.

(10) "Patient" means either of the following:

(a) An individual who received health care treatment from a health care provider;

(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section.

(11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751.

of the Revised Code, or any other person not named in this 69662
division. 69663

(12) "Pharmacy" has the same meaning as in section 4729.01 of 69664
the Revised Code. 69665

(13) "Physician" means a person authorized under Chapter 69666
4731. of the Revised Code to practice medicine and surgery, 69667
osteopathic medicine and surgery, or podiatric medicine and 69668
surgery. 69669

(14) "Authorized person" means a person to whom a patient has 69670
given written authorization to act on the patient's behalf 69671
regarding the patient's medical record. 69672

(B) A patient, a patient's personal representative or an 69673
authorized person who wishes to examine or obtain a copy of part 69674
or all of a medical record shall submit to the health care 69675
provider a written request signed by the patient, personal 69676
representative, or authorized person dated not more than one year 69677
before the date on which it is submitted. The request shall 69678
indicate whether the copy is to be sent to the requestor, 69679
physician or chiropractor, or held for the requestor at the office 69680
of the health care provider. Within a reasonable time after 69681
receiving a request that meets the requirements of this division 69682
and includes sufficient information to identify the record 69683
requested, a health care provider that has the patient's medical 69684
records shall permit the patient to examine the record during 69685
regular business hours without charge or, on request, shall 69686
provide a copy of the record in accordance with section 3701.741 69687
of the Revised Code, except that if a physician or chiropractor 69688
who has treated the patient determines for clearly stated 69689
treatment reasons that disclosure of the requested record is 69690
likely to have an adverse effect on the patient, the health care 69691
provider shall provide the record to a physician or chiropractor 69692
designated by the patient. The health care provider shall take 69693

reasonable steps to establish the identity of the person making 69694
the request to examine or obtain a copy of the patient's record. 69695

(C) If a health care provider fails to furnish a medical 69696
record as required by division (B) of this section, the patient, 69697
personal representative, or authorized person who requested the 69698
record may bring a civil action to enforce the patient's right of 69699
access to the record. 69700

(D)(1) This section does not apply to medical records whose 69701
release is covered by section 173.20 or 3721.13 of the Revised 69702
Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. 69703
part 2, "Confidentiality of Alcohol and Drug Abuse Patient 69704
Records," or by 42 C.F.R. 483.10. 69705

(2) Nothing in this section is intended to supersede the 69706
confidentiality provisions of sections 2305.24, 2305.25, 2305.251, 69707
and 2305.252 of the Revised Code. 69708

Sec. 3701.83. (A) There is hereby created in the state 69709
treasury the general operations fund. Moneys in the fund shall be 69710
used for the purposes specified in sections 3701.04, 3701.344, 69711
3702.20, 3710.15, 3711.16, 3717.45, 3718.06, 3721.02, ~~3722.04,~~ 69712
3729.07, ~~3733.04, 3733.25, 3733.43,~~ 3748.04, 3748.05, 3748.07, 69713
3748.12, 3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 4769.09 69714
of the Revised Code. 69715

(B) The alcohol testing program fund is hereby created in the 69716
state treasury. The director of health shall use the fund to 69717
administer and enforce the alcohol testing and permit program 69718
authorized by section 3701.143 of the Revised Code. 69719

The fund shall receive transfers from the liquor control fund 69720
created under section 4301.12 of the Revised Code. All investment 69721
earnings of the alcohol testing program fund shall be credited to 69722
the fund. 69723

Sec. 3702.59. (A) The director of health shall accept for review certificate of need applications as provided in sections 3702.592, 3702.593, and 3702.594 of the Revised Code.

(B)(1) The director shall not approve an application for a certificate of need for the addition of long-term care beds to an existing health care facility or for the development of a new health care facility if any of the following apply:

(a) The existing health care facility in which the beds are being placed has one or more waivers for life safety code deficiencies, one or more state fire code violations, or one or more state building code violations, and the project identified in the application does not propose to correct all life safety code deficiencies for which a waiver has been granted, all state fire code violations, and all state building code violations at the existing health care facility in which the beds are being placed;

(b) During the sixty-month period preceding the filing of the application, a notice of proposed license revocation was issued under section 3721.03 of the Revised Code for the existing health care facility in which the beds are being placed or a nursing home owned or operated by the applicant or a principal participant.

(c) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing health care facility in which the beds are being placed, any of the following occurred:

(i) The facility was cited on three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies.

(ii) The facility was cited on two or more separate occasions for final, nonappealable immediate jeopardy deficiencies.

(iii) The facility was cited on two separate occasions for

final, nonappealable actual harm but not immediate jeopardy 69754
deficiencies and on one occasion for a final, nonappealable 69755
immediate jeopardy deficiency. 69756

(d) More than two nursing homes owned or operated in this 69757
state by the applicant or a principal participant or, if the 69758
applicant or a principal participant owns or operates more than 69759
twenty nursing homes in this state, more than ten per cent of 69760
those nursing homes, were each cited during the period that 69761
precedes the filing of the application for the certificate of need 69762
and is encompassed by the three most recent standard surveys of 69763
the nursing homes that were so cited in any of the following 69764
manners: 69765

(i) On three or more separate occasions for final, 69766
nonappealable actual harm but not immediate jeopardy deficiencies; 69767

(ii) On two or more separate occasions for final, 69768
nonappealable immediate jeopardy deficiencies; 69769

(iii) On two separate occasions for final, nonappealable 69770
actual harm but not immediate jeopardy deficiencies and on one 69771
occasion for a final, nonappealable immediate jeopardy deficiency. 69772

(2) In applying divisions (B)(1)(a) to (d) of this section, 69773
the director shall not consider deficiencies or violations cited 69774
before the applicant or a principal participant acquired or began 69775
to own or operate the health care facility at which the 69776
deficiencies or violations were cited. The director may disregard 69777
deficiencies and violations cited after the health care facility 69778
was acquired or began to be operated by the applicant or a 69779
principal participant if the deficiencies or violations were 69780
attributable to circumstances that arose under the previous owner 69781
or operator and the applicant or principal participant has 69782
implemented measures to alleviate the circumstances. In the case 69783
of an application proposing development of a new health care 69784

facility by relocation of beds, the director shall not consider 69785
deficiencies or violations that were solely attributable to the 69786
physical plant of the existing health care facility from which the 69787
beds are being relocated. 69788

(C) The director also shall accept for review any application 69789
for the conversion of infirmary beds to long-term care beds if the 69790
infirmary meets all of the following conditions: 69791

(1) Is operated exclusively by a religious order; 69792

(2) Provides care exclusively to members of religious orders 69793
who take vows of celibacy and live by virtue of their vows within 69794
the orders as if related; 69795

(3) Was providing care exclusively to members of such a 69796
religious order on January 1, 1994. 69797

~~At no time shall individuals other than those described in 69798
division (C)(2) of this section be admitted to a facility to use 69799
beds for which a certificate of need is approved under this 69800
division. 69801~~

(D) Notwithstanding division (C)(2) of this section, a 69802
facility that has been granted a certificate of need under 69803
division (C) of this section may provide care to any of the 69804
following family members of the individuals described in division 69805
(C)(2) of this section: mothers, fathers, brothers, sisters, 69806
brothers-in-law, sisters-in-law, or children. 69807

The long-term care beds in a facility that have been granted 69808
a certificate of need under division (C) of this section may not 69809
be relocated pursuant to sections 3702.592 to 3702.594 of the 69810
Revised Code. 69811

Sec. 3704.06. (A) The attorney general, upon the request of 69812
the director of environmental protection, shall prosecute any 69813
person who violates section 3704.05 or 3704.16 of the Revised 69814

Code. 69815

(B) The attorney general, upon request of the director, shall 69816
bring an action for an injunction, a civil penalty, or any other 69817
appropriate proceedings in any court of competent jurisdiction 69818
against any person violating or threatening to violate section 69819
3704.05 or 3704.16 of the Revised Code. The court shall have 69820
jurisdiction to grant prohibitory and mandatory injunctive relief 69821
and to require payment of a civil penalty upon the showing that 69822
~~such~~ the person has violated this chapter or rules adopted 69823
thereunder. 69824

(C) A person who violates section 3704.05 or 3704.16 of the 69825
Revised Code shall pay a civil penalty of not more than 69826
twenty-five thousand dollars for each day of each violation. This 69827
division does not apply to any requirement of this chapter 69828
regarding the prevention or abatement of odors. 69829

(D) One-half of the moneys collected as civil penalties under 69830
division (C) of this section shall be credited to the 69831
environmental education fund created in section 3745.22 of the 69832
Revised Code. The remainder of the moneys so collected shall be 69833
credited to the air pollution control administration fund, which 69834
is hereby created in the state treasury. The air pollution control 69835
administration fund shall be administered by the director. Moneys 69836
in the air pollution control administration fund shall be used to 69837
supplement other moneys available for the administration and 69838
enforcement of this chapter and the rules adopted and terms and 69839
conditions of orders and permits issued under it, including, 69840
without limitation, the issuance of permits under it, and shall 69841
not be used to satisfy any state matching fund requirements for 69842
the receipt of any federal grant funds. 69843

The director may expend not more than ~~seven~~ one million five 69844
hundred ~~fifty~~ thousand dollars of the moneys credited to the air 69845
pollution control administration fund under this division in any 69846

fiscal year for the purposes specified in this division. The 69847
director may request authority from the controlling board to 69848
expend any moneys credited to that fund in any fiscal year in 69849
excess of that amount. 69850

(E) Upon written complaint by any person, the director shall 69851
conduct such investigations and make such inquiries as are 69852
necessary to secure compliance with this chapter. The director, 69853
upon complaint or upon ~~his~~ the director's own initiative, may 69854
investigate or make inquiries into any alleged violation or act of 69855
air pollution. 69856

Sec. 3704.14. (A)(1) If the director of environmental 69857
protection determines that implementation of a motor vehicle 69858
inspection and maintenance program is necessary for the state to 69859
effectively comply with the federal Clean Air Act after June 30, 69860
~~2009~~ 2011, the director may provide for the implementation of the 69861
program in ~~those counties in this state in which such a program is~~ 69862
~~federally mandated~~ the seven counties in which the program is 69863
operating on the effective date of this amendment. Upon making 69864
such a determination, the director of environmental protection may 69865
request the director of administrative services to extend the 69866
terms of the contract that was entered into under the authority of 69867
~~Section 7 of~~ Am. Sub. H.B. 241 of the ~~127th~~ 128th general 69868
assembly. Upon receiving the request, the director of 69869
administrative services shall extend the contract, beginning on 69870
July 1, ~~2009~~ 2011, in accordance with this section. The contract 69871
shall be extended for a period of up to ~~six~~ twelve months with the 69872
contractor who conducted the motor vehicle inspection and 69873
maintenance program under that contract. 69874

(2) Prior to the expiration of the contract extension that is 69875
authorized by division (A)(1) of this section, the director of 69876
environmental protection may request the director of 69877

administrative services to enter into a contract with a vendor to 69878
operate a decentralized motor vehicle inspection and maintenance 69879
program in each county in this state in which such a program is 69880
federally mandated through June 30, ~~2011~~ 2015, with an option for 69881
the state to renew the contract through June 30, ~~2012~~ 2017. The 69882
contract shall ensure that the decentralized motor vehicle 69883
inspection and maintenance program achieves ~~at least the same~~ 69884
substantially similar ozone precursor reductions as achieved by 69885
the program operated under the authority of the contract that was 69886
extended under division (A)(1) of this section. The director of 69887
administrative services shall select a vendor through a 69888
competitive selection process in compliance with Chapter 125. of 69889
the Revised Code. 69890

(3) Notwithstanding any law to the contrary, the director of 69891
administrative services shall ensure that a competitive selection 69892
process regarding a contract to operate a decentralized motor 69893
vehicle inspection and maintenance program in this state 69894
incorporates the following ~~elements~~, which shall be included in 69895
the contract: 69896

(a) ~~A~~ For purposes of expanding the number of testing 69897
locations for consumer convenience and increased local business 69898
participation, a requirement that the ~~vendor selected to operate~~ 69899
the program ~~provide notification of the program's requirements to~~ 69900
~~each owner of a motor vehicle that is required to be inspected~~ 69901
~~under the program. The contract shall require the notification to~~ 69902
~~be provided not later than sixty days prior to the date by which~~ 69903
~~the owner of the motor vehicle is required to have the motor~~ 69904
~~vehicle inspected. The director of environmental protection and~~ 69905
~~the vendor shall jointly agree on the content of the notice.~~ 69906
~~However, the notice shall include at a minimum the locations of~~ 69907
~~all inspection facilities within a specified distance of the~~ 69908
~~address that is listed on the owner's motor vehicle registration~~ 69909

utilize established local businesses by authorizing existing auto repair facilities to operate as licensed inspection and waiver testing facilities; 69910
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(b) A requirement that the tailpipe emissions analyzer utilized for emissions testing be BAR-97 certified; 69913
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(c) A requirement that the contractor supply proven technology for on-board diagnostic testing equipment to all inspection facilities. 69915
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(4) A decentralized motor vehicle inspection and maintenance program operated under this section shall comply with division (B) of this section. The director of environmental protection shall administer the decentralized motor vehicle inspection and maintenance program operated under this section. 69918
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(B) The decentralized motor vehicle inspection and maintenance program authorized by this section, at a minimum, shall do all of the following: 69923
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(1) Comply with the federal Clean Air Act; 69926

(2) Provide for the issuance of inspection certificates; 69927

(3) Provide for a new car exemption for motor vehicles four years old or newer and provide that a new motor vehicle is exempt for four years regardless of whether legal title to the motor vehicle is transferred during that period. 69928
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(C) A motor vehicle inspection and maintenance program shall not be implemented in any county in which such a program is not authorized under division (A) of this section without the approval of the general assembly through the enactment of legislation. Further, a motor vehicle inspection and maintenance program shall not be implemented in any county beyond June 30, ~~2012~~ 2017, without the approval of the general assembly through the enactment of legislation. 69932
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(D) The director of environmental protection shall adopt 69940
rules in accordance with Chapter 119. of the Revised Code that the 69941
director determines are necessary to implement this section. The 69942
director may continue to implement and enforce rules pertaining to 69943
the motor vehicle inspection and maintenance program previously 69944
implemented under former section 3704.14 of the Revised Code as 69945
that section existed prior to its repeal and reenactment by Am. 69946
Sub. H.B. 66 of the 126th general assembly, provided that the 69947
rules do not conflict with this section. 69948

(E) There is hereby created in the state treasury the auto 69949
emissions test fund, which shall consist of money received by the 69950
director from any cash transfers, state and local grants, and 69951
other contributions that are received for the purpose of funding 69952
the program established under this section. The director of 69953
environmental protection shall use money in the fund solely for 69954
the implementation, supervision, administration, operation, and 69955
enforcement of the motor vehicle inspection and maintenance 69956
program established under this section. Money in the fund shall 69957
not be used for either of the following: 69958

(1) To pay for the inspection costs incurred by a motor 69959
vehicle dealer so that the dealer may provide inspection 69960
certificates to an individual purchasing a motor vehicle from the 69961
dealer when that individual resides in a county that is subject to 69962
the motor vehicle inspection and maintenance program; 69963

(2) To provide payment for more than one free passing 69964
emissions inspection or a total of three emissions inspections for 69965
a motor vehicle in any three-hundred-sixty-five day period. The 69966
owner or lessee of a motor vehicle is responsible for inspection 69967
fees that are related to emissions inspections beyond one free 69968
passing emissions inspection or three total emissions inspections 69969
in any three-hundred-sixty-five day period. Inspection fees that 69970
are charged by a contractor conducting emissions inspections under 69971

a motor vehicle inspection and maintenance program shall be 69972
approved by the director of environmental protection. 69973

(F) The motor vehicle inspection and maintenance program 69974
established under this section expires upon the termination of all 69975
contracts entered into under this section and shall not be 69976
implemented beyond the final date on which termination occurs. 69977

Sec. 3705.24. (A)(1) The public health council shall, in 69978
accordance with section 111.15 of the Revised Code, adopt rules 69979
prescribing fees for the following items or services provided by 69980
the state office of vital statistics: 69981

(a) Except as provided in division (A)(4) of this section: 69982

(i) A certified copy of a vital record or a certification of 69983
birth; 69984

(ii) A search by the office of vital statistics of its files 69985
and records pursuant to a request for information, regardless of 69986
whether a copy of a record is provided; 69987

(iii) A copy of a record provided pursuant to a request. 69988

(b) Replacement of a birth certificate following an adoption, 69989
legitimation, paternity determination or acknowledgement, or court 69990
order; 69991

(c) Filing of a delayed registration of a vital record; 69992

(d) Amendment of a vital record that is requested later than 69993
one year after the filing date of the vital record; 69994

(e) Any other documents or services for which the public 69995
health council considers the charging of a fee appropriate. 69996

(2) Fees prescribed under division (A)(1)(a) of this section 69997
shall not be less than twelve dollars. 69998

(3) Fees prescribed under division (A)(1) of this section 69999
shall be collected in addition to any fees required by sections 70000

3109.14 and 3705.242 of the Revised Code. 70001

(4) Fees prescribed under division (A) of this section shall 70002
not apply to certifications issued under division (H) of this 70003
section or copies provided under section 3705.241 of the Revised 70004
Code. 70005

(B) In addition to the fees prescribed under division (A) of 70006
this section or section 3709.09 of the Revised Code, the office of 70007
vital statistics ~~or~~ the board of health of a city or general 70008
health district, or a local registrar of vital statistics who is 70009
not a salaried employee of a city or general health district shall 70010
charge a five-dollar fee for each certified copy of a vital record 70011
and each certification of birth. This fee shall be deposited in 70012
the general operations fund created under section 3701.83 of the 70013
Revised Code and be used to support the operations, the 70014
modernization, and the automation of the vital records program in 70015
this state. A board of health or a local registrar shall forward 70016
all fees collected under this division to the department of health 70017
not later than thirty days after the end of each calendar quarter. 70018

(C) Except as otherwise provided in division (H) of this 70019
section, and except as provided in section 3705.241 of the Revised 70020
Code, fees collected by the director of health under sections 70021
3705.01 to 3705.29 of the Revised Code shall be paid into the 70022
state treasury to the credit of the general operations fund 70023
created by section 3701.83 of the Revised Code. Except as provided 70024
in division (B) or (I) of this section, money generated by the 70025
fees shall be used only for administration and enforcement of this 70026
chapter and the rules adopted under it. Amounts submitted to the 70027
department of health for copies of vital records or services in 70028
excess of the fees imposed by this section shall be dealt with as 70029
follows: 70030

(1) An overpayment of two dollars or less shall be retained 70031
by the department and deposited in the state treasury to the 70032

credit of the general operations fund created by section 3701.83 70033
of the Revised Code. 70034

(2) An overpayment in excess of two dollars shall be returned 70035
to the person who made the overpayment. 70036

(D) If a local registrar is a salaried employee of a city or 70037
a general health district, any fees the local registrar receives 70038
pursuant to section 3705.23 of the Revised Code shall be paid into 70039
the general fund of the city or the health fund of the general 70040
health district. 70041

Each local registrar of vital statistics, or each health 70042
district where the local registrar is a salaried employee of the 70043
district, shall be entitled to a fee for each birth, fetal death, 70044
death, or military service certificate properly and completely 70045
made out and registered with the local registrar or district and 70046
correctly copied and forwarded to the office of vital statistics 70047
in accordance with the population of the primary registration 70048
district at the last federal census. The fee for each birth, fetal 70049
death, death, or military service certificate shall be: 70050

(1) In primary registration districts of over two hundred 70051
fifty thousand, twenty cents; 70052

(2) In primary registration districts of over one hundred 70053
twenty-five thousand and less than two hundred fifty thousand, 70054
sixty cents; 70055

(3) In primary registration districts of over fifty thousand 70056
and less than one hundred twenty-five thousand, eighty cents; 70057

(4) In primary registration districts of less than fifty 70058
thousand, one dollar. 70059

(E) The director of health shall annually certify to the 70060
county treasurers of the several counties the number of birth, 70061
fetal death, death, and military service certificates registered 70062

from their respective counties with the names of the local 70063
registrars and the amounts due each registrar and health district 70064
at the rates fixed in this section. Such amounts shall be paid by 70065
the treasurer of the county in which the registration districts 70066
are located. No fees shall be charged or collected by registrars 70067
except as provided by this chapter and section 3109.14 of the 70068
Revised Code. 70069

(F) A probate judge shall be paid a fee of fifteen cents for 70070
each certified abstract of marriage prepared and forwarded by the 70071
probate judge to the department of health pursuant to section 70072
3705.21 of the Revised Code. The fee shall be in addition to the 70073
fee paid for a marriage license and shall be paid by the 70074
applicants for the license. 70075

(G) The clerk of a court of common pleas shall be paid a fee 70076
of one dollar for each certificate of divorce, dissolution, and 70077
annulment of marriage prepared and forwarded by the clerk to the 70078
department pursuant to section 3705.21 of the Revised Code. The 70079
fee for the certified abstract of divorce, dissolution, or 70080
annulment of marriage shall be added to the court costs allowed in 70081
these cases. 70082

(H) The fee for an heirloom certification of birth issued 70083
pursuant to division (B)(2) of section 3705.23 of the Revised Code 70084
shall be an amount prescribed by rule by the director of health 70085
plus any fee required by section 3109.14 of the Revised Code. In 70086
setting the amount of the fee, the director shall establish a 70087
surcharge in addition to an amount necessary to offset the expense 70088
of processing heirloom certifications of birth. The fee prescribed 70089
by the director of health pursuant to this division shall be 70090
deposited into the state treasury to the credit of the heirloom 70091
certification of birth fund which is hereby created. Money 70092
credited to the fund shall be used by the office of vital 70093
statistics to offset the expense of processing heirloom 70094

certifications of birth. However, the money collected for the 70095
surcharge, subject to the approval of the controlling board, shall 70096
be used for the purposes specified by the family and children 70097
first council pursuant to section 121.37 of the Revised Code. 70098

(I)(1) Four dollars of each fee collected by ~~the director of~~ 70099
~~health or~~ the board of health of a city or general health district 70100
for ~~an item or service described in division (A)(1)(a) of this~~ 70101
~~section~~ a certified copy of a vital record or a certification of 70102
birth shall be transferred to the office of vital statistics not 70103
later than thirty days after the end of each calendar quarter and 70104
shall be used to support public health systems. Of each four 70105
dollars collected, one dollar shall be used by the director of 70106
health to pay subsidies to boards of health. The subsidies shall 70107
be distributed in accordance with the same formula established 70108
under section 3701.342 of the Revised Code for the distribution of 70109
state health district subsidy funds to boards of health and local 70110
health departments. 70111

(2) Four dollars of each fee collected by a local registrar 70112
of vital statistics who is not a salaried employee of a city or 70113
general health district, for a certified copy of a vital record or 70114
certification of birth, shall be transferred to the office of 70115
vital statistics not later than thirty days after the end of each 70116
calendar quarter and shall be used to support public health 70117
systems. 70118

Sec. 3709.085. (A) The board of health of a city or general 70119
health district may enter into a contract with any political 70120
subdivision or other governmental agency to obtain or provide all 70121
or part of any services, including, but not limited to, 70122
enforcement services, for the purposes of Chapter 3704. of the 70123
Revised Code, the rules adopted and orders made pursuant thereto, 70124
or any other ordinances or rules for the prevention, control, and 70125

abatement of air pollution. 70126

(B)(1) As used in division (B)(2) of this section: 70127

(a) "Semipublic disposal system" means a disposal system that 70128
treats the sanitary sewage discharged from publicly or privately 70129
owned buildings or places of assemblage, entertainment, 70130
recreation, education, correction, hospitalization, housing, or 70131
employment, but does not include a disposal system that treats 70132
sewage in amounts of more than twenty-five thousand gallons per 70133
day; a disposal system for the treatment of sewage that is exempt 70134
from the requirements of section 6111.04 of the Revised Code 70135
pursuant to division (F)(7) of that section; or a disposal system 70136
for the treatment of industrial waste. 70137

(b) Terms defined in section 6111.01 of the Revised Code have 70138
the same meanings as in that section. 70139

(2) The board of health of a city or general health district 70140
may enter into a contract with the environmental protection agency 70141
to conduct on behalf of the agency inspection or enforcement 70142
services, for the purposes of Chapter 6111. of the Revised Code 70143
and rules adopted thereunder, for the disposal or treatment of 70144
sewage from semipublic disposal systems. The board of health of a 70145
city or general health district may charge a fee established 70146
pursuant to section 3709.09 of the Revised Code to be paid by the 70147
owner or operator of a semipublic disposal system for inspections 70148
conducted by the board pursuant to a contract entered into under 70149
division (B)(2) of this section, except that the board shall not 70150
charge a fee for those inspections conducted at any recreational 70151
vehicle park, recreation camp, or combined park-camp that is 70152
licensed under section 3729.05 of the Revised Code or at any 70153
manufactured home park that is licensed under section ~~3733.03~~ 70154
4781.26 of the Revised Code. 70155

Sec. 3709.09. (A) The board of health of a city or general 70156

health district may, by rule, establish a uniform system of fees 70157
to pay the costs of any services provided by the board. 70158

The fee for issuance of a certified copy of a vital record or 70159
a certification of birth shall not be less than the fee prescribed 70160
for the same service under division (A)(1) of section 3705.24 of 70161
the Revised Code and shall include the fees required by division 70162
(B) of section 3705.24 and section 3109.14 of the Revised Code. 70163

Fees for services provided by the board for purposes 70164
specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 70165
3730.03, ~~3733.04, 3733.25~~ 3733.21, and 3749.04 of the Revised Code 70166
shall be established in accordance with rules adopted under 70167
division (B) of this section. The district advisory council, in 70168
the case of a general health district, and the legislative 70169
authority of the city, in the case of a city health district, may 70170
disapprove any fee established by the board of health under this 70171
division, and any such fee, as disapproved, shall not be charged 70172
by the board of health. 70173

(B) The public health council shall adopt rules under section 70174
111.15 of the Revised Code that establish fee categories and a 70175
uniform methodology for use in calculating the costs of services 70176
provided for purposes specified in sections 3701.344, 3711.10, 70177
3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25~~ 3733.21, and 3749.04 70178
of the Revised Code. In adopting the rules, the public health 70179
council shall consider recommendations it receives from advisory 70180
boards established either by statute or the director of health for 70181
entities subject to the fees. 70182

(C) Except when a board of health establishes a fee by 70183
adopting a rule as an emergency measure, the board of health shall 70184
hold a public hearing regarding each proposed fee for a service 70185
provided by the board for a purpose specified in section 3701.344, 70186
3711.10, 3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25~~ 3733.21, or 70187
3749.04 of the Revised Code. If a public hearing is held, at least 70188

twenty days prior to the public hearing the board shall give 70189
written notice of the hearing to each entity affected by the 70190
proposed fee. The notice shall be mailed to the last known address 70191
of each entity and shall specify the date, time, and place of the 70192
hearing and the amount of the proposed fee. 70193

(D) If payment of a fee established under this section is not 70194
received by the day on which payment is due, the board of health 70195
shall assess a penalty. The amount of the penalty shall be equal 70196
to twenty-five per cent of the applicable fee. 70197

(E) All rules adopted by a board of health under this section 70198
shall be adopted, recorded, and certified as are ordinances of 70199
municipal corporations and the record thereof shall be given in 70200
all courts the same effect as is given such ordinances, but the 70201
advertisements of such rules shall be by publication in one 70202
newspaper of general circulation within the health district. 70203
Publication shall be made once a week for two consecutive weeks or 70204
as provided in section 7.16 of the Revised Code, and such rules 70205
shall take effect and be in force ten days from the date of the 70206
first publication. 70207

Sec. 3709.092. (A) A board of health of a city or general 70208
health district shall transmit to the director of health all fees 70209
or additional amounts that the public health council requires to 70210
be collected under sections 3701.344, 3718.06, 3729.07, ~~3733.04,~~ 70211
~~3733.25,~~ and 3749.04 of the Revised Code. The fees and amounts 70212
shall be transmitted according to the following schedule: 70213

(1) For fees and amounts received by the board on or after 70214
the first day of January but not later than the thirty-first day 70215
of March, transmit the fees and amounts not later than the 70216
fifteenth day of May; 70217

(2) For fees and amounts received by the board on or after 70218
the first day of April but not later than the thirtieth day of 70219

June, transmit the fees and amounts not later than the fifteenth
day of August; 70220
70221

(3) For fees and amounts received by the board on or after 70222
the first day of July but not later than the thirtieth day of 70223
September, transmit the fees and amounts not later than the 70224
fifteenth day of November; 70225

(4) For fees and amounts received by the board on or after 70226
the first day of October but not later than the thirty-first day 70227
of December, transmit the fees and amounts not later than the 70228
fifteenth day of February of the following year. 70229

(B) The director shall deposit the fees and amounts received 70230
under this section into the state treasury to the credit of the 70231
general operations fund created in section 3701.83 of the Revised 70232
Code. Each amount shall be used solely for the purpose for which 70233
it was collected. 70234

Sec. 3709.21. The board of health of a general health 70235
district may make such orders and regulations as are necessary for 70236
its own government, for the public health, the prevention or 70237
restriction of disease, and the prevention, abatement, or 70238
suppression of nuisances. Such board may require that no human, 70239
animal, or household wastes from sanitary installations within the 70240
district be discharged into a storm sewer, open ditch, or 70241
watercourse without a permit therefor having been secured from the 70242
board under such terms as the board requires. All orders and 70243
regulations not for the government of the board, but intended for 70244
the general public, shall be adopted, recorded, and certified as 70245
are ordinances of municipal corporations and the record thereof 70246
shall be given in all courts the same effect as is given such 70247
ordinances, but the advertisements of such orders and regulations 70248
shall be by publication in ~~one~~ a newspaper ~~published~~ ~~and~~ of 70249
general circulation within the district. Publication shall be made 70250

once a week for two consecutive weeks or as provided in section 70251
7.16 of the Revised Code, and such orders and regulations shall 70252
take effect and be in force ten days from the date of the first 70253
publication. In cases of emergency caused by epidemics of 70254
contagious or infectious diseases, or conditions or events 70255
endangering the public health, the board may declare such orders 70256
and regulations to be emergency measures, and such orders and 70257
regulations shall become effective immediately without such 70258
advertising, recording, and certifying. 70259

Sec. 3709.341. The board of county commissioners may donate 70260
or sell property, buildings, and furnishings to any board of 70261
health of a general or combined health district. Upon acceptance 70262
by the board of health of the general or combined district, the 70263
board of county commissioners may convey the property, buildings, 70264
and furnishings to the board of health to be used as quarters by 70265
the board of health. The instrument conveying the property, 70266
buildings, and furnishings shall include a reverter clause that, 70267
in the event the board of health subsequently sells the property, 70268
buildings, and furnishings: 70269

(A) Reverts the property, buildings, and furnishings to the 70270
board of county commissioners if they initially were donated by 70271
the board of county commissioners; or 70272

(B) Specifies how the proceeds of the board of health's 70273
subsequent sale of the property, buildings, and furnishings shall 70274
be distributed, if they initially were sold by the board of county 70275
commissioners. 70276

Sec. 3717.01. As used in this chapter: 70277

(A) "Ohio uniform food safety code" means the food safety and 70278
related standards adopted under section 3717.05 of the Revised 70279
Code. 70280

(B) "Food" means any raw, cooked, or processed edible substance used or intended for use in whole or in part for human consumption. "Food" includes ice, water or any other beverage, food ingredients, and chewing gum.

(C) "Retail food establishment" means a premises or part of a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale. Except when expressly provided otherwise, "retail food establishment" includes a mobile retail food establishment, seasonal retail food establishment, and temporary retail food establishment.

As used in this division:

(1) "Retail" means the sale of food to a person who is the ultimate consumer.

(2) "Prepared" means any action that affects a food, including receiving and maintaining it at the temperature at which it was received.

(D) "Seasonal retail food establishment" means a retail food establishment, other than a mobile retail food establishment, that is operated for not more than six months in a licensing period.

(E) "Temporary retail food establishment" means a retail food establishment that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section 3717.23 of the Revised Code.

(F) "Food service operation" means a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used in this division, "served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than

receiving or maintaining it at the temperature at which it was 70312
received. 70313

Except when expressly provided otherwise, "food service 70314
operation" includes a catering food service operation, food 70315
delivery sales operation, mobile food service operation, seasonal 70316
food service operation, temporary food service operation, and 70317
vending machine location. 70318

(G) "Catering food service operation" means a food service 70319
operation where food is prepared for serving at a function or 70320
event held at an off-premises site, for a charge determined on a 70321
per-function or per-event basis. 70322

(H) "Food delivery sales operation" means a food service 70323
operation from which individual portions of food are ordered by a 70324
customer, prepared at another food service operation or a retail 70325
food establishment, and delivered to the customer by a person 70326
other than an employee of the food service operation or retail 70327
food establishment that prepared the food. 70328

(I) "Mobile food service operation" means a food service 70329
operation that is operated from a movable vehicle, portable 70330
structure, or watercraft and that routinely changes location, 70331
except that if the operation remains at any one location for more 70332
than forty consecutive days, the operation is no longer a mobile 70333
food service operation. "Mobile food service operation" includes a 70334
food service operation that does not remain at any one location 70335
for more than forty consecutive days and serves, in a manner 70336
consistent with division (F) of this section, only frozen 70337
desserts; beverages, nuts, popcorn, candy, or similar confections; 70338
bakery products identified in section 911.01 of the Revised Code; 70339
or any combination of those items. 70340

(J) "Seasonal food service operation" means a food service 70341
operation, other than a mobile food service operation, that is 70342

operated for not more than six months in a licensing period. 70343

(K) "Temporary food service operation" means a food service 70344
operation that is operated at an event for not more than five 70345
consecutive days, except when operated for more than five 70346
consecutive days pursuant to division (E)(2) of section 3717.43 of 70347
the Revised Code. 70348

(L) "Vending machine location" means an area or room where 70349
one or more vending machines are installed and operated, except 70350
that if the machines within an area are separated by more than one 70351
hundred fifty feet, each area separated by that distance 70352
constitutes a separate vending machine location. As used in this 70353
division, "vending machine" means a both of the following: 70354

(1) A self-service device that automatically dispenses on the 70355
insertion of currency, tokens, or similar means a predetermined 70356
unit serving of food, either in bulk or in package, without having 70357
to be replenished after each use; 70358

(2) A self-service device at which an individual purchases a 70359
predetermined unit serving of food, either in bulk or in package, 70360
by scanning the bar code of the food that was obtained at the 70361
vending machine location. 70362

(M) "Board of health" means a board of health of a city or 70363
general health district or the authority having the duties of a 70364
board of health under section 3709.05 of the Revised Code. 70365

(N) "Government entity" means this state, a political 70366
subdivision of this state, another state, or a political 70367
subdivision or other local government body of another state. 70368

(O) "Licensor" means one of the following: 70369

(1) A board of health approved under section 3717.11 of the 70370
Revised Code; 70371

(2) The director of agriculture acting pursuant to section 70372

3717.11 of the Revised Code with respect to the licensing of retail food establishments;

(3) The director of health acting pursuant to section 3717.11 of the Revised Code with respect to the licensing of food service operations.

(P) "Licensing period" means the first day of March to the last day of February of the next succeeding year.

(Q) "Mobile retail food establishment" means a retail food establishment that is operated from a movable vehicle or other portable structure, and that routinely changes location, except that if the establishment operates from any one location for more than forty consecutive days, the establishment is no longer a mobile retail food establishment.

(R) "Unprocessed," when used with respect to fruits and vegetables, means that the fruits and vegetables are not processed beyond merely rough trimming and rinsing.

(S) "Cottage food production operation" has the same meaning as in division (A)(20) of section 3715.01 of the Revised Code.

Sec. 3717.53. (A) As used in this section:

(1) "Food nutrition information" includes, but is not limited to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin, mineral, allergen, and sodium content of food. "Food nutrition information" also includes the designation of food as healthy or unhealthy.

(2) "Political subdivision" and "local legislation" have the same meanings as in section 905.501 of the Revised Code.

(3) "Consumer incentive item" means any licensed media character, toy, game, trading card, contest, point accumulation, club membership, admission ticket, token, code or password for digital access, coupon, voucher, incentive, crayons, coloring

placemat, or other premium, prize, or consumer product that is 70403
associated with a meal served by or acquired from a food service 70404
operation. 70405

(B) The director of agriculture has sole and exclusive 70406
authority in this state to regulate the provision of food 70407
nutrition information and consumer incentive items at food service 70408
operations. The director may adopt rules for that purpose in 70409
accordance with Chapter 119. of the Revised Code, including rules 70410
that establish a schedule of civil penalties for violations of 70411
this section and rules adopted under it. Subject to the approval 70412
of the joint committee on agency rule review, portions of the 70413
rules may be adopted by referencing all or any part of any federal 70414
regulations pertaining to the provision of food nutrition 70415
information and consumer incentive items. 70416

The regulation of the provision of food nutrition information 70417
and consumer incentive items at food service operations is a 70418
matter of general statewide interest that requires statewide 70419
regulation, and rules adopted under this section constitute a 70420
comprehensive plan with respect to all aspects of the regulation 70421
of the provision of food nutrition information and consumer 70422
incentive items at food service operations in this state. Rules 70423
adopted under this section shall be applied uniformly throughout 70424
this state. 70425

(C) No political subdivision shall ~~enact~~ do any of the 70426
following: 70427

(1) Enact, adopt, or continue in effect local legislation 70428
relating to the provision or nonprovision of food nutrition 70429
information or consumer incentive items at food service 70430
operations; 70431

(2) Condition a license, a permit, or regulatory approval on 70432
the provision or nonprovision of food nutrition information or 70433

consumer incentive items at food service operations; 70434

(3) Ban, prohibit, or otherwise restrict food at food service operations based on the food nutrition information or on the provision or nonprovision of consumer incentive items; 70435
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(4) Condition a license, a permit, or regulatory approval for a food service operation on the existence or nonexistence of food-based health disparities; 70438
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(5) Ban, prohibit, or otherwise restrict food service operations based on the existence or nonexistence of food-based health disparities. 70441
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Sec. 3717.54. (A) No political subdivision shall enact, adopt, or continue in effect local legislation that bans, prohibits, or otherwise restricts a food service operation because that food service operation is characterized as a quick service or fast food restaurant. The regulation of how food service operations are characterized is a matter of general statewide interest that requires uniform statewide regulation, and this chapter and rules adopted under it constitute a comprehensive plan with respect to all aspects of food service operations in this state. 70444
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(B) As used in this section, "political subdivision" and "local legislation" have the same meanings as in section 905.501 of the Revised Code. 70454
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Sec. 3719.141. (A) A peace officer may sell any controlled substance in the performance of the officer's official duties only if either of the following applies: 70457
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(1) A peace officer may sell any controlled substance in the performance of the officer's official duties if all of the following apply: 70460
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(a) Prior approval for the sale has been given by the prosecuting attorney of the county in which the sale takes place, in any manner described in division (B) of this section;

(b) The peace officer who makes the sale determines that the sale is necessary in the performance of the officer's official duties;

(c) Any of the following applies:

(i) The person to whom the sale is made or any other person who is involved in the sale does not know that the officer who makes the sale is a peace officer, and the peace officer who makes the sale determines that the sale is necessary to prevent the person from determining or suspecting that the officer who makes the sale is a peace officer.

(ii) The peace officer who makes the sale determines that the sale is necessary to preserve an identity that the peace officer who makes the sale has assumed in the performance of the officer's official duties.

(iii) The sale involves a controlled substance that, during the course of another sale, was intercepted by the peace officer who makes the sale or any other peace officer who serves the same agency served by the peace officer who makes the sale; the intended recipient of the controlled substance in the other sale does not know that the controlled substance has been so intercepted; the sale in question is made to the intended recipient of the controlled substance in the other sale and is undertaken with the intent of obtaining evidence of a drug abuse offense against the intended recipient of the controlled substance; and the sale in question does not involve the transfer of any money or other thing of value to the peace officer who makes the sale or any other peace officer who serves the same agency served by the peace officer who makes the sale in exchange

for the controlled substance. 70494

(d) If the sale is made under the circumstances described in 70495
division (A)(1)(c)(i) or (ii) of this section, no person is 70496
charged with any criminal offense or any delinquent act based upon 70497
the sale unless both of the following apply: 70498

(i) The person also is charged with a criminal offense or a 70499
delinquent act that is based upon an act or omission that is 70500
independent of the sale but that either is connected together with 70501
the sale, or constitutes a part of a common scheme or plan with 70502
the sale, or is part of a course of criminal conduct involving the 70503
sale. 70504

(ii) The criminal offense or delinquent act based upon the 70505
sale and the other criminal offense or delinquent act are charged 70506
in the same indictment, information, or complaint. 70507

(e) The sale is not part of a continuing course of conduct 70508
involving the sale of controlled substances by the peace officer 70509
who makes the sale. 70510

(f) The amount of the controlled substance sold and the scope 70511
of the sale of the controlled substance is as limited as possible 70512
under the circumstances. 70513

(g) Prior to the sale, the law enforcement agency served by 70514
the peace officer who makes the sale has adopted a written 70515
internal control policy that does all of the following: 70516

(i) Addresses the keeping of detailed records as to the 70517
amount of money or other things of value obtained in the sale in 70518
exchange for the controlled substance; 70519

(ii) Addresses the delivery of all moneys or things of value 70520
so obtained to the prosecuting attorney pursuant to division (D) 70521
of this section; 70522

(iii) Addresses the agency's use and disposition of all such 70523

moneys or things of value that are deposited in the law 70524
enforcement trust fund of the sheriff, municipal corporation, or 70525
township, pursuant to division (D) of this section, and that are 70526
used by the sheriff, are allocated to the police department of the 70527
municipal corporation by its legislative authority, or are 70528
allocated by the board of township trustees to the township police 70529
department, township or joint police district police force, or 70530
office of the constable; 70531

(iv) Provides for the keeping of detailed financial records 70532
of the receipts of the proceeds, the general types of expenditures 70533
made out of the proceeds received, and the specific amount of each 70534
general type of expenditure. The policy shall not provide for or 70535
permit the identification of any peace officer involved in the 70536
sale, any information that is or may be needed in an ongoing 70537
investigation, or any specific expenditure that is made in an 70538
ongoing investigation. 70539

(2) A peace officer may sell any controlled substance in the 70540
performance of the officer's official duties if all of the 70541
following apply: 70542

(a) Prior approval for the sale has been given by the 70543
prosecuting attorney of the county in which the sale takes place, 70544
in any manner described in division (B) of this section; 70545

(b) Prior to the sale, the law enforcement agency served by 70546
the peace officer has adopted a written internal control policy 70547
that does the things listed in divisions (A)(1)(g)(i) to (iv) of 70548
this section; 70549

(c) The purchaser of the controlled substance acquires 70550
possession of it in the presence of the peace officer who makes 70551
the sale. 70552

(d) Upon the consummation of the sale, either of the 70553
following occurs: 70554

(i) The peace officer arrests the purchaser of the controlled substance, recovers it and the proceeds of the sale, and secures it and the proceeds as evidence to be used in a subsequent prosecution.

(ii) The peace officer makes a reasonable, good faith effort to arrest the purchaser of the controlled substance and to recover the controlled substance and the proceeds of the sale, but the officer is unable to make the arrest and recover all of the controlled substance and proceeds for reasons beyond the officer's control, and the peace officer secures all of the controlled substance recovered and all of the proceeds recovered as evidence to be used in a subsequent prosecution.

(B) The approval of a prosecuting attorney required by division (A)(1)(a) or (2)(a) of this section may be in either of the following forms:

(1) A general approval that is given by the prosecuting attorney to the peace officer who makes the sale or to the law enforcement agency served by that peace officer, that grants approval only to that peace officer, and that grants approval for any such sale that may be necessary, after the approval has been granted, under the standards described in division (A)(1) or (2) of this section;

(2) A specific approval that is given by the prosecuting attorney to the peace officer who makes the sale or to the law enforcement agency served by that peace officer, and that grants approval only to that peace officer and only for the particular sale in question, under the standards described in division (A)(1) or (2) of this section.

(C) If a peace officer sells a controlled substance in the performance of the officer's official duties under division (A)(1) or (2) of this section, the peace officer, within a reasonable

time after the sale, shall provide the prosecuting attorney who 70586
granted approval for the sale with a written summary that 70587
identifies the amount and type of controlled substance sold, the 70588
circumstances of the sale, and the amount of any money or other 70589
thing of value obtained in the sale in exchange for the controlled 70590
substance. The summary shall not identify or enable the 70591
identification of any peace officer involved in the sale and shall 70592
not contain any information that is or may be needed in an ongoing 70593
investigation. 70594

(D)(1) Except as provided in division (D)(2) of this section, 70595
if a peace officer sells a controlled substance in the performance 70596
of the officer's official duties under division (A)(1) or (2) of 70597
this section, the peace officer, as soon as possible after the 70598
sale, shall deliver all money or other things of value obtained in 70599
the sale in exchange for the controlled substance to the 70600
prosecuting attorney who granted approval for the sale. The 70601
prosecuting attorney shall safely keep all money and other things 70602
of value the prosecuting attorney receives under this division for 70603
use as evidence in any criminal action or delinquency proceeding 70604
based upon the sale. All money so received by a prosecuting 70605
attorney that no longer is needed as evidence in any criminal 70606
action or delinquency proceeding shall be deposited by the 70607
prosecuting attorney in the law enforcement trust fund of the 70608
sheriff if the peace officer who made the sale is the sheriff or a 70609
deputy sheriff or the law enforcement trust fund of a municipal 70610
corporation or township if it is served by the peace officer who 70611
made the sale, as established pursuant to section 2981.13 of the 70612
Revised Code, and upon deposit shall be expended only as provided 70613
in that section. All other things of value so received by a 70614
prosecuting attorney that no longer are needed as evidence in any 70615
criminal action or delinquency proceeding shall be disposed of, 70616
without appraisal, at a public auction to the highest bidder for 70617
cash; the proceeds of the sale shall be deposited by the 70618

prosecuting attorney in the law enforcement trust fund of the 70619
sheriff if the peace officer who made the sale is the sheriff or a 70620
deputy sheriff or the law enforcement trust fund of a municipal 70621
corporation or township if it is served by the peace officer who 70622
made the sale, as established pursuant to section 2981.13 of the 70623
Revised Code, and upon deposit shall be expended only as provided 70624
in that section. Each law enforcement agency that uses any money 70625
that was deposited in a law enforcement trust fund pursuant to 70626
this division shall comply with the written internal control 70627
policy adopted by the agency, as required by division (A)(1)(g) or 70628
(2)(b) of this section, in its use of the money. 70629

(2) Division (D)(1) of this section does not apply in 70630
relation to a peace officer who sells a controlled substance in 70631
the performance of the officer's official duties under division 70632
(A)(1) of this section in any of the following circumstances: 70633

(a) The person to whom the sale is made or any other person 70634
who is involved in the sale does not know that the officer is a 70635
peace officer, and, if the officer were to retain and deliver the 70636
money or other things of value to the prosecuting attorney, the 70637
person would determine or suspect that the officer is a peace 70638
officer. 70639

(b) If the officer were to retain and deliver the money or 70640
other things of value to the prosecuting attorney, an identity 70641
that has been assumed in the performance of the officer's official 70642
duties would not be preserved. 70643

(c) The sale is made under the circumstances described in 70644
division (A)(1)(c)(iii) of this section. 70645

(3) If division (D)(1) of this section does not apply in 70646
relation to a peace officer who sells a controlled substance in 70647
the performance of the officer's official duties under division 70648
(A)(1) of this section due to the operation of division (D)(2) of 70649

this section, the peace officer, as soon as possible after the sale, shall deliver to the prosecuting attorney who granted approval for the sale a written summary that describes the circumstances of the sale and the reason for which division (D)(1) of this section does not apply. The summary shall not identify or enable the identification of any peace officer involved in the sale and shall not contain any information that is or may be needed in an ongoing investigation.

(E)(1) A written internal control policy adopted by a law enforcement agency that is served by a peace officer who sells a controlled substance under division (A)(1) or (2) of this section, as required by division (A)(1)(g) or (2)(b) of this section, is a public record open for inspection under section 149.43 of the Revised Code. Each law enforcement agency that adopts a written internal control policy of that nature shall comply with it in relation to any sale of a controlled substance under division (A)(1) or (2) of this section. All records as to the amount of money or things of value obtained in the sale of a controlled substance, in exchange for the controlled substance, and all financial records of the receipts of the proceeds, the general types of expenditures made out of the proceeds received, and the specific amounts of each general type of expenditure by a law enforcement agency in relation to any sale of a controlled substance under division (A)(1) or (2) of this section are public records open for inspection under section 149.43 of the Revised Code.

(2) A summary required by division (C) or (D)(3) of this section is a public record open for inspection under section 149.43 of the Revised Code.

(F)(1) Each prosecuting attorney who grants approval for a sale of controlled substances by a peace officer and who receives in any calendar year one or more summaries under division (C) of

this section relative to the sale of a controlled substance by a peace officer shall prepare a report covering the calendar year that cumulates all of the information contained in each of the summaries so received in the calendar year and shall send the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general.

(2) Each prosecuting attorney who receives any money or any other thing of value under division (D)(1) of this section shall keep detailed financial records of the receipts and dispositions of all such moneys or things of value so received. No record of that nature shall identify, or enable the identification of, any person from whom money or another thing of value was received as a result of the sale of a controlled substance under division (A)(1) or (2) of this section or contain any information that is or may be needed in an ongoing investigation. Each record of that nature is a public record open for inspection under section 149.43 of the Revised Code and shall include, but is not limited to, all of the following information:

(a) The identity of each law enforcement agency that has so delivered any money or other thing of value to the prosecuting attorney;

(b) The total amount of money or other things of value so received from each law enforcement agency;

(c) The disposition made under this section of all money or other things of value so received.

(G) Divisions (A) to (F) of this section do not apply to any peace officer, or to any officer, agent, or employee of the United States, who is operating under the management and direction of the United States department of justice. Any peace officer, or any officer, agent, or employee of the United States, who is operating

under the management and direction of the United States department 70713
of justice may sell a controlled substance in the performance of 70714
the officer's, agent's, or employee's official duties if the sale 70715
is made in accordance with federal statutes and regulations. 70716

(H) As used in this section, "peace officer" has the same 70717
meaning as in section 2935.01 of the Revised Code and also 70718
includes a special agent of the bureau of criminal identification 70719
and investigation. 70720

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 70721
3721.99 of the Revised Code: 70722

(1)(a) "Home" means an institution, residence, or facility 70723
that provides, for a period of more than twenty-four hours, 70724
whether for a consideration or not, accommodations to three or 70725
more unrelated individuals who are dependent upon the services of 70726
others, including a nursing home, residential care facility, home 70727
for the aging, and a veterans' home operated under Chapter 5907. 70728
of the Revised Code. 70729

(b) "Home" also means both of the following: 70730

(i) Any facility that a person, as defined in section 3702.51 70731
of the Revised Code, proposes for certification as a skilled 70732
nursing facility or nursing facility under Title XVIII or XIX of 70733
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 70734
as amended, and for which a certificate of need, other than a 70735
certificate to recategorize hospital beds as described in section 70736
3702.522 of the Revised Code or division (R)(7)(d) of the version 70737
of section 3702.51 of the Revised Code in effect immediately prior 70738
to April 20, 1995, has been granted to the person under sections 70739
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 70740

(ii) A county home or district home that is or has been 70741
licensed as a residential care facility. 70742

(c) "Home" does not mean any of the following: 70743

(i) Except as provided in division (A)(1)(b) of this section, 70744
a public hospital or hospital as defined in section 3701.01 or 70745
5122.01 of the Revised Code; 70746

(ii) A residential facility for mentally ill persons as 70747
defined under section 5119.22 of the Revised Code; 70748

(iii) A residential facility as defined in section 5123.19 of 70749
the Revised Code; 70750

(iv) An adult care facility as defined in section ~~3722.01~~ 70751
5119.70 of the Revised Code; 70752

(v) An alcohol or drug addiction program as defined in 70753
section 3793.01 of the Revised Code; 70754

(vi) A facility licensed to provide methadone treatment under 70755
section 3793.11 of the Revised Code; 70756

(vii) A facility providing services under contract with the 70757
department of developmental disabilities under section 5123.18 of 70758
the Revised Code unless section 5123.192 of the Revised Code makes 70759
the facility subject to the requirements of this chapter; 70760

(viii) A facility operated by a hospice care program licensed 70761
under section 3712.04 of the Revised Code that is used exclusively 70762
for care of hospice patients; 70763

(ix) A facility, infirmary, or other entity that is operated 70764
by a religious order, provides care exclusively to members of 70765
religious orders who take vows of celibacy and live by virtue of 70766
their vows within the orders as if related, and does not 70767
participate in the medicare program established under Title XVIII 70768
of the "Social Security Act" or the medical assistance program 70769
established under Chapter 5111. of the Revised Code and Title XIX 70770
of the "Social Security Act," if on January 1, 1994, the facility, 70771
infirmary, or entity was providing care exclusively to members of 70772

the religious order; 70773

(x) A county home or district home that has never been 70774
licensed as a residential care facility. 70775

(2) "Unrelated individual" means one who is not related to 70776
the owner or operator of a home or to the spouse of the owner or 70777
operator as a parent, grandparent, child, grandchild, brother, 70778
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 70779
uncle. 70780

(3) "Mental impairment" does not mean mental illness as 70781
defined in section 5122.01 of the Revised Code or mental 70782
retardation as defined in section 5123.01 of the Revised Code. 70783

(4) "Skilled nursing care" means procedures that require 70784
technical skills and knowledge beyond those the untrained person 70785
possesses and that are commonly employed in providing for the 70786
physical, mental, and emotional needs of the ill or otherwise 70787
incapacitated. "Skilled nursing care" includes, but is not limited 70788
to, the following: 70789

(a) Irrigations, catheterizations, application of dressings, 70790
and supervision of special diets; 70791

(b) Objective observation of changes in the patient's 70792
condition as a means of analyzing and determining the nursing care 70793
required and the need for further medical diagnosis and treatment; 70794

(c) Special procedures contributing to rehabilitation; 70795

(d) Administration of medication by any method ordered by a 70796
physician, such as hypodermically, rectally, or orally, including 70797
observation of the patient after receipt of the medication; 70798

(e) Carrying out other treatments prescribed by the physician 70799
that involve a similar level of complexity and skill in 70800
administration. 70801

(5)(a) "Personal care services" means services including, but 70802

not limited to, the following: 70803

(i) Assisting residents with activities of daily living; 70804

(ii) Assisting residents with self-administration of 70805
medication, in accordance with rules adopted under section 3721.04 70806
of the Revised Code; 70807

(iii) Preparing special diets, other than complex therapeutic 70808
diets, for residents pursuant to the instructions of a physician 70809
or a licensed dietitian, in accordance with rules adopted under 70810
section 3721.04 of the Revised Code. 70811

(b) "Personal care services" does not include "skilled 70812
nursing care" as defined in division (A)(4) of this section. A 70813
facility need not provide more than one of the services listed in 70814
division (A)(5)(a) of this section to be considered to be 70815
providing personal care services. 70816

(6) "Nursing home" means a home used for the reception and 70817
care of individuals who by reason of illness or physical or mental 70818
impairment require skilled nursing care and of individuals who 70819
require personal care services but not skilled nursing care. A 70820
nursing home is licensed to provide personal care services and 70821
skilled nursing care. 70822

(7) "Residential care facility" means a home that provides 70823
either of the following: 70824

(a) Accommodations for seventeen or more unrelated 70825
individuals and supervision and personal care services for three 70826
or more of those individuals who are dependent on the services of 70827
others by reason of age or physical or mental impairment; 70828

(b) Accommodations for three or more unrelated individuals, 70829
supervision and personal care services for at least three of those 70830
individuals who are dependent on the services of others by reason 70831
of age or physical or mental impairment, and, to at least one of 70832

those individuals, any of the skilled nursing care authorized by 70833
section 3721.011 of the Revised Code. 70834

(8) "Home for the aging" means a home that provides services 70835
as a residential care facility and a nursing home, except that the 70836
home provides its services only to individuals who are dependent 70837
on the services of others by reason of both age and physical or 70838
mental impairment. 70839

The part or unit of a home for the aging that provides 70840
services only as a residential care facility is licensed as a 70841
residential care facility. The part or unit that may provide 70842
skilled nursing care beyond the extent authorized by section 70843
3721.011 of the Revised Code is licensed as a nursing home. 70844

(9) "County home" and "district home" mean a county home or 70845
district home operated under Chapter 5155. of the Revised Code. 70846

(B) The public health council may further classify homes. For 70847
the purposes of this chapter, any residence, institution, hotel, 70848
congregate housing project, or similar facility that meets the 70849
definition of a home under this section is such a home regardless 70850
of how the facility holds itself out to the public. 70851

(C) For purposes of this chapter, personal care services or 70852
skilled nursing care shall be considered to be provided by a 70853
facility if they are provided by a person employed by or 70854
associated with the facility or by another person pursuant to an 70855
agreement to which neither the resident who receives the services 70856
nor the resident's sponsor is a party. 70857

(D) Nothing in division (A)(4) of this section shall be 70858
construed to permit skilled nursing care to be imposed on an 70859
individual who does not require skilled nursing care. 70860

Nothing in division (A)(5) of this section shall be construed 70861
to permit personal care services to be imposed on an individual 70862
who is capable of performing the activity in question without 70863

assistance. 70864

(E) Division (A)(1)(c)(ix) of this section does not prohibit 70865
a facility, infirmary, or other entity described in that division 70866
from seeking licensure under sections 3721.01 to 3721.09 of the 70867
Revised Code or certification under Title XVIII or XIX of the 70868
"Social Security Act." However, such a facility, infirmary, or 70869
entity that applies for licensure or certification must meet the 70870
requirements of those sections or titles and the rules adopted 70871
under them and obtain a certificate of need from the director of 70872
health under section 3702.52 of the Revised Code. 70873

(F) Nothing in this chapter, or rules adopted pursuant to it, 70874
shall be construed as authorizing the supervision, regulation, or 70875
control of the spiritual care or treatment of residents or 70876
patients in any home who rely upon treatment by prayer or 70877
spiritual means in accordance with the creed or tenets of any 70878
recognized church or religious denomination. 70879

Sec. 3721.011. (A) In addition to providing accommodations, 70880
supervision, and personal care services to its residents, a 70881
residential care facility may ~~provide~~ do the following: 70882

(1) Provide the following skilled nursing care to its 70883
residents ~~as follows~~: 70884

~~(1)(a)~~ (a) Supervision of special diets; 70885

~~(2)(b)~~ (b) Application of dressings, in accordance with rules 70886
adopted under section 3721.04 of the Revised Code; 70887

~~(3)(c)~~ (c) Subject to division (B)(1) of this section, 70888
administration of medication; 70889

~~(4)~~ 70890

(2) Subject to division (C) of this section, provide other 70891
skilled nursing care ~~provided~~ on a part-time, intermittent basis 70892
for not more than a total of one hundred twenty days in a 70893

twelve-month period; 70894

~~(5) Subject to division (D) of this section, (3) Provide~~ 70895
skilled nursing care ~~provided~~ for more than one hundred twenty 70896
days in a twelve-month period to a ~~hospice patient, as defined in~~ 70897
~~section 3712.01 of the Revised Code~~ resident when the requirements 70898
of division (D) of this section are met. 70899

A residential care facility may not admit or retain an 70900
individual requiring skilled nursing care that is not authorized 70901
by this section. A residential care facility may not provide 70902
skilled nursing care beyond the limits established by this 70903
section. 70904

(B)(1) A residential care facility may admit or retain an 70905
individual requiring medication, including biologicals, only if 70906
the individual's personal physician has determined in writing that 70907
the individual is capable of self-administering the medication or 70908
the facility provides for the medication to be administered to the 70909
individual by a home health agency certified under Title XVIII of 70910
the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C.A. 1395, 70911
as amended; a hospice care program licensed under Chapter 3712. of 70912
the Revised Code; or a member of the staff of the residential care 70913
facility who is qualified to perform medication administration. 70914
Medication may be administered in a residential care facility only 70915
by the following persons authorized by law to administer 70916
medication: 70917

(a) A registered nurse licensed under Chapter 4723. of the 70918
Revised Code; 70919

(b) A licensed practical nurse licensed under Chapter 4723. 70920
of the Revised Code who holds proof of successful completion of a 70921
course in medication administration approved by the board of 70922
nursing and who administers the medication only at the direction 70923
of a registered nurse or a physician authorized under Chapter 70924

4731. of the Revised Code to practice medicine and surgery or 70925
osteopathic medicine and surgery; 70926

(c) A medication aide certified under Chapter 4723. of the 70927
Revised Code; 70928

(d) A physician authorized under Chapter 4731. of the Revised 70929
Code to practice medicine and surgery or osteopathic medicine and 70930
surgery. 70931

(2) In assisting a resident with self-administration of 70932
medication, any member of the staff of a residential care facility 70933
may do the following: 70934

(a) Remind a resident when to take medication and watch to 70935
ensure that the resident follows the directions on the container; 70936

(b) Assist a resident by taking the medication from the 70937
locked area where it is stored, in accordance with rules adopted 70938
pursuant to section 3721.04 of the Revised Code, and handing it to 70939
the resident. If the resident is physically unable to open the 70940
container, a staff member may open the container for the resident. 70941

(c) Assist a physically impaired but mentally alert resident, 70942
such as a resident with arthritis, cerebral palsy, or Parkinson's 70943
disease, in removing oral or topical medication from containers 70944
and in consuming or applying the medication, upon request by or 70945
with the consent of the resident. If a resident is physically 70946
unable to place a dose of medicine to the resident's mouth without 70947
spilling it, a staff member may place the dose in a container and 70948
place the container to the mouth of the resident. 70949

(C) Except as provided in division (D) of this section, a 70950
residential care facility may admit or retain individuals who 70951
require skilled nursing care beyond the supervision of special 70952
diets, application of dressings, or administration of medication, 70953
only if the care will be provided on a part-time, intermittent 70954
basis for not more than a total of one hundred twenty days in any 70955

twelve-month period. In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules specifying what constitutes the need for skilled nursing care on a part-time, intermittent basis. The council shall adopt rules that are consistent with rules pertaining to home health care adopted by the director of job and family services for the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code. Skilled nursing care provided pursuant to this division may be provided by a home health agency certified under Title XVIII of the "Social Security Act," a hospice care program licensed under Chapter 3712. of the Revised Code, or a member of the staff of a residential care facility who is qualified to perform skilled nursing care.

A residential care facility that provides skilled nursing care pursuant to this division shall do both of the following:

(1) Evaluate each resident receiving the skilled nursing care at least once every seven days to determine whether the resident should be transferred to a nursing home;

(2) Meet the skilled nursing care needs of each resident receiving the care.

(D)(1) A residential care facility may admit or retain a ~~hospice patient~~ an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following:

(a) The individual or individual's sponsor;

(b) The individual's personal physician;

(c) Unless the individual's personal physician oversees the skilled nursing care, the provider of the skilled nursing care;

(d) If the individual is a hospice patient as defined in

section 3712.01 of the Revised Code, a hospice care program 70986
licensed under Chapter 3712. of the Revised Code. ~~The~~ 70987

~~(2) The agreement between the residential care facility and hospice program~~ required by division (D)(1) of this section shall 70988
include all of the following provisions: 70989
70990

~~(1)(a)~~ That the hospice patient individual will be provided 70991
skilled nursing care in the facility only if a determination has 70992
been made that the ~~patient's~~ individual's needs can be met at the 70993
facility; 70994

~~(2)(b)~~ That the hospice patient individual will be retained 70995
in the facility only if periodic redeterminations are made that 70996
the ~~patient's~~ individual's needs are being met at the facility; 70997

~~(3)(c)~~ That the redeterminations will be made according to a 70998
schedule specified in the agreement; 70999

~~(4) That the~~ (d) If the individual is a hospice patient, that 71000
the individual has been given an opportunity to choose the hospice 71001
care program that best meets the ~~patient's~~ individual's needs; 71002

(e) Unless the individual is a hospice patient, that the 71003
individual's personal physician has determined that the skilled 71004
nursing care the individual needs is routine. 71005

(E) Notwithstanding any other provision of this chapter, a 71006
residential care facility in which residents receive skilled 71007
nursing care pursuant to this section is not a nursing home. 71008

Sec. 3721.02. (A) The director of health shall license homes 71009
and establish procedures to be followed in inspecting and 71010
licensing homes. The director may inspect a home at any time. Each 71011
home shall be inspected by the director at least once prior to the 71012
issuance of a license and at least once every fifteen months 71013
thereafter. The state fire marshal or a township, municipal, or 71014
other legally constituted fire department approved by the marshal 71015

shall also inspect a home prior to issuance of a license, at least 71016
once every fifteen months thereafter, and at any other time 71017
requested by the director. A home does not have to be inspected 71018
prior to issuance of a license by the director, state fire 71019
marshal, or a fire department if ownership of the home is assigned 71020
or transferred to a different person and the home was licensed 71021
under this chapter immediately prior to the assignment or 71022
transfer. The director may enter at any time, for the purposes of 71023
investigation, any institution, residence, facility, or other 71024
structure that has been reported to the director or that the 71025
director has reasonable cause to believe is operating as a nursing 71026
home, residential care facility, or home for the aging without a 71027
valid license required by section 3721.05 of the Revised Code or, 71028
in the case of a county home or district home, is operating 71029
despite the revocation of its residential care facility license. 71030
The director may delegate the director's authority and duties 71031
under this chapter to any division, bureau, agency, or official of 71032
the department of health. 71033

(B) A single facility may be licensed both as a nursing home 71034
pursuant to this chapter and as an adult care facility pursuant to 71035
Chapter ~~3722~~. 5119. of the Revised Code if the director determines 71036
that the part or unit to be licensed as a nursing home can be 71037
maintained separate and discrete from the part or unit to be 71038
licensed as an adult care facility. 71039

(C) In determining the number of residents in a home for the 71040
purpose of licensing, the director shall consider all the 71041
individuals for whom the home provides accommodations as one group 71042
unless one of the following is the case: 71043

(1) The home is a home for the aging, in which case all the 71044
individuals in the part or unit licensed as a nursing home shall 71045
be considered as one group, and all the individuals in the part or 71046
unit licensed as a rest home shall be considered as another group. 71047

(2) The home is both a nursing home and an adult care facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(D)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or part thereof of a home's licensed capacity:

(a) For state fiscal year 2010, two hundred twenty dollars;

(b) For state fiscal year 2011, two hundred seventy dollars;

(c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and

enforcing this chapter and rules adopted under it. 71079

(E)(1) Except as otherwise provided in this section, the 71080
results of an inspection or investigation of a home that is 71081
conducted under this section, including any statement of 71082
deficiencies and all findings and deficiencies cited in the 71083
statement on the basis of the inspection or investigation, shall 71084
be used solely to determine the home's compliance with this 71085
chapter or another chapter of the Revised Code in any action or 71086
proceeding other than an action commenced under division (I) of 71087
section 3721.17 of the Revised Code. Those results of an 71088
inspection or investigation, that statement of deficiencies, and 71089
the findings and deficiencies cited in that statement shall not be 71090
used in any court or in any action or proceeding that is pending 71091
in any court and are not admissible in evidence in any action or 71092
proceeding unless that action or proceeding is an appeal of an 71093
action by the department of health under this chapter or is an 71094
action by any department or agency of the state to enforce this 71095
chapter or another chapter of the Revised Code. 71096

(2) Nothing in division (E)(1) of this section prohibits the 71097
results of an inspection or investigation conducted under this 71098
section from being used in a criminal investigation or 71099
prosecution. 71100

Sec. 3721.031. (A) The director of health may investigate any 71101
complaint the director receives concerning a home. If the director 71102
investigates a complaint, the director shall conduct an initial 71103
investigation of a complaint as a desk audit. If pursuant to the 71104
desk audit the director determines sufficient cause exists for an 71105
on-site examination, the director shall continue the investigation 71106
with an on-site examination. 71107

(B)(1) Except as required by court order, as necessary for 71108
the administration or enforcement of any statute relating to 71109

homes, or as provided in division ~~(C)~~(D) of this section, the 71110
director and any employee of the department of health shall not 71111
release any of the following information without the permission of 71112
the individual or of the individual's legal representative: 71113

(a) The identity of any patient or resident; 71114

(b) The identity of any individual who submits a complaint 71115
about a home; 71116

(c) The identity of any individual who provides the director 71117
with information about a home and has requested confidentiality; 71118

(d) Any information that reasonably would tend to disclose 71119
the identity of any individual described in division ~~(A)~~(B)(1)(a) 71120
to (c) of this section. 71121

(2) An agency or individual to whom the director is required, 71122
by court order or for the administration or enforcement of a 71123
statute relating to homes, to release information described in 71124
division ~~(A)~~(B)(1) of this section shall not release the 71125
information without the permission of the individual who would be 71126
or would reasonably tend to be identified, or of the individual's 71127
legal representative, unless the agency or individual is required 71128
to release it by division ~~(C)~~(D) of this section, by court order, 71129
or for the administration or enforcement of a statute relating to 71130
homes. 71131

~~(B)~~(C) Except as provided in division ~~(C)~~(D) of this section, 71132
any record that identifies an individual described in division 71133
~~(A)~~(B)(1)(a) to (c) of this section or that reasonably would tend 71134
to identify such an individual is not a public record for the 71135
purposes of section 149.43 of the Revised Code, and is not subject 71136
to inspection and copying under section 1347.08 of the Revised 71137
Code. 71138

~~(C)~~(D) If the director, or an agency or individual to whom 71139
the director is required by court order or for administration or 71140

enforcement of a statute relating to homes to release information 71141
described in division ~~(A)~~(B)(1) of this section, uses information 71142
in any administrative or judicial proceeding against a home that 71143
reasonably would tend to identify an individual described in 71144
division ~~(A)~~(B)(1)(a) to (c) of this section, the director, 71145
agency, or individual shall disclose that information to the home. 71146
However, the director, agency, or individual shall not disclose 71147
information that directly identifies an individual described in 71148
divisions ~~(A)~~(B)(1)(a) to (c) of this section, unless the 71149
individual is to testify in the proceedings. 71150

~~(D)~~(E) No person shall knowingly register a false complaint 71151
about a home with the director, or knowingly swear or affirm the 71152
truth of a false complaint, when the complaint is made for the 71153
purpose of incriminating another. 71154

~~(E)~~(F) An individual who in good faith submits a complaint 71155
under this section or any other provision of the Revised Code 71156
regarding a violation of this chapter, or participates in any 71157
investigation, administrative proceeding, or judicial proceeding 71158
resulting from the complaint, has the full protection against 71159
retaliatory action provided by sections 4113.51 to 4113.53 of the 71160
Revised Code. 71161

Sec. 3721.04. (A) The public health council shall adopt and 71162
publish rules governing the operation of homes, which shall have 71163
uniform application throughout the state, and shall prescribe 71164
standards for homes with respect to, but not limited to, the 71165
following matters: 71166

(1) The minimum space requirements for occupants and 71167
equipping of the buildings in which homes are housed so as to 71168
ensure healthful, safe, sanitary, and comfortable conditions for 71169
all residents, so long as they are not inconsistent with Chapters 71170
3781. and 3791. of the Revised Code or with any rules adopted by 71171

the board of building standards and by the state fire marshal;	71172
(2) The number and qualifications of personnel, including management and nursing staff, for each class of home, and the qualifications of nurse aides, as defined in section 3721.21 of the Revised Code, used by long-term care facilities, as defined in that section;	71173 71174 71175 71176 71177
(3) The medical, rehabilitative, and recreational services to be provided by each class of home;	71178 71179
(4) Dietetic services, including but not limited to sanitation, nutritional adequacy, and palatability of food;	71180 71181
(5) The personal and social services to be provided by each class of home;	71182 71183
(6) The business and accounting practices to be followed and the type of patient and business records to be kept by such homes;	71184 71185
(7) The operation of adult day-care programs provided by and on the same site as homes licensed under this chapter;	71186 71187
(8) The standards and procedures to be followed by residential care facilities in admitting and retaining a resident who requires the application of dressings, including requirements for charting and evaluating on a weekly basis;	71188 71189 71190 71191
(9) The requirements for conducting weekly evaluations of residents receiving skilled nursing care in residential care facilities.	71192 71193 71194
(B) The public health council may adopt whatever additional rules are necessary to carry out or enforce the provisions of sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.	71195 71196 71197
(C) The following apply to the public health council when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in homes:	71198 71199 71200
(1) When adopting rules applicable to residential care	71201

facilities, the public health council shall take into 71202
consideration the effect that the following may have on the number 71203
of personnel needed: 71204

(a) Provision of personal care services; 71205

(b) Provision of part-time, intermittent skilled nursing care 71206
pursuant to division (C) of section 3721.011 of the Revised Code; 71207

(c) Provision of skilled nursing care to ~~hospice patients~~ 71208
residents pursuant to division (D) of section 3721.011 of the 71209
Revised Code. 71210

(2) The rules prescribing qualifications of nurse aides used 71211
by long-term care facilities, as those terms are defined in 71212
section 3721.21 of the Revised Code, shall be no less stringent 71213
than the requirements, guidelines, and procedures established by 71214
the United States secretary of health and human services under 71215
sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 71216
(1935), 42 U.S.C.A. 301, as amended. 71217

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the 71218
Revised Code: 71219

(A) "Franchise permit fee rate" means the ~~amount determined~~ 71220
~~as follows~~ following: 71221

(1) ~~Determine the difference between the following:~~ 71222

~~(a) The total net patient revenue, less medicaid per diem 71223
payments, of all nursing homes and hospital long term care units 71224
as shown on cost reports filed under section 5111.26 of the 71225
Revised Code for the calendar year immediately preceding the 71226
fiscal year for which the franchise permit fee is assessed under 71227
section 3721.51 of the Revised Code For fiscal year 2012, eleven 71228
dollars and thirty-eight cents; 71229~~

~~(b) The total net patient revenue, less medicaid per diem 71230
payments, of all nursing homes and hospital long term care units 71231~~

~~as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year immediately preceding the calendar year that immediately precedes the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code.~~

~~(2) Multiply the amount determined under division (A)(1) of this section by five and five tenths per cent;~~

~~(3) Divide the amount determined under division (A)(2) of this section by the total number of days in the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code;~~

~~(4) Subtract eleven dollars and ninety five cents from the amount determined under division (A)(3) of this section;~~

~~(5) Add eleven dollars and ninety five cents to the amount determined under division (A)(4) of this section For fiscal year 2013 and each fiscal year thereafter, eleven dollars and sixty cents.~~

(B) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(C) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

(D) "Indirect guarantee percentage" means the percentage specified in section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is to be used in determining whether a class of providers is

indirectly held harmless for any portion of the costs of a 71262
broad-based health-care-related tax. If the indirect guarantee 71263
percentage changes during a fiscal year, the indirect guarantee 71264
percentage is the following: 71265

(1) For the part of the fiscal year before the change takes 71266
effect, the percentage in effect before the change; 71267

(2) For the part of the fiscal year beginning with the date 71268
the indirect guarantee percentage changes, the new percentage. 71269

(E) "Inpatient days" means all days during which a resident 71270
of a nursing facility, regardless of payment source, occupies a 71271
bed in the nursing facility that is included in the facility's 71272
certified capacity under Title XIX. Therapeutic or hospital leave 71273
days for which payment is made under section 5111.26 of the 71274
Revised Code are considered inpatient days proportionate to the 71275
percentage of the facility's per resident per day rate paid for 71276
those days. 71277

~~(E)~~(F) "Medicaid" has the same meaning as in section 5111.01 71278
of the Revised Code. 71279

~~(F)~~(G) "Medicaid day" means all days during which a resident 71280
who is a medicaid recipient occupies a bed in a nursing facility 71281
that is included in the facility's certified capacity under Title 71282
XIX. Therapeutic or hospital leave days for which payment is made 71283
under section 5111.26 of the Revised Code are considered medicaid 71284
days proportionate to the percentage of the nursing facility's per 71285
resident per day rate for those days. 71286

~~(G)~~(H) "Medicare" means the program established by Title 71287
XVIII. 71288

~~(H)~~(I) "Nursing facility" has the same meaning as in section 71289
5111.20 of the Revised Code. 71290

~~(I)~~(J)(1) "Nursing home" means all of the following: 71291

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home; 71292
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71294

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII; 71295
71296

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility. 71297
71298

(2) "Nursing home" does not include any of the following: 71299

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code; 71300
71301

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code; 71302
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(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX. 71304
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~~(J)~~(K) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 71308
71309

~~(K)~~(L) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 71310
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Sec. 3721.51. The department of job and family services shall do all of the following: 71312
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(A) Subject to sections 3721.512 and 3721.513 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in ~~sections~~ section 3721.56 ~~and 3721.561~~ of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate multiplied by the product of the following: 71314
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(1) The number of beds licensed as nursing home beds, plus 71320

any other beds certified as skilled nursing facility beds under 71321
Title XVIII or nursing facility beds under Title XIX on the first 71322
day of May of the calendar year in which the fee is determined 71323
pursuant to division (A) of section 3721.53 of the Revised Code; 71324

(2) The number of days in the fiscal year beginning on the 71325
first day of July of the calendar year in which the fee is 71326
determined pursuant to division (A) of section 3721.53 of the 71327
Revised Code. 71328

(B) Subject to sections 3721.512 and 3721.513 of the Revised 71329
Code and divisions (C) and (D) of this section and for the 71330
purposes specified in ~~sections~~ section 3721.56 and ~~3721.561~~ of the 71331
Revised Code, determine an annual franchise permit fee on each 71332
hospital in an amount equal to the franchise permit fee rate 71333
multiplied by the product of the following: 71334

(1) The number of beds registered pursuant to section 3701.07 71335
of the Revised Code as skilled nursing facility beds or long-term 71336
care beds, plus any other beds licensed as nursing home beds under 71337
section 3721.02 or 3721.09 of the Revised Code, on the first day 71338
of May of the calendar year in which the fee is determined 71339
pursuant to division (A) of section 3721.53 of the Revised Code; 71340

(2) The number of days in the fiscal year beginning on the 71341
first day of July of the calendar year in which the fee is 71342
determined pursuant to division (A) of section 3721.53 of the 71343
Revised Code. 71344

(C) If the total amount of the franchise permit fee assessed 71345
under divisions (A) and (B) of this section for a fiscal year 71346
exceeds ~~five and one half per cent~~ the indirect guarantee 71347
percentage of the actual net patient revenue for all nursing homes 71348
and hospital long-term care units for that fiscal year, do both of 71349
the following: 71350

(1) Recalculate the assessments under divisions (A) and (B) 71351

of this section using a per bed per day rate equal to ~~five and~~ 71352
~~one-half per cent~~ the indirect guarantee percentage of actual net 71353
patient revenue for all nursing homes and hospital long-term care 71354
units for that fiscal year; 71355

(2) Refund the difference between the amount of the franchise 71356
permit fee assessed for that fiscal year under divisions (A) and 71357
(B) of this section and the amount recalculated under division 71358
(C)(1) of this section as a credit against the assessments imposed 71359
under divisions (A) and (B) of this section for the subsequent 71360
fiscal year. 71361

(D) If the United States centers for medicare and medicaid 71362
services determines that the franchise permit fee established by 71363
sections 3721.50 to 3721.58 of the Revised Code is an 71364
impermissible health care-related tax under section 1903(w) of the 71365
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 71366
amended, take all necessary actions to cease implementation of 71367
sections 3721.50 to 3721.58 of the Revised Code in accordance with 71368
rules adopted under section 3721.58 of the Revised Code. 71369

Sec. ~~3721.561~~ 3721.56. (A) There is hereby created in the 71370
state treasury the nursing ~~facility stabilization~~ home franchise
permit fee fund. All payments and penalties paid by nursing homes 71371
and hospitals under sections 3721.53 and 3721.54 of the Revised 71372
Code ~~that are not deposited into the home and community based~~ 71373
~~services for the aged fund~~ shall be deposited into the fund. The 71374
fund shall also consist of money deposited into it pursuant to 71375
sections 3769.08 and 3769.26 of the Revised Code. Subject to 71376
division (B) of section 3769.08 of the Revised Code, the 71377
department of job and family services shall use the money in the 71378
fund to make medicaid payments to providers of nursing facilities 71379
facility services and providers of home and community-based 71380
services. Money in the fund may also be used for the residential 71381
71382

state supplement program established under section 5119.69 of the 71383
Revised Code. 71384

(B) Any money remaining in the nursing ~~facility stabilization~~ 71385
home franchise permit fee fund after payments specified in 71386
division (A) of this section are made shall be retained in the 71387
fund. Any interest or other investment proceeds earned on money in 71388
the fund shall be credited to the fund and used to make medicaid 71389
payments in accordance with division (A) of this section. 71390

Sec. 3721.58. The director of job and family services shall 71391
adopt rules in accordance with Chapter 119. of the Revised Code to 71392
do ~~all~~ both of the following: 71393

(A) Prescribe the actions the department of job and family 71394
services will take to cease implementation of sections 3721.50 71395
through 3721.57 of the Revised Code if the United States centers 71396
for medicare and medicaid services determines that the franchise 71397
permit fee established by those sections is an impermissible 71398
health-care related tax under section 1903(w) of the "Social 71399
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 71400
amended; 71401

(B) ~~Establish the method of distributing moneys in the home~~ 71402
~~and community based services for the aged fund created under~~ 71403
~~section 3721.56 of the Revised Code;~~ 71404

~~(C)~~ Establish any requirements or procedures the director 71405
considers necessary to implement sections 3721.50 to 3721.58 of 71406
the Revised Code. 71407

Sec. 3721.99. (A) Whoever violates section 3721.021, division 71408
(B), (D), or (E) of section 3721.05, division (A), (C), or (D) of 71409
section 3721.051, section 3721.06, division (A) of section 71410
3721.22, division (A) or (B) of section 3721.24, or division (E) 71411

or (F) of section 3721.30 of the Revised Code shall be fined one 71412
hundred dollars for a first offense. For each subsequent offense, 71413
the violator shall be fined five hundred dollars. 71414

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(B) Whoever violates division (A) or (C) of section 3721.05 71416
or division (B) of section 3721.051 of the Revised Code shall be 71417
fined five thousand dollars for a first offense. For each 71418
subsequent offense, the violator shall be fined ten thousand 71419
dollars. 71420

(C) Whoever violates division ~~(D)~~(E) of section 3721.031 or 71421
division (E) of section 3721.22 of the Revised Code is guilty of 71422
registering a false complaint, a misdemeanor of the first degree. 71423

Sec. 3729.01. As used in this chapter: 71424

(A) "Camp operator" means the operator of a recreational 71425
vehicle park, recreation camp, combined park-camp, or temporary 71426
park-camp. 71427

(B) "Campsite user" means a person who enters into a campsite 71428
use agreement with a camp operator for the use of a campsite at a 71429
recreational vehicle park, recreation camp, combined park-camp, or 71430
temporary park-camp. 71431

(C) "Combined park-camp" means any tract of land upon which a 71432
combination of five or more self-contained recreational vehicles 71433
or portable camping units are placed and includes any roadway, 71434
building, structure, vehicle, or enclosure used or intended for 71435
use as part of the park facilities. A tract of land that is 71436
subdivided for lease or other contract of the individual lots is a 71437
combined park-camp if a combination of five or more recreational 71438
vehicles or portable camping units are placed on it for 71439
recreation, vacation, or business purposes. 71440

"Combined park-camp" does not include any tract of land used 71441

solely as a temporary park-camp or solely as a manufactured home park. 71442
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(D) "Dependent recreational vehicle" means a recreational vehicle other than a self-contained recreational vehicle. 71444
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"Dependent recreational vehicle" includes a park model. 71446

(E) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a recreational vehicle park, recreation camp, or combined park-camp, for which plan review is required under division (A) of section 3729.03 of the Revised Code. "Development" does not include the building, construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable. 71447
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(F) "Director of health" means the director of health or the director's authorized representative. 71457
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(G) "Flood" or "flooding" means either of the following: 71459

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from any of the following: 71460
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(a) The overflow of inland or tidal waters; 71462

(b) The unusual and rapid accumulation or runoff of surface waters from any source; 71463
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(c) Mudslides that are proximately caused by flooding as defined in division (G)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. 71465
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(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining 71470
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that is caused by waves or currents of water exceeding anticipated 71472
cyclical levels or that is suddenly caused by an unusually high 71473
water level in a natural body of water, and that is accompanied by 71474
a severe storm, by an unanticipated force of nature, such as a 71475
flash flood, by an abnormal tidal surge, or by some similarly 71476
unusual and unforeseeable event, that results in flooding as 71477
defined in division (G)(1)(a) of this section. 71478

(H) "Flood plain" means the area adjoining any river, stream, 71479
watercourse, or lake that has been or may be covered by flood 71480
water. 71481

(I) "Licensor" means either the board of health of a city or 71482
general health district, or the authority having the duties of a 71483
board of health in any city as authorized by section 3709.05 of 71484
the Revised Code, or the director of health, when required under 71485
division (B) of section 3729.06 of the Revised Code. "Licensor" 71486
also means an authorized representative of any of those entities 71487
or of the director. 71488

(J) "Manufactured home park" has the same meaning as in 71489
section ~~3733.01~~ 4781.01 of the Revised Code. 71490

(K) "One-hundred-year flood" means a flood having a one per 71491
cent chance of being equaled or exceeded in any given year. 71492

(L) "One-hundred-year flood plain" means that portion of a 71493
flood plain inundated by a one-hundred-year flood. 71494

(M) "Operator" means the person who has responsible charge of 71495
a recreational vehicle park, recreation camp, combined park-camp, 71496
or temporary park-camp and who is licensed under this chapter. 71497

(N) "Park model" means a recreational vehicle that meets the 71498
American national standard institute standard A119.5(1988) for 71499
park trailers, is built on a single chassis, has a gross trailer 71500
area of not more than four hundred square feet when set up, is 71501
designed for seasonal or temporary living quarters, and may be 71502

connected to utilities necessary for operation of installed 71503
features and appliances. 71504

(O) "Person" has the same meaning as in section 1.59 of the 71505
Revised Code and also includes this state, any political 71506
subdivision of this state, and any other state or local body of 71507
this state. 71508

(P) "Portable camping units" means dependent recreational 71509
vehicles, tents, portable sleeping equipment, and similar camping 71510
equipment used for travel, recreation, vacation, or business 71511
purposes. 71512

(Q) "Recreation camp" means any tract of land upon which five 71513
or more portable camping units are placed and includes any 71514
roadway, building, structure, vehicle, or enclosure used or 71515
intended for use as a part of the facilities of the camp. A tract 71516
of land that is subdivided for lease or other contract of the 71517
individual lots is a recreation camp if five or more portable 71518
camping units are placed on it for recreation, vacation, or 71519
business purposes. 71520

"Recreation camp" does not include any tract of land used 71521
solely for the storage or display for sale of dependent 71522
recreational vehicles, solely as a temporary park-camp, or solely 71523
as a manufactured home park. 71524

(R) "Recreational vehicle" has the same meaning as in section 71525
4501.01 of the Revised Code. 71526

(S) "Recreational vehicle park" means any tract of land used 71527
for parking five or more self-contained recreational vehicles and 71528
includes any roadway, building, structure, vehicle, or enclosure 71529
used or intended for use as part of the park facilities and any 71530
tract of land that is subdivided for lease or other contract of 71531
the individual lots for the express or implied purpose of placing 71532
self-contained recreational vehicles for recreation, vacation, or 71533

business purposes. 71534

"Recreational vehicle park" does not include any tract of 71535
land used solely for the storage or display for sale of 71536
self-contained recreational vehicles, solely as a temporary 71537
park-camp, or solely as a manufactured home park. 71538

(T) "Self-contained recreational vehicle" means a 71539
recreational vehicle that can operate independent of connections 71540
to sewer and water and has plumbing fixtures or appliances all of 71541
which are connected to sewage holding tanks located within the 71542
vehicle. "Self-contained recreational vehicle" includes a park 71543
model. 71544

(U) "Substantially alter" means a change in the layout or 71545
design of a recreational vehicle park, recreation camp, combined 71546
park-camp, or temporary park-camp, including, without limitation, 71547
the movement of utilities or changes in established streets, lots, 71548
or sites or in other facilities. 71549

(V) "Temporary park-camp" means any tract of land used for a 71550
period not to exceed a total of twenty-one days per calendar year 71551
for the purpose of parking five or more recreational vehicles, 71552
dependent recreational vehicles, or portable camping units, or any 71553
combination thereof, for one or more periods of time that do not 71554
exceed seven consecutive days or parts thereof. 71555

(W) "Tract" means a contiguous area of land that consists of 71556
one or more parcels, lots, or sites that have been separately 71557
surveyed regardless of whether the individual parcels, lots, or 71558
sites have been recorded and regardless of whether the one or more 71559
parcels, lots, or sites are under common or different ownership. 71560

Sec. 3733.21. ~~(A) As used in sections 3733.21 to 3733.30 of~~ 71561
~~the Revised Code this section:~~ 71562

~~(A)(1)~~ "Board of health" means the board of health of a city 71563

or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

~~(B) "Director" means the director of health or his authorized representative.~~

~~(C)(2)~~ "Dock" means a structure or platform either parallel or perpendicular to the shoreline designed to provide access to or an area to secure watercraft.

~~(D)(3)~~ "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code.

~~(E)(4)~~ "Marina" means a boat basin that has docks or moorings for seven or more watercraft as defined in section 1547.01 of the Revised Code. "Marina" does not include:

~~(1)(a)~~ Any dock or mooring contiguous to a privately owned residence and used exclusively by the owner and the owner's guests;

~~(2)(b)~~ Any dock, mooring, or other area where watercraft are stored or in storage;

~~(3)(c)~~ Any dry dock or shipyard where the watercraft are being held for maintenance or repairs;

~~(4)(d)~~ Any boat basin where all of the watercraft moored are rowboats, canoes, pedal boats, or other watercraft propelled by human muscular effort;

~~(5)(e)~~ Any dock or mooring on inland lakes used by the owner, or guests of the owner, of a private residence located on land that is contiguous to land, owned by this state or an agency or political subdivision of this state, contiguous to the dock or mooring;

~~(6)(f)~~ Any boat basin located on waters where the watercraft

used are normally unsuited for the installation of on-board 71594
permanent sanitary systems. 71595

~~(F)(5)~~ "Mooring" means that portion of a dock, or any 71596
equipment or area, used to secure watercraft. 71597

~~(G)~~ "Person" means the state or any political subdivision, 71598
special district, public or private corporation, individual, firm, 71599
partnership, association, or other entity. 71600

~~(H)~~ "Public health council" means the public health council 71601
as created by section 3701.33 of the Revised Code. 71602

~~(I)~~ "Sanitary facilities" includes restrooms, water supply, 71603
facilities for the pumping of watercraft holding tanks, and those 71604
other facilities to ensure the sanitary operation of marinas and 71605
the watercraft using them as are considered necessary by the 71606
public health council in rules adopted under section 3733.22 of 71607
the Revised Code. 71608

(B) A board of health within whose jurisdiction a marina is 71609
located may adopt rules governing the inspection of and issuance 71610
of licenses for marinas. The rules may include provisions for the 71611
levying of a fee for a marina license. The fee shall be 71612
established in accordance with section 3709.09 of the Revised 71613
Code. 71614

Sec. 3733.41. As used in sections 3733.41 to ~~3733.49~~ 3733.43 71615
of the Revised Code: 71616

(A) "Agricultural labor camp" means one or more buildings or 71617
structures, trailers, tents, or vehicles, together with any land 71618
appertaining thereto, established, operated, or used as temporary 71619
living quarters for two or more families or five or more persons 71620
intending to engage in or engaged in agriculture or related food 71621
processing, whether occupancy is by rent, lease, or mutual 71622
agreement. "Agricultural labor camp" does not include a hotel or 71623

motel, or a ~~trailer~~ manufactured home park as defined and 71624
regulated pursuant to sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.52 71625
of the Revised Code, and rules adopted thereunder. 71626

(B) "Board of health" means the board of health of a city or 71627
general health district or the authority having the duties of a 71628
board of health in any city as authorized by section 3709.05 of 71629
the Revised Code or an authorized representative of the board of 71630
health. 71631

~~(C) "Director" means the director of the department of health~~ 71632
~~or his authorized representative.~~ 71633

~~(D) "Licensor" means the director of health.~~ 71634

~~(E) "Person" means the state, any political subdivision,~~ 71635
~~public or private corporation, partnership, association, trust,~~ 71636
~~individual, or other entity.~~ 71637

~~(F) "Public health council" means the public health council~~ 71638
~~as created by section 3701.33 of the Revised Code.~~ 71639

Sec. 3733.42. A board of health within whose jurisdiction an 71640
agricultural labor camp is located may adopt rules governing the 71641
inspection of and issuance of licenses for agricultural labor 71642
camps. The rules may include provisions for the levying of a fee 71643
for an agricultural labor camp license. The fee shall be 71644
established in accordance with section 3709.09 of the Revised 71645
Code. 71646

Sec. ~~3733.49~~ 3733.43. (A) There is hereby established under 71647
the authority of the director of job and family services the 71648
office of the migrant agricultural ombudsperson. The director 71649
shall appoint the ombudsperson. No person shall serve as 71650
ombudsperson who has a fiduciary or pecuniary interest in an 71651
agricultural labor camp. The ombudsperson shall have recognized 71652
ability and experience in migrant labor issues and shall speak 71653

both English and Spanish fluently. The ombudsperson shall be a 71654
member of the classified civil service and shall be subject to an 71655
annual job evaluation by the director. The ombudsperson's salary 71656
shall be established in a pay range fixed by the director. 71657

(B) The migrant agricultural ombudsperson shall: 71658

(1) Collect and compile available data, statistics, and 71659
information concerning migrant agricultural laborers and 71660
agricultural labor camps published by any agency of this state, 71661
any agency of the federal government, and private organizations, 71662
including, but not limited to, churches and Hispanic 71663
organizations. These data, statistics, and information are public 71664
records as defined in section 149.43 of the Revised Code. 71665

(2) Coordinate the collection, analysis, and dissemination of 71666
information about the supply and quality of housing for migrant 71667
agricultural laborers in both licensed and unlicensed camps; 71668

(3) Become familiar with state and federal laws and rules 71669
concerning migrant agricultural laborers and agricultural labor 71670
camps and especially with state and federal programs for which 71671
migrant agricultural laborers might qualify; 71672

(4) Establish a toll-free telephone number that: 71673

(a) Camp owners and farmers who employ migrant agricultural 71674
laborers may use to seek clarification of laws and rules 71675
applicable to camps and for registering complaints; and 71676

(b) Migrant agricultural laborers may use for the purpose of 71677
obtaining information described in divisions (B)(1) and (2) of 71678
this section and for registering complaints. 71679

(5) Refer problems, complaints, or questions brought to the 71680
ombudsperson's attention to the appropriate state or federal 71681
agency or the attorney general; 71682

(6) Serve as an advocate for migrant agricultural laborers in 71683

social service matters; 71684

(7) Submit an annual report to the president of the senate, 71685
the speaker of the house of representatives, and the members of 71686
the minority leadership of the senate and house of representatives 71687
on or before the thirtieth day of June of each year describing 71688
migrant agricultural labor conditions found by the ombudsperson's 71689
office, along with an assessment of the effect of existing law on 71690
migrant agricultural labor and labor camps and any recommendations 71691
for change. The report shall contain a compilation of the kinds of 71692
complaints received and recommendations for any changes in the 71693
laws or rules that the ombudsperson considers necessary or 71694
desirable. 71695

(8) Develop and recommend to the general assembly definitions 71696
of "migrant agricultural laborer" and "migrant farmworker child" 71697
to be used consistently by all state agencies, including, but not 71698
limited to, boards, departments, divisions, commissions, bureaus, 71699
societies, councils, and institutions; and 71700

(9) Conduct a peak-period census of migrant agricultural 71701
laborers in this state, by county, so that the ombudsperson can 71702
properly assess the need for housing for those laborers. The 71703
department of health shall assist the ombudsperson by providing 71704
information on the peak occupancy of agricultural labor camps and 71705
other additional information obtained through inspections of 71706
agricultural labor camps. 71707

Sec. 3734.02. (A) The director of environmental protection, 71708
in accordance with Chapter 119. of the Revised Code, shall adopt 71709
and may amend, suspend, or rescind rules having uniform 71710
application throughout the state governing solid waste facilities 71711
and the inspections of and issuance of permits and licenses for 71712
all solid waste facilities in order to ensure that the facilities 71713
will be located, maintained, and operated, and will undergo 71714

closure and post-closure care, in a sanitary manner so as not to 71715
create a nuisance, cause or contribute to water pollution, create 71716
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 71717
257.3-8, as amended. The rules may include, without limitation, 71718
financial assurance requirements for closure and post-closure care 71719
and corrective action and requirements for taking corrective 71720
action in the event of the surface or subsurface discharge or 71721
migration of explosive gases or leachate from a solid waste 71722
facility, or of ground water contamination resulting from the 71723
transfer or disposal of solid wastes at a facility, beyond the 71724
boundaries of any area within a facility that is operating or is 71725
undergoing closure or post-closure care where solid wastes were 71726
disposed of or are being disposed of. The rules shall not concern 71727
or relate to personnel policies, salaries, wages, fringe benefits, 71728
or other conditions of employment of employees of persons owning 71729
or operating solid waste facilities. The director, in accordance 71730
with Chapter 119. of the Revised Code, shall adopt and may amend, 71731
suspend, or rescind rules governing the issuance, modification, 71732
revocation, suspension, or denial of variances from the director's 71733
solid waste rules, including, without limitation, rules adopted 71734
under this chapter governing the management of scrap tires. 71735

Variances shall be issued, modified, revoked, suspended, or 71736
rescinded in accordance with this division, rules adopted under 71737
it, and Chapter 3745. of the Revised Code. The director may order 71738
the person to whom a variance is issued to take such action within 71739
such time as the director may determine to be appropriate and 71740
reasonable to prevent the creation of a nuisance or a hazard to 71741
the public health or safety or the environment. Applications for 71742
variances shall contain such detail plans, specifications, and 71743
information regarding objectives, procedures, controls, and other 71744
pertinent data as the director may require. The director shall 71745
grant a variance only if the applicant demonstrates to the 71746
director's satisfaction that construction and operation of the 71747

solid waste facility in the manner allowed by the variance and any 71748
terms or conditions imposed as part of the variance will not 71749
create a nuisance or a hazard to the public health or safety or 71750
the environment. In granting any variance, the director shall 71751
state the specific provision or provisions whose terms are to be 71752
varied and also shall state specific terms or conditions imposed 71753
upon the applicant in place of the provision or provisions. The 71754
director may hold a public hearing on an application for a 71755
variance or renewal of a variance at a location in the county 71756
where the operations that are the subject of the application for 71757
the variance are conducted. The director shall give not less than 71758
twenty days' notice of the hearing to the applicant by certified 71759
mail and shall publish at least one notice of the hearing in a 71760
newspaper with general circulation in the county where the hearing 71761
is to be held. The director shall make available for public 71762
inspection at the principal office of the environmental protection 71763
agency a current list of pending applications for variances and a 71764
current schedule of pending variance hearings. The director shall 71765
make a complete stenographic record of testimony and other 71766
evidence submitted at the hearing. Within ten days after the 71767
hearing, the director shall make a written determination to issue, 71768
renew, or deny the variance and shall enter the determination and 71769
the basis for it into the record of the hearing. The director 71770
shall issue, renew, or deny an application for a variance or 71771
renewal of a variance within six months of the date upon which the 71772
director receives a complete application with all pertinent 71773
information and data required. No variance shall be issued, 71774
revoked, modified, or denied until the director has considered the 71775
relative interests of the applicant, other persons and property 71776
affected by the variance, and the general public. Any variance 71777
granted under this division shall be for a period specified by the 71778
director and may be renewed from time to time on such terms and 71779
for such periods as the director determines to be appropriate. No 71780

application shall be denied and no variance shall be revoked or 71781
modified without a written order stating the findings upon which 71782
the denial, revocation, or modification is based. A copy of the 71783
order shall be sent to the applicant or variance holder by 71784
certified mail. 71785

(B) The director shall prescribe and furnish the forms 71786
necessary to administer and enforce this chapter. The director may 71787
cooperate with and enter into agreements with other state, local, 71788
or federal agencies to carry out the purposes of this chapter. The 71789
director may exercise all incidental powers necessary to carry out 71790
the purposes of this chapter. 71791

The director may use moneys in the infectious waste 71792
management fund created in section 3734.021 of the Revised Code 71793
exclusively for administering and enforcing the provisions of this 71794
chapter governing the management of infectious wastes. Of each 71795
registration and renewal fee collected under rules adopted under 71796
division (A)(2)(a) of section 3734.021 or under section 3734.022 71797
of the Revised Code, the director, within forty-five days of its 71798
receipt, shall remit from the fund one-half of the fee received to 71799
the board of health of the health district in which the registered 71800
premises is located, or, in the instance of an infectious wastes 71801
transporter, to the board of health of the health district in 71802
which the transporter's principal place of business is located. 71803
However, if the board of health having jurisdiction over a 71804
registrant's premises or principal place of business is not on the 71805
approved list under section 3734.08 of the Revised Code, the 71806
director shall not make that payment to the board of health. 71807

(C) Except as provided in this division and divisions (N)(2) 71808
and (3) of this section, no person shall establish a new solid 71809
waste facility or infectious waste treatment facility, or modify 71810
an existing solid waste facility or infectious waste treatment 71811
facility, without submitting an application for a permit with 71812

accompanying detail plans, specifications, and information 71813
regarding the facility and method of operation and receiving a 71814
permit issued by the director, except that no permit shall be 71815
required under this division to install or operate a solid waste 71816
facility for sewage sludge treatment or disposal when the 71817
treatment or disposal is authorized by a current permit issued 71818
under Chapter 3704. or 6111. of the Revised Code. 71819

No person shall continue to operate a solid waste facility 71820
for which the director has denied a permit for which an 71821
application was required under division (A)(3) of section 3734.05 71822
of the Revised Code, or for which the director has disapproved 71823
plans and specifications required to be filed by an order issued 71824
under division (A)(5) of that section, after the date prescribed 71825
for commencement of closure of the facility in the order issued 71826
under division (A)(6) of section 3734.05 of the Revised Code 71827
denying the permit application or approval. 71828

On and after the effective date of the rules adopted under 71829
division (A) of this section and division (D) of section 3734.12 71830
of the Revised Code governing solid waste transfer facilities, no 71831
person shall establish a new, or modify an existing, solid waste 71832
transfer facility without first submitting an application for a 71833
permit with accompanying engineering detail plans, specifications, 71834
and information regarding the facility and its method of operation 71835
to the director and receiving a permit issued by the director. 71836

No person shall establish a new compost facility or continue 71837
to operate an existing compost facility that accepts exclusively 71838
source separated yard wastes without submitting a completed 71839
registration for the facility to the director in accordance with 71840
rules adopted under divisions (A) and (N)(3) of this section. 71841

This division does not apply to an infectious waste treatment 71842
facility that meets any of the following conditions: 71843

(1) Is owned or operated by the generator of the wastes and 71844
exclusively treats, by methods, techniques, and practices 71845
established by rules adopted under division (C)(1) or (3) of 71846
section 3734.021 of the Revised Code, wastes that are generated at 71847
any premises owned or operated by that generator regardless of 71848
whether the wastes are generated on the premises where the 71849
generator's treatment facility is located or, if the generator is 71850
a hospital as defined in section 3727.01 of the Revised Code, 71851
infectious wastes that are described in division (A)(1)(g), (h), 71852
or (i) of section 3734.021 of the Revised Code; 71853

(2) Holds a license or renewal of a license to operate a 71854
crematory facility issued under Chapter 4717. and a permit issued 71855
under Chapter 3704. of the Revised Code; 71856

(3) Treats or disposes of dead animals or parts thereof, or 71857
the blood of animals, and is subject to any of the following: 71858

(a) Inspection under the "Federal Meat Inspection Act," 81 71859
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 71860

(b) Chapter 918. of the Revised Code; 71861

(c) Chapter 953. of the Revised Code. 71862

(D) Neither this chapter nor any rules adopted under it apply 71863
to single-family residential premises; to infectious wastes 71864
generated by individuals for purposes of their own care or 71865
treatment that are disposed of with solid wastes from the 71866
individual's residence; to the temporary storage of solid wastes, 71867
other than scrap tires, prior to their collection for disposal; to 71868
the storage of one hundred or fewer scrap tires unless they are 71869
stored in such a manner that, in the judgment of the director or 71870
the board of health of the health district in which the scrap 71871
tires are stored, the storage causes a nuisance, a hazard to 71872
public health or safety, or a fire hazard; or to the collection of 71873
solid wastes, other than scrap tires, by a political subdivision 71874

or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.

(E)(1) As used in this division:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with

section 3734.05 of the Revised Code and subject to the payment of 71905
an application fee not to exceed one thousand five hundred 71906
dollars, payable upon application for a hazardous waste facility 71907
installation and operation permit and upon application for a 71908
renewal permit issued under division (H) of section 3734.05 of the 71909
Revised Code, to be credited to the hazardous waste facility 71910
management fund created in section 3734.18 of the Revised Code. 71911
The term of a hazardous waste facility installation and operation 71912
permit shall not exceed ten years. 71913

In addition to the application fee, there is hereby levied an 71914
annual permit fee to be paid by the permit holder upon the 71915
anniversaries of the date of issuance of the hazardous waste 71916
facility installation and operation permit and of any subsequent 71917
renewal permits and to be credited to the hazardous waste facility 71918
management fund. Annual permit fees totaling forty thousand 71919
dollars or more for any one facility may be paid on a quarterly 71920
basis with the first quarterly payment each year being due on the 71921
anniversary of the date of issuance of the hazardous waste 71922
facility installation and operation permit and of any subsequent 71923
renewal permits. The annual permit fee shall be determined for 71924
each permit holder by the director in accordance with the 71925
following schedule: 71926

TYPE OF BASIC				71927
MANAGEMENT UNIT	TYPE OF FACILITY	FEE		71928
Storage facility using: 71929				
Containers	On-site, off-site, and			71930
	satellite	\$ 500		71931
Tanks	On-site, off-site, and			71932
	satellite	500		71933
Waste pile	On-site, off-site, and			71934
	satellite	3,000		71935
Surface impoundment	On-site and satellite	8,000		71936

	Off-site	10,000	71937
Disposal facility using:			71938
Deep well injection	On-site and satellite	15,000	71939
	Off-site	25,000	71940
Landfill	On-site and satellite	25,000	71941
	Off-site	40,000	71942
Land application	On-site and satellite	2,500	71943
	Off-site	5,000	71944
Surface impoundment	On-site and satellite	10,000	71945
	Off-site	20,000	71946
Treatment facility using:			71947
Tanks	On-site, off-site, and		71948
	satellite	700	71949
Surface impoundment	On-site and satellite	8,000	71950
	Off-site	10,000	71951
Incinerator	On-site and satellite	5,000	71952
	Off-site	10,000	71953
Other forms			71954
of treatment	On-site, off-site, and		71955
	satellite	1,000	71956

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage,

treatment, or disposal shall pay the permit fee indicated by the 71970
schedule for each such method. 71971

The director shall not require the payment of that portion of 71972
an annual permit fee of any permit holder that would apply to a 71973
hazardous waste management unit for which a permit has been 71974
issued, but for which construction has not yet commenced. Once 71975
construction has commenced, the director shall require the payment 71976
of a part of the appropriate fee indicated by the schedule that 71977
bears the same relationship to the total fee that the number of 71978
days remaining until the next anniversary date at which payment of 71979
the annual permit fee is due bears to three hundred sixty-five. 71980

The director, by rules adopted in accordance with Chapters 71981
119. and 3745. of the Revised Code, shall prescribe procedures for 71982
collecting the annual permit fee established by this division and 71983
may prescribe other requirements necessary to carry out this 71984
division. 71985

(3) The prohibition against establishing or operating a 71986
hazardous waste facility without a hazardous waste facility 71987
installation and operation permit does not apply to either of the 71988
following: 71989

(a) A facility that is operating in accordance with a permit 71990
renewal issued under division (H) of section 3734.05 of the 71991
Revised Code, a revision issued under division (I) of that section 71992
as it existed prior to August 20, 1996, or a modification issued 71993
by the director under division (I) of that section on and after 71994
August 20, 1996; 71995

(b) Except as provided in division (J) of section 3734.05 of 71996
the Revised Code, a facility that will operate or is operating in 71997
accordance with a permit by rule, or that is not subject to permit 71998
requirements, under rules adopted by the director. In accordance 71999
with Chapter 119. of the Revised Code, the director shall adopt, 72000

and subsequently may amend, suspend, or rescind, rules for the 72001
purposes of division (E)(3)(b) of this section. Any rules so 72002
adopted shall be consistent with and equivalent to regulations 72003
pertaining to interim status adopted under the "Resource 72004
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 72005
6921, as amended, except as otherwise provided in this chapter. 72006

If a modification is requested or proposed for a facility 72007
described in division (E)(3)(a) or (b) of this section, division 72008
(I)(7) of section 3734.05 of the Revised Code applies. 72009

(F) No person shall store, treat, or dispose of hazardous 72010
waste identified or listed under this chapter and rules adopted 72011
under it, regardless of whether generated on or off the premises 72012
where the waste is stored, treated, or disposed of, or transport 72013
or cause to be transported any hazardous waste identified or 72014
listed under this chapter and rules adopted under it to any other 72015
premises, except at or to any of the following: 72016

(1) A hazardous waste facility operating under a permit 72017
issued in accordance with this chapter; 72018

(2) A facility in another state operating under a license or 72019
permit issued in accordance with the "Resource Conservation and 72020
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 72021
amended; 72022

(3) A facility in another nation operating in accordance with 72023
the laws of that nation; 72024

(4) A facility holding a permit issued pursuant to Title I of 72025
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 72026
Stat. 1052, 33 U.S.C.A. 1401, as amended; 72027

(5) A hazardous waste facility as described in division 72028
(E)(3)(a) or (b) of this section. 72029

(G) The director, by order, may exempt any person generating, 72030

collecting, storing, treating, disposing of, or transporting solid 72031
wastes, infectious wastes, or hazardous waste, or processing solid 72032
wastes that consist of scrap tires, in such quantities or under 72033
such circumstances that, in the determination of the director, are 72034
unlikely to adversely affect the public health or safety or the 72035
environment from any requirement to obtain a registration 72036
certificate, permit, or license or comply with the manifest system 72037
or other requirements of this chapter. Such an exemption shall be 72038
consistent with and equivalent to any regulations adopted by the 72039
administrator of the United States environmental protection agency 72040
under the "Resource Conservation and Recovery Act of 1976," 90 72041
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 72042
provided in this chapter. 72043

(H) No person shall engage in filling, grading, excavating, 72044
building, drilling, or mining on land where a hazardous waste 72045
facility, or a solid waste facility, was operated without prior 72046
authorization from the director, who shall establish the procedure 72047
for granting such authorization by rules adopted in accordance 72048
with Chapter 119. of the Revised Code. 72049

A public utility that has main or distribution lines above or 72050
below the land surface located on an easement or right-of-way 72051
across land where a solid waste facility was operated may engage 72052
in any such activity within the easement or right-of-way without 72053
prior authorization from the director for purposes of performing 72054
emergency repair or emergency replacement of its lines; of the 72055
poles, towers, foundations, or other structures supporting or 72056
sustaining any such lines; or of the appurtenances to those 72057
structures, necessary to restore or maintain existing public 72058
utility service. A public utility may enter upon any such easement 72059
or right-of-way without prior authorization from the director for 72060
purposes of performing necessary or routine maintenance of those 72061
portions of its existing lines; of the existing poles, towers, 72062

foundations, or other structures sustaining or supporting its 72063
lines; or of the appurtenances to any such supporting or 72064
sustaining structure, located on or above the land surface on any 72065
such easement or right-of-way. Within twenty-four hours after 72066
commencing any such emergency repair, replacement, or maintenance 72067
work, the public utility shall notify the director or the 72068
director's authorized representative of those activities and shall 72069
provide such information regarding those activities as the 72070
director or the director's representative may request. Upon 72071
completion of the emergency repair, replacement, or maintenance 72072
activities, the public utility shall restore any land of the solid 72073
waste facility disturbed by those activities to the condition 72074
existing prior to the commencement of those activities. 72075

(I) No owner or operator of a hazardous waste facility, in 72076
the operation of the facility, shall cause, permit, or allow the 72077
emission therefrom of any particulate matter, dust, fumes, gas, 72078
mist, smoke, vapor, or odorous substance that, in the opinion of 72079
the director, unreasonably interferes with the comfortable 72080
enjoyment of life or property by persons living or working in the 72081
vicinity of the facility, or that is injurious to public health. 72082
Any such action is hereby declared to be a public nuisance. 72083

(J) Notwithstanding any other provision of this chapter, in 72084
the event the director finds an imminent and substantial danger to 72085
public health or safety or the environment that creates an 72086
emergency situation requiring the immediate treatment, storage, or 72087
disposal of hazardous waste, the director may issue a temporary 72088
emergency permit to allow the treatment, storage, or disposal of 72089
the hazardous waste at a facility that is not otherwise authorized 72090
by a hazardous waste facility installation and operation permit to 72091
treat, store, or dispose of the waste. The emergency permit shall 72092
not exceed ninety days in duration and shall not be renewed. The 72093
director shall adopt, and may amend, suspend, or rescind, rules in 72094

accordance with Chapter 119. of the Revised Code governing the 72095
issuance, modification, revocation, and denial of emergency 72096
permits. 72097

(K) No owner or operator of a sanitary landfill shall 72098
knowingly accept for disposal, or dispose of, any infectious 72099
wastes, other than those subject to division (A)(1)(c) of section 72100
3734.021 of the Revised Code, that have not been treated to render 72101
them noninfectious. For the purposes of this division, 72102
certification by the owner or operator of the treatment facility 72103
where the wastes were treated on the shipping paper required by 72104
rules adopted under division (D)(2) of that section creates a 72105
rebuttable presumption that the wastes have been so treated. 72106

(L) The director, in accordance with Chapter 119. of the 72107
Revised Code, shall adopt, and may amend, suspend, or rescind, 72108
rules having uniform application throughout the state establishing 72109
a training and certification program that shall be required for 72110
employees of boards of health who are responsible for enforcing 72111
the solid waste and infectious waste provisions of this chapter 72112
and rules adopted under them and for persons who are responsible 72113
for the operation of solid waste facilities or infectious waste 72114
treatment facilities. The rules shall provide all of the 72115
following, without limitation: 72116

(1) The program shall be administered by the director and 72117
shall consist of a course on new solid waste and infectious waste 72118
technologies, enforcement procedures, and rules; 72119

(2) The course shall be offered on an annual basis; 72120

(3) Those persons who are required to take the course under 72121
division (L) of this section shall do so triennially; 72122

(4) Persons who successfully complete the course shall be 72123
certified by the director; 72124

(5) Certification shall be required for all employees of 72125

boards of health who are responsible for enforcing the solid waste 72126
or infectious waste provisions of this chapter and rules adopted 72127
under them and for all persons who are responsible for the 72128
operation of solid waste facilities or infectious waste treatment 72129
facilities; 72130

(6)(a) All employees of a board of health who, on the 72131
effective date of the rules adopted under this division, are 72132
responsible for enforcing the solid waste or infectious waste 72133
provisions of this chapter and the rules adopted under them shall 72134
complete the course and be certified by the director not later 72135
than January 1, 1995; 72136

(b) All employees of a board of health who, after the 72137
effective date of the rules adopted under division (L) of this 72138
section, become responsible for enforcing the solid waste or 72139
infectious waste provisions of this chapter and rules adopted 72140
under them and who do not hold a current and valid certification 72141
from the director at that time shall complete the course and be 72142
certified by the director within two years after becoming 72143
responsible for performing those activities. 72144

No person shall fail to obtain the certification required 72145
under this division. 72146

(M) The director shall not issue a permit under section 72147
3734.05 of the Revised Code to establish a solid waste facility, 72148
or to modify a solid waste facility operating on December 21, 72149
1988, in a manner that expands the disposal capacity or geographic 72150
area covered by the facility, that is or is to be located within 72151
the boundaries of a state park established or dedicated under 72152
Chapter 1541. of the Revised Code, a state park purchase area 72153
established under section 1541.02 of the Revised Code, any unit of 72154
the national park system, or any property that lies within the 72155
boundaries of a national park or recreation area, but that has not 72156
been acquired or is not administered by the secretary of the 72157

United States department of the interior, located in this state, 72158
or any candidate area located in this state and identified for 72159
potential inclusion in the national park system in the edition of 72160
the "national park system plan" submitted under paragraph (b) of 72161
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 72162
U.S.C.A. 1a-5, as amended, current at the time of filing of the 72163
application for the permit, unless the facility or proposed 72164
facility is or is to be used exclusively for the disposal of solid 72165
wastes generated within the park or recreation area and the 72166
director determines that the facility or proposed facility will 72167
not degrade any of the natural or cultural resources of the park 72168
or recreation area. The director shall not issue a variance under 72169
division (A) of this section and rules adopted under it, or issue 72170
an exemption order under division (G) of this section, that would 72171
authorize any such establishment or expansion of a solid waste 72172
facility within the boundaries of any such park or recreation 72173
area, state park purchase area, or candidate area, other than a 72174
solid waste facility exclusively for the disposal of solid wastes 72175
generated within the park or recreation area when the director 72176
determines that the facility will not degrade any of the natural 72177
or cultural resources of the park or recreation area. 72178

(N)(1) The rules adopted under division (A) of this section, 72179
other than those governing variances, do not apply to scrap tire 72180
collection, storage, monocell, monofill, and recovery facilities. 72181
Those facilities are subject to and governed by rules adopted 72182
under sections 3734.70 to 3734.73 of the Revised Code, as 72183
applicable. 72184

(2) Division (C) of this section does not apply to scrap tire 72185
collection, storage, monocell, monofill, and recovery facilities. 72186
The establishment and modification of those facilities are subject 72187
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 72188
Code, as applicable. 72189

(3) The director may adopt, amend, suspend, or rescind rules 72190
under division (A) of this section creating an alternative system 72191
for authorizing the establishment, operation, or modification of a 72192
solid waste compost facility in lieu of the requirement that a 72193
person seeking to establish, operate, or modify a solid waste 72194
compost facility apply for and receive a permit under division (C) 72195
of this section and section 3734.05 of the Revised Code and a 72196
license under division (A)(1) of that section. The rules may 72197
include requirements governing, without limitation, the 72198
classification of solid waste compost facilities, the submittal of 72199
operating records for solid waste compost facilities, and the 72200
creation of a registration or notification system in lieu of the 72201
issuance of permits and licenses for solid waste compost 72202
facilities. The rules shall specify the applicability of divisions 72203
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 72204
Code to a solid waste compost facility. 72205

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 72206
(8), and (9) of this section, no person shall operate or maintain 72207
a solid waste facility without a license issued under this 72208
division by the board of health of the health district in which 72209
the facility is located or by the director of environmental 72210
protection when the health district in which the facility is 72211
located is not on the approved list under section 3734.08 of the 72212
Revised Code. 72213

During the month of December, but before the first day of 72214
January of the next year, every person proposing to continue to 72215
operate an existing solid waste facility shall procure a license 72216
under this division to operate the facility for that year from the 72217
board of health of the health district in which the facility is 72218
located or, if the health district is not on the approved list 72219
under section 3734.08 of the Revised Code, from the director. The 72220
application for such a license shall be submitted to the board of 72221

health or to the director, as appropriate, on or before the last 72222
day of September of the year preceding that for which the license 72223
is sought. In addition to the application fee prescribed in 72224
division (A)(2) of this section, a person who submits an 72225
application after that date shall pay an additional ten per cent 72226
of the amount of the application fee for each week that the 72227
application is late. Late payment fees accompanying an application 72228
submitted to the board of health shall be credited to the special 72229
fund of the health district created in division (B) of section 72230
3734.06 of the Revised Code, and late payment fees accompanying an 72231
application submitted to the director shall be credited to the 72232
general revenue fund. A person who has received a license, upon 72233
sale or disposition of a solid waste facility, and upon consent of 72234
the board of health and the director, may have the license 72235
transferred to another person. The board of health or the director 72236
may include such terms and conditions in a license or revision to 72237
a license as are appropriate to ensure compliance with this 72238
chapter and rules adopted under it. The terms and conditions may 72239
establish the authorized maximum daily waste receipts for the 72240
facility. Limitations on maximum daily waste receipts shall be 72241
specified in cubic yards of volume for the purpose of regulating 72242
the design, construction, and operation of solid waste facilities. 72243
Terms and conditions included in a license or revision to a 72244
license by a board of health shall be consistent with, and pertain 72245
only to the subjects addressed in, the rules adopted under 72246
division (A) of section 3734.02 and division (D) of section 72247
3734.12 of the Revised Code. 72248

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 72249
(9) of this section, each person proposing to open a new solid 72250
waste facility or to modify an existing solid waste facility shall 72251
submit an application for a permit with accompanying detail plans 72252
and specifications to the environmental protection agency for 72253
required approval under the rules adopted by the director pursuant 72254

to division (A) of section 3734.02 of the Revised Code and 72255
applicable rules adopted under division (D) of section 3734.12 of 72256
the Revised Code at least two hundred seventy days before proposed 72257
operation of the facility and shall concurrently make application 72258
for the issuance of a license under division (A)(1) of this 72259
section with the board of health of the health district in which 72260
the proposed facility is to be located. 72261

(b) On and after the effective date of the rules adopted 72262
under division (A) of section 3734.02 of the Revised Code and 72263
division (D) of section 3734.12 of the Revised Code governing 72264
solid waste transfer facilities, each person proposing to open a 72265
new solid waste transfer facility or to modify an existing solid 72266
waste transfer facility shall submit an application for a permit 72267
with accompanying engineering detail plans, specifications, and 72268
information regarding the facility and its method of operation to 72269
the environmental protection agency for required approval under 72270
those rules at least two hundred seventy days before commencing 72271
proposed operation of the facility and concurrently shall make 72272
application for the issuance of a license under division (A)(1) of 72273
this section with the board of health of the health district in 72274
which the facility is located or proposed. 72275

(c) Each application for a permit under division (A)(2)(a) or 72276
(b) of this section shall be accompanied by a nonrefundable 72277
application fee of four hundred dollars that shall be credited to 72278
the general revenue fund. Each application for an annual license 72279
under division (A)(1) or (2) of this section shall be accompanied 72280
by a nonrefundable application fee of one hundred dollars. If the 72281
application for an annual license is submitted to a board of 72282
health on the approved list under section 3734.08 of the Revised 72283
Code, the application fee shall be credited to the special fund of 72284
the health district created in division (B) of section 3734.06 of 72285
the Revised Code. If the application for an annual license is 72286

submitted to the director, the application fee shall be credited 72287
to the general revenue fund. If a permit or license is issued, the 72288
amount of the application fee paid shall be deducted from the 72289
amount of the permit fee due under division (Q) of section 3745.11 72290
of the Revised Code or the amount of the license fee due under 72291
division (A)(1), (2), (3), ~~or (4)~~, or (5) of section 3734.06 of 72292
the Revised Code. 72293

(d) As used in divisions (A)(2)(d), (e), and (f) of this 72294
section, "modify" means any of the following: 72295

(i) Any increase of more than ten per cent in the total 72296
capacity of a solid waste facility; 72297

(ii) Any expansion of the limits of solid waste placement at 72298
a solid waste facility; 72299

(iii) Any increase in the depth of excavation at a solid 72300
waste facility; 72301

(iv) Any change in the technique of waste receipt or type of 72302
waste received at a solid waste facility that may endanger human 72303
health, as determined by the director by rules adopted in 72304
accordance with Chapter 119. of the Revised Code. 72305

Not later than ~~thirty-five~~ forty-five days after submitting 72306
an application under division (A)(2)(a) or (b) of this section for 72307
a permit to open a new or modify an existing solid waste facility, 72308
the applicant, in conjunction with an officer or employee of the 72309
environmental protection agency, shall hold a public meeting on 72310
the application within the county in which the new or modified 72311
solid waste facility is or is proposed to be located or within a 72312
contiguous county. Not less than thirty days before holding the 72313
public meeting on the application, the applicant shall publish 72314
notice of the meeting in each newspaper of general circulation 72315
that is published in the county in which the facility is or is 72316
proposed to be located. If no newspaper of general circulation is 72317

published in the county, the applicant shall publish the notice in 72318
a newspaper of general circulation in the county. The notice shall 72319
contain the date, time, and location of the public meeting and a 72320
general description of the proposed new or modified facility. Not 72321
later than five days after publishing the notice, the applicant 72322
shall send by certified mail a copy of the notice and the date the 72323
notice was published to the director and the legislative authority 72324
of each municipal corporation, township, and county, and to the 72325
chief executive officer of each municipal corporation, in which 72326
the facility is or is proposed to be located. At the public 72327
meeting, the applicant shall provide information and describe the 72328
application and respond to comments or questions concerning the 72329
application, and the officer or employee of the agency shall 72330
describe the permit application process. At the public meeting, 72331
any person may submit written or oral comments on or objections to 72332
the application. Not more than thirty days after the public 72333
meeting, the applicant shall provide the director with a copy of a 72334
transcript of the full meeting, copies of any exhibits, displays, 72335
or other materials presented by the applicant at the meeting, and 72336
the original copy of any written comments submitted at the 72337
meeting. 72338

(e) Except as provided in division (A)(2)(f) of this section, 72339
prior to taking an action, other than a proposed or final denial, 72340
upon an application submitted under division (A)(2)(a) of this 72341
section for a permit to open a new or modify an existing solid 72342
waste facility, the director shall hold a public information 72343
session and a public hearing on the application within the county 72344
in which the new or modified solid waste facility is or is 72345
proposed to be located or within a contiguous county. If the 72346
application is for a permit to open a new solid waste facility, 72347
the director shall hold the hearing not less than fourteen days 72348
after the information session. If the application is for a permit 72349
to modify an existing solid waste facility, the director may hold 72350

both the information session and the hearing on the same day 72351
unless any individual affected by the application requests in 72352
writing that the information session and the hearing not be held 72353
on the same day, in which case the director shall hold the hearing 72354
not less than fourteen days after the information session. The 72355
director shall publish notice of the public information session or 72356
public hearing not less than thirty days before holding the 72357
information session or hearing, as applicable. The notice shall be 72358
published in each newspaper of general circulation that is 72359
published in the county in which the facility is or is proposed to 72360
be located. If no newspaper of general circulation is published in 72361
the county, the director shall publish the notice in a newspaper 72362
of general circulation in the county. The notice shall contain the 72363
date, time, and location of the information session or hearing, as 72364
applicable, and a general description of the proposed new or 72365
modified facility. At the public information session, an officer 72366
or employee of the environmental protection agency shall describe 72367
the status of the permit application and be available to respond 72368
to comments or questions concerning the application. At the public 72369
hearing, any person may submit written or oral comments on or 72370
objections to the approval of the application. The applicant, or a 72371
representative of the applicant who has knowledge of the location, 72372
construction, and operation of the facility, shall attend the 72373
information session and public hearing to respond to comments or 72374
questions concerning the facility directed to the applicant or 72375
representative by the officer or employee of the environmental 72376
protection agency presiding at the information session and 72377
hearing. 72378

(f) The solid waste management policy committee of a county 72379
or joint solid waste management district may adopt a resolution 72380
requesting expeditious consideration of a specific application 72381
submitted under division (A)(2)(a) of this section for a permit to 72382
modify an existing solid waste facility within the district. The 72383

resolution shall make the finding that expedited consideration of 72384
the application without the public information session and public 72385
hearing under division (A)(2)(e) of this section is in the public 72386
interest and will not endanger human health, as determined by the 72387
director by rules adopted in accordance with Chapter 119. of the 72388
Revised Code. Upon receiving such a resolution, the director, at 72389
the director's discretion, may issue a final action upon the 72390
application without holding a public information session or public 72391
hearing pursuant to division (A)(2)(e) of this section. 72392

(3) Except as provided in division (A)(10) of this section, 72393
and unless the owner or operator of any solid waste facility, 72394
other than a solid waste transfer facility or a compost facility 72395
that accepts exclusively source separated yard wastes, that 72396
commenced operation on or before July 1, 1968, has obtained an 72397
exemption from the requirements of division (A)(3) of this section 72398
in accordance with division (G) of section 3734.02 of the Revised 72399
Code, the owner or operator shall submit to the director an 72400
application for a permit with accompanying engineering detail 72401
plans, specifications, and information regarding the facility and 72402
its method of operation for approval under rules adopted under 72403
division (A) of section 3734.02 of the Revised Code and applicable 72404
rules adopted under division (D) of section 3734.12 of the Revised 72405
Code in accordance with the following schedule: 72406

(a) Not later than September 24, 1988, if the facility is 72407
located in the city of Garfield Heights or Parma in Cuyahoga 72408
county; 72409

(b) Not later than December 24, 1988, if the facility is 72410
located in Delaware, Greene, Guernsey, Hamilton, Madison, 72411
Mahoning, Ottawa, or Vinton county; 72412

(c) Not later than March 24, 1989, if the facility is located 72413
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 72414
Washington county, or is located in the city of Brooklyn or 72415

Cuyahoga Heights in Cuyahoga county; 72416

(d) Not later than June 24, 1989, if the facility is located 72417
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 72418
Summit county or is located in Cuyahoga county outside the cities 72419
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 72420

(e) Not later than September 24, 1989, if the facility is 72421
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 72422
county; 72423

(f) Not later than December 24, 1989, if the facility is 72424
located in a county not listed in divisions (A)(3)(a) to (e) of 72425
this section; 72426

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 72427
section, not later than December 31, 1990, if the facility is a 72428
solid waste facility owned by a generator of solid wastes when the 72429
solid waste facility exclusively disposes of solid wastes 72430
generated at one or more premises owned by the generator 72431
regardless of whether the facility is located on a premises where 72432
the wastes are generated and if the facility disposes of more than 72433
one hundred thousand tons of solid wastes per year, provided that 72434
any such facility shall be subject to division (A)(5) of this 72435
section. 72436

(4) Except as provided in divisions (A)(8), (9), and (10) of 72437
this section, unless the owner or operator of any solid waste 72438
facility for which a permit was issued after July 1, 1968, but 72439
before January 1, 1980, has obtained an exemption from the 72440
requirements of division (A)(4) of this section under division (G) 72441
of section 3734.02 of the Revised Code, the owner or operator 72442
shall submit to the director an application for a permit with 72443
accompanying engineering detail plans, specifications, and 72444
information regarding the facility and its method of operation for 72445
approval under those rules. 72446

(5) The director may issue an order in accordance with 72447
Chapter 3745. of the Revised Code to the owner or operator of a 72448
solid waste facility requiring the person to submit to the 72449
director updated engineering detail plans, specifications, and 72450
information regarding the facility and its method of operation for 72451
approval under rules adopted under division (A) of section 3734.02 72452
of the Revised Code and applicable rules adopted under division 72453
(D) of section 3734.12 of the Revised Code if, in the director's 72454
judgment, conditions at the facility constitute a substantial 72455
threat to public health or safety or are causing or contributing 72456
to or threatening to cause or contribute to air or water pollution 72457
or soil contamination. Any person who receives such an order shall 72458
submit the updated engineering detail plans, specifications, and 72459
information to the director within one hundred eighty days after 72460
the effective date of the order. 72461

(6) The director shall act upon an application submitted 72462
under division (A)(3) or (4) of this section and any updated 72463
engineering plans, specifications, and information submitted under 72464
division (A)(5) of this section within one hundred eighty days 72465
after receiving them. If the director denies any such permit 72466
application, the order denying the application or disapproving the 72467
plans shall include the requirements that the owner or operator 72468
submit a plan for closure and post-closure care of the facility to 72469
the director for approval within six months after issuance of the 72470
order, cease accepting solid wastes for disposal or transfer at 72471
the facility, and commence closure of the facility not later than 72472
one year after issuance of the order. If the director determines 72473
that closure of the facility within that one-year period would 72474
result in the unavailability of sufficient solid waste management 72475
facility capacity within the county or joint solid waste 72476
management district in which the facility is located to dispose of 72477
or transfer the solid waste generated within the district, the 72478
director in the order of denial or disapproval may postpone 72479

commencement of closure of the facility for such period of time as 72480
the director finds necessary for the board of county commissioners 72481
or directors of the district to secure access to or for there to 72482
be constructed within the district sufficient solid waste 72483
management facility capacity to meet the needs of the district, 72484
provided that the director shall certify in the director's order 72485
that postponing the date for commencement of closure will not 72486
endanger ground water or any property surrounding the facility, 72487
allow methane gas migration to occur, or cause or contribute to 72488
any other type of environmental damage. 72489

If an emergency need for disposal capacity that may affect 72490
public health and safety exists as a result of closure of a 72491
facility under division (A)(6) of this section, the director may 72492
issue an order designating another solid waste facility to accept 72493
the wastes that would have been disposed of at the facility to be 72494
closed. 72495

(7) If the director determines that standards more stringent 72496
than those applicable in rules adopted under division (A) of 72497
section 3734.02 of the Revised Code and division (D) of section 72498
3734.12 of the Revised Code, or standards pertaining to subjects 72499
not specifically addressed by those rules, are necessary to ensure 72500
that a solid waste facility constructed at the proposed location 72501
will not cause a nuisance, cause or contribute to water pollution, 72502
or endanger public health or safety, the director may issue a 72503
permit for the facility with such terms and conditions as the 72504
director finds necessary to protect public health and safety and 72505
the environment. If a permit is issued, the director shall state 72506
in the order issuing it the specific findings supporting each such 72507
term or condition. 72508

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 72509
not apply to a solid waste compost facility that accepts 72510
exclusively source separated yard wastes and that is registered 72511

under division (C) of section 3734.02 of the Revised Code or, 72512
unless otherwise provided in rules adopted under division (N)(3) 72513
of section 3734.02 of the Revised Code, to a solid waste compost 72514
facility if the director has adopted rules establishing an 72515
alternative system for authorizing the establishment, operation, 72516
or modification of a solid waste compost facility under that 72517
division. 72518

(9) Divisions (A)(1) to (7) of this section do not apply to 72519
scrap tire collection, storage, monocell, monofill, and recovery 72520
facilities. The approval of plans and specifications, as 72521
applicable, and the issuance of registration certificates, 72522
permits, and licenses for those facilities are subject to sections 72523
3734.75 to 3734.78 of the Revised Code, as applicable, and section 72524
3734.81 of the Revised Code. 72525

(10) Divisions (A)(3) and (4) of this section do not apply to 72526
a solid waste incinerator that was placed into operation on or 72527
before October 12, 1994, and that is not authorized to accept and 72528
treat infectious wastes pursuant to division (B) of this section. 72529

(B)(1) Each person who is engaged in the business of treating 72530
infectious wastes for profit at a treatment facility located off 72531
the premises where the wastes are generated that is in operation 72532
on August 10, 1988, and who proposes to continue operating the 72533
facility shall submit to the board of health of the health 72534
district in which the facility is located an application for a 72535
license to operate the facility. 72536

Thereafter, no person shall operate or maintain an infectious 72537
waste treatment facility without a license issued by the board of 72538
health of the health district in which the facility is located or 72539
by the director when the health district in which the facility is 72540
located is not on the approved list under section 3734.08 of the 72541
Revised Code. 72542

(2)(a) During the month of December, but before the first day 72543
of January of the next year, every person proposing to continue to 72544
operate an existing infectious waste treatment facility shall 72545
procure a license to operate the facility for that year from the 72546
board of health of the health district in which the facility is 72547
located or, if the health district is not on the approved list 72548
under section 3734.08 of the Revised Code, from the director. The 72549
application for such a license shall be submitted to the board of 72550
health or to the director, as appropriate, on or before the last 72551
day of September of the year preceding that for which the license 72552
is sought. In addition to the application fee prescribed in 72553
division (B)(2)(c) of this section, a person who submits an 72554
application after that date shall pay an additional ten per cent 72555
of the amount of the application fee for each week that the 72556
application is late. Late payment fees accompanying an application 72557
submitted to the board of health shall be credited to the special 72558
infectious waste fund of the health district created in division 72559
(C) of section 3734.06 of the Revised Code, and late payment fees 72560
accompanying an application submitted to the director shall be 72561
credited to the general revenue fund. A person who has received a 72562
license, upon sale or disposition of an infectious waste treatment 72563
facility and upon consent of the board of health and the director, 72564
may have the license transferred to another person. The board of 72565
health or the director may include such terms and conditions in a 72566
license or revision to a license as are appropriate to ensure 72567
compliance with the infectious waste provisions of this chapter 72568
and rules adopted under them. 72569

(b) Each person proposing to open a new infectious waste 72570
treatment facility or to modify an existing infectious waste 72571
treatment facility shall submit an application for a permit with 72572
accompanying detail plans and specifications to the environmental 72573
protection agency for required approval under the rules adopted by 72574
the director pursuant to section 3734.021 of the Revised Code two 72575

hundred seventy days before proposed operation of the facility and 72576
concurrently shall make application for a license with the board 72577
of health of the health district in which the facility is or is 72578
proposed to be located. Not later than ninety days after receiving 72579
a completed application under division (B)(2)(b) of this section 72580
for a permit to open a new infectious waste treatment facility or 72581
modify an existing infectious waste treatment facility to expand 72582
its treatment capacity, or receiving a completed application under 72583
division (A)(2)(a) of this section for a permit to open a new 72584
solid waste incineration facility, or modify an existing solid 72585
waste incineration facility to also treat infectious wastes or to 72586
increase its infectious waste treatment capacity, that pertains to 72587
a facility for which a notation authorizing infectious waste 72588
treatment is included or proposed to be included in the solid 72589
waste incineration facility's license pursuant to division (B)(3) 72590
of this section, the director shall hold a public hearing on the 72591
application within the county in which the new or modified 72592
infectious waste or solid waste facility is or is proposed to be 72593
located or within a contiguous county. Not less than thirty days 72594
before holding the public hearing on the application, the director 72595
shall publish notice of the hearing in each newspaper that has 72596
general circulation and that is published in the county in which 72597
the facility is or is proposed to be located. If there is no 72598
newspaper that has general circulation and that is published in 72599
the county, the director shall publish the notice in a newspaper 72600
of general circulation in the county. The notice shall contain the 72601
date, time, and location of the public hearing and a general 72602
description of the proposed new or modified facility. At the 72603
public hearing, any person may submit written or oral comments on 72604
or objections to the approval or disapproval of the application. 72605
The applicant, or a representative of the applicant who has 72606
knowledge of the location, construction, and operation of the 72607
facility, shall attend the public hearing to respond to comments 72608

or questions concerning the facility directed to the applicant or 72609
representative by the officer or employee of the environmental 72610
protection agency presiding at the hearing. 72611

(c) Each application for a permit under division (B)(2)(b) of 72612
this section shall be accompanied by a nonrefundable application 72613
fee of four hundred dollars that shall be credited to the general 72614
revenue fund. Each application for an annual license under 72615
division (B)(2)(a) of this section shall be accompanied by a 72616
nonrefundable application fee of one hundred dollars. If the 72617
application for an annual license is submitted to a board of 72618
health on the approved list under section 3734.08 of the Revised 72619
Code, the application fee shall be credited to the special 72620
infectious waste fund of the health district created in division 72621
(C) of section 3734.06 of the Revised Code. If the application for 72622
an annual license is submitted to the director, the application 72623
fee shall be credited to the general revenue fund. If a permit or 72624
license is issued, the amount of the application fee paid shall be 72625
deducted from the amount of the permit fee due under division (Q) 72626
of section 3745.11 of the Revised Code or the amount of the 72627
license fee due under division (C) of section 3734.06 of the 72628
Revised Code. 72629

(d) The owner or operator of any infectious waste treatment 72630
facility that commenced operation on or before July 1, 1968, shall 72631
submit to the director an application for a permit with 72632
accompanying engineering detail plans, specifications, and 72633
information regarding the facility and its method of operation for 72634
approval under rules adopted under section 3734.021 of the Revised 72635
Code in accordance with the following schedule: 72636

(i) Not later than December 24, 1988, if the facility is 72637
located in Delaware, Greene, Guernsey, Hamilton, Madison, 72638
Mahoning, Ottawa, or Vinton county; 72639

(ii) Not later than March 24, 1989, if the facility is 72640

located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 72641
or Washington county, or is located in the city of Brooklyn, 72642
Cuyahoga Heights, or Parma in Cuyahoga county; 72643

(iii) Not later than June 24, 1989, if the facility is 72644
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, 72645
Lucas, or Summit county or is located in Cuyahoga county outside 72646
the cities of Brooklyn, Cuyahoga Heights, and Parma; 72647

(iv) Not later than September 24, 1989, if the facility is 72648
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 72649
county; 72650

(v) Not later than December 24, 1989, if the facility is 72651
located in a county not listed in divisions (B)(2)(d)(i) to (iv) 72652
of this section. 72653

The owner or operator of an infectious waste treatment 72654
facility required to submit a permit application under division 72655
(B)(2)(d) of this section is not required to pay any permit 72656
application fee under division (B)(2)(c) of this section, or 72657
permit fee under division (Q) of section 3745.11 of the Revised 72658
Code, with respect thereto unless the owner or operator also 72659
proposes to modify the facility. 72660

(e) The director may issue an order in accordance with 72661
Chapter 3745. of the Revised Code to the owner or operator of an 72662
infectious waste treatment facility requiring the person to submit 72663
to the director updated engineering detail plans, specifications, 72664
and information regarding the facility and its method of operation 72665
for approval under rules adopted under section 3734.021 of the 72666
Revised Code if, in the director's judgment, conditions at the 72667
facility constitute a substantial threat to public health or 72668
safety or are causing or contributing to or threatening to cause 72669
or contribute to air or water pollution or soil contamination. Any 72670
person who receives such an order shall submit the updated 72671

engineering detail plans, specifications, and information to the 72672
director within one hundred eighty days after the effective date 72673
of the order. 72674

(f) The director shall act upon an application submitted 72675
under division (B)(2)(d) of this section and any updated 72676
engineering plans, specifications, and information submitted under 72677
division (B)(2)(e) of this section within one hundred eighty days 72678
after receiving them. If the director denies any such permit 72679
application or disapproves any such updated engineering plans, 72680
specifications, and information, the director shall include in the 72681
order denying the application or disapproving the plans the 72682
requirement that the owner or operator cease accepting infectious 72683
wastes for treatment at the facility. 72684

(3) Division (B) of this section does not apply to an 72685
infectious waste treatment facility that meets any of the 72686
following conditions: 72687

(a) Is owned or operated by the generator of the wastes and 72688
exclusively treats, by methods, techniques, and practices 72689
established by rules adopted under division (C)(1) or (3) of 72690
section 3734.021 of the Revised Code, wastes that are generated at 72691
any premises owned or operated by that generator regardless of 72692
whether the wastes are generated on the same premises where the 72693
generator's treatment facility is located or, if the generator is 72694
a hospital as defined in section 3727.01 of the Revised Code, 72695
infectious wastes that are described in division (A)(1)(g), (h), 72696
or (i) of section 3734.021 of the Revised Code; 72697

(b) Holds a license or renewal of a license to operate a 72698
crematory facility issued under Chapter 4717. and a permit issued 72699
under Chapter 3704. of the Revised Code; 72700

(c) Treats or disposes of dead animals or parts thereof, or 72701
the blood of animals, and is subject to any of the following: 72702

(i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 72703
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(ii) Chapter 918. of the Revised Code; 72705

(iii) Chapter 953. of the Revised Code. 72706

Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste facility license for the facility shall include the notation that the facility also treats infectious wastes. 72707
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On and after the effective date of the amendments to the rules adopted under division (C)(2) of section 3734.021 of the Revised Code that are required by Section 6 of Substitute House Bill No. 98 of the 120th General Assembly, the director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in the required amendments to those rules. 72715
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(C) Except for a facility or activity described in division (E)(3) of section 3734.02 of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit a complete application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located of the submission of 72723
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the application within ten days after the submission or at such 72734
earlier time as the director may establish by rule. If the 72735
application is for a proposed new hazardous waste disposal or 72736
thermal treatment facility, the applicant also shall give actual 72737
notice of the general design and purpose of the facility to the 72738
legislative authority of each municipal corporation, township, and 72739
county in which the facility is proposed to be located at least 72740
ninety days before the permit application is submitted to the 72741
environmental protection agency. 72742

In accordance with rules adopted under section 3734.12 of the 72743
Revised Code, prior to the submission of a complete application 72744
for a hazardous waste facility installation and operation permit, 72745
the applicant shall hold at least one meeting in the township or 72746
municipal corporation in which the facility is proposed to be 72747
located, whichever is geographically closer to the proposed 72748
location of the facility. The meeting shall be open to the public 72749
and shall be held to inform the community of the proposed 72750
hazardous waste management activities and to solicit questions 72751
from the community concerning the activities. 72752

(D)(1) Except as provided in section 3734.123 of the Revised 72753
Code, upon receipt of a complete application for a hazardous waste 72754
facility installation and operation permit under division (C) of 72755
this section, the director shall consider the application and 72756
accompanying information to determine whether the application 72757
complies with agency rules and the requirements of division (D)(2) 72758
of this section. After making a determination, the director shall 72759
issue either a draft permit or a notice of intent to deny the 72760
permit. The director, in accordance with rules adopted under 72761
section 3734.12 of the Revised Code or with rules adopted to 72762
implement Chapter 3745. of the Revised Code, shall provide public 72763
notice of the application and the draft permit or the notice of 72764
intent to deny the permit, provide an opportunity for public 72765

comments, and, if significant interest is shown, schedule a public meeting in the county in which the facility is proposed to be located and give public notice of the date, time, and location of the public meeting in a newspaper of general circulation in that county.

(2) The director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless the director finds and determines as follows:

(a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;

(b) That the facility complies with the director's hazardous waste standards adopted pursuant to section 3734.12 of the Revised Code;

(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

(d) That the facility represents the minimum risk of all of the following:

(i) Fires or explosions from treatment, storage, or disposal methods;

(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;

(iii) Adverse impact on the public health and safety.

(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from

which the person may influence the installation and operation of 72796
the facility has been involved in any prior activity involving 72797
transportation, treatment, storage, or disposal of hazardous 72798
waste, that person has a history of compliance with this chapter 72799
and Chapters 3704. and 6111. of the Revised Code and all rules and 72800
standards adopted under them, the "Resource Conservation and 72801
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 72802
amended, and all regulations adopted under it, and similar laws 72803
and rules of other states if any such prior operation was located 72804
in another state that demonstrates sufficient reliability, 72805
expertise, and competency to operate a hazardous waste facility 72806
under the applicable provisions of this chapter and Chapters 3704. 72807
and 6111. of the Revised Code, the applicable rules and standards 72808
adopted under them, and terms and conditions of a hazardous waste 72809
facility installation and operation permit, given the potential 72810
for harm to the public health and safety and the environment that 72811
could result from the irresponsible operation of the facility. For 72812
off-site facilities, as defined in section 3734.41 of the Revised 72813
Code, the director may use the investigative reports of the 72814
attorney general prepared pursuant to section 3734.42 of the 72815
Revised Code as a basis for making a finding and determination 72816
under division (D)(2)(f) of this section. 72817

(g) That the active areas within a new hazardous waste 72818
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 72819
(e), as amended, or organic waste that is toxic and is listed 72820
under 40 C.F.R. 261, as amended, is being stored, treated, or 72821
disposed of and where the aggregate of the storage design capacity 72822
and the disposal design capacity of all hazardous waste in those 72823
areas is greater than two hundred fifty thousand gallons, are not 72824
located or operated within any of the following: 72825

(i) Two thousand feet of any residence, school, hospital, 72826
jail, or prison; 72827

(ii) Any naturally occurring wetland; 72828

(iii) Any flood hazard area if the applicant cannot show that 72829
the facility will be designed, constructed, operated, and 72830
maintained to prevent washout by a one-hundred-year flood. 72831

Division (D)(2)(g) of this section does not apply to the 72832
facility of any applicant who demonstrates to the director that 72833
the limitations specified in that division are not necessary 72834
because of the nature or volume of the waste and the manner of 72835
management applied, the facility will impose no substantial danger 72836
to the health and safety of persons occupying the structures 72837
listed in division (D)(2)(g)(i) of this section, and the facility 72838
is to be located or operated in an area where the proposed 72839
hazardous waste activities will not be incompatible with existing 72840
land uses in the area. 72841

(h) That the facility will not be located within the 72842
boundaries of a state park established or dedicated under Chapter 72843
1541. of the Revised Code, a state park purchase area established 72844
under section 1541.02 of the Revised Code, any unit of the 72845
national park system, or any property that lies within the 72846
boundaries of a national park or recreation area, but that has not 72847
been acquired or is not administered by the secretary of the 72848
United States department of the interior, located in this state, 72849
or any candidate area located in this state identified for 72850
potential inclusion in the national park system in the edition of 72851
the "national park system plan" submitted under paragraph (b) of 72852
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 72853
U.S.C.A. 1a-5, as amended, current at the time of filing of the 72854
application for the permit, unless the facility will be used 72855
exclusively for the storage of hazardous waste generated within 72856
the park or recreation area in conjunction with the operation of 72857
the park or recreation area. Division (D)(2)(h) of this section 72858
does not apply to the facility of any applicant for modification 72859

of a permit unless the modification application proposes to 72860
increase the land area included in the facility or to increase the 72861
quantity of hazardous waste that will be treated, stored, or 72862
disposed of at the facility. 72863

(3) Not later than one hundred eighty days after the end of 72864
the public comment period, the director, without prior hearing, 72865
shall issue or deny the permit in accordance with Chapter 3745. of 72866
the Revised Code. If the director approves an application for a 72867
hazardous waste facility installation and operation permit, the 72868
director shall issue the permit, upon such terms and conditions as 72869
the director finds are necessary to ensure the construction and 72870
operation of the hazardous waste facility in accordance with the 72871
standards of this section. 72872

(E) No political subdivision of this state shall require any 72873
additional zoning or other approval, consent, permit, certificate, 72874
or condition for the construction or operation of a hazardous 72875
waste facility authorized by a hazardous waste facility 72876
installation and operation permit issued pursuant to this chapter, 72877
nor shall any political subdivision adopt or enforce any law, 72878
ordinance, or rule that in any way alters, impairs, or limits the 72879
authority granted in the permit. 72880

(F) The director may issue a single hazardous waste facility 72881
installation and operation permit to a person who operates two or 72882
more adjoining facilities where hazardous waste is stored, 72883
treated, or disposed of if the application includes detail plans, 72884
specifications, and information on all facilities. For the 72885
purposes of this section, "adjoining" means sharing a common 72886
boundary, separated only by a public road, or in such proximity 72887
that the director determines that the issuance of a single permit 72888
will not create a hazard to the public health or safety or the 72889
environment. 72890

(G) No person shall falsify or fail to keep or submit any 72891

plans, specifications, data, reports, records, manifests, or other 72892
information required to be kept or submitted to the director by 72893
this chapter or the rules adopted under it. 72894

(H)(1) Each person who holds an installation and operation 72895
permit issued under this section and who wishes to obtain a permit 72896
renewal shall submit a completed application for an installation 72897
and operation permit renewal and any necessary accompanying 72898
general plans, detail plans, specifications, and such information 72899
as the director may require to the director no later than one 72900
hundred eighty days prior to the expiration date of the existing 72901
permit or upon a later date prior to the expiration of the 72902
existing permit if the permittee can demonstrate good cause for 72903
the late submittal. The director shall consider the application 72904
and accompanying information, inspection reports of the facility, 72905
results of performance tests, a report regarding the facility's 72906
compliance or noncompliance with the terms and conditions of its 72907
permit and rules adopted by the director under this chapter, and 72908
such other information as is relevant to the operation of the 72909
facility and shall issue a draft renewal permit or a notice of 72910
intent to deny the renewal permit. The director, in accordance 72911
with rules adopted under this section or with rules adopted to 72912
implement Chapter 3745. of the Revised Code, shall give public 72913
notice of the application and draft renewal permit or notice of 72914
intent to deny the renewal permit, provide for the opportunity for 72915
public comments within a specified time period, schedule a public 72916
meeting in the county in which the facility is located if 72917
significant interest is shown, and give public notice of the 72918
public meeting. 72919

(2) Within sixty days after the public meeting or close of 72920
the public comment period, the director, without prior hearing, 72921
shall issue or deny the renewal permit in accordance with Chapter 72922
3745. of the Revised Code. The director shall not issue a renewal 72923

permit unless the director determines that the facility under the 72924
existing permit has a history of compliance with this chapter, 72925
rules adopted under it, the existing permit, or orders entered to 72926
enforce such requirements that demonstrates sufficient 72927
reliability, expertise, and competency to operate the facility 72928
henceforth under this chapter, rules adopted under it, and the 72929
renewal permit. If the director approves an application for a 72930
renewal permit, the director shall issue the permit subject to the 72931
payment of the annual permit fee required under division (E) of 72932
section 3734.02 of the Revised Code and upon such terms and 72933
conditions as the director finds are reasonable to ensure that 72934
continued operation, maintenance, closure, and post-closure care 72935
of the hazardous waste facility are in accordance with the rules 72936
adopted under section 3734.12 of the Revised Code. 72937

(3) An installation and operation permit renewal application 72938
submitted to the director that also contains or would constitute 72939
an application for a modification shall be acted upon by the 72940
director in accordance with division (I) of this section in the 72941
same manner as an application for a modification. In approving or 72942
disapproving the renewal portion of a permit renewal application 72943
containing an application for a modification, the director shall 72944
apply the criteria established under division (H)(2) of this 72945
section. 72946

(4) An application for renewal or modification of a permit 72947
that does not contain an application for a modification as 72948
described in divisions (I)(3)(a) to (d) of this section shall not 72949
be subject to division (D)(2) of this section. 72950

(I)(1) As used in this section, "modification" means a change 72951
or alteration to a hazardous waste facility or its operations that 72952
is inconsistent with or not authorized by its existing permit or 72953
authorization to operate. Modifications shall be classified as 72954
Class 1, 2, or 3 modifications in accordance with rules adopted 72955

under division (K) of this section. Modifications classified as 72956
Class 3 modifications, in accordance with rules adopted under that 72957
division, shall be further classified by the director as either 72958
Class 3 modifications that are to be approved or disapproved by 72959
the director under divisions (I)(3)(a) to (d) of this section or 72960
as Class 3 modifications that are to be approved or disapproved by 72961
the director under division (I)(5) of this section. Not later than 72962
thirty days after receiving a request for a modification under 72963
division (I)(4) of this section that is not listed in Appendix I 72964
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 72965
section, the director shall classify the modification and shall 72966
notify the owner or operator of the facility requesting the 72967
modification of the classification. Notwithstanding any other law 72968
to the contrary, a modification that involves the transfer of a 72969
hazardous waste facility installation and operation permit to a 72970
new owner or operator for any off-site facility as defined in 72971
section 3734.41 of the Revised Code shall be classified as a Class 72972
3 modification. The transfer of a hazardous waste facility 72973
installation and operation permit to a new owner or operator for a 72974
facility that is not an off-site facility shall be classified as a 72975
Class 1 modification requiring prior approval of the director. 72976

(2) Except as provided in section 3734.123 of the Revised 72977
Code, a hazardous waste facility installation and operation permit 72978
may be modified at the request of the director or upon the written 72979
request of the permittee only if any of the following applies: 72980

(a) The permittee desires to accomplish alterations, 72981
additions, or deletions to the permitted facility or to undertake 72982
alterations, additions, deletions, or activities that are 72983
inconsistent with or not authorized by the existing permit; 72984

(b) New information or data justify permit conditions in 72985
addition to or different from those in the existing permit; 72986

(c) The standards, criteria, or rules upon which the existing 72987

permit is based have been changed by new, amended, or rescinded 72988
standards, criteria, or rules, or by judicial decision after the 72989
existing permit was issued, and the change justifies permit 72990
conditions in addition to or different from those in the existing 72991
permit; 72992

(d) The permittee proposes to transfer the permit to another 72993
person. 72994

(3) The director shall approve or disapprove an application 72995
for a modification in accordance with division (D)(2) of this 72996
section and rules adopted under division (K) of this section for 72997
all of the following categories of Class 3 modifications: 72998

(a) Authority to conduct treatment, storage, or disposal at a 72999
site, location, or tract of land that has not been authorized for 73000
the proposed category of treatment, storage, or disposal activity 73001
by the facility's permit; 73002

(b) Modification or addition of a hazardous waste management 73003
unit, as defined in rules adopted under section 3734.12 of the 73004
Revised Code, that results in an increase in a facility's storage 73005
capacity of more than twenty-five per cent over the capacity 73006
authorized by the facility's permit, an increase in a facility's 73007
treatment rate of more than twenty-five per cent over the rate so 73008
authorized, or an increase in a facility's disposal capacity over 73009
the capacity so authorized. The authorized disposal capacity for a 73010
facility shall be calculated from the approved design plans for 73011
the disposal units at that facility. In no case during a five-year 73012
period shall a facility's storage capacity or treatment rate be 73013
modified to increase by more than twenty-five per cent in the 73014
aggregate without the director's approval in accordance with 73015
division (D)(2) of this section. Notwithstanding any provision of 73016
division (I) of this section to the contrary, a request for 73017
modification of a facility's annual total waste receipt limit 73018
shall be classified and approved or disapproved by the director 73019

under division (I)(5) of this section. 73020

(c) Authority to add any of the following categories of 73021
regulated activities not previously authorized at a facility by 73022
the facility's permit: storage at a facility not previously 73023
authorized to store hazardous waste, treatment at a facility not 73024
previously authorized to treat hazardous waste, or disposal at a 73025
facility not previously authorized to dispose of hazardous waste; 73026
or authority to add a category of hazardous waste management unit 73027
not previously authorized at the facility by the facility's 73028
permit. Notwithstanding any provision of division (I) of this 73029
section to the contrary, a request for authority to add or to 73030
modify an activity or a hazardous waste management unit for the 73031
purposes of performing a corrective action shall be classified and 73032
approved or disapproved by the director under division (I)(5) of 73033
this section. 73034

(d) Authority to treat, store, or dispose of waste types 73035
listed or characterized as reactive or explosive, in rules adopted 73036
under section 3734.12 of the Revised Code, or any acute hazardous 73037
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 73038
previously authorized to treat, store, or dispose of those types 73039
of wastes by the facility's permit unless the requested authority 73040
is limited to wastes that no longer exhibit characteristics 73041
meeting the criteria for listing or characterization as reactive 73042
or explosive wastes, or for listing as acute hazardous waste, but 73043
still are required to carry those waste codes as established in 73044
rules adopted under section 3734.12 of the Revised Code because of 73045
the requirements established in 40 C.F.R. 261(a) and (e), as 73046
amended, that is, the "mixture," "derived-from," or "contained-in" 73047
regulations. 73048

(4) A written request for a modification from the permittee 73049
shall be submitted to the director and shall contain such 73050
information as is necessary to support the request. Requests for 73051

modifications shall be acted upon by the director in accordance 73052
with this section and rules adopted under it. 73053

(5) Class 1 modification applications that require prior 73054
approval of the director, as provided in division (I)(1) of this 73055
section or as determined in accordance with rules adopted under 73056
division (K) of this section, Class 2 modification applications, 73057
and Class 3 modification applications that are not described in 73058
divisions (I)(3)(a) to (d) of this section shall be approved or 73059
disapproved by the director in accordance with rules adopted under 73060
division (K) of this section. The board of county commissioners of 73061
the county, the board of township trustees of the township, and 73062
the city manager or mayor of the municipal corporation in which a 73063
hazardous waste facility is located shall receive notification of 73064
any application for a modification for that facility and shall be 73065
considered as interested persons with respect to the director's 73066
consideration of the application. 73067

As used in division (I) of this section: 73068

(a) "Owner" means the person who owns a majority or 73069
controlling interest in a facility. 73070

(b) "Operator" means the person who is responsible for the 73071
overall operation of a facility. 73072

The director shall approve or disapprove an application for a 73073
Class 1 modification that requires the director's approval within 73074
sixty days after receiving the request for modification. The 73075
director shall approve or disapprove an application for a Class 2 73076
modification within three hundred days after receiving the request 73077
for modification. The director shall approve or disapprove an 73078
application for a Class 3 modification within three hundred 73079
sixty-five days after receiving the request for modification. 73080

(6) The approval or disapproval by the director of a Class 1 73081
modification application is not a final action that is appealable 73082

under Chapter 3745. of the Revised Code. The approval or 73083
disapproval by the director of a Class 2 modification or a Class 3 73084
modification is a final action that is appealable under that 73085
chapter. In approving or disapproving a request for a 73086
modification, the director shall consider all comments pertaining 73087
to the request that are received during the public comment period 73088
and the public meetings. The administrative record for appeal of a 73089
final action by the director in approving or disapproving a 73090
request for a modification shall include all comments received 73091
during the public comment period relating to the request for 73092
modification, written materials submitted at the public meetings 73093
relating to the request, and any other documents related to the 73094
director's action. 73095

(7) Notwithstanding any other provision of law to the 73096
contrary, a change or alteration to a hazardous waste facility 73097
described in division (E)(3)(a) or (b) of section 3734.02 of the 73098
Revised Code, or its operations, is a modification for the 73099
purposes of this section. An application for a modification at 73100
such a facility shall be submitted, classified, and approved or 73101
disapproved in accordance with divisions (I)(1) to (6) of this 73102
section in the same manner as a modification to a hazardous waste 73103
facility installation and operation permit. 73104

(J)(1) Except as provided in division (J)(2) of this section, 73105
an owner or operator of a hazardous waste facility that is 73106
operating in accordance with a permit by rule under rules adopted 73107
by the director under division (E)(3)(b) of section 3734.02 of the 73108
Revised Code shall submit either a hazardous waste facility 73109
installation and operation permit application for the facility or 73110
a modification application, whichever is required under division 73111
(J)(1)(a) or (b) of this section, within one hundred eighty days 73112
after the director has requested the application or upon a later 73113
date if the owner or operator demonstrates to the director good 73114

cause for the late submittal. 73115

(a) If the owner or operator does not have a hazardous waste 73116
facility installation and operation permit for any hazardous waste 73117
treatment, storage, or disposal activities at the facility, the 73118
owner or operator shall submit an application for such a permit to 73119
the director for the activities authorized by the permit by rule. 73120
Notwithstanding any other provision of law to the contrary, the 73121
director shall approve or disapprove the application for the 73122
permit in accordance with the procedures governing the approval or 73123
disapproval of permit renewals under division (H) of this section. 73124

(b) If the owner or operator has a hazardous waste facility 73125
installation and operation permit for hazardous waste treatment, 73126
storage, or disposal activities at the facility other than those 73127
authorized by the permit by rule, the owner or operator shall 73128
submit to the director a request for modification in accordance 73129
with division (I) of this section. Notwithstanding any other 73130
provision of law to the contrary, the director shall approve or 73131
disapprove the modification application in accordance with 73132
division (I)(5) of this section. 73133

(2) The owner or operator of a boiler or industrial furnace 73134
that is conducting thermal treatment activities in accordance with 73135
a permit by rule under rules adopted by the director under 73136
division (E)(3)(b) of section 3734.02 of the Revised Code shall 73137
submit a hazardous waste facility installation and operation 73138
permit application if the owner or operator does not have such a 73139
permit for any hazardous waste treatment, storage, or disposal 73140
activities at the facility or, if the owner or operator has such a 73141
permit for hazardous waste treatment, storage, or disposal 73142
activities at the facility other than thermal treatment activities 73143
authorized by the permit by rule, a modification application to 73144
add those activities authorized by the permit by rule, whichever 73145
is applicable, within one hundred eighty days after the director 73146

has requested the submission of the application or upon a later 73147
date if the owner or operator demonstrates to the director good 73148
cause for the late submittal. The application shall be accompanied 73149
by information necessary to support the request. The director 73150
shall approve or disapprove an application for a hazardous waste 73151
facility installation and operation permit in accordance with 73152
division (D) of this section and approve or disapprove an 73153
application for a modification in accordance with division (I)(3) 73154
of this section, except that the director shall not disapprove an 73155
application for the thermal treatment activities on the basis of 73156
the criteria set forth in division (D)(2)(g) or (h) of this 73157
section. 73158

(3) As used in division (J) of this section: 73159

(a) "Modification application" means a request for a 73160
modification submitted in accordance with division (I) of this 73161
section. 73162

(b) "Thermal treatment," "boiler," and "industrial furnace" 73163
have the same meanings as in rules adopted under section 3734.12 73164
of the Revised Code. 73165

(K) The director shall adopt, and may amend, suspend, or 73166
rescind, rules in accordance with Chapter 119. of the Revised Code 73167
in order to implement divisions (H) and (I) of this section. 73168
Except when in actual conflict with this section, rules governing 73169
the classification of and procedures for the modification of 73170
hazardous waste facility installation and operation permits shall 73171
be substantively and procedurally identical to the regulations 73172
governing hazardous waste facility permitting and permit 73173
modifications adopted under the "Resource Conservation and 73174
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 73175
amended. 73176

Sec. 3734.06. (A)(1) Except as provided in ~~division~~ divisions 73177

(A)(2), (3), ~~and (4)~~, and (5) of this section and in section 73178
3734.82 of the Revised Code, the annual fee for a solid waste 73179
facility license shall be in accordance with the following 73180
schedule: 73181

AUTHORIZED MAXIMUM	ANNUAL	
DAILY WASTE	LICENSE	
RECEIPT (TONS)	FEE	
100 or less	\$ 5,000	73185
101 to 200	12,500	73186
201 to 500	30,000	73187
501 or more	60,000	73188

For the purpose of determining the applicable license fee 73189
under divisions (A)(1) ~~and (2)~~, and (3) of this section, the 73190
authorized maximum daily waste receipt shall be the maximum amount 73191
of wastes the facility is authorized to receive daily that is 73192
established in the permit for the facility, and any modifications 73193
to that permit, issued under division (A)(2) or (3) of section 73194
3734.05 of the Revised Code; the annual license for the facility, 73195
and any revisions to that license, issued under division (A)(1) of 73196
section 3734.05 of the Revised Code; the approved operating plan 73197
or operational report for which submission and approval are 73198
required by rules adopted by the director of environmental 73199
protection under section 3734.02 of the Revised Code; an order 73200
issued by the director as authorized by rule; or the updated 73201
engineering plans, specifications, and facility and operation 73202
information approved under division (A)(4) of section 3734.05 of 73203
the Revised Code. If no authorized maximum daily waste receipt is 73204
so established, the annual license fee is sixty thousand dollars 73205
under division (A)(1) of this section and thirty thousand dollars 73206
under ~~division~~ divisions (A)(2) and (3) of this section. 73207

The authorized maximum daily waste receipt set forth in any 73208
such document shall be stated in terms of cubic yards of volume 73209

for the purpose of regulating the design, construction, and 73210
operation of a solid waste facility. For the purpose of 73211
determining applicable license fees under this section, the 73212
authorized maximum daily waste receipt so stated shall be 73213
converted from cubic yards to tons as the unit of measurement 73214
based upon a conversion factor of three cubic yards per ton for 73215
compacted wastes generally and one cubic yard per ton for baled 73216
wastes. 73217

(2) The annual license fee for a facility that is an 73218
incinerator facility is one-half the amount shown in division 73219
(A)(1) of this section. When a municipal corporation, county, or 73220
township owns and operates more than one incinerator within its 73221
boundaries, the municipal corporation, county, or township shall 73222
pay one fee for the licenses for all of its incinerators. The fee 73223
shall be determined on the basis of the aggregate maximum daily 73224
waste receipt for all the incinerators owned and operated by the 73225
municipal corporation, county, or township in an amount that is 73226
one-half the amount shown in division (A)(1) of this section. 73227

(3) The annual fee for a solid waste compost facility license 73228
shall be in accordance with the following schedule: 73229

AUTHORIZED MAXIMUM	ANNUAL	73230
DAILY WASTE	LICENSE	73231
RECEIPT (TONS)	FEE	73232
12 or less	\$ 300	73233
13 to 25	600	73234
26 to 50	1,200	73235
51 to 75	1,800	73236
76 to 100	2,500	73237
101 to 200 <u>150</u>	6,250 <u>3,750</u>	73238
<u>151 to 200</u>	<u>5,000</u>	73239
201 to 500 <u>250</u>	15,000 <u>6,250</u>	73240
<u>251 to 300</u>	<u>7,500</u>	73241

<u>301 to 400</u>	<u>10,000</u>	73242
<u>401 to 500</u>	<u>12,500</u>	73243
501 or more	30,000	73244

~~(3)~~(4) The annual license fee for a solid waste facility, 73245
regardless of its authorized maximum daily waste receipt, is five 73246
thousand dollars for a facility meeting either of the following 73247
qualifications: 73248

(a) The facility is owned by a generator of solid wastes when 73249
the solid waste facility exclusively disposes of solid wastes 73250
generated at one or more premises owned by the generator 73251
regardless of whether the facility is located on a premises where 73252
the wastes are generated. 73253

(b) The facility exclusively disposes of wastes that are 73254
generated from the combustion of coal, or from the combustion of 73255
primarily coal in combination with scrap tires, that is not 73256
combined in any way with garbage at one or more premises owned by 73257
the generator. 73258

~~(4)~~(5) The annual license fee for a facility that is a 73259
transfer facility is seven hundred fifty dollars. 73260

~~(5)~~(6) The same fees shall apply to private operators and to 73261
the state and its political subdivisions and shall be paid within 73262
thirty days after issuance of a license. The fee includes the cost 73263
of licensing, all inspections, and other costs associated with the 73264
administration of the solid waste provisions of this chapter and 73265
rules adopted under them, excluding the provisions governing scrap 73266
tires. Each such license shall specify that it is conditioned upon 73267
payment of the applicable fee to the board of health or the 73268
director, as appropriate, within thirty days after issuance of the 73269
license. 73270

(B) The board of health shall retain two thousand five 73271
hundred dollars of each license fee collected by the board under 73272

divisions (A)(1), (2), ~~and (3)~~, and (4) of this section or the 73273
entire amount of any such fee that is less than two thousand five 73274
hundred dollars. The moneys retained shall be paid into a special 73275
fund, which is hereby created in each health district, and used 73276
solely to administer and enforce the solid waste provisions of 73277
this chapter and the rules adopted under them, excluding the 73278
provisions governing scrap tires. The remainder of each license 73279
fee collected by the board shall be transmitted to the director 73280
within forty-five days after receipt of the fee. The director 73281
shall transmit these moneys to the treasurer of state to be 73282
credited to the general revenue fund. The board of health shall 73283
retain the entire amount of each fee collected under division 73284
(A)~~(4)~~(5) of this section, which moneys shall be paid into the 73285
special fund of the health district. 73286

(C)(1) Except as provided in divisions (C)(2) and (3) of this 73287
section, the annual fee for an infectious waste treatment facility 73288
license shall be in accordance with the following schedule: 73289

AVERAGE	ANNUAL	73290
DAILY WASTE	LICENSE	73291
RECEIPT (TONS)	FEE	73292
100 or less	\$ 5,000	73293
101 to 200	12,500	73294
201 to 500	30,000	73295
501 or more	60,000	73296

For the purpose of determining the applicable license fee 73297
under divisions (C)(1) and (2) of this section, the average daily 73298
waste receipt shall be the average amount of infectious wastes the 73299
facility is authorized to receive daily that is established in the 73300
permit for the facility, and any modifications to that permit, 73301
issued under division (B)(2)(b) or (d) of section 3734.05 of the 73302
Revised Code; or the annual license for the facility, and any 73303
revisions to that license, issued under division (B)(2)(a) of 73304

section 3734.05 of the Revised Code. If no average daily waste receipt is so established, the annual license fee is sixty thousand dollars under division (C)(1) of this section and thirty thousand dollars under division (C)(2) of this section.

(2) The annual license fee for an infectious waste treatment facility that is an incinerator is one-half the amount shown in division (C)(1) of this section.

(3) Fees levied under divisions (C)(1) and (2) of this section shall apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after issuance of a license. The fee includes the cost of licensing, all inspections, and other costs associated with the administration of the infectious waste provisions of this chapter and rules adopted under them. Each such license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director, as appropriate, within thirty days after issuance of the license.

(4) The board of health shall retain two thousand five hundred dollars of each license fee collected by the board under divisions (C)(1) and (2) of this section. The moneys retained shall be paid into a special infectious waste fund, which is hereby created in each health district, and used solely to administer and enforce the infectious waste provisions of this chapter and the rules adopted under them. The remainder of each license fee collected by the board shall be transmitted to the director within forty-five days after receipt of the fee. The director shall transmit these moneys to the treasurer of state to be credited to the general revenue fund.

Sec. 3734.18. (A) As used in this section:

(1) "On-site facility" means a facility that treats or disposes of hazardous waste that is generated on the premises of

the facility. 73336

(2) "Off-site facility" means a facility that treats or 73337
disposes of hazardous waste that is generated off the premises of 73338
the facility. 73339

(3) "Satellite facility" means any of the following: 73340

(a) An on-site facility that also receives hazardous waste 73341
from other premises owned by the same person who generates the 73342
waste on the facility premises; 73343

(b) An off-site facility operated so that all of the 73344
hazardous waste it receives is generated on one or more premises 73345
owned by the person who owns the facility; 73346

(c) An on-site facility that also receives hazardous waste 73347
that is transported uninterruptedly and directly to the facility 73348
through a pipeline from a generator who is not the owner of the 73349
facility. 73350

(B) A treatment or disposal facility that is subject to the 73351
fees that are levied under this section may be both an on-site 73352
facility and an off-site facility. The determination of whether an 73353
on-site facility fee or an off-site facility fee is to be paid for 73354
a hazardous waste that is treated or disposed of at the facility 73355
shall be based on whether that hazardous waste was generated on or 73356
off the premises of the facility. 73357

(C) There are hereby levied fees on the disposal of hazardous 73358
waste to be collected according to the following schedule at each 73359
disposal facility to which a hazardous waste facility installation 73360
and operation permit or renewal of a permit has been issued under 73361
this chapter or that is operating in accordance with a permit by 73362
rule under rules adopted by the director of environmental 73363
protection: 73364

(1) For disposal facilities that are off-site facilities, 73365

fees shall be levied at the rate of four dollars and fifty cents 73366
per ton for hazardous waste disposed of by deep well injection and 73367
nine dollars per ton for hazardous waste disposed of by land 73368
application or landfilling. The owner or operator of the facility, 73369
as a trustee for the state, shall collect the fees and forward 73370
them to the director in accordance with rules adopted under this 73371
section. 73372

(2) For disposal facilities that are on-site or satellite 73373
facilities, fees shall be levied at the rate of two dollars per 73374
ton for hazardous waste disposed of by deep well injection and 73375
four dollars per ton for hazardous waste disposed of by land 73376
application or landfilling. The maximum annual disposal fee for an 73377
on-site disposal facility that disposes of one hundred thousand 73378
tons or less of hazardous waste in a year is twenty-five thousand 73379
dollars. The maximum annual disposal fee for an on-site facility 73380
that disposes of more than one hundred thousand tons of hazardous 73381
waste in a year by land application or landfilling is fifty 73382
thousand dollars, and the maximum annual fee for an on-site 73383
facility that disposes of more than one hundred thousand tons of 73384
hazardous waste in a year by deep well injection is one hundred 73385
thousand dollars. The maximum annual disposal fee for a satellite 73386
facility that disposes of one hundred thousand tons or less of 73387
hazardous waste in a year is thirty-seven thousand five hundred 73388
dollars, and the maximum annual disposal fee for a satellite 73389
facility that disposes of more than one hundred thousand tons of 73390
hazardous waste in a year is seventy-five thousand dollars, except 73391
that a satellite facility defined under division (A)(3)(b) of this 73392
section that receives hazardous waste from a single generation 73393
site is subject to the same maximum annual disposal fees as an 73394
on-site disposal facility. The owner or operator shall pay the fee 73395
to the director each year upon the anniversary of the date of 73396
issuance of the owner's or operator's installation and operation 73397
permit during the term of that permit and any renewal permit 73398

issued under division (H) of section 3734.05 of the Revised Code 73399
or on the anniversary of the date of a permit by rule. If payment 73400
is late, the owner or operator shall pay an additional ten per 73401
cent of the amount of the fee for each month that it is late. 73402

(D) There are hereby levied fees at the rate of two dollars 73403
per ton on hazardous waste that is treated at treatment facilities 73404
that are not on-site or satellite facilities to which a hazardous 73405
waste facility installation and operation permit or renewal of a 73406
permit has been issued under this chapter, whose owner or operator 73407
is operating in accordance with a permit by rule under rules 73408
adopted by the director, or that are not subject to the hazardous 73409
waste facility installation and operation permit requirements 73410
under rules adopted by the director. 73411

(E) There are hereby levied additional fees on the treatment 73412
and disposal of hazardous waste at the rate of ten per cent of the 73413
applicable fees prescribed in division (C) or (D) of this section 73414
for the purposes of paying the costs of municipal corporations and 73415
counties for conducting reviews of applications for hazardous 73416
waste facility installation and operation permits for proposed new 73417
or modified hazardous waste landfills within their boundaries, 73418
emergency response actions with respect to releases of hazardous 73419
waste from hazardous waste facilities within their boundaries, 73420
monitoring the operation of such hazardous waste facilities, and 73421
local waste management planning programs. The owner or operator of 73422
a facility located within a municipal corporation, as a trustee 73423
for the municipal corporation, shall collect the fees levied by 73424
this division and forward them to the treasurer of the municipal 73425
corporation or such officer as, by virtue of the charter, has the 73426
duties of the treasurer in accordance with rules adopted under 73427
this section. The owner or operator of a facility located in an 73428
unincorporated area, as a trustee of the county in which the 73429
facility is located, shall collect the fees levied by this 73430

division and forward them to the county treasurer of that county 73431
in accordance with rules adopted under this section. The owner or 73432
operator shall pay the fees levied by this division to the 73433
treasurer or such other officer of the municipal corporation or to 73434
the county treasurer each year upon the anniversary of the date of 73435
issuance of the owner's or operator's installation and operation 73436
permit during the term of that permit and any renewal permit 73437
issued under division (H) of section 3734.05 of the Revised Code 73438
or on the anniversary of the date of a permit by rule or the date 73439
on which the facility became exempt from hazardous waste facility 73440
installation and operation permit requirements under rules adopted 73441
by the director. If payment is late, the owner or operator shall 73442
pay an additional ten per cent of the amount of the fee for each 73443
month that the payment is late. 73444

Moneys received by a municipal corporation under this 73445
division shall be paid into a special fund of the municipal 73446
corporation and used exclusively for the purposes of conducting 73447
reviews of applications for hazardous waste facility installation 73448
and operation permits for new or modified hazardous waste 73449
landfills located or proposed within the municipal corporation, 73450
conducting emergency response actions with respect to releases of 73451
hazardous waste from facilities located within the municipal 73452
corporation, monitoring operation of such hazardous waste 73453
facilities, and conducting waste management planning programs 73454
within the municipal corporation through employees of the 73455
municipal corporation or pursuant to contracts entered into with 73456
persons or political subdivisions. Moneys received by a board of 73457
county commissioners under this division shall be paid into a 73458
special fund of the county and used exclusively for those purposes 73459
within the unincorporated area of the county through employees of 73460
the county or pursuant to contracts entered into with persons or 73461
political subdivisions. 73462

(F) As used in this section, "treatment" or "treated" does not include any method, technique, or process designed to recover energy or material resources from the waste or to render the waste amenable for recovery. The fees levied by division (D) of this section do not apply to hazardous waste that is treated and disposed of on the same premises or by the same person.

(G) The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe any dates not specified in this section and procedures for collecting and forwarding the fees prescribed by this section and may prescribe other requirements that are necessary to carry out this section.

The director shall deposit the moneys collected under divisions (C) and (D) of this section ~~into one or more minority banks, as "minority bank" is defined in division (F)(1) of section 135.04 of the Revised Code,~~ to the credit of the hazardous waste facility management fund, which is hereby created in the state treasury, except that the director shall deposit to the credit of the underground injection control fund created in section 6111.046 of the Revised Code moneys in excess of fifty thousand dollars that are collected during a fiscal year under division (C)(2) of this section from the fee levied on the disposal of hazardous waste by deep well injection at an on-site disposal facility that disposes of more than one hundred thousand tons of hazardous waste in a year.

The environmental protection agency may use moneys in the hazardous waste facility management fund for administration of the hazardous waste program established under this chapter and, in accordance with this section, may request approval by the controlling board on an annual basis for that use ~~on an annual basis. In addition, the agency may use and pledge moneys in that fund for repayment of and for interest on any loans made by the~~

~~Ohio water development authority to the agency for the hazardous waste program established under this chapter without the necessity of requesting approval by the controlling board, which use and pledge shall have priority over any other use of the moneys in the fund and for the purposes specified in sections 3734.19 to 3734.27 of the Revised Code.~~

~~Until September 28, 1996, the director also may use moneys in the fund to pay the start up costs of administering Chapter 3746. of the Revised Code.~~

If moneys in the fund that the agency uses in accordance with this chapter are reimbursed by grants or other moneys from the United States government, the grants or other moneys shall be placed in the fund.

Before the agency makes any expenditure from the fund other than for repayment of and interest on any loan made by the Ohio water development authority to the agency ~~in accordance with this section~~, the controlling board shall approve the expenditure.

Sec. 3734.19. (A) If the legislative or executive authority of a municipal corporation, county, or township has evidence to indicate that locations within its boundaries once served as hazardous waste facilities or that significant quantities of hazardous waste were disposed of in solid waste facilities within its boundaries, it may file a formal written request with the director of environmental protection, accompanied by supporting evidence, to survey the locations or facilities.

Upon receipt of a request and a review of the evidence submitted with the request, the director shall conduct an investigation to determine if hazardous waste was actually treated, stored, or disposed of at the locations or facilities and, if so, to determine the nature and approximate quantity and types of the waste treated, stored, or disposed of at the

particular locations or facilities. In addition, the director 73526
shall determine whether the locations or facilities, because of 73527
their present condition and the nature and quantities of waste 73528
treated, stored, or disposed of therein, result or are likely to 73529
result in air pollution, pollution of the waters of the state, or 73530
soil contamination or constitute a present or imminent and 73531
substantial threat to public health or safety. The director shall 73532
report the findings of ~~his~~ the investigation to the municipal 73533
corporation, county, or township requesting the survey. 73534

For the purpose of conducting investigations under this 73535
section, the director or ~~his~~ the director's authorized 73536
representative may enter upon any public or private property. The 73537
director or ~~his~~ the director's authorized representative may apply 73538
for, and any judge of a court of common pleas shall issue, an 73539
appropriate search warrant necessary to achieve the purposes of 73540
this section within the court's territorial jurisdiction. When 73541
conducting investigations under this section, the director shall 73542
cause no unnecessary damage to any property. The director may 73543
expend moneys from the hazardous waste facility management fund 73544
created in section 3734.18 of the Revised Code, the hazardous 73545
waste clean-up fund created in section 3734.28 of the Revised 73546
Code, or the environmental protection remediation fund created in 73547
section 3734.281 of the Revised Code for conducting 73548
investigations. 73549

(B) As used in this section and in sections 3734.20, 3734.21, 73550
3734.23, 3734.25, and 3734.26 of the Revised Code, "soil 73551
contamination" means the presence in or on the soil of any 73552
hazardous waste or hazardous waste residue resulting from the 73553
discharge, deposit, injection, dumping, spilling, leaking, 73554
emitting, or placing into or on the soil of hazardous waste or 73555
hazardous waste residue, or any material that when discharged, 73556
deposited, injected, dumped, spilled, leaked, emitted, or placed 73557

into or on the soil becomes a hazardous waste, in any quantity or 73558
having any characteristics that are or threaten to be injurious to 73559
public health or safety, plant or animal life, or the environment 73560
or that unreasonably interfere with the comfortable enjoyment of 73561
life or property. 73562

Sec. 3734.20. (A) If the director of environmental protection 73563
has reason to believe that hazardous waste was treated, stored, or 73564
disposed of at any location within the state, the director may 73565
conduct such investigations and make such inquiries, including 73566
obtaining samples and examining and copying records, as are 73567
reasonable or necessary to determine if conditions at a hazardous 73568
waste facility, solid waste facility, or other location where the 73569
director has reason to believe hazardous waste was treated, 73570
stored, or disposed of constitute a substantial threat to public 73571
health or safety or are causing or contributing to or threatening 73572
to cause or contribute to air or water pollution or soil 73573
contamination. The director or the director's authorized 73574
representative may apply for, and any judge of a court of common 73575
pleas shall issue, an appropriate search warrant necessary to 73576
achieve the purposes of this section within the court's 73577
territorial jurisdiction. The director may expend moneys from the 73578
hazardous waste facility management fund created in section 73579
3734.18 of the Revised Code, the hazardous waste clean-up fund 73580
created in section 3734.28 of the Revised Code, or the 73581
environmental protection remediation fund created in section 73582
3734.281 of the Revised Code for conducting investigations under 73583
this section. 73584

(B) If the director determines that conditions at a hazardous 73585
waste facility, solid waste facility, or other location where 73586
hazardous waste was treated, stored, or disposed of constitute a 73587
substantial threat to public health or safety or are causing or 73588
contributing to or threatening to cause or contribute to air or 73589

water pollution or soil contamination, the director shall initiate 73590
appropriate action under this chapter or Chapter 3704. or 6111. of 73591
the Revised Code or seek any other appropriate legal or equitable 73592
remedies to abate the pollution or contamination or to protect 73593
public health or safety. 73594

If an order of the director to abate or prevent air or water 73595
pollution or soil contamination or to remedy a threat to public 73596
health or safety caused by conditions at such a facility issued 73597
pursuant to this chapter or Chapter 3704. or 6111. of the Revised 73598
Code is not wholly complied with within the time prescribed in the 73599
order, the director may, through officers or employees of the 73600
environmental protection agency or through contractors employed 73601
for that purpose in accordance with the bidding procedure 73602
established in division (C) of section 3734.23 of the Revised 73603
Code, enter upon the facility and perform those measures necessary 73604
to abate or prevent air or water pollution or soil contamination 73605
from the facility or to protect public health or safety, 73606
including, but not limited to, measures prescribed in division (B) 73607
of section 3734.23 of the Revised Code. The director shall keep an 73608
itemized record of the cost of the investigation and measures 73609
performed, including costs for labor, materials, and any contract 73610
services required. Upon completion of the investigation or 73611
measures, the director shall record the cost of performing those 73612
measures at the office of the county recorder of the county in 73613
which the facility is located. The cost so recorded constitutes a 73614
lien against the property on which the facility is located until 73615
discharged. Upon written request of the director, the attorney 73616
general shall institute a civil action to recover the cost. Any 73617
moneys so received shall be credited to the hazardous waste 73618
facility management fund, the hazardous waste clean-up fund, or 73619
the environmental protection remediation fund, as applicable. 73620

When entering upon a facility under this division, the 73621

director shall perform or cause to be performed only those 73622
measures necessary to abate or prevent air or water pollution or 73623
soil contamination caused by conditions at the facility or to 73624
abate threats to public health or safety caused by conditions at 73625
the facility. For this purpose the director may expend moneys from 73626
~~either the hazardous waste facility management fund, the hazardous~~ 73627
~~waste clean-up fund, or the environmental protection remediation~~ 73628
fund and may expend moneys from loans from the Ohio water 73629
development authority to the environmental protection agency that 73630
pledge moneys from ~~either the hazardous waste facility management~~ 73631
~~fund, the hazardous waste clean-up fund, or the environmental~~ 73632
~~protection remediation~~ fund for the repayment of and for the 73633
interest on such loans. 73634

Sec. 3734.21. (A) The director of environmental protection 73635
may expend moneys credited to the hazardous waste facility 73636
management fund created in section 3734.18 of the Revised Code, 73637
the hazardous waste clean-up fund created in section 3734.28 of 73638
the Revised Code, or the environmental protection remediation fund 73639
created in section 3734.281 of the Revised Code for the payment of 73640
the cost of measures necessary for the proper closure of hazardous 73641
waste facilities or any solid waste facilities containing 73642
significant quantities of hazardous waste, for the payment of 73643
costs of the development and construction of suitable hazardous 73644
waste facilities required by division (B) of section 3734.23 of 73645
the Revised Code to the extent the director determines that such 73646
facilities are not available, and for the payment of costs that 73647
are necessary to abate conditions thereon that are causing or 73648
contributing to or threatening to cause or contribute to air or 73649
water pollution or soil contamination or that constitute a 73650
substantial threat to public health or safety. In addition, the 73651
director may expend and pledge moneys credited to ~~either the~~ 73652
hazardous waste facility management fund, the hazardous waste 73653

clean-up fund, or the environmental protection remediation fund 73654
for repayment of and for interest on any loan made by the Ohio 73655
water development authority to the environmental protection agency 73656
for the payment of such costs. 73657

(B) Before beginning to clean up any facility under this 73658
section, the director shall develop a plan for the cleanup and an 73659
estimate of the cost thereof. The plan shall include only those 73660
measures necessary to abate conditions thereon that are causing or 73661
contributing to or threatening to cause or contribute to air or 73662
water pollution or soil contamination or that constitute a 73663
substantial threat to public health or safety, including, but not 73664
limited to, establishment and maintenance of an adequate cover of 73665
soil and vegetation on any facility for the burial of hazardous 73666
waste to prevent the infiltration of water into cells where 73667
hazardous waste is buried, the accumulation or runoff of 73668
contaminated surface water, the production of leachate, and air 73669
emissions of hazardous waste; the collection and treatment of 73670
contaminated surface water runoff; the collection and treatment of 73671
leachate; or, if conditions so require, the removal of hazardous 73672
waste from the facility and the treatment or disposal of the waste 73673
at a suitable hazardous waste facility. The plan or any part of 73674
the plan for the cleanup of the facility shall be carried out by 73675
entering into contracts therefor in accordance with the procedures 73676
established in division (C) of section 3734.23 of the Revised 73677
Code. 73678

Sec. 3734.22. Before beginning to clean up any facility under 73679
section 3734.21 of the Revised Code, the director of environmental 73680
protection shall endeavor to enter into an agreement with the 73681
owner of the land on which the facility is located, or with the 73682
owner of the facility, specifying the measures to be performed and 73683
authorizing the director, employees of the agency, or contractors 73684
retained by the director to enter upon the land and perform the 73685

specified measures. 73686

Each agreement may contain provisions for the reimbursement 73687
of the state for the costs of the cleanup. 73688

All reimbursements and payments shall be credited to the 73689
hazardous waste facility management fund created in section 73690
3734.18 of the Revised Code, the hazardous waste clean-up fund 73691
created in section 3734.28 of the Revised Code, or the 73692
environmental protection remediation fund created in section 73693
3734.281 of the Revised Code, as applicable. 73694

The agreement may require the owner to execute an easement 73695
whereby the director, an authorized employee of the agency, or a 73696
contractor employed by the agency in accordance with the bidding 73697
procedure established in division (C) of section 3734.23 of the 73698
Revised Code may enter upon the facility to sample, repair, or 73699
reconstruct air and water quality monitoring equipment constructed 73700
under the agreement. Such easements shall be for a specified 73701
period of years and may be extinguished by agreement between the 73702
owner and the director. When necessary to protect the public 73703
health or safety, the agreement may require the owner to enter 73704
into an environmental covenant with the director in accordance 73705
with sections 5301.80 to 5301.92 of the Revised Code. 73706

Upon a breach of the reimbursement provisions of the 73707
agreement by the owner of the land or facility, or upon 73708
notification to the director by the owner that the owner is unable 73709
to perform the duties under the reimbursement provisions of the 73710
agreement, the director may record the unreimbursed portion of the 73711
costs of cleanup at the office of the county recorder of the 73712
county in which the facility is located. The costs so recorded 73713
constitute a lien against the property on which the facility is 73714
located until discharged. Upon written request of the director, 73715
the attorney general shall institute a civil action to recover the 73716
unreimbursed portion of the costs of cleanup. Any moneys so 73717

recovered shall be credited to the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund, as applicable.

Sec. 3734.23. (A) The director of environmental protection may acquire by purchase, gift, donation, contribution, or appropriation in accordance with sections 163.01 to 163.21 of the Revised Code any hazardous waste facility or any solid waste facility containing significant quantities of hazardous waste that, because of its condition and the types and quantities of hazardous waste contained in the facility, constitutes an imminent and substantial threat to public health or safety or results in air pollution, pollution of the waters of the state, or soil contamination. For this purpose and for the purposes of division (B) of this section, the director may expend moneys from the hazardous waste facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for the repayment of and for the interest on such loans. Any lands or facilities purchased or acquired under this section shall be deeded to the state, but no deed shall be accepted or the purchase price paid until the title has been approved by the attorney general.

(B) The director shall, with respect to any land or facility acquired under this section or cleaned up under section 3734.20 of the Revised Code, perform closure or other measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or

soil contamination or that constitute a substantial threat to 73750
public health or safety, including, but not limited to, 73751
establishment and maintenance of an adequate cover of soil and 73752
vegetation on any facility for the burial of hazardous waste to 73753
prevent the infiltration of water into cells where hazardous waste 73754
is buried, the accumulation or runoff of contaminated surface 73755
water, the production of leachate, and air emissions of hazardous 73756
waste; the collection and treatment of contaminated surface water 73757
runoff; the collection and treatment of leachate; or, if 73758
conditions so require, the removal of hazardous waste from the 73759
facility and the treatment or disposal of the waste at a suitable 73760
hazardous waste facility. After performing these measures, the 73761
director shall provide for the post-closure care, maintenance, and 73762
monitoring of facilities cleaned up under this section. 73763

(C) Before proceeding to clean up any facility under this 73764
section or section 3734.20 or 3734.21 of the Revised Code, the 73765
director shall develop a plan for the cleanup of the facility and 73766
an estimate of the cost thereof. The director may carry out the 73767
plan or any part of the plan by contracting for the services, 73768
construction, and repair necessary therefor. The director shall 73769
award each such contract to the lowest responsible bidder after 73770
sealed bids therefor are received, opened, and published at the 73771
time fixed by the director and notice of the time and place at 73772
which the sealed bids will be received, opened, and published has 73773
been published by the director in a newspaper of general 73774
circulation in the county in which the facility to be cleaned up 73775
under the contract is located at least once within the ten days 73776
before the opening of the bids. However, if after advertising for 73777
bids for the contract, no bids are received by the director at the 73778
time and place fixed for receiving them, the director may 73779
advertise again for bids, or the director may, if the director 73780
considers the public interest will best be served thereby, enter 73781
into a contract for the cleanup of the facility without further 73782

advertisement for bids. The director may reject any or all bids 73783
received and fix and publish again notice of the time and place at 73784
which bids for the contracts will be received, opened, and 73785
published. 73786

(D) The director shall keep an itemized record of the costs 73787
of any acquisition under division (A) of this section and the 73788
costs of cleanup under division (B) of this section. 73789

Sec. 3734.24. After the cleanup of a solid waste facility or 73790
a hazardous waste facility acquired and cleaned up under section 73791
3734.23 of the Revised Code, the director of environmental 73792
protection may, if the facility is suitable for use by any other 73793
state department, agency, office, or institution and if the 73794
proposed use of the facility is compatible with the condition of 73795
the facility as cleaned up, transfer the facility to that state 73796
department, agency, office, or institution. The director shall 73797
continue to provide for the post-closure care, maintenance, and 73798
monitoring of any such cleaned-up facility as required by section 73799
3734.23 of the Revised Code. 73800

If the director determines that any facility so cleaned up is 73801
suitable, because of its condition as cleaned up, for restricted 73802
or unrestricted use, the director may, with the approval of the 73803
attorney general, sell the facility if the sale is advantageous to 73804
the state. Prior to selling the cleaned-up facility, the director 73805
shall, when necessary to protect public health or safety, enter 73806
into an environmental covenant in accordance with sections 5301.80 73807
to 5301.92 of the Revised Code. When selling any such cleaned-up 73808
facility, the director shall retain the right to enter upon the 73809
facility, in person or by an authorized agent, to provide for the 73810
post-closure care, maintenance, and monitoring of the facility. 73811
The director shall provide for the post-closure care, maintenance, 73812
and monitoring of any such facility sold as required by section 73813

3734.23 of the Revised Code. 73814

With the approval of the attorney general, the director may 73815
grant easements or leases on any such cleaned-up facility if the 73816
director determines that the use of the facility under the 73817
easement or lease is compatible with its condition as cleaned up. 73818

Any moneys derived from the sale of such cleaned-up 73819
facilities or from payments from easements or leases shall be 73820
credited to the hazardous waste facility management fund created 73821
in section 3734.18 of the Revised Code, the hazardous waste 73822
clean-up fund created in section 3734.28 of the Revised Code, or 73823
the environmental protection remediation fund created in section 73824
3734.281 of the Revised Code, as applicable. 73825

Sec. 3734.25. (A) The director of environmental protection 73826
may make grants of moneys from the hazardous waste facility 73827
management fund created in section 3734.18 of the Revised Code or 73828
the hazardous waste clean-up fund created in section 3734.28 of 73829
the Revised Code for payment by the state of up to two-thirds of 73830
the reasonable and necessary expenses incurred by a municipal 73831
corporation, county, or township for the proper closure of or 73832
abatement of air or water pollution or soil contamination from a 73833
solid waste facility in which significant quantities of hazardous 73834
waste were disposed of and that the political subdivision owns and 73835
once operated. 73836

(B) A municipal corporation, county, or township shall submit 73837
an application for a grant on forms provided by the director, 73838
together with detail plans and specifications indicating the 73839
measures to be performed, an itemized estimate of the project's 73840
cost, a description of the project's benefits, and such other 73841
information as the director prescribes. The plan for closure or 73842
abatement of air or water pollution or soil contamination may be 73843
prepared in consultation with the director or the board of health 73844

of the city or general health district in which the facility is 73845
located. The director may award the applicant a grant only if the 73846
director finds that the proposed measures will provide for the 73847
proper closure of the facility and will abate or prevent air or 73848
water pollution or soil contamination, including, but not limited 73849
to, those measures necessary or desirable to: 73850

(1) In the case of a facility at which land burial of 73851
hazardous waste occurred, establish and maintain a suitable cover 73852
of soil and vegetation over the cells in which waste is buried in 73853
order to minimize erosion, the infiltration of surface water into 73854
the cells, the production of leachate, and the accumulation or 73855
runoff of contaminated surface waters and to prevent air emissions 73856
of hazardous waste from the facility; 73857

(2) Collect and treat contaminated surface water runoff from 73858
the facility; 73859

(3) Collect and treat leachate produced at the facility; 73860

(4) Install test wells and other equipment or facilities to 73861
monitor the quality of surface waters receiving runoff from the 73862
facility or to monitor air emissions of hazardous waste from the 73863
facility; 73864

(5) Regularly monitor and analyze surface water runoff from 73865
the facility, the quality of waters receiving the runoff, and 73866
ground water quality in the vicinity of the facility, and 73867
regularly monitor leachate collection and treatment systems 73868
installed under the grant and analyze samples from them; 73869

(6) Remove and dispose of hazardous waste from the facility 73870
at a suitable hazardous waste disposal facility where necessary to 73871
protect public health or safety or to prevent or abate air or 73872
water pollution or soil contamination. 73873

(C) The director shall determine the amount of the grant 73874
based upon the director's determination of what constitutes 73875

reasonable and necessary expenses for the proper closure of the 73876
facility or for the prevention or elimination of air or water 73877
pollution or soil contamination from the facility. In making a 73878
grant, the director shall enter into a contract with the municipal 73879
corporation, county, or township that owns the facility to ensure 73880
that the moneys granted are used for the purposes of this section 73881
and that measures performed are properly done. The final payment 73882
under a grant may not be made until the director inspects and 73883
approves the completed cleanup. 73884

The contract shall require the municipal corporation, county, 73885
or township to execute an easement whereby the director, an 73886
authorized employee of the agency, or a contractor employed by the 73887
director may enter upon the facility to sample, repair, or 73888
reconstruct air and water quality monitoring equipment constructed 73889
under the contract. Such easements shall be for a specified period 73890
of years and may be extinguished by agreement between the 73891
political subdivision and the director. 73892

When necessary to protect public health or safety, the 73893
contract may require the municipal corporation, county, or 73894
township to enter into an environmental covenant with the director 73895
in accordance with sections 5301.80 to 5301.92 of the Revised 73896
Code. 73897

Sec. 3734.26. (A) The director of environmental protection 73898
may make grants of moneys from the hazardous waste facility 73899
management fund created in section 3734.18 of the Revised Code or 73900
the hazardous waste clean-up fund created in section 3734.28 of 73901
the Revised Code to the owner, other than a political subdivision, 73902
of a solid waste facility in which significant quantities of 73903
hazardous waste were disposed of or a hazardous waste facility for 73904
up to fifty per cent of the cost of the reasonable and necessary 73905
expenses incurred for the proper closure of or abatement or 73906

prevention of air or water pollution or soil contamination from 73907
the facility and for developing the land on which it was located 73908
for use in industry, commerce, distribution, or research. 73909

The director shall not make grants to the owner of any land 73910
on which such facilities are located if the owner at any time 73911
owned or operated the facility located thereon for profit or in 73912
conjunction with any profit-making enterprise located in this 73913
state or to any person who at any time owned or operated a 73914
facility concerning which the director has taken action under 73915
section 3734.20, 3734.22, or 3734.23 of the Revised Code. However, 73916
the director may make grants under this section to any subsequent 73917
owner of the land, provided that the person has no affiliation 73918
with any person who owned or operated the facility located on the 73919
land for profit or in conjunction with any profit-making 73920
enterprise located in this state or who owned or operated a 73921
facility concerning which the director has taken action under 73922
section 3734.20, 3734.22, or 3734.23 of the Revised Code. 73923

(B) The owner shall submit an application for a grant on 73924
forms furnished by the director, together with detail plans and 73925
specifications for the measures to be performed to close the 73926
facility properly or to abate or prevent air or water pollution or 73927
soil contamination from the facility, an itemized estimate of the 73928
project's cost, a description of the project's estimated benefits, 73929
and such other information as the director prescribes. The plan 73930
may be prepared in consultation with the director or with the 73931
board of health of the city or general health district in which 73932
the facility is located. The director may award the applicant a 73933
grant only after finding that the proposed measures will provide 73934
for the proper closure of the facility or will abate or prevent 73935
air or water pollution or soil contamination from the facility, 73936
including, but not limited to, those measures necessary or 73937
desirable to: 73938

(1) In the case of a facility for the land burial of hazardous waste, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface water and to prevent air emissions of hazardous waste from the facility;

(2) Collect and treat contaminated surface water runoff from the facility;

(3) Collect and treat leachate produced at the facility;

(4) Install test wells and other equipment or facilities to monitor the quality of surface waters receiving runoff from the facility or to monitor air emissions of hazardous waste from the facility;

(5) Regularly monitor and analyze surface water runoff from the facility, the quality of waters receiving the runoff, and ground water quality in the vicinity of the facility, and regularly monitor leachate collection and treatment systems installed under the grant and analyze samples from them;

(6) Remove and dispose of hazardous waste from the facility at a suitable hazardous waste disposal facility where necessary to protect public health or safety or to abate or prevent air or water pollution or soil contamination.

(C) The director shall determine the amount of the grant based upon the director's determination of what constitutes reasonable and necessary expenses for the proper closure of the facility or for the abatement or prevention of air or water pollution or soil contamination from the facility. The amount of the grant shall not exceed one-half of the total, as determined by the director, of what constitutes reasonable and necessary expenses actually incurred for the proper closure of or abatement

or prevention of air or water pollution or soil contamination from 73970
the facility. 73971

In making a grant, the director shall enter into a contract 73972
for funding with each applicant awarded a grant to ensure that the 73973
moneys granted are used for the purpose of this section and that 73974
the measures performed are properly performed. The final payment 73975
under a grant may not be made until the director inspects and 73976
approves the completed cleanup and the plans for developing the 73977
land for use in industry, commerce, distribution, or research. 73978

Each contract for funding shall contain provisions for the 73979
reimbursement of the state of a portion of the costs of the 73980
cleanup that is commensurate with the increase in the market value 73981
of the property attributable to the cleanup thereon, as determined 73982
by appraisals made before and after cleanup in the manner stated 73983
in the contract. For reimbursement of that portion, the contract 73984
may include provisions for: 73985

(1) Payment to the state of the share of the income derived 73986
from the productive use of the land; 73987

(2) Imposition of a lien in the amount of the increase in 73988
fair market value payable upon the transfer or conveyance to a new 73989
owner; 73990

(3) Waiver of all reimbursement if the determination 73991
discloses an increase in value that is insubstantial in comparison 73992
to the benefits to the public from the abatement of threats to 73993
public health or safety or from the abatement or prevention of 73994
pollution or contamination, considering the applicant's share of 73995
the cleanup cost. 73996

All reimbursements and payments shall be credited to the 73997
hazardous waste facility management fund or the hazardous waste 73998
clean-up fund ~~created in section 3734.28 of the Revised Code, as~~ 73999
applicable. 74000

(D) The contract shall require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary to protect the public health or safety, the contract may require the owner to enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.

(E) As used in this section, "commerce" includes, but is not limited to, agriculture, forestry, and housing.

Sec. 3734.27. Before making grants from the hazardous waste facility management fund created in section 3734.18 of the Revised Code or the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, the director of environmental protection shall consider each project application submitted by a political subdivision under section 3734.25 of the Revised Code, each application submitted by the owner of a facility under section 3734.26 of the Revised Code, and each facility surveyed under section 3734.19 of the Revised Code and, based upon the feasibility, cost, and public benefits of restoring the particular land and the availability of federal or other financial assistance for restoration, establish priorities for awarding grants from the fund.

Sec. 3734.28. Except as otherwise provided in ~~section~~ sections 3734.281 and 3734.282 of the Revised Code, moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and under the "Comprehensive Environmental Response, Compensation, and Liability

Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, 74032
including moneys recovered under division (B)(1) of this section, 74033
shall be paid into the state treasury to the credit of the 74034
hazardous waste clean-up fund, which is hereby created. In 74035
addition, ~~any moneys~~ both of the following shall be credited to 74036
the fund: 74037

(A) Moneys recovered for costs paid from the fund for 74038
activities described in divisions (A)(1) and (2) of section 74039
3745.12 of the Revised Code ~~shall be credited to the fund;~~ 74040

(B) Natural resource damage assessment costs recovered under 74041
any of the following: 74042

(1) The "Comprehensive Environmental Response, Compensation, 74043
and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, et 74044
seq., as amended; 74045

(2) The "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 74046
2701, et seq., as amended; 74047

(3) The Federal Water Pollution Control Act as defined in 74048
section 6111.01 of the Revised Code; 74049

(4) Any other applicable federal or state law. ~~The~~ 74050

The environmental protection agency shall use the moneys in 74051
the fund for the purposes set forth in division (D) of section 74052
3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 74053
3734.26, and 3734.27, divisions (A)(1) and (2) of section 3745.12, 74054
and Chapter 3746. of the Revised Code, including any related 74055
enforcement expenses. In addition, the agency shall use the moneys 74056
in the fund to pay the state's long-term operation and maintenance 74057
costs or matching share for actions taken under the "Comprehensive 74058
Environmental Response, Compensation, and Liability Act of 1980," 74059
as amended. If those moneys are reimbursed by grants or other 74060
moneys from the United States or any other person, the moneys 74061
shall be placed in the fund and not in the general revenue fund. 74062

The director of environmental protection may enter into 74063
contracts and grant agreements with federal, state, or local 74064
government agencies, nonprofit organizations, and colleges and 74065
universities for the purpose of carrying out the responsibilities 74066
of the environmental protection agency for which money may be 74067
expended from the fund. 74068

Sec. 3734.282. ~~All~~ Except for natural resource damage 74069
assessment costs recovered by the state that are required by 74070
section 3734.28 of the Revised Code to be credited to the 74071
hazardous waste clean-up fund created in that section, all money 74072
collected by the state for natural resources damages under the 74073
"Comprehensive Environmental Response, Compensation, and Liability 74074
Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, 74075
the "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701 et 74076
seq., as amended, the ~~"Clean Federal Water Pollution Control Act,"~~ 74077
~~86 Stat. 862, 33 U.S.C. 1321,~~ as amended defined in section 74078
6111.01 of the Revised Code, or any other applicable federal or 74079
state law shall be paid into the state treasury to the credit of 74080
the natural resource damages fund, which is hereby created. The 74081
director of environmental protection shall use money in the fund 74082
only in accordance with the purposes of and the limitations on 74083
natural resources damages set forth in the "Comprehensive 74084
Environmental Response, Compensation, and Liability Act of 1980," 74085
as amended, the "Oil Pollution Act of 1990," as amended, the 74086
~~"Clean Federal Water Pollution Control Act,"~~ as amended, or 74087
another applicable federal or state law. All investment earnings 74088
of the fund shall be credited to the fund. 74089

The director of environmental protection may enter into 74090
contracts and grant agreements with federal, state, or local 74091
government agencies, nonprofit organizations, and colleges and 74092
universities for the purpose of carrying out the director's 74093
responsibilities for which money may be expended from the fund. 74094

Sec. 3734.57. (A) The following fees are hereby levied on the 74095
transfer or disposal of solid wastes in this state: 74096

(1) One dollar per ton ~~on and after July 1, 2003,~~ through 74097
June 30, ~~2012~~ 2014, one-half of the proceeds of which shall be 74098
deposited in the state treasury to the credit of the hazardous 74099
waste facility management fund created in section 3734.18 of the 74100
Revised Code and one-half of the proceeds of which shall be 74101
deposited in the state treasury to the credit of the hazardous 74102
waste clean-up fund created in section 3734.28 of the Revised 74103
Code; 74104

(2) An additional one dollar per ton ~~on and after July 1,~~ 74105
~~2003,~~ through June 30, ~~2012~~ 2014, the proceeds of which shall be 74106
deposited in the state treasury to the credit of the solid waste 74107
fund, which is hereby created. The environmental protection agency 74108
shall use money in the solid waste fund to pay the costs of 74109
administering and enforcing the laws pertaining to solid wastes, 74110
infectious wastes, and construction and demolition debris, 74111
including, without limitation, ground water evaluations related to 74112
solid wastes, infectious wastes, and construction and demolition 74113
debris, under this chapter and Chapter 3714. of the Revised Code 74114
and any rules adopted under them, providing compliance assistance 74115
to small businesses, and paying a share of the administrative 74116
costs of the environmental protection agency pursuant to section 74117
3745.014 of the Revised Code. 74118

(3) An additional ~~one dollar~~ two dollars and fifty cents per 74119
ton ~~on and after July 1, 2005,~~ through June 30, ~~2012~~ 2014, the 74120
proceeds of which shall be deposited in the state treasury to the 74121
credit of the environmental protection fund created in section 74122
3745.015 of the Revised Code; 74123

(4) ~~An additional one dollar per ton on and after August 1,~~ 74124
~~2009, through June 30, 2012, the proceeds of which shall be~~ 74125

~~deposited in the state treasury to the credit of the environmental
protection fund.~~ 74126
74127

(5) An additional twenty-five cents per ton ~~on and after~~ 74128
~~August 1, 2009,~~ through June 30, ~~2012~~ 2013, the proceeds of which 74129
shall be deposited in the state treasury to the credit of the soil 74130
and water conservation district assistance fund created in section 74131
1515.14 of the Revised Code. 74132

In the case of solid wastes that are taken to a solid waste 74133
transfer facility located in this state prior to being transported 74134
for disposal at a solid waste disposal facility located in this 74135
state or outside of this state, the fees levied under this 74136
division shall be collected by the owner or operator of the 74137
transfer facility as a trustee for the state. The amount of fees 74138
required to be collected under this division at such a transfer 74139
facility shall equal the total tonnage of solid wastes received at 74140
the facility multiplied by the fees levied under this division. In 74141
the case of solid wastes that are not taken to a solid waste 74142
transfer facility located in this state prior to being transported 74143
to a solid waste disposal facility, the fees shall be collected by 74144
the owner or operator of the solid waste disposal facility as a 74145
trustee for the state. The amount of fees required to be collected 74146
under this division at such a disposal facility shall equal the 74147
total tonnage of solid wastes received at the facility that was 74148
not previously taken to a solid waste transfer facility located in 74149
this state multiplied by the fees levied under this division. Fees 74150
levied under this division do not apply to materials separated 74151
from a mixed waste stream for recycling by a generator or 74152
materials removed from the solid waste stream through recycling, 74153
as "recycling" is defined in rules adopted under section 3734.02 74154
of the Revised Code. 74155

The owner or operator of a solid waste transfer facility or 74156
disposal facility, as applicable, shall prepare and file with the 74157

director of environmental protection each month a return 74158
indicating the total tonnage of solid wastes received at the 74159
facility during that month and the total amount of the fees 74160
required to be collected under this division during that month. In 74161
addition, the owner or operator of a solid waste disposal facility 74162
shall indicate on the return the total tonnage of solid wastes 74163
received from transfer facilities located in this state during 74164
that month for which the fees were required to be collected by the 74165
transfer facilities. The monthly returns shall be filed on a form 74166
prescribed by the director. Not later than thirty days after the 74167
last day of the month to which a return applies, the owner or 74168
operator shall mail to the director the return for that month 74169
together with the fees required to be collected under this 74170
division during that month as indicated on the return or may 74171
submit the return and fees electronically in a manner approved by 74172
the director. If the return is filed and the amount of the fees 74173
due is paid in a timely manner as required in this division, the 74174
owner or operator may retain a discount of three-fourths of one 74175
per cent of the total amount of the fees that are required to be 74176
paid as indicated on the return. 74177

The owner or operator may request an extension of not more 74178
than thirty days for filing the return and remitting the fees, 74179
provided that the owner or operator has submitted such a request 74180
in writing to the director together with a detailed description of 74181
why the extension is requested, the director has received the 74182
request not later than the day on which the return is required to 74183
be filed, and the director has approved the request. If the fees 74184
are not remitted within thirty days after the last day of the 74185
month to which the return applies or are not remitted by the last 74186
day of an extension approved by the director, the owner or 74187
operator shall not retain the three-fourths of one per cent 74188
discount and shall pay an additional ten per cent of the amount of 74189
the fees for each month that they are late. For purposes of 74190

calculating the late fee, the first month in which fees are late 74191
begins on the first day after the deadline has passed for timely 74192
submitting the return and fees, and one additional month shall be 74193
counted every thirty days thereafter. 74194

The owner or operator of a solid waste facility may request a 74195
refund or credit of fees levied under this division and remitted 74196
to the director that have not been paid to the owner or operator. 74197
Such a request shall be made only if the fees have not been 74198
collected by the owner or operator, have become a debt that has 74199
become worthless or uncollectable for a period of six months or 74200
more, and may be claimed as a deduction, including a deduction 74201
claimed if the owner or operator keeps accounts on an accrual 74202
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 74203
U.S.C. 166, as amended, and regulations adopted under it. Prior to 74204
making a request for a refund or credit, an owner or operator 74205
shall make reasonable efforts to collect the applicable fees. A 74206
request for a refund or credit shall not include any costs 74207
resulting from those efforts to collect unpaid fees. 74208

A request for a refund or credit of fees shall be made in 74209
writing, on a form prescribed by the director, and shall be 74210
supported by evidence that may be required in rules adopted by the 74211
director under this chapter. After reviewing the request, and if 74212
the request and evidence submitted with the request indicate that 74213
a refund or credit is warranted, the director shall grant a refund 74214
to the owner or operator or shall permit a credit to be taken by 74215
the owner or operator on a subsequent monthly return submitted by 74216
the owner or operator. The amount of a refund or credit shall not 74217
exceed an amount that is equal to ninety days' worth of fees owed 74218
to an owner or operator by a particular debtor of the owner or 74219
operator. A refund or credit shall not be granted by the director 74220
to an owner or operator more than once in any twelve-month period 74221
for fees owed to the owner or operator by a particular debtor. 74222

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be paid by the customer or a political subdivision to the owner or operator of a solid waste transfer or disposal facility. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment regardless of whether the contract was entered prior to or after the effective date of this amendment. For those purposes, "customer" means a person who contracts with, or utilizes the solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located 74255
in the district of solid wastes generated within the district; 74256

(2) The disposal at a solid waste disposal facility within 74257
the district of solid wastes generated outside the boundaries of 74258
the district, but inside this state; 74259

(3) The disposal at a solid waste disposal facility within 74260
the district of solid wastes generated outside the boundaries of 74261
this state. 74262

The solid waste management plan of the county or joint 74263
district approved under section 3734.521 or 3734.55 of the Revised 74264
Code and any amendments to it, or the resolution adopted under 74265
this division, as appropriate, shall establish the rates of the 74266
fees levied under divisions (B)(1), (2), and (3) of this section, 74267
if any, and shall specify whether the fees are levied on the basis 74268
of tons or cubic yards as the unit of measurement. A solid waste 74269
management district that levies fees under this division on the 74270
basis of cubic yards shall do so in accordance with division (A) 74271
of this section. 74272

The fee levied under division (B)(1) of this section shall be 74273
not less than one dollar per ton nor more than two dollars per 74274
ton, the fee levied under division (B)(2) of this section shall be 74275
not less than two dollars per ton nor more than four dollars per 74276
ton, and the fee levied under division (B)(3) of this section 74277
shall be not more than the fee levied under division (B)(1) of 74278
this section. 74279

Prior to the approval of the solid waste management plan of a 74280
district under section 3734.55 of the Revised Code, the solid 74281
waste management policy committee of a district may levy fees 74282
under this division by adopting a resolution establishing the 74283
proposed amount of the fees. Upon adopting the resolution, the 74284
committee shall deliver a copy of the resolution to the board of 74285

county commissioners of each county forming the district and to 74286
the legislative authority of each municipal corporation and 74287
township under the jurisdiction of the district and shall prepare 74288
and publish the resolution and a notice of the time and location 74289
where a public hearing on the fees will be held. Upon adopting the 74290
resolution, the committee shall deliver written notice of the 74291
adoption of the resolution; of the amount of the proposed fees; 74292
and of the date, time, and location of the public hearing to the 74293
director and to the fifty industrial, commercial, or institutional 74294
generators of solid wastes within the district that generate the 74295
largest quantities of solid wastes, as determined by the 74296
committee, and to their local trade associations. The committee 74297
shall make good faith efforts to identify those generators within 74298
the district and their local trade associations, but the 74299
nonprovision of notice under this division to a particular 74300
generator or local trade association does not invalidate the 74301
proceedings under this division. The publication shall occur at 74302
least thirty days before the hearing. After the hearing, the 74303
committee may make such revisions to the proposed fees as it 74304
considers appropriate and thereafter, by resolution, shall adopt 74305
the revised fee schedule. Upon adopting the revised fee schedule, 74306
the committee shall deliver a copy of the resolution doing so to 74307
the board of county commissioners of each county forming the 74308
district and to the legislative authority of each municipal 74309
corporation and township under the jurisdiction of the district. 74310
Within sixty days after the delivery of a copy of the resolution 74311
adopting the proposed revised fees by the policy committee, each 74312
such board and legislative authority, by ordinance or resolution, 74313
shall approve or disapprove the revised fees and deliver a copy of 74314
the ordinance or resolution to the committee. If any such board or 74315
legislative authority fails to adopt and deliver to the policy 74316
committee an ordinance or resolution approving or disapproving the 74317
revised fees within sixty days after the policy committee 74318

delivered its resolution adopting the proposed revised fees, it 74319
shall be conclusively presumed that the board or legislative 74320
authority has approved the proposed revised fees. The committee 74321
shall determine if the resolution has been ratified in the same 74322
manner in which it determines if a draft solid waste management 74323
plan has been ratified under division (B) of section 3734.55 of 74324
the Revised Code. 74325

The committee may amend the schedule of fees levied pursuant 74326
to a resolution adopted and ratified under this division by 74327
adopting a resolution establishing the proposed amount of the 74328
amended fees. The committee may repeal the fees levied pursuant to 74329
such a resolution by adopting a resolution proposing to repeal 74330
them. Upon adopting such a resolution, the committee shall proceed 74331
to obtain ratification of the resolution in accordance with this 74332
division. 74333

Not later than fourteen days after declaring the new fees to 74334
be ratified or the fees to be repealed under this division, the 74335
committee shall notify by certified mail the owner or operator of 74336
each solid waste disposal facility that is required to collect the 74337
fees of the ratification and the amount of the fees or of the 74338
repeal of the fees. Collection of any fees shall commence or 74339
collection of repealed fees shall cease on the first day of the 74340
second month following the month in which notification is sent to 74341
the owner or operator. 74342

Fees levied under this division also may be established, 74343
amended, or repealed by a solid waste management policy committee 74344
through the adoption of a new district solid waste management 74345
plan, the adoption of an amended plan, or the amendment of the 74346
plan or amended plan in accordance with sections 3734.55 and 74347
3734.56 of the Revised Code or the adoption or amendment of a 74348
district plan in connection with a change in district composition 74349
under section 3734.521 of the Revised Code. 74350

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees

or amended fees levied under divisions (B)(1) to (3) of this 74384
section pursuant to the district's initial or amended plan as so 74385
approved or, if appropriate, the repeal of the district's fees by 74386
that initial or amended plan. Collection of any fees set forth in 74387
such a plan or amended plan shall commence on the first day of 74388
January immediately following the issuance of the notice. If such 74389
an initial or amended plan repeals a schedule of fees, collection 74390
of the fees shall cease on that first day of January. 74391

If, in the case of a change in district composition involving 74392
the withdrawal of a county from a joint district, the director 74393
completes the actions required under division (G)(1) or (3) of 74394
section 3734.521 of the Revised Code, as appropriate, less than 74395
forty-five days before the beginning of a calendar year, the 74396
director, on behalf of each of the districts resulting from the 74397
change that obtained the director's approval of an initial or 74398
amended plan in connection with the change proceedings, shall 74399
notify by certified mail the owner or operator of each solid waste 74400
disposal facility that is required to collect the district's fees 74401
that the change is to take effect on the first day of January 74402
immediately following the mailing of the notice and of the amount 74403
of the fees or amended fees levied under divisions (B)(1) to (3) 74404
of this section pursuant to the district's initial or amended plan 74405
as so approved or, if appropriate, the repeal of the district's 74406
fees by that initial or amended plan. Collection of any fees set 74407
forth in such a plan or amended plan shall commence on the first 74408
day of the second month following the month in which notification 74409
is sent to the owner or operator. If such an initial or amended 74410
plan repeals a schedule of fees, collection of the fees shall 74411
cease on the first day of the second month following the month in 74412
which notification is sent to the owner or operator. 74413

If the schedule of fees that a solid waste management 74414
district is levying under divisions (B)(1) to (3) of this section 74415

is amended or repealed, the fees in effect immediately prior to 74416
the amendment or repeal shall continue to be collected until 74417
collection of the amended fees commences or collection of the 74418
repealed fees ceases, as applicable, as specified in this 74419
division. In the case of a change in district composition, money 74420
so received from the collection of the fees of the former 74421
districts shall be divided among the resulting districts in 74422
accordance with division (B) of section 343.012 of the Revised 74423
Code and the agreements entered into under division (B) of section 74424
343.01 of the Revised Code to establish the former and resulting 74425
districts and any amendments to those agreements. 74426

For the purposes of the provisions of division (B) of this 74427
section establishing the times when newly established or amended 74428
fees levied by a district are required to commence and the 74429
collection of fees that have been amended or repealed is required 74430
to cease, "fees" or "schedule of fees" includes, in addition to 74431
fees levied under divisions (B)(1) to (3) of this section, those 74432
levied under section 3734.573 or 3734.574 of the Revised Code. 74433

(C) For the purposes of defraying the added costs to a 74434
municipal corporation or township of maintaining roads and other 74435
public facilities and of providing emergency and other public 74436
services, and compensating a municipal corporation or township for 74437
reductions in real property tax revenues due to reductions in real 74438
property valuations resulting from the location and operation of a 74439
solid waste disposal facility within the municipal corporation or 74440
township, a municipal corporation or township in which such a 74441
solid waste disposal facility is located may levy a fee of not 74442
more than twenty-five cents per ton on the disposal of solid 74443
wastes at a solid waste disposal facility located within the 74444
boundaries of the municipal corporation or township regardless of 74445
where the wastes were generated. 74446

The legislative authority of a municipal corporation or 74447

township may levy fees under this division by enacting an 74448
ordinance or adopting a resolution establishing the amount of the 74449
fees. Upon so doing the legislative authority shall mail a 74450
certified copy of the ordinance or resolution to the board of 74451
county commissioners or directors of the county or joint solid 74452
waste management district in which the municipal corporation or 74453
township is located or, if a regional solid waste management 74454
authority has been formed under section 343.011 of the Revised 74455
Code, to the board of trustees of that regional authority, the 74456
owner or operator of each solid waste disposal facility in the 74457
municipal corporation or township that is required to collect the 74458
fee by the ordinance or resolution, and the director of 74459
environmental protection. Although the fees levied under this 74460
division are levied on the basis of tons as the unit of 74461
measurement, the legislative authority, in its ordinance or 74462
resolution levying the fees under this division, may direct that 74463
the fees be levied on the basis of cubic yards as the unit of 74464
measurement based upon a conversion factor of three cubic yards 74465
per ton generally or one cubic yard per ton for baled wastes. 74466

Not later than five days after enacting an ordinance or 74467
adopting a resolution under this division, the legislative 74468
authority shall so notify by certified mail the owner or operator 74469
of each solid waste disposal facility that is required to collect 74470
the fee. Collection of any fee levied on or after March 24, 1992, 74471
shall commence on the first day of the second month following the 74472
month in which notification is sent to the owner or operator. 74473

(D)(1) The fees levied under divisions (A), (B), and (C) of 74474
this section do not apply to the disposal of solid wastes that: 74475

(a) Are disposed of at a facility owned by the generator of 74476
the wastes when the solid waste facility exclusively disposes of 74477
solid wastes generated at one or more premises owned by the 74478
generator regardless of whether the facility is located on a 74479

premises where the wastes are generated; 74480

~~(b) Are disposed of at facilities that exclusively dispose of 74481
wastes that are generated from the combustion of coal, or from the 74482
combustion of primarily coal in combination with scrap tires, that 74483
is not combined in any way with garbage at one or more regardless 74484
of whether the disposal facility is located on the premises owned 74485
by the generator where the wastes are generated. 74486~~

(2) Except as provided in section 3734.571 of the Revised 74487
Code, any fees levied under division (B)(1) of this section apply 74488
to solid wastes originating outside the boundaries of a county or 74489
joint district that are covered by an agreement for the joint use 74490
of solid waste facilities entered into under section 343.02 of the 74491
Revised Code by the board of county commissioners or board of 74492
directors of the county or joint district where the wastes are 74493
generated and disposed of. 74494

(3) When solid wastes, other than solid wastes that consist 74495
of scrap tires, are burned in a disposal facility that is an 74496
incinerator or energy recovery facility, the fees levied under 74497
divisions (A), (B), and (C) of this section shall be levied upon 74498
the disposal of the fly ash and bottom ash remaining after burning 74499
of the solid wastes and shall be collected by the owner or 74500
operator of the sanitary landfill where the ash is disposed of. 74501

(4) When solid wastes are delivered to a solid waste transfer 74502
facility, the fees levied under divisions (B) and (C) of this 74503
section shall be levied upon the disposal of solid wastes 74504
transported off the premises of the transfer facility for disposal 74505
and shall be collected by the owner or operator of the solid waste 74506
disposal facility where the wastes are disposed of. 74507

(5) The fees levied under divisions (A), (B), and (C) of this 74508
section do not apply to sewage sludge that is generated by a waste 74509
water treatment facility holding a national pollutant discharge 74510

elimination system permit and that is disposed of through 74511
incineration, land application, or composting or at another 74512
resource recovery or disposal facility that is not a landfill. 74513

(6) The fees levied under divisions (A), (B), and (C) of this 74514
section do not apply to solid wastes delivered to a solid waste 74515
composting facility for processing. When any unprocessed solid 74516
waste or compost product is transported off the premises of a 74517
composting facility and disposed of at a landfill, the fees levied 74518
under divisions (A), (B), and (C) of this section shall be 74519
collected by the owner or operator of the landfill where the 74520
unprocessed waste or compost product is disposed of. 74521

(7) When solid wastes that consist of scrap tires are 74522
processed at a scrap tire recovery facility, the fees levied under 74523
divisions (A), (B), and (C) of this section shall be levied upon 74524
the disposal of the fly ash and bottom ash or other solid wastes 74525
remaining after the processing of the scrap tires and shall be 74526
collected by the owner or operator of the solid waste disposal 74527
facility where the ash or other solid wastes are disposed of. 74528

(8) The director of environmental protection may issue an 74529
order exempting from the fees levied under this section solid 74530
wastes, including, but not limited to, scrap tires, that are 74531
generated, transferred, or disposed of as a result of a contract 74532
providing for the expenditure of public funds entered into by the 74533
administrator or regional administrator of the United States 74534
environmental protection agency, the director of environmental 74535
protection, or the director of administrative services on behalf 74536
of the director of environmental protection for the purpose of 74537
remediating conditions at a hazardous waste facility, solid waste 74538
facility, or other location at which the administrator or regional 74539
administrator or the director of environmental protection has 74540
reason to believe that there is a substantial threat to public 74541
health or safety or the environment or that the conditions are 74542

causing or contributing to air or water pollution or soil 74543
contamination. An order issued by the director of environmental 74544
protection under division (D)(8) of this section shall include a 74545
determination that the amount of the fees not received by a solid 74546
waste management district as a result of the order will not 74547
adversely impact the implementation and financing of the 74548
district's approved solid waste management plan and any approved 74549
amendments to the plan. Such an order is a final action of the 74550
director of environmental protection. 74551

(E) The fees levied under divisions (B) and (C) of this 74552
section shall be collected by the owner or operator of the solid 74553
waste disposal facility where the wastes are disposed of as a 74554
trustee for the county or joint district and municipal corporation 74555
or township where the wastes are disposed of. Moneys from the fees 74556
levied under division (B) of this section shall be forwarded to 74557
the board of county commissioners or board of directors of the 74558
district in accordance with rules adopted under division (H) of 74559
this section. Moneys from the fees levied under division (C) of 74560
this section shall be forwarded to the treasurer or such other 74561
officer of the municipal corporation as, by virtue of the charter, 74562
has the duties of the treasurer or to the fiscal officer of the 74563
township, as appropriate, in accordance with those rules. 74564

(F) Moneys received by the treasurer or other officer of the 74565
municipal corporation under division (E) of this section shall be 74566
paid into the general fund of the municipal corporation. Moneys 74567
received by the fiscal officer of the township under that division 74568
shall be paid into the general fund of the township. The treasurer 74569
or other officer of the municipal corporation or the township 74570
fiscal officer, as appropriate, shall maintain separate records of 74571
the moneys received from the fees levied under division (C) of 74572
this section. 74573

(G) Moneys received by the board of county commissioners or 74574

board of directors under division (E) of this section or section 74575
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 74576
shall be paid to the county treasurer, or other official acting in 74577
a similar capacity under a county charter, in a county district or 74578
to the county treasurer or other official designated by the board 74579
of directors in a joint district and kept in a separate and 74580
distinct fund to the credit of the district. If a regional solid 74581
waste management authority has been formed under section 343.011 74582
of the Revised Code, moneys received by the board of trustees of 74583
that regional authority under division (E) of this section shall 74584
be kept by the board in a separate and distinct fund to the credit 74585
of the district. Moneys in the special fund of the county or joint 74586
district arising from the fees levied under division (B) of this 74587
section and the fee levied under division (A) of section 3734.573 74588
of the Revised Code shall be expended by the board of county 74589
commissioners or directors of the district in accordance with the 74590
district's solid waste management plan or amended plan approved 74591
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 74592
exclusively for the following purposes: 74593

(1) Preparation of the solid waste management plan of the 74594
district under section 3734.54 of the Revised Code, monitoring 74595
implementation of the plan, and conducting the periodic review and 74596
amendment of the plan required by section 3734.56 of the Revised 74597
Code by the solid waste management policy committee; 74598

(2) Implementation of the approved solid waste management 74599
plan or amended plan of the district, including, without 74600
limitation, the development and implementation of solid waste 74601
recycling or reduction programs; 74602

(3) Providing financial assistance to boards of health within 74603
the district, if solid waste facilities are located within the 74604
district, for enforcement of this chapter and rules, orders, and 74605
terms and conditions of permits, licenses, and variances adopted 74606

or issued under it, other than the hazardous waste provisions of 74607
this chapter and rules adopted and orders and terms and conditions 74608
of permits issued under those provisions; 74609

(4) Providing financial assistance to each county within the 74610
district to defray the added costs of maintaining roads and other 74611
public facilities and of providing emergency and other public 74612
services resulting from the location and operation of a solid 74613
waste facility within the county under the district's approved 74614
solid waste management plan or amended plan; 74615

(5) Pursuant to contracts entered into with boards of health 74616
within the district, if solid waste facilities contained in the 74617
district's approved plan or amended plan are located within the 74618
district, for paying the costs incurred by those boards of health 74619
for collecting and analyzing samples from public or private water 74620
wells on lands adjacent to those facilities; 74621

(6) Developing and implementing a program for the inspection 74622
of solid wastes generated outside the boundaries of this state 74623
that are disposed of at solid waste facilities included in the 74624
district's approved solid waste management plan or amended plan; 74625

(7) Providing financial assistance to boards of health within 74626
the district for the enforcement of section 3734.03 of the Revised 74627
Code or to local law enforcement agencies having jurisdiction 74628
within the district for enforcing anti-littering laws and 74629
ordinances; 74630

(8) Providing financial assistance to boards of health of 74631
health districts within the district that are on the approved list 74632
under section 3734.08 of the Revised Code to defray the costs to 74633
the health districts for the participation of their employees 74634
responsible for enforcement of the solid waste provisions of this 74635
chapter and rules adopted and orders and terms and conditions of 74636
permits, licenses, and variances issued under those provisions in 74637

the training and certification program as required by rules 74638
adopted under division (L) of section 3734.02 of the Revised Code; 74639

(9) Providing financial assistance to individual municipal 74640
corporations and townships within the district to defray their 74641
added costs of maintaining roads and other public facilities and 74642
of providing emergency and other public services resulting from 74643
the location and operation within their boundaries of a 74644
composting, energy or resource recovery, incineration, or 74645
recycling facility that either is owned by the district or is 74646
furnishing solid waste management facility or recycling services 74647
to the district pursuant to a contract or agreement with the board 74648
of county commissioners or directors of the district; 74649

(10) Payment of any expenses that are agreed to, awarded, or 74650
ordered to be paid under section 3734.35 of the Revised Code and 74651
of any administrative costs incurred pursuant to that section. In 74652
the case of a joint solid waste management district, if the board 74653
of county commissioners of one of the counties in the district is 74654
negotiating on behalf of affected communities, as defined in that 74655
section, in that county, the board shall obtain the approval of 74656
the board of directors of the district in order to expend moneys 74657
for administrative costs incurred. 74658

Prior to the approval of the district's solid waste 74659
management plan under section 3734.55 of the Revised Code, moneys 74660
in the special fund of the district arising from the fees shall be 74661
expended for those purposes in the manner prescribed by the solid 74662
waste management policy committee by resolution. 74663

Notwithstanding division (G)(6) of this section as it existed 74664
prior to October 29, 1993, or any provision in a district's solid 74665
waste management plan prepared in accordance with division 74666
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 74667
prior to that date, any moneys arising from the fees levied under 74668
division (B)(3) of this section prior to January 1, 1994, may be 74669

expended for any of the purposes authorized in divisions (G)(1) to 74670
(10) of this section. 74671

(H) The director shall adopt rules in accordance with Chapter 74672
119. of the Revised Code prescribing procedures for collecting and 74673
forwarding the fees levied under divisions (B) and (C) of this 74674
section to the boards of county commissioners or directors of 74675
county or joint solid waste management districts and to the 74676
treasurers or other officers of municipal corporations and the 74677
fiscal officers of townships. The rules also shall prescribe the 74678
dates for forwarding the fees to the boards and officials and may 74679
prescribe any other requirements the director considers necessary 74680
or appropriate to implement and administer divisions (A), (B), and 74681
(C) of this section. 74682

Sec. 3734.577. Notwithstanding any section of the Revised 74683
Code to the contrary, no solid waste management district shall 74684
exempt a public sector commercial licensed hauler from a fee that 74685
is charged to private sector commercial licensed haulers by the 74686
solid waste management district. 74687

Sec. 3734.85. (A) On and after the effective date of the 74688
rules adopted under sections 3734.70, 3734.71, 3734.72, and 74689
3734.73 of the Revised Code, the director of environmental 74690
protection may take action under this section to abate 74691
accumulations of scrap tires. If the director determines that an 74692
accumulation of scrap tires constitutes a danger to the public 74693
health or safety or to the environment, the director shall issue 74694
an order under section 3734.13 of the Revised Code to the person 74695
responsible for the accumulation of scrap tires directing that 74696
person, within one hundred twenty days after the issuance of the 74697
order, to remove the accumulation of scrap tires from the premises 74698
on which it is located and transport the tires to a scrap tire 74699
storage, monocell, monofill, or recovery facility licensed under 74700

section 3734.81 of the Revised Code, to such a facility in another 74701
state operating in compliance with the laws of the state in which 74702
it is located, or to any other solid waste disposal facility in 74703
another state that is operating in compliance with the laws of 74704
that state. If the person responsible for causing the accumulation 74705
of scrap tires is a person different from the owner of the land on 74706
which the accumulation is located, the director may issue such an 74707
order to the landowner. 74708

If the director is unable to ascertain immediately the 74709
identity of the person responsible for causing the accumulation of 74710
scrap tires, the director shall examine the records of the 74711
applicable board of health and law enforcement agencies to 74712
ascertain that person's identity. Before initiating any 74713
enforcement or removal actions under this division against the 74714
owner of the land on which the accumulation is located, the 74715
director shall initiate any such actions against the person that 74716
the director has identified as responsible for causing the 74717
accumulation of scrap tires. Failure of the director to make 74718
diligent efforts to ascertain the identity of the person 74719
responsible for causing the accumulation of scrap tires or to 74720
initiate an action against the person responsible for causing the 74721
accumulation shall not constitute an affirmative defense by a 74722
landowner to an enforcement action initiated by the director under 74723
this division requiring immediate removal of any accumulation of 74724
scrap tires. 74725

Upon the written request of the recipient of an order issued 74726
under this division, the director may extend the time for 74727
compliance with the order if the request demonstrates that the 74728
recipient has acted in good faith to comply with the order. If the 74729
recipient of an order issued under this division fails to comply 74730
with the order within one hundred twenty days after the issuance 74731
of the order or, if the time for compliance with the order was so 74732

extended, within that time, the director shall take such actions 74733
as the director considers reasonable and necessary to remove and 74734
properly manage the scrap tires located on the land named in the 74735
order. The director, through employees of the environmental 74736
protection agency or a contractor, may enter upon the land on 74737
which the accumulation of scrap tires is located and remove and 74738
transport them to a scrap tire recovery facility for processing, 74739
to a scrap tire storage facility for storage, or to a scrap tire 74740
monocell or monofill facility for storage or disposal. 74741

The director shall enter into contracts ~~with the owners or~~ 74742
~~operators of scrap tire storage, monocell, monofill, or recovery~~ 74743
~~facilities~~ for the storage, disposal, or processing of scrap tires 74744
removed through removal operations conducted under this section. 74745
~~In doing so, the director shall give preference to scrap tire~~ 74746
~~recovery facilities.~~ 74747

If a person to whom a removal order is issued under this 74748
division fails to comply with the order and if the director 74749
performs a removal action under this section, the person to whom 74750
the removal order is issued is liable to the director for the 74751
costs incurred by the director for conducting the removal 74752
operation, storage at a scrap tire storage facility, storage or 74753
disposal at a scrap tire monocell or monofill facility, or 74754
processing of the scrap tires so removed, the transportation of 74755
the scrap tires from the site of the accumulation to the scrap 74756
tire storage, monocell, monofill, or recovery facility where the 74757
scrap tires were stored, disposed of, or processed, and the 74758
administrative and legal expenses incurred by the director in 74759
connection with the removal operation. The director shall keep an 74760
itemized record of those costs. Upon completion of the actions for 74761
which the costs were incurred, the director shall record the costs 74762
at the office of the county recorder of the county in which the 74763
accumulation of scrap tires was located. The costs so recorded 74764

constitute a lien on the property on which the accumulation of 74765
scrap tires was located until discharged. Upon the written request 74766
of the director, the attorney general shall bring a civil action 74767
against the person responsible for the accumulation of the scrap 74768
tires that were the subject of the removal operation to recover 74769
the costs for which the person is liable under this division. Any 74770
money so received or recovered shall be credited to the scrap tire 74771
management fund created in section 3734.82 of the Revised Code. 74772

If, in a civil action brought under this division, an owner 74773
of real property is ordered to pay to the director the costs of a 74774
removal action that removed an accumulation of scrap tires from 74775
the person's land or if a lien is placed on the person's land for 74776
the costs of such a removal action, and, in either case, if the 74777
landowner was not the person responsible for causing the 74778
accumulation of scrap tires so removed, the landowner may bring a 74779
civil action against the person who was responsible for causing 74780
the accumulation to recover the amount of the removal costs that 74781
the court ordered the landowner to pay to the director or the 74782
amount of the removal costs certified to the county recorder as a 74783
lien on the landowner's property, whichever is applicable. If the 74784
landowner prevails in the civil action against the person who was 74785
responsible for causing the accumulation of scrap tires, the 74786
court, as it considers appropriate, may award to the landowner the 74787
reasonable attorney's fees incurred by the landowner for bringing 74788
the action, court costs, and other reasonable expenses incurred by 74789
the landowner in connection with the civil action. A landowner 74790
shall bring such a civil action within two years after making the 74791
final payment of the removal costs to the director pursuant to the 74792
judgment rendered against the landowner in the civil action 74793
brought under this division upon the director's request or within 74794
two years after the director certified the costs of the removal 74795
action to the county recorder, as appropriate. A person who, at 74796
the time that a removal action was conducted under this division, 74797

owned the land on which the removal action was performed may bring 74798
an action under this division to recover the costs of the removal 74799
action from the person responsible for causing the accumulation of 74800
scrap tires so removed regardless of whether the person owns the 74801
land at the time of bringing the action. 74802

Subject to the limitations set forth in division (G) of 74803
section 3734.82 of the Revised Code, the director may use moneys 74804
in the scrap tire management fund for conducting removal actions 74805
under this division. Any moneys recovered under this division 74806
shall be credited to the scrap tire management fund. 74807

(B) The director shall initiate enforcement and removal 74808
actions under division (A) of this section in accordance with the 74809
following descending listing of priorities: 74810

(1) Accumulations of scrap tires that the director finds 74811
constitute a fire hazard or threat to public health; 74812

(2) Accumulations of scrap tires determined by the director 74813
to contain more than one million scrap tires; 74814

(3) Accumulations of scrap tires in densely populated areas; 74815

(4) Other accumulations of scrap tires that the director or 74816
board of health of the health district in which the accumulation 74817
is located determines constitute a public nuisance; 74818

(5) Any other accumulations of scrap tires present on 74819
premises operating without a valid license issued under section 74820
3734.05 or 3734.81 of the Revised Code. 74821

(C) The director shall not take enforcement and removal 74822
actions under division (A) of this section against the owner or 74823
operator of, or the owner of the land on which is located, any of 74824
the following: 74825

(1) A premises where not more than one hundred scrap tires 74826
are present at any time; 74827

(2) The premises of a business engaging in the sale of tires at retail that meets either of the following criteria:	74828 74829
(a) Not more than one thousand scrap tires are present on the premises at any time in an unsecured, uncovered outdoor location.	74830 74831
(b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation.	74832 74833
(3) The premises of a tire retreading business, a tire manufacturing finishing center, or a tire adjustment center on which is located a single, covered scrap tire storage area where not more than four thousand scrap tires are stored;	74834 74835 74836 74837
(4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet;	74838 74839 74840 74841
(5) A solid waste facility licensed under section 3734.05 of the Revised Code that stores scrap tires on the surface of the ground if the total land area on which scrap tires are actually stored does not exceed ten thousand square feet;	74842 74843 74844 74845
(6) A premises where not more than two hundred fifty scrap tires are stored or kept for agricultural use;	74846 74847
(7) A construction site where scrap tires are stored for use or used in road resurfacing or the construction of embankments;	74848 74849
(8) A scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code;	74850 74851 74852
(9) A solid waste incineration or energy recovery facility that is subject to regulation under this chapter and that burns scrap tires;	74853 74854 74855
(10) A premises where scrap tires are beneficially used and for which the notice required by rules adopted under section	74856 74857

3734.84 of the Revised Code has been given; 74858

(11) A transporter registered under section 3734.83 of the 74859
Revised Code that collects and holds scrap tires in a covered 74860
trailer or vehicle for not longer than thirty days prior to 74861
transporting them to their final destination. 74862

(D) Nothing in this section restricts any right any person 74863
may have under statute or common law to enforce or seek 74864
enforcement of any law applicable to the management of scrap 74865
tires, abate a nuisance, or seek any other appropriate relief. 74866

(E) An owner of real property upon which there is located an 74867
accumulation of not more than two thousand scrap tires is not 74868
liable under division (A) of this section for the cost of the 74869
removal of the scrap tires, and no lien shall attach to the 74870
property under this section, if all of the following conditions 74871
are met: 74872

(1) The tires were placed on the property after the owner 74873
acquired title to the property, or the tires were placed on the 74874
property before the owner acquired title to the property and the 74875
owner acquired title to the property by bequest or devise. 74876

(2) The owner of the property did not have knowledge that the 74877
tires were being placed on the property, or the owner posted on 74878
the property signs prohibiting dumping or took other action to 74879
prevent the placing of tires on the property. 74880

(3) The owner of the property did not participate in or 74881
consent to the placing of the tires on the property. 74882

(4) The owner of the property received no financial benefit 74883
from the placing of the tires on the property or otherwise having 74884
the tires on the property. 74885

(5) Title to the property was not transferred to the owner 74886
for the purpose of evading liability under division (A) of this 74887

section. 74888

(6) The person responsible for placing the tires on the 74889
property, in doing so, was not acting as an agent for the owner of 74890
the property. 74891

Sec. 3734.901. (A)(1) For the purpose of providing revenue to 74892
defray the cost of administering and enforcing the scrap tire 74893
provisions of this chapter, rules adopted under those provisions, 74894
and terms and conditions of orders, variances, and licenses issued 74895
under those provisions; to abate accumulations of scrap tires; to 74896
make grants supporting market development activities for scrap 74897
tires and synthetic rubber from tire manufacturing processes and 74898
tire recycling processes and to support scrap tire amnesty and 74899
cleanup events; to make loans to promote the recycling or recovery 74900
of energy from scrap tires; and to defray the costs of 74901
administering and enforcing sections 3734.90 to 3734.9014 of the 74902
Revised Code, a fee of fifty cents per tire is hereby levied on 74903
the sale of tires. The proceeds of the fee shall be deposited in 74904
the state treasury to the credit of the scrap tire management fund 74905
created in section 3734.82 of the Revised Code. The fee is levied 74906
from the first day of the calendar month that begins next after 74907
thirty days from October 29, 1993, through June 30, ~~2011~~ 2013. 74908

(2) Beginning on ~~September 5, 2001~~ July 1, 2011, and ending 74909
on June 30, ~~2011~~ 2013, there is hereby levied an additional fee of 74910
fifty cents per tire on the sale of tires the proceeds of which 74911
shall be deposited in the state treasury to the credit of the 74912
~~scrap tire management fund and be used exclusively for the~~ 74913
~~purposes specified in division (C)(3) of that section until July~~ 74914
~~1, 2010, whereupon the proceeds shall be deposited in the state~~ 74915
~~treasury to the credit of the~~ soil and water conservation district 74916
assistance fund created in section 1515.14 of the Revised Code. 74917

(B) Only one sale of the same article shall be used in 74918

computing the amount of the fee due. 74919

Sec. 3735.36. When a metropolitan housing authority has 74920
acquired the property necessary for any project, it shall proceed 74921
to make plans and specifications for carrying out such project, 74922
and shall advertise for bids for all work ~~which~~ that it desires to 74923
have done by contract, such advertisements to be published as 74924
provided in section 7.16 of the Revised Code or once a week for 74925
two consecutive weeks in a newspaper of general circulation in the 74926
political subdivision in which the project is to be developed. The 74927
contract shall be awarded to the lowest and best bidder. 74928

Sec. 3735.66. The legislative authorities of municipal 74929
corporations and counties may survey the housing within their 74930
jurisdictions and, after the survey, may adopt resolutions 74931
describing the boundaries of community reinvestment areas which 74932
contain the conditions required for the finding under division (B) 74933
of section 3735.65 of the Revised Code. The findings resulting 74934
from the survey shall be incorporated in the resolution describing 74935
the boundaries of an area. The legislative authority may stipulate 74936
in the resolution that only new structures or remodeling 74937
classified as to use as commercial, industrial, or residential, or 74938
some combination thereof, and otherwise satisfying the 74939
requirements of section 3735.67 of the Revised Code are eligible 74940
for exemption from taxation under that section. If the resolution 74941
does not include such a stipulation, all new structures and 74942
remodeling satisfying the requirements of section 3735.67 of the 74943
Revised Code are eligible for exemption from taxation regardless 74944
of classification. Whether or not the resolution includes such a 74945
stipulation, the classification of the structures or remodeling 74946
eligible for exemption in the area shall at all times be 74947
consistent with zoning restrictions applicable to the area. For 74948
the purposes of sections 3735.65 to 3735.70 of the Revised Code, 74949

whether a structure or remodeling composed of multiple units is 74950
classified as commercial or residential shall be determined by 74951
resolution or ordinance of the legislative authority or, in the 74952
absence of such a determination, by the classification of the use 74953
of the structure or remodeling under the applicable zoning 74954
regulations. 74955

If construction or remodeling classified as residential is 74956
eligible for exemption from taxation, the resolution shall specify 74957
a percentage, not to exceed one hundred per cent, of the assessed 74958
valuation of such property to be exempted. The percentage 74959
specified shall apply to all residential construction or 74960
remodeling for which exemption is granted. 74961

The resolution adopted pursuant to this section shall be 74962
published in a newspaper of general circulation in the municipal 74963
corporation, if the resolution is adopted by the legislative 74964
authority of a municipal corporation, or in a newspaper of general 74965
circulation in the county, if the resolution is adopted by the 74966
legislative authority of the county, once a week for two 74967
consecutive weeks or as provided in section 7.16 of the Revised 74968
Code, immediately following its adoption. 74969

Each legislative authority adopting a resolution pursuant to 74970
this section shall designate a housing officer. In addition, each 74971
such legislative authority, not later than fifteen days after the 74972
adoption of the resolution, shall petition the director of 74973
development for the director to confirm the findings described in 74974
the resolution. The petition shall be accompanied by a copy of the 74975
resolution and by a map of the community reinvestment area in 74976
sufficient detail to denote the specific boundaries of the area 74977
and to indicate zoning restrictions applicable to the area. The 74978
director shall determine whether the findings contained in the 74979
resolution are valid, and whether the classification of structures 74980
or remodeling eligible for exemption under the resolution is 74981

consistent with zoning restrictions applicable to the area as 74982
indicated on the map. Within thirty days of receiving the 74983
petition, the director shall forward the director's determination 74984
to the legislative authority. The legislative authority or housing 74985
officer shall not grant any exemption from taxation under section 74986
3735.67 of the Revised Code until the director forwards the 74987
director's determination to the legislative authority. The 74988
director shall assign to each community reinvestment area a unique 74989
designation by which the area shall be identified for purposes of 74990
sections 3735.65 to 3735.70 of the Revised Code. 74991

If zoning restrictions in any part of a community 74992
reinvestment area are changed at any time after the legislative 74993
authority petitions the director under this section, the 74994
legislative authority shall notify the director and shall submit a 74995
map of the area indicating the new zoning restrictions in the 74996
area. 74997

Sec. 3737.73. (A) No principal or person in charge of a 74998
public or private school or educational institution having an 74999
average daily attendance of twenty or more pupils, and no person 75000
in charge of any children's home or orphanage housing twenty or 75001
more minor persons, shall willfully neglect to instruct and train 75002
such children by means of drills or rapid dismissals, so that such 75003
children in a sudden emergency may leave the building in the 75004
shortest possible time without confusion. The principal or person 75005
in charge of a school or educational institution shall conduct 75006
drills or rapid dismissals at least nine times during the school 75007
year, which shall be at the times and frequency prescribed in 75008
rules adopted by the fire marshal. However, no drill or rapid 75009
dismissal under this division need be conducted in any month that 75010
a school safety drill required under division (D) of this section 75011
is conducted as long as a total of nine drills or rapid dismissals 75012
under this division are conducted in the school year. The 75013

principal or person in charge of a children's home or orphanage 75014
shall conduct drills or rapid dismissals at least once each month 75015
while the home is in operation. In the case of schools, no 75016
principal or person in charge of a school shall willfully neglect 75017
to keep the doors and exits of such building unlocked during 75018
school hours. The fire marshal may order the immediate 75019
installation of necessary fire gongs or signals in such schools, 75020
institutions, or children's homes and enforce this division and 75021
divisions (B) and (C)(3) of this section. 75022

(B) In conjunction with the drills or rapid dismissals 75023
required by division (A) of this section, principals or persons in 75024
charge of public or private primary and secondary schools, or 75025
educational institutions, shall instruct pupils in safety 75026
precautions to be taken in case of a tornado alert or warning. 75027
Such principals or persons in charge of such schools or 75028
institutions shall designate, in accordance with standards 75029
prescribed by the fire marshal, appropriate locations to be used 75030
to shelter pupils in case of a tornado, tornado alert, or warning. 75031

(C)(1) The fire marshal or the fire marshal's designee shall 75032
annually inspect each school, institution, home, or orphanage 75033
subject to division (A) of this section to determine compliance 75034
with that division, and each school or institution subject to 75035
division (B) of this section to ascertain whether the locations 75036
comply with the standards prescribed under that division. Nothing 75037
in this section shall require a school or institution to construct 75038
or improve a facility or location for use as a shelter area. 75039

(2) The fire marshal or the fire marshal's designee shall 75040
issue a warning to any person found in violation of division (A) 75041
or (B) of this section. The warning shall indicate the specific 75042
violation and a date by which such violation shall be corrected. 75043

(3) No person shall fail to correct violations by the date 75044
indicated on a warning issued under division (C)(2) of this 75045

section. 75046

(D)(1) On or before April 1, 2007, and on or before each 75047
first day of December thereafter, the principal or person in 75048
charge of each public or private school or educational institution 75049
shall conduct a school safety drill to provide pupils with 75050
instruction in the procedures to follow in situations where pupils 75051
must be secured in the school building, such as a threat to the 75052
school involving an act of terrorism; a person possessing a deadly 75053
weapon or dangerous ordnance, as defined in section 2923.11 of the 75054
Revised Code, on school property; or other act of violence. 75055

(2)(a) The principal or person in charge of each public or 75056
private school or educational institution shall provide to the 75057
police chief or other similar chief law enforcement officer of the 75058
municipal corporation, township, or township or joint police 75059
district in which the school or institution is located, or, in 75060
absence of any such person, the county sheriff of the county in 75061
which the school or institution is located advance written notice 75062
of each school safety drill required under division (D)(1) of this 75063
section and shall keep a written record of the date and time of 75064
each drill conducted. The advance notice shall be provided not 75065
later than seventy-two hours prior to the date the drill will be 75066
conducted and shall include the date and time the drill will be 75067
conducted and the address of the school or educational 75068
institution. The notice shall be provided by mail, facsimile, or 75069
electronic submission. 75070

(b) Not later than April 5, 2007, and not later than the 75071
fifth day of December each year thereafter, the principal or 75072
person in charge of each public or private school or educational 75073
institution shall provide written certification by mail of the 75074
date and time each school safety drill required under division 75075
(D)(1) of this section was conducted to the police chief or other 75076
similar chief law enforcement officer of the municipal 75077

corporation, township, or township or joint police district in 75078
which the school or institution is located, or, in the absence of 75079
any such person, the county sheriff of the county in which the 75080
school or institution is located. If such certification is not 75081
provided, the principal or person in charge of the school or 75082
institution shall be considered to have failed to conduct the 75083
drill and shall be subject to division (D)(4) of this section. 75084

(3) The principal or person in charge of each public or 75085
private school or educational institution shall hold annual 75086
training sessions for employees of the school or institution 75087
regarding the conduct of school safety drills. 75088

(4) The police chief or other similar chief law enforcement 75089
officer of a municipal corporation, township, or township or joint 75090
police district, or, in the absence of any such person, the county 75091
sheriff shall issue a warning to any person found in violation of 75092
division (D)(1) of this section. Each warning issued for a 75093
violation of division (D)(1) of this section shall require the 75094
principal or person in charge of the school or institution to 75095
correct the violation by conducting the school safety drill not 75096
later than the thirtieth day after the date the warning is issued. 75097
The violation shall not be considered corrected unless, not later 75098
than forty days after the date the warning is issued, the 75099
principal or person in charge of the school or institution 75100
provides written certification of the date and time the drill was 75101
conducted to the police chief or other similar chief law 75102
enforcement officer or county sheriff who issued the warning. 75103

(5) No person shall fail to correct violations by the date 75104
indicated on a warning issued under division (D)(4) of this 75105
section. 75106

Sec. 3737.83. The fire marshal shall, as part of the state 75107
fire code, adopt rules to: 75108

(A) Establish minimum standards of performance for fire protection equipment and fire fighting equipment;	75109 75110
(B) Establish minimum standards of training, fix minimum qualifications, and require certificates for all persons who engage in the business for profit of installing, testing, repairing, or maintaining fire protection equipment;	75111 75112 75113 75114
(C) Provide for the issuance of certificates required under division (B) of this section and establish the fees to be charged for such certificates. A certificate shall be granted, renewed, or revoked according to rules the fire marshal shall adopt.	75115 75116 75117 75118
(D) Establish minimum standards of flammability for consumer goods in any case where the federal government or any department or agency thereof has established, or may from time to time establish standards of flammability for consumer goods. The standards established by the fire marshal shall be identical to the minimum federal standards.	75119 75120 75121 75122 75123 75124
In any case where the federal government or any department or agency thereof, establishes standards of flammability for consumer goods subsequent to the adoption of a flammability standard by the fire marshal, standards previously adopted by the fire marshal shall not continue in effect to the extent such standards are not identical to the minimum federal standards.	75125 75126 75127 75128 75129 75130
With respect to the adoption of minimum standards of flammability, this division shall supersede any authority granted a political subdivision by any other section of the Revised Code.	75131 75132 75133
(E) Establish minimum standards pursuant to section 5104.05 of the Revised Code for fire prevention and fire safety in child day-care centers and in type A family day-care homes, as defined in section 5104.01 of the Revised Code.	75134 75135 75136 75137
(F) Establish minimum standards for fire prevention and safety an adult group home seeking licensure as an adult care	75138 75139

facility must meet under section ~~3722.02~~ 5119.71 of the Revised Code. The fire marshal shall adopt the rules under this division in consultation with the directors of mental health and aging and interested parties designated by the directors of mental health and aging.

Sec. 3737.841. As used in this section and section 3737.842 of the Revised Code:

(A) "Public occupancy" means all of the following:

(1) Any state correctional institution as defined in section 2967.01 of the Revised Code and any county, multicounty, municipal, or municipal-county jail or workhouse;

(2) Any hospital as defined in section 3727.01 of the Revised Code, any hospital licensed by the department of mental health under section 5119.20 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department of mental health under Chapter 5119. of the Revised Code;

(3) Any nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code and any adult care facility as defined in section ~~3722.01~~ 5119.70 of the Revised Code;

(4) Any child day-care center and any type A family day-care home as defined in section 5104.01 of the Revised Code;

(5) Any public auditorium or stadium;

(6) Public assembly areas of hotels and motels containing more than ten articles of seating furniture.

(B) "Sell" includes sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess for sale, or dispose of in any other commercial manner.

(C) Except as provided in division (D) of this section, 75169
"seating furniture" means any article of furniture, including 75170
children's furniture, that can be used as a support for an 75171
individual, or ~~his~~ an individual's limbs or feet, when sitting or 75172
resting in an upright or reclining position and that either: 75173

(1) Is made with loose or attached cushions or pillows; 75174

(2) Is stuffed or filled in whole or in part with any filling 75175
material; 75176

(3) Is or can be stuffed or filled in whole or in part with 75177
any substance or material, concealed by fabric or any other 75178
covering. 75179

"Seating furniture" includes the cushions or pillows 75180
belonging to or forming a part of the furniture, the structural 75181
unit, and the filling material and its container or covering. 75182

(D) "Seating furniture" does not include, except if intended 75183
for use by children or in facilities designed for the care or 75184
treatment of humans, any of the following: 75185

(1) Cushions or pads intended solely for outdoor use; 75186

(2) Any article with a smooth surface that contains no more 75187
than one-half inch of filling material, if that article does not 75188
have an upholstered horizontal surface meeting an upholstered 75189
vertical surface; 75190

(3) Any article manufactured solely for recreational use or 75191
physical fitness purposes, including weight-lifting benches, 75192
gymnasium mats or pads, and sidehorses. 75193

(E) "Filling material" means cotton, wool, kapok, feathers, 75194
down, hair, liquid, or any other natural or ~~manmade~~ artificial 75195
material or substance that is used or can be used as stuffing in 75196
seating furniture. 75197

Sec. 3737.87. As used in sections 3737.87 to 3737.98 of the Revised Code:

(A) "Accidental release" means any sudden or nonsudden release of petroleum that was neither expected nor intended by the owner or operator of the applicable underground storage tank system and that results in the need for corrective action or compensation for bodily injury or property damage.

(B) "Corrective action" means any action necessary to protect human health and the environment in the event of a release of petroleum into the environment, including, without limitation, any action necessary to monitor, assess, and evaluate the release. In the instance of a suspected release, ~~the term~~ "corrective action" includes, without limitation, an investigation to confirm or disprove the occurrence of the release. In the instance of a confirmed release, ~~the term~~ "corrective action" includes, without limitation, the initial corrective action taken under section 3737.88 or 3737.882 of the Revised Code and rules adopted or orders issued under those sections and any action taken consistent with a remedial action to clean up contaminated ground water, surface water, soils, and subsurface material and to address the residual effects of a release after the initial corrective action is taken.

(C) "Eligible lending institution" means a financial institution that is eligible to make commercial loans, is a public depository of state funds under section 135.03 of the Revised Code, and agrees to participate in the petroleum underground storage tank linked deposit program provided for in sections 3737.95 to 3737.98 of the Revised Code.

(D) "Eligible owner" means any person that owns six or fewer petroleum underground storage tanks comprising a petroleum underground storage tank or underground storage tank system.

(E) "Installer" means a person who supervises the 75229
installation of, performance of major repairs on site to, 75230
abandonment of, or removal of underground storage tank systems. 75231

(F) "Major repair" means the restoration of a tank or an 75232
underground storage tank system component that has caused a 75233
release of a product from the underground storage tank system, the 75234
upgrading of a tank or an underground storage tank system 75235
component, or the modification of a tank or an underground storage 75236
tank system component. "Major repair" does not include routine 75237
maintenance for normal operational upkeep to prevent an 75238
underground storage tank system from releasing a product. 75239

(G) "Operator" means the person in daily control of, or 75240
having responsibility for the daily operation of, an underground 75241
storage tank system. 75242

(H) "Owner" means: 75243

(1) In the instance of an underground storage tank system in 75244
use on November 8, 1984, or brought into use after that date, the 75245
person who owns the underground storage tank system; 75246

(2) In the instance of an underground storage tank system in 75247
use before November 8, 1984, that was no longer in use on that 75248
date, the person who owned the underground storage tank system 75249
immediately before the discontinuation of its use. 75250

~~The term~~ "Owner" includes any person who holds, or, in the 75251
instance of an underground storage tank system in use before 75252
November 8, 1984, but no longer in use on that date, any person 75253
who held immediately before the discontinuation of its use, a 75254
legal, equitable, or possessory interest of any kind in an 75255
underground storage tank system or in the property on which the 75256
underground storage tank system is located, including, without 75257
limitation, a trust, vendor, vendee, lessor, or lessee. ~~The term~~ 75258
"Owner" does not include any person who, without participating in 75259

the management of an underground storage tank system and without 75260
otherwise being engaged in petroleum production, refining, or 75261
marketing, holds indicia of ownership in an underground storage 75262
tank system primarily to protect the person's security interest in 75263
it. 75264

(I) "Person," in addition to the meaning in section 3737.01 75265
of the Revised Code, means the United States and any department, 75266
agency, or instrumentality thereof. 75267

(J) "Petroleum" means petroleum, including crude oil or any 75268
fraction thereof, that is a liquid at the temperature of sixty 75269
degrees Fahrenheit and the pressure of fourteen and seven-tenths 75270
pounds per square inch absolute. ~~The term~~ "Petroleum" includes, 75271
without limitation, motor fuels, jet fuels, distillate fuel oils, 75272
residual fuel oils, lubricants, petroleum solvents, and used oils. 75273

(K) "Petroleum underground storage tank linked deposit" means 75274
a certificate of deposit placed by the treasurer of state with an 75275
eligible lending institution pursuant to sections 3737.95 to 75276
3737.98 of the Revised Code. 75277

(L) "Regulated substance" means petroleum or any substance 75278
identified or listed as a hazardous substance in rules adopted 75279
under division (D) of section 3737.88 of the Revised Code. 75280

(M) "Release" means any spilling, leaking, emitting, 75281
discharging, escaping, leaching, or disposing of from an 75282
underground storage tank system into ground or surface water or 75283
subsurface soils or otherwise into the environment. 75284

(N) Notwithstanding division (F) of section 3737.01 of the 75285
Revised Code, "responsible person" means the person who is the 75286
owner or operator of an underground storage tank system. 75287

(O) "Tank" means a stationary device designed to contain an 75288
accumulation of regulated substances that is constructed of 75289
~~manmade~~ manufactured materials. 75290

(P) "Underground storage tank" means one or any combination of tanks, including the underground pipes connected thereto, that are used to contain an accumulation of regulated substances the volume of which, including the volume of the underground pipes connected thereto, is ten per cent or more beneath the surface of the ground.

~~The term~~ "Underground storage tank" does not include any of the following or any pipes connected to any of the following:

(1) Pipeline facilities, including gathering lines, regulated under the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. 1671, as amended, or the "Hazardous Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C.A. 2001, as amended;

(2) Farm or residential tanks of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes;

(3) Tanks used for storing heating fuel for consumptive use on the premises where stored;

(4) Surface impoundments, pits, ponds, or lagoons;

(5) Storm or waste water collection systems;

(6) Flow-through process tanks;

(7) Storage tanks located in underground areas, including, without limitation, basements, cellars, mine workings, drifts, shafts, or tunnels, when the tanks are located on or above the surface of the floor;

(8) Septic tanks;

(9) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.

(Q) "Underground storage tank system" means an underground storage tank and the connected underground piping, underground ancillary equipment, and containment system, if any.

(R) "Revenues" means all fees, premiums, and charges paid by owners and operators of petroleum underground storage tanks to the petroleum underground storage tank release compensation board created in section 3737.90 of the Revised Code; proceeds received by the board from any insurance, condemnation, or guaranty; the proceeds of petroleum underground storage tank revenue bonds; and the income and profits from the investment of any such revenues.

(S) "Revenue bonds," unless the context indicates a different meaning or intent, means petroleum underground storage tank revenue bonds and petroleum underground storage tank revenue refunding bonds that are issued by the petroleum underground storage tank release compensation board pursuant to sections 3737.90 to 3737.948 of the Revised Code.

(T) "Class C release" means a release of petroleum occurring or identified from an underground storage tank system subject to sections 3737.87 to 3737.89 of the Revised Code for which the responsible person for the release is specifically determined by the fire marshal not to be a viable person capable of undertaking or completing the corrective actions required under those sections for the release. "Class C release" also includes any release designated as a "class C release" in accordance with rules adopted under section 3737.88 of the Revised Code.

Sec. 3737.88. (A)(1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases of petroleum from underground ~~petroleum~~ storage tanks established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the ~~program~~ programs, the fire marshal may adopt, amend, and rescind such rules, conduct such inspections, require annual registration of underground storage tanks, issue such citations and orders to enforce those

rules, enter into environmental covenants in accordance with 75352
sections 5301.80 to 5301.92 of the Revised Code, and perform such 75353
other duties, as are consistent with those programs. The fire 75354
marshal, by rule, may delegate the authority to conduct 75355
inspections of underground storage tanks to certified fire safety 75356
inspectors. 75357

(2) In the place of any rules regarding release containment 75358
and release detection for underground storage tanks adopted under 75359
division (A)(1) of this section, the fire marshal, by rule, shall 75360
designate areas as being sensitive for the protection of human 75361
health and the environment and adopt alternative rules regarding 75362
release containment and release detection methods for new and 75363
upgraded underground storage tank systems located in those areas. 75364
In designating such areas, the fire marshal shall take into 75365
consideration such factors as soil conditions, hydrogeology, water 75366
use, and the location of public and private water supplies. Not 75367
later than July 11, 1990, the fire marshal shall file the rules 75368
required under this division with the secretary of state, director 75369
of the legislative service commission, and joint committee on 75370
agency rule review in accordance with divisions (B) and (H) of 75371
section 119.03 of the Revised Code. 75372

(3) Notwithstanding sections 3737.87 to 3737.89 of the 75373
Revised Code, a person who is not a responsible person may conduct 75374
a voluntary action in accordance with Chapter 3746. of the Revised 75375
Code and rules adopted under it for a class C release. The 75376
director of environmental protection, pursuant to section 3746.12 75377
of the Revised Code, may issue a covenant not to sue to any person 75378
who properly completes a voluntary action with respect to a class 75379
C release in accordance with Chapter 3746. of the Revised Code and 75380
rules adopted under it. 75381

(B) Before adopting any rule under this section or section 75382
3737.881 or 3737.882 of the Revised Code, the fire marshal shall 75383

file written notice of the proposed rule with the chairperson of 75384
the state fire commission, and, within sixty days after notice is 75385
filed, the commission may file responses to or comments on and may 75386
recommend alternative or supplementary rules to the fire marshal. 75387
At the end of the sixty-day period or upon the filing of 75388
responses, comments, or recommendations by the commission, the 75389
fire marshal may adopt the rule filed with the commission or any 75390
alternative or supplementary rule recommended by the commission. 75391

(C) The fire commission may recommend courses of action to be 75392
taken by the fire marshal in carrying out the fire marshal's 75393
duties under this section. The commission shall file its 75394
recommendations in the office of the fire marshal, and, within 75395
sixty days after the recommendations are filed, the fire marshal 75396
shall file with the chairperson of the commission comments on, and 75397
proposed action in response to, the recommendations. 75398

(D) For the purpose of sections 3737.87 to 3737.89 of the 75399
Revised Code, the fire marshal shall adopt, and may amend and 75400
rescind, rules identifying or listing hazardous substances. The 75401
rules shall be consistent with and equivalent in scope, coverage, 75402
and content to regulations identifying or listing hazardous 75403
substances adopted under the "Comprehensive Environmental 75404
Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 75405
42 U.S.C.A. 9602, as amended, except that the fire marshal shall 75406
not identify or list as a hazardous substance any hazardous waste 75407
identified or listed in rules adopted under division (A) of 75408
section 3734.12 of the Revised Code. 75409

(E) ~~Notwithstanding any provision of the laws of this state~~ 75410
~~to the contrary~~ Except as provided in division (A)(3) of this 75411
section, the fire marshal ~~has~~ shall have exclusive jurisdiction to 75412
regulate the storage, treatment, and disposal of petroleum 75413
contaminated soil generated from corrective actions undertaken in 75414
response to releases of petroleum from underground storage tank 75415

systems. The fire marshal may adopt, amend, or rescind such rules 75416
as the fire marshal considers to be necessary or appropriate to 75417
regulate the storage, treatment, or disposal of petroleum 75418
contaminated soil so generated. 75419

(F) The fire marshal shall adopt, amend, and rescind rules 75420
under sections 3737.88 to 3737.882 of the Revised Code in 75421
accordance with Chapter 119. of the Revised Code. 75422

Sec. 3743.06. In addition to conforming to the rules of the 75423
fire marshal adopted pursuant to section 3743.05 of the Revised 75424
Code, licensed manufacturers of fireworks shall operate their 75425
fireworks plants in accordance with the following: 75426

(A) Signs indicating that smoking is generally forbidden and 75427
trespassing is prohibited on the premises of a fireworks plant 75428
shall be posted on the premises in a manner determined by the fire 75429
marshal. 75430

(B) Reasonable precautions shall be taken to protect the 75431
premises of a fireworks plant from trespass, loss, theft, or 75432
destruction. Only persons employed by the manufacturer, authorized 75433
governmental personnel, and persons who have obtained permission 75434
from a member of the manufacturer's office to be on the premises, 75435
are to be allowed to enter and remain on the premises. 75436

(C) Smoking or the carrying of pipes, cigarettes, or cigars, 75437
matches, lighters, other flame-producing items, or open flame on, 75438
or the carrying of a concealed source of ignition into, the 75439
premises of a fireworks plant is prohibited, except that a 75440
manufacturer may permit smoking in specified lunchrooms or 75441
restrooms in buildings or other structures in which no 75442
manufacturing, handling, sales, or storage of fireworks takes 75443
place. "NO SMOKING" signs shall be posted on the premises as 75444
required by the fire marshal. 75445

(D) Fire and explosion prevention and other reasonable safety 75446
measures and precautions shall be implemented by a manufacturer. 75447

(E) Persons shall not be permitted to have in their 75448
possession or under their control, while they are on the premises 75449
of the fireworks plant, any intoxicating liquor, beer, or 75450
controlled substance, and they shall not be permitted to enter or 75451
remain on the premises if they are found to be under the influence 75452
of any intoxicating liquor, beer, or controlled substance. 75453

(F) A manufacturer shall conform to all building, safety, and 75454
zoning statutes, ordinances, rules, or other enactments that apply 75455
to the premises of its fireworks plant. 75456

(G) Each fireworks plant shall have at least one class 1 75457
magazine that is approved by the bureau of alcohol, tobacco, and 75458
firearms of the United States department of the treasury and that 75459
is otherwise in conformity with federal law. This division does 75460
not apply to fireworks plants existing on or before August 3, 75461
1931. 75462

(H) Awnings, tents, and canopies shall not be used as 75463
facilities for the sale or storage of fireworks. This division 75464
does not prohibit the use of an awning or canopy attached to a 75465
public access showroom for storing nonflammable shopping 75466
convenience items such as shopping carts or baskets or providing a 75467
shaded area for patrons waiting to enter the public sales area. 75468

(I) Fireworks may be stored in trailers if the trailers are 75469
properly enclosed, secured, and grounded and are separated from 75470
any structure to which the public is admitted by a distance that 75471
will, in the fire marshal's judgment, allow fire-fighting 75472
equipment to have full access to the structures on the licensed 75473
premises. Such trailers may be moved into closer proximity to any 75474
structure only to accept or discharge cargo for a period not to 75475
exceed forty-eight hours. Only two such trailers may be placed in 75476

such closer proximity at any one time. At no time may trailers be 75477
used for conducting sales of any class of fireworks, nor may 75478
members of the public have access to the trailers. 75479

Storage areas for fireworks that are in the same building 75480
where fireworks are displayed and sold to the public shall be 75481
separated from the areas to which the public has access by an 75482
appropriately rated fire wall. 75483

(J) A fire suppression system as defined in section 3781.108 75484
of the Revised Code may be turned off only for repair, drainage of 75485
the system to prevent damage by freezing during the period of 75486
time, approved by the fire marshal, that the facility is closed to 75487
all public access during winter months, or maintenance of the 75488
system. If any repair or maintenance is necessary during times 75489
when the facility is open for public access and business as 75490
approved by the fire marshal, the licensed manufacturer shall 75491
notify in advance the appropriate insurance company and fire chief 75492
or fire prevention officer regarding the nature of the maintenance 75493
or repair and the time when it will be performed. 75494

(K) If any fireworks item is removed from its original 75495
package or is manufactured with any fuse other than a safety fuse 75496
approved by the consumer product safety commission, then the item 75497
shall be covered completely by repackaging or bagging or it shall 75498
otherwise be covered so as to prevent ignition prior to sale. 75499

(L) A safety officer shall be present during regular business 75500
hours at a building open to the public during the period 75501
commencing fourteen days before, and ending two days after, each 75502
fourth day of July. The officer shall be highly visible, enforce 75503
this chapter and any applicable building codes to the extent the 75504
officer is authorized by law, and be one of the following: 75505

(1) A deputy sheriff; 75506

(2) A law enforcement officer of a municipal corporation, 75507

township, or township or joint ~~township~~ police district; 75508

(3) A private uniformed security guard registered under 75509
section 4749.06 of the Revised Code. 75510

(M) All doors of all buildings on the licensed premises shall 75511
swing outward. 75512

(N) All wholesale and commercial sales of fireworks shall be 75513
packaged, shipped, placarded, and transported in accordance with 75514
United States department of transportation regulations applicable 75515
to the transportation, and the offering for transportation, of 75516
hazardous materials. For purposes of this division, "wholesale and 75517
commercial sales" includes all sales for resale and any nonretail 75518
sale made in furtherance of a commercial enterprise. For purposes 75519
of enforcement of these regulations under section 4905.83 of the 75520
Revised Code, any sales transaction exceeding one thousand pounds 75521
shall be rebuttably presumed to be a wholesale or commercial sale. 75522

Sec. 3743.19. In addition to conforming to the rules of the 75523
fire marshal adopted pursuant to section 3743.18 of the Revised 75524
Code, licensed wholesalers of fireworks shall conduct their 75525
business operations in accordance with the following: 75526

(A) A wholesaler shall conduct its business operations from 75527
the location described in its application for licensure or in a 75528
notification submitted under division (B) of section 3743.17 of 75529
the Revised Code. 75530

(B) Signs indicating that smoking is generally forbidden and 75531
trespassing is prohibited on the premises of a wholesaler shall be 75532
posted on the premises as determined by the fire marshal. 75533

(C) Reasonable precautions shall be taken to protect the 75534
premises of a wholesaler from trespass, loss, theft, or 75535
destruction. 75536

(D) Smoking or the carrying of pipes, cigarettes, or cigars, 75537

matches, lighters, other flame-producing items, or open flame on, 75538
or the carrying of a concealed source of ignition into, the 75539
premises of a wholesaler is prohibited, except that a wholesaler 75540
may permit smoking in specified lunchrooms or restrooms in 75541
buildings or other structures in which no sales, handling, or 75542
storage of fireworks takes place. "NO SMOKING" signs shall be 75543
posted on the premises as required by the fire marshal. 75544

(E) Fire and explosion prevention and other reasonable safety 75545
measures and precautions shall be implemented by a wholesaler. 75546

(F) Persons shall not be permitted to have in their 75547
possession or under their control, while they are on the premises 75548
of a wholesaler, any intoxicating liquor, beer, or controlled 75549
substance, and they shall not be permitted to enter or remain on 75550
the premises if they are found to be under the influence of any 75551
intoxicating liquor, beer, or controlled substance. 75552

(G) A wholesaler shall conform to all building, safety, and 75553
zoning statutes, ordinances, rules, or other enactments that apply 75554
to its premises. 75555

(H) Each building used in the sale of fireworks shall be kept 75556
open to the public for at least four hours each day between the 75557
hours of eight a.m. and five p.m., five days of each week, every 75558
week of the year. Upon application from a licensed wholesaler, the 75559
fire marshal may waive any of the requirements of this division. 75560

(I) Awnings, tents, or canopies shall not be used as 75561
facilities for the storage or sale of fireworks. This division 75562
does not prohibit the use of an awning or canopy attached to a 75563
public access showroom for storing nonflammable shopping 75564
convenience items such as shopping carts or baskets or providing a 75565
shaded area for patrons waiting to enter the public sales area. 75566

(J) 1.4G fireworks may be stored in trailers if the trailers 75567
are properly enclosed, secured, and grounded and are separated 75568

from any structure to which the public is admitted by a distance 75569
that will, in the fire marshal's judgment, allow fire-fighting 75570
equipment to have full access to the structures on the licensed 75571
premises. Such trailers may be moved into closer proximity to any 75572
structure only to accept or discharge cargo for a period not to 75573
exceed forty-eight hours. Only two such trailers may be placed in 75574
such closer proximity at any one time. At no time may trailers be 75575
used for conducting sales of any class of fireworks nor may 75576
members of the public have access to the trailers. 75577

Storage areas for fireworks that are in the same building 75578
where fireworks are displayed and sold to the public shall be 75579
separated from the areas to which the public has access by an 75580
appropriately rated fire wall. If the licensee installs and 75581
properly maintains an early suppression fast response sprinkler 75582
system or equivalent fire suppression system as described in the 75583
fire code adopted by the fire marshal in accordance with section 75584
3737.82 of the Revised Code throughout the structure, a fire 75585
barrier wall may be substituted for a fire wall between the areas 75586
to which the public has access and the storage portions of the 75587
structure. 75588

(K) A fire suppression system as defined in section 3781.108 75589
of the Revised Code may be turned off only for repair, drainage of 75590
the system to prevent damage by freezing during the period of 75591
time, approved by the fire marshal under division (I) of this 75592
section, that the facility is closed to public access during 75593
winter months, or maintenance of the system. If any repair or 75594
maintenance is necessary during times when the facility is open 75595
for public access and business, the licensed wholesaler shall 75596
notify in advance the appropriate insurance company and fire chief 75597
or fire prevention officer regarding the nature of the maintenance 75598
or repair and the time when it will be performed. 75599

(L) If any fireworks item is removed from its original 75600

package or is manufactured with any fuse other than a fuse 75601
approved by the consumer product safety commission, then the item 75602
shall be covered completely by repackaging or bagging or it shall 75603
otherwise be covered so as to prevent ignition prior to sale. 75604

(M) A safety officer shall be present during regular business 75605
hours at a building open to the public during the period 75606
commencing fourteen days before, and ending two days after, each 75607
fourth day of July. The officer shall be highly visible, enforce 75608
this chapter and any applicable building codes to the extent the 75609
officer is authorized by law, and be one of the following: 75610

(1) A deputy sheriff; 75611

(2) A law enforcement officer of a municipal corporation, 75612
township, or township or joint ~~township~~ police district; 75613

(3) A private uniformed security guard registered under 75614
section 4749.06 of the Revised Code. 75615

(N) All doors of all buildings on the licensed premises shall 75616
swing outward. 75617

(O) All wholesale and commercial sales of fireworks shall be 75618
packaged, shipped, placarded, and transported in accordance with 75619
United States department of transportation regulations applicable 75620
to the transportation, and the offering for transportation, of 75621
hazardous materials. For purposes of this division, "wholesale and 75622
commercial sales" includes all sales for resale and any nonretail 75623
sale made in furtherance of a commercial enterprise. For purposes 75624
of enforcement of these regulations under section 4905.83 of the 75625
Revised Code, any sales transaction exceeding one thousand pounds 75626
shall be rebuttably presumed to be a wholesale or commercial sale. 75627

Sec. 3743.52. (A) The license of an exhibitor of fireworks is 75628
effective for one year from the date of its issuance by the fire 75629
marshal. If an exhibitor of fireworks wishes to continue as an 75630

exhibitor after its then effective license expires, it shall apply 75631
for a new license pursuant to section 3743.50 of the Revised Code. 75632
The fire marshal shall send a written notice of the expiration of 75633
its license to a licensed exhibitor at least two months before the 75634
expiration date. 75635

(B) The license of an exhibitor of fireworks authorizes the 75636
exhibitor to conduct public fireworks exhibitions in this state if 75637
it complies with sections 3743.50 to 3743.55 of the Revised Code 75638
and with the rules adopted by the fire marshal pursuant to section 75639
3743.53 of the Revised Code. 75640

The license is not transferable or assignable, and is subject 75641
to revocation as provided in section 3743.70 or division (D) of 75642
section 3743.99 of the Revised Code or pursuant to Chapter 119. of 75643
the Revised Code if the exhibitor fails to comply with sections 75644
3743.50 to 3743.55 of the Revised Code or the rules adopted by the 75645
fire marshal pursuant to section 3743.53 of the Revised Code. 75646

If the license of an exhibitor is revoked, the exhibitor 75647
shall cease conducting public fireworks exhibitions immediately. 75648
Subject to division (D) of section 3743.99 of the Revised Code, 75649
the exhibitor may not reapply for licensure as an exhibitor of 75650
fireworks until two years expire from the date of revocation. The 75651
fire marshal shall remove from the list of licensed exhibitors the 75652
exhibitor's name, and shall notify fire chiefs, fire prevention 75653
officers, and police chiefs or other similar chief law enforcement 75654
officers of municipal corporations, townships, or township or 75655
joint police districts in this state of the revocation. 75656

(C) Each licensed exhibitor of fireworks or a designee of the 75657
exhibitor, whose identity is provided to the fire marshal by the 75658
exhibitor, shall attend a continuing education program consisting 75659
of not less than six hours of instruction once every three years. 75660
The fire marshal shall develop the program, and the fire marshal 75661
or a person or public agency approved by the fire marshal shall 75662

conduct it. A licensed exhibitor or the exhibitor's designee who 75663
attends a program as required under this division, within one year 75664
after attending the program, and on an annual basis during the 75665
following two years, shall conduct in-service training for other 75666
employees of the licensee regarding the information obtained in 75667
the program. A licensed exhibitor shall provide the fire marshal 75668
with certified proof of full compliance with all applicable annual 75669
training requirements of the United States department of 75670
transportation and of the occupational safety and health 75671
administration. A licensed exhibitor shall provide the fire 75672
marshal with notice of the date, time, and place of all in-service 75673
training not less than thirty days prior to an in-service training 75674
event. An individual exhibitor who has no employees shall not 75675
fulfill continuing education requirements through a designee. 75676

Sec. 3743.53. (A) The fire marshal shall adopt rules in 75677
accordance with Chapter 119. of the Revised Code that establish 75678
qualifications that all applicants for licensure as an exhibitor 75679
of fireworks shall satisfy. These rules shall be designed to 75680
provide a reasonable degree of assurance that individuals 75681
conducting public fireworks exhibitions in this state are 75682
proficient in handling and discharging fireworks, are capable of 75683
handling the responsibilities associated with exhibitions as 75684
prescribed by rule of the fire marshal pursuant to divisions (B) 75685
and (E) of this section or as prescribed by sections 3743.50 to 75686
3743.55 of the Revised Code, and will conduct fireworks 75687
exhibitions in a manner that emphasizes the safety and security of 75688
the public. The rules shall be consistent with sections 3743.50 to 75689
3743.55 of the Revised Code and may include, in addition to other 75690
requirements prescribed by the fire marshal, a requirement that 75691
the applicant for licensure successfully complete a written 75692
examination or otherwise successfully demonstrate its proficiency 75693
in the handling and discharging of fireworks in a safe manner and 75694

its ability to handle the responsibilities associated with 75695
exhibitions. 75696

(B) The fire marshal shall adopt rules in accordance with 75697
Chapter 119. of the Revised Code that govern the nature and 75698
conduct of public fireworks exhibitions by licensed exhibitors of 75699
fireworks. These rules shall be designed to promote the safety and 75700
security of persons viewing a fireworks exhibition, to promote the 75701
safety of persons who, although not viewing an exhibition, could 75702
be affected by fireworks used at it, and to promote the safety and 75703
security of exhibitors and their assistants. 75704

The rules shall be consistent with sections 3743.50 to 75705
3743.55 of the Revised Code; except as otherwise provided in this 75706
section, shall be substantially equivalent to the most recent 75707
versions of chapters 1123, 1124, and 1126 of the most recent 75708
national fire protection association standards; and shall apply 75709
to, but not be limited to, the following subject matters: 75710

(1) The construction of shells used in a fireworks 75711
exhibition; 75712

(2) Except as the storage and securing of fireworks is 75713
addressed by the rules adopted under division (E) of this section, 75714
the storage, securing, and supervision of fireworks pending their 75715
use in, and during the course of, a fireworks exhibition, and 75716
inspections by exhibitors of fireworks to be used in an exhibition 75717
prior to their use. These rules shall regulate, among other 75718
relevant matters, the storage of fireworks in manners that will 75719
effectively eliminate or reduce the likelihood of the fireworks 75720
becoming wet or being exposed to flame, and appropriate distances 75721
between storage sites and the sites at which fireworks will be 75722
discharged. 75723

(3) The installation and nature of mortars used in a 75724
fireworks exhibition, and inspections by exhibitors of mortars 75725

prior to their use;	75726
(4) Minimum distances between storage sites, discharge sites, spectator viewing sites, parking areas, and potential landing areas of fireworks, and minimum distances between discharge sites, potential landing areas, and residential or other types of buildings or structures;	75727 75728 75729 75730 75731
(5) The nature of discharge sites and potential landing sites;	75732 75733
(6) Fire protection, the use and location of monitors for crowd control, the use of fences and rope barriers for crowd control, illumination, smoking and the use of open flame, and posting of warning signs concerning smoking or the use of open flame in connection with fireworks exhibitions. These rules may provide some authority to local officials in determining adequate fire protection, and numbers and locations of monitors.	75734 75735 75736 75737 75738 75739 75740
(7) Procedures to be followed in the discharging of fireworks;	75741 75742
(8) Weather and crowd-related conditions under which fireworks may and may not be discharged, including circumstances under which exhibitions should be postponed;	75743 75744 75745
(9) Inspections of premises following a fireworks exhibition for purposes of locating and disposing of defective or unexploded fireworks. Inspections shall be required immediately following an exhibition, and, if an exhibition is conducted at night, also at sunrise the following morning.	75746 75747 75748 75749 75750
(C) All mortars used in a fireworks exhibition that are greater than or equal to eight inches in diameter shall be equipped with electronic ignition equipment in accordance with chapter 1123 of the most recent edition of the national fire protection association standards.	75751 75752 75753 75754 75755

(D) Only persons who are employees of licensed exhibitors of fireworks and who are registered with the fire marshal under section 3743.56 of the Revised Code shall be permitted within the discharge perimeter of an exhibition.

(E)(1) The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code and consistent with division (E)(3) of this section that establish both of the following:

(a) Uniform standards for the stability and securing of fireworks storage racks used at a fireworks exhibition;

(b) A detailed checklist that a fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, shall complete, while conducting the inspection required under division (C) of section 3743.54 of the Revised Code at the premises at which a fireworks exhibition will take place, to ensure that the exhibition will comply with all applicable requirements of this chapter, and all applicable rules adopted under this chapter, that regulate the conduct of a fireworks exhibition.

(2) Each licensed exhibitor of fireworks shall comply with the rules that the fire marshal adopts under division (E)(1)(a) of this section.

(3) Prior to the fire marshal's adoption of the rules referred to in divisions (E)(1)(a) and (b) of this section, the director of commerce shall appoint a committee consisting of the fire marshal, three representatives of the fireworks industry, and three representatives of the fire service industry to assist the fire marshal in adopting those rules. The fire marshal shall adopt initial rules under those divisions by not later than May 1, 2001.

(F) A fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, shall conduct the inspection referred to in division (E)(1)(b) of this section, complete the checklist referred to in division (E)(1)(b) of this section while conducting the inspection, and provide a copy of the completed checklist to the fire marshal.

(G) A designee, if any, designated by a police chief or other similar chief law enforcement officer under this section or section 3743.54 of the Revised Code shall be a law enforcement officer serving in the same law enforcement agency as the police chief or other similar chief law enforcement officer.

Sec. 3743.54. (A) A licensed exhibitor of fireworks may acquire fireworks for use at a public fireworks exhibition only from a licensed manufacturer of fireworks or licensed wholesaler of fireworks, and only in accordance with the procedures specified in this section and section 3743.55 of the Revised Code.

(B)(1) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to whichever of the following persons is appropriate under the circumstances:

(a) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in a municipal corporation, the approval shall be obtained from the fire chief, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the particular municipal corporation.

(b) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in an unincorporated area, the

approval shall be obtained from the fire chief of the particular township or township fire district, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the particular township, or township or joint police district.

(c) If fire protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief of the political subdivision providing the fire protection services and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivision in which the premises on which the exhibition will take place are located. If police services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivision providing the police services and from the fire chief of the political subdivision in which the premises on which the exhibition will take place are located. If both fire and police protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivisions providing the police and fire protection services.

(d) If there is no municipal corporation, township, or township fire district fire department, no municipal corporation, township, or township or joint police district police department,

and no contract for police or fire protection services between 75850
political subdivisions covering the premises on which the 75851
exhibition will take place, the approval shall be obtained from 75852
the fire prevention officer, and from the police chief or other 75853
similar chief law enforcement officer, or the designee of the 75854
police chief or other similar chief law enforcement officer, 75855
having jurisdiction over the premises. 75856

(2) The approval required by division (B)(1) of this section 75857
shall be evidenced by the fire chief or fire prevention officer 75858
and by the police chief or other similar chief law enforcement 75859
officer, or the designee of the police chief or other similar 75860
chief law enforcement officer, signing a permit for the 75861
exhibition. The fire marshal shall prescribe the form of 75862
exhibition permits and distribute copies of the form to fire 75863
chiefs, to fire prevention officers, and to police chiefs or other 75864
similar chief law enforcement officers of municipal corporations, 75865
townships, or township or joint police districts, or their 75866
designees, in this state. Any exhibitor of fireworks who wishes to 75867
conduct a public fireworks exhibition may obtain a copy of the 75868
form from the fire marshal or, if it is available, from a fire 75869
chief, a fire prevention officer, a police chief or other similar 75870
chief law enforcement officer of a municipal corporation, 75871
township, or township or joint police district, or a designee of 75872
such a police chief or other similar chief law enforcement 75873
officer. 75874

(C) Before a permit is signed and issued to a licensed 75875
exhibitor of fireworks, the fire chief or fire prevention officer, 75876
in consultation with the police chief or other similar chief law 75877
enforcement officer or with the designee of the police chief or 75878
other similar chief law enforcement officer, shall inspect the 75879
premises on which the exhibition will take place and shall 75880
determine that, in fact, the applicant for the permit is a 75881

licensed exhibitor of fireworks. Each applicant shall show the 75882
applicant's license as an exhibitor of fireworks to the fire chief 75883
or fire prevention officer. 75884

The fire chief or fire prevention officer, and the police 75885
chief or other similar chief law enforcement officer, or the 75886
designee of the police chief or other similar chief law 75887
enforcement officer, shall give approval to conduct a public 75888
fireworks exhibition only if satisfied, based on the inspection, 75889
that the premises on which the exhibition will be conducted allow 75890
the exhibitor to comply with the rules adopted by the fire marshal 75891
pursuant to divisions (B) and (E) of section 3743.53 of the 75892
Revised Code and that the applicant is, in fact, a licensed 75893
exhibitor of fireworks. The fire chief or fire prevention officer, 75894
in consultation with the police chief or other similar chief law 75895
enforcement officer or with the designee of the police chief or 75896
other similar chief law enforcement officer, may inspect the 75897
premises immediately prior to the exhibition to determine if the 75898
exhibitor has complied with the rules, and may revoke a permit for 75899
noncompliance with the rules. 75900

(D) If the legislative authorities of their political 75901
subdivisions have prescribed a fee for the issuance of a permit 75902
for a public fireworks exhibition, fire chiefs or fire prevention 75903
officers, and police chiefs, other similar chief law enforcement 75904
officers, or their designee, shall not issue a permit until the 75905
exhibitor pays the requisite fee. 75906

Each exhibitor shall provide an indemnity bond in the amount 75907
of at least one million dollars, with surety satisfactory to the 75908
fire chief or fire prevention officer and to the police chief or 75909
other similar chief law enforcement officer, or the designee of 75910
the police chief or other similar chief law enforcement officer, 75911
conditioned for the payment of all final judgments that may be 75912
rendered against the exhibitor on account of injury, death, or 75913

loss to persons or property emanating from the fireworks 75914
exhibition, or proof of insurance coverage of at least one million 75915
dollars for liability arising from injury, death, or loss to 75916
persons or property emanating from the fireworks exhibition. The 75917
legislative authority of a political subdivision in which a public 75918
fireworks exhibition will take place may require the exhibitor to 75919
provide an indemnity bond or proof of insurance coverage in 75920
amounts greater than those required by this division. Fire chiefs 75921
or fire prevention officers, and police chiefs, other similar 75922
chief law enforcement officers, or their designee, shall not issue 75923
a permit until the exhibitor provides the bond or proof of the 75924
insurance coverage required by this division or by the political 75925
subdivision in which the fireworks exhibition will take place. 75926

(E)(1) Each permit for a fireworks exhibition issued by a 75927
fire chief or fire prevention officer, and by the police chief or 75928
other similar chief law enforcement officer, or the designee of 75929
the police chief or other similar chief law enforcement officer, 75930
shall contain a distinct number, designate the municipal 75931
corporation, township, ~~or~~ township fire or police district, or 75932
joint police district of the fire chief, fire prevention officer, 75933
police chief or other similar chief law enforcement officer, or 75934
designee of the police chief or other similar chief law 75935
enforcement officer, and identify the certified fire safety 75936
inspector, fire chief, or fire prevention officer who will be 75937
present before, during, and after the exhibition, where 75938
appropriate. A copy of each permit issued shall be forwarded by 75939
the fire chief or fire prevention officer, and by the police chief 75940
or other similar chief law enforcement officer, or the designee of 75941
the police chief or other similar chief law enforcement officer, 75942
issuing it to the fire marshal, who shall keep a record of the 75943
permits received. A permit is not transferable or assignable. 75944

(2) Each fire chief, fire prevention officer, police chief or 75945

other similar chief law enforcement officer, and designee of a 75946
police chief or other similar chief law enforcement officer shall 75947
keep a record of issued permits for fireworks exhibitions. In this 75948
list, the fire chief, fire prevention officer, police chief or 75949
other similar chief law enforcement officer, and designee of a 75950
police chief or other similar chief law enforcement officer shall 75951
list the name of the exhibitor, the exhibitor's license number, 75952
the premises on which the exhibition will be conducted, the date 75953
and time of the exhibition, and the number and political 75954
subdivision designation of the permit issued to the exhibitor for 75955
the exhibition. 75956

(F) The governing authority having jurisdiction in the 75957
location where an exhibition is to take place shall require that a 75958
certified fire safety inspector, fire chief, or fire prevention 75959
officer be present before, during, and after the exhibition, and 75960
shall require the certified fire safety inspector, fire chief, or 75961
fire prevention officer to inspect the premises where the 75962
exhibition is to take place and determine whether the exhibition 75963
is in compliance with this chapter. 75964

(G) Notwithstanding any provision of the Revised Code to the 75965
contrary, the state fire marshal is hereby authorized to create 75966
additional license categories for fireworks exhibitors and to 75967
create additional permit requirements for fireworks exhibitions 75968
for the indoor use of fireworks and other uses of pyrotechnics, 75969
including the use of pyrotechnic materials that do not meet the 75970
definition of fireworks as described in section 3743.01 of the 75971
Revised Code. Such licenses and permits and the fees for such 75972
licenses and permits shall be described in rules adopted by the 75973
fire marshal under Chapter 119. of the Revised Code. Such rules 75974
may provide for different standards for exhibitor licensure and 75975
the permitting and conducting of a fireworks exhibition than the 75976
requirements of this chapter. 75977

Prior to the state fire marshal's adoption of the rules 75978
described in this division, the director of commerce shall appoint 75979
a committee consisting of the state fire marshal or the marshal's 75980
designee, three representatives of the fireworks industry, and 75981
three representatives of the fire service to assist the state fire 75982
marshal in adopting these rules. Unless an extension is granted by 75983
the director of commerce, the state fire marshal shall adopt 75984
initial rules under this section not later than July 1, 2010. 75985

Sec. 3743.64. (A) No person shall conduct a fireworks 75986
exhibition in this state or act as an exhibitor of fireworks in 75987
this state unless the person is a licensed exhibitor of fireworks. 75988

(B) No person shall conduct a fireworks exhibition in this 75989
state or act as an exhibitor of fireworks in this state after the 75990
person's license as an exhibitor of fireworks has expired, been 75991
denied renewal, or been revoked, unless a new license has been 75992
obtained. 75993

(C) No licensed exhibitor of fireworks shall fail to comply 75994
with the applicable requirements of the rules adopted by the fire 75995
marshal pursuant to divisions (B) and (E) of section 3743.53 of 75996
the Revised Code or to comply with divisions (C) and (D) of that 75997
section. 75998

(D) No licensed exhibitor of fireworks shall conduct a 75999
fireworks exhibition unless a permit has been secured for the 76000
exhibition pursuant to section 3743.54 of the Revised Code or if a 76001
permit so secured is revoked by a fire chief or fire prevention 76002
officer, in consultation with a police chief or other similar 76003
chief law enforcement officer of a municipal corporation, 76004
township, or township or joint police district or with a designee 76005
of such a police chief or other similar chief law enforcement 76006
officer, pursuant to that section. 76007

(E) No licensed exhibitor of fireworks shall acquire 76008

fireworks for use at a fireworks exhibition other than in 76009
accordance with sections 3743.54 and 3743.55 of the Revised Code. 76010

(F) No licensed exhibitor of fireworks or other person 76011
associated with the conduct of a fireworks exhibition shall have 76012
possession or control of, or be under the influence of, any 76013
intoxicating liquor, beer, or controlled substance while on the 76014
premises on which the exhibition is being conducted. 76015

(G) No licensed exhibitor of fireworks shall permit an 76016
employee to assist the licensed exhibitor in conducting fireworks 76017
exhibitions unless the employee is registered with the fire 76018
marshal under section 3743.56 of the Revised Code. 76019

(H) Except as provided in division (C) of section 3743.541 of 76020
the Revised Code, no person shall knowingly, or knowingly permit 76021
another person to, dismantle, reposition, or otherwise disturb any 76022
fireworks, associated equipment or materials, or other items 76023
within a fireworks incident site, or any evidence related to a 76024
fireworks incident, at any time after that person has reason to 76025
believe a fireworks incident has occurred, before the state fire 76026
marshal, the state fire marshal's designee, a member of the state 76027
fire marshal's staff, or other appropriate state or local law 76028
enforcement authorities permit in accordance with section 3743.541 76029
of the Revised Code the dismantling, repositioning, or other 76030
disturbance of the fireworks, equipment, materials, or items 76031
within the fireworks incident site or of any evidence related to 76032
the fireworks incident. 76033

Sec. 3745.015. There is hereby created in the state treasury 76034
the environmental protection fund consisting of money credited to 76035
the fund under ~~divisions~~ division (A)(3) ~~and (4)~~ of section 76036
3734.57 of the Revised Code. The environmental protection agency 76037
shall use money in the fund to pay the agency's costs associated 76038
with administering and enforcing, or otherwise conducting 76039

activities under, this chapter and Chapters 3704., 3734., 3746., 76040
3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 76041
6105., 6109., 6111., 6112., 6113., 6115., 6117., and 6119. and 76042
sections 122.65 and 1521.19 of the Revised Code. 76043

Sec. 3745.016. There is hereby created in the state treasury 76044
the federally supported cleanup and response fund consisting of 76045
money credited to the fund from federal grants, gifts, and 76046
contributions to support the investigation and remediation of 76047
contaminated property. The environmental protection agency shall 76048
use money in the fund to support the investigation and remediation 76049
of contaminated property. 76050

Sec. 3745.05. (A) In hearing the appeal, if an adjudication 76051
hearing was conducted by the director of environmental protection 76052
in accordance with sections 119.09 and 119.10 of the Revised Code 76053
or conducted by a board of health, the environmental review 76054
appeals commission is confined to the record as certified to it by 76055
the director or the board of health, as applicable. The commission 76056
may grant a request for the admission of additional evidence when 76057
satisfied that such additional evidence is newly discovered and 76058
could not with reasonable diligence have been ascertained prior to 76059
the hearing before the director or the board, as applicable. If no 76060
adjudication hearing was conducted in accordance with sections 76061
119.09 and 119.10 of the Revised Code or conducted by a board of 76062
health, the commission shall conduct a hearing de novo on the 76063
appeal. 76064

For the purpose of conducting a de novo hearing, or where the 76065
commission has granted a request for the admission of additional 76066
evidence, the commission may require the attendance of witnesses 76067
and the production of written or printed materials. 76068

When conducting a de novo hearing, or when a request for the 76069

admission of additional evidence has been granted, the commission 76070
may, and at the request of any party it shall, issue subpoenas for 76071
witnesses or for books, papers, correspondence, memoranda, 76072
agreements, or other documents or records relevant or material to 76073
the inquiry directed to the sheriff of the counties where the 76074
witnesses or documents or records are found, which subpoenas shall 76075
be served and returned in the same manner as those allowed by the 76076
court of common pleas in criminal cases. 76077

(B) The fees of sheriffs shall be the same as those allowed 76078
by the court of common pleas in criminal cases. Witnesses shall be 76079
paid the fees and mileage provided for under section 119.094 of 76080
the Revised Code. The fee and mileage expenses incurred at the 76081
request of the appellant shall be paid in advance by the 76082
appellant, and the remainder of the expenses shall be paid out of 76083
funds appropriated for the expenses of the commission. 76084

(C) In case of disobedience or neglect of any subpoena served 76085
on any person, or the refusal of any witness to testify to any 76086
matter regarding which the witness may be lawfully interrogated, 76087
the court of common pleas of the county in which the disobedience, 76088
neglect, or refusal occurs, or any judge thereof, on application 76089
of the commission or any member thereof, may compel obedience by 76090
attachment proceedings for contempt as in the case of disobedience 76091
of the requirements of a subpoena issued from the court or a 76092
refusal to testify therein. 76093

(D) A witness at any hearing shall testify under oath or 76094
affirmation, which any member of the commission may administer. A 76095
witness, if the witness requests, shall be permitted to be 76096
accompanied, represented, and advised by an attorney, whose 76097
participation in the hearing shall be limited to the protection of 76098
the rights of the witness, and who may not examine or 76099
cross-examine witnesses. A witness shall be advised of the right 76100
to counsel before the witness is interrogated. 76101

(E) A stenographic or electronic record of the testimony and 76102
other evidence submitted shall be taken by an official court 76103
~~shorthand~~ reporter. The record shall include all of the testimony 76104
and other evidence and the rulings on the admissibility thereof 76105
presented at the hearing. The commission shall pass upon the 76106
admissibility of evidence, but any party may at the time object to 76107
the admission of any evidence and except to the rulings of the 76108
commission thereon, and if the commission refuses to admit 76109
evidence the party offering same may make a proffer thereof, and 76110
such proffer shall be made a part of the record of such hearing. 76111

Any party may request the stenographic or electronic record 76112
of the hearing. Promptly after receiving such a request, the 76113
commission shall prepare and provide the stenographic or 76114
electronic record of the hearing to the party who requested it. 76115
The commission may charge a fee to the party who requested the 76116
stenographic or electronic record that does not exceed the cost to 76117
the commission for preparing and transcribing or transmitting it. 76118

(F) If, upon completion of the hearing, the commission finds 76119
that the action appealed from was lawful and reasonable, it shall 76120
make a written order affirming the action, or if the commission 76121
finds that the action was unreasonable or unlawful, it shall make 76122
a written order vacating or modifying the action appealed from. 76123

The commission shall issue a written order affirming, 76124
vacating, or modifying an action pursuant to the following 76125
schedule: 76126

(1) For an appeal that was filed with the commission before 76127
April 15, 2008, the commission shall issue a written order not 76128
later than December 15, 2009. 76129

(2) For all other appeals that have been filed with the 76130
commission as of October 15, 2009, the commission shall issue a 76131
written order not later than July 15, 2010. 76132

(3) For an appeal that is filed with the commission after 76133
October 15, 2009, the commission shall issue a written order not 76134
later than twelve months after the filing of the appeal with the 76135
commission. 76136

(G) Every order made by the commission shall contain a 76137
written finding by the commission of the facts upon which the 76138
order is based. Notice of the making of the order shall be given 76139
forthwith to each party to the appeal by mailing a certified copy 76140
thereof to each party by certified mail, with a statement of the 76141
time and method by which an appeal may be perfected. 76142

(H) The order of the commission is final unless vacated or 76143
modified upon judicial review. 76144

Sec. 3745.11. (A) Applicants for and holders of permits, 76145
licenses, variances, plan approvals, and certifications issued by 76146
the director of environmental protection pursuant to Chapters 76147
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 76148
to the environmental protection agency for each such issuance and 76149
each application for an issuance as provided by this section. No 76150
fee shall be charged for any issuance for which no application has 76151
been submitted to the director. 76152

(B) Each person who is issued a permit to install prior to 76153
July 1, 2003, pursuant to rules adopted under division (F) of 76154
section 3704.03 of the Revised Code shall pay the fees specified 76155
in the following schedules: 76156

(1) Fuel-burning equipment (boilers)		76157
Input capacity (maximum)		76158
(million British thermal units per hour)	Permit to install	76159
Greater than 0, but less than 10	\$ 200	76160
10 or more, but less than 100	400	76161
100 or more, but less than 300	800	76162

300 or more, but less than 500	1500	76163
500 or more, but less than 1000	2500	76164
1000 or more, but less than 5000	4000	76165
5000 or more	6000	76166

Units burning exclusively natural gas, number two fuel oil,
or both shall be assessed a fee that is one-half of the applicable
amount established in division (F)(1) of this section.

(2) Incinerators 76170

Input capacity (pounds per hour)	Permit to install	
0 to 100	\$ 100	76172
101 to 500	400	76173
501 to 2000	750	76174
2001 to 20,000	1000	76175
more than 20,000	2500	76176

(3)(a) Process 76177

Process weight rate (pounds per hour)	Permit to install	
0 to 1000	\$ 200	76179
1001 to 5000	400	76180
5001 to 10,000	600	76181
10,001 to 50,000	800	76182
more than 50,000	1000	76183

In any process where process weight rate cannot be
ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any
person issued a permit to install pursuant to rules adopted under
division (F) of section 3704.03 of the Revised Code shall pay the
fees established in division (B)(3)(c) of this section for a
process used in any of the following industries, as identified by
the applicable four-digit standard industrial classification code
according to the Standard Industrial Classification Manual
published by the United States office of management and budget in
the executive office of the president, 1972, as revised:

1211 Bituminous coal and lignite mining;	76195
1213 Bituminous coal and lignite mining services;	76196
1411 Dimension stone;	76197
1422 Crushed and broken limestone;	76198
1427 Crushed and broken stone, not elsewhere classified;	76199
1442 Construction sand and gravel;	76200
1446 Industrial sand;	76201
3281 Cut stone and stone products;	76202
3295 Minerals and earth, ground or otherwise treated.	76203

(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:

Process weight rate (pounds per hour)	Permit to install	
0 to 1000	\$ 200	76209
10,001 to 50,000	300	76210
50,001 to 100,000	400	76211
100,001 to 200,000	500	76212
200,001 to 400,000	600	76213
400,001 or more	700	76214

(4) Storage tanks 76215

Gallons (maximum useful capacity)	Permit to install	
0 to 20,000	\$ 100	76217
20,001 to 40,000	150	76218
40,001 to 100,000	200	76219
100,001 to 250,000	250	76220
250,001 to 500,000	350	76221
500,001 to 1,000,000	500	76222
1,000,001 or greater	750	76223

(5) Gasoline/fuel dispensing facilities 76224

For each gasoline/fuel dispensing facility	Permit to install	76225
	\$ 100	76226
(6) Dry cleaning facilities		76227
For each dry cleaning facility	Permit to install	76228
(includes all units at the facility)	\$ 100	76229
(7) Registration status		76230
For each source covered	Permit to install	76231
by registration status	\$ 75	76232
(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.		76233 76234 76235 76236 76237 76238 76239 76240 76241
The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:		76242 76243 76244 76245
(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;		76246 76247 76248
(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;		76249 76250 76251
(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar		76252 76253 76254 76255

year in which the emissions occurred. 76256

The fees levied under division (C)(1) of this section do not 76257
apply to that portion of the emissions of a regulated pollutant at 76258
a facility that exceed four thousand tons during a calendar year. 76259

(2) The fees assessed under division (C)(1) of this section 76260
are for the purpose of providing funding for the Title V permit 76261
program. 76262

(3) The fees assessed under division (C)(1) of this section 76263
do not apply to emissions from any electric generating unit 76264
designated as a Phase I unit under Title IV of the federal Clean 76265
Air Act prior to calendar year 2000. Those fees shall be assessed 76266
on the emissions from such a generating unit commencing in 76267
calendar year 2001 based upon the total actual emissions from the 76268
generating unit during calendar year 2000 and shall continue to be 76269
assessed each subsequent calendar year based on the total actual 76270
emissions from the generating unit during the preceding calendar 76271
year. 76272

(4) The director shall issue invoices to owners or operators 76273
of air contaminant sources who are required to pay a fee assessed 76274
under division (C) or (D) of this section. Any such invoice shall 76275
be issued no sooner than the applicable date when the fee first 76276
may be collected in a year under the applicable division, shall 76277
identify the nature and amount of the fee assessed, and shall 76278
indicate that the fee is required to be paid within thirty days 76279
after the issuance of the invoice. 76280

(D)(1) Except as provided in division (D)(3) of this section, 76281
from January 1, 1994, through December 31, 2003, each person who 76282
owns or operates an air contaminant source; who is required to 76283
apply for a permit to operate pursuant to rules adopted under 76284
division (G), or a variance pursuant to division (H), of section 76285
3704.03 of the Revised Code; and who is not required to apply for 76286

and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 50	\$ 75	76295
50 or more, but less than 100	300	76296
100 or more	700	76297

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 10	\$ 100	76312
10 or more, but less than 50	200	76313
50 or more, but less than 100	300	76314
100 or more	700	76315

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air

contaminant sources at the facility that include terms and 76319
conditions that lower the facility's potential to emit air 76320
contaminants below the major source thresholds established in 76321
rules adopted under section 3704.036 of the Revised Code. 76322

(b) Beginning January 1, 2000, through June 30, ~~2012~~ 2014, 76323
each person who owns or operates a synthetic minor facility shall 76324
pay an annual fee based on the sum of the actual annual emissions 76325
from the facility of particulate matter, sulfur dioxide, nitrogen 76326
dioxide, organic compounds, and lead in accordance with the 76327
following schedule: 76328

Combined total tons 76329		
per year of all regulated 76330	Annual fee	
pollutants emitted 76331	per facility	
Less than 10 76332	\$ 170	
10 or more, but less than 20 76333	340	
20 or more, but less than 30 76334	670	
30 or more, but less than 40 76335	1,010	
40 or more, but less than 50 76336	1,340	
50 or more, but less than 60 76337	1,680	
60 or more, but less than 70 76338	2,010	
70 or more, but less than 80 76339	2,350	
80 or more, but less than 90 76340	2,680	
90 or more, but less than 100 76341	3,020	
100 or more 76342	3,350	

(4) The fees assessed under division (D)(1) of this section 76343
shall be collected annually no sooner than the fifteenth day of 76344
April, commencing in 1995. The fees assessed under division (D)(2) 76345
of this section shall be collected annually no sooner than the 76346
fifteenth day of April, commencing in 2005. The fees assessed 76347
under division (D)(3) of this section shall be collected no sooner 76348
than the fifteenth day of April, commencing in 2000. The fees 76349
assessed under division (D) of this section in a calendar year 76350

shall be based upon the sum of the actual emissions of those 76351
regulated pollutants during the preceding calendar year. For the 76352
purpose of division (D) of this section, emissions of air 76353
contaminants may be calculated using engineering calculations, 76354
emission factors, material balance calculations, or performance 76355
testing procedures, as authorized by the director. The director, 76356
by rule, may require persons who are required to pay the fees 76357
assessed under division (D) of this section to pay those fees 76358
biennially rather than annually. 76359

(E)(1) Consistent with the need to cover the reasonable costs 76360
of the Title V permit program, the director annually shall 76361
increase the fees prescribed in division (C)(1) of this section by 76362
the percentage, if any, by which the consumer price index for the 76363
most recent calendar year ending before the beginning of a year 76364
exceeds the consumer price index for calendar year 1989. Upon 76365
calculating an increase in fees authorized by division (E)(1) of 76366
this section, the director shall compile revised fee schedules for 76367
the purposes of division (C)(1) of this section and shall make the 76368
revised schedules available to persons required to pay the fees 76369
assessed under that division and to the public. 76370

(2) For the purposes of division (E)(1) of this section: 76371

(a) The consumer price index for any year is the average of 76372
the consumer price index for all urban consumers published by the 76373
United States department of labor as of the close of the 76374
twelve-month period ending on the thirty-first day of August of 76375
that year. 76376

(b) If the 1989 consumer price index is revised, the director 76377
shall use the revision of the consumer price index that is most 76378
consistent with that for calendar year 1989. 76379

(F) Each person who is issued a permit to install pursuant to 76380
rules adopted under division (F) of section 3704.03 of the Revised 76381

Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)			76384
Input capacity (maximum)			76385
(million British thermal units per hour)	Permit to install		76386
Greater than 0, but less than 10	\$ 200		76387
10 or more, but less than 100	400		76388
100 or more, but less than 300	1000		76389
300 or more, but less than 500	2250		76390
500 or more, but less than 1000	3750		76391
1000 or more, but less than 5000	6000		76392
5000 or more	9000		76393

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity			76394
Generating capacity (mega watts)	Permit to install		76395
0 or more, but less than 10	\$ 25		76396
10 or more, but less than 25	150		76397
25 or more, but less than 50	300		76398
50 or more, but less than 100	500		76399
100 or more, but less than 250	1000		76400
250 or more	2000		76401

(3) Incinerators			76402
Input capacity (pounds per hour)	Permit to install		76403
0 to 100	\$ 100		76404
101 to 500	500		76405
501 to 2000	1000		76406

2001 to 20,000	1500	76413
more than 20,000	3750	76414

(4)(a) Process		76415
Process weight rate (pounds per hour)	Permit to install	76416
0 to 1000	\$ 200	76417
1001 to 5000	500	76418
5001 to 10,000	750	76419
10,001 to 50,000	1000	76420
more than 50,000	1250	76421

In any process where process weight rate cannot be 76422
ascertained, the minimum fee shall be assessed. A boiler, furnace, 76423
combustion turbine, stationary internal combustion engine, or 76424
process heater designed to provide direct heat or power to a 76425
process not designed to generate electricity shall be assessed a 76426
fee established in division (F)(4)(a) of this section. A 76427
combustion turbine or stationary internal combustion engine 76428
designed to generate electricity shall be assessed a fee 76429
established in division (F)(2) of this section. 76430

(b) Notwithstanding division (F)(4)(a) of this section, any 76431
person issued a permit to install pursuant to rules adopted under 76432
division (F) of section 3704.03 of the Revised Code shall pay the 76433
fees set forth in division (F)(4)(c) of this section for a process 76434
used in any of the following industries, as identified by the 76435
applicable two-digit, three-digit, or four-digit standard 76436
industrial classification code according to the Standard 76437
Industrial Classification Manual published by the United States 76438
office of management and budget in the executive office of the 76439
president, 1987, as revised: 76440

Major group 10, metal mining; 76441

Major group 12, coal mining; 76442

Major group 14, mining and quarrying of nonmetallic minerals; 76443

Industry group 204, grain mill products;		76444
2873 Nitrogen fertilizers;		76445
2874 Phosphatic fertilizers;		76446
3281 Cut stone and stone products;		76447
3295 Minerals and earth, ground or otherwise treated;		76448
4221 Grain elevators (storage only);		76449
5159 Farm related raw materials;		76450
5261 Retail nurseries and lawn and garden supply stores.		76451
(c) The fees set forth in the following schedule apply to the		76452
issuance of a permit to install pursuant to rules adopted under		76453
division (F) of section 3704.03 of the Revised Code for a process		76454
identified in division (F)(4)(b) of this section:		76455
Process weight rate (pounds per	Permit to install	76456
hour)		
0 to 10,000	\$ 200	76457
10,001 to 50,000	400	76458
50,001 to 100,000	500	76459
100,001 to 200,000	600	76460
200,001 to 400,000	750	76461
400,001 or more	900	76462
(5) Storage tanks		76463
Gallons (maximum useful capacity)	Permit to install	76464
0 to 20,000	\$ 100	76465
20,001 to 40,000	150	76466
40,001 to 100,000	250	76467
100,001 to 500,000	400	76468
500,001 or greater	750	76469
(6) Gasoline/fuel dispensing facilities		76470
For each gasoline/fuel		76471
dispensing facility (includes all	Permit to install	76472

units at the facility)	\$ 100	76473
(7) Dry cleaning facilities		76474
For each dry cleaning		76475
facility (includes all units	Permit to install	76476
at the facility)	\$ 100	76477
(8) Registration status		76478
For each source covered	Permit to install	76479
by registration status	\$ 75	76480
(G) An owner or operator who is responsible for an asbestos		76481
demolition or renovation project pursuant to rules adopted under		76482
section 3704.03 of the Revised Code shall pay the fees set forth		76483
in the following schedule:		76484
Action	Fee	76485
Each notification	\$75	76486
Asbestos removal	\$3/unit	76487
Asbestos cleanup	\$4/cubic yard	76488
For purposes of this division, "unit" means any combination of		76489
linear feet or square feet equal to fifty.		76490
(H) A person who is issued an extension of time for a permit		76491
to install an air contaminant source pursuant to rules adopted		76492
under division (F) of section 3704.03 of the Revised Code shall		76493
pay a fee equal to one-half the fee originally assessed for the		76494
permit to install under this section, except that the fee for such		76495
an extension shall not exceed two hundred dollars.		76496
(I) A person who is issued a modification to a permit to		76497
install an air contaminant source pursuant to rules adopted under		76498
section 3704.03 of the Revised Code shall pay a fee equal to		76499
one-half of the fee that would be assessed under this section to		76500
obtain a permit to install the source. The fee assessed by this		76501
division only applies to modifications that are initiated by the		76502
owner or operator of the source and shall not exceed two thousand		76503

dollars. 76504

(J) Notwithstanding division (B) or (F) of this section, a 76505
person who applies for or obtains a permit to install pursuant to 76506
rules adopted under division (F) of section 3704.03 of the Revised 76507
Code after the date actual construction of the source began shall 76508
pay a fee for the permit to install that is equal to twice the fee 76509
that otherwise would be assessed under the applicable division 76510
unless the applicant received authorization to begin construction 76511
under division (W) of section 3704.03 of the Revised Code. This 76512
division only applies to sources for which actual construction of 76513
the source begins on or after July 1, 1993. The imposition or 76514
payment of the fee established in this division does not preclude 76515
the director from taking any administrative or judicial 76516
enforcement action under this chapter, Chapter 3704., 3714., 76517
3734., or 6111. of the Revised Code, or a rule adopted under any 76518
of them, in connection with a violation of rules adopted under 76519
division (F) of section 3704.03 of the Revised Code. 76520

As used in this division, "actual construction of the source" 76521
means the initiation of physical on-site construction activities 76522
in connection with improvements to the source that are permanent 76523
in nature, including, without limitation, the installation of 76524
building supports and foundations and the laying of underground 76525
pipework. 76526

(K) Fifty cents per ton of each fee assessed under division 76527
(C) of this section on actual emissions from a source and received 76528
by the environmental protection agency pursuant to that division 76529
shall be deposited into the state treasury to the credit of the 76530
small business assistance fund created in section 3706.19 of the 76531
Revised Code. The remainder of the moneys received by the division 76532
pursuant to that division and moneys received by the agency 76533
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 76534
section shall be deposited in the state treasury to the credit of 76535

the clean air fund created in section 3704.035 of the Revised Code. 76536
76537

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 76538
or (c) of this section, a person issued a water discharge permit 76539
or renewal of a water discharge permit pursuant to Chapter 6111. 76540
of the Revised Code shall pay a fee based on each point source to 76541
which the issuance is applicable in accordance with the following 76542
schedule: 76543

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	76544
1,001 to 5000	100	76545
5,001 to 50,000	200	76546
50,001 to 100,000	300	76547
100,001 to 300,000	525	76548
over 300,000	750	76549

(b) Notwithstanding the fee schedule specified in division 76551
(L)(1)(a) of this section, the fee for a water discharge permit 76552
that is applicable to coal mining operations regulated under 76553
Chapter 1513. of the Revised Code shall be two hundred fifty 76554
dollars per mine. 76555

(c) Notwithstanding the fee schedule specified in division 76556
(L)(1)(a) of this section, the fee for a water discharge permit 76557
for a public discharger identified by I in the third character of 76558
the permittee's NPDES permit number shall not exceed seven hundred 76559
fifty dollars. 76560

(2) A person applying for a plan approval for a wastewater 76561
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 76562
of the Revised Code shall pay a fee of one hundred dollars plus 76563
sixty-five one-hundredths of one per cent of the estimated project 76564
cost through June 30, ~~2012~~ 2014, and one hundred dollars plus 76565
two-tenths of one per cent of the estimated project cost on and 76566
after July 1, ~~2012~~ 2014, except that the total fee shall not 76567

exceed fifteen thousand dollars through June 30, ~~2012~~ 2014, and 76568
five thousand dollars on and after July 1, ~~2012~~ 2014. The fee 76569
shall be paid at the time the application is submitted. 76570

(3) A person issued a modification of a water discharge 76571
permit shall pay a fee equal to one-half the fee that otherwise 76572
would be charged for a water discharge permit, except that the fee 76573
for the modification shall not exceed four hundred dollars. 76574

(4) A person who has entered into an agreement with the 76575
director under section 6111.14 of the Revised Code shall pay an 76576
administrative service fee for each plan submitted under that 76577
section for approval that shall not exceed the minimum amount 76578
necessary to pay administrative costs directly attributable to 76579
processing plan approvals. The director annually shall calculate 76580
the fee and shall notify all persons who have entered into 76581
agreements under that section, or who have applied for agreements, 76582
of the amount of the fee. 76583

(5)(a)(i) Not later than January 30, ~~2010~~ 2012, and January 76584
30, ~~2011~~ 2013, a person holding an NPDES discharge permit issued 76585
pursuant to Chapter 6111. of the Revised Code with an average 76586
daily discharge flow of five thousand gallons or more shall pay a 76587
nonrefundable annual discharge fee. Any person who fails to pay 76588
the fee at that time shall pay an additional amount that equals 76589
ten per cent of the required annual discharge fee. 76590

(ii) The billing year for the annual discharge fee 76591
established in division (L)(5)(a)(i) of this section shall consist 76592
of a twelve-month period beginning on the first day of January of 76593
the year preceding the date when the annual discharge fee is due. 76594
In the case of an existing source that permanently ceases to 76595
discharge during a billing year, the director shall reduce the 76596
annual discharge fee, including the surcharge applicable to 76597
certain industrial facilities pursuant to division (L)(5)(c) of 76598
this section, by one-twelfth for each full month during the 76599

billing year that the source was not discharging, but only if the 76600
person holding the NPDES discharge permit for the source notifies 76601
the director in writing, not later than the first day of October 76602
of the billing year, of the circumstances causing the cessation of 76603
discharge. 76604

(iii) The annual discharge fee established in division 76605
(L)(5)(a)(i) of this section, except for the surcharge applicable 76606
to certain industrial facilities pursuant to division (L)(5)(c) of 76607
this section, shall be based upon the average daily discharge flow 76608
in gallons per day calculated using first day of May through 76609
thirty-first day of October flow data for the period two years 76610
prior to the date on which the fee is due. In the case of NPDES 76611
discharge permits for new sources, the fee shall be calculated 76612
using the average daily design flow of the facility until actual 76613
average daily discharge flow values are available for the time 76614
period specified in division (L)(5)(a)(iii) of this section. The 76615
annual discharge fee may be prorated for a new source as described 76616
in division (L)(5)(a)(ii) of this section. 76617

(b) An NPDES permit holder that is a public discharger shall 76618
pay the fee specified in the following schedule: 76619

Average daily	Fee due by	
discharge flow	January 30,	
	2010 <u>2012</u> , and	
	January 30, 2011	
	<u>2013</u>	
5,000 to 49,999	\$ 200	76624
50,000 to 100,000	500	76625
100,001 to 250,000	1,050	76626
250,001 to 1,000,000	2,600	76627
1,000,001 to 5,000,000	5,200	76628
5,000,001 to 10,000,000	10,350	76629
10,000,001 to 20,000,000	15,550	76630

20,000,001 to 50,000,000	25,900	76631
50,000,001 to 100,000,000	41,400	76632
100,000,001 or more	62,100	76633

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2010 <u>2012</u> , and January 30, 2011 <u>2013</u>	
5,000 to 49,999	\$ 250	76650
50,000 to 250,000	1,200	76651
250,001 to 1,000,000	2,950	76652
1,000,001 to 5,000,000	5,850	76653
5,000,001 to 10,000,000	8,800	76654
10,000,001 to 20,000,000	11,700	76655
20,000,001 to 100,000,000	14,050	76656
100,000,001 to 250,000,000	16,400	76657
250,000,001 or more	18,700	76658

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee

billing year specified in division (L)(5)(a)(ii) of this section 76662
shall pay a nonrefundable annual surcharge of seven thousand five 76663
hundred dollars not later than January 30, ~~2010~~ 2012, and not 76664
later than January 30, ~~2011~~ 2013. Any person who fails to pay the 76665
surcharge at that time shall pay an additional amount that equals 76666
ten per cent of the amount of the surcharge. 76667

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 76668
section, a public discharger identified by I in the third 76669
character of the permittee's NPDES permit number and an industrial 76670
discharger identified by I, J, L, V, W, X, Y, or Z in the third 76671
character of the permittee's NPDES permit number shall pay a 76672
nonrefundable annual discharge fee of one hundred eighty dollars 76673
not later than January 30, ~~2010~~ 2012, and not later than January 76674
30, ~~2011~~ 2013. Any person who fails to pay the fee at that time 76675
shall pay an additional amount that equals ten per cent of the 76676
required fee. 76677

(6) Each person obtaining a national pollutant discharge 76678
elimination system general or individual permit for municipal 76679
storm water discharge shall pay a nonrefundable storm water 76680
discharge fee of one hundred dollars per square mile of area 76681
permitted. The fee shall not exceed ten thousand dollars and shall 76682
be payable on or before January 30, 2004, and the thirtieth day of 76683
January of each year thereafter. Any person who fails to pay the 76684
fee on the date specified in division (L)(6) of this section shall 76685
pay an additional amount per year equal to ten per cent of the 76686
annual fee that is unpaid. 76687

(7) The director shall transmit all moneys collected under 76688
division (L) of this section to the treasurer of state for deposit 76689
into the state treasury to the credit of the surface water 76690
protection fund created in section 6111.038 of the Revised Code. 76691

(8) As used in division (L) of this section: 76692

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~2012~~ 2014, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of

the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Number of service connections	Fee amount	
Not more than 49	\$ 112	
50 to 99	176	
Number of service connections	Average cost per connection	
100 to 2,499	\$ 1.92	
2,500 to 4,999	1.48	
5,000 to 7,499	1.42	
7,500 to 9,999	1.34	
10,000 to 14,999	1.16	
15,000 to 24,999	1.10	
25,000 to 49,999	1.04	
50,000 to 99,999	.92	
100,000 to 149,999	.86	
150,000 to 199,999	.80	
200,000 or more	.76	

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Population served	Fee amount	
Fewer than 150	\$ 112	

150 to 299	176	76756
300 to 749	384	76757
750 to 1,499	628	76758
1,500 to 2,999	1,268	76759
3,000 to 7,499	2,816	76760
7,500 to 14,999	5,510	76761
15,000 to 22,499	9,048	76762
22,500 to 29,999	12,430	76763
30,000 or more	16,820	76764

As used in division (M)(2) of this section, "population served" means the total number of individuals ~~receiving water from~~ having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Number of wells <u>or sources, other than surface water,</u> supplying system	Fee amount	
1	\$112	76777
2	112	76778
3	176	76779
4	278	76780
5	568	76781
System designated as using a surface water source	792	76782 76783

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the

plumbing system serving the public water system. 76787

(4) A public water system designated as using a surface water 76788
source shall pay a fee of seven hundred ninety-two dollars or the 76789
amount calculated under division (M)(1) or (2) of this section, 76790
whichever is greater. 76791

(N)(1) A person applying for a plan approval for a public 76792
water supply system under section 6109.07 of the Revised Code 76793
shall pay a fee of one hundred fifty dollars plus thirty-five 76794
hundredths of one per cent of the estimated project cost, except 76795
that the total fee shall not exceed twenty thousand dollars 76796
through June 30, ~~2012~~ 2014, and fifteen thousand dollars on and 76797
after July 1, ~~2012~~ 2014. The fee shall be paid at the time the 76798
application is submitted. 76799

(2) A person who has entered into an agreement with the 76800
director under division (A)(2) of section 6109.07 of the Revised 76801
Code shall pay an administrative service fee for each plan 76802
submitted under that section for approval that shall not exceed 76803
the minimum amount necessary to pay administrative costs directly 76804
attributable to processing plan approvals. The director annually 76805
shall calculate the fee and shall notify all persons that have 76806
entered into agreements under that division, or who have applied 76807
for agreements, of the amount of the fee. 76808

(3) Through June 30, ~~2012~~ 2014, the following fee, on a per 76809
survey basis, shall be charged any person for services rendered by 76810
the state in the evaluation of laboratories and laboratory 76811
personnel for compliance with accepted analytical techniques and 76812
procedures established pursuant to Chapter 6109. of the Revised 76813
Code for determining the qualitative characteristics of water: 76814

microbiological		76815
MMO-MUG	\$2,000	76816
MF	2,100	76817

MMO-MUG and MF	2,550	76818
organic chemical	5,400	76819
trace metals	5,400	76820
standard chemistry	2,800	76821
limited chemistry	1,550	76822

On and after July 1, ~~2012~~ 2014, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650	76825
organic chemicals	3,500	76826
trace metals	3,500	76827
standard chemistry	1,800	76828
limited chemistry	1,000	76829

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2012~~ 2014, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director for examination for certification as an operator of a water supply system or

wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of forty-five dollars through November 30, ~~2012~~ 2014, and twenty-five dollars on and after December 1, ~~2012~~ 2014. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, ~~2012~~ 2014:

Class A operator	\$35	76856
Class I operator	60	76857
Class II operator	75	76858
Class III operator	85	76859
Class IV operator	100	76860

On and after December 1, ~~2012~~ 2014, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	\$25	76863
Class I operator	\$45	76864
Class II operator	55	76865
Class III operator	65	76866
Class IV operator	75	76867

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	\$25	76871
Class I operator	35	76872
Class II operator	45	76873
Class III operator	55	76874
Class IV operator	65	76875

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following

schedule:		76880
Class A operator	\$45	76881
Class I operator	55	76882
Class II operator	65	76883
Class III operator	75	76884
Class IV operator	85	76885

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or

treatment capacity of the facility pursuant to Chapter 3734. of 76912
the Revised Code shall pay a fee of ten dollars per thousand cubic 76913
yards of disposal or treatment capacity, or one thousand dollars, 76914
whichever is greater, except that the total fee for any such 76915
permit shall not exceed eighty thousand dollars. A person issued a 76916
modification of a permit for a solid waste disposal facility or an 76917
infectious waste treatment facility that does not involve an 76918
increase in the total disposal or treatment capacity of the 76919
facility shall pay a fee of one thousand dollars. A person issued 76920
a permit to install a new, or modify an existing, solid waste 76921
transfer facility under that chapter shall pay a fee of two 76922
thousand five hundred dollars. A person issued a permit to install 76923
a new or to modify an existing solid waste incineration or 76924
composting facility, or an existing infectious waste treatment 76925
facility using incineration as its principal method of treatment, 76926
under that chapter shall pay a fee of one thousand dollars. The 76927
increases in the permit fees under this division resulting from 76928
the amendments made by Amended Substitute House Bill 592 of the 76929
117th general assembly do not apply to any person who submitted an 76930
application for a permit to install a new, or modify an existing, 76931
solid waste disposal facility under that chapter prior to 76932
September 1, 1987; any such person shall pay the permit fee 76933
established in this division as it existed prior to June 24, 1988. 76934
In addition to the applicable permit fee under this division, a 76935
person issued a permit to install or modify a solid waste facility 76936
or an infectious waste treatment facility under that chapter who 76937
fails to pay the permit fee to the director in compliance with 76938
division (V) of this section shall pay an additional ten per cent 76939
of the amount of the fee for each week that the permit fee is 76940
late. 76941

Permit and late payment fees paid to the director under this 76942
division shall be credited to the general revenue fund. 76943

(R)(1) A person issued a registration certificate for a scrap
tire collection facility under section 3734.75 of the Revised Code
shall pay a fee of two hundred dollars, except that if the
facility is owned or operated by a motor vehicle salvage dealer
licensed under Chapter 4738. of the Revised Code, the person shall
pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new
scrap tire storage facility under section 3734.76 of the Revised
Code shall pay a fee of three hundred dollars, except that if the
facility is owned or operated by a motor vehicle salvage dealer
licensed under Chapter 4738. of the Revised Code, the person shall
pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage
facility under section 3734.76 of the Revised Code shall pay a fee
of one thousand dollars, except that if the facility is owned or
operated by a motor vehicle salvage dealer licensed under Chapter
4738. of the Revised Code, the person shall pay a fee of fifty
dollars.

(4) A person issued a permit for a scrap tire monocell or
monofill facility under section 3734.77 of the Revised Code shall
pay a fee of ten dollars per thousand cubic yards of disposal
capacity or one thousand dollars, whichever is greater, except
that the total fee for any such permit shall not exceed eighty
thousand dollars.

(5) A person issued a registration certificate for a scrap
tire recovery facility under section 3734.78 of the Revised Code
shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery
facility under section 3734.78 of the Revised Code shall pay a fee
of one thousand dollars.

(7) In addition to the applicable registration certificate or

permit fee under divisions (R)(1) to (6) of this section, a person 76975
issued a registration certificate or permit for any such scrap 76976
tire facility who fails to pay the registration certificate or 76977
permit fee to the director in compliance with division (V) of this 76978
section shall pay an additional ten per cent of the amount of the 76979
fee for each week that the fee is late. 76980

(8) The registration certificate, permit, and late payment 76981
fees paid to the director under divisions (R)(1) to (7) of this 76982
section shall be credited to the scrap tire management fund 76983
created in section 3734.82 of the Revised Code. 76984

(S)(1) Except as provided by divisions (L), (M), (N), (O), 76985
(P), and (S)(2) of this section, division (A)(2) of section 76986
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 76987
and rules adopted under division (T)(1) of this section, any 76988
person applying for a registration certificate under section 76989
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 76990
variance, or plan approval under Chapter 3734. of the Revised Code 76991
shall pay a nonrefundable fee of fifteen dollars at the time the 76992
application is submitted. 76993

Except as otherwise provided, any person applying for a 76994
permit, variance, or plan approval under Chapter 6109. or 6111. of 76995
the Revised Code shall pay a nonrefundable fee of one hundred 76996
dollars at the time the application is submitted through June 30, 76997
~~2012~~ 2014, and a nonrefundable fee of fifteen dollars at the time 76998
the application is submitted on and after July 1, ~~2012~~ 2014. 76999

~~Through~~ Except as provided in division (S)(3) of this section, 77000
through June 30, ~~2012~~ 2014, any person applying for a national 77001
pollutant discharge elimination system permit under Chapter 6111. 77002
of the Revised Code shall pay a nonrefundable fee of two hundred 77003
dollars at the time of application for the permit. On and after 77004
July 1, ~~2012~~ 2014, such a person shall pay a nonrefundable fee of 77005
fifteen dollars at the time of application. 77006

In addition to the application fee established under division 77007
(S)(1) of this section, any person applying for a national 77008
pollutant discharge elimination system general storm water 77009
construction permit shall pay a nonrefundable fee of twenty 77010
dollars per acre for each acre that is permitted above five acres 77011
at the time the application is submitted. However, the per acreage 77012
fee shall not exceed three hundred dollars. In addition, any 77013
person applying for a national pollutant discharge elimination 77014
system general storm water industrial permit shall pay a 77015
nonrefundable fee of one hundred fifty dollars at the time the 77016
application is submitted. 77017

The director shall transmit all moneys collected under 77018
division (S)(1) of this section pursuant to Chapter 6109. of the 77019
Revised Code to the treasurer of state for deposit into the 77020
drinking water protection fund created in section 6109.30 of the 77021
Revised Code. 77022

The director shall transmit all moneys collected under 77023
division (S)(1) of this section pursuant to Chapter 6111. of the 77024
Revised Code and under division (S)(3) of this section to the 77025
treasurer of state for deposit into the surface water protection 77026
fund created in section 6111.038 of the Revised Code. 77027

If a registration certificate is issued under section 77028
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 77029
the application fee paid shall be deducted from the amount of the 77030
registration certificate fee due under division (R)(1), (2), or 77031
(5) of this section, as applicable. 77032

If a person submits an electronic application for a 77033
registration certificate, permit, variance, or plan approval for 77034
which an application fee is established under division (S)(1) of 77035
this section, the person shall pay the applicable application fee 77036
as expeditiously as possible after the submission of the 77037
electronic application. An application for a registration 77038

certificate, permit, variance, or plan approval for which an 77039
application fee is established under division (S)(1) of this 77040
section shall not be reviewed or processed until the applicable 77041
application fee, and any other fees established under this 77042
division, are paid. 77043

(2) Division (S)(1) of this section does not apply to an 77044
application for a registration certificate for a scrap tire 77045
collection or storage facility submitted under section 3734.75 or 77046
3734.76 of the Revised Code, as applicable, if the owner or 77047
operator of the facility or proposed facility is a motor vehicle 77048
salvage dealer licensed under Chapter 4738. of the Revised Code. 77049

(3) A person applying for coverage under a national pollutant 77050
discharge elimination system general discharge permit for 77051
household sewage treatment systems shall pay the following fees: 77052

(a) A nonrefundable fee of two hundred dollars at the time of 77053
application for initial permit coverage; 77054

(b) A nonrefundable fee of one hundred dollars at the time of 77055
application for a renewal of permit coverage. 77056

(T) The director may adopt, amend, and rescind rules in 77057
accordance with Chapter 119. of the Revised Code that do all of 77058
the following: 77059

(1) Prescribe fees to be paid by applicants for and holders 77060
of any license, permit, variance, plan approval, or certification 77061
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 77062
the Revised Code that are not specifically established in this 77063
section. The fees shall be designed to defray the cost of 77064
processing, issuing, revoking, modifying, denying, and enforcing 77065
the licenses, permits, variances, plan approvals, and 77066
certifications. 77067

The director shall transmit all moneys collected under rules 77068
adopted under division (T)(1) of this section pursuant to Chapter 77069

6109. of the Revised Code to the treasurer of state for deposit 77070
into the drinking water protection fund created in section 6109.30 77071
of the Revised Code. 77072

The director shall transmit all moneys collected under rules 77073
adopted under division (T)(1) of this section pursuant to Chapter 77074
6111. of the Revised Code to the treasurer of state for deposit 77075
into the surface water protection fund created in section 6111.038 77076
of the Revised Code. 77077

(2) Exempt the state and political subdivisions thereof, 77078
including education facilities or medical facilities owned by the 77079
state or a political subdivision, or any person exempted from 77080
taxation by section 5709.07 or 5709.12 of the Revised Code, from 77081
any fee required by this section; 77082

(3) Provide for the waiver of any fee, or any part thereof, 77083
otherwise required by this section whenever the director 77084
determines that the imposition of the fee would constitute an 77085
unreasonable cost of doing business for any applicant, class of 77086
applicants, or other person subject to the fee; 77087

(4) Prescribe measures that the director considers necessary 77088
to carry out this section. 77089

(U) When the director reasonably demonstrates that the direct 77090
cost to the state associated with the issuance of a permit to 77091
install, license, variance, plan approval, or certification 77092
exceeds the fee for the issuance or review specified by this 77093
section, the director may condition the issuance or review on the 77094
payment by the person receiving the issuance or review of, in 77095
addition to the fee specified by this section, the amount, or any 77096
portion thereof, in excess of the fee specified under this 77097
section. The director shall not so condition issuances for which 77098
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 77099
section. 77100

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V

permit, permit revision, or permit renewal, including the 77132
development of an applicable requirement as part of the processing 77133
of a permit, permit revision, or permit renewal; 77134

(c) Administering the permit program, including the 77135
supporting and tracking of permit applications, compliance 77136
certification, and related data entry; 77137

(d) Determining which sources are subject to the program and 77138
implementing and enforcing the terms of any Title V permit, not 77139
including any court actions or other formal enforcement actions; 77140

(e) Emission and ambient monitoring; 77141

(f) Modeling, analyses, or demonstrations; 77142

(g) Preparing inventories and tracking emissions; 77143

(h) Providing direct and indirect support to small business 77144
stationary sources to determine and meet their obligations under 77145
the federal Clean Air Act pursuant to the small business 77146
stationary source technical and environmental compliance 77147
assistance program required by section 507 of that act and 77148
established in sections 3704.18, 3704.19, and 3706.19 of the 77149
Revised Code. 77150

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) 77151
of this section, each sewage sludge facility shall pay a 77152
nonrefundable annual sludge fee equal to three dollars and fifty 77153
cents per dry ton of sewage sludge, including the dry tons of 77154
sewage sludge in materials derived from sewage sludge, that the 77155
sewage sludge facility treats or disposes of in this state. The 77156
annual volume of sewage sludge treated or disposed of by a sewage 77157
sludge facility shall be calculated using the first day of January 77158
through the thirty-first day of December of the calendar year 77159
preceding the date on which payment of the fee is due. 77160

(2)(a) Except as provided in division (Y)(2)(d) of this 77161

section, each sewage sludge facility shall pay a minimum annual
sewage sludge fee of one hundred dollars. 77162
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(b) The annual sludge fee required to be paid by a sewage
sludge facility that treats or disposes of exceptional quality
sludge in this state shall be thirty-five per cent less per dry
ton of exceptional quality sludge than the fee assessed under
division (Y)(1) of this section, subject to the following
exceptions: 77164
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(i) Except as provided in division (Y)(2)(d) of this section,
a sewage sludge facility that treats or disposes of exceptional
quality sludge shall pay a minimum annual sewage sludge fee of one
hundred dollars. 77170
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(ii) A sewage sludge facility that treats or disposes of
exceptional quality sludge shall not be required to pay the annual
sludge fee for treatment or disposal in this state of exceptional
quality sludge generated outside of this state and contained in
bags or other containers not greater than one hundred pounds in
capacity. 77174
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A thirty-five per cent reduction for exceptional quality
sludge applies to the maximum annual fees established under
division (Y)(3) of this section. 77180
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(c) A sewage sludge facility that transfers sewage sludge to
another sewage sludge facility in this state for further treatment
prior to disposal in this state shall not be required to pay the
annual sludge fee for the tons of sewage sludge that have been
transferred. In such a case, the sewage sludge facility that
disposes of the sewage sludge shall pay the annual sludge fee.
However, the facility transferring the sewage sludge shall pay the
one-hundred-dollar minimum fee required under division (Y)(2)(a)
of this section. 77183
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In the case of a sewage sludge facility that treats sewage 77192

sludge in this state and transfers it out of this state to another 77193
entity for disposal, the sewage sludge facility in this state 77194
shall be required to pay the annual sludge fee for the tons of 77195
sewage sludge that have been transferred. 77196

(d) A sewage sludge facility that generates sewage sludge 77197
resulting from an average daily discharge flow of less than five 77198
thousand gallons per day is not subject to the fees assessed under 77199
division (Y) of this section. 77200

(3) No sewage sludge facility required to pay the annual 77201
sludge fee shall be required to pay more than the maximum annual 77202
fee for each disposal method that the sewage sludge facility uses. 77203
The maximum annual fee does not include the additional amount that 77204
may be charged under division (Y)(5) of this section for late 77205
payment of the annual sludge fee. The maximum annual fee for the 77206
following methods of disposal of sewage sludge is as follows: 77207

(a) Incineration: five thousand dollars; 77208

(b) Preexisting land reclamation project or disposal in a 77209
landfill: five thousand dollars; 77210

(c) Land application, land reclamation, surface disposal, or 77211
any other disposal method not specified in division (Y)(3)(a) or 77212
(b) of this section: twenty thousand dollars. 77213

(4)(a) In the case of an entity that generates sewage sludge 77214
or a sewage sludge facility that treats sewage sludge and 77215
transfers the sewage sludge to an incineration facility for 77216
disposal, the incineration facility, and not the entity generating 77217
the sewage sludge or the sewage sludge facility treating the 77218
sewage sludge, shall pay the annual sludge fee for the tons of 77219
sewage sludge that are transferred. However, the entity or 77220
facility generating or treating the sewage sludge shall pay the 77221
one-hundred-dollar minimum fee required under division (Y)(2)(a) 77222
of this section. 77223

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall

issue with the notification a new invoice to the person 77256
identifying the amount of the annual sludge fee assessed and 77257
stating the first day of July as the deadline for payment. 77258

Not later than the first day of July, any person who is 77259
required to do so shall pay the annual sludge fee. Any person who 77260
is required to pay the fee, but who fails to do so on or before 77261
that date shall pay an additional amount that equals ten per cent 77262
of the required annual sludge fee. 77263

(6) The director shall transmit all moneys collected under 77264
division (Y) of this section to the treasurer of state for deposit 77265
into the surface water protection fund created in section 6111.038 77266
of the Revised Code. The moneys shall be used to defray the costs 77267
of administering and enforcing provisions in Chapter 6111. of the 77268
Revised Code and rules adopted under it that govern the use, 77269
storage, treatment, or disposal of sewage sludge. 77270

(7) Beginning in fiscal year 2001, and every two years 77271
thereafter, the director shall review the total amount of moneys 77272
generated by the annual sludge fees to determine if that amount 77273
exceeded six hundred thousand dollars in either of the two 77274
preceding fiscal years. If the total amount of moneys in the fund 77275
exceeded six hundred thousand dollars in either fiscal year, the 77276
director, after review of the fee structure and consultation with 77277
affected persons, shall issue an order reducing the amount of the 77278
fees levied under division (Y) of this section so that the 77279
estimated amount of moneys resulting from the fees will not exceed 77280
six hundred thousand dollars in any fiscal year. 77281

If, upon review of the fees under division (Y)(7) of this 77282
section and after the fees have been reduced, the director 77283
determines that the total amount of moneys collected and 77284
accumulated is less than six hundred thousand dollars, the 77285
director, after review of the fee structure and consultation with 77286
affected persons, may issue an order increasing the amount of the 77287

fees levied under division (Y) of this section so that the 77288
estimated amount of moneys resulting from the fees will be 77289
approximately six hundred thousand dollars. Fees shall never be 77290
increased to an amount exceeding the amount specified in division 77291
(Y)(7) of this section. 77292

Notwithstanding section 119.06 of the Revised Code, the 77293
director may issue an order under division (Y)(7) of this section 77294
without the necessity to hold an adjudicatory hearing in 77295
connection with the order. The issuance of an order under this 77296
division is not an act or action for purposes of section 3745.04 77297
of the Revised Code. 77298

(8) As used in division (Y) of this section: 77299

(a) "Sewage sludge facility" means an entity that performs 77300
treatment on or is responsible for the disposal of sewage sludge. 77301

(b) "Sewage sludge" means a solid, semi-solid, or liquid 77302
residue generated during the treatment of domestic sewage in a 77303
treatment works as defined in section 6111.01 of the Revised Code. 77304
"Sewage sludge" includes, but is not limited to, scum or solids 77305
removed in primary, secondary, or advanced wastewater treatment 77306
processes. "Sewage sludge" does not include ash generated during 77307
the firing of sewage sludge in a sewage sludge incinerator, grit 77308
and screenings generated during preliminary treatment of domestic 77309
sewage in a treatment works, animal manure, residue generated 77310
during treatment of animal manure, or domestic septage. 77311

(c) "Exceptional quality sludge" means sewage sludge that 77312
meets all of the following qualifications: 77313

(i) Satisfies the class A pathogen standards in 40 C.F.R. 77314
503.32(a); 77315

(ii) Satisfies one of the vector attraction reduction 77316
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 77317

- (iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13; 77318
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- (iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13. 77320
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- (d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge. 77322
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- (e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator. 77325
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- (f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil. 77328
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- (g) "Land reclamation" means the returning of disturbed land to productive use. 77333
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- (h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites. 77335
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- (i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device. 77339
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- (j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway. 77343
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- (k) "Annual sludge fee" means the fee assessed under division 77347

(Y)(1) of this section. 77348

(1) "Landfill" means a sanitary landfill facility, as defined 77349
in rules adopted under section 3734.02 of the Revised Code, that 77350
is licensed under section 3734.05 of the Revised Code. 77351

(m) "Preexisting land reclamation project" means a 77352
property-specific land reclamation project that has been in 77353
continuous operation for not less than five years pursuant to 77354
approval of the activity by the director and includes the 77355
implementation of a community outreach program concerning the 77356
activity. 77357

Sec. 3746.02. (A) Nothing in this chapter applies to any of 77358
the following: 77359

(1) Property for which a voluntary action under this chapter 77360
is precluded by federal law or regulations adopted under federal 77361
law, including, without limitation, any of the following federal 77362
laws or regulations adopted thereunder: 77363

(a) The "Federal Water Pollution Control Act Amendments of 77364
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; 77365

(b) The "Resource Conservation and Recovery Act of 1976," 90 77366
Stat. 2806, 42 U.S.C.A. 6921, as amended; 77367

(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 77368
15 U.S.C.A. 2601, as amended; 77369

(d) The "Comprehensive Environmental Response, Compensation, 77370
and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as 77371
amended; 77372

(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 77373
U.S.C.A. 300(f), as amended. 77374

(2) Those portions of property where closure of a hazardous 77375
waste facility or solid waste facility is required under Chapter 77376

3734. of the Revised Code or rules adopted under it; 77377

(3) ~~Property or~~ Except for a class C release as defined in 77378
section 3737.87 of the Revised Code, properties regardless of 77379
ownership that are subject to remediation rules adopted under the 77380
authority of the division of fire marshal in the department of 77381
commerce, including remediation rules adopted under sections 77382
3737.88, 3737.882, and 3737.889 of the Revised Code; 77383

(4) Property that is subject to Chapter 1509. of the Revised 77384
Code; 77385

(5) Any other property if the director of environmental 77386
protection has issued a letter notifying the owner or operator of 77387
the property that ~~he~~ the director will issue an enforcement order 77388
under Chapter 3704., 3734., or 6111. of the Revised Code, a 77389
release or threatened release of a hazardous substance or 77390
petroleum from or at the property poses a substantial threat to 77391
public health or safety or the environment, and the person subject 77392
to the order does not present sufficient evidence to the director 77393
that ~~he~~ the person has entered into the voluntary action program 77394
under this chapter and is proceeding expeditiously to address that 77395
threat. For the purposes of this division, the evidence 77396
constituting sufficient evidence of entry into the voluntary 77397
action program under this chapter shall be defined by the director 77398
by rules adopted under section 3746.04 of the Revised Code. Until 77399
such time as the director has adopted those rules, the director, 77400
at a minimum, shall consider the existence of a contract with a 77401
certified professional to appropriately respond to the threat 77402
named in the director's letter informing the person of ~~his~~ the 77403
director's intent to issue an enforcement order and the 77404
availability of financial resources to complete the contract to be 77405
sufficient evidence of entry into the program. 77406

(B) The application of any provision of division (A) of this 77407
section to a portion of property does not preclude participation 77408

in the voluntary action program under this chapter in connection 77409
with other portions of the property where those provisions do not 77410
apply. 77411

(C) As used in this section, "property" means any parcel of 77412
real property, or portion thereof, and any improvements thereto. 77413

Sec. 3750.081. (A) Notwithstanding any provision in this 77414
chapter to the contrary, an owner or operator of a facility that 77415
is regulated under Chapter 1509. of the Revised Code who has filed 77416
a log in accordance with section 1509.10 of the Revised Code and a 77417
production statement in accordance with section 1509.11 of the 77418
Revised Code shall be deemed to have satisfied all of the 77419
inventory, notification, listing, and other submission and filing 77420
requirements established under this chapter, except for the 77421
release reporting requirements established under section 3750.06 77422
of the Revised Code. 77423

(B) The emergency response commission and every local 77424
emergency planning committee and fire department in this state 77425
shall establish a means by which to access, view, and retrieve 77426
information, through the use of the internet or a computer disk, 77427
from the electronic database maintained by the division of ~~mineral~~ 77428
oil and gas resources management in the department of natural 77429
resources in accordance with section 1509.23 of the Revised Code. 77430
With respect to facilities regulated under Chapter 1509. of the 77431
Revised Code, the database shall be the means of providing and 77432
receiving the information described in division (A) of this 77433
section. 77434

Sec. 3767.32. (A) No person, regardless of intent, shall 77435
deposit litter or cause litter to be deposited on any public 77436
property, on private property not owned by ~~him~~ the person, or in 77437
or on waters of the state unless one of the following applies: 77438

(1) The person is directed to do so by a public official as 77439
part of a litter collection drive; 77440

(2) Except as provided in division (B) of this section, the 77441
person deposits the litter in a litter receptacle in a manner that 77442
prevents its being carried away by the elements; 77443

(3) The person is issued a permit or license covering the 77444
litter pursuant to Chapter 3734. or 6111. of the Revised Code. 77445

(B) No person, without privilege to do so, shall knowingly 77446
deposit litter, or cause it to be deposited, in a litter 77447
receptacle located on any public property or on any private 77448
property not owned by ~~him~~ the person unless one of the following 77449
applies: 77450

(1) The litter was generated or located on the property on 77451
which the litter receptacle is located; 77452

(2) The person is directed to do so by a public official as 77453
part of a litter collection drive; 77454

(3) The person is directed to do so by a person whom ~~he~~ the 77455
person reasonably believes to have the privilege to use the litter 77456
receptacle; 77457

(4) The litter consists of any of the following: 77458

(a) The contents of a litter bag or container of a type and 77459
size customarily carried and used in a motor vehicle; 77460

(b) The contents of an ash tray of a type customarily 77461
installed or carried and used in a motor vehicle; 77462

(c) Beverage containers and food sacks, wrappings, and 77463
containers of a type and in an amount that reasonably may be 77464
expected to be generated during routine commuting or business or 77465
recreational travel by a motor vehicle; 77466

(d) Beverage containers, food sacks, wrappings, containers, 77467
and other materials of a type and in an amount that reasonably may 77468

be expected to be generated during a routine day by a person and 77469
deposited in a litter receptacle by a casual passerby. 77470

(C)(1) As used in division (B)(1) of this section, "public 77471
property" includes any private property open to the public for the 77472
conduct of business, the provision of a service, or upon the 77473
payment of a fee, but does not include any private property to 77474
which the public otherwise does not have a right of access. 77475

(2) As used in division (B)(4) of this section, "casual 77476
passerby" means a person who does not have depositing litter in a 77477
litter receptacle as ~~his~~ the person's primary reason for traveling 77478
to or by the property on which the litter receptacle is located. 77479

(D) As used in this section: 77480

(1) "Litter" means garbage, trash, waste, rubbish, ashes, 77481
cans, bottles, wire, paper, cartons, boxes, automobile parts, 77482
furniture, glass, or anything else of an unsightly or unsanitary 77483
nature. 77484

(2) "Deposit" means to throw, drop, discard, or place. 77485

(3) "Litter receptacle" means a dumpster, trash can, trash 77486
bin, garbage can, or similar container in which litter is 77487
deposited for removal. 77488

(E) This section may be enforced by any sheriff, deputy 77489
sheriff, police officer of a municipal corporation, police 77490
constable or officer of a township, or township or joint police 77491
district, wildlife officer, park officer, forest officer, preserve 77492
officer, conservancy district police officer, inspector of 77493
nuisances of a county, or any other law enforcement officer within 77494
~~his~~ the law enforcement officer's jurisdiction. 77495

Sec. 3769.08. (A) Any person holding a permit to conduct a 77496
horse-racing meeting may provide a place in the race meeting 77497
grounds or enclosure at which the permit holder may conduct and 77498

supervise the pari-mutuel system of wagering by patrons of legal age on the live racing programs and simulcast racing programs conducted by the permit holder.

The pari-mutuel method of wagering upon the live racing programs and simulcast racing programs held at or conducted within such race track, and at the time of such horse-racing meeting, or at other times authorized by the state racing commission, shall not be unlawful. No other place, except that provided and designated by the permit holder and except as provided in section 3769.26 of the Revised Code, nor any other method or system of betting or wagering, except the pari-mutuel system, shall be used or permitted by the permit holder; nor, except as provided in section 3769.089 or 3769.26 of the Revised Code, shall the pari-mutuel system of wagering be conducted by the permit holder on any races except the races at the race track, grounds, or enclosure for which the person holds a permit. Each permit holder may retain as a commission an amount not to exceed eighteen per cent of the total of all moneys wagered.

The pari-mutuel wagering authorized by this section is subject to sections 3769.25 to 3769.28 of the Revised Code.

(B) At the close of each racing day, each permit holder authorized to conduct thoroughbred racing, out of the amount retained on that day by the permit holder, shall pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs on that day and shall separately compute and pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

(1) One per cent of the first two hundred thousand dollars

wagered, or any part of that amount; 77530

(2) Two per cent of the next one hundred thousand dollars 77531
wagered, or any part of that amount; 77532

(3) Three per cent of the next one hundred thousand dollars 77533
wagered, or any part of that amount; 77534

(4) Four per cent of all sums over four hundred thousand 77535
dollars wagered. 77536

Except as otherwise provided in section 3769.089 of the 77537
Revised Code, each permit holder authorized to conduct 77538
thoroughbred racing shall use for purse money a sum equal to fifty 77539
per cent of the pari-mutuel revenues retained by the permit holder 77540
as a commission after payment of the state tax. This fifty per 77541
cent payment shall be in addition to the purse distribution from 77542
breakage specified in this section. 77543

Subject to division (M) of this section, from the moneys paid 77544
to the tax commissioner by thoroughbred racing permit holders, 77545
one-half of one per cent of the total of all moneys so wagered on 77546
a racing day shall be paid into the Ohio fairs fund created by 77547
section 3769.082 of the Revised Code, one and one-eighth per cent 77548
of the total of all moneys so wagered on a racing day shall be 77549
paid into the Ohio thoroughbred race fund created by section 77550
3769.083 of the Revised Code, and one-quarter of one per cent of 77551
the total of all moneys wagered on a racing day by each permit 77552
holder shall be paid into the state racing commission operating 77553
fund created by section 3769.03 of the Revised Code. The required 77554
payment to the state racing commission operating fund does not 77555
apply to county and independent fairs and agricultural societies. 77556
The remaining moneys may be retained by the permit holder, except 77557
as provided in this section with respect to the odd cents 77558
redistribution. Amounts paid into the PASSPORT nursing home 77559
franchise permit fee fund pursuant to this section and section 77560

3769.26 of the Revised Code shall be used solely for the support 77561
of the PASSPORT program as determined in appropriations made by 77562
the general assembly. If the PASSPORT program is abolished, the 77563
amount that would have been paid to the PASSPORT nursing home
franchise permit fee fund under this chapter shall be paid to the 77564
general revenue fund of the state. As used in this chapter, 77566
"PASSPORT program" means the PASSPORT program created under 77567
section 173.40 of the Revised Code. 77568

The total amount paid to the Ohio thoroughbred race fund 77569
under this section and division (A) of section 3769.087 of the 77570
Revised Code shall not exceed by more than six per cent the total 77571
amount paid to this fund under this section and that section 77572
during the immediately preceding calendar year. 77573

Each year, the total amount calculated for payment into the 77574
Ohio fairs fund under this division, division (C) of this section, 77575
and division (A) of section 3769.087 of the Revised Code shall be 77576
an amount calculated using the percentages specified in this 77577
division, division (C) of this section, and division (A) of 77578
section 3769.087 of the Revised Code. 77579

A permit holder may contract with a thoroughbred horsemen's 77580
organization for the organization to act as a representative of 77581
all thoroughbred owners and trainers participating in a 77582
horse-racing meeting conducted by the permit holder. A 77583
"thoroughbred horsemen's organization" is any corporation or 77584
association that represents, through membership or otherwise, more 77585
than one-half of the aggregate of all thoroughbred owners and 77586
trainers who were licensed and actively participated in racing 77587
within this state during the preceding calendar year. Except as 77588
otherwise provided in this paragraph, any moneys received by a 77589
thoroughbred horsemen's organization shall be used exclusively for 77590
the benefit of thoroughbred owners and trainers racing in this 77591
state through the administrative purposes of the organization, 77592

benevolent activities on behalf of the horsemen, promotion of the horsemen's rights and interests, and promotion of equine research. A thoroughbred horsemen's organization may expend not more than an aggregate of five per cent of its annual gross receipts, or a larger amount as approved by the organization, for dues, assessments, and other payments to all other local, national, or international organizations having as their primary purposes the promotion of thoroughbred horse racing, thoroughbred horsemen's rights, and equine research.

(C) Except as otherwise provided in division (B) of this section, at the close of each racing day, each permit holder authorized to conduct harness or quarter horse racing, out of the amount retained that day by the permit holder, shall pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs and shall separately compute and pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

(1) One per cent of the first two hundred thousand dollars wagered, or any part of that amount;

(2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(4) Four per cent of all sums over four hundred thousand dollars wagered.

Except as otherwise provided in division (B) and subject to division (M) of this section, from the moneys paid to the tax commissioner by permit holders authorized to conduct harness or quarter horse racing, one-half of one per cent of all moneys

wagered on that racing day shall be paid into the Ohio fairs fund; 77624
from the moneys paid to the tax commissioner by permit holders 77625
authorized to conduct harness racing, five-eighths of one per cent 77626
of all moneys wagered on that racing day shall be paid into the 77627
Ohio standardbred development fund; and from the moneys paid to 77628
the tax commissioner by permit holders authorized to conduct 77629
quarter horse racing, five-eighths of one per cent of all moneys 77630
wagered on that racing day shall be paid into the Ohio quarter 77631
horse development fund. 77632

(D) In addition, subject to division (M) of this section, 77633
beginning on January 1, 1996, from the money paid to the tax 77634
commissioner as a tax under this section and division (A) of 77635
section 3769.087 of the Revised Code by harness horse permit 77636
holders, one-half of one per cent of the amount wagered on a 77637
racing day shall be paid into the Ohio standardbred development 77638
fund. Beginning January 1, 1998, the payment to the Ohio 77639
standardbred development fund required under this division does 77640
not apply to county agricultural societies or independent 77641
agricultural societies. 77642

The total amount paid to the Ohio standardbred development 77643
fund under this division, division (C) of this section, and 77644
division (A) of section 3769.087 of the Revised Code and the total 77645
amount paid to the Ohio quarter horse development fund under this 77646
division and division (A) of that section shall not exceed by more 77647
than six per cent the total amount paid into the fund under this 77648
division, division (C) of this section, and division (A) of 77649
section 3769.087 of the Revised Code in the immediately preceding 77650
calendar year. 77651

(E) Subject to division (M) of this section, from the money 77652
paid as a tax under this chapter by harness and quarter horse 77653
permit holders, one-quarter of one per cent of the total of all 77654
moneys wagered on a racing day by each permit holder shall be paid 77655

into the state racing commission operating fund created by section 77656
3769.03 of the Revised Code. This division does not apply to 77657
county and independent fairs and agricultural societies. 77658

(F) Except as otherwise provided in section 3769.089 of the 77659
Revised Code, each permit holder authorized to conduct harness 77660
racing shall pay to the harness horsemen's purse pool a sum equal 77661
to fifty per cent of the pari-mutuel revenues retained by the 77662
permit holder as a commission after payment of the state tax. This 77663
fifty per cent payment is to be in addition to the purse 77664
distribution from breakage specified in this section. 77665

(G) In addition, each permit holder authorized to conduct 77666
harness racing shall be allowed to retain the odd cents of all 77667
redistribution to be made on all mutual contributions exceeding a 77668
sum equal to the next lowest multiple of ten. 77669

Forty per cent of that portion of that total sum of such odd 77670
cents shall be used by the permit holder for purse money for Ohio 77671
sired, bred, and owned colts, for purse money for Ohio bred 77672
horses, and for increased purse money for horse races. Upon the 77673
formation of the corporation described in section 3769.21 of the 77674
Revised Code to establish a harness horsemen's health and 77675
retirement fund, twenty-five per cent of that portion of that 77676
total sum of odd cents shall be paid at the close of each racing 77677
day by the permit holder to that corporation to establish and fund 77678
the health and retirement fund. Until that corporation is formed, 77679
that twenty-five per cent shall be paid at the close of each 77680
racing day by the permit holder to the tax commissioner or the tax 77681
commissioner's agent in the county seat of the county in which the 77682
permit holder operates race meetings. The remaining thirty-five 77683
per cent of that portion of that total sum of odd cents shall be 77684
retained by the permit holder. 77685

(H) In addition, each permit holder authorized to conduct 77686
thoroughbred racing shall be allowed to retain the odd cents of 77687

all redistribution to be made on all mutuel contributions 77688
exceeding a sum equal to the next lowest multiple of ten. Twenty 77689
per cent of that portion of that total sum of such odd cents shall 77690
be used by the permit holder for increased purse money for horse 77691
races. Upon the formation of the corporation described in section 77692
3769.21 of the Revised Code to establish a thoroughbred horsemen's 77693
health and retirement fund, forty-five per cent of that portion of 77694
that total sum of odd cents shall be paid at the close of each 77695
racing day by the permit holder to that corporation to establish 77696
and fund the health and retirement fund. Until that corporation is 77697
formed, that forty-five per cent shall be paid by the permit 77698
holder to the tax commissioner or the tax commissioner's agent in 77699
the county seat of the county in which the permit holder operates 77700
race meetings, at the close of each racing day. The remaining 77701
thirty-five per cent of that portion of that total sum of odd 77702
cents shall be retained by the permit holder. 77703

(I) In addition, each permit holder authorized to conduct 77704
quarter horse racing shall be allowed to retain the odd cents of 77705
all redistribution to be made on all mutuel contributions 77706
exceeding a sum equal to the next lowest multiple of ten, subject 77707
to a tax of twenty-five per cent on that portion of the total sum 77708
of such odd cents that is in excess of two thousand dollars during 77709
a calendar year, which tax shall be paid at the close of each 77710
racing day by the permit holder to the tax commissioner or the tax 77711
commissioner's agent in the county seat of the county within which 77712
the permit holder operates race meetings. Forty per cent of that 77713
portion of that total sum of such odd cents shall be used by the 77714
permit holder for increased purse money for horse races. The 77715
remaining thirty-five per cent of that portion of that total sum 77716
of odd cents shall be retained by the permit holder. 77717

(J)(1) To encourage the improvement of racing facilities for 77718
the benefit of the public, breeders, and horse owners, and to 77719

increase the revenue to the state from the increase in pari-mutuel 77720
wagering resulting from those improvements, the taxes paid by a 77721
permit holder to the state as provided for in this chapter shall 77722
be reduced by three-fourths of one per cent of the total amount 77723
wagered for those permit holders who make capital improvements to 77724
existing race tracks or construct new race tracks. The percentage 77725
of the reduction that may be taken each racing day shall equal 77726
seventy-five per cent of the taxes levied under divisions (B) and 77727
(C) of this section and section 3769.087 of the Revised Code, and 77728
division (F)(2) of section 3769.26 of the Revised Code, as 77729
applicable, divided by the calculated amount each fund should 77730
receive under divisions (B) and (C) of this section and section 77731
3769.087 of the Revised Code, and division (F)(2) of section 77732
3769.26 of the Revised Code and the reduction provided for in this 77733
division. If the resulting percentage is less than one, that 77734
percentage shall be multiplied by the amount of the reduction 77735
provided for in this division. Otherwise, the permit holder shall 77736
receive the full reduction provided for in this division. The 77737
amount of the allowable reduction not received shall be carried 77738
forward and applied against future tax liability. After any 77739
reductions expire, any reduction carried forward shall be treated 77740
as a reduction as provided for in this division. 77741

If more than one permit holder is authorized to conduct 77742
racing at the facility that is being built or improved, the cost 77743
of the new race track or capital improvement shall be allocated 77744
between or among all the permit holders in the ratio that the 77745
permit holders' number of racing days bears to the total number of 77746
racing days conducted at the facility. 77747

A reduction for a new race track or a capital improvement 77748
shall start from the day racing is first conducted following the 77749
date actual construction of the new race track or each capital 77750
improvement is completed and the construction cost has been 77751

approved by the racing commission, unless otherwise provided in 77752
this section. A reduction for a new race track or a capital 77753
improvement shall continue for a period of twenty-five years for 77754
new race tracks and for fifteen years for capital improvements if 77755
the construction of the capital improvement or new race track 77756
commenced prior to March 29, 1988, and for a period of ten years 77757
for new race tracks or capital improvements if the construction of 77758
the capital improvement or new race track commenced on or after 77759
March 29, 1988, but before ~~the effective date of this amendment~~ 77760
June 6, 2001, or until the total tax reduction reaches seventy per 77761
cent of the approved cost of the new race track or capital 77762
improvement, as allocated to each permit holder, whichever occurs 77763
first. A reduction for a new race track or a capital improvement 77764
approved after ~~the effective date of this amendment~~ June 6, 2001, 77765
shall continue until the total tax reduction reaches one hundred 77766
per cent of the approved cost of the new race track or capital 77767
improvement, as allocated to each permit holder. 77768

A reduction granted for a new race track or a capital 77769
improvement, the application for which was approved by the racing 77770
commission after March 29, 1988, but before ~~the effective date of~~ 77771
~~this amendment~~ June 6, 2001, shall not commence nor shall the 77772
ten-year period begin to run until all prior tax reductions with 77773
respect to the same race track have ended. The total tax reduction 77774
because of capital improvements shall not during any one year 77775
exceed for all permit holders using any one track three-fourths of 77776
one per cent of the total amount wagered, regardless of the number 77777
of capital improvements made. Several capital improvements to a 77778
race track may be consolidated in an application if the racing 77779
commission approved the application prior to March 29, 1988. No 77780
permit holder may receive a tax reduction for a capital 77781
improvement approved by the racing commission on or after March 77782
29, 1988, at a race track until all tax reductions have ended for 77783
all prior capital improvements approved by the racing commission 77784

under this section or section 3769.20 of the Revised Code at that 77785
race track. If there are two or more permit holders operating 77786
meetings at the same track, they may consolidate their 77787
applications. The racing commission shall notify the tax 77788
commissioner when the reduction of tax begins and when it ends. 77789

Each fiscal year the racing commission shall submit a report 77790
to the tax commissioner, the office of budget and management, and 77791
the legislative service commission. The report shall identify each 77792
capital improvement project undertaken under this division and in 77793
progress at each race track, indicate the total cost of each 77794
project, state the tax reduction that resulted from each project 77795
during the immediately preceding fiscal year, estimate the tax 77796
reduction that will result from each project during the current 77797
fiscal year, state the total tax reduction that resulted from all 77798
such projects at all race tracks during the immediately preceding 77799
fiscal year, and estimate the total tax reduction that will result 77800
from all such projects at all race tracks during the current 77801
fiscal year. 77802

(2) In order to qualify for the reduction in tax, a permit 77803
holder shall apply to the racing commission in such form as the 77804
commission may require and shall provide full details of the new 77805
race track or capital improvement, including a schedule for its 77806
construction and completion, and set forth the costs and expenses 77807
incurred in connection with it. The racing commission shall not 77808
approve an application unless the permit holder shows that a 77809
contract for the new race track or capital improvement has been 77810
let under an unrestricted competitive bidding procedure, unless 77811
the contract is exempted by the controlling board because of its 77812
unusual nature. In determining whether to approve an application, 77813
the racing commission shall consider whether the new race track or 77814
capital improvement will promote the safety, convenience, and 77815
comfort of the racing public and horse owners and generally tend 77816

towards the improvement of racing in this state. 77817

(3) If a new race track or capital improvement is approved by 77818
the racing commission and construction has started, the tax 77819
reduction may be authorized by the commission upon presentation of 77820
copies of paid bills in excess of one hundred thousand dollars or 77821
ten per cent of the approved cost, whichever is greater. After the 77822
initial authorization, the permit holder shall present copies of 77823
paid bills. If the permit holder is in substantial compliance with 77824
the schedule for construction and completion of the new race track 77825
or capital improvement, the racing commission may authorize the 77826
continuation of the tax reduction upon the presentation of the 77827
additional paid bills. The total amount of the tax reduction 77828
authorized shall not exceed the percentage of the approved cost of 77829
the new race track or capital improvement specified in division 77830
(J)(1) of this section. The racing commission may terminate any 77831
tax reduction immediately if a permit holder fails to complete the 77832
new race track or capital improvement, or to substantially comply 77833
with the schedule for construction and completion of the new race 77834
track or capital improvement. If a permit holder fails to complete 77835
a new race track or capital improvement, the racing commission 77836
shall order the permit holder to repay to the state the total 77837
amount of tax reduced. The normal tax paid by the permit holder 77838
shall be increased by three-fourths of one per cent of the total 77839
amount wagered until the total amount of the additional tax 77840
collected equals the total amount of tax reduced. 77841

(4) As used in this section: 77842

(a) "Capital improvement" means an addition, replacement, or 77843
remodeling of a structural unit of a race track facility costing 77844
at least one hundred thousand dollars, including, but not limited 77845
to, the construction of barns used exclusively for the race track 77846
facility, backstretch facilities for horsemen, paddock facilities, 77847
new pari-mutuel and totalizator equipment and appurtenances to 77848

that equipment purchased by the track, new access roads, new 77849
parking areas, the complete reconstruction, reshaping, and 77850
leveling of the racing surface and appurtenances, the installation 77851
of permanent new heating or air conditioning, roof replacement or 77852
restoration, installations of a permanent nature forming a part of 77853
the track structure, and construction of buildings that are 77854
located on a permit holder's premises. "Capital improvement" does 77855
not include the cost of replacement of equipment that is not 77856
permanently installed, ordinary repairs, painting, and maintenance 77857
required to keep a race track facility in ordinary operating 77858
condition. 77859

(b) "New race track" includes the reconstruction of a race 77860
track damaged by fire or other cause that has been declared by the 77861
racing commission, as a result of the damage, to be an inadequate 77862
facility for the safe operation of horse racing. 77863

(c) "Approved cost" includes all debt service and interest 77864
costs that are associated with a capital improvement or new race 77865
track and that the racing commission approves for a tax reduction 77866
under division (J) of this section. 77867

(5) The racing commission shall not approve an application 77868
for a tax reduction under this section if it has reasonable cause 77869
to believe that the actions or negligence of the permit holder 77870
substantially contributed to the damage suffered by the track due 77871
to fire or other cause. The racing commission shall obtain any 77872
data or information available from a fire marshal, law enforcement 77873
official, or insurance company concerning any fire or other damage 77874
suffered by a track, prior to approving an application for a tax 77875
reduction. 77876

(6) The approved cost to which a tax reduction applies shall 77877
be determined by generally accepted accounting principles and 77878
verified by an audit of the permit holder's records upon 77879
completion of the project by the racing commission, or by an 77880

independent certified public accountant selected by the permit holder and approved by the commission. 77881
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(K) No other license or excise tax or fee, except as provided in sections 3769.01 to 3769.14 of the Revised Code, shall be assessed or collected from such licensee by any county, township, district, municipal corporation, or other body having power to assess or collect a tax or fee. That portion of the tax paid under this section by permit holders for racing conducted at and during the course of an agricultural exposition or fair, and that portion of the tax that would have been paid by eligible permit holders into the ~~PASSPORT~~ nursing home franchise permit fee fund as a result of racing conducted at and during the course of an agricultural exposition or fair, shall be deposited into the state treasury to the credit of the horse racing tax fund, which is hereby created for the use of the agricultural societies of the several counties in which the taxes originate. The state racing commission shall determine eligible permit holders for purposes of the preceding sentence, taking into account the breed of horse, the racing dates, the geographic proximity to the fair, and the best interests of Ohio racing. On the first day of any month on which there is money in the fund, the tax commissioner shall provide for payment to the treasurer of each agricultural society the amount of the taxes collected under this section upon racing conducted at and during the course of any exposition or fair conducted by the society. 77883
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(L) From the tax paid under this section by harness track permit holders, the tax commissioner shall pay into the Ohio thoroughbred race fund a sum equal to a percentage of the amount wagered upon which the tax is paid. The percentage shall be determined by the tax commissioner and shall be rounded to the nearest one-hundredth. The percentage shall be such that, when multiplied by the amount wagered upon which tax was paid by the 77906
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harness track permit holders in the most recent year for which 77913
final figures are available, it results in a sum that 77914
substantially equals the same amount of tax paid by the tax 77915
commissioner during that year into the Ohio fairs fund from taxes 77916
paid by thoroughbred permit holders. This division does not apply 77917
to county and independent fairs and agricultural societies. 77918

(M) Twenty-five per cent of the taxes levied on thoroughbred 77919
racing permit holders, harness racing permit holders, and quarter 77920
horse racing permit holders under this section, division (A) of 77921
section 3769.087 of the Revised Code, and division (F)(2) of 77922
section 3769.26 of the Revised Code shall be paid into the 77923
~~PASSPORT~~ nursing home franchise permit fee fund. The tax 77924
commissioner shall pay any money remaining, after the payment into 77925
the ~~PASSPORT~~ nursing home franchise permit fee fund and the 77926
reductions provided for in division (J) of this section and in 77927
section 3769.20 of the Revised Code, into the Ohio fairs fund, 77928
Ohio thoroughbred race fund, Ohio standardbred development fund, 77929
Ohio quarter horse fund, and state racing commission operating 77930
fund as prescribed in this section and division (A) of section 77931
3769.087 of the Revised Code. The tax commissioner shall 77932
thereafter use and apply the balance of the money paid as a tax by 77933
any permit holder to cover any shortage in the accounts of such 77934
funds resulting from an insufficient payment as a tax by any other 77935
permit holder. The moneys received by the tax commissioner shall 77936
be deposited weekly and paid by the tax commissioner into the 77937
funds to cover the total aggregate amount due from all permit 77938
holders to the funds, as calculated under this section and 77939
division (A) of section 3769.087 of the Revised Code, as 77940
applicable. If, after the payment into the ~~PASSPORT~~ nursing home 77941
franchise permit fee fund, sufficient funds are not available from 77942
the tax deposited by the tax commissioner to pay the required 77943
amounts into the Ohio fairs fund, Ohio standardbred development 77944
fund, Ohio thoroughbred race fund, Ohio quarter horse fund, and 77945

the state racing commission operating fund, the tax commissioner 77946
shall prorate on a proportional basis the amount paid to each of 77947
the funds. Any shortage to the funds as a result of a proration 77948
shall be applied against future deposits for the same calendar 77949
year when funds are available. After this application, the tax 77950
commissioner shall pay any remaining money paid as a tax by all 77951
permit holders into the ~~PASSPORT~~ nursing home franchise permit fee 77952
fund. This division does not apply to permit holders conducting 77953
racing at the course of an agricultural exposition or fair as 77954
described in division (K) of this section. 77955

Sec. 3769.20. (A) To encourage the renovation of existing 77956
racing facilities for the benefit of the public, breeders, and 77957
horse owners and to increase the revenue to the state from the 77958
increase in pari-mutuel wagering resulting from such improvement, 77959
the taxes paid by a permit holder to the state, in excess of the 77960
amount paid into the ~~PASSPORT~~ nursing home franchise permit fee 77961
fund, shall be reduced by one per cent of the total amount wagered 77962
for those permit holders who carry out a major capital improvement 77963
project. The percentage of the reduction that may be taken each 77964
racing day shall equal seventy-five per cent of the amount of the 77965
taxes levied under divisions (B) and (C) of section 3769.08, 77966
section 3769.087, and division (F)(2) of section 3769.26 of the 77967
Revised Code, as applicable, divided by the calculated amount each 77968
fund should receive under divisions (B) and (C) of section 77969
3769.08, section 3769.087, and division (F)(2) of section 3769.26 77970
of the Revised Code and the reduction provided for in this 77971
section. If the resulting percentage is less than one, that 77972
percentage shall be multiplied by the amount of the reduction 77973
provided for in this section. Otherwise, the permit holder shall 77974
receive the full reduction provided for in this section. The 77975
amount of the allowable reduction not received shall be carried 77976
forward and added to any other reduction balance and applied 77977

against future tax liability. After any reductions expire, any 77978
reduction carried forward shall be treated as a reduction as 77979
provided for in this section. If the amount of allowable reduction 77980
exceeds the amount of taxes derived from a permit holder, the 77981
amount of the allowable reduction not used may be carried forward 77982
and applied against future tax liability. 77983

If more than one permit holder is authorized to conduct 77984
racing at the facility that is being improved, the cost of the 77985
major capital improvement project shall be allocated between or 77986
among all the permit holders in the ratio that each permit 77987
holder's number of racing days bears to the total number of racing 77988
days conducted at the facility. 77989

A reduction for a major capital improvement project shall 77990
start from the day racing is first conducted following the date on 77991
which the major capital improvement project is completed and the 77992
construction cost has been approved by the state racing 77993
commission, except as otherwise provided in division (E) of this 77994
section, and shall continue until the total tax reduction equals 77995
the cost of the major capital improvement project plus debt 77996
service applicable to the project. In no event, however, shall any 77997
tax reduction, excluding any reduction balances, be permitted 77998
under this section after December 31, ~~2014~~ 2017. The total tax 77999
reduction because of the major capital improvement project shall 78000
not during any one year exceed for all permit holders using any 78001
one track one per cent of the total amount wagered. The racing 78002
commission shall notify the tax commissioner when the reduction of 78003
tax begins and when it ends. 78004

(B) Each fiscal year, the racing commission shall submit a 78005
report to the tax commissioner, the office of budget and 78006
management, and the legislative service commission. The report 78007
shall identify each capital improvement project undertaken under 78008

this section and in progress at each race track, indicate the 78009
total cost of each project, state the tax reduction that resulted 78010
from each project during the immediately preceding fiscal year, 78011
estimate the tax reduction that will result from each project 78012
during the current fiscal year, state the total tax reduction that 78013
resulted from all such projects at all race tracks during the 78014
immediately preceding fiscal year, and estimate the total tax 78015
reduction that will result from all such projects at all race 78016
tracks during the current fiscal year. 78017

(C) The tax reduction granted pursuant to this section shall 78018
be in addition to any tax reductions for capital improvements and 78019
new race tracks provided for in section 3769.08 of the Revised 78020
Code and approved by the racing commission. 78021

(D) In order to qualify for the reduction in tax, a permit 78022
holder shall apply to the racing commission in such form as the 78023
commission may require and shall provide full details of the major 78024
capital improvement project, including plans and specifications, a 78025
schedule for the project's construction and completion, and a 78026
breakdown of proposed costs. In addition, the permit holder shall 78027
have commenced construction of the major capital improvement 78028
project or shall have had the application for the project approved 78029
by the racing commission prior to March 29, 1988. The racing 78030
commission shall not approve an application unless the permit 78031
holder shows that a contract for the major capital improvement 78032
project has been let under an unrestricted competitive bidding 78033
procedure, unless the contract is exempted by the controlling 78034
board because of its unusual nature. In determining whether to 78035
approve an application, the racing commission shall consider 78036
whether the major capital improvement project will promote the 78037
safety, convenience, and comfort of the racing public and horse 78038
owners and generally tend toward the improvement of racing in this 78039
state. 78040

(E) If the major capital improvement project is approved by 78041
the racing commission and construction has started, the tax 78042
reduction may be authorized by the commission upon presentation of 78043
copies of paid bills in excess of five hundred thousand dollars. 78044
After the initial authorization, the permit holder shall present 78045
copies of paid bills in the amount of not less than five hundred 78046
thousand dollars. If the permit holder is in substantial 78047
compliance with the schedule for construction and completion of 78048
the major capital improvement project, the racing commission may 78049
authorize the continuance of the tax reduction upon the 78050
presentation of the additional paid bills in increments of five 78051
hundred thousand dollars. The racing commission may terminate the 78052
tax reduction if a permit holder fails to complete the major 78053
capital improvement project or fails to comply substantially with 78054
the schedule for construction and completion of the major capital 78055
improvement project. If the time for completion of the major 78056
capital improvement project is delayed by acts of God, strikes, or 78057
the unavailability of labor or materials, the time for completion 78058
as set forth in the schedule shall be extended by the period of 78059
the delay. If a permit holder fails to complete the major capital 78060
improvement project, the racing commission shall order the permit 78061
holder to repay to the state the total amount of tax reduced, 78062
unless the permit holder has spent at least six million dollars on 78063
the project. The normal tax paid by the permit holder under 78064
section 3769.08 of the Revised Code shall be increased by one per 78065
cent of the total amount wagered until the total amount of the 78066
additional tax collected equals the total amount of tax reduced. 78067
Any action taken by the racing commission pursuant to this section 78068
in terminating the tax adjustment or requiring repayment of the 78069
amount of tax reduced shall be subject to Chapter 119. of the 78070
Revised Code. 78071

(F) As used in this section, "major capital improvement 78072
project" means the renovation, reconstruction, or remodeling, 78073

costing at least six million dollars, of a race track facility, 78074
including, but not limited to, the construction of barns used 78075
exclusively for that race track facility, backstretch facilities 78076
for horsemen, paddock facilities, pari-mutuel and totalizator 78077
equipment and appurtenances to that equipment purchased by the 78078
track, new access roads, new parking areas, the complete 78079
reconstruction, reshaping, and leveling of the racing surface and 78080
appurtenances, grandstand enclosure, installation of permanent new 78081
heating or air conditioning, roof replacement, and installations 78082
of a permanent nature forming a part of the track structure. 78083

(G) The cost and expenses to which the tax reduction granted 78084
under this section applies shall be determined by generally 78085
accepted accounting principles and be verified by an audit of the 78086
permit holder's records, upon completion of the major capital 78087
improvement project, either by the racing commission or by an 78088
independent certified public accountant selected by the permit 78089
holder and approved by the commission. 78090

(H) This section and section 3769.201 of the Revised Code 78091
govern any tax reduction granted to a permit holder for the cost 78092
to the permit holder of any cleanup, repair, or improvement 78093
required as a result of damage caused by the 1997 Ohio river flood 78094
to the place, track, or enclosure for which the permit is issued. 78095

Sec. 3769.26. (A)(1) Except as otherwise provided in division 78096
(B) of this section, each track in existence on September 27, 78097
1994, regardless of the number of permit holders authorized to 78098
conduct race meetings at the track, may establish, with the 78099
approval of the state racing commission and the appropriate local 78100
legislative authority, not more than two satellite facilities at 78101
which it may conduct pari-mutuel wagering on horse races conducted 78102
either inside or outside this state and simulcast by a simulcast 78103
host to the satellite facilities. 78104

(2) Prior to a track's establishing satellite facilities 78105
under this section, the permit holders at that track shall agree 78106
among themselves regarding their respective rights and obligations 78107
with respect to those satellite facilities. 78108

(3)(a) Any track that desires to establish a satellite 78109
facility shall provide written notification of its intent to the 78110
state racing commission and to the appropriate local legislative 78111
authority that is required to approve the satellite facility, 78112
together with detailed plans and specifications for the satellite 78113
facility. The commission shall deliver copies of this notification 78114
to all other tracks in this state, and the commission shall, 78115
within forty-five days after receiving the notification, hold a 78116
hearing on the track's intent to establish a satellite facility. 78117
At this hearing the commission shall consider the evidence 78118
presented and determine whether the request for establishment of a 78119
satellite facility shall be approved. 78120

The commission shall not approve a track's request to 78121
establish a satellite facility if the owner of the premises where 78122
the satellite facility is proposed to be located or if the 78123
proposed operator of the satellite facility has been convicted of 78124
or has pleaded guilty to a gambling offense that is a felony or 78125
any other felony under the laws of this state, any other state, or 78126
the United States that the commission determines to be related to 78127
fitness to be the owner of such a premises or to be the operator 78128
of a satellite facility. As used in division (A)(3)(a) of this 78129
section, "gambling offense" has the same meaning as in section 78130
2915.01 of the Revised Code and "operator" means the individual 78131
who is responsible for the day-to-day operations of a satellite 78132
facility. The commission shall conduct a background investigation 78133
on each person who is the owner of a premises where a satellite 78134
facility is proposed to be located or who is proposed to be the 78135
operator or an employee of a satellite facility. The commission 78136

shall adopt rules in accordance with Chapter 119. of the Revised 78137
Code that specify the specific information the commission shall 78138
collect in conducting such a background investigation. 78139

No track shall knowingly contract with a person as the owner 78140
of the premises where a satellite facility is located, or 78141
knowingly employ a person as the operator or an employee of a 78142
satellite facility, who has been convicted of or pleaded guilty to 78143
a gambling offense that is a felony or any other felony under the 78144
laws of this state, any other state, or the United States that the 78145
commission determines to be related to fitness to be the owner of 78146
such a premises or to be the operator or an employee of a 78147
satellite facility. The commission may impose a fine in an amount 78148
not to exceed ten thousand dollars on any track that violates any 78149
of these prohibitions. 78150

(b) Each track that receives the notification described in 78151
division (A)(3)(a) of this section shall notify the commission and 78152
the track that desires to establish the satellite facility, within 78153
thirty days after receiving the notification from the commission, 78154
indicating whether or not it desires to participate in the joint 78155
ownership of the facility. Ownership shall be distributed equally 78156
among the tracks that choose to participate in the joint ownership 78157
of the facility unless the participating tracks agree to and 78158
contract otherwise. Tracks that fail to respond to the commission 78159
and the track that desires to establish the satellite facility 78160
within this thirty-day period regarding the ownership of the 78161
particular satellite facility are not eligible to participate in 78162
its ownership. 78163

(B) If, within three years after September 27, 1994, a track 78164
in existence on September 27, 1994, does not establish both of the 78165
satellite facilities it is authorized to establish under division 78166
(A) of this section, another track, with the approval of the 78167
racing commission, may establish in accordance with this section a 78168

number of additional satellite facilities that does not exceed the 78169
number of satellite facilities that the first track did not 78170
establish. However, no more than fourteen satellite facilities may 78171
be established in this state. 78172

(C) Except as otherwise provided in this division, each 78173
permit holder in this state shall allow the races that it 78174
conducts, and the races conducted outside this state that it 78175
receives as a simulcast host, to be simulcast to all satellite 78176
facilities operating in this state and shall take all action 78177
necessary to supply its simulcast and wagering information to 78178
these satellite facilities. A permit holder at a track where the 78179
average daily amount wagered for all race meetings during calendar 78180
year 1990 did not exceed two hundred fifty thousand dollars may 78181
elect not to simulcast its races to the satellite facilities. If a 78182
permit holder at such a track chooses to simulcast its races to 78183
satellite facilities, it shall allow its races to be simulcast to 78184
all satellite facilities operating in this state. Except as 78185
otherwise provided in this division, each satellite facility shall 78186
receive simulcasts of and conduct pari-mutuel wagering on all live 78187
racing programs being conducted at any track in this state and on 78188
all agreed simulcast racing programs, as provided in division (D) 78189
of section 3769.089 of the Revised Code, conducted in other states 78190
that are received by simulcast in this state, without regard to 78191
the breed of horse competing in the race or the time of day of the 78192
race. 78193

No satellite facility may receive simulcasts of horse races 78194
during the same hours that a county fair or independent fair 78195
located within the same county as the satellite facility is 78196
conducting pari-mutuel wagering on horse races at that county or 78197
independent fair. 78198

Except as otherwise provided in this division, the commission 78199
shall not approve the establishment of a satellite facility within 78200

a radius of fifty miles of any track. The commission may approve 78201
the establishment of a satellite facility at a location within a 78202
radius of at least thirty-five but not more than fifty miles from 78203
one or more tracks if all of the holders of permits issued for 78204
those tracks consent in writing to the establishment of the 78205
satellite facility. The commission may approve the establishment 78206
of a satellite facility at a location within a radius of 78207
thirty-five miles of more than one race track if all holders of 78208
permits issued for those tracks consent in writing to the 78209
establishment of the satellite facility and, if the tracks are 78210
located completely within one county and the proposed satellite 78211
facility will be located within that county, if both the 78212
legislative authority of the municipal corporation in that county 78213
with the largest population, and the appropriate legislative 78214
authority that is required to approve the satellite facility under 78215
division (A)(1) of this section, approve the establishment of the 78216
new satellite facility. The commission may approve the 78217
establishment of a satellite facility at a location within a 78218
radius of less than twenty miles from an existing satellite 78219
facility if the owner of the existing satellite facility consents 78220
in writing to the establishment of the new satellite facility. 78221

A satellite facility shall not receive simulcasts of horse 78222
races conducted outside this state on any day when no simulcast 78223
host is operating. 78224

(D) Each simulcast host is responsible for paying all costs 78225
associated with the up-link for simulcasts. Each satellite 78226
facility is responsible for paying all costs associated with the 78227
reception of simulcasts and the operation of the satellite 78228
facility. 78229

(E) All money wagered at the simulcast host, and all money 78230
wagered at all satellite facilities on races simulcast from the 78231
simulcast host, shall be included in a common pari-mutuel pool at 78232

the simulcast host. Except as otherwise provided in division 78233
(F)(6) of this section, the payment shall be the same for all 78234
winning tickets whether a wager is placed at a simulcast host or a 78235
satellite facility. Wagers placed at a satellite facility shall 78236
conform in denomination, character, terms, conditions, and in all 78237
other respects to wagers placed at the simulcast host for the same 78238
race. 78239

(F)(1) As used in division (F) of this section, "effective 78240
rate" means the effective gross tax percentage applicable at the 78241
simulcast host, determined in accordance with sections 3769.08 and 78242
3769.087 of the Revised Code, after combining the money wagered at 78243
the simulcast host with the money wagered at satellite facilities 78244
on races simulcast from the host track. 78245

(2) For the purposes of calculating the amount of taxes to be 78246
paid and the amount of commissions to be retained by permit 78247
holders, fifty per cent of the amount wagered at satellite 78248
facilities on a live racing program simulcast from a simulcast 78249
host shall be allocated to the permit holder's live race wagering 78250
at that simulcast host that conducts the live racing program, and 78251
fifty per cent of the amount wagered at satellite facilities on 78252
simulcast racing programs conducted outside this state shall be 78253
allocated to, and apportioned equally among, the permit holders 78254
acting as simulcast hosts for the out-of-state simulcast racing 78255
programs. The remainder of the amount wagered at a satellite 78256
facility on races simulcast from a simulcast host shall be 78257
allocated to the satellite facility. In computing the tax due on 78258
the amount allocated to the satellite facility, if there is more 78259
than one simulcast host for out-of-state simulcast racing 78260
programs, the effective rate applied by the satellite facility 78261
shall be the tax rate applicable to the simulcast host that pays 78262
the highest effective rate under section 3769.08 of the Revised 78263
Code on such simulcast racing programs. 78264

(3) The portion of the amount wagered that is allocated to a simulcast host under division (F)(2) of this section shall be treated, for the purposes of calculating the amount of taxes to be paid and commissions to be retained, as having been wagered at the simulcast host on a live racing program or on a simulcast racing program. The permit holder at the simulcast host shall pay, by check, draft, or money order to the state tax commissioner, as a tax, the tax specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable, except that the tax shall be calculated using the effective rate, and the permit holder may retain as a commission the percentage of the amount wagered as specified in those sections. From the tax collected, the tax commissioner shall make distributions to the respective funds, and in the proper amounts, as required by sections 3769.08 and 3769.087 of the Revised Code, as applicable.

(4) From the portion of the amount wagered that is allocated to a satellite facility under division (F)(2) of this section, the satellite facility may retain as a commission the amount specified in section 3769.08 or 3769.087 of the Revised Code, as applicable. The portion of the amount wagered that is allocated to a satellite facility shall be subject to tax at the effective rate as follows:

(a) One per cent of such amount allocated to the satellite facility shall be paid as a tax each racing day to the tax commissioner for deposit into the ~~PASSPORT~~ nursing home franchise permit fee fund.

(b) The remaining balance of the taxes calculated at the effective rate, after payment of the tax specified in division (F)(4)(a) of this section, shall be retained by the satellite facility to pay for those costs associated with the reception of the simulcasts.

(5) From the commission retained by a satellite facility after the deduction of the tax paid at the effective rate under

division (F)(4) of this section, the satellite facility shall 78297
retain an amount equal to two and three-eighths per cent of the 78298
amount wagered that day on simulcast racing programs and the 78299
balance shall be divided as follows: 78300

(a) One-half shall be paid to the owner of the satellite 78301
facility; 78302

(b) One-half shall be paid to the state racing commission for 78303
deposit into the Ohio combined simulcast horse racing purse fund. 78304

(6) In addition to the commission retained under this 78305
section, a satellite facility shall retain two and one-half per 78306
cent of the amount that would otherwise be paid on each winning 78307
wager unless the retention of this amount would either cause or 78308
add to a minus pool. As used in division (F)(6) of this section, 78309
"minus pool" means a wagering pool in which a winning wager is 78310
paid off at less than one hundred ten per cent of the amount of 78311
the wager. The amount retained shall be paid each racing day to 78312
the tax commissioner for deposit into the ~~PASSPORT~~ nursing home
franchise permit fee fund. 78313
78314

(7) At the close of each day, each satellite facility shall 78315
pay, by check, draft, or money order, or by wire transfer of 78316
funds, out of the money retained on that day to the collection and 78317
settlement agent the required fee to be paid by the simulcast host 78318
to the tracks, racing associations, or state regulatory agencies 78319
located outside this state for simulcasts into this state computed 78320
and based on one-half of the amount wagered at the satellite 78321
facility that day on interstate simulcast racing programs. 78322

(G) No license, fee, or excise tax, other than as specified 78323
in division (F)(6) of this section, shall be assessed upon or 78324
collected from a satellite facility, the owners of a satellite 78325
facility, or the holders of permits issued for a track that has 78326
established a satellite facility by any county, township, 78327

municipal corporation, district, or other body having the 78328
authority to assess or collect a tax or fee. 78329

(H) In no case shall that portion of the commissions 78330
designated for purses from satellite facilities be less than that 78331
portion of those commissions designated for purses at the 78332
simulcast host. 78333

(I) It is the intention of the general assembly in enacting 78334
this section not to adversely affect the amounts paid into the 78335
Ohio thoroughbred race fund created under section 3769.083 of the 78336
Revised Code. Therefore, each track that acts as a simulcast host 78337
under this section shall calculate, on a semi-annual basis during 78338
calendar years 1994, 1995, and 1996, its average daily 78339
contribution to the Ohio thoroughbred race fund created under 78340
section 3769.083 of the Revised Code on those days on which the 78341
track conducted live horse racing. If this average daily 78342
contribution to the fund is less than the average daily 78343
contribution from the same track to the fund during the same 78344
six-month period of calendar year 1992, there shall be contributed 78345
to the fund an amount equal to the average daily shortfall 78346
multiplied by the number of days of live racing conducted during 78347
the six-month period in calendar year 1994, 1995, or 1996, as 78348
applicable. The amount of such contribution shall be allocated 78349
among the simulcast host, the purse program at the simulcast host, 78350
and the satellite facilities for which the track served as the 78351
simulcast host, on a pro rata basis in proportion to the amounts 78352
contributed by them to the fund during such six-month period in 78353
calendar year 1994, 1995, or 1996, as applicable. 78354

Sec. 3770.02. (A) Subject to the advice and consent of the 78355
senate, the governor shall appoint a director of the state lottery 78356
commission who shall serve at the pleasure of the governor. The 78357
director shall devote full time to the duties of the office and 78358

shall hold no other office or employment. The director shall meet 78359
all requirements for appointment as a member of the commission and 78360
shall, by experience and training, possess management skills that 78361
equip the director to administer an enterprise of the nature of a 78362
state lottery. The director shall receive an annual salary in 78363
accordance with pay range 48 of section 124.152 of the Revised 78364
Code. 78365

(B)(1) The director shall attend all meetings of the 78366
commission and shall act as its secretary. The director shall keep 78367
a record of all commission proceedings and shall keep the 78368
commission's records, files, and documents at the commission's 78369
principal office. All records of the commission's meetings shall 78370
be available for inspection by any member of the public, upon a 78371
showing of good cause and prior notification to the director. 78372

(2) The director shall be the commission's executive officer 78373
and shall be responsible for keeping all commission records and 78374
supervising and administering the state lottery in accordance with 78375
this chapter, and carrying out all commission rules adopted under 78376
section 3770.03 of the Revised Code. 78377

(C)(1) The director ~~shall~~ may appoint an assistant director, 78378
deputy directors of marketing, operations, sales, finance, public 78379
relations, security, and administration, and as many regional 78380
managers as are required. The director may also appoint necessary 78381
professional, technical, and clerical assistants. All such 78382
officers and employees shall be appointed and compensated pursuant 78383
to Chapter 124. of the Revised Code. Regional and assistant 78384
regional managers, sales representatives, and any lottery 78385
executive account representatives shall remain in the unclassified 78386
service. 78387

(2) The director, in consultation with the director of 78388
administrative services, may establish standards of proficiency 78389
and productivity for commission field representatives. 78390

(D) The director shall request the bureau of criminal 78391
identification and investigation, the department of public safety, 78392
or any other state, local, or federal agency to supply the 78393
director with the criminal records of any job applicant and may 78394
periodically request the criminal records of commission employees. 78395
At or prior to the time of making such a request, the director 78396
shall require a job applicant or commission employee to obtain 78397
fingerprint cards prescribed by the superintendent of the bureau 78398
of criminal identification and investigation at a qualified law 78399
enforcement agency, and the director shall cause these fingerprint 78400
cards to be forwarded to the bureau of criminal identification and 78401
investigation and the federal bureau of investigation. The 78402
commission shall assume the cost of obtaining the fingerprint 78403
cards and shall pay to each agency supplying criminal records for 78404
each investigation under this division a reasonable fee, as 78405
determined by the agency. 78406

(E) The director shall license lottery sales agents pursuant 78407
to section 3770.05 of the Revised Code and, when it is considered 78408
necessary, may refuse to grant or may revoke or suspend the 78409
license of any lottery sales agent, consistent with section 78410
3770.05 of the Revised Code. 78411

(F) The director shall confer at least once each month with 78412
the commission, at which time the director shall advise it 78413
regarding the operation and administration of the lottery. The 78414
director shall make available at the request of the commission all 78415
documents, files, and other records pertaining to the operation 78416
and administration of the lottery. The director shall prepare and 78417
make available to the commission each month a complete and 78418
accurate accounting of lottery revenues, prize money disbursements 78419
and the cost of goods and services awarded as prizes, operating 78420
expenses, and all other relevant financial information, including 78421
an accounting of all transfers made from any lottery funds in the 78422

custody of the treasurer of state to benefit education. 78423

(G) The director may enter into contracts for the operation 78424
or promotion of the lottery pursuant to Chapter 125. of the 78425
Revised Code. The director shall enter into a private lottery 78426
management agreement as provided under section 3770.15 of the 78427
Revised Code. 78428

(H)(1) Pursuant to rules adopted by the commission under 78429
section 3770.03 of the Revised Code, the director shall require 78430
any lottery sales agents to either mail directly to the commission 78431
or deposit to the credit of the state lottery fund, in banking 78432
institutions designated by the treasurer of state, net proceeds 78433
due the commission as determined by the director, and to file with 78434
the director or the director's designee reports of their receipts 78435
and transactions in the sale of lottery tickets in the form 78436
required by the director. 78437

(2) Pursuant to rules adopted by the commission under Chapter 78438
119. of the Revised Code, the director may impose penalties for 78439
the failure of a sales agent to transfer funds to the commission 78440
in a timely manner. Penalties may include monetary penalties, 78441
immediate suspension or revocation of a license, or any other 78442
penalty the commission adopts by rule. 78443

(I) The director may arrange for any person, or any banking 78444
institution, to perform functions and services in connection with 78445
the operation of the lottery as the director may consider 78446
necessary to carry out this chapter, and to the extent not 78447
inconsistent with the execution of a private lottery management 78448
agreement under section 3770.15 of the Revised Code. 78449

(J)(1) As used in this chapter, "statewide joint lottery 78450
game" means a lottery game that the commission sells solely within 78451
this state under an agreement with other lottery jurisdictions to 78452
sell the same lottery game solely within their statewide or other 78453

jurisdictional boundaries. 78454

(2) If the governor directs the director to do so, the 78455
director shall enter into an agreement with other lottery 78456
jurisdictions to conduct statewide joint lottery games. If the 78457
governor signs the agreement personally or by means of an 78458
authenticating officer pursuant to section 107.15 of the Revised 78459
Code, the director then may conduct statewide joint lottery games 78460
under the agreement. 78461

(3) The entire net proceeds from any statewide joint lottery 78462
games shall be used to fund elementary, secondary, vocational, and 78463
special education programs in this state. 78464

(4) The commission shall conduct any statewide joint lottery 78465
games in accordance with rules it adopts under division (B)~~(5)~~(4) 78466
of section 3770.03 of the Revised Code. 78467

(K)(1) The director shall enter into an agreement with the 78468
department of alcohol and drug addiction services under which the 78469
department shall provide a program of gambling addiction services 78470
on behalf of the commission. The commission shall pay the costs of 78471
the program provided pursuant to the agreement. 78472

(2) As used in this section, "gambling addiction services" 78473
has the same meaning as in section 3793.01 of the Revised Code. 78474

Sec. 3770.03. (A) The state lottery commission ~~shall~~ may 78475
promulgate rules under which a statewide lottery may be conducted, 78476
which includes, and since the original enactment of this section 78477
has included, the authority for the commission to operate video 78478
lottery terminal games. Any reference in this chapter to tickets 78479
shall not be construed to in any way limit the authority of the 78480
commission to operate video lottery terminal games. Nothing in 78481
this chapter shall restrict the authority of the commission to 78482
promulgate rules related to the operation of games utilizing video 78483

lottery terminals as described in section 3770.21 of the Revised Code. The rules shall be promulgated pursuant to Chapter 119. of the Revised Code, except that instant game rules shall be promulgated pursuant to section 111.15 of the Revised Code but are not subject to division (D) of that section. Subjects covered in these rules shall include, ~~but need not be limited to, the following:~~

~~(1) The type of lottery to be conducted;~~

~~(2) The prices of tickets in the lottery;~~

~~(3) The number, nature, and value of prize awards, the manner and frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets the type of notices that shall appear on lottery tickets, including one that shall appear if the word "education" is used in any advertising for a statewide lottery, which must include information as to the percentage that lottery profits contribute to all education funding in the state.~~

(B) The commission ~~shall~~ may promulgate rules, in addition to those described in division (A) of this section, pursuant to Chapter 119. of the Revised Code under which a statewide lottery and statewide joint lottery games may be conducted. Subjects covered in these rules shall include, but not be limited to, the following:

(1) The locations at which lottery tickets may be sold and the manner in which they are to be sold. These rules may authorize the sale of lottery tickets by commission personnel or other licensed individuals from traveling show wagons at the state fair, and at any other expositions the director of the commission considers acceptable. These rules shall prohibit commission personnel or other licensed individuals from soliciting from an exposition the right to sell lottery tickets at that exposition,

but shall allow commission personnel or other licensed individuals 78515
to sell lottery tickets at an exposition if the exposition 78516
requests commission personnel or licensed individuals to do so. 78517
These rules may also address the accessibility of sales agent 78518
locations to commission products in accordance with the "Americans 78519
with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 78520
et seq. 78521

(2) The manner in which lottery sales revenues are to be 78522
collected, including authorization for the director to impose 78523
penalties for failure by lottery sales agents to transfer revenues 78524
to the commission in a timely manner; 78525

~~(3) The amount of compensation to be paid licensed lottery 78526
sales agents; 78527~~

~~(4)~~ The substantive criteria for the licensing of lottery 78528
sales agents consistent with section 3770.05 of the Revised Code, 78529
and procedures for revoking or suspending their licenses 78530
consistent with Chapter 119. of the Revised Code. If 78531
circumstances, such as the nonpayment of funds owed by a lottery 78532
sales agent, or other circumstances related to the public safety, 78533
convenience, or trust, require immediate action, the director may 78534
suspend a license without affording an opportunity for a prior 78535
hearing under section 119.07 of the Revised Code. 78536

~~(5)~~(4) Special game rules to implement any agreements signed 78537
by the governor that the director enters into with other lottery 78538
jurisdictions under division (J) of section 3770.02 of the Revised 78539
Code to conduct statewide joint lottery games. The rules shall 78540
require that the entire net proceeds of those games that remain, 78541
after associated operating expenses, prize disbursements, lottery 78542
sales agent bonuses, commissions, and reimbursements, and any 78543
other expenses necessary to comply with the agreements or the 78544
rules are deducted from the gross proceeds of those games, be 78545
transferred to the lottery profits education fund under division 78546

(B) of section 3770.06 of the Revised Code. 78547

~~(6)~~(5) Any other subjects the commission determines are 78548
necessary for the operation of video lottery terminal games, 78549
including the establishment of any fees, fines, or payment 78550
schedules. 78551

(C) Chapter 2915. of the Revised Code does not apply to, 78552
affect, or prohibit lotteries conducted pursuant to this chapter. 78553

(D) The commission may promulgate rules, in addition to those 78554
described in divisions (A) and (B) of this section, that establish 78555
standards governing the display of advertising and celebrity 78556
images on lottery tickets and on other items that are used in the 78557
conduct of, or to promote, the statewide lottery and statewide 78558
joint lottery games. Any revenue derived from the sale of 78559
advertising displayed on lottery tickets and on those other items 78560
shall be considered, for purposes of section 3770.06 of the 78561
Revised Code, to be related proceeds in connection with the 78562
statewide lottery or gross proceeds from statewide joint lottery 78563
games, as applicable. 78564

(E)(1) The commission shall meet with the director at least 78565
once each month and shall convene other meetings at the request of 78566
the chairperson or any five of the members. No action taken by the 78567
commission shall be binding unless at least five of the members 78568
present vote in favor of the action. A written record shall be 78569
made of the proceedings of each meeting and shall be transmitted 78570
forthwith to the governor, the president of the senate, the senate 78571
minority leader, the speaker of the house of representatives, and 78572
the house minority leader. 78573

(2) The director shall present to the commission a report 78574
each month, showing the total revenues, prize disbursements, and 78575
operating expenses of the state lottery for the preceding month. 78576
As soon as practicable after the end of each fiscal year, the 78577

commission shall prepare and transmit to the governor and the 78578
general assembly a report of lottery revenues, prize 78579
disbursements, and operating expenses for the preceding fiscal 78580
year and any recommendations for legislation considered necessary 78581
by the commission. 78582

Sec. 3770.05. (A) As used in this section, "person" means any 78583
person, association, corporation, partnership, club, trust, 78584
estate, society, receiver, trustee, person acting in a fiduciary 78585
or representative capacity, instrumentality of the state or any of 78586
its political subdivisions, or any other combination of 78587
individuals meeting the requirements set forth in this section or 78588
established by rule or order of the state lottery commission. 78589

(B) The director of the state lottery commission may license 78590
any person as a lottery sales agent. No license shall be issued to 78591
any person or group of persons to engage in the sale of lottery 78592
tickets as the person's or group's sole occupation or business. 78593

Before issuing any license to a lottery sales agent, the 78594
director shall consider all of the following: 78595

(1) The financial responsibility and security of the 78596
applicant and the applicant's business or activity; 78597

(2) The accessibility of the applicant's place of business or 78598
activity to the public; 78599

(3) The sufficiency of existing licensed agents to serve the 78600
public interest; 78601

(4) The volume of expected sales by the applicant; 78602

(5) Any other factors pertaining to the public interest, 78603
convenience, or trust. 78604

(C) Except as otherwise provided in division (F) of this 78605
section, the director of the state lottery commission shall refuse 78606
to grant, or shall suspend or revoke, a license if the applicant 78607

or licensee: 78608

(1) Has been convicted of a felony or has been convicted of a crime involving moral turpitude; 78609
78610

(2) Has been convicted of an offense that involves illegal gambling; 78611
78612

(3) Has been found guilty of fraud or misrepresentation in any connection; 78613
78614

(4) Has been found to have violated any rule or order of the commission; or 78615
78616

(5) Has been convicted of illegal trafficking in supplemental nutrition assistance program benefits. 78617
78618

(D) Except as otherwise provided in division (F) of this section, the director of the state lottery commission shall refuse to grant, or shall suspend or revoke, a license if the applicant or licensee is a corporation and any of the following applies: 78619
78620
78621
78622

(1) Any of the corporation's directors, officers, or controlling shareholders has been found guilty of any of the activities specified in divisions (C)(1) to (5) of this section; 78623
78624
78625

(2) It appears to the director of the state lottery commission that, due to the experience, character, or general fitness of any director, officer, or controlling shareholder of the corporation, the granting of a license as a lottery sales agent would be inconsistent with the public interest, convenience, or trust; 78626
78627
78628
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(3) The corporation is not the owner or lessee of the business at which it would conduct a lottery sales agency pursuant to the license applied for; 78632
78633
78634

(4) Any person, firm, association, or corporation other than the applicant or licensee shares or will share in the profits of the applicant or licensee, other than receiving dividends or 78635
78636
78637

distributions as a shareholder, or participates or will 78638
participate in the management of the affairs of the applicant or 78639
licensee. 78640

(E)(1) The director of the state lottery commission shall 78641
refuse to grant a license to an applicant for a lottery sales 78642
agent license and shall revoke a lottery sales agent license if 78643
the applicant or licensee is or has been convicted of a violation 78644
of division (A) or (C)(1) of section 2913.46 of the Revised Code. 78645

(2) The director shall refuse to grant a license to an 78646
applicant for a lottery sales agent license that is a corporation 78647
and shall revoke the lottery sales agent license of a corporation 78648
if the corporation is or has been convicted of a violation of 78649
division (A) or (C)(1) of section 2913.46 of the Revised Code. 78650

(F) The director of the state lottery commission shall 78651
request the bureau of criminal identification and investigation, 78652
the department of public safety, or any other state, local, or 78653
federal agency to supply the director with the criminal records of 78654
any applicant for a lottery sales agent license, and may 78655
periodically request the criminal records of any person to whom a 78656
lottery sales agent license has been issued. At or prior to the 78657
time of making such a request, the director shall require an 78658
applicant or licensee to obtain fingerprint impressions on 78659
fingerprint cards prescribed by the superintendent of the bureau 78660
of criminal identification and investigation at a qualified law 78661
enforcement agency, and the director shall cause those fingerprint 78662
cards to be forwarded to the bureau of criminal identification and 78663
investigation, to the federal bureau of investigation, or to both 78664
bureaus. The commission shall assume the cost of obtaining the 78665
fingerprint cards. 78666

The director shall pay to each agency supplying criminal 78667
records for each investigation a reasonable fee, as determined by 78668
the agency. 78669

The commission may adopt uniform rules specifying time 78670
periods after which the persons described in divisions (C)(1) to 78671
(5) and (D)(1) to (4) of this section may be issued a license and 78672
establishing requirements for those persons to seek a court order 78673
to have records sealed in accordance with law. 78674

(G)(1) Each applicant for a lottery sales agent license shall 78675
do both of the following: 78676

(a) Pay fees to the state lottery commission, ~~at the time the~~ 78677
~~application is submitted, a fee in an amount that the director of~~ 78678
~~the state lottery commission determines if required~~ by rule 78679
adopted by the director under Chapter 119. of the Revised Code and 78680
~~that~~ the controlling board approves the fees; 78681

(b) Prior to approval of the application, obtain a surety 78682
bond in an amount the director determines by rule adopted under 78683
Chapter 119. of the Revised Code or, alternatively, with the 78684
director's approval, deposit the same amount into a dedicated 78685
account for the benefit of the state lottery. The director also 78686
may approve the obtaining of a surety bond to cover part of the 78687
amount required, together with a dedicated account deposit to 78688
cover the remainder of the amount required. 78689

A surety bond may be with any company that complies with the 78690
bonding and surety laws of this state and the requirements 78691
established by rules of the commission pursuant to this chapter. A 78692
dedicated account deposit shall be conducted in accordance with 78693
policies and procedures the director establishes. 78694

A surety bond, dedicated account, or both, as applicable, may 78695
be used to pay for the lottery sales agent's failure to make 78696
prompt and accurate payments for lottery ticket sales, for missing 78697
or stolen lottery tickets, ~~or~~ for damage to equipment or materials 78698
issued to the lottery sales agent, or to pay for expenses the 78699
commission incurs in connection with the lottery sales agent's 78700

license. 78701

(2) A lottery sales agent license is effective for one year. 78702

A licensed lottery sales agent, on or before the date 78703
established by the director, shall renew the agent's license and 78704
provide at that time evidence to the director that the surety 78705
bond, dedicated account deposit, or both, required under division 78706
(G)(1)(b) of this section has been renewed or is active, whichever 78707
applies. 78708

Before the commission renews a lottery sales agent license, 78709
the lottery sales agent shall submit a renewal fee to the 78710
commission ~~in an amount that the director determines, if one is~~ 78711
required by rule adopted by the director under Chapter 119. of the 78712
Revised Code and ~~that~~ the controlling board approves the renewal 78713
fee. The renewal fee shall not exceed the actual cost of 78714
administering the license renewal and processing changes reflected 78715
in the renewal application. The renewal of the license is 78716
effective for up to one year. 78717

(3) A lottery sales agent license shall be complete, 78718
accurate, and current at all times during the term of the license. 78719
Any changes to an original license application or a renewal 78720
application may subject the applicant or lottery sales agent, as 78721
applicable, to paying an administrative fee that shall be in an 78722
amount that the director determines by rule adopted under Chapter 78723
119. of the Revised Code, that the controlling board approves, and 78724
that shall not exceed the actual cost of administering and 78725
processing the changes to an application. 78726

(4) The relationship between the commission and a lottery 78727
sales agent is one of trust. A lottery sales agent collects funds 78728
on behalf of the commission through the sale of lottery tickets 78729
for which the agent receives a compensation. 78730

(H) Pending a final resolution of any question arising under 78731

this section, the director of the state lottery commission may 78732
issue a temporary lottery sales agent license, subject to the 78733
terms and conditions the director considers appropriate. 78734

(I) If a lottery sales agent's rental payments for the 78735
lottery sales agent's premises are determined, in whole or in 78736
part, by the amount of retail sales the lottery sales agent makes, 78737
and if the rental agreement does not expressly provide that the 78738
amount of those retail sales includes the amounts the lottery 78739
sales agent receives from lottery ticket sales, only the amounts 78740
the lottery sales agent receives as compensation from the state 78741
lottery commission for selling lottery tickets shall be considered 78742
to be amounts the lottery sales agent receives from the retail 78743
sales the lottery sales agent makes, for the purpose of computing 78744
the lottery sales agent's rental payments. 78745

Sec. 3770.06. (A) There is hereby created the state lottery 78746
gross revenue fund, which shall be in the custody of the treasurer 78747
of state but shall not be part of the state treasury. All gross 78748
revenues received from sales of lottery tickets, fines, fees, and 78749
related proceeds in connection with the statewide lottery and all 78750
gross proceeds from statewide joint lottery games shall be 78751
deposited into the fund. The treasurer of state shall invest any 78752
portion of the fund not needed for immediate use in the same 78753
manner as, and subject to all provisions of law with respect to 78754
the investment of, state funds. The treasurer of state shall 78755
disburse money from the fund on order of the director of the state 78756
lottery commission or the director's designee. 78757

Except for gross proceeds from statewide joint lottery games, 78758
all revenues of the state lottery gross revenue fund that are not 78759
paid to holders of winning lottery tickets, that are not required 78760
to meet short-term prize liabilities, that are not credited to 78761
lottery sales agents in the form of bonuses, commissions, or 78762

reimbursements, that are not paid to financial institutions to 78763
reimburse those institutions for sales agent nonsufficient funds, 78764
that are not paid to a private lottery manager, and that are 78765
collected from sales agents for remittance to insurers under 78766
contract to provide sales agent bonding services shall be 78767
transferred to the state lottery fund, which is hereby created in 78768
the state treasury. In addition, all revenues of the state lottery 78769
gross revenue fund that represent the gross proceeds from the 78770
statewide joint lottery games and that are not paid to holders of 78771
winning lottery tickets, that are not required to meet short-term 78772
prize liabilities, that are not credited to lottery sales agents 78773
in the form of bonuses, commissions, or reimbursements, that are 78774
not paid to a private lottery manager, and that are not necessary 78775
to cover operating expenses associated with those games or to 78776
otherwise comply with the agreements signed by the governor that 78777
the director enters into under division (J) of section 3770.02 of 78778
the Revised Code or the rules the commission adopts under division 78779
(B)~~(5)~~(4) of section 3770.03 of the Revised Code shall be 78780
transferred to the state lottery fund. All investment earnings of 78781
the fund shall be credited to the fund. Moneys shall be disbursed 78782
from the fund pursuant to vouchers approved by the director or the 78783
private lottery manager. Total disbursements for monetary prize 78784
awards to holders of winning lottery tickets in connection with 78785
the statewide lottery and purchases of goods and services awarded 78786
as prizes to holders of winning lottery tickets shall be of an 78787
amount equal to at least fifty per cent of the total revenue 78788
accruing from the sale of lottery tickets. 78789

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, 78790
there is hereby established in the state treasury the lottery 78791
profits education fund. Whenever, in the judgment of the director 78792
of budget and management, the amount to the credit of the state 78793
lottery fund that does not represent proceeds from statewide joint 78794
lottery games is in excess of that needed to meet the maturing 78795

obligations of the commission and as working capital for its 78796
further operations, the director shall transfer the excess to the 78797
lottery profits education fund in connection with the statewide 78798
lottery. In addition, whenever, in the judgment of the director of 78799
budget and management, the amount to the credit of the state 78800
lottery fund that represents proceeds from statewide joint lottery 78801
games equals the entire net proceeds of those games as described 78802
in division (B)~~(5)~~(4) of section 3770.03 of the Revised Code and 78803
the rules adopted under that division, the director shall transfer 78804
those proceeds to the lottery profits education fund. There shall 78805
also be credited to the fund any repayments of moneys loaned from 78806
the educational excellence investment fund. Investment earnings of 78807
the lottery profits education fund shall be credited to the fund. 78808

The lottery profits education fund shall be used solely for 78809
the support of elementary, secondary, vocational, and special 78810
education programs as determined in appropriations made by the 78811
general assembly, or as provided in applicable bond proceedings 78812
for the payment of debt service on obligations issued to pay costs 78813
of capital facilities, including those for a system of common 78814
schools throughout the state pursuant to section 2n of Article 78815
VIII, Ohio Constitution. When determining the availability of 78816
money in the lottery profits education fund, the director of 78817
budget and management may consider all balances and estimated 78818
revenues of the fund. 78819

(C) There is hereby established in the state treasury the 78820
deferred prizes trust fund. With the approval of the director of 78821
budget and management, an amount sufficient to fund annuity prizes 78822
shall be transferred from the state lottery fund and credited to 78823
the trust fund. The treasurer of state shall credit all earnings 78824
arising from investments purchased under this division to the 78825
trust fund. Within sixty days after the end of each fiscal year, 78826
the treasurer of state shall certify to the director of budget and 78827

management whether the actuarial amount of the trust fund is 78828
sufficient over the fund's life for continued funding of all 78829
remaining deferred prize liabilities as of the last day of the 78830
fiscal year just ended. Also, within that sixty days, the director 78831
of budget and management shall certify the amount of investment 78832
earnings necessary to have been credited to the trust fund during 78833
the fiscal year just ending to provide for such continued funding 78834
of deferred prizes. Any earnings credited in excess of the latter 78835
certified amount shall be transferred to the lottery profits 78836
education fund. 78837

To provide all or a part of the amounts necessary to fund 78838
deferred prizes awarded by the commission in connection with the 78839
statewide lottery, the treasurer of state, in consultation with 78840
the commission, may invest moneys contained in the deferred prizes 78841
trust fund which represents proceeds from the statewide lottery in 78842
obligations of the type permitted for the investment of state 78843
funds but whose maturities are thirty years or less. 78844
Notwithstanding the requirements of any other section of the 78845
Revised Code, to provide all or part of the amounts necessary to 78846
fund deferred prizes awarded by the commission in connection with 78847
statewide joint lottery games, the treasurer of state, in 78848
consultation with the commission, may invest moneys in the trust 78849
fund which represent proceeds derived from the statewide joint 78850
lottery games in accordance with the rules the commission adopts 78851
under division (B)~~(5)~~(4) of section 3770.03 of the Revised Code. 78852
Investments of the trust fund are not subject to the provisions of 78853
division (A)(10) of section 135.143 of the Revised Code limiting 78854
to twenty-five per cent the amount of the state's total average 78855
portfolio that may be invested in debt interests and limiting to 78856
one-half of one per cent the amount that may be invested in debt 78857
interests of a single issuer. 78858

All purchases made under this division shall be effected on a 78859

delivery versus payment method and shall be in the custody of the 78860
treasurer of state. 78861

The treasurer of state may retain an investment advisor, if 78862
necessary. The commission shall pay any costs incurred by the 78863
treasurer of state in retaining an investment advisor. 78864

(D) The auditor of state shall conduct annual audits of all 78865
funds and any other audits as the auditor of state or the general 78866
assembly considers necessary. The auditor of state may examine all 78867
records, files, and other documents of the commission, and records 78868
of lottery sales agents that pertain to their activities as 78869
agents, for purposes of conducting authorized audits. 78870

The state lottery commission shall establish an internal 78871
audit program before the beginning of each fiscal year, subject to 78872
the approval of the auditor of state. At the end of each fiscal 78873
year, the commission shall prepare and submit an annual report to 78874
the auditor of state for the auditor of state's review and 78875
approval, specifying the internal audit work completed by the end 78876
of that fiscal year and reporting on compliance with the annual 78877
internal audit program. The form and content of the report shall 78878
be prescribed by the auditor of state under division (C) of 78879
section 117.20 of the Revised Code. 78880

(E) Whenever, in the judgment of the director of budget and 78881
management, an amount of net state lottery proceeds is necessary 78882
to be applied to the payment of debt service on obligations, all 78883
as defined in sections 151.01 and 151.03 of the Revised Code, the 78884
director shall transfer that amount directly from the state 78885
lottery fund or from the lottery profits education fund to the 78886
bond service fund defined in those sections. The provisions of 78887
this division are subject to any prior pledges or obligation of 78888
those amounts to the payment of bond service charges as defined in 78889
division (C) of section 3318.21 of the Revised Code, as referred 78890
to in division (B) of this section. 78891

Sec. 3770.15. (A) The director of the state lottery 78892
commission shall enter into an agreement with a private lottery 78893
manager that agrees to manage the day-to-day operations of the 78894
state lottery commission in exchange for a negotiated management 78895
fee. The director shall execute the initial private lottery 78896
management agreement by June 1, 2012. The private lottery manager 78897
shall be responsible for executing a business plan for lottery 78898
operations. The business plan shall cover the following 78899
activities: 78900

(1) Design and introduction of lottery games; 78901

(2) Marketing and advertising; 78902

(3) The selection, supervision, and compensation of lottery 78903
sales agents licensed by the director under section 3770.05 of the 78904
Revised Code; 78905

(4) The acquisition, provision, and maintenance of goods and 78906
services, including lottery vending machines and equipment, that 78907
are necessary to the operation and administration of the lottery; 78908

(5) The investigation of the suitability of all lottery sales 78909
agents and vendors, including a procedure for performing criminal 78910
background checks and credit reviews using the criteria set forth 78911
in divisions (B) and (C) of section 3770.05 of the Revised Code; 78912

(6) The verification of winning tickets and the payout of 78913
lottery prizes; 78914

(7) The implementation of security measures and internal 78915
audits and controls; 78916

(8) Subject to the approval of the state lottery commission 78917
and controlling board, such other activities previously performed 78918
by the director that the director and private lottery manager 78919
mutually agree may be performed by the private lottery manager. 78920

The private lottery management agreement, and any renewal of 78921

the agreement, shall be subject to the approval of the state 78922
lottery commission and the controlling board. The private lottery 78923
management agreement shall not become effective until it has been 78924
approved by the commission and the controlling board. The term of 78925
the initial private lottery management agreement entered into by 78926
the director shall be ten years and the term of any subsequent 78927
private lottery management agreement shall not be less than ten 78928
years or more than twenty years. The private lottery management 78929
agreement shall contain a provision allowing for the early 78930
termination of the agreement for cause. 78931

(B) The management fee for the private lottery manager, 78932
including any performance-based incentive payment, shall be paid 78933
from the state lottery gross revenue fund. The total amount of 78934
compensation to be paid to the private lottery manager in any 78935
twelve-month period shall not exceed five per cent of the total 78936
revenues accruing from the sale of lottery tickets, fees, fines, 78937
or related proceeds, minus (1) the payment of prizes and retailer 78938
bonuses and (2) the payment of costs incurred in the operation and 78939
administration of the lottery, excluding the compensation to be 78940
paid to the private lottery manager. 78941

(C) Before entering into a private lottery management 78942
agreement, the director, subject to the approval of the state 78943
lottery commission and the controlling board, shall retain the 78944
services of qualified advisors to assist the director in designing 78945
and executing an appropriate qualifications-based selection 78946
process. The advisors shall have significant prior experience in 78947
lottery management or lottery management consulting and shall be 78948
capable of providing financial, accounting, legal, and project 78949
management advice. No advisor or any affiliate of an advisor shall 78950
be eligible to enter into a private lottery management agreement 78951
with the director and no entity in which an advisor or an 78952
affiliate of an advisor has an interest shall be eligible to enter 78953

into a private lottery management agreement. 78954

(D) The director shall issue a request for qualifications and 78955
advertise the state lottery commission's intent to retain a 78956
private lottery manager electronically and in any other 78957
commercially reasonable manner. The request for qualifications 78958
shall include a statement of the scope of the management services 78959
to be provided, a description of the required minimum 78960
qualifications, the evaluation criteria that will be used to 78961
select the most qualified manager, and the baseline level of net 78962
lottery profits that the private lottery manager shall exceed. The 78963
deadline for responding to the initial request for qualifications 78964
for a private lottery manager shall be by October 15, 2011. The 78965
request for qualifications shall solicit information regarding 78966
each of the following components: 78967

(1) Competence to perform the required management services as 78968
indicated by the technical training, education, and experience of 78969
employees who would be assigned to perform the services; 78970

(2) Ability, in terms of the offeror's workload and the 78971
availability of qualified personnel, equipment, and facilities, to 78972
perform the required lottery management services competently and 78973
expeditiously; 78974

(3) Past performance as reflected by demonstrated success in 78975
managing lotteries of comparable size and scope; 78976

(4) Any civil or criminal proceedings in which the offeror or 78977
any officer, director, or supervisor of the offeror has been 78978
convicted of a crime or has been found liable for fraud or 78979
misrepresentation in a judgment in excess of fifty thousand 78980
dollars; 78981

(5) Financial responsibility, as evidenced by the capability 78982
of the offeror to provide a letter of credit under Chapter 1305. 78983
of the Revised Code, a surety bond, or other reasonable financial 78984

assurance to secure the performance of the offeror's obligations 78985
under the private lottery management agreement; 78986

(6) Any other relevant factors as determined by the director 78987
and the advisors. 78988

(E) The director, in consultation with the advisors, shall 78989
evaluate the statements of qualifications submitted in response to 78990
a request for qualifications and may hold discussions with the 78991
responding offerors to explore further the offerors' statements of 78992
qualifications, the scope and nature of the services the offeror 78993
would provide, and the various approaches the offeror may take in 78994
providing private lottery management services. The evaluation 78995
shall include a thorough background and suitability check of each 78996
offeror, including a credit review, to determine if the offeror or 78997
any officer, director, or supervisor of the offeror has been 78998
convicted in any jurisdiction of a felony or of a misdemeanor of 78999
the first, second, or third degree, involving gambling, fraud, 79000
misrepresentation, theft, or any crime involving moral turpitude, 79001
or has been subject to an unfavorable judgment in any civil action 79002
based upon the offeror's, officer's, director's, or employee's 79003
business relationships. Upon completion of this evaluation, the 79004
director and advisors shall do the following: 79005

(1) Select and rank the offerors in terms of the offerors' 79006
qualifications to provide the required lottery management 79007
services; 79008

(2) Invite not fewer than two of the offerors ranked as most 79009
qualified to submit a proposed business plan for managing the 79010
lottery's operations, including a transition plan for personnel, 79011
facilities, equipment, and existing contracts with lottery sales 79012
agents and vendors, and a proposed compensation plan that 79013
separately identifies the base management fee, any 79014
performance-based incentives, and any reimbursable expenses not 79015
included in the base fee; 79016

(3) Verify references provided by the offeror and interview a senior official or employee of at least three lotteries that have utilized the offeror's services; 79017
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79019

(4) Determine the offeror whose proposal delivers the highest return to the state and has most convincingly demonstrated, in the judgment of the director and advisors, the ability to effectively manage the lottery and successfully execute the business plan and thereby provide the greatest value to the state; 79020
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(5) Recommend to the state lottery commission and the controlling board the offeror to be awarded the private lottery management agreement and seek the commission's approval of the recommended offeror's business plan. 79025
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(F) Subject to the approval of the recommended offeror by the state lottery commission and the controlling board, the director shall negotiate a private lottery management agreement with the offeror. The agreement shall provide at least the following: 79029
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(1) A provision incorporating the business plan approved by the state lottery commission as part of the selection process and setting forth a process for making and approving amendments to the business plan during the term of the agreement, as well as an equitable process for adjusting the net profit levels that the private lottery manager shall exceed if the commission exercises the commission's rights under division (F)(4) of this section, where such exercise of those rights shall, or may be reasonably expected to, affect the financial performance of the lottery; 79033
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(2) The management fee to be paid to the private lottery manager, including any performance-based incentive payments, and a schedule of any reimbursable expenses or pass-through expenses not included in the management fee to the private lottery manager; 79042
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(3) Reasonable financial assurance of a nature and in an amount acceptable to the director to guarantee the private lottery 79046
79047

manager's performance of the contractual obligations; 79048

(4) A provision that the state lottery commission reserves 79049
actual control over all significant business decisions; reserves 79050
the authority to direct and countermand operating decisions by the 79051
private lottery manager; has the authority to demand and receive 79052
information from the private lottery manager concerning any aspect 79053
of the lottery operations at any time; and retains ownership of 79054
all trade names, trademarks, and associated intellectual property 79055
of the lottery; 79056

(5) A commitment by the private lottery manager to provide 79057
the state lottery commission and director with advance notice of 79058
any operating decisions that significantly bear on the public 79059
interest, including: decisions on the types of games to be offered 79060
to the public, the locations at which lottery tickets may be sold, 79061
the manner in which lottery sale revenues are to be collected, 79062
decisions affecting the relative risk and reward of the games 79063
being offered, and circumstances related to the public safety, 79064
convenience, and trust; 79065

(6) A provision for obtaining the prior approval of the state 79066
lottery commission before the private lottery management agreement 79067
is assigned, transferred, or pledged as collateral by the private 79068
lottery manager; 79069

(7) Provisions governing the procedure for renewing the 79070
private lottery management agreement, amending the agreement, or 79071
terminating the agreement for cause; 79072

(8) A schedule between the director and the private lottery 79073
manager allocating responsibility for compliance with the rules 79074
promulgated under section 3770.03 of the Revised Code; 79075

(9) A provision governing the assignment or transfer of 79076
existing contracts executed on behalf of the state lottery 79077
commission or director and necessary for the conduct of lottery 79078

games; 79079

(10) A provision for the right of use of copyright, 79080
trademarks, and service marks held by the lottery in the name of 79081
the state lottery commission. 79082

(G) Upon failure to negotiate a contract with the offeror 79083
ranked most qualified, the director shall inform the offeror in 79084
writing of the termination of negotiations and enter into 79085
negotiations with the offeror ranked next most qualified. If 79086
negotiations again fail, the same procedure shall be followed with 79087
each next most qualified offeror selected and ranked under 79088
division (E) of this section, in order of ranking, until a 79089
contract is negotiated. 79090

(H) If the director fails to negotiate a contract with any of 79091
the offerors selected under division (E) of this section, the 79092
director and advisors shall select and rank additional offerors, 79093
based on the offerors' qualifications. Negotiations shall continue 79094
as with the offerors selected and ranked initially until a 79095
contract is negotiated. 79096

(I) Upon the execution of the private lottery management 79097
agreement, the following apply: 79098

(1) The private lottery manager shall contract with lottery 79099
sales agents, subject to licensing by the director under section 79100
3770.05 of the Revised Code; 79101

(2) Notwithstanding Chapter 125. of the Revised Code, the 79102
private lottery manager shall enter into a contract to provide 79103
goods and services necessary for the conduct of the lottery, 79104
subject to the approval of the state lottery commission; 79105

(3) All duties and responsibilities of the director under 79106
rules promulgated by the state lottery commission may be performed 79107
by the private lottery manager or the director as determined in 79108
the private lottery management agreement; 79109

(4) The private lottery manager shall have the authority to introduce, schedule, and conduct lottery games and to design the terms and conditions of individual games, subject to the approval of the state lottery commission. The private lottery manager's authority to design and conduct individual games shall not be subject to the commission's rule-making authority under section 3770.03 of the Revised Code.

(5) The private lottery manager shall prepare, and make available for public inspection, a comprehensive description of the terms and conditions of each lottery game, including the title and term, general design, price of tickets, structure, nature and value of prize awards, frequency of prize drawings, and validity of tickets.

(J) Notwithstanding any provision of law to the contrary, the execution of a private lottery management agreement shall not result in subjecting any income, revenue, or receipts derived from the sale of lottery tickets or other conduct of the lottery or the conduct of the private lottery manager or any goods, services, or property purchased, procured, acquired, or used by the state lottery commission or private lottery manager to taxation by this state or any political subdivision of this state, unless such income, revenue, or receipts or such goods, services, or property was subject to taxation before the execution of the private lottery management agreement when received, procured, acquired, or used by or on behalf of the state lottery commission.
Notwithstanding any provision of law to the contrary, the management fee, including any performance-based incentive or other compensation paid to the private lottery manager, shall not be subject to any type of taxation by this state or any political subdivision of this state.

(K) Persons employed by the private lottery manager to provide service under the private lottery management agreement

shall not be public employees and shall not be entitled to any 79142
rights or benefits conferred upon public employees or subject to 79143
any restrictions or limitations imposed upon public employees by 79144
the laws of this state or any political subdivision of this state. 79145
Nothing in this section prohibits a private lottery manager from 79146
hiring a person previously employed by the state lottery 79147
commission after that person's service with the commission 79148
terminates. Nothing in this section shall be deemed to affect any 79149
rights or benefits that a person earned as a state employee or any 79150
restrictions or limitations to which the person is subject to as a 79151
former state employee. 79152

Sec. 3772.032. (A) The permanent joint committee on gaming 79153
and wagering is established. The committee consists of six 79154
members. The speaker of the house of representatives shall appoint 79155
to the committee three members of the house of representatives and 79156
the president of the senate shall appoint to the committee three 79157
members of the senate. Not more than two members appointed from 79158
each chamber may be members of the same political party. The 79159
chairperson shall be from the opposite ~~party~~ house as the 79160
chairperson of the joint committee on agency rule review. If the 79161
chairperson is to be from the house of representatives, the 79162
speaker of the house of representatives shall designate a member 79163
as the chairperson and the president of the senate shall designate 79164
a member as the vice-chairperson. If the chairperson is to be from 79165
the senate, the president of the senate shall designate a member 79166
as the chairperson and the speaker of the house of representatives 79167
shall designate a member as the vice-chairperson. 79168

(B) The committee shall: 79169

(1) Review all constitutional amendments, laws, and rules 79170
governing the operation and administration of casino gaming and 79171
all authorized gaming and wagering activities and recommend to the 79172

general assembly and commission any changes it may find desirable 79173
with respect to the language, structure, and organization of those 79174
amendments, laws, or rules; 79175

(2) Make an annual report to the governor and to the general 79176
assembly with respect ~~of~~ to the operation and administration of 79177
casino gaming; 79178

(3) Review all changes of fees and penalties as provided in 79179
this chapter and rules adopted thereunder; and 79180

(4) Study all proposed changes to the constitution and laws 79181
of this state and to the rules adopted by the commission governing 79182
the operation and administration of casino gaming, and report to 79183
the general assembly on their adequacy and desirability as a 79184
matter of public policy. 79185

(C) Any study, or any expense incurred, in furtherance of the 79186
committee's objectives shall be paid for from, or out of, the 79187
casino control commission fund or other appropriation provided by 79188
law. The members shall receive no additional compensation, but 79189
shall be reimbursed for actual and necessary expenses incurred in 79190
the performance of their official duties. 79191

Sec. 3772.062. (A) The executive director of the commission 79192
shall enter into an agreement with the department of alcohol and 79193
drug addiction services under which the department provides a 79194
program of gambling and addiction services on behalf of the 79195
commission. 79196

(B) The executive director of the commission, in conjunction 79197
with the department of alcohol and drug addiction services and the 79198
state lottery commission, shall establish, operate, and publicize 79199
an in-state, toll-free telephone number Ohio residents may call to 79200
obtain basic information about problem gambling, the gambling 79201
addiction services available to problem gamblers, and how a 79202

problem gambler may obtain help. The telephone number shall be 79203
staffed twenty-four hours per day, seven days a week, to respond 79204
to inquiries and provide that information. The costs of 79205
establishing, operating, and publicizing the telephone number 79206
shall be paid for with money in the problem casino gambling and 79207
addictions fund. 79208

Sec. 3781.06. (A)(1) Any building that may be used as a place 79209
of resort, assembly, education, entertainment, lodging, dwelling, 79210
trade, manufacture, repair, storage, traffic, or occupancy by the 79211
public, any residential building, and all other buildings or parts 79212
and appurtenances of those buildings erected within this state, 79213
shall be so constructed, erected, equipped, and maintained that 79214
they shall be safe and sanitary for their intended use and 79215
occupancy. 79216

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the 79217
Revised Code shall be construed to limit the power of the ~~public~~ 79218
~~health council~~ manufactured homes commission to adopt rules ~~of~~ 79219
~~uniform application~~ governing manufactured home parks pursuant to 79220
section ~~3733.02~~ 4781.04 of the Revised Code. 79221

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised 79222
Code do not apply to either of the following: 79223

(1) Buildings or structures that are incident to the use for 79224
agricultural purposes of the land on which the buildings or 79225
structures are located, provided those buildings or structures are 79226
not used in the business of retail trade. For purposes of this 79227
division, a building or structure is not considered used in the 79228
business of retail trade if fifty per cent or more of the gross 79229
income received from sales of products in the building or 79230
structure by the owner or operator is from sales of products 79231
produced or raised in a normal crop year on farms owned or 79232
operated by the seller. 79233

(2) Existing single-family, two-family, and three-family detached dwelling houses for which applications have been submitted to the director of job and family services pursuant to section 5104.03 of the Revised Code for the purposes of operating type A family day-care homes as defined in section 5104.01 of the Revised Code.

(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code:

(1) "Agricultural purposes" include agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, and animal and poultry husbandry.

(2) "Building" means any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances.

(3) "Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by division (O) of section 4501.01 of the Revised Code.

(4) "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban

development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards.

(5) "Permanent foundation" means permanent masonry, concrete, or a footing or foundation approved by the manufactured homes commission pursuant to Chapter 4781. of the Revised Code, to which a manufactured or mobile home may be affixed.

(6) "Permanently sited manufactured home" means a manufactured home that meets all of the following criteria:

(a) The structure is affixed to a permanent foundation and is connected to appropriate facilities;

(b) The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one point, and a total living area, excluding garages, porches, or attachments, of at least nine hundred square feet;

(c) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;

(d) The structure was manufactured after January 1, 1995;

(e) The structure is not located in a manufactured home park as defined by section ~~3733.01~~ 4781.01 of the Revised Code.

(7) "Safe," with respect to a building, means it is free from danger or hazard to the life, safety, health, or welfare of persons occupying or frequenting it, or of the public and from danger of settlement, movement, disintegration, or collapse, whether such danger arises from the methods or materials of its construction or from equipment installed therein, for the purpose

of lighting, heating, the transmission or utilization of electric 79295
current, or from its location or otherwise. 79296

(8) "Sanitary," with respect to a building, means it is free 79297
from danger or hazard to the health of persons occupying or 79298
frequenting it or to that of the public, if such danger arises 79299
from the method or materials of its construction or from any 79300
equipment installed therein, for the purpose of lighting, heating, 79301
ventilating, or plumbing. 79302

(9) "Residential building" means a one-family, two-family, or 79303
three-family dwelling house, and any accessory structure 79304
incidental to that dwelling house. "Residential building" includes 79305
a one-family, two-family, or three-family dwelling house that is 79306
used as a model to promote the sale of a similar dwelling house. 79307
"Residential building" does not include an industrialized unit as 79308
defined by division (C)(3) of this section, a manufactured home as 79309
defined by division (C)(4) of this section, or a mobile home as 79310
defined by division (O) of section 4501.01 of the Revised Code. 79311

(10) "Nonresidential building" means any building that is not 79312
a residential building or a manufactured or mobile home. 79313

(11) "Accessory structure" means a structure that is attached 79314
to a residential building and serves the principal use of the 79315
residential building. "Accessory structure" includes, but is not 79316
limited to, a garage, porch, or screened-in patio. 79317

Sec. 3781.183. If the board of building standards adopts 79318
rules under sections 3781.06 to 3781.18 of the Revised Code 79319
concerning the requirements an adult group home seeking licensure 79320
as an adult care facility must meet under section ~~3722.02~~ 5119.71 79321
of the Revised Code, the board shall adopt the rules in 79322
consultation with the directors of mental health and of aging and 79323
any interested party designated by the directors of mental health 79324
and of aging. 79325

Sec. 3791.043. If the board of building standards adopts 79326
rules under section 3791.04 of the Revised Code concerning the 79327
requirements an adult group home seeking licensure as an adult 79328
care facility must meet under section ~~3722.02~~ 5119.71 of the 79329
Revised Code, the board shall adopt the rules in consultation with 79330
the directors of mental health and aging and any interested party 79331
designated by the directors of mental health and aging. 79332

Sec. 3793.04. The department of alcohol and drug addiction 79333
services shall develop, administer, and revise as necessary a 79334
comprehensive statewide alcohol and drug addiction services plan 79335
for the implementation of this chapter. The plan shall emphasize 79336
abstinence from the use of alcohol and drugs of abuse as the 79337
primary goal of alcohol and drug addiction services. The council 79338
on alcohol and drug addiction services shall advise the department 79339
in the development and implementation of the plan. 79340

The plan shall provide for the allocation and distribution of 79341
~~state and federal~~ funds appropriated to the department by the 79342
general assembly for ~~service services~~ furnished by alcohol and 79343
drug addiction programs under contract with boards of alcohol, 79344
drug addiction, and mental health services ~~and for distribution of~~ 79345
~~the funds to such boards~~. The plan department shall exclude from 79346
the allocation and distribution any funds that are transferred to 79347
the department of job and family services to pay the nonfederal 79348
share of alcohol and drug addiction services covered by the 79349
medicaid program. 79350

The plan shall specify the methodology that the department 79351
will use for determining how the funds will be allocated and 79352
distributed. A portion of the funds shall be allocated on the 79353
basis of the ratio of the population of each alcohol, drug 79354
addiction, and mental health service district to the total 79355
population of the state as determined from the most recent federal 79356

census or the most recent official estimate made by the United States census bureau. 79357
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The plan shall ensure that alcohol and drug addiction services of a high quality are accessible to, and responsive to the needs of, all persons, especially those who are members of underserved groups, including, but not limited to, African Americans, Hispanics, native Americans, Asians, juvenile and adult offenders, women, and persons with special services needs due to age or disability. The plan shall include a program to promote and protect the rights of those who receive services. 79359
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To aid in formulating the plan and in evaluating the effectiveness and results of alcohol and drug addiction services, the department, in consultation with the department of mental health, shall establish and maintain an information system or systems. The department of alcohol and drug addiction services shall specify the information that must be provided by boards of alcohol, drug addiction, and mental health services and by alcohol and drug addiction programs for inclusion in the system. The department shall not collect any personal information from the boards except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight. 79367
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In consultation with boards, programs, and persons receiving services, the department shall establish guidelines for the use of ~~state and federal~~ funds allocated and distributed under this section and for the boards' development of plans for services required by sections 340.033 and 3793.05 of the Revised Code. 79380
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In any fiscal year, the department shall spend, or allocate to boards, for methadone maintenance programs or any similar programs not more than eight per cent of the total amount appropriated to the department for the fiscal year. 79385
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Sec. 3793.06. (A) ~~The department of alcohol and drug~~ 79389
~~addiction services shall evaluate and certify all~~ Each alcohol and 79390
~~drug addiction programs in the state. Each~~ program shall apply to 79391
the department of alcohol and drug addiction services for 79392
certification. No program shall be eligible to receive state or 79393
federal funds unless it has been certified by the department. 79394

(B) No person shall represent in any manner that a program is 79395
certified by the department if the program is not certified at the 79396
time the representation is made. 79397

(C) Pursuant to Chapter 119. of the Revised Code and in 79398
consultation with members or representatives of boards of alcohol, 79399
drug addiction, and mental health services, programs, individuals 79400
who receive alcohol and drug addiction services, and the 79401
department of mental health, the department shall adopt rules that 79402
establish all of the following: 79403

(1) Minimum standards for the operation of programs, 79404
including, but not limited to, the following: 79405

(a) Requirements regarding physical facilities of programs; 79406

(b) Requirements with regard to health, safety, adequacy, and 79407
cultural specificity and sensitivity; 79408

(c) Requirements regarding the rights of recipients of 79409
services and procedures to protect these rights. 79410

(2) Standards for evaluating programs; 79411

(3) Standards and procedures for granting full or conditional 79412
certification to a program; 79413

(4) Standards and procedures for revoking the certification 79414
of a program that does not continue to meet the minimum standards 79415
established pursuant to this section. 79416

(D) Rules adopted under division (C) of this section shall 79417

specify the limitations to be placed on a program that is granted conditional certification.

(E) The department may visit and evaluate any program to determine whether it meets the minimum standards for certification established pursuant to division (C) of this section. In the case of a program that has a contract with or proposes to contract with a board of alcohol, drug addiction, and mental health services, the department shall conduct the visit and evaluation in cooperation with the board. If

(F)(1) Subject to division (F)(2) of this section, the department shall determine whether an applicant's program meets the minimum standards for certification. If the department determines that the program meets the minimum standards, it shall certify or recertify the program.

(F)(2) If an applicant submits to the department evidence of holding national accreditation from the joint commission, the council on accreditation of rehabilitation facilities, or the council on accreditation, the department shall accept that accreditation as evidence of the applicant's program meeting the minimum standards for certification of the program. The department shall certify or recertify the program without any further evaluation of the program.

(G) If the department determines that a program that has a contract with a board or proposes to contract with a board does not meet the minimum standards for certification, it shall identify the areas in which the program does not meet the standards, specify what action is necessary to meet the standards, and offer technical assistance to the board to enable it to assist the program in meeting the standards. The department shall give the program a reasonable time within which to demonstrate that the program meets the minimum standards or to bring the program into compliance with the standards. If the department concludes that

the program continues to fail to meet minimum standards, it shall 79450
deny certification and may request that the board reallocate the 79451
funds that the board is allocating to that program to another 79452
program that is certified. If the board does not reallocate the 79453
funds within a reasonable time, the department may withhold from 79454
the board the funds that the board is allocating to the program 79455
and allocate the funds directly to a recovery program certified by 79456
the department. 79457

The department shall adopt rules pursuant to Chapter 119. of 79458
the Revised Code to implement this division. The rules shall 79459
specify the notice and hearing procedures to be followed prior to 79460
denial of certification or reallocation of funds. 79461

~~(G)~~(H) The department may withhold from a board all or part 79462
of the state and federal funds allocated for a program certified 79463
under this section in the event of failure of that program to 79464
comply with this chapter, Chapter 340. of the Revised Code, rules 79465
adopted by the department, or other provisions of state or federal 79466
law, including federal regulations. 79467

If the department proposes to withhold funds, it shall 79468
identify the areas of the program's noncompliance and the action 79469
necessary to achieve compliance and shall offer technical 79470
assistance to the board to enable it to assist the program to 79471
achieve compliance. The department shall allow a reasonable time 79472
within which the board or program shall demonstrate that the 79473
program is in compliance or the program shall bring itself into 79474
compliance. Before withholding funds, the department shall hold a 79475
hearing on the question of whether the program is in, or can be 79476
brought into, compliance. If, based on the hearing and other 79477
evidence, the department determines that compliance has not been, 79478
or cannot be, achieved, the department may withhold the funds and 79479
allocate all or part of the withheld funds to a certified program 79480
that is in compliance. That program shall use the funds to provide 79481

the services of the program that is not in compliance, until such 79482
time as it is in compliance. 79483

The department shall establish rules pursuant to Chapter 119. 79484
of the Revised Code to implement this division. 79485

~~(H)~~(I) The department shall maintain a current list of 79486
alcohol and drug addiction programs certified by the department 79487
under division (A) of this section and shall provide a copy of the 79488
current list to a judge of a court of common pleas who requests a 79489
copy for the use of the judge under division (H) of section 79490
2925.03 of the Revised Code. The list of certified alcohol and 79491
drug addiction programs shall identify each certified program by 79492
its name, its address, and the county in which it is located. 79493

Sec. 3793.061. No rule adopted under section 3793.06 of the 79494
Revised Code regarding documentation that alcohol and drug 79495
addiction programs must submit to the department of alcohol and 79496
drug addiction services or a board of alcohol, drug addiction, and 79497
mental health services shall be more stringent than a comparable 79498
documentation submission requirement that applies to alcohol and 79499
drug addiction programs and is established by a federal regulation 79500
promulgated by the United States department of health and human 79501
services. 79502

Sec. 3793.21. (A) As used in this section, "administrative 79503
function" means a function related to one or more of the 79504
following: 79505

- (1) Continuous quality improvement; 79506
- (2) Utilization review; 79507
- (3) Resource development; 79508
- (4) Fiscal administration; 79509
- (5) General administration; 79510

(6) Any other function related to administration that is required by Chapter 340. of the Revised Code.

(B) Each board of alcohol, drug addiction, and mental health services shall submit an annual report to the department of alcohol and drug addiction services specifying how the board used ~~state and federal~~ the funds allocated and distributed to the board, ~~according to the methodology the department specifies~~ under section 3793.04 of the Revised Code, for administrative functions in the year preceding the report's submission. The director of alcohol and drug addiction shall establish the date by which the report must be submitted each year.

Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code do not apply to the following:

(A) Policies offering coverage that is regulated under Chapters 3935. and 3937. of the Revised Code;

(B) An employer's self-insurance plan and any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of any provisions of those sections to the plan and its administrators;

(C) A third-party payer for coverage provided under the medicare advantage program operated under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(D) A third-party payer for coverage provided under the medicaid program operated under Title XIX of the "Social Security Act," except that if a federal waiver applied for under section 5111.178 of the Revised Code is granted or the director of job and family services determines that this provision can be implemented without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of

the Revised Code apply to claims submitted electronically or 79541
non-electronically that are made with respect to coverage of 79542
medicaid recipients by health insuring corporations licensed under 79543
Chapter 1751. of the Revised Code, instead of the prompt payment 79544
requirements of 42 C.F.R. 447.46; 79545

(E) A third-party payer for coverage provided under the 79546
tricare program offered by the United States department of 79547
defense. 79548

~~(F) A third party payer for coverage provided under the 79549
children's buy in program established under sections 5101.5211 to 79550
5101.5216 of the Revised Code. 79551~~

Sec. 3901.56. An insurer may offer a wellness or health 79552
improvement program that provides rewards or incentives, including 79553
merchandise; gift cards; debit cards; premium discounts or 79554
rebates; contributions to a health savings account; modifications 79555
to copayment, deductible, or coinsurance amounts; or any 79556
combination of these incentives, to encourage participation or to 79557
reward participation in the program. 79558

A wellness or health improvement program offered by an 79559
insurer under this section shall not be construed to violate 79560
division (E) of section 1751.31 or division (G) of section 3901.21 79561
of the Revised Code if the program is disclosed in the policy or 79562
plan. 79563

The insured may be required to provide verification, such as 79564
a statement from their physician, that a medical condition makes 79565
it unreasonably difficult or medically inadvisable for the 79566
individual to participate in the wellness or health improvement 79567
program. 79568

Nothing in this section shall prohibit an insurer from 79569
offering incentives or rewards to members for adherence to 79570

wellness or health improvement programs if otherwise allowed by 79571
federal law. 79572

Nothing under division (C)(1) of section 3923.571 or section 79573
3924.25 of the Revised Code shall be construed as prohibiting an 79574
insurer from offering a wellness or health improvement program or 79575
restricting the amount an employee is charged for coverage under a 79576
group policy after the application of any premium discounts or 79577
rebates, or modifying otherwise applicable copayments or 79578
deductibles for adherence to wellness or health improvement 79579
programs. 79580

For purposes of this section, "insurer" means a life 79581
insurance company, sickness and accident insurer, multiple 79582
employer welfare association, public employee benefit plan, or 79583
health insuring corporation. 79584

Sec. 3903.01. As used in sections 3903.01 to 3903.59 of the 79585
Revised Code: 79586

(A) "Admitted assets" means investment in assets which will 79587
be admitted by the superintendent of insurance pursuant to the law 79588
of this state. 79589

(B) "Affiliate" has the same meaning as "affiliate of" or 79590
"affiliated with," as defined in section 3901.32 of the Revised 79591
Code. 79592

(C) "Assets" means all property, real and personal, of every 79593
nature and kind whatsoever or any interest therein. 79594

~~(C)~~(D) "Ancillary state" means any state other than a 79595
domiciliary state. 79596

~~(D)~~(E) "Commodity contract" means any of the following: 79597

(1) A contract for the purchase or sale of a commodity for 79598
future delivery on, or subject to the rules of, a board of trade 79599
designated as a contract market by the commodity futures trading 79600

commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., 79601
as amended, or a board of trade outside the United States; 79602

(2) An agreement that is subject to regulation under section 79603
19 of the "Commodity Exchange Act," 7 U.S.C. 23, as amended, and 79604
that is commonly known to the commodities trade as a margin 79605
account, margin contract, leverage account, or leverage contract; 79606

(3) An agreement or transaction that is subject to regulation 79607
under section 4c(b) of the "Commodity Exchange Act," 7 U.S.C. 79608
6c(b), as amended, and that is commonly known to the commodities 79609
trade as a commodity option; 79610

(4) Any combination of agreements or transactions described 79611
in division (E) of this section; 79612

(5) Any option to enter into an agreement or transaction 79613
described in division (E) of this section. 79614

(F) "Creditor" means a person having any claim, whether 79615
matured or unmatured, liquidated or unliquidated, secured or 79616
unsecured, absolute, fixed, or contingent. 79617

~~(E)~~(G) "Delinquency proceeding" means any proceeding 79618
commenced against an insurer for the purpose of liquidating, 79619
rehabilitating, reorganizing, or conserving the insurer, and any 79620
summary proceeding under section 3903.09 or 3903.10 of the Revised 79621
Code. "Formal delinquency proceeding" means any liquidation or 79622
rehabilitation proceeding. 79623

~~(F)~~(H) "Doing business" includes any of the following acts, 79624
whether effected by mail or otherwise: 79625

(1) The issuance or delivery of contracts of insurance to 79626
persons resident in this state; 79627

(2) The solicitation of applications for such contracts, or 79628
other negotiations preliminary to the execution of such contracts; 79629

(3) The collection of premiums, membership fees, assessments, 79630

or other consideration for such contracts; 79631

(4) The transaction of matters subsequent to execution of 79632
such contracts and arising out of them; 79633

(5) Operating under a license or certificate of authority, as 79634
an insurer, issued by the department of insurance. 79635

~~(G)~~(I) "Domiciliary state" means the state in which an 79636
insurer is incorporated or organized, or, in the case of an alien 79637
insurer, its state of entry. 79638

~~(H)~~(J) "Fair consideration" is given for property or 79639
obligation when either of the following apply: 79640

(1) When in exchange for such property or obligation, as a 79641
fair equivalent therefor, and in good faith, property is conveyed, 79642
services are rendered, an obligation is incurred, or an antecedent 79643
debt is satisfied; 79644

(2) When such property or obligation is received in good 79645
faith to secure a present advance or antecedent debt in an amount 79646
not disproportionately small as compared to the value of the 79647
property or obligation obtained. 79648

~~(I)~~(K) "Foreign country" means any other jurisdiction not in 79649
any state. 79650

~~(J)~~(L) "Forward contract" has the same meaning as in the 79651
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 79652
1821(e)(8)(D), as now and hereafter amended. 79653

(M) "Guaranty association" means the Ohio insurance guaranty 79654
association created by section 3955.06 of the Revised Code and any 79655
other similar entity hereafter created by the general assembly for 79656
the payment of claims of insolvent insurers. "Foreign guaranty 79657
association" means any similar entities now in existence in or 79658
hereafter created by the legislature of any other state. 79659

~~(K)~~(N) "Insolvency" or "insolvent" means: 79660

(1) For an insurer issuing only assessable fire insurance policies either of the following: 79661
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(a) The inability to pay any obligation within thirty days after it becomes payable; 79663
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(b) If an assessment is made within thirty days after such date, the inability to pay the obligation thirty days following the date specified in the first assessment notice issued after the date of loss. 79665
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(2) For any other insurer, that it is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of either of the following: 79669
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(a) Any capital and surplus required by law for its organization; 79673
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(b) The total par or stated value of its authorized and issued capital stock. 79675
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(3) As to any insurer licensed to do business in this state as of the effective date of sections 3903.01 to 3903.59 of the Revised Code that does not meet the standard established under division ~~(K)~~(N)(2) of this section, the term "insolvency" or "insolvent" means, for a period not to exceed three years from the effective date of sections 3903.01 to 3903.59 of the Revised Code, that it is unable to pay its obligations when they are due or that its admitted assets do not exceed its liabilities plus any required capital contribution ordered by the superintendent under provisions of Title XXXIX of the Revised Code. 79677
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(4) For purposes of divisions ~~(K)~~(N)(2) to (4) of this section, "liabilities" includes, but is not limited to, reserves required by statute or by rules of the superintendent or specific requirements imposed by the superintendent upon a subject company at the time of admission or subsequent thereto. 79687
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~~(L)~~(O) "Insurer" means any person who has done, purports to do, is doing, or is licensed to do an insurance business, and is or has been subject to the authority of, or to liquidation, rehabilitation, reorganization, supervision, or conservation by, any insurance commissioner, superintendent, or equivalent official. For purposes of sections 3903.01 to 3903.59 of the Revised Code, any other persons included under section 3903.03 of the Revised Code are deemed to be insurers.

~~(M)~~(P) "Netting agreement" means:

(1) A contract or agreement, including a master agreement, and any terms and conditions incorporated by reference in such a contract or agreement, that provides for the netting, liquidation, setoff, termination, acceleration, or close out under or in connection with a qualified financial contract, or any present or future payment or delivery obligations or entitlements under a qualified financial contract, including liquidation or close-out values relating to those obligations or entitlements;

(2) A master agreement, together with all schedules, confirmations, definitions, and addenda to the agreement and transactions under the agreement, which shall be treated as one netting agreement, and any bridge agreement for one or more master agreements;

(3) Any security agreement or arrangement, credit support document, or guarantee or reimbursement obligation related to any contract or agreement described in division (P) of this section.

Any contract or agreement described in division (P) of this section relating to agreements or transactions that are not qualified financial contracts shall be deemed to be a netting agreement only with respect to those agreements or transactions that are qualified financial contracts.

(O) "Preferred claim" means any claim with respect to which

the terms of sections 3903.01 to 3903.59 of the Revised Code 79723
accord priority of payment from the assets of the insurer. 79724

~~(N)~~(R) "Qualified financial contract" means any commodity 79725
contract, forward contract, repurchase agreement, securities 79726
contract, swap agreement, and any similar agreement that the 79727
superintendent may determine by rule or order to be a qualified 79728
financial contract for purposes of this chapter. 79729

(S) "Reciprocal state" means any state other than this state 79730
in which in substance and effect division (A) of section 3903.18, 79731
and sections 3903.52, 3903.53, and 3903.55 to 3903.57 of the 79732
Revised Code are in force, in which provisions are in force 79733
requiring that the superintendent or equivalent official be the 79734
receiver, liquidator, rehabilitator, or conservator of a 79735
delinquent insurer, and in which some provision exists for the 79736
avoidance of fraudulent conveyances and preferential transfers. 79737

~~(O)~~(T) "Repurchase agreement" has the same meaning as in the 79738
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 79739
1821(e)(8)(D), as now and hereafter amended. 79740

(U) "Secured claim" means any claim secured by mortgage, 79741
trust deed, security agreement, pledge, deposit as security, 79742
escrow, or otherwise, but not including special deposit claims or 79743
claims against assets. The term also includes claims which have 79744
become liens upon specific assets by reason of judicial process. 79745

~~(P)~~(V) "Securities contract" has the same meaning as in the 79746
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 79747
1821(e)(8)(D), as now and hereafter amended. 79748

(W) "Special deposit claim" means any claim secured by a 79749
deposit made pursuant to statute for the security or benefit of a 79750
limited class or classes of persons, but not including any claim 79751
secured by assets. 79752

~~(Q)~~(X) "State" has the meaning set forth in division (G) of 79753

section 1.59 of the Revised Code. 79754

~~(R)~~(Y) "Superintendent" or "superintendent of insurance" 79755
means the superintendent of insurance of this state, or, when the 79756
context requires, the superintendent or commissioner of insurance, 79757
or equivalent official, of another state. 79758

~~(S)~~(Z) "Swap agreement" has the same meaning as in the 79759
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 79760
1821(e)(8)(D), as now and hereafter amended. 79761

(AA) "Transfer" includes the sale and every other and 79762
different mode, direct or indirect, of disposing of or of parting 79763
with property or with an interest in property, or with the 79764
possession of property or of fixing a lien upon property or upon 79765
an interest in property, absolutely or conditionally, voluntarily, 79766
or by or without judicial proceedings. The retention of a security 79767
title to property delivered to a debtor shall be deemed a transfer 79768
suffered by the debtor. 79769

Sec. 3903.301. (A) Notwithstanding any other provision under 79770
sections 3903.01 to 3903.59 of the Revised Code, no person shall 79771
be stayed or prohibited from exercising any of the following 79772
rights: 79773

(1) A contractual right to cause the termination, 79774
liquidation, acceleration, or close out of obligations under, or 79775
in connection with, a netting agreement or qualified financial 79776
contract with an insurer because of either of the following: 79777

(a) The insolvency, financial condition, or default of the 79778
insurer at any time; 79779

(b) The commencement of a formal delinquency proceeding under 79780
sections 3903.01 to 3903.59 of the Revised Code. 79781

(2) Any right under a pledge, security, collateral, 79782
reimbursement, or guarantee agreement or arrangement or any 79783

similar security arrangement or credit enhancement relating to a 79784
netting agreement or qualified financial contract; 79785

(3) Subject to section 3903.30 of the Revised Code, any right 79786
to set off or net out any termination value, payment amount, or 79787
other transfer obligation arising under or in connection with a 79788
qualified financial contract in which the counterparty or its 79789
guarantor is organized under the laws of the United States, a 79790
state, or a foreign jurisdiction that the securities valuation 79791
office of the national association of insurance commissioners 79792
approves as eligible for netting. 79793

(B) If a counterparty to a netting agreement or qualified 79794
financial contract with an insurer that is subject to a proceeding 79795
under sections 3903.01 to 3903.59 of the Revised Code terminates, 79796
liquidates, accelerates, or closes out the agreement or contract, 79797
damages shall be measured as of the date or dates of the 79798
termination, liquidation, acceleration, or close out. The amount 79799
of a claim for damages shall be actual direct compensatory 79800
damages. 79801

(C) Upon termination of a netting agreement or qualified 79802
financial contract, any net or settlement amount that a 79803
nondefaulting party owes to an insurer against which an 79804
application or petition has been filed under sections 3903.01 to 79805
3903.59 of the Revised Code shall be transferred to, or on the 79806
order of, the receiver for the insurer. 79807

This division applies regardless of whether the insurer is 79808
the defaulting party and applies notwithstanding any walkaway 79809
clause in the netting agreement or qualified financial contract. 79810

For purposes of this division, a limited two-way payment or 79811
first method provision in a netting agreement or qualified 79812
financial contract with a defaulting insurer shall be deemed to be 79813
a full two-way payment or second method provision as against the 79814

defaulting insurer. 79815

Any property or amount transferred under this division shall 79816
be a general asset of the insurer except to the extent it is 79817
subject to a secondary lien or encumbrance, or to rights of 79818
netting or setoff. 79819

(D) In transferring a netting agreement or qualified 79820
financial contract of an insurer that is subject to a proceeding 79821
under sections 3903.01 to 3903.59 of the Revised Code, the 79822
receiver shall do either of the following: 79823

(1) Transfer to one party, other than an insurer subject to a 79824
proceeding under sections 3903.01 to 3903.59 of the Revised Code, 79825
all netting agreements and qualified financial contracts between a 79826
counterparty, or any affiliate of the counterparty, and the 79827
insurer that is the subject of the proceeding. The transfer shall 79828
include all rights and obligations of each party under each 79829
netting agreement and qualified financial contract, and all 79830
property, including any guarantees or other credit enhancement, 79831
securing any claims of the parties under each agreement or 79832
contract. 79833

(2) Transfer none of the netting agreements or qualified 79834
financial contracts, including the rights, obligations, and 79835
property associated with those agreements and contracts as 79836
described in division (D)(1) of this section, with respect to the 79837
counterparty and any affiliate of the counterparty. 79838

(E) If a receiver transfers a netting agreement or qualified 79839
financial contract, the receiver shall use its best efforts to 79840
notify any person who is a party to the transferred agreement or 79841
contract of the transfer by noon, of the receiver's local time, on 79842
the business day following the transfer. 79843

(F)(1) Notwithstanding any other provision of sections 79844
3903.01 to 3903.59 of the Revised Code and except as otherwise 79845

provided in division (F)(2) of this section, a receiver shall not 79846
avoid a transfer of money or other property that is made before 79847
the commencement of a formal delinquency proceeding under sections 79848
3903.01 to 3903.59 of the Revised Code and that arises under or in 79849
connection with either of the following: 79850

(a) A netting agreement or qualified financial contract; 79851

(b) Any pledge, security, collateral, or guarantee agreement 79852
or other similar security arrangement or credit support document 79853
relating to a netting agreement or qualified financial contract. 79854

(2) A receiver may avoid a transfer under sections 3903.26 to 79855
3903.28 of the Revised Code if the transfer was made with actual 79856
intent to hinder, delay, or defraud the insurer, a receiver 79857
appointed for the insurer, or existing or future creditors. 79858

(G)(1) In exercising any right of disaffirmance or 79859
repudiation with respect to a netting agreement or qualified 79860
financial contract to which an insurer is a party, the receiver 79861
for the insurer shall do either of the following: 79862

(a) Disaffirm or repudiate all netting agreements and 79863
qualified financial contracts between the insurer and a 79864
counterparty or any affiliate of the counterparty; 79865

(b) Disaffirm or repudiate none of those netting agreements 79866
or qualified financial contracts with respect to the counterparty 79867
or any affiliate of the counterparty. 79868

(2) Notwithstanding any other provision of sections 3903.01 79869
to 3903.59 of the Revised Code, if a counterparty's claim against 79870
the estate of the insurer arising from the receiver's 79871
disaffirmance or repudiation of a netting agreement or qualified 79872
financial contract has not been previously affirmed in the 79873
liquidation or immediately preceding conservation or 79874
rehabilitation case, that claim shall be considered as if it had 79875
arisen before the filing date of the petition for liquidation. If 79876

a conservation or rehabilitation proceeding is converted to a liquidation proceeding, that claim shall be considered as if it had arisen before the filing date of the petition for conservation or rehabilitation. The amount of the claim shall be the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation. 79877
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(H) All rights of a counterparty under sections 3903.01 to 3903.59 of the Revised Code shall apply to netting agreements and qualified financial contracts entered into on behalf of the general account or separate accounts if the assets of each separate account are available only to counterparties to netting agreements and qualified financial contracts entered into on behalf of that separate account. 79883
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(I) This section shall not apply to the affiliates of an insurer that is the subject of a formal delinquency proceeding under sections 3903.01 to 3903.59 of the Revised Code. 79890
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(J) As used in this section: 79893

(1) "Actual direct compensatory damages" includes normal and reasonable costs of cover or other reasonable measures of damages utilized in the derivatives, securities, or other market for the contract and agreement claims. "Actual direct compensatory damages" does not include punitive or exemplary damages, damages for lost profit or lost opportunity, or damages for pain and suffering. 79894
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(2) "Business day" means any day, excluding Saturday, Sunday, and any day on which the New York stock exchange or the federal reserve bank of New York is closed. 79901
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(3) "Contractual right" includes any of the following: 79904

(a) Any right set forth in a rule or bylaw of a derivatives clearing organization, as defined in the "Commodity Exchange Act," 7 U.S.C. 1a(9)(A), as amended; a multilateral clearing 79905
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organization; a national securities exchange; a national securities association; a securities clearing agency; a contract market designated under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended; a derivatives transaction execution facility, including a swap execution facility, registered under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended; a security-based swap execution facility registered under the "Securities Exchange Act of 1934," 15 U.S.C. 78a et seq., as amended; or a board of trade, as defined in the "Commodity Exchange Act," 7 U.S.C. 1a(2);

(b) Any right set forth in a resolution of the governing board of any entity listed in division (J)(3)(a) of this section;

(c) Any right, regardless of whether evidenced in writing, arising under statutory law, common law, or law merchant, or by reason of normal business practice.

(4) "Receiver" means a receiver, conservator, rehabilitator, or liquidator, as applicable.

(5) "Walkaway clause" means a provision under which a party to a netting agreement or qualified financial contract that, after calculation of a value of a party's position or an amount due to or from one of the parties in accordance with its terms upon termination, liquidation, or acceleration of the netting agreement or qualified financial contract is not obligated to pay or does not have a payment obligation extinguished under the agreement or contract, in whole or in part, solely because the party is a nondefaulting party.

Sec. 3923.28. (A) Every policy of group sickness and accident insurance providing hospital, surgical, or medical expense coverage for other than specific diseases or accidents only, and delivered, issued for delivery, or renewed in this state on or after January 1, 1979, and that provides coverage for mental or

emotional disorders, shall provide benefits for services on an 79939
outpatient basis for each eligible person under the policy who 79940
resides in this state for mental or emotional disorders, or for 79941
evaluations, that are at least equal to five hundred fifty dollars 79942
in any calendar year or twelve-month period. The services shall be 79943
legally performed by or under the clinical supervision of a 79944
physician authorized under Chapter 4731. of the Revised Code to 79945
practice medicine and surgery or osteopathic medicine and surgery; 79946
a psychologist licensed under Chapter 4732. of the Revised Code; a 79947
professional clinical counselor, professional counselor, or 79948
independent social worker licensed under Chapter 4757. of the 79949
Revised Code; or a clinical nurse specialist licensed under 79950
Chapter 4723. of the Revised Code whose nursing specialty is 79951
mental health, whether performed in an office, in a hospital, or 79952
in a community mental health facility so long as the hospital or 79953
community mental health facility is approved by the joint 79954
commission on accreditation of healthcare organizations, the 79955
council on accreditation for children and family services, or the 79956
rehabilitation accreditation commission, ~~or, until two years after~~ 79957
~~June 6, 2001, certified by the department of mental health as~~ 79958
~~being in compliance with standards established under division (H)~~ 79959
~~of section 5119.01 of the Revised Code.~~ 79960

(B) Outpatient benefits offered under division (A) of this 79961
section shall be subject to reasonable contract limitations and 79962
may be subject to reasonable deductibles and co-insurance costs. 79963
Persons entitled to such benefit under more than one service or 79964
insurance contract may be limited to a single 79965
five-hundred-fifty-dollar outpatient benefit for services under 79966
all contracts. 79967

(C) In order to qualify for participation under division (A) 79968
of this section, every facility specified in such division shall 79969
have in effect a plan for utilization review and a plan for peer 79970

review and every person specified in such division shall have in 79971
effect a plan for peer review. Such plans shall have the purpose 79972
of ensuring high quality patient care and effective and efficient 79973
utilization of available health facilities and services. 79974

(D) Nothing in this section shall be construed to require an 79975
insurer to pay benefits which are greater than usual, customary, 79976
and reasonable. 79977

(E)(1) Services performed under the clinical supervision of a 79978
health care professional identified in division (A) of this 79979
section, in order to be reimbursable under the coverage required 79980
in division (A) of this section, shall meet both of the following 79981
requirements: 79982

(a) The services shall be performed in accordance with a 79983
treatment plan that describes the expected duration, frequency, 79984
and type of services to be performed; 79985

(b) The plan shall be reviewed and approved by the health 79986
care professional every three months. 79987

(2) Payment of benefits for services reimbursable under 79988
division (E)(1) of this section shall not be restricted to 79989
services described in the treatment plan or conditioned upon 79990
standards of clinical supervision that are more restrictive than 79991
standards of a health care professional described in division (A) 79992
of this section, which at least equal the requirements of division 79993
(E)(1) of this section. 79994

(F) The benefits provided by this section for mental and 79995
emotional disorders shall not be reduced by the cost of benefits 79996
provided pursuant to section 3923.281 of the Revised Code for 79997
diagnostic and treatment services for biologically based mental 79998
illnesses. This section does not apply to benefits for diagnostic 79999
and treatment services for biologically based mental illnesses. 80000

Sec. 3923.281. (A) As used in this section: 80001

(1) "Biologically based mental illness" means schizophrenia, 80002
schizoaffective disorder, major depressive disorder, bipolar 80003
disorder, paranoia and other psychotic disorders, 80004
obsessive-compulsive disorder, and panic disorder, as these terms 80005
are defined in the most recent edition of the diagnostic and 80006
statistical manual of mental disorders published by the American 80007
psychiatric association. 80008

(2) "Policy of sickness and accident insurance" has the same 80009
meaning as in section 3923.01 of the Revised Code, but excludes 80010
any hospital indemnity, medicare supplement, long-term care, 80011
disability income, one-time-limited-duration policy of not longer 80012
than six months, supplemental benefit, or other policy that 80013
provides coverage for specific diseases or accidents only; any 80014
policy that provides coverage for workers' compensation claims 80015
compensable pursuant to Chapters 4121. and 4123. of the Revised 80016
Code; and any policy that provides coverage to beneficiaries 80017
enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 80018
(1935), 42 U.S.C.A. 301, as amended, known as the medical 80019
assistance program or medicaid, as provided by the Ohio department 80020
of job and family services under Chapter 5111. of the Revised 80021
Code; ~~and any policy that provides coverage to beneficiaries~~ 80022
~~enrolled in the children's buy in program established under~~ 80023
~~sections 5101.5211 to 5101.5216 of the Revised Code.~~ 80024

(B) Notwithstanding section 3901.71 of the Revised Code, and 80025
subject to division (E) of this section, every policy of sickness 80026
and accident insurance shall provide benefits for the diagnosis 80027
and treatment of biologically based mental illnesses on the same 80028
terms and conditions as, and shall provide benefits no less 80029
extensive than, those provided under the policy of sickness and 80030
accident insurance for the treatment and diagnosis of all other 80031

physical diseases and disorders, if both of the following apply: 80032

(1) The biologically based mental illness is clinically 80033
diagnosed by a physician authorized under Chapter 4731. of the 80034
Revised Code to practice medicine and surgery or osteopathic 80035
medicine and surgery; a psychologist licensed under Chapter 4732. 80036
of the Revised Code; a professional clinical counselor, 80037
professional counselor, or independent social worker licensed 80038
under Chapter 4757. of the Revised Code; or a clinical nurse 80039
specialist licensed under Chapter 4723. of the Revised Code whose 80040
nursing specialty is mental health. 80041

(2) The prescribed treatment is not experimental or 80042
investigational, having proven its clinical effectiveness in 80043
accordance with generally accepted medical standards. 80044

(C) Division (B) of this section applies to all coverages and 80045
terms and conditions of the policy of sickness and accident 80046
insurance, including, but not limited to, coverage of inpatient 80047
hospital services, outpatient services, and medication; maximum 80048
lifetime benefits; copayments; and individual and family 80049
deductibles. 80050

(D) Nothing in this section shall be construed as prohibiting 80051
a sickness and accident insurance company from taking any of the 80052
following actions: 80053

(1) Negotiating separately with mental health care providers 80054
with regard to reimbursement rates and the delivery of health care 80055
services; 80056

(2) Offering policies that provide benefits solely for the 80057
diagnosis and treatment of biologically based mental illnesses; 80058

(3) Managing the provision of benefits for the diagnosis or 80059
treatment of biologically based mental illnesses through the use 80060
of pre-admission screening, by requiring beneficiaries to obtain 80061
authorization prior to treatment, or through the use of any other 80062

mechanism designed to limit coverage to that treatment determined 80063
to be necessary; 80064

(4) Enforcing the terms and conditions of a policy of 80065
sickness and accident insurance. 80066

(E) An insurer that offers any policy of sickness and 80067
accident insurance is not required to provide benefits for the 80068
diagnosis and treatment of biologically based mental illnesses 80069
pursuant to division (B) of this section if all of the following 80070
apply: 80071

(1) The insurer submits documentation certified by an 80072
independent member of the American academy of actuaries to the 80073
superintendent of insurance showing that incurred claims for 80074
diagnostic and treatment services for biologically based mental 80075
illnesses for a period of at least six months independently caused 80076
the insurer's costs for claims and administrative expenses for the 80077
coverage of all other physical diseases and disorders to increase 80078
by more than one per cent per year. 80079

(2) The insurer submits a signed letter from an independent 80080
member of the American academy of actuaries to the superintendent 80081
of insurance opining that the increase described in division 80082
(E)(1) of this section could reasonably justify an increase of 80083
more than one per cent in the annual premiums or rates charged by 80084
the insurer for the coverage of all other physical diseases and 80085
disorders. 80086

(3) The superintendent of insurance makes the following 80087
determinations from the documentation and opinion submitted 80088
pursuant to divisions (E)(1) and (2) of this section: 80089

(a) Incurred claims for diagnostic and treatment services for 80090
biologically based mental illnesses for a period of at least six 80091
months independently caused the insurer's costs for claims and 80092
administrative expenses for the coverage of all other physical 80093

diseases and disorders to increase by more than one per cent per year. 80094
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(b) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the insurer for the coverage of all other physical diseases and disorders. 80096
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Any determination made by the superintendent under this division is subject to Chapter 119. of the Revised Code. 80100
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Sec. 3923.30. Every person, the state and any of its instrumentalities, any county, township, school district, or other political subdivisions and any of its instrumentalities, and any municipal corporation and any of its instrumentalities, which provides payment for health care benefits for any of its employees resident in this state, which benefits are not provided by contract with an insurer qualified to provide sickness and accident insurance, or a health insuring corporation, shall include the following benefits in its plan of health care benefits commencing on or after January 1, 1979: 80102
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(A) If such plan of health care benefits provides payment for the treatment of mental or nervous disorders, then such plan shall provide benefits for services on an outpatient basis for each eligible employee and dependent for mental or emotional disorders, or for evaluations, that are at least equal to the following: 80112
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(1) Payments not less than five hundred fifty dollars in a twelve-month period, for services legally performed by or under the clinical supervision of a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; a psychologist licensed under Chapter 4732. of the Revised Code; a professional clinical counselor, professional counselor, or independent social worker licensed under Chapter 4757. of the Revised Code; or a clinical 80117
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nurse specialist licensed under Chapter 4723. of the Revised Code 80125
whose nursing specialty is mental health, whether performed in an 80126
office, in a hospital, or in a community mental health facility so 80127
long as the hospital or community mental health facility is 80128
approved by the joint commission on accreditation of healthcare 80129
organizations, the council on accreditation for children and 80130
family services, or the rehabilitation accreditation commission, 80131
~~er, until two years after June 6, 2001, certified by the~~ 80132
~~department of mental health as being in compliance with standards~~ 80133
~~established under division (H) of section 5119.01 of the Revised~~ 80134
~~Code;~~ 80135

(2) Such benefit shall be subject to reasonable limitations, 80136
and may be subject to reasonable deductibles and co-insurance 80137
costs. 80138

(3) In order to qualify for participation under this 80139
division, every facility specified in this division shall have in 80140
effect a plan for utilization review and a plan for peer review 80141
and every person specified in this division shall have in effect a 80142
plan for peer review. Such plans shall have the purpose of 80143
ensuring high quality patient care and effective and efficient 80144
utilization of available health facilities and services. 80145

(4) Such payment for benefits shall not be greater than 80146
usual, customary, and reasonable. 80147

(5)(a) Services performed by or under the clinical 80148
supervision of a health care professional identified in division 80149
(A)(1) of this section, in order to be reimbursable under the 80150
coverage required in division (A) of this section, shall meet both 80151
of the following requirements: 80152

(i) The services shall be performed in accordance with a 80153
treatment plan that describes the expected duration, frequency, 80154
and type of services to be performed; 80155

(ii) The plan shall be reviewed and approved by the health care professional every three months. 80156
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(b) Payment of benefits for services reimbursable under division (A)(5)(a) of the section shall not be restricted to services described in the treatment plan or conditioned upon standards of a licensed physician or licensed psychologist, which at least equal the requirements of division (A)(5)(a) of this section. 80158
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(B) Payment for benefits for alcoholism treatment for outpatient, inpatient, and intermediate primary care for each eligible employee and dependent that are at least equal to the following: 80164
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(1) Payments not less than five hundred fifty dollars in a twelve-month period for services legally performed by or under the clinical supervision of a health care professional identified in division (A)(1) of this section, whether performed in an office, or in a hospital or a community mental health facility or alcoholism treatment facility so long as the hospital, community mental health facility, or alcoholism treatment facility is approved by the joint commission on accreditation of hospitals or certified by the department of health; 80168
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(2) The benefits provided under this division shall be subject to reasonable limitations and may be subject to reasonable deductibles and co-insurance costs. 80177
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(3) A health care professional shall every three months certify a patient's need for continued services performed by such facilities. 80180
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(4) In order to qualify for participation under this division, every facility specified in this division shall have in effect a plan for utilization review and a plan for peer review and every person specified in this division shall have in effect a 80183
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plan for peer review. Such plans shall have the purpose of 80187
ensuring high quality patient care and efficient utilization of 80188
available health facilities and services. Such person or 80189
facilities shall also have in effect a program of rehabilitation 80190
or a program of rehabilitation and detoxification. 80191

(5) Nothing in this section shall be construed to require 80192
reimbursement for benefits which is greater than usual, customary, 80193
and reasonable. 80194

(C) The benefits provided by division (A) of this section for 80195
mental and emotional disorders shall not be reduced by the cost of 80196
benefits provided pursuant to section 3923.282 of the Revised Code 80197
for diagnostic and treatment services for biologically based 80198
mental illness. This section does not apply to benefits for 80199
diagnostic and treatment services for biologically based mental 80200
illnesses. 80201

Sec. 3924.10. (A) The board of directors of the Ohio health 80202
reinsurance program may make recommendations to the superintendent 80203
of insurance, and the superintendent may adopt or amend by rule 80204
adopted in accordance with Chapter 119. of the Revised Code, the 80205
OHC basic, standard, and carrier reimbursement plans which, when 80206
offered by a carrier, are eligible for reinsurance under the 80207
program. The superintendent shall establish the form and level of 80208
coverage to be made available by carriers in their OHC plans. The 80209
plans shall include benefit levels, deductibles, coinsurance 80210
factors, exclusions, and limitations for the plans. The forms and 80211
levels of coverage shall specify which components of health 80212
benefit plans offered by a carrier may be reinsured. The OHC plans 80213
are subject to division (C) of section 3924.02 of the Revised Code 80214
and to the provisions in Chapters 1751., 1753., 3923., and any 80215
other chapter of the Revised Code that require coverage or the 80216
offer of coverage of a health care service or benefit. 80217

(B) Prior to adopting any rule that makes changes to the OHC 80218
basic or standard plan, the superintendent shall conduct an 80219
actuarial analysis of the cost impact of the proposed rule. ~~The~~ 80220
~~superintendent may consider recommendations of the Ohio health~~ 80221
~~care coverage and quality council established under section~~ 80222
~~3923.90 of the Revised Code.~~ The plans may include cost 80223
containment features including any of the following: 80224

(1) Utilization review of health care services, including 80225
review of the medical necessity of hospital and physician 80226
services; 80227

(2) Case management benefit alternatives; 80228

(3) Selective contracting with hospitals, physicians, and 80229
other health care providers; 80230

(4) Reasonable benefit differentials applicable to 80231
participating and nonparticipating providers; 80232

(5) Employee assistance program options that provide 80233
preventive and early intervention mental health and substance 80234
abuse services; 80235

(6) Other provisions for the cost-effective management of the 80236
plans. 80237

(C) OHC plans established for use by health insuring 80238
corporations shall be consistent with the basic method of 80239
operation of such corporations. 80240

(D) Each carrier shall certify to the superintendent of 80241
insurance, in the form and manner prescribed by the 80242
superintendent, that the OHC plans filed by the carrier are in 80243
substantial compliance with the provisions of the OHC plans 80244
designed or adopted under this section. Upon receipt by the 80245
superintendent of the certification, the carrier may use the 80246
certified plans. 80247

(E) Each carrier shall, on and after sixty days after the 80248
date that the program becomes operational and as a condition of 80249
transacting business in this state, renew coverage provided to any 80250
individual or group under its OHC plans. 80251

(F) The OHC plans in effect as of June 1, 2009, shall remain 80252
in effect until those plans are amended or new plans are adopted 80253
in accordance with this section. 80254

Sec. 3937.41. (A) As used in this section: 80255

(1) "Ambulance" has the same meaning as in section 4765.01 of 80256
the Revised Code and also includes private ambulance companies 80257
under contract to a municipal corporation, township, or county. 80258

(2) "Emergency vehicle" means any of the following: 80259

(a) Any vehicle, as defined in section 4511.01 of the Revised 80260
Code, that is an emergency vehicle of a municipal, township, or 80261
county department or public utility corporation and that is 80262
identified as such as required by law, the director of public 80263
safety, or local authorities; 80264

(b) Any motor vehicle, as defined in section 4511.01 of the 80265
Revised Code, when commandeered by a police officer; 80266

(c) Any vehicle, as defined in section 4511.01 of the Revised 80267
Code, that is an emergency vehicle of a qualified nonprofit 80268
corporation police department established pursuant to section 80269
1702.80 of the Revised Code and that is identified as an emergency 80270
vehicle; 80271

(d) Any vehicle, as defined in section 4511.01 of the Revised 80272
Code, that is an emergency vehicle of a proprietary police 80273
department or security department of a hospital operated by a 80274
public hospital agency or a nonprofit hospital agency that employs 80275
police officers under section 4973.17 of the Revised Code, and 80276
that is identified as an emergency vehicle. 80277

(3) "Firefighter" means any regular, paid, member of a	80278
lawfully constituted fire department of a municipal corporation or	80279
township.	80280
(4) "Law enforcement officer" means any of the following:	80281
(a) A sheriff, deputy sheriff, constable, marshal, deputy	80282
marshal, municipal police officer, police officer of a township or	80283
joint township police district, state highway patrol trooper, or	80284
member of a police force employed by a metropolitan housing	80285
authority under division (D) of section 3735.31 of the Revised	80286
Code;	80287
(b) A police officer employed by a qualified nonprofit police	80288
department pursuant to section 1702.80 of the Revised Code, or	80289
police officer employed by a proprietary police department or	80290
security department of a hospital operated by a public hospital	80291
agency or nonprofit hospital agency pursuant to section 4973.17 of	80292
the Revised Code;	80293
(c) An officer, agent, or employee of the state or any of its	80294
agencies, instrumentalities, or political subdivisions, upon whom,	80295
by statute, a duty to conserve the peace or to enforce all or	80296
certain laws is imposed and the authority to arrest violators is	80297
conferred, within the limits of that statutory duty and authority;	80298
(d) A veterans' home police officer appointed under section	80299
5907.02 of the Revised Code;	80300
(e) A member of a police force employed by a regional transit	80301
authority under division (Y) of section 306.35 of the Revised	80302
Code.	80303
(5) "Motor vehicle accident" means any accident involving a	80304
motor vehicle which results in bodily injury to any person, or	80305
damage to the property of any person.	80306
(6) "Investigator" means an investigator of the bureau of	80307

criminal identification and investigation as defined in section 80308
2903.11 of the Revised Code. 80309

(B) No insurer shall consider the circumstance that an 80310
applicant or policyholder has been involved in a motor vehicle 80311
accident while in the pursuit of the applicant's or policyholder's 80312
official duties as a law enforcement officer, firefighter, 80313
investigator, or operator of an emergency vehicle or ambulance, 80314
while operating a vehicle engaged in mowing or snow and ice 80315
removal as a county, township, or department of transportation 80316
employee, or while operating a vehicle while engaged in the 80317
pursuit of the applicant's or policyholder's official duties as a 80318
member of the motor carrier enforcement unit of the state highway 80319
patrol under section 5503.34 of the Revised Code, as a basis for 80320
doing either of the following: 80321

(1) Refusing to issue or deliver a policy of insurance upon a 80322
private automobile, or increasing the rate to be charged for such 80323
a policy; 80324

(2) Increasing the premium rate, canceling, or failing to 80325
renew an existing policy of insurance upon a private automobile. 80326

(C) Any applicant or policyholder affected by an action of an 80327
insurer in violation of this section may appeal to the 80328
superintendent of insurance. After a hearing held upon not less 80329
than ten days' notice to the applicant or policyholder and to the 80330
insurer and if the superintendent determines that the insurer has 80331
violated this section, the superintendent may direct the issuance 80332
of a policy, decrease the premium rate on a policy, or reinstate 80333
insurance coverage. 80334

(D) The employer of the law enforcement officer, firefighter, 80335
investigator, or operator of an emergency vehicle or ambulance, 80336
operator of a vehicle engaged in mowing or snow and ice removal, 80337
or operator of a vehicle who is a member of the motor carrier 80338

enforcement unit, except as otherwise provided in division (F) of 80339
this section, shall certify to the state highway patrol or law 80340
enforcement agency that investigates the accident whether the 80341
officer, firefighter, investigator, or operator of an emergency 80342
vehicle or ambulance, operator of a vehicle engaged in mowing or 80343
snow and ice removal, or operator of a vehicle who is a member of 80344
the motor carrier enforcement unit, was engaged in the performance 80345
of the person's official duties as such employee at the time of 80346
the accident. The employer shall designate an official authorized 80347
to make the certifications. The state highway patrol or law 80348
enforcement agency shall include the certification in any report 80349
of the accident forwarded to the department of public safety 80350
pursuant to sections 5502.11 and 5502.12 of the Revised Code and 80351
shall forward the certification to the department if received 80352
after the report of the accident has been forwarded to the 80353
department. The registrar of motor vehicles shall not include an 80354
accident in a certified abstract of information under division (A) 80355
of section 4509.05 of the Revised Code, if the person involved has 80356
been so certified as having been engaged in the performance of the 80357
person's official duties at the time of the accident. 80358

(E) Division (B) of this section does not apply to an insurer 80359
whose policy covers the motor vehicle at the time the motor 80360
vehicle is involved in an accident described in division (B) of 80361
this section. 80362

(F) Division (B) of this section does not apply if an 80363
applicant or policyholder, on the basis of the applicant's or 80364
policyholder's involvement in an accident described in that 80365
division, is convicted of or pleads guilty or no contest to a 80366
violation of section 4511.19 of the Revised Code or a municipal 80367
OVI ordinance as defined in section 4511.181 of the Revised Code. 80368

Sec. 3963.01. As used in this chapter: 80369

(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or controlled by a contracting entity, or is under common ownership or control with a contracting entity.

(B) "Basic health care services" has the same meaning as in division (A) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.

(C) "Contracting entity" means any person that has a primary business purpose of contracting with participating providers for the delivery of health care services.

(D) "Credentialing" means the process of assessing and validating the qualifications of a provider applying to be approved by a contracting entity to provide basic health care services, specialty health care services, or supplemental health care services to enrollees.

(E) "Edit" means adjusting one or more procedure codes billed by a participating provider on a claim for payment or a practice that results in any of the following:

(1) Payment for some, but not all of the procedure codes originally billed by a participating provider;

(2) Payment for a different procedure code than the procedure code originally billed by a participating provider;

(3) A reduced payment as a result of services provided to an enrollee that are claimed under more than one procedure code on the same service date.

(F) "Electronic claims transport" means to accept and digitize claims or to accept claims already digitized, to place those claims into a format that complies with the electronic transaction standards issued by the United States department of

health and human services pursuant to the "Health Insurance 80400
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 80401
U.S.C. 1320d, et seq., as those electronic standards are 80402
applicable to the parties and as those electronic standards are 80403
updated from time to time, and to electronically transmit those 80404
claims to the appropriate contracting entity, payer, or 80405
third-party administrator. 80406

(G) "Enrollee" means any person eligible for health care 80407
benefits under a health benefit plan, including an eligible 80408
recipient of medicaid under Chapter 5111. of the Revised Code, and 80409
includes all of the following terms: 80410

(1) "Enrollee" and "subscriber" as defined by section 1751.01 80411
of the Revised Code; 80412

(2) "Member" as defined by section 1739.01 of the Revised 80413
Code; 80414

(3) "Insured" and "plan member" pursuant to Chapter 3923. of 80415
the Revised Code; 80416

(4) "Beneficiary" as defined by section 3901.38 of the 80417
Revised Code. 80418

(H) "Health care contract" means a contract entered into, 80419
materially amended, or renewed between a contracting entity and a 80420
participating provider for the delivery of basic health care 80421
services, specialty health care services, or supplemental health 80422
care services to enrollees. 80423

(I) "Health care services" means basic health care services, 80424
specialty health care services, and supplemental health care 80425
services. 80426

(J) "Material amendment" means an amendment to a health care 80427
contract that decreases the participating provider's payment or 80428
compensation, changes the administrative procedures in a way that 80429

may reasonably be expected to significantly increase the 80430
provider's administrative expenses, or adds a new product. A 80431
material amendment does not include any of the following: 80432

(1) A decrease in payment or compensation resulting solely 80433
from a change in a published fee schedule upon which the payment 80434
or compensation is based and the date of applicability is clearly 80435
identified in the contract; 80436

(2) A decrease in payment or compensation that was 80437
anticipated under the terms of the contract, if the amount and 80438
date of applicability of the decrease is clearly identified in the 80439
contract; 80440

(3) An administrative change that may significantly increase 80441
the provider's administrative expense, the specific applicability 80442
of which is clearly identified in the contract; 80443

(4) Changes to an existing prior authorization, 80444
precertification, notification, or referral program that do not 80445
substantially increase the provider's administrative expense; 80446

(5) Changes to an edit program or to specific edits if the 80447
participating provider is provided notice of the changes pursuant 80448
to division (A)(1) of section 3963.04 of the Revised Code and the 80449
notice includes information sufficient for the provider to 80450
determine the effect of the change; 80451

(6) Changes to a health care contract described in division 80452
(B) of section 3963.04 of the Revised Code. 80453

(K) "Participating provider" means a provider that has a 80454
health care contract with a contracting entity and is entitled to 80455
reimbursement for health care services rendered to an enrollee 80456
under the health care contract. 80457

(L) "Payer" means any person that assumes the financial risk 80458
for the payment of claims under a health care contract or the 80459

reimbursement for health care services provided to enrollees by 80460
participating providers pursuant to a health care contract. 80461

(M) "Primary enrollee" means a person who is responsible for 80462
making payments for participation in a health care plan or an 80463
enrollee whose employment or other status is the basis of 80464
eligibility for enrollment in a health care plan. 80465

(N) "Procedure codes" includes the American medical 80466
association's current procedural terminology code, the American 80467
dental association's current dental terminology, and the centers 80468
for medicare and medicaid services health care common procedure 80469
coding system. 80470

(O) "Product" means one of the following types of categories 80471
of coverage for which a participating provider may be obligated to 80472
provide health care services pursuant to a health care contract: 80473

(1) A health maintenance organization or other product 80474
provided by a health insuring corporation; 80475

(2) A preferred provider organization; 80476

(3) Medicare; 80477

(4) ~~Medicaid or the children's buy-in program established~~ 80478
~~under section 5101.5211 to 5101.5216 of the Revised Code;~~ 80479

(5) Workers' compensation. 80480

(P) "Provider" means a physician, podiatrist, dentist, 80481
chiropractor, optometrist, psychologist, physician assistant, 80482
advanced practice nurse, occupational therapist, massage 80483
therapist, physical therapist, professional counselor, 80484
professional clinical counselor, hearing aid dealer, orthotist, 80485
prosthetist, home health agency, hospice care program, or 80486
hospital, or a provider organization or physician-hospital 80487
organization that is acting exclusively as an administrator on 80488
behalf of a provider to facilitate the provider's participation in 80489

health care contracts. "Provider" does not mean a pharmacist, 80490
pharmacy, nursing home, or a provider organization or 80491
physician-hospital organization that leases the provider 80492
organization's or physician-hospital organization's network to a 80493
third party or contracts directly with employers or health and 80494
welfare funds. 80495

(Q) "Specialty health care services" has the same meaning as 80496
in section 1751.01 of the Revised Code, except that it does not 80497
include any services listed in division (B) of section 1751.01 of 80498
the Revised Code that are provided by a pharmacist or a nursing 80499
home. 80500

(R) "Supplemental health care services" has the same meaning 80501
as in division (B) of section 1751.01 of the Revised Code, except 80502
that it does not include any services listed in that division that 80503
are provided by a pharmacist or nursing home. 80504

Sec. 3963.11. (A) No contracting entity shall do any of the 80505
following: 80506

(1) Offer to a provider ~~other than a hospital~~ a health care 80507
contract that includes a most favored nation clause; 80508

(2) Enter into a health care contract with a provider ~~other~~ 80509
~~than a hospital~~ that includes a most favored nation clause; 80510

(3) Amend or renew an existing health care contract 80511
previously entered into with a provider ~~other than a hospital~~ so 80512
that the contract as amended or renewed adds or continues to 80513
include a most favored nation clause. 80514

~~(B) This section shall not go into effect until three years~~ 80515
~~after the effective date of this section.~~ 80516

~~(C)~~(B) As used in this section: 80517

(1) "Contracting entity," "health care contract," "health 80518
care services," "participating provider," and "provider" have the 80519

same meanings as in section 3963.01 of the Revised Code. 80520

(2) "Most favored nation clause" means a provision in a 80521
health care contract that does any of the following: 80522

(a) Prohibits, or grants a contracting entity an option to 80523
prohibit, the participating provider from contracting with another 80524
contracting entity to provide health care services at a lower 80525
price than the payment specified in the contract; 80526

(b) Requires, or grants a contracting entity an option to 80527
require, the participating provider to accept a lower payment in 80528
the event the participating provider agrees to provide health care 80529
services to any other contracting entity at a lower price; 80530

(c) Requires, or grants a contracting entity an option to 80531
require, termination or renegotiation of the existing health care 80532
contract in the event the participating provider agrees to provide 80533
health care services to any other contracting entity at a lower 80534
price; 80535

(d) Requires the participating provider to disclose the 80536
participating provider's contractual reimbursement rates with 80537
other contracting entities. 80538

Sec. 4111.14. (A) Pursuant to the general assembly's 80539
authority to establish a minimum wage under Section 34 of Article 80540
II, Ohio Constitution, this section is in implementation of 80541
Section 34a of Article II, Ohio Constitution. In implementing 80542
Section 34a of Article II, Ohio Constitution, the general assembly 80543
hereby finds that the purpose of Section 34a of Article II, Ohio 80544
Constitution, is to: 80545

(1) Ensure that Ohio employees, as defined in division (B)(1) 80546
of this section, are paid the wage rate required by Section 34a of 80547
Article II, Ohio Constitution; 80548

(2) Ensure that covered Ohio employers maintain certain 80549

records that are directly related to the enforcement of the wage 80550
rate requirements in Section 34a of Article II, Ohio Constitution; 80551

(3) Ensure that Ohio employees who are paid the wage rate 80552
required by Section 34a of Article II, Ohio Constitution, may 80553
enforce their right to receive that wage rate in the manner set 80554
forth in Section 34a of Article II, Ohio Constitution; and 80555

(4) Protect the privacy of Ohio employees' pay and personal 80556
information specified in Section 34a of Article II, Ohio 80557
Constitution, by restricting an employee's access, and access by a 80558
person acting on behalf of that employee, to the employee's own 80559
pay and personal information. 80560

(B) In accordance with Section 34a of Article II, Ohio 80561
Constitution, the terms "employer," "employee," "employ," 80562
"person," and "independent contractor" have the same meanings as 80563
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 80564
U.S.C. 203, as amended. In construing the meaning of these terms, 80565
due consideration and great weight shall be given to the United 80566
States department of labor's and federal courts' interpretations 80567
of those terms under the Fair Labor Standards Act and its 80568
regulations. As used in division (B) of this section: 80569

(1) "Employee" means individuals employed in Ohio, but does 80570
not mean individuals who are excluded from the definition of 80571
"employee" under 29 U.S.C. 203(e) ~~or~~, individuals who are exempted 80572
from the minimum wage requirements in 29 U.S.C. 213 ~~and, and~~ 80573
individuals who are exempted or excluded from the definition of 80574
"employee" in this chapter. 80575

(2) "Employ" and "employee" do not include any person acting 80576
as a volunteer. In construing who is a volunteer, "volunteer" 80577
shall have the same meaning as in sections 553.101 to 553.106 of 80578
Title 29 of the Code of Federal Regulations, as amended, and due 80579
consideration and great weight shall be given to the United States 80580

department of labor's and federal courts' interpretations of the 80581
term "volunteer" under the Fair Labor Standards Act and its 80582
regulations. 80583

(C) In accordance with Section 34a of Article II, Ohio 80584
Constitution, the state may issue licenses to employers 80585
authorizing payment of a wage below that required by Section 34a 80586
of Article II, Ohio Constitution, to individuals with mental or 80587
physical disabilities that may otherwise adversely affect their 80588
opportunity for employment. In issuing such licenses, the state 80589
shall abide by the rules adopted pursuant to section 4111.06 of 80590
the Revised Code. 80591

(D)(1) In accordance with Section 34a of Article II, Ohio 80592
Constitution, individuals employed in or about the property of an 80593
employer or an individual's residence on a casual basis are not 80594
included within the coverage of Section 34a of Article II, Ohio 80595
Constitution. As used in division (D) of this section: 80596

(a) "Casual basis" means employment that is irregular or 80597
intermittent and that is not performed by an individual whose 80598
vocation is to be employed in or about the property of the 80599
employer or individual's residence. In construing who is employed 80600
on a "casual basis," due consideration and great weight shall be 80601
given to the United States department of labor's and federal 80602
courts' interpretations of the term "casual basis" under the Fair 80603
Labor Standards Act and its regulations. 80604

(b) "An individual employed in or about the property of an 80605
employer or individual's residence" means an individual employed 80606
on a casual basis or an individual employed in or about a 80607
residence on a casual basis, respectively. 80608

(2) In accordance with Section 34a of Article II, Ohio 80609
Constitution, employees of a solely family-owned and operated 80610
business who are family members of an owner are not included 80611

within the coverage of Section 34a of Article II, Ohio 80612
Constitution. As used in division (D)(2) of this section, "family 80613
member" means a parent, spouse, child, stepchild, sibling, 80614
grandparent, grandchild, or other member of an owner's immediate 80615
family. 80616

(E) In accordance with Section 34a of Article II, Ohio 80617
Constitution, an employer shall at the time of hire provide an 80618
employee with the employer's name, address, telephone number, and 80619
other contact information and update such information when it 80620
changes. As used in division (E) of this section: 80621

(1) "Other contact information" may include, where 80622
applicable, the address of the employer's internet site on the 80623
world wide web, the employer's electronic mail address, fax 80624
number, or the name, address, and telephone number of the 80625
employer's statutory agent. "Other contact information" does not 80626
include the name, address, telephone number, fax number, internet 80627
site address, or electronic mail address of any employee, 80628
shareholder, officer, director, supervisor, manager, or other 80629
individual employed by or associated with an employer. 80630

(2) "When it changes" means that the employer shall provide 80631
its employees with the change in its name, address, telephone 80632
number, or other contact information within sixty business days 80633
after the change occurs. The employer shall provide the changed 80634
information by using any of its usual methods of communicating 80635
with its employees, including, but not limited to, listing the 80636
change on the employer's internet site on the world wide web, 80637
internal computer network, or a bulletin board where it commonly 80638
posts employee communications or by insertion or inclusion with 80639
employees' paychecks or pay stubs. 80640

(F) In accordance with Section 34a of Article II, Ohio 80641
Constitution, an employer shall maintain a record of the name, 80642
address, occupation, pay rate, hours worked for each day worked, 80643

and each amount paid an employee for a period of not less than 80644
three years following the last date the employee was employed by 80645
that employer. As used in division (F) of this section: 80646

(1) "Address" means an employee's home address as maintained 80647
in the employer's personnel file or personnel database for that 80648
employee. 80649

(2)(a) With respect to employees who are not exempt from the 80650
overtime pay requirements of the Fair Labor Standards Act or this 80651
chapter, "pay rate" means an employee's base rate of pay. 80652

(b) With respect to employees who are exempt from the 80653
overtime pay requirements of the Fair Labor Standards Act or this 80654
chapter, "pay rate" means an employee's annual base salary or 80655
other rate of pay by which the particular employee qualifies for 80656
that exemption under the Fair Labor Standards Act or this chapter, 80657
but does not include bonuses, stock options, incentives, deferred 80658
compensation, or any other similar form of compensation. 80659

(3) "Record" means the name, address, occupation, pay rate, 80660
hours worked for each day worked, and each amount paid an employee 80661
in one or more documents, databases, or other paper or electronic 80662
forms of record-keeping maintained by an employer. No one 80663
particular method or form of maintaining such a record or records 80664
is required under this division. An employer is not required to 80665
create or maintain a single record containing only the employee's 80666
name, address, occupation, pay rate, hours worked for each day 80667
worked, and each amount paid an employee. An employer shall 80668
maintain a record or records from which the employee or person 80669
acting on behalf of that employee could reasonably review the 80670
information requested by the employee or person. 80671

An employer is not required to maintain the records specified 80672
in division (F)(3) of this section for any period before January 80673
1, 2007. On and after January 1, 2007, the employer shall maintain 80674

the records required by division (F)(3) of this section for three 80675
years from the date the hours were worked by the employee and for 80676
three years after the date the employee's employment ends. 80677

(4)(a) Except for individuals specified in division (F)(4)(b) 80678
of this section, "hours worked for each day worked" means the 80679
total amount of time worked by an employee in whatever increments 80680
the employer uses for its payroll purposes during a day worked by 80681
the employee. An employer is not required to keep a record of the 80682
time of day an employee begins and ends work on any given day. As 80683
used in division (F)(4) of this section, "day" means a fixed 80684
period of twenty-four consecutive hours during which an employee 80685
performs work for an employer. 80686

(b) An employer is not required to keep records of "hours 80687
worked for each day worked" for individuals for whom the employer 80688
is not required to keep those records under the Fair Labor 80689
Standards Act and its regulations or individuals who are not 80690
subject to the overtime pay requirements specified in section 80691
4111.03 of the Revised Code. 80692

(5) "Each amount paid an employee" means the total gross 80693
wages paid to an employee for each pay period. As used in division 80694
(F)(5) of this section, "pay period" means the period of time 80695
designated by an employer to pay an employee the employee's gross 80696
wages in accordance with the employer's payroll practices under 80697
section 4113.15 of the Revised Code. 80698

(G) In accordance with Section 34a of Article II, Ohio 80699
Constitution, an employer must provide such information without 80700
charge to an employee or person acting on behalf of an employee 80701
upon request. As used in division (G) of this section: 80702

(1) "Such information" means the name, address, occupation, 80703
pay rate, hours worked for each day worked, and each amount paid 80704
for the specific employee who has requested that specific 80705

employee's own information and does not include the name, address, 80706
occupation, pay rate, hours worked for each day worked, or each 80707
amount paid of any other employee of the employer. "Such 80708
information" does not include hours worked for each day worked by 80709
individuals for whom an employer is not required to keep that 80710
information under the Fair Labor Standards Act and its regulations 80711
or individuals who are not subject to the overtime pay 80712
requirements specified in section 4111.03 of the Revised Code. 80713

(2) "Acting on behalf of an employee" means a person acting 80714
on behalf of an employee as any of the following: 80715

(a) The certified or legally recognized collective bargaining 80716
representative for that employee under the applicable federal law 80717
or Chapter 4117. of the Revised Code; 80718

(b) The employee's attorney; 80719

(c) The employee's parent, guardian, or legal custodian. 80720

A person "acting on behalf of an employee" must be 80721
specifically authorized by an employee in order to make a request 80722
for that employee's own name, address, occupation, pay rate, hours 80723
worked for each day worked, and each amount paid to that employee. 80724

(3) "Provide" means that an employer shall provide the 80725
requested information within thirty business days after the date 80726
the employer receives the request, unless either of the following 80727
occurs: 80728

(a) The employer and the employee or person acting on behalf 80729
of the employee agree to some alternative time period for 80730
providing the information. 80731

(b) The thirty-day period would cause a hardship on the 80732
employer under the circumstances, in which case the employer must 80733
provide the requested information as soon as practicable. 80734

(4) A "request" made by an employee or a person acting on 80735

behalf of an employee means a request by an employee or a person 80736
acting on behalf of an employee for the employee's own 80737
information. The employer may require that the employee provide 80738
the employer with a written request that has been signed by the 80739
employee and notarized and that reasonably specifies the 80740
particular information being requested. The employer may require 80741
that the person acting on behalf of an employee provide the 80742
employer with a written request that has been signed by the 80743
employee whose information is being requested and notarized and 80744
that reasonably specifies the particular information being 80745
requested. 80746

(H) In accordance with Section 34a of Article II, Ohio 80747
Constitution, an employee, person acting on behalf of one or more 80748
employees, and any other interested party may file a complaint 80749
with the state for a violation of any provision of Section 34a of 80750
Article II, Ohio Constitution, or any law or regulation 80751
implementing its provisions. Such complaint shall be promptly 80752
investigated and resolved by the state. The employee's name shall 80753
be kept confidential unless disclosure is necessary to resolution 80754
of a complaint and the employee consents to disclosure. As used in 80755
division (H) of this section: 80756

(1) "Complaint" means a complaint of an alleged violation 80757
pertaining to harm suffered by the employee filing the complaint, 80758
by a person acting on behalf of one or more employees, or by an 80759
interested party. 80760

(2) "Acting on behalf of one or more employees" has the same 80761
meaning as "acting on behalf of an employee" in division (G)(2) of 80762
this section. Each employee must provide a separate written and 80763
notarized authorization before the person acting on that 80764
employee's or those employees' behalf may request the name, 80765
address, occupation, pay rate, hours worked for each day worked, 80766
and each amount paid for the particular employee. 80767

(3) "Interested party" means a party who alleges to be 80768
injured by the alleged violation and who has standing to file a 80769
complaint under common law principles of standing. 80770

(4) "Resolved by the state" means that the complaint has been 80771
resolved to the satisfaction of the state. 80772

(5) "Shall be kept confidential" means that the state shall 80773
keep the name of the employee confidential as required by division 80774
(H) of this section. 80775

(I) In accordance with Section 34a of Article II, Ohio 80776
Constitution, the state may on its own initiative investigate an 80777
employer's compliance with Section 34a of Article II, Ohio 80778
Constitution, and any law or regulation implementing Section 34a 80779
of Article II, Ohio Constitution. The employer shall make 80780
available to the state any records related to such investigation 80781
and other information required for enforcement of Section 34a of 80782
Article II, Ohio Constitution or any law or regulation 80783
implementing Section 34a of Article II, Ohio Constitution. The 80784
state shall investigate an employer's compliance with this section 80785
in accordance with the procedures described in section 4111.04 of 80786
the Revised Code. All records and information related to 80787
investigations by the state are confidential and are not a public 80788
record subject to section 149.43 of the Revised Code. This 80789
division does not prevent the state from releasing to or 80790
exchanging with other state and federal wage and hour regulatory 80791
authorities information related to investigations. 80792

(J) In accordance with Section 34a of Article II, Ohio 80793
Constitution, damages shall be calculated as an additional two 80794
times the amount of the back wages and in the case of a violation 80795
of an anti-retaliation provision an amount set by the state or 80796
court sufficient to compensate the employee and deter future 80797
violations, but not less than one hundred fifty dollars for each 80798
day that the violation continued. The "not less than one hundred 80799

fifty dollar" penalty specified in division (J) of this section 80800
shall be imposed only for violations of the anti-retaliation 80801
provision in Section 34a of Article II, Ohio Constitution. 80802

(K) In accordance with Section 34a of Article II, Ohio 80803
Constitution, an action for equitable and monetary relief may be 80804
brought against an employer by the attorney general and/or an 80805
employee or person acting on behalf of an employee or all 80806
similarly situated employees in any court of competent 80807
jurisdiction, including the court of common pleas of an employee's 80808
county of residence, for any violation of Section 34a of Article 80809
II, Ohio Constitution, or any law or regulation implementing its 80810
provisions within three years of the violation or of when the 80811
violation ceased if it was of a continuing nature, or within one 80812
year after notification to the employee of final disposition by 80813
the state of a complaint for the same violation, whichever is 80814
later. 80815

(1) As used in division (K) of this section, "notification" 80816
means the date on which the notice was sent to the employee by the 80817
state. 80818

(2) No employee shall join as a party plaintiff in any civil 80819
action that is brought under division (K) of this section by an 80820
employee, person acting on behalf of an employee, or person acting 80821
on behalf of all similarly situated employees unless that employee 80822
first gives written consent to become such a party plaintiff and 80823
that consent is filed with the court in which the action is 80824
brought. 80825

(3) A civil action regarding an alleged violation of this 80826
section shall be maintained only under division (K) of this 80827
section. This division does not preclude the joinder in a single 80828
civil action of an action under this division and an action under 80829
section 4111.10 of the Revised Code. 80830

(4) Any agreement between an employee and employer to work for less than the wage rate specified in Section 34a of Article II, Ohio Constitution, is no defense to an action under this section.

(L) In accordance with Section 34a of Article II, Ohio Constitution, there shall be no exhaustion requirement, no procedural, pleading, or burden of proof requirements beyond those that apply generally to civil suits in order to maintain such action and no liability for costs or attorney's fees on an employee except upon a finding that such action was frivolous in accordance with the same standards that apply generally in civil suits. Nothing in division (L) of this section affects the right of an employer and employee to agree to submit a dispute under this section to alternative dispute resolution, including, but not limited to, arbitration, in lieu of maintaining the civil suit specified in division (K) of this section. Nothing in this division limits the state's ability to investigate or enforce this section.

(M) An employer who provides such information specified in Section 34a of Article II, Ohio Constitution, shall be immune from any civil liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of providing that information to an employee or person acting on behalf of an employee in response to a request by the employee or person, and the employer shall not be subject to the provisions of Chapters 1347. and 1349. of the Revised Code to the extent that such provisions would otherwise apply. As used in division (M) of this section, "such information," "acting on behalf of an employee," and "request" have the same meanings as in division (G) of this section.

(N) As used in this section, "the state" means the director of commerce.

Sec. 4113.11. (A) As specified in division (B) of this 80863
section and except as provided in divisions (C) and ~~(F)~~(E) of this 80864
section, all employers that employ ten or more employees shall 80865
adopt and maintain a cafeteria plan that allows the employer's 80866
employees to pay for health insurance coverage by a salary 80867
reduction arrangement as permitted under section 125 of the 80868
Internal Revenue Code. 80869

(B) Employers shall comply with the requirements of division 80870
(A) of this section as follows: 80871

(1) For employers that employ more than five hundred 80872
employees, by not later than January 1, 2011, or six months after 80873
the superintendent of insurance adopts rules as required by 80874
division ~~(E)~~(D) of this section, whichever is later; 80875

(2) For employers that employ one hundred fifty to five 80876
hundred employees, by not later than July 1, 2011, or twelve 80877
months after the superintendent adopts rules as required by 80878
division ~~(E)~~(D) of this section, whichever is later; 80879

(3) For employers that employ ten to one hundred forty-nine 80880
employees, by not later than January 1, 2012, or eighteen months 80881
after the superintendent adopts rules as required by division 80882
~~(E)~~(D) of this section, whichever is later. 80883

(C) This section shall not apply to employers that, through 80884
other means than provided under this section, offer health 80885
insurance coverage, reimburse for health insurance coverage, or 80886
provide employees with opportunities to pay for health insurance 80887
with pre-tax dollars through other salary reduction arrangements. 80888

~~(D) The health care coverage and quality council created 80889
under section 3923.90 of the Revised Code shall make 80890
recommendations to the superintendent for both of the following: 80891~~

~~(1) Development of strategies to educate, assist, and conduct 80892~~

~~outreach to employers to simplify administrative processes with 80893
respect to creating and maintaining cafeteria plans, including, 80894
but not limited to, providing employers with model cafeteria plan 80895
documents and technical assistance on creating and maintaining 80896
cafeteria plans that conform with state and federal law; 80897~~

~~(2) Development of strategies to educate, assist, and conduct 80898
outreach to employees with respect to finding, selecting, and 80899
purchasing a health insurance plan to be paid for through their 80900
employer's cafeteria plan under this section. 80901~~

~~(E)(1) The superintendent shall adopt rules in accordance 80902
with Chapter 119. of the Revised Code to implement and enforce 80903
this section, including the strategies recommended by the council 80904
pursuant to division (D) of this section. 80905~~

(2) Prior to adopting rules under this division, the 80906
superintendent shall consult any federal agency that has oversight 80907
of cafeteria plans and employee welfare benefit plans, including 80908
the internal revenue service and the United States department of 80909
labor, and receive written confirmation that the rules adopted 80910
will permit employers to establish cafeteria plans in accordance 80911
with federal law. The written confirmation shall include a 80912
determination that individual policies purchased pursuant to this 80913
section do not need to comply with the group market rules 80914
established by the "Health Insurance Portability and 80915
Accountability Act of 1996." 80916

~~(F)(E)~~ (E) The requirement provided in division (A) of this 80917
section does not apply if the superintendent does not receive 80918
written confirmation pursuant to division ~~(E)~~(D)(2) of this 80919
section that individual policies purchased pursuant to this 80920
section do not need to comply with the group market rules 80921
established by the "Health Insurance Portability and 80922
Accountability Act of 1996." 80923

~~(G)~~(F) Nothing in this section shall be construed as 80924
requiring an employer to establish a cafeteria plan in a manner 80925
that would violate federal law, including the "Employee Retirement 80926
Income Security Act of 1974," the "Consolidated Omnibus Budget 80927
Reconciliation Act of 1985," or the "Health Insurance Portability 80928
and Accountability Act of 1996." 80929

~~(H)~~(G) As used in this section: 80930

(1) "Cafeteria plan" has the same meaning as in section 125 80931
of the Internal Revenue Code. 80932

(2) "Employer" has the same meaning as in section 4113.51 of 80933
the Revised Code. 80934

(3) "Employee" means an individual employed for consideration 80935
who works twenty-five or more hours per week or who renders any 80936
other standard of service generally accepted by custom or 80937
specified by contract as full-time employment, except for a public 80938
employee employed by a township or municipal corporation. In that 80939
case, "employee" means an individual hired with the expectation 80940
that the employee will work more than one thousand five hundred 80941
hours in any year unless full-time employment is defined 80942
differently in an applicable collective bargaining agreement. 80943

Sec. 4113.61. (A)(1) If a subcontractor or material supplier 80944
submits an application or request for payment or an invoice for 80945
materials to a contractor in sufficient time to allow the 80946
contractor to include the application, request, or invoice in the 80947
contractor's own pay request submitted to an owner, the 80948
contractor, within ten calendar days after receipt of payment from 80949
the owner for improvements to property, shall pay to the: 80950

(a) Subcontractor, an amount that is equal to the percentage 80951
of completion of the subcontractor's contract allowed by the owner 80952
for the amount of labor or work performed; 80953

(b) Material supplier, an amount that is equal to all or that 80954
portion of the invoice for materials which represents the 80955
materials furnished by the material supplier. 80956

The contractor may reduce the amount paid by any retainage 80957
provision contained in the contract, invoice, or purchase order 80958
between the contractor and the subcontractor or material supplier, 80959
and may withhold amounts that may be necessary to resolve disputed 80960
liens or claims involving the work or labor performed or material 80961
furnished by the subcontractor or material supplier. 80962

If the contractor fails to comply with division (A)(1) of 80963
this section, the contractor shall pay the subcontractor or 80964
material supplier, in addition to the payment due, interest in the 80965
amount of eighteen per cent per annum of the payment due, 80966
beginning on the eleventh day following the receipt of payment 80967
from the owner and ending on the date of full payment of the 80968
payment due plus interest to the subcontractor or material 80969
supplier. 80970

(2) If a lower tier subcontractor or lower tier material 80971
supplier submits an application or request for payment or an 80972
invoice for materials to a subcontractor, material supplier, or 80973
other lower tier subcontractor or lower tier material supplier in 80974
sufficient time to allow the subcontractor, material supplier, or 80975
other lower tier subcontractor or lower tier material supplier to 80976
include the application, request, or invoice in the 80977
subcontractor's, material supplier's, or other lower tier 80978
subcontractor's or lower tier material supplier's own pay request 80979
submitted to a contractor, other subcontractor, material supplier, 80980
lower tier subcontractor, or lower tier material supplier, the 80981
subcontractor, material supplier, or other lower tier 80982
subcontractor or lower tier material supplier, within ten calendar 80983
days after receipt of payment from the contractor, other 80984
subcontractor, material supplier, lower tier subcontractor, or 80985

lower tier material supplier for improvements to property, shall 80986
pay to the: 80987

(a) Lower tier subcontractor, an amount that is equal to the 80988
percentage of completion of the lower tier subcontractor's 80989
contract allowed by the owner for the amount of labor or work 80990
performed; 80991

(b) Lower tier material supplier, an amount that is equal to 80992
all or that portion of the invoice for materials which represents 80993
the materials furnished by the lower tier material supplier. 80994

The subcontractor, material supplier, lower tier 80995
subcontractor, or lower tier material supplier may reduce the 80996
amount paid by any retainage provision contained in the contract, 80997
invoice, or purchase order between the subcontractor, material 80998
supplier, lower tier subcontractor, or lower tier material 80999
supplier and the lower tier subcontractor or lower tier material 81000
supplier, and may withhold amounts that may be necessary to 81001
resolve disputed liens or claims involving the work or labor 81002
performed or material furnished by the lower tier subcontractor or 81003
lower tier material supplier. 81004

If the subcontractor, material supplier, lower tier 81005
subcontractor, or lower tier material supplier fails to comply 81006
with division (A)(2) of this section, the subcontractor, material 81007
supplier, lower tier subcontractor, or lower tier material 81008
supplier shall pay the lower tier subcontractor or lower tier 81009
material supplier, in addition to the payment due, interest in the 81010
amount of eighteen per cent per annum of the payment due, 81011
beginning on the eleventh day following the receipt of payment 81012
from the contractor, other subcontractor, material supplier, lower 81013
tier subcontractor, or lower tier material supplier and ending on 81014
the date of full payment of the payment due plus interest to the 81015
lower tier subcontractor or lower tier material supplier. 81016

(3) If a contractor receives any final retainage from the owner for improvements to property, the contractor shall pay from that retainage each subcontractor and material supplier the subcontractor's or material supplier's proportion of the retainage, within ten calendar days after receipt of the retainage from the owner, or within the time period provided in a contract, invoice, or purchase order between the contractor and the subcontractor or material supplier, whichever time period is shorter, provided that the contractor has determined that the subcontractor's or material supplier's work, labor, and materials have been satisfactorily performed or furnished and that the owner has approved the subcontractor's or material supplier's work, labor, and materials.

If the contractor fails to pay a subcontractor or material supplier within the appropriate time period, the contractor shall pay the subcontractor or material supplier, in addition to the retainage due, interest in the amount of eighteen per cent per annum of the retainage due, beginning on the eleventh day following the receipt of the retainage from the owner and ending on the date of full payment of the retainage due plus interest to the subcontractor or material supplier.

(4) If a subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier receives any final retainage from the contractor or other subcontractor, lower tier subcontractor, or lower tier material supplier for improvements to property, the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier shall pay from that retainage each lower tier subcontractor or lower tier the lower tier subcontractor's or lower tier material supplier's proportion of the retainage, within ten calendar days after receipt of payment from the contractor or other subcontractor, lower tier subcontractor, or lower tier material supplier, or within the time

period provided in a contract, invoice, or purchase order between 81049
the subcontractor, material supplier, lower tier subcontractor, or 81050
lower tier material supplier and the lower tier subcontractor or 81051
lower tier material supplier, whichever time period is shorter, 81052
provided that the subcontractor, material supplier, lower tier 81053
subcontractor, or lower tier material supplier has determined that 81054
the lower tier subcontractor's or lower tier material supplier's 81055
work, labor, and materials have been satisfactorily performed or 81056
furnished and that the owner has approved the lower tier 81057
subcontractor's or lower tier material supplier's work, labor, and 81058
materials. 81059

If the subcontractor, material supplier, lower tier 81060
subcontractor, or lower tier material supplier fails to pay the 81061
lower tier subcontractor or lower tier material supplier within 81062
the appropriate time period, the subcontractor, material supplier, 81063
lower tier subcontractor, or lower tier material supplier shall 81064
pay the lower tier subcontractor or lower tier material supplier, 81065
in addition to the retainage due, interest in the amount of 81066
eighteen per cent per annum of the retainage due, beginning on the 81067
eleventh day following the receipt of the retainage from the 81068
contractor or other subcontractor, lower tier subcontractor, or 81069
lower tier material supplier and ending on the date of full 81070
payment of the retainage due plus interest to the lower tier 81071
subcontractor or lower tier material supplier. 81072

(5) A contractor, subcontractor, or lower tier subcontractor 81073
shall pay a laborer wages due within ten days of payment of any 81074
application or request for payment or the receipt of any retainage 81075
from an owner, contractor, subcontractor, or lower tier 81076
subcontractor. 81077

If the contractor, subcontractor, or lower tier subcontractor 81078
fails to pay the laborer wages due within the appropriate time 81079
period, the contractor, subcontractor, or lower tier subcontractor 81080

shall pay the laborer, in addition to the wages due, interest in 81081
the amount of eighteen per cent per annum of the wages due, 81082
beginning on the eleventh day following the receipt of payment 81083
from the owner, contractor, subcontractor, or lower tier 81084
subcontractor and ending on the date of full payment of the wages 81085
due plus interest to the laborer. 81086

(B)(1) If a contractor, subcontractor, material supplier, 81087
lower tier subcontractor, or lower tier material supplier has not 81088
made payment in compliance with division (A)(1), (2), (3), (4), or 81089
(5) of this section within thirty days after payment is due, a 81090
subcontractor, material supplier, lower tier subcontractor, lower 81091
tier material supplier, or laborer may file a civil action to 81092
recover the amount due plus the interest provided in those 81093
divisions. If the court finds in the civil action that a 81094
contractor, subcontractor, material supplier, lower tier 81095
subcontractor, or lower tier material supplier has not made 81096
payment in compliance with those divisions, the court shall award 81097
the interest specified in those divisions, in addition to the 81098
amount due. Except as provided in division (B)(3) of this section, 81099
the court shall award the prevailing party reasonable attorney 81100
fees and court costs. 81101

(2) In making a determination to award attorney fees under 81102
division (B)(1) of this section, the court shall consider all 81103
relevant factors, including but not limited to the following: 81104

(a) The presence or absence of good faith allegations or 81105
defenses asserted by the parties; 81106

(b) The proportion of the amount of recovery as it relates to 81107
the amount demanded; 81108

(c) The nature of the services rendered and the time expended 81109
in rendering the services. 81110

(3) The court shall not award attorney fees under division 81111

(B)(1) of this section if the court determines, following a hearing on the payment of attorney fees, that the payment of attorney fees to the prevailing party would be inequitable.

(C) This section does not apply to any construction or improvement of any single-, two-, or three-family detached dwelling houses.

(D)(1) No provision of this section regarding entitlement to interest, attorney fees, or court costs may be waived by agreement and any such term in any contract or agreement is void and unenforceable as against public policy.

(2) This section shall not be construed as impairing or affecting, in any way, the terms and conditions of any contract, invoice, purchase order, or any other agreement between a contractor and a subcontractor or a material supplier or between a subcontractor and another subcontractor, a material supplier, a lower tier subcontractor, or a lower tier material supplier, except that if such terms and conditions contain time periods which are longer than any of the time periods specified in divisions (A)(1), (2), (3), (4), and (5) of this section or interest at a percentage less than the interest stated in those divisions, then the provisions of this section shall prevail over such terms and conditions.

(E) Notwithstanding the definition of lower tier material supplier in this section, a person is not a lower tier material supplier unless the materials supplied by the person are:

(1) Furnished with the intent, as evidenced by the contract of sale, the delivery order, delivery to the site, or by other evidence that the materials are to be used on a particular structure or improvement;

(2) Incorporated in the improvement or consumed as normal wastage in the course of the improvement; or

(3) Specifically fabricated for incorporation in the 81143
improvement and not readily resalable in the ordinary course of 81144
the fabricator's business even if not actually incorporated in the 81145
improvement. 81146

(F) As used in this section: 81147

(1) "Contractor" means any person who undertakes to 81148
construct, alter, erect, improve, repair, demolish, remove, dig, 81149
or drill any part of a structure or improvement under a contract 81150
with an owner, ~~or~~ a "construction manager" or "construction 81151
manager at risk" as ~~that term is~~ those terms are defined in 81152
section 9.33 of the Revised Code, or a "design-build firm" as that 81153
term is defined in section 153.65 of the Revised Code. 81154

(2) "Laborer," "material supplier," "subcontractor," and 81155
"wages" have the same meanings as in section 1311.01 of the 81156
Revised Code. 81157

(3) "Lower tier subcontractor" means a subcontractor who is 81158
not in privity of contract with a contractor but is in privity of 81159
contract with another subcontractor. 81160

(4) "Lower tier material supplier" means a material supplier 81161
who is not in privity of contract with a contractor but is in 81162
privity of contract with another subcontractor or a material 81163
supplier. 81164

(5) "Wages due" means the wages due to a laborer as of the 81165
date a contractor or subcontractor receives payment for any 81166
application or request for payment or retainage from any owner, 81167
contractor, or subcontractor. 81168

(6) "Owner" includes the state, and a county, township, 81169
municipal corporation, school district, or other political 81170
subdivision of the state, and any public agency, authority, board, 81171
commission, instrumentality, or special district of or in the 81172
state or a county, township, municipal corporation, school 81173

district, or other political subdivision of the state, and any 81174
officer or agent thereof and relates to all the interests either 81175
legal or equitable, which a person may have in the real estate 81176
upon which improvements are made, including interests held by any 81177
person under contracts of purchase, whether in writing or 81178
otherwise. 81179

Sec. 4115.03. As used in sections 4115.03 to 4115.16 of the 81180
Revised Code: 81181

(A) "Public authority" means any officer, board, or 81182
commission of the state, or any political subdivision of the 81183
state, authorized to enter into a contract for the construction of 81184
a public improvement or to construct the same by the direct 81185
employment of labor, or any institution supported in whole or in 81186
part by public funds and said sections apply to expenditures of 81187
such institutions made in whole or in part from public funds. 81188

(B) "Construction" means ~~either~~ any of the following: 81189

(1) ~~Any~~ Except as provided in division (B)(3) of this 81190
section, any new construction of ~~any~~ a public improvement, the 81191
total overall project cost of which is fairly estimated to be more 81192
than ~~fifty three million five hundred~~ thousand dollars adjusted 81193
biennially by the director of commerce pursuant to section 81194
4115.034 of the Revised Code and performed by other than full-time 81195
employees who have completed their probationary periods in the 81196
classified service of a public authority; 81197

(2) ~~Any~~ Except as provided in division (B)(4) of this 81198
section, any reconstruction, enlargement, alteration, repair, 81199
remodeling, renovation, or painting of ~~any~~ a public improvement, 81200
the total overall project cost of which is fairly estimated to be 81201
more than ~~fifteen three million five hundred~~ thousand dollars 81202
adjusted biennially by the ~~administrator~~ director pursuant to 81203
section 4115.034 of the Revised Code and performed by other than 81204

full-time employees who have completed their probationary period 81205
in the classified civil service of a public authority; 81206

(3) Any new construction of a public improvement that 81207
involves roads, streets, alleys, sewers, ditches, and other works 81208
connected to road or bridge construction, the total overall 81209
project cost of which is fairly estimated to be more than 81210
seventy-eight thousand two hundred fifty-eight dollars adjusted 81211
biennially by the director of commerce pursuant to section 81212
4115.034 of the Revised Code and performed by other than full-time 81213
employees who have completed their probationary periods in the 81214
classified service of a public authority; 81215

(4) Any reconstruction, enlargement, alteration, repair, 81216
remodeling, renovation, or painting of a public improvement that 81217
involves roads, streets, alleys, sewers, ditches, and other works 81218
connected to road or bridge construction, the total overall 81219
project cost of which is fairly estimated to be more than 81220
twenty-three thousand four hundred forty-seven dollars adjusted 81221
biennially by the director of commerce pursuant to section 81222
4115.034 of the Revised code and performed by other than full-time 81223
employees who have completed their probationary periods in the 81224
classified service of a public authority. 81225

(C) "Public improvement" includes all buildings, roads, 81226
streets, alleys, sewers, ditches, sewage disposal plants, water 81227
works, and all other structures or works constructed by a public 81228
authority of the state or any political subdivision thereof or by 81229
any person who, pursuant to a contract with a public authority, 81230
constructs any structure for a public authority of the state or a 81231
political subdivision thereof. When a public authority rents or 81232
leases a newly constructed structure within six months after 81233
completion of such construction, all work performed on such 81234
structure to suit it for occupancy by a public authority is a 81235
"public improvement." "Public improvement" does not include an 81236

improvement authorized by section 1515.08 of the Revised Code that 81237
is constructed pursuant to a contract with a soil and water 81238
conservation district, as defined in section 1515.01 of the 81239
Revised Code, or performed as a result of a petition filed 81240
pursuant to Chapter 6131., 6133., or 6135. of the Revised Code, 81241
wherein no less than seventy-five per cent of the project is 81242
located on private land and no less than seventy-five per cent of 81243
the cost of the improvement is paid for by private property owners 81244
pursuant to Chapter 1515., 6131., 6133., or 6135. of the Revised 81245
Code. "Public improvement" does not include an improvement that is 81246
neither constructed by a public authority nor constructed for the 81247
benefit of a public authority, even if the improvement uses or 81248
receives financing, grants, or in-kind support from a public 81249
authority. 81250

(D) "Locality" means the county wherein the physical work 81251
upon any public improvement is being performed. 81252

(E) "Prevailing wages" means the sum of the following: 81253

(1) The basic hourly rate of pay; 81254

(2) The rate of contribution irrevocably made by a contractor 81255
or subcontractor to a trustee or to a third person pursuant to a 81256
fund, plan, or program; 81257

(3) The rate of costs to the contractor or subcontractor 81258
which may be reasonably anticipated in providing the following 81259
fringe benefits to laborers and mechanics pursuant to an 81260
enforceable commitment to carry out a financially responsible plan 81261
or program which was communicated in writing to the laborers and 81262
mechanics affected: 81263

(a) Medical or hospital care or insurance to provide such; 81264

(b) Pensions on retirement or death or insurance to provide 81265
such; 81266

(c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. and 4123. of the Revised Code;	81267 81268 81269
(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;	81270 81271
(e) Life insurance;	81272
(f) Disability and sickness insurance;	81273
(g) Accident insurance;	81274
(h) Vacation and holiday pay;	81275
(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;	81276 81277 81278
(j) Other bona fide fringe benefits.	81279
None of the benefits enumerated in division (E)(3) of this section may be considered in the determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits.	81280 81281 81282 81283
(F) "Interested party," with respect to a particular public improvement, means:	81284 81285
(1) Any person who submits a bid for the purpose of securing the award of a contract for construction of the public improvement;	81286 81287 81288
(2) Any person acting as a subcontractor of a person mentioned in division (F)(1) of this section;	81289 81290
(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person mentioned in division (F)(1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment	81291 81292 81293 81294 81295

of employees; 81296

(4) Any association having as members any of the persons 81297
mentioned in division (F)(1) or (2) of this section. 81298

(G) Except as used in division (A) of this section, "officer" 81299
means an individual who has an ownership interest or holds an 81300
office of trust, command, or authority in a corporation, business 81301
trust, partnership, or association. 81302

Sec. 4115.033. No public authority shall subdivide a public 81303
improvement project into component parts or projects, the cost of 81304
which is fairly estimated to be less than the threshold levels set 81305
forth in ~~divisions~~ division (B)~~(1) and (2)~~ of section 4115.03 of 81306
the Revised Code, unless the projects are conceptually separate 81307
and unrelated to each other, or encompass independent and 81308
unrelated needs of the public authority. 81309

Sec. 4115.034. On January 1, 1996, and the first day of 81310
January of every even-numbered year thereafter, the director of 81311
commerce shall adjust the threshold levels for which public 81312
improvement projects are subject to sections 4115.03 to 4115.16 of 81313
the Revised Code as set forth in ~~divisions~~ division (B)~~(1) and (2)~~ 81314
of section 4115.03 of the Revised Code. The director shall adjust 81315
those amounts according to the average increase or decrease for 81316
each of the two years immediately preceding the adjustment as set 81317
forth in the United States department of commerce, bureau of the 81318
census implicit price deflator for construction, provided that no 81319
increase or decrease for any year shall exceed three per cent of 81320
the threshold level in existence at the time of the adjustment. 81321

Sec. 4115.04. (A)(1) Every public authority authorized to 81322
contract for or construct with its own forces a public 81323
improvement, before advertising for bids or undertaking such 81324
construction with its own forces, shall have the director of 81325

commerce determine the prevailing rates of wages of mechanics and 81326
laborers in accordance with section 4115.05 of the Revised Code 81327
for the class of work called for by the public improvement, in the 81328
locality where the work is to be performed. Except as provided in 81329
division (A)(2) of this section, that schedule of wages shall be 81330
attached to and made part of the specifications for the work, and 81331
shall be printed on the bidding blanks where the work is done by 81332
contract. A copy of the bidding blank shall be filed with the 81333
director before the contract is awarded. A minimum rate of wages 81334
for common laborers, on work coming under the jurisdiction of the 81335
department of transportation, shall be fixed in each county of the 81336
state by the department of transportation, in accordance with 81337
section 4115.05 of the Revised Code. 81338

(2) In the case of contracts that are administered by the 81339
department of natural resources, the director of natural resources 81340
or the director's designee shall include language in the contracts 81341
requiring wage rate determinations and updates to be obtained 81342
directly from the department of commerce through electronic or 81343
other means as appropriate. Contracts that include this 81344
requirement are exempt from the requirements established in 81345
division (A)(1) of this section that involve attaching the 81346
schedule of wages to the specifications for the work, making the 81347
schedule part of those specifications, and printing the schedule 81348
on the bidding blanks where the work is done by contract. 81349

(B) Sections 4115.03 to 4115.16 of the Revised Code do not 81350
apply to: 81351

(1) Public improvements in any case where the federal 81352
government or any of its agencies furnishes by loan or grant all 81353
or any part of the funds used in constructing such improvements, 81354
provided that the federal government or any of its agencies 81355
prescribes predetermined minimum wages to be paid to mechanics and 81356
laborers employed in the construction of such improvements; 81357

(2) A participant in a work activity, developmental activity, 81358
or an alternative work activity under sections 5107.40 to 5107.69 81359
of the Revised Code when a public authority directly uses the 81360
labor of the participant to construct a public improvement if the 81361
participant is not engaged in paid employment or subsidized 81362
employment pursuant to the activity; 81363

(3) Public improvements undertaken by, or under contract for, 81364
the board of education of any school district or the governing 81365
board of any educational service center; 81366

(4) Public improvements undertaken by, or under contract for, 81367
a county hospital operated pursuant to Chapter 339. of the Revised 81368
Code or a municipal hospital operated pursuant to Chapter 749. of 81369
the Revised Code if none of the funds used in constructing the 81370
improvements are the proceeds of bonds or other obligations that 81371
are secured by the full faith and credit of the state, a county, a 81372
township, or a municipal corporation and none of the funds used in 81373
constructing the improvements, including funds used to repay any 81374
amounts borrowed to construct the improvements, are funds that 81375
have been appropriated for that purpose by the state, a board of 81376
county commissioners, a township, or a municipal corporation from 81377
funds generated by the levy of a tax, provided that a county 81378
hospital or municipal hospital may elect to apply sections 4115.03 81379
to 4115.16 of the Revised Code to a public improvement undertaken 81380
by, or under contract for, the hospital; 81381

(5) Any project described in divisions (D)(1)(a) to (D)(1)(e) 81382
of section 176.05 of the Revised Code; 81383

(6) Public improvements undertaken by, or under contract for, 81384
a state institution of higher education as defined in section 81385
3345.12 of the Revised Code; 81386

(7) Public improvements undertaken by, or under contract for, 81387
a port authority as defined in section 4582.01 or 4582.21 of the 81388

Revised Code. 81389

(C) Under no circumstances shall a public authority apply the 81390
prevailing wage requirements of this chapter to a public 81391
improvement that is exempt under division (B)(3) of this section. 81392

Sec. 4115.10. (A) No person, firm, corporation, or public 81393
authority that constructs a public improvement with its own 81394
forces, the total overall project cost of which is fairly 81395
estimated to be more than the amounts set forth in division (B)~~(1)~~ 81396
~~or (2)~~ of section 4115.03 of the Revised Code, adjusted biennially 81397
by the director of commerce pursuant to section 4115.034 of the 81398
Revised Code, shall violate the wage provisions of sections 81399
4115.03 to 4115.16 of the Revised Code, or suffer, permit, or 81400
require any employee to work for less than the rate of wages so 81401
fixed, or violate the provisions of section 4115.07 of the Revised 81402
Code. Any employee upon any public improvement, except an employee 81403
to whom or on behalf of whom restitution is made pursuant to 81404
division (C) of section 4115.13 of the Revised Code, who is paid 81405
less than the fixed rate of wages applicable thereto may recover 81406
from such person, firm, corporation, or public authority that 81407
constructs a public improvement with its own forces the difference 81408
between the fixed rate of wages and the amount paid to the 81409
employee and in addition thereto a sum equal to twenty-five per 81410
cent of that difference. The person, firm, corporation, or public 81411
authority who fails to pay the rate of wages so fixed also shall 81412
pay a penalty to the director of seventy-five per cent of the 81413
difference between the fixed rate of wages and the amount paid to 81414
the employees on the public improvement. The director shall 81415
deposit all moneys received from penalties paid to the director 81416
pursuant to this section into the penalty enforcement labor 81417
operating fund, ~~which is hereby created in the state treasury.~~ The 81418
director shall use the fund for the enforcement of sections 81419
4115.03 to 4115.16 of the Revised Code. The employee may file suit 81420

for recovery within ninety days of the director's determination of 81421
a violation of sections 4115.03 to 4115.16 of the Revised Code or 81422
is barred from further action under this division. Where the 81423
employee prevails in a suit, the employer shall pay the costs and 81424
reasonable attorney's fees allowed by the court. 81425

(B) Any employee upon any public improvement who is paid less 81426
than the prevailing rate of wages applicable thereto may file a 81427
complaint in writing with the director upon a form furnished by 81428
the director. The complaint shall include documented evidence to 81429
demonstrate that the employee was paid less than the prevailing 81430
wage in violation of this chapter. Upon receipt of a properly 81431
completed written complaint of any employee paid less than the 81432
prevailing rate of wages applicable, the director shall take an 81433
assignment of a claim in trust for the assigning employee and 81434
bring any legal action necessary to collect the claim. The 81435
employer shall pay the costs and reasonable attorney's fees 81436
allowed by the court if the employer is found in violation of 81437
sections 4115.03 to 4115.16 of the Revised Code. 81438

(C) If after investigation pursuant to section 4115.13 of the 81439
Revised Code, the director determines there is a violation of 81440
sections 4115.03 to 4115.16 of the Revised Code and a period of 81441
sixty days has elapsed from the date of the determination, and if: 81442

(1) No employee has brought suit pursuant to division (A) of 81443
this section; 81444

(2) No employee has requested that the director take an 81445
assignment of a wage claim pursuant to division (B) of this 81446
section. 81447

The director shall bring any legal action necessary to 81448
collect any amounts owed to employees and the director. The 81449
director shall pay over to the affected employees the amounts 81450
collected to which the affected employees are entitled under 81451

division (A) of this section. In any action in which the director 81452
prevails, the employer shall pay the costs and reasonable 81453
attorney's fees allowed by the court. 81454

(D) Where persons are employed and their rate of wages has 81455
been determined as provided in section 4115.04 of the Revised 81456
Code, no person, either for self or any other person, shall 81457
request, demand, or receive, either before or after the person is 81458
engaged, that the person so engaged pay back, return, donate, 81459
contribute, or give any part or all of the person's wages, salary, 81460
or thing of value, to any person, upon the statement, 81461
representation, or understanding that failure to comply with such 81462
request or demand will prevent the procuring or retaining of 81463
employment, and no person shall, directly or indirectly, aid, 81464
request, or authorize any other person to violate this section. 81465
This division does not apply to any agent or representative of a 81466
duly constituted labor organization acting in the collection of 81467
dues or assessments of such organization. 81468

(E) The director shall enforce sections 4115.03 to 4115.16 of 81469
the Revised Code. 81470

(F) For the purpose of supplementing existing resources and 81471
to assist in enforcing division (E) of this section, the director 81472
may contract with a person registered as a public accountant under 81473
Chapter 4701. of the Revised Code to conduct an audit of a person, 81474
firm, corporation, or public authority. 81475

Sec. 4115.101. There is hereby created the prevailing wage 81476
custodial fund, which shall be in the custody of the treasurer of 81477
state but shall not be part of the state treasury. The director of 81478
commerce shall deposit to the fund all money paid by employers to 81479
the director that are held in trust for employees to whom 81480
prevailing wages are due and owing. The director shall make 81481
disbursements from the fund in accordance with this chapter to 81482

employees affected by violations of this chapter. If the director 81483
determines that any funds in the prevailing wage custodial fund 81484
are not returnable to employees as required under this section, 81485
then the director shall certify to the treasurer of state the 81486
amount of the funds that are not returnable. Upon the receipt of a 81487
certification from the director in accordance with this section, 81488
the treasurer of state shall transfer the certified amount of the 81489
funds from the prevailing wage custodial fund to the labor 81490
operating fund. 81491

Sec. 4115.16. (A) An interested party may file a complaint 81492
with the director of commerce alleging a violation of sections 81493
4115.03 to 4115.16 of the Revised Code. The director, upon receipt 81494
of a complaint, shall investigate pursuant to section 4115.13 of 81495
the Revised Code. If the director determines that no violation has 81496
occurred or that the violation was not intentional, the interested 81497
party may appeal the decision to the court of common pleas of the 81498
county where the violation is alleged to have occurred. 81499

(B) ~~If the director has not ruled on the merits of the~~ 81500
~~complaint within sixty days after its filing, the interested party~~ 81501
~~may file a complaint in the court of common pleas of the county in~~ 81502
~~which the violation is alleged to have occurred. The complaint may~~ 81503
~~make the contracting public authority a party to the action, but~~ 81504
~~not the director. Contemporaneous with service of the complaint,~~ 81505
~~the interested party shall deliver a copy of the complaint to the~~ 81506
~~director. Upon receipt thereof, the director shall cease~~ 81507
~~investigating or otherwise acting upon the complaint filed~~ 81508
~~pursuant to division (A) of this section. The court in which the~~ 81509
~~complaint is filed pursuant to this division shall hear and decide~~ 81510
~~the case, and upon finding that a violation has occurred, shall~~ 81511
~~make such orders as will prevent further violation and afford to~~ 81512
~~injured persons the relief specified under sections 4115.03 to~~ 81513
~~4115.16 of the Revised Code. The court's finding that a violation~~ 81514

~~has occurred shall have the same consequences as a like 81515
determination by the director. The court may order the director to 81516
take such action as will prevent further violation and afford to 81517
injured persons the remedies specified under sections 4115.03 to 81518
4115.16 of the Revised Code. Upon receipt of any order of the 81519
court pursuant to this section, the director shall undertake 81520
enforcement action without further investigation or hearings. 81521~~

~~(C) The director shall make available to the parties to any 81522
appeal or action pursuant to under this section all files, 81523
documents, affidavits, or other information in the director's 81524
possession that pertain to the matter. The rules generally 81525
applicable to civil actions in the courts of this state shall 81526
govern all appeals or actions under this section. Any 81527
determination of a court under this section is subject to 81528
appellate review. 81529~~

~~(D) Where, pursuant to this section, a court finds a 81530
violation of sections 4115.03 to 4115.16 of the Revised Code, the 81531
court shall award attorney fees and court costs to the prevailing 81532
party. In the event the court finds that no violation has 81533
occurred, the court may award court costs and attorney fees to the 81534
prevailing party, other than to the director or the public 81535
authority, where the court finds the action brought was 81536
unreasonable or without foundation, even though not brought in 81537
subjective bad faith. 81538~~

Sec. 4116.01. As used in sections 4116.01 to 4116.04 of the 81539
Revised Code: 81540

(A) "Public authority" means any officer, board, or 81541
commission of the state, or any political subdivision of the 81542
state, or any institution supported in whole or in part by public 81543
funds, authorized to enter into a contract for the construction of 81544
a public improvement or to construct a public improvement by the 81545

direct employment of labor. "Public authority" shall not mean any 81546
municipal corporation that has adopted a charter under sections 81547
three and seven of article XVIII of the Ohio ~~constitution~~ 81548
Constitution, unless the specific contract for a public 81549
improvement includes state funds appropriated for the purposes of 81550
that public improvement. 81551

(B) "Construction" means all of the following: 81552

(1) Any new construction of any public improvement performed 81553
by other than full-time employees who have completed their 81554
probationary periods in the classified service of a public 81555
authority; 81556

(2) Any reconstruction, enlargement, alteration, repair, 81557
remodeling, renovation, or painting of any public improvement 81558
performed by other than full-time employees who have completed 81559
their probationary period in the classified civil service of a 81560
public authority; 81561

(3) Construction on any project, facility, or project 81562
facility to which section ~~122.452~~, 122.80, ~~165.031~~, 166.02, 81563
~~1551.13~~, or 1728.07, ~~or~~ ~~3706.042~~ of the Revised Code applies; 81564

(4) Construction on any project as defined in section 122.39 81565
of the Revised Code, any project as defined in section 165.01 of 81566
the Revised Code, any energy resource development facility as 81567
defined in section 1551.01 of the Revised Code, or any project as 81568
defined in section 3706.01 of the Revised Code. 81569

(C) "Public improvement" means all buildings, roads, streets, 81570
alleys, sewers, ditches, sewage disposal plants, water works, and 81571
other structures or works constructed by a public authority or by 81572
any person who, pursuant to a contract with a public authority, 81573
constructs any structure or work for a public authority. When a 81574
public authority rents or leases a newly constructed structure 81575
within six months after completion of its construction, all work 81576

performed on that structure to suit it for occupancy by a public authority is a "public improvement." 81577
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(D) "Interested party," with respect to a particular public improvement, means all of the following: 81579
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(1) Any person who submits a bid for the purpose of securing the award of a contract for the public improvement; 81581
81582

(2) Any person acting as a subcontractor of a person mentioned in division (D)(1) of this section; 81583
81584

(3) Any association having as members any of the persons mentioned in division (D)(1) or (2) of this section; 81585
81586

(4) Any employee of a person mentioned in division (D)(1), (2), or (3) of this section; 81587
81588

(5) Any individual who is a resident of the jurisdiction of the public authority for whom products or services for a public improvement are being procured or for whom work on a public improvement is being performed. 81589
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Sec. 4117.01. As used in this chapter: 81593

(A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers. 81594
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81596

(B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; governing authority of a community school established under Chapter 3314. of the Revised Code; college preparatory boarding school established under Chapter 3328. of the Revised 81597
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Code or its operator; state institution of higher learning; public 81607
or special district; state agency, authority, commission, or 81608
board; or other branch of public employment. "Public employer" 81609
does not include the nonprofit corporation formed under section 81610
187.01 of the Revised Code. 81611

(C) "Public employee" means any person holding a position by 81612
appointment or employment in the service of a public employer, 81613
including any person working pursuant to a contract between a 81614
public employer and a private employer and over whom the national 81615
labor relations board has declined jurisdiction on the basis that 81616
the involved employees are employees of a public employer, except: 81617

(1) Persons holding elective office; 81618

(2) Employees of the general assembly and employees of any 81619
other legislative body of the public employer whose principal 81620
duties are directly related to the legislative functions of the 81621
body; 81622

(3) Employees on the staff of the governor or the chief 81623
executive of the public employer whose principal duties are 81624
directly related to the performance of the executive functions of 81625
the governor or the chief executive; 81626

(4) Persons who are members of the Ohio organized militia, 81627
while training or performing duty under section 5919.29 or 5923.12 81628
of the Revised Code; 81629

(5) Employees of the state employment relations board, 81630
including those employees of the state employment relations board 81631
utilized by the state personnel board of review in the exercise of 81632
the powers and the performance of the duties and functions of the 81633
state personnel board of review; 81634

(6) Confidential employees; 81635

(7) Management level employees; 81636

(8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;	81637 81638 81639
(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;	81640 81641 81642
(10) Supervisors;	81643
(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;	81644 81645 81646 81647 81648
(12) Employees of county boards of election;	81649
(13) Seasonal and casual employees as determined by the state employment relations board;	81650 81651
(14) Part-time faculty members of an institution of higher education;	81652 81653
(15) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;	81654 81655 81656 81657 81658 81659
(16) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;	81660 81661 81662
(17) Employees of community-based correctional facilities and district community-based correctional facilities created under sections 2301.51 to 2301.58 of the Revised Code who are not subject to a collective bargaining agreement on June 1, 2005.	81663 81664 81665 81666

(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.

(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05 of the Revised Code.

(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided that:

(1) Employees of school districts who are department chairpersons or consulting teachers shall not be deemed supervisors;

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining. The state employment relations board shall decide all disputes concerning the application of division (F)(2) of this

section. 81699

(3) With respect to faculty members of a state institution of higher education, heads of departments or divisions are supervisors; however, no other faculty member or group of faculty members is a supervisor solely because the faculty member or group of faculty members participate in decisions with respect to courses, curriculum, personnel, or other matters of academic policy; 81700
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(4) No teacher as defined in section 3319.09 of the Revised Code shall be designated as a supervisor or a management level employee unless the teacher is employed under a contract governed by section 3319.01, 3319.011, or 3319.02 of the Revised Code and is assigned to a position for which a license deemed to be for administrators under state board rules is required pursuant to section 3319.22 of the Revised Code. 81707
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(G) "To bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, terms, and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement. "To bargain collectively" includes executing a written contract incorporating the terms of any agreement reached. The obligation to bargain collectively does not mean that either party is compelled to agree to a proposal nor does it require the making of a concession. 81714
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(H) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and 81726
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other conditions of employment. "Strike" does not include a 81731
stoppage of work by employees in good faith because of dangerous 81732
or unhealthful working conditions at the place of employment that 81733
are abnormal to the place of employment. 81734

(I) "Unauthorized strike" includes, but is not limited to, 81735
concerted action during the term or extended term of a collective 81736
bargaining agreement or during the pendency of the settlement 81737
procedures set forth in section 4117.14 of the Revised Code in 81738
failing to report to duty; willful absence from one's position; 81739
stoppage of work; slowdown, or abstinence in whole or in part from 81740
the full, faithful, and proper performance of the duties of 81741
employment for the purpose of inducing, influencing, or coercing a 81742
change in wages, hours, terms, and other conditions of employment. 81743
"Unauthorized strike" includes any such action, absence, stoppage, 81744
slowdown, or abstinence when done partially or intermittently, 81745
whether during or after the expiration of the term or extended 81746
term of a collective bargaining agreement or during or after the 81747
pendency of the settlement procedures set forth in section 4117.14 81748
of the Revised Code. 81749

(J) "Professional employee" means any employee engaged in 81750
work that is predominantly intellectual, involving the consistent 81751
exercise of discretion and judgment in its performance and 81752
requiring knowledge of an advanced type in a field of science or 81753
learning customarily acquired by a prolonged course in an 81754
institution of higher learning or a hospital, as distinguished 81755
from a general academic education or from an apprenticeship; or an 81756
employee who has completed the courses of specialized intellectual 81757
instruction and is performing related work under the supervision 81758
of a professional person to become qualified as a professional 81759
employee. 81760

(K) "Confidential employee" means any employee who works in 81761
the personnel offices of a public employer and deals with 81762

information to be used by the public employer in collective bargaining; or any employee who works in a close continuing relationship with public officers or representatives directly participating in collective bargaining on behalf of the employer.

(L) "Management level employee" means an individual who formulates policy on behalf of the public employer, who responsibly directs the implementation of policy, or who may reasonably be required on behalf of the public employer to assist in the preparation for the conduct of collective negotiations, administer collectively negotiated agreements, or have a major role in personnel administration. Assistant superintendents, principals, and assistant principals whose employment is governed by section 3319.02 of the Revised Code are management level employees. With respect to members of a faculty of a state institution of higher education, no person is a management level employee because of the person's involvement in the formulation or implementation of academic or institution policy.

(M) "Wages" means hourly rates of pay, salaries, or other forms of compensation for services rendered.

(N) "Member of a police department" means a person who is in the employ of a police department of a municipal corporation as a full-time regular police officer as the result of an appointment from a duly established civil service eligibility list or under section 737.15 or 737.16 of the Revised Code, a full-time deputy sheriff appointed under section 311.04 of the Revised Code, a township constable appointed under section 509.01 of the Revised Code, or a member of a township or joint police district police department appointed under section 505.49 of the Revised Code.

(O) "Members of the state highway patrol" means highway patrol troopers and radio operators appointed under section 5503.01 of the Revised Code.

(P) "Member of a fire department" means a person who is in 81794
the employ of a fire department of a municipal corporation or a 81795
township as a fire cadet, full-time regular firefighter, or 81796
promoted rank as the result of an appointment from a duly 81797
established civil service eligibility list or under section 81798
505.38, 709.012, or 737.22 of the Revised Code. 81799

(Q) "Day" means calendar day. 81800

Sec. 4117.03. (A) Public employees have the right to: 81801

(1) Form, join, assist, or participate in, or refrain from 81802
forming, joining, assisting, or participating in, except as 81803
otherwise provided in Chapter 4117. of the Revised Code, any 81804
employee organization of their own choosing; 81805

(2) Engage in other concerted activities for the purpose of 81806
collective bargaining or other mutual aid and protection; 81807

(3) Representation by an employee organization; 81808

(4) Bargain collectively with their public employers to 81809
determine wages, hours, terms and other conditions of employment 81810
and the continuation, modification, or deletion of an existing 81811
provision of a collective bargaining agreement, and enter into 81812
collective bargaining agreements; 81813

(5) Present grievances and have them adjusted, without the 81814
intervention of the bargaining representative, as long as the 81815
adjustment is not inconsistent with the terms of the collective 81816
bargaining agreement then in effect and as long as the bargaining 81817
representatives have the opportunity to be present at the 81818
adjustment. 81819

(B) Persons on active duty or acting in any capacity as 81820
members of the organized militia do not have collective bargaining 81821
rights. 81822

(C) Except as provided in division (D) of this section, 81823

nothing in Chapter 4117. of the Revised Code prohibits public 81824
employers from electing to engage in collective bargaining, to 81825
meet and confer, to hold discussions, or to engage in any other 81826
form of collective negotiations with public employees who are not 81827
subject to Chapter 4117. of the Revised Code pursuant to division 81828
(C) of section 4117.01 of the Revised Code. 81829

(D) A public employer shall not engage in collective 81830
bargaining or other forms of collective negotiations with the 81831
employees of county boards of elections referred to in division 81832
(C)(12) of section 4117.01 of the Revised Code. 81833

(E) Employees of public schools may bargain collectively for 81834
health care benefits; ~~however, all health care benefits shall~~ 81835
~~include best practices prescribed by the school employees health~~ 81836
~~care board, in accordance with section 9.901 of the Revised Code.~~ 81837

Sec. 4121.03. (A) The governor shall appoint from among the 81838
members of the industrial commission the chairperson of the 81839
industrial commission. The chairperson shall serve as chairperson 81840
at the pleasure of the governor. The chairperson is the head of 81841
the commission and its chief executive officer. 81842

(B) The chairperson shall appoint, after consultation with 81843
other commission members and obtaining the approval of at least 81844
one other commission member, an executive director of the 81845
commission. The executive director shall serve at the pleasure of 81846
the chairperson. The executive director, under the direction of 81847
the chairperson, shall perform all of the following duties: 81848

(1) Act as chief administrative officer for the commission; 81849

(2) Ensure that all commission personnel follow the rules of 81850
the commission; 81851

(3) Ensure that all orders, awards, and determinations are 81852
properly heard and signed, prior to attesting to the documents; 81853

(4) Coordinate, to the fullest extent possible, commission 81854
activities with the bureau of workers' compensation activities; 81855

(5) Do all things necessary for the efficient and effective 81856
implementation of the duties of the commission. 81857

The responsibilities assigned to the executive director of 81858
the commission do not relieve the chairperson from final 81859
responsibility for the proper performance of the acts specified in 81860
this division. 81861

(C) The chairperson shall do all of the following: 81862

(1) Except as otherwise provided in this division, employ, 81863
promote, supervise, remove, and establish the compensation of all 81864
employees as needed in connection with the performance of the 81865
commission's duties under this chapter and Chapters 4123., 4127., 81866
and 4131. of the Revised Code and may assign to them their duties 81867
to the extent necessary to achieve the most efficient performance 81868
of its functions, and to that end may establish, change, or 81869
abolish positions, and assign and reassign duties and 81870
responsibilities of every employee of the commission. The civil 81871
service status of any person employed by the commission prior to 81872
November 3, 1989, is not affected by this section. Personnel 81873
employed by the bureau or the commission who are subject to 81874
Chapter 4117. of the Revised Code shall retain all of their rights 81875
and benefits conferred pursuant to that chapter as it presently 81876
exists or is hereafter amended and nothing in this chapter or 81877
Chapter 4123. of the Revised Code shall be construed as 81878
eliminating or interfering with Chapter 4117. of the Revised Code 81879
or the rights and benefits conferred under that chapter to public 81880
employees or to any bargaining unit. 81881

(2) Hire district and staff hearing officers after 81882
consultation with other commission members and obtaining the 81883
approval of at least one other commission member; 81884

(3) Fire staff and district hearing officers when the chairperson finds appropriate after obtaining the approval of at least one other commission member; 81885
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(4) Maintain the office for the commission in Columbus; 81888

(5) To the maximum extent possible, use electronic data processing equipment for the issuance of orders immediately following a hearing, scheduling of hearings and medical examinations, tracking of claims, retrieval of information, and any other matter within the commission's jurisdiction, and shall provide and input information into the electronic data processing equipment as necessary to effect the success of the claims tracking system established pursuant to division (B)(15) of section 4121.121 of the Revised Code; 81889
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(6) Exercise all administrative and nonadjudicatory powers and duties conferred upon the commission by Chapters 4121., 4123., 4127., and 4131. of the Revised Code; 81898
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(7) Approve all contracts for special services. 81901

(D) The chairperson is responsible for all administrative matters and may secure for the commission facilities, equipment, and supplies necessary to house the commission, any employees, and files and records under the commission's control and to discharge any duty imposed upon the commission by law, the expense thereof to be audited and paid in the same manner as other state expenses. For that purpose, the chairperson, separately from the budget prepared by the administrator of workers' compensation ~~and the budget prepared by the director of the workers' compensation council~~, shall prepare and submit to the office of budget and management a budget for each biennium according to sections 101.532 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the commission and staff and district hearing officers in the discharge of any duty imposed upon the 81902
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chairperson, the commission, and hearing officers by law. 81916

(E) A majority of the commission constitutes a quorum to 81917
transact business. No vacancy impairs the rights of the remaining 81918
members to exercise all of the powers of the commission, so long 81919
as a majority remains. Any investigation, inquiry, or hearing that 81920
the commission may hold or undertake may be held or undertaken by 81921
or before any one member of the commission, or before one of the 81922
deputies of the commission, except as otherwise provided in this 81923
chapter and Chapters 4123., 4127., and 4131. of the Revised Code. 81924
Every order made by a member, or by a deputy, when approved and 81925
confirmed by a majority of the members, and so shown on its record 81926
of proceedings, is the order of the commission. The commission may 81927
hold sessions at any place within the state. The commission is 81928
responsible for all of the following: 81929

(1) Establishing the overall adjudicatory policy and 81930
management of the commission under this chapter and Chapters 81931
4123., 4127., and 4131. of the Revised Code, except for those 81932
administrative matters within the jurisdiction of the chairperson, 81933
bureau of workers' compensation, and the administrator of workers' 81934
compensation under those chapters; 81935

(2) Hearing appeals and reconsiderations under this chapter 81936
and Chapters 4123., 4127., and 4131. of the Revised Code; 81937

(3) Engaging in rulemaking where required by this chapter or 81938
Chapter 4123., 4127., or 4131. of the Revised Code. 81939

Sec. 4121.12. (A) There is hereby created the bureau of 81940
workers' compensation board of directors consisting of eleven 81941
members to be appointed by the governor with the advice and 81942
consent of the senate. One member shall be an individual who, on 81943
account of the individual's previous vocation, employment, or 81944
affiliations, can be classed as a representative of employees; two 81945
members shall be individuals who, on account of their previous 81946

vocation, employment, or affiliations, can be classed as 81947
representatives of employee organizations and at least one of 81948
these two individuals shall be a member of the executive committee 81949
of the largest statewide labor federation; three members shall be 81950
individuals who, on account of their previous vocation, 81951
employment, or affiliations, can be classed as representatives of 81952
employers, one of whom represents self-insuring employers, one of 81953
whom is a state fund employer who employs one hundred or more 81954
employees, and one of whom is a state fund employer who employs 81955
less than one hundred employees; two members shall be individuals 81956
who, on account of their vocation, employment, or affiliations, 81957
can be classed as investment and securities experts who have 81958
direct experience in the management, analysis, supervision, or 81959
investment of assets and are residents of this state; one member 81960
who shall be a certified public accountant; one member who shall 81961
be an actuary who is a member in good standing with the American 81962
academy of actuaries or who is an associate or fellow with the 81963
casualty actuarial society; and one member shall represent the 81964
public and also be an individual who, on account of the 81965
individual's previous vocation, employment, or affiliations, 81966
cannot be classed as either predominantly representative of 81967
employees or of employers. The governor shall select the 81968
chairperson of the board who shall serve as chairperson at the 81969
pleasure of the governor. 81970

None of the members of the board, within one year immediately 81971
preceding the member's appointment, shall have been employed by 81972
the bureau of workers' compensation or by any person, partnership, 81973
or corporation that has provided to the bureau services of a 81974
financial or investment nature, including the management, 81975
analysis, supervision, or investment of assets. 81976

(B) Of the initial appointments made to the board, the 81977
governor shall appoint the member who represents employees, one 81978

member who represents employers, and the member who represents the public to a term ending one year after June 11, 2007; one member who represents employers, one member who represents employee organizations, one member who is an investment and securities expert, and the member who is a certified public accountant to a term ending two years after June 11, 2007; and one member who represents employers, one member who represents employee organizations, one member who is an investment and securities expert, and the member who is an actuary to a term ending three years after June 11, 2007. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed.

Members may be reappointed. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) In making appointments to the board, the governor shall select the members from the list of names submitted by the workers' compensation board of directors nominating committee pursuant to this division. The nominating committee shall submit to the governor a list containing four separate names for each of the members on the board. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list.

At least thirty days prior to a vacancy occurring as a result of the expiration of a term and within thirty days after other vacancies occurring on the board, the nominating committee shall

submit an initial list containing four names for each vacancy. 82011
Within fourteen days after the submission of the initial list, the 82012
governor either shall appoint individuals from that list or 82013
request the nominating committee to submit another list of four 82014
names for each member the governor has not appointed from the 82015
initial list, which list the nominating committee shall submit to 82016
the governor within fourteen days after the governor's request. 82017
The governor then shall appoint, within seven days after the 82018
submission of the second list, one of the individuals from either 82019
list to fill the vacancy for which the governor has not made an 82020
appointment from the initial list. If the governor appoints an 82021
individual to fill a vacancy occurring as a result of the 82022
expiration of a term, the individual appointed shall begin serving 82023
as a member of the board when the term for which the individual's 82024
predecessor was appointed expires or immediately upon appointment 82025
by the governor, whichever occurs later. With respect to the 82026
filling of vacancies, the nominating committee shall provide the 82027
governor with a list of four individuals who are, in the judgment 82028
of the nominating committee, the most fully qualified to accede to 82029
membership on the board. 82030

In order for the name of an individual to be submitted to the 82031
governor under this division, the nominating committee shall 82032
approve the individual by an affirmative vote of a majority of its 82033
members. 82034

(D) All members of the board shall receive their reasonable 82035
and necessary expenses pursuant to section 126.31 of the Revised 82036
Code while engaged in the performance of their duties as members 82037
and also shall receive an annual salary not to exceed sixty 82038
thousand dollars in total, payable on the following basis: 82039

(1) Except as provided in division (D)(2) of this section, a 82040
member shall receive two thousand five hundred dollars during a 82041
month in which the member attends one or more meetings of the 82042

board and shall receive no payment during a month in which the 82043
member attends no meeting of the board. 82044

(2) A member may receive no more than thirty thousand dollars 82045
per year to compensate the member for attending meetings of the 82046
board, regardless of the number of meetings held by the board 82047
during a year or the number of meetings in excess of twelve within 82048
a year that the member attends. 82049

(3) Except as provided in division (D)(4) of this section, if 82050
a member serves on the workers' compensation audit committee, 82051
workers' compensation actuarial committee, or the workers' 82052
compensation investment committee, the member shall receive two 82053
thousand five hundred dollars during a month in which the member 82054
attends one or more meetings of the committee on which the member 82055
serves and shall receive no payment during any month in which the 82056
member attends no meeting of that committee. 82057

(4) A member may receive no more than thirty thousand dollars 82058
per year to compensate the member for attending meetings of any of 82059
the committees specified in division (D)(3) of this section, 82060
regardless of the number of meetings held by a committee during a 82061
year or the number of committees on which a member serves. 82062

The chairperson of the board shall set the meeting dates of 82063
the board as necessary to perform the duties of the board under 82064
this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of 82065
the Revised Code. The board shall meet at least twelve times a 82066
year. The administrator of workers' compensation shall provide 82067
professional and clerical assistance to the board, as the board 82068
considers appropriate. 82069

(E) Before entering upon the duties of office, each appointed 82070
member of the board shall take an oath of office as required by 82071
sections 3.22 and 3.23 of the Revised Code and file in the office 82072
of the secretary of state the bond required under section 4121.127 82073

of the Revised Code. 82074

(F) The board shall: 82075

(1) Establish the overall administrative policy for the 82076
bureau for the purposes of this chapter and Chapters 4123., 4125., 82077
4127., 4131., and 4167. of the Revised Code; 82078

(2) Review progress of the bureau in meeting its cost and 82079
quality objectives and in complying with this chapter and Chapters 82080
4123., 4125., 4127., 4131., and 4167. of the Revised Code; 82081

(3) Submit an annual report to the president of the senate, 82082
the speaker of the house of representatives, and the governor, ~~and~~ 82083
~~the workers' compensation council~~ and include all of the following 82084
in that report: 82085

(a) An evaluation of the cost and quality objectives of the 82086
bureau; 82087

(b) A statement of the net assets available for the provision 82088
of compensation and benefits under this chapter and Chapters 82089
4123., 4127., and 4131. of the Revised Code as of the last day of 82090
the fiscal year; 82091

(c) A statement of any changes that occurred in the net 82092
assets available, including employer premiums and net investment 82093
income, for the provision of compensation and benefits and payment 82094
of administrative expenses, between the first and last day of the 82095
fiscal year immediately preceding the date of the report; 82096

(d) The following information for each of the six consecutive 82097
fiscal years occurring previous to the report: 82098

(i) A schedule of the net assets available for compensation 82099
and benefits; 82100

(ii) The annual cost of the payment of compensation and 82101
benefits; 82102

(iii) Annual administrative expenses incurred; 82103

(iv) Annual employer premiums allocated for the provision of compensation and benefits.	82104 82105
(e) A description of any significant changes that occurred during the six years for which the board provided the information required under division (F)(3)(d) of this section that affect the ability of the board to compare that information from year to year.	82106 82107 82108 82109 82110
(4) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division.	82111 82112 82113
(5) Study issues as requested by the administrator or the governor;	82114 82115
(6) Contract with all of the following:	82116
(a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;	82117 82118 82119
(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;	82120 82121
(c) An independent fiduciary counsel to assist the board in the performance of its duties.	82122 82123
(7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section 4123.442 of the Revised Code.	82124 82125 82126 82127
(8) Review and publish the investment policy no less than annually and make copies available to interested parties.	82128 82129
(9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to the investment policy approved by the board.	82130 82131 82132
(10) Vote to open each investment class and allow the	82133

administrator to invest in an investment class only if the board, 82134
by a majority vote, opens that class; 82135

(11) After opening a class but prior to the administrator 82136
investing in that class, adopt rules establishing due diligence 82137
standards for employees of the bureau to follow when investing in 82138
that class and establish policies and procedures to review and 82139
monitor the performance and value of each investment class; 82140

(12) Submit a report annually on the performance and value of 82141
each investment class to the governor, the president and minority 82142
leader of the senate, and the speaker and minority leader of the 82143
house of representatives, ~~and the workers' compensation council.~~ 82144

(13) Advise and consent on all of the following: 82145

(a) Administrative rules the administrator submits to it 82146
pursuant to division (B)(5) of section 4121.121 of the Revised 82147
Code for the classification of occupations or industries, for 82148
premium rates and contributions, for the amount to be credited to 82149
the surplus fund, for rules and systems of rating, rate revisions, 82150
and merit rating; 82151

(b) The duties and authority conferred upon the administrator 82152
pursuant to section 4121.37 of the Revised Code; 82153

(c) Rules the administrator adopts for the health partnership 82154
program and the qualified health plan system, as provided in 82155
sections 4121.44, 4121.441, and 4121.442 of the Revised Code; 82156

(d) Rules the administrator submits to it pursuant to Chapter 82157
4167. of the Revised Code regarding the public employment risk 82158
reduction program and the protection of public health care workers 82159
from exposure incidents. 82160

As used in this division, "public health care worker" and 82161
"exposure incident" have the same meanings as in section 4167.25 82162
of the Revised Code. 82163

(14) Perform all duties required under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;	82164 82165 82166
(15) Meet with the governor on an annual basis to discuss the administrator's performance of the duties specified in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;	82167 82168 82169 82170
(16) Develop and participate in a bureau of workers' compensation board of directors education program that consists of all of the following:	82171 82172 82173
(a) An orientation component for newly appointed members;	82174
(b) A continuing education component for board members who have served for at least one year;	82175 82176
(c) A curriculum that includes education about each of the following topics:	82177 82178
(i) Board member duties and responsibilities;	82179
(ii) Compensation and benefits paid pursuant to this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;	82180 82181
(iii) Ethics;	82182
(iv) Governance processes and procedures;	82183
(v) Actuarial soundness;	82184
(vi) Investments;	82185
(vii) Any other subject matter the board believes is reasonably related to the duties of a board member.	82186 82187
(17) Submit the program developed pursuant to division (F)(16) of this section to the workers' compensation council for approval;	82188 82189 82190
(18) Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in	82191 82192

this state. 82193

(G) The board may do both of the following: 82194

(1) Vote to close any investment class; 82195

(2) Create any committees in addition to the workers' 82196
compensation audit committee, the workers' compensation actuarial 82197
committee, and the workers' compensation investment committee that 82198
the board determines are necessary to assist the board in 82199
performing its duties. 82200

(H) The office of a member of the board who is convicted of 82201
or pleads guilty to a felony, a theft offense as defined in 82202
section 2913.01 of the Revised Code, or a violation of section 82203
102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 82204
2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be 82205
deemed vacant. The vacancy shall be filled in the same manner as 82206
the original appointment. A person who has pleaded guilty to or 82207
been convicted of an offense of that nature is ineligible to be a 82208
member of the board. A member who receives a bill of indictment 82209
for any of the offenses specified in this section shall be 82210
automatically suspended from the board pending resolution of the 82211
criminal matter. 82212

(I) For the purposes of division (G)(1) of section 121.22 of 82213
the Revised Code, the meeting between the governor and the board 82214
to review the administrator's performance as required under 82215
division (F)(15) of this section shall be considered a meeting 82216
regarding the employment of the administrator. 82217

Sec. 4121.121. (A) There is hereby created the bureau of 82218
workers' compensation, which shall be administered by the 82219
administrator of workers' compensation. A person appointed to the 82220
position of administrator shall possess significant management 82221
experience in effectively managing an organization or 82222

organizations of substantial size and complexity. A person 82223
appointed to the position of administrator also shall possess a 82224
minimum of five years of experience in the field of workers' 82225
compensation insurance or in another insurance industry, except as 82226
otherwise provided when the conditions specified in division (C) 82227
of this section are satisfied. The governor shall appoint the 82228
administrator as provided in section 121.03 of the Revised Code, 82229
and the administrator shall serve at the pleasure of the governor. 82230
The governor shall fix the administrator's salary on the basis of 82231
the administrator's experience and the administrator's 82232
responsibilities and duties under this chapter and Chapters 4123., 82233
4125., 4127., 4131., and 4167. of the Revised Code. The governor 82234
shall not appoint to the position of administrator any person who 82235
has, or whose spouse has, given a contribution to the campaign 82236
committee of the governor in an amount greater than one thousand 82237
dollars during the two-year period immediately preceding the date 82238
of the appointment of the administrator. 82239

The administrator shall hold no other public office and shall 82240
devote full time to the duties of administrator. Before entering 82241
upon the duties of the office, the administrator shall take an 82242
oath of office as required by sections 3.22 and 3.23 of the 82243
Revised Code, and shall file in the office of the secretary of 82244
state, a bond signed by the administrator and by surety approved 82245
by the governor, for the sum of fifty thousand dollars payable to 82246
the state, conditioned upon the faithful performance of the 82247
administrator's duties. 82248

(B) The administrator is responsible for the management of 82249
the bureau and for the discharge of all administrative duties 82250
imposed upon the administrator in this chapter and Chapters 4123., 82251
4125., 4127., 4131., and 4167. of the Revised Code, and in the 82252
discharge thereof shall do all of the following: 82253

(1) Perform all acts and exercise all authorities and powers, 82254

discretionary and otherwise that are required of or vested in the 82255
bureau or any of its employees in this chapter and Chapters 4123., 82256
4125., 4127., 4131., and 4167. of the Revised Code, except the 82257
acts and the exercise of authority and power that is required of 82258
and vested in the bureau of workers' compensation board of 82259
directors or the industrial commission pursuant to those chapters. 82260
The treasurer of state shall honor all warrants signed by the 82261
administrator, or by one or more of the administrator's employees, 82262
authorized by the administrator in writing, or bearing the 82263
facsimile signature of the administrator or such employee under 82264
sections 4123.42 and 4123.44 of the Revised Code. 82265

(2) Employ, direct, and supervise all employees required in 82266
connection with the performance of the duties assigned to the 82267
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 82268
and 4167. of the Revised Code, including an actuary, and may 82269
establish job classification plans and compensation for all 82270
employees of the bureau provided that this grant of authority 82271
shall not be construed as affecting any employee for whom the 82272
state employment relations board has established an appropriate 82273
bargaining unit under section 4117.06 of the Revised Code. All 82274
positions of employment in the bureau are in the classified civil 82275
service except those employees the administrator may appoint to 82276
serve at the administrator's pleasure in the unclassified civil 82277
service pursuant to section 124.11 of the Revised Code. The 82278
administrator shall fix the salaries of employees the 82279
administrator appoints to serve at the administrator's pleasure, 82280
including the chief operating officer, staff physicians, and other 82281
senior management personnel of the bureau and shall establish the 82282
compensation of staff attorneys of the bureau's legal section and 82283
their immediate supervisors, and take whatever steps are necessary 82284
to provide adequate compensation for other staff attorneys. 82285

The administrator may appoint a person who holds a certified 82286

position in the classified service within the bureau to a position 82287
in the unclassified service within the bureau. A person appointed 82288
pursuant to this division to a position in the unclassified 82289
service shall retain the right to resume the position and status 82290
held by the person in the classified service immediately prior to 82291
the person's appointment in the unclassified service, regardless 82292
of the number of positions the person held in the unclassified 82293
service. An employee's right to resume a position in the 82294
classified service may only be exercised when the administrator 82295
demotes the employee to a pay range lower than the employee's 82296
current pay range or revokes the employee's appointment to the 82297
unclassified service. An employee forfeits the right to resume a 82298
position in the classified service when the employee is removed 82299
from the position in the unclassified service due to incompetence, 82300
inefficiency, dishonesty, drunkenness, immoral conduct, 82301
insubordination, discourteous treatment of the public, neglect of 82302
duty, violation of this chapter or Chapter 124., 4123., 4125., 82303
4127., 4131., or 4167. of the Revised Code, violation of the rules 82304
of the director of administrative services or the administrator, 82305
any other failure of good behavior, any other acts of misfeasance, 82306
malfeasance, or nonfeasance in office, or conviction of a felony. 82307
An employee also forfeits the right to resume a position in the 82308
classified service upon transfer to a different agency. 82309

Reinstatement to a position in the classified service shall 82310
be to a position substantially equal to that position in the 82311
classified service held previously, as certified by the department 82312
of administrative services. If the position the person previously 82313
held in the classified service has been placed in the unclassified 82314
service or is otherwise unavailable, the person shall be appointed 82315
to a position in the classified service within the bureau that the 82316
director of administrative services certifies is comparable in 82317
compensation to the position the person previously held in the 82318
classified service. Service in the position in the unclassified 82319

service shall be counted as service in the position in the 82320
classified service held by the person immediately prior to the 82321
person's appointment in the unclassified service. When a person is 82322
reinstated to a position in the classified service as provided in 82323
this division, the person is entitled to all rights, status, and 82324
benefits accruing to the position during the person's time of 82325
service in the position in the unclassified service. 82326

(3) Reorganize the work of the bureau, its sections, 82327
departments, and offices to the extent necessary to achieve the 82328
most efficient performance of its functions and to that end may 82329
establish, change, or abolish positions and assign and reassign 82330
duties and responsibilities of every employee of the bureau. All 82331
persons employed by the commission in positions that, after 82332
November 3, 1989, are supervised and directed by the administrator 82333
under this section are transferred to the bureau in their 82334
respective classifications but subject to reassignment and 82335
reclassification of position and compensation as the administrator 82336
determines to be in the interest of efficient administration. The 82337
civil service status of any person employed by the commission is 82338
not affected by this section. Personnel employed by the bureau or 82339
the commission who are subject to Chapter 4117. of the Revised 82340
Code shall retain all of their rights and benefits conferred 82341
pursuant to that chapter as it presently exists or is hereafter 82342
amended and nothing in this chapter or Chapter 4123. of the 82343
Revised Code shall be construed as eliminating or interfering with 82344
Chapter 4117. of the Revised Code or the rights and benefits 82345
conferred under that chapter to public employees or to any 82346
bargaining unit. 82347

(4) Provide offices, equipment, supplies, and other 82348
facilities for the bureau. 82349

(5) Prepare and submit to the board information the 82350
administrator considers pertinent or the board requires, together 82351

with the administrator's recommendations, in the form of 82352
administrative rules, for the advice and consent of the board, for 82353
classifications of occupations or industries, for premium rates 82354
and contributions, for the amount to be credited to the surplus 82355
fund, for rules and systems of rating, rate revisions, and merit 82356
rating. The administrator shall obtain, prepare, and submit any 82357
other information the board requires for the prompt and efficient 82358
discharge of its duties. 82359

(6) Keep the accounts required by division (A) of section 82360
4123.34 of the Revised Code and all other accounts and records 82361
necessary to the collection, administration, and distribution of 82362
the workers' compensation funds and shall obtain the statistical 82363
and other information required by section 4123.19 of the Revised 82364
Code. 82365

(7) Exercise the investment powers vested in the 82366
administrator by section 4123.44 of the Revised Code in accordance 82367
with the investment policy approved by the board pursuant to 82368
section 4121.12 of the Revised Code and in consultation with the 82369
chief investment officer of the bureau of workers' compensation. 82370
The administrator shall not engage in any prohibited investment 82371
activity specified by the board pursuant to division (F)(9) of 82372
section 4121.12 of the Revised Code and shall not invest in any 82373
type of investment specified in divisions (B)(1) to (10) of 82374
section 4123.442 of the Revised Code. All business shall be 82375
transacted, all funds invested, all warrants for money drawn and 82376
payments made, and all cash and securities and other property 82377
held, in the name of the bureau, or in the name of its nominee, 82378
provided that nominees are authorized by the administrator solely 82379
for the purpose of facilitating the transfer of securities, and 82380
restricted to the administrator and designated employees. 82381

(8) Make contracts for and supervise the construction of any 82382
project or improvement or the construction or repair of buildings 82383

under the control of the bureau. 82384

(9) Purchase supplies, materials, equipment, and services; 82385
make contracts for, operate, and superintend the telephone, other 82386
telecommunication, and computer services for the use of the 82387
bureau; and make contracts in connection with office reproduction, 82388
forms management, printing, and other services. Notwithstanding 82389
sections 125.12 to 125.14 of the Revised Code, the administrator 82390
may transfer surplus computers and computer equipment directly to 82391
an accredited public school within the state. The computers and 82392
computer equipment may be repaired or refurbished prior to the 82393
transfer. 82394

(10) Prepare and submit to the board an annual budget for 82395
internal operating purposes for the board's approval. The 82396
administrator also shall, separately from the budget the 82397
industrial commission submits ~~and from the budget the director of~~ 82398
~~the workers' compensation council submits~~, prepare and submit to 82399
the director of budget and management a budget for each biennium. 82400
The budgets submitted to the board and the director shall include 82401
estimates of the costs and necessary expenditures of the bureau in 82402
the discharge of any duty imposed by law. 82403

(11) As promptly as possible in the course of efficient 82404
administration, decentralize and relocate such of the personnel 82405
and activities of the bureau as is appropriate to the end that the 82406
receipt, investigation, determination, and payment of claims may 82407
be undertaken at or near the place of injury or the residence of 82408
the claimant and for that purpose establish regional offices, in 82409
such places as the administrator considers proper, capable of 82410
discharging as many of the functions of the bureau as is 82411
practicable so as to promote prompt and efficient administration 82412
in the processing of claims. All active and inactive lost-time 82413
claims files shall be held at the service office responsible for 82414
the claim. A claimant, at the claimant's request, shall be 82415

provided with information by telephone as to the location of the 82416
file pertaining to the claimant's claim. The administrator shall 82417
ensure that all service office employees report directly to the 82418
director for their service office. 82419

(12) Provide a written binder on new coverage where the 82420
administrator considers it to be in the best interest of the risk. 82421
The administrator, or any other person authorized by the 82422
administrator, shall grant the binder upon submission of a request 82423
for coverage by the employer. A binder is effective for a period 82424
of thirty days from date of issuance and is nonrenewable. Payroll 82425
reports and premium charges shall coincide with the effective date 82426
of the binder. 82427

(13) Set standards for the reasonable and maximum handling 82428
time of claims payment functions, ensure, by rules, the impartial 82429
and prompt treatment of all claims and employer risk accounts, and 82430
establish a secure, accurate method of time stamping all incoming 82431
mail and documents hand delivered to bureau employees. 82432

(14) Ensure that all employees of the bureau follow the 82433
orders and rules of the commission as such orders and rules relate 82434
to the commission's overall adjudicatory policy-making and 82435
management duties under this chapter and Chapters 4123., 4127., 82436
and 4131. of the Revised Code. 82437

(15) Manage and operate a data processing system with a 82438
common data base for the use of both the bureau and the commission 82439
and, in consultation with the commission, using electronic data 82440
processing equipment, shall develop a claims tracking system that 82441
is sufficient to monitor the status of a claim at any time and 82442
that lists appeals that have been filed and orders or 82443
determinations that have been issued pursuant to section 4123.511 82444
or 4123.512 of the Revised Code, including the dates of such 82445
filings and issuances. 82446

(16) Establish and maintain a medical section within the bureau. The medical section shall do all of the following:

(a) Assist the administrator in establishing standard medical fees, approving medical procedures, and determining eligibility and reasonableness of the compensation payments for medical, hospital, and nursing services, and in establishing guidelines for payment policies which recognize usual, customary, and reasonable methods of payment for covered services;

(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;

(c) Audit fee bill payments;

(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;

(e) Perform other duties assigned to it by the administrator.

(17) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider.

(18) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.

(19) Comply with section 3517.13 of the Revised Code, and 82477
except in regard to contracts entered into pursuant to the 82478
authority contained in section 4121.44 of the Revised Code, comply 82479
with the competitive bidding procedures set forth in the Revised 82480
Code for all contracts into which the administrator enters 82481
provided that those contracts fall within the type of contracts 82482
and dollar amounts specified in the Revised Code for competitive 82483
bidding and further provided that those contracts are not 82484
otherwise specifically exempt from the competitive bidding 82485
procedures contained in the Revised Code. 82486

(20) Adopt, with the advice and consent of the board, rules 82487
for the operation of the bureau. 82488

(21) Prepare and submit to the board information the 82489
administrator considers pertinent or the board requires, together 82490
with the administrator's recommendations, in the form of 82491
administrative rules, for the advice and consent of the board, for 82492
the health partnership program and the qualified health plan 82493
system, as provided in sections 4121.44, 4121.441, and 4121.442 of 82494
the Revised Code. 82495

(C) The administrator, with the advice and consent of the 82496
senate, shall appoint a chief operating officer who has a minimum 82497
of five years of experience in the field of workers' compensation 82498
insurance or in another similar insurance industry if the 82499
administrator does not possess such experience. The chief 82500
operating officer shall not commence the chief operating officer's 82501
duties until after the senate consents to the chief operating 82502
officer's appointment. The chief operating officer shall serve in 82503
the unclassified civil service of the state. 82504

Sec. 4121.125. (A) The bureau of workers' compensation board 82505
of directors, based upon recommendations of the workers' 82506
compensation actuarial committee, may contract with one or more 82507

outside actuarial firms and other professional persons, as the board determines necessary, to assist the board in measuring the performance of Ohio's workers' compensation system and in comparing Ohio's workers' compensation system to other state and private workers' compensation systems. The board, actuarial firm or firms, and professional persons shall make such measurements and comparisons using accepted insurance industry standards, including, but not limited to, standards promulgated by the National Council on Compensation Insurance.

(B) The board may contract with one or more outside firms to conduct management and financial audits of the workers' compensation system, including audits of the reserve fund belonging to the state insurance fund, and to establish objective quality management principles and methods by which to review the performance of the workers' compensation system.

(C) The board shall do all of the following:

(1) Contract to have prepared annually by or under the supervision of an actuary a report that meets the requirements specified under division (E) of this section and that consists of an actuarial valuation of the assets, liabilities, and funding requirements of the state insurance fund and all other funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(2) Require that the actuary or person supervised by an actuary referred to in division (C)(1) of this section complete the valuation in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries;

(3) Submit the report referred to in division (C)(1) of this section to the ~~workers' compensation council and the~~ standing committees of the house of representatives and the senate with

primary responsibility for workers' compensation legislation on or 82539
before the first day of November following the year for which the 82540
valuation was made; 82541

(4) Have an actuary or a person who provides actuarial 82542
services under the supervision of an actuary, at such time as the 82543
board determines, and at least once during the five-year period 82544
that commences on September 10, 2007, and once within each 82545
five-year period thereafter, conduct an actuarial investigation of 82546
the experience of employers, the mortality, service, and injury 82547
rate of employees, and the payment of temporary total disability, 82548
permanent partial disability, and permanent total disability under 82549
sections 4123.56 to 4123.58 of the Revised Code to update the 82550
actuarial assumptions used in the report required by division 82551
(C)(1) of this section; 82552

(5) Submit the report required under division (F) of this 82553
section to the ~~council and the~~ standing committees of the house of 82554
representatives and the senate with primary responsibility for 82555
workers' compensation legislation not later than the first day of 82556
November following the fifth year of the period that the report 82557
covers; 82558

(6) Have prepared by or under the supervision of an actuary 82559
an actuarial analysis of any introduced legislation expected to 82560
have a measurable financial impact on the workers' compensation 82561
system; 82562

(7) Submit the report required under division (G) of this 82563
section to the legislative service commission, and the standing 82564
committees of the house of representatives and the senate with 82565
primary responsibility for workers' compensation legislation, ~~and~~ 82566
~~the council~~ not later than sixty days after the date of 82567
introduction of the legislation. 82568

(D) The administrator of workers' compensation and the 82569

industrial commission shall compile information and provide access 82570
to records of the bureau and the industrial commission to the 82571
board to the extent necessary for fulfillment of both of the 82572
following requirements: 82573

(1) Conduct of the measurements and comparisons described in 82574
division (A) of this section; 82575

(2) Conduct of the management and financial audits and 82576
establishment of the principles and methods described in division 82577
(B) of this section. 82578

(E) The firm or person with whom the board contracts pursuant 82579
to division (C)(1) of this section shall prepare a report of the 82580
valuation and submit the report to the board. The firm or person 82581
shall include all of the following information in the report that 82582
is required under division (C)(1) of this section: 82583

(1) A summary of the compensation and benefit provisions 82584
evaluated; 82585

(2) A description of the actuarial assumptions and actuarial 82586
cost method used in the valuation; 82587

(3) A schedule showing the effect of any changes in the 82588
compensation and benefit provisions, actuarial assumptions, or 82589
cost methods since the previous annual actuarial valuation report 82590
was submitted to the board. 82591

(F) The actuary or person whom the board designates to 82592
conduct an actuarial investigation under division (C)(4) of this 82593
section shall prepare a report of the actuarial investigation and 82594
shall submit the report to the board. The actuary or person shall 82595
prepare the report and make any recommended changes in actuarial 82596
assumptions in accordance with the actuarial standards of practice 82597
promulgated by the actuarial standards board of the American 82598
academy of actuaries. The actuary or person shall include all of 82599
the following information in the report: 82600

(1) A summary of relevant decrement and economic assumption experience;	82601 82602
(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (C)(1) of this section;	82603 82604 82605
(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.	82606 82607
(G) The actuary or person whom the board designates to conduct the actuarial analysis under division (C)(6) of this section shall prepare a report of the actuarial analysis and shall submit that report to the board. The actuary or person shall complete the analysis in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:	82608 82609 82610 82611 82612 82613 82614 82615
(1) A summary of the statutory changes being evaluated;	82616
(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	82617 82618
(3) A description of the participant group or groups included in the report;	82619 82620
(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums, in actuarial accrued liabilities, and, if an increase in actuarial accrued liabilities is predicted, the per cent of premium increase that would be required to amortize the increase in those liabilities as a level per cent of employer premiums over a period not to exceed thirty years.	82621 82622 82623 82624 82625 82626 82627
(5) A statement of whether the employer premiums paid to the bureau of workers' compensation after the proposed change is enacted are expected to be sufficient to satisfy the funding	82628 82629 82630

objectives established by the board. 82631

(H) The board may, at any time, request an actuary to make 82632
any studies or actuarial valuations to determine the adequacy of 82633
the premium rates established by the administrator in accordance 82634
with sections 4123.29 and 4123.34 of the Revised Code, and may 82635
adjust those rates as recommended by the actuary. 82636

(I) The board shall have an independent auditor, at least 82637
once every ten years, conduct a fiduciary performance audit of the 82638
investment program of the bureau of workers' compensation. That 82639
audit shall include an audit of the investment policies approved 82640
by the board and investment procedures of the bureau. The board 82641
shall submit a copy of that audit to the auditor of state. 82642

(J) The administrator, with the advice and consent of the 82643
board, shall employ an internal auditor who shall report findings 82644
directly to the board, workers' compensation audit committee, and 82645
administrator, except that the internal auditor shall not report 82646
findings directly to the administrator when those findings involve 82647
malfeasance, misfeasance, or nonfeasance on the part of the 82648
administrator. The board and the workers' compensation audit 82649
committee may request and review internal audits conducted by the 82650
internal auditor. 82651

(K) The administrator shall pay the expenses incurred by the 82652
board to effectively fulfill its duties and exercise its powers 82653
under this section as the administrator pays other operating 82654
expenses of the bureau. 82655

Sec. 4121.128. The attorney general shall be the legal 82656
adviser of the bureau of workers' compensation board of directors 82657
~~and the workers' compensation council.~~ 82658

Sec. 4121.44. (A) The administrator of workers' compensation 82659
shall oversee the implementation of the Ohio workers' compensation 82660

qualified health plan system as established under section 4121.442 82661
of the Revised Code. 82662

(B) The administrator shall direct the implementation of the 82663
health partnership program administered by the bureau as set forth 82664
in section 4121.441 of the Revised Code. To implement the health 82665
partnership program, the bureau: 82666

(1) Shall certify one or more external vendors, which shall 82667
be known as "managed care organizations," to provide medical 82668
management and cost containment services in the health partnership 82669
program for a period of two years beginning on the date of 82670
certification, consistent with the standards established under 82671
this section; 82672

(2) May recertify external vendors for additional periods of 82673
two years; and 82674

(3) May integrate the certified vendors with bureau staff and 82675
existing bureau services for purposes of operation and training to 82676
allow the bureau to assume operation of the health partnership 82677
program at the conclusion of the certification periods set forth 82678
in division (B)(1) or (2) of this section. 82679

(C) Any vendor selected shall demonstrate all of the 82680
following: 82681

(1) Arrangements and reimbursement agreements with a 82682
substantial number of the medical, professional and pharmacy 82683
providers currently being utilized by claimants. 82684

(2) Ability to accept a common format of medical bill data in 82685
an electronic fashion from any provider who wishes to submit 82686
medical bill data in that form. 82687

(3) A computer system able to handle the volume of medical 82688
bills and willingness to customize that system to the bureau's 82689
needs and to be operated by the vendor's staff, bureau staff, or 82690

some combination of both staffs. 82691

(4) A prescription drug system where pharmacies on a 82692
statewide basis have access to the eligibility and pricing, at a 82693
discounted rate, of all prescription drugs. 82694

(5) A tracking system to record all telephone calls from 82695
claimants and providers regarding the status of submitted medical 82696
bills so as to be able to track each inquiry. 82697

(6) Data processing capacity to absorb all of the bureau's 82698
medical bill processing or at least that part of the processing 82699
which the bureau arranges to delegate. 82700

(7) Capacity to store, retrieve, array, simulate, and model 82701
in a relational mode all of the detailed medical bill data so that 82702
analysis can be performed in a variety of ways and so that the 82703
bureau and its governing authority can make informed decisions. 82704

(8) Wide variety of software programs which translate medical 82705
terminology into standard codes, and which reveal if a provider is 82706
manipulating the procedures codes, commonly called "unbundling." 82707

(9) Necessary professional staff to conduct, at a minimum, 82708
authorizations for treatment, medical necessity, utilization 82709
review, concurrent review, post-utilization review, and have the 82710
attendant computer system which supports such activity and 82711
measures the outcomes and the savings. 82712

(10) Management experience and flexibility to be able to 82713
react quickly to the needs of the bureau in the case of required 82714
change in federal or state requirements. 82715

(D)(1) Information contained in a vendor's application for 82716
certification in the health partnership program, and other 82717
information furnished to the bureau by a vendor for purposes of 82718
obtaining certification or to comply with performance and 82719
financial auditing requirements established by the administrator, 82720

is for the exclusive use and information of the bureau in the 82721
discharge of its official duties, and shall not be open to the 82722
public or be used in any court in any proceeding pending therein, 82723
unless the bureau is a party to the action or proceeding, but the 82724
information may be tabulated and published by the bureau in 82725
statistical form for the use and information of other state 82726
departments and the public. No employee of the bureau, except as 82727
otherwise authorized by the administrator, shall divulge any 82728
information secured by the employee while in the employ of the 82729
bureau in respect to a vendor's application for certification or 82730
in respect to the business or other trade processes of any vendor 82731
to any person other than the administrator or to the employee's 82732
superior. 82733

(2) Notwithstanding the restrictions imposed by division 82734
(D)(1) of this section, the governor, members of select or 82735
standing committees of the senate or house of representatives, the 82736
auditor of state, the attorney general, or their designees, 82737
pursuant to the authority granted in this chapter and Chapter 82738
4123. of the Revised Code, may examine any vendor application or 82739
other information furnished to the bureau by the vendor. None of 82740
those individuals shall divulge any information secured in the 82741
exercise of that authority in respect to a vendor's application 82742
for certification or in respect to the business or other trade 82743
processes of any vendor to any person. 82744

(E) On and after January 1, 2001, a vendor shall not be any 82745
insurance company holding a certificate of authority issued 82746
pursuant to Title XXXIX of the Revised Code or any health insuring 82747
corporation holding a certificate of authority under Chapter 1751. 82748
of the Revised Code. 82749

(F) The administrator may limit freedom of choice of health 82750
care provider or supplier by requiring, beginning with the period 82751
set forth in division (B)(1) or (2) of this section, that 82752

claimants shall pay an appropriate out-of-plan copayment for 82753
selecting a medical provider not within the health partnership 82754
program as provided for in this section. 82755

(G) The administrator, six months prior to the expiration of 82756
the bureau's certification or recertification of the vendor or 82757
vendors as set forth in division (B)(1) or (2) of this section, 82758
may certify and provide evidence to the governor, the speaker of 82759
the house of representatives, and the president of the senate that 82760
the existing bureau staff is able to match or exceed the 82761
performance and outcomes of the external vendor or vendors and 82762
that the bureau should be permitted to internally administer the 82763
health partnership program upon the expiration of the 82764
certification or recertification as set forth in division (B)(1) 82765
or (2) of this section. 82766

(H) The administrator shall establish and operate a bureau of 82767
workers' compensation health care data program. The administrator 82768
shall develop reporting requirements from all employees, employers 82769
and medical providers, medical vendors, and plans that participate 82770
in the workers' compensation system. The administrator shall do 82771
all of the following: 82772

(1) Utilize the collected data to measure and perform 82773
comparison analyses of costs, quality, appropriateness of medical 82774
care, and effectiveness of medical care delivered by all 82775
components of the workers' compensation system. 82776

(2) Compile data to support activities of the selected vendor 82777
or vendors and to measure the outcomes and savings of the health 82778
partnership program. 82779

(3) Publish and report compiled data on the measures of 82780
outcomes and savings of the health partnership program and submit 82781
the report to the president of the senate, the speaker of the 82782
house of representatives, and the governor, ~~and the workers'~~ 82783

~~compensation council~~ with the annual report prepared under 82784
division (F)(3) of section 4121.12 of the Revised Code. The 82785
administrator shall protect the confidentiality of all proprietary 82786
pricing data. 82787

(I) Any rehabilitation facility the bureau operates is 82788
eligible for inclusion in the Ohio workers' compensation qualified 82789
health plan system or the health partnership program under the 82790
same terms as other providers within health care plans or the 82791
program. 82792

(J) In areas outside the state or within the state where no 82793
qualified health plan or an inadequate number of providers within 82794
the health partnership program exist, the administrator shall 82795
permit employees to use a nonplan or nonprogram health care 82796
provider and shall pay the provider for the services or supplies 82797
provided to or on behalf of an employee for an injury or 82798
occupational disease that is compensable under this chapter or 82799
Chapter 4123., 4127., or 4131. of the Revised Code on a fee 82800
schedule the administrator adopts. 82801

(K) No health care provider, whether certified or not, shall 82802
charge, assess, or otherwise attempt to collect from an employee, 82803
employer, a managed care organization, or the bureau any amount 82804
for covered services or supplies that is in excess of the allowed 82805
amount paid by a managed care organization, the bureau, or a 82806
qualified health plan. 82807

(L) The administrator shall permit any employer or group of 82808
employers who agree to abide by the rules adopted under this 82809
section and sections 4121.441 and 4121.442 of the Revised Code to 82810
provide services or supplies to or on behalf of an employee for an 82811
injury or occupational disease that is compensable under this 82812
chapter or Chapter 4123., 4127., or 4131. of the Revised Code 82813
through qualified health plans of the Ohio workers' compensation 82814
qualified health plan system pursuant to section 4121.442 of the 82815

Revised Code or through the health partnership program pursuant to 82816
section 4121.441 of the Revised Code. No amount paid under the 82817
qualified health plan system pursuant to section 4121.442 of the 82818
Revised Code by an employer who is a state fund employer shall be 82819
charged to the employer's experience or otherwise be used in 82820
merit-rating or determining the risk of that employer for the 82821
purpose of the payment of premiums under this chapter, and if the 82822
employer is a self-insuring employer, the employer shall not 82823
include that amount in the paid compensation the employer reports 82824
under section 4123.35 of the Revised Code. 82825

Sec. 4123.27. Information contained in the annual statement 82826
provided for in section 4123.26 of the Revised Code, and such 82827
other information as may be furnished to the bureau of workers' 82828
compensation by employers in pursuance of that section, is for the 82829
exclusive use and information of the bureau in the discharge of 82830
its official duties, and shall not be open to the public nor be 82831
used in any court in any action or proceeding pending therein 82832
unless the bureau is a party to the action or proceeding; but the 82833
information contained in the statement may be tabulated and 82834
published by the bureau in statistical form for the use and 82835
information of other state departments and the public. No person 82836
in the employ of the bureau, except those who are authorized by 82837
the administrator of workers' compensation, shall divulge any 82838
information secured by the person while in the employ of the 82839
bureau in respect to the transactions, property, claim files, 82840
records, or papers of the bureau or in respect to the business or 82841
mechanical, chemical, or other industrial process of any company, 82842
firm, corporation, person, association, partnership, or public 82843
utility to any person other than the administrator or to the 82844
superior of such employee of the bureau. 82845

Notwithstanding the restrictions imposed by this section, the 82846
governor, select or standing committees of the general assembly, 82847

the auditor of state, the attorney general, or their designees, 82848
pursuant to the authority granted in this chapter and Chapter 82849
4121. of the Revised Code, may examine any records, claim files, 82850
or papers in possession of the industrial commission or the 82851
bureau. They also are bound by the privilege that attaches to 82852
these papers. 82853

The administrator shall report to the director of job and 82854
family services or to the county director of job and family 82855
services the name, address, and social security number or other 82856
identification number of any person receiving workers' 82857
compensation whose name or social security number or other 82858
identification number is the same as that of a person required by 82859
a court or child support enforcement agency to provide support 82860
payments to a recipient or participant of public assistance, as 82861
that term is defined in section 5101.181 of the Revised Code, and 82862
whose name is submitted to the administrator by the director under 82863
section 5101.36 of the Revised Code. The administrator also shall 82864
inform the director of the amount of workers' compensation paid to 82865
the person during such period as the director specifies. 82866

Within fourteen days after receiving from the director of job 82867
and family services a list of the names and social security 82868
numbers of recipients or participants of public assistance 82869
pursuant to section 5101.181 of the Revised Code, the 82870
administrator shall inform the auditor of state of the name, 82871
current or most recent address, and social security number of each 82872
person receiving workers' compensation pursuant to this chapter 82873
whose name and social security number are the same as that of a 82874
person whose name or social security number was submitted by the 82875
director. The administrator also shall inform the auditor of state 82876
of the amount of workers' compensation paid to the person during 82877
such period as the director specifies. 82878

The bureau and its employees, except for purposes of 82879

furnishing the auditor of state with information required by this 82880
section, shall preserve the confidentiality of recipients or 82881
participants of public assistance in compliance with ~~division (A)~~ 82882
~~of~~ section 5101.181 of the Revised Code. 82883

~~For the purposes of this section, "public assistance" means 82884
medical assistance provided through the medical assistance program 82885
established under section 5111.01 of the Revised Code, Ohio works 82886
first provided under Chapter 5107. of the Revised Code, 82887
prevention, retention, and contingency benefits and services 82888
provided under Chapter 5108. of the Revised Code, or disability 82889
financial assistance provided under Chapter 5115. of the Revised 82890
Code. 82891~~

Sec. 4123.341. The administrative costs of the industrial 82892
commission, ~~the workers' compensation council,~~ the bureau of 82893
workers' compensation board of directors, and the bureau of 82894
workers' compensation shall be those costs and expenses that are 82895
incident to the discharge of the duties and performance of the 82896
activities of the industrial commission, ~~the council,~~ the board, 82897
and the bureau under this chapter and Chapters 4121., 4125., 82898
4127., 4131., and 4167. of the Revised Code, and all such costs 82899
shall be borne by the state and by other employers amenable to 82900
this chapter as follows: 82901

(A) In addition to the contribution required of the state 82902
under sections 4123.39 and 4123.40 of the Revised Code, the state 82903
shall contribute the sum determined to be necessary under section 82904
4123.342 of the Revised Code. 82905

(B) The director of budget and management may allocate the 82906
state's share of contributions in the manner the director finds 82907
most equitably apportions the costs. 82908

(C) The counties and taxing districts therein shall 82909
contribute such sum as may be required under section 4123.342 of 82910

the Revised Code. 82911

(D) The private employers shall contribute the sum required 82912
under section 4123.342 of the Revised Code. 82913

Sec. 4123.342. (A) The administrator of workers' compensation 82914
shall allocate among counties and taxing districts therein as a 82915
class, the state and its instrumentalities as a class, private 82916
employers who are insured under the private fund as a class, and 82917
self-insuring employers as a class their fair shares of the 82918
administrative costs which are to be borne by such employers under 82919
division (D) of section 4123.341 of the Revised Code, separately 82920
allocating to each class those costs solely attributable to the 82921
activities of the industrial commission, ~~those costs solely~~ 82922
~~attributable to the activities of the workers' compensation~~ 82923
~~council,~~ and those costs solely attributable to the activities of 82924
the bureau of workers' compensation board of directors, and the 82925
bureau of workers' compensation in respect of the class, 82926
allocating to any combination of classes those costs attributable 82927
to the activities of the industrial commission, ~~council,~~ board, or 82928
bureau in respect of the classes, and allocating to all four 82929
classes those costs attributable to the activities of the 82930
industrial commission, ~~council,~~ board, and bureau in respect of 82931
all classes. The administrator shall separately calculate each 82932
employer's assessment in the class, except self-insuring 82933
employers, on the basis of the following three factors: payroll, 82934
paid compensation, and paid medical costs of the employer for 82935
those costs solely attributable to the activities of the board and 82936
the bureau. The administrator shall separately calculate each 82937
employer's assessment in the class, except self-insuring 82938
employers, on the basis of the following three factors: payroll, 82939
paid compensation, and paid medical costs of the employer for 82940
those costs solely attributable to the activities of the 82941
industrial commission. ~~The administrator shall separately~~ 82942

~~calculate each employer's assessment in the class, except~~ 82943
~~self-insuring employers, on the basis of the following three~~ 82944
~~factors: payroll, paid compensation, and paid medical costs of the~~ 82945
~~employer for those costs solely attributable to the activities of~~ 82946
~~the council.~~ The administrator shall separately calculate each 82947
self-insuring employer's assessment in accordance with section 82948
4123.35 of the Revised Code for those costs solely attributable to 82949
the activities of the board and the bureau. The administrator 82950
shall separately calculate each self-insuring employer's 82951
assessment in accordance with section 4123.35 of the Revised Code 82952
for those costs solely attributable to the activities of the 82953
industrial commission. ~~The administrator shall separately~~ 82954
~~calculate each self-insuring employer's assessment in accordance~~ 82955
~~with section 4123.35 of the Revised Code for those costs solely~~ 82956
~~attributable to the activities of the council.~~ In a timely manner, 82957
the industrial commission shall provide to the administrator, the 82958
information necessary for the administrator to allocate and 82959
calculate, with the approval of the chairperson of the industrial 82960
commission, for each class of employer as described in this 82961
division, the costs solely attributable to the activities of the 82962
industrial commission. ~~In a timely manner, the director of the~~ 82963
~~workers' compensation council shall submit to the administrator~~ 82964
~~the information necessary for the administrator to allocate and~~ 82965
~~calculate, with the approval of the director, for each class of~~ 82966
~~employer as described in this division, the costs solely~~ 82967
~~attributable to the activities of the council.~~ 82968

(B) The administrator shall divide the administrative cost 82969
assessments collected by the administrator into ~~three~~ two 82970
administrative assessment accounts within the state insurance 82971
fund. One of the administrative assessment accounts shall consist 82972
of the administrative cost assessment collected by the 82973
administrator for the industrial commission. ~~One of the~~ 82974
~~administrative assessment accounts shall consist of the~~ 82975

~~administrative cost assessment collected by the administrator for the council.~~ One of the administrative assessment accounts shall consist of the administrative cost assessments collected by the administrator for the bureau and the board. The administrator may invest the administrative cost assessments in these accounts on behalf of the bureau, ~~the council,~~ and the industrial commission as authorized in section 4123.44 of the Revised Code. In a timely manner, the administrator shall provide to the industrial commission ~~and the council~~ the information and reports the commission ~~or council, as applicable,~~ deems necessary for the commission ~~or the council, as applicable,~~ to monitor the receipts and the disbursements from the administrative assessment account for the industrial commission ~~or the administrative assessment account for the council, as applicable.~~

(C) The administrator or the administrator's designee shall transfer moneys as necessary from the administrative assessment account identified for the bureau and the board to the workers' compensation fund for the use of the bureau and the board. As necessary and upon the authorization of the industrial commission, the administrator or the administrator's designee shall transfer moneys from the administrative assessment account identified for the industrial commission to the industrial commission operating fund created under section 4121.021 of the Revised Code. To the extent that the moneys collected by the administrator in any fiscal biennium of the state equal the sum appropriated by the general assembly for administrative costs of the industrial commission, board, and bureau for the biennium ~~and the administrative costs approved by the workers' compensation council,~~ the moneys shall be paid into the workers' compensation fund, and the industrial commission operating fund of the state, ~~the workers' compensation council fund, and the workers' compensation council remuneration fund,~~ as appropriate, and any remainder shall be retained in those funds and applied to reduce

the amount collected during the next biennium. 83009

~~(D) As necessary and upon authorization of the director of 83010
the council, the administrator or the administrator's designee 83011
shall transfer moneys from the administrative assessment account 83012
identified for the council to the workers' compensation council 83013
fund created in division (C) of section 4121.79 of the Revised 83014
Code. 83015~~

~~(E) Sections 4123.41, 4123.35, and 4123.37 of the Revised 83016
Code apply to the collection of assessments from public and 83017
private employers respectively, except that for boards of county 83018
hospital trustees that are self-insuring employers, only those 83019
provisions applicable to the collection of assessments for private 83020
employers apply. 83021~~

Sec. 4123.35. (A) Except as provided in this section, every 83022
employer mentioned in division (B)(2) of section 4123.01 of the 83023
Revised Code, and every publicly owned utility shall pay 83024
semiannually in the months of January and July into the state 83025
insurance fund the amount of annual premium the administrator of 83026
workers' compensation fixes for the employment or occupation of 83027
the employer, the amount of which premium to be paid by each 83028
employer to be determined by the classifications, rules, and rates 83029
made and published by the administrator. The employer shall pay 83030
semiannually a further sum of money into the state insurance fund 83031
as may be ascertained to be due from the employer by applying the 83032
rules of the administrator, and a receipt or certificate 83033
certifying that payment has been made, along with a written notice 83034
as is required in section 4123.54 of the Revised Code, shall be 83035
mailed immediately to the employer by the bureau of workers' 83036
compensation. The receipt or certificate is prima-facie evidence 83037
of the payment of the premium, and the proper posting of the 83038
notice constitutes the employer's compliance with the notice 83039

requirement mandated in section 4123.54 of the Revised Code. 83040

The bureau of workers' compensation shall verify with the 83041
secretary of state the existence of all corporations and 83042
organizations making application for workers' compensation 83043
coverage and shall require every such application to include the 83044
employer's federal identification number. 83045

An employer as defined in division (B)(2) of section 4123.01 83046
of the Revised Code who has contracted with a subcontractor is 83047
liable for the unpaid premium due from any subcontractor with 83048
respect to that part of the payroll of the subcontractor that is 83049
for work performed pursuant to the contract with the employer. 83050

Division (A) of this section providing for the payment of 83051
premiums semiannually does not apply to any employer who was a 83052
subscriber to the state insurance fund prior to January 1, 1914, 83053
or who may first become a subscriber to the fund in any month 83054
other than January or July. Instead, the semiannual premiums shall 83055
be paid by those employers from time to time upon the expiration 83056
of the respective periods for which payments into the fund have 83057
been made by them. 83058

The administrator shall adopt rules to permit employers to 83059
make periodic payments of the semiannual premium due under this 83060
division. The rules shall include provisions for the assessment of 83061
interest charges, where appropriate, and for the assessment of 83062
penalties when an employer fails to make timely premium payments. 83063
An employer who timely pays the amounts due under this division is 83064
entitled to all of the benefits and protections of this chapter. 83065
Upon receipt of payment, the bureau immediately shall mail a 83066
receipt or certificate to the employer certifying that payment has 83067
been made, which receipt is prima-facie evidence of payment. 83068
Workers' compensation coverage under this chapter continues 83069
uninterrupted upon timely receipt of payment under this division. 83070

Every public employer, except public employers that are 83071
self-insuring employers under this section, shall comply with 83072
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 83073
regard to the contribution of moneys to the public insurance fund. 83074

(B) Employers who will abide by the rules of the 83075
administrator and who may be of sufficient financial ability to 83076
render certain the payment of compensation to injured employees or 83077
the dependents of killed employees, and the furnishing of medical, 83078
surgical, nursing, and hospital attention and services and 83079
medicines, and funeral expenses, equal to or greater than is 83080
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 83081
to 4123.67 of the Revised Code, and who do not desire to insure 83082
the payment thereof or indemnify themselves against loss sustained 83083
by the direct payment thereof, upon a finding of such facts by the 83084
administrator, may be granted the privilege to pay individually 83085
compensation, and furnish medical, surgical, nursing, and hospital 83086
services and attention and funeral expenses directly to injured 83087
employees or the dependents of killed employees, thereby being 83088
granted status as a self-insuring employer. The administrator may 83089
charge employers who apply for the status as a self-insuring 83090
employer a reasonable application fee to cover the bureau's costs 83091
in connection with processing and making a determination with 83092
respect to an application. 83093

All employers granted status as self-insuring employers shall 83094
demonstrate sufficient financial and administrative ability to 83095
assure that all obligations under this section are promptly met. 83096
The administrator shall deny the privilege where the employer is 83097
unable to demonstrate the employer's ability to promptly meet all 83098
the obligations imposed on the employer by this section. 83099

(1) The administrator shall consider, but is not limited to, 83100
the following factors, where applicable, in determining the 83101
employer's ability to meet all of the obligations imposed on the 83102

employer by this section:	83103
(a) The employer employs a minimum of five hundred employees in this state;	83104 83105
(b) The employer has operated in this state for a minimum of two years, provided that an employer who has purchased, acquired, or otherwise succeeded to the operation of a business, or any part thereof, situated in this state that has operated for at least two years in this state, also shall qualify;	83106 83107 83108 83109 83110
(c) Where the employer previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;	83111 83112 83113
(d) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly;	83114 83115 83116
(e) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the employer's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.	83117 83118 83119 83120 83121
(f) The employer's organizational plan for the administration of the workers' compensation law;	83122 83123
(g) The employer's proposed plan to inform employees of the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and	83124 83125 83126 83127
(h) The employer has either an account in a financial institution in this state, or if the employer maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer clearly indicates that payment will	83128 83129 83130 83131 83132

be honored by a financial institution in this state. 83133

The administrator may waive the requirements of divisions 83134
(B)(1)(a) and (b) of this section and the requirement of division 83135
(B)(1)(e) of this section that the financial records, documents, 83136
and data be certified by a certified public accountant. The 83137
administrator shall adopt rules establishing the criteria that an 83138
employer shall meet in order for the administrator to waive the 83139
requirement of division (B)(1)(e) of this section. Such rules may 83140
require additional security of that employer pursuant to division 83141
(E) of section 4123.351 of the Revised Code. 83142

The administrator shall not grant the status of self-insuring 83143
employer to the state, except that the administrator may grant the 83144
status of self-insuring employer to a state institution of higher 83145
education, excluding its hospitals, that meets the requirements of 83146
division (B)(2) of this section. 83147

(2) When considering the application of a public employer, 83148
except for a board of county commissioners described in division 83149
(G) of section 4123.01 of the Revised Code, a board of a county 83150
hospital, or a publicly owned utility, the administrator shall 83151
verify that the public employer satisfies all of the following 83152
requirements as the requirements apply to that public employer: 83153

(a) For the two-year period preceding application under this 83154
section, the public employer has maintained an unvoted debt 83155
capacity equal to at least two times the amount of the current 83156
annual premium established by the administrator under this chapter 83157
for that public employer for the year immediately preceding the 83158
year in which the public employer makes application under this 83159
section. 83160

(b) For each of the two fiscal years preceding application 83161
under this section, the unreserved and undesignated year-end fund 83162
balance in the public employer's general fund is equal to at least 83163

five per cent of the public employer's general fund revenues for 83164
the fiscal year computed in accordance with generally accepted 83165
accounting principles. 83166

(c) For the five-year period preceding application under this 83167
section, the public employer, to the extent applicable, has 83168
complied fully with the continuing disclosure requirements 83169
established in rules adopted by the United States securities and 83170
exchange commission under 17 C.F.R. 240.15c 2-12. 83171

(d) For the five-year period preceding application under this 83172
section, the public employer has not had its local government fund 83173
distribution withheld on account of the public employer being 83174
indebted or otherwise obligated to the state. 83175

(e) For the five-year period preceding application under this 83176
section, the public employer has not been under a fiscal watch or 83177
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 83178
of the Revised Code. 83179

(f) For the public employer's fiscal year preceding 83180
application under this section, the public employer has obtained 83181
an annual financial audit as required under section 117.10 of the 83182
Revised Code, which has been released by the auditor of state 83183
within seven months after the end of the public employer's fiscal 83184
year. 83185

(g) On the date of application, the public employer holds a 83186
debt rating of Aa3 or higher according to Moody's investors 83187
service, inc., or a comparable rating by an independent rating 83188
agency similar to Moody's investors service, inc. 83189

(h) The public employer agrees to generate an annual 83190
accumulating book reserve in its financial statements reflecting 83191
an actuarially generated reserve adequate to pay projected claims 83192
under this chapter for the applicable period of time, as 83193
determined by the administrator. 83194

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers.

(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.

The administrator may adopt rules establishing the criteria that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section. The rules may require additional security from that employer pursuant to division (E) of section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section for a public employer who does not satisfy the criteria established in the rules the administrator adopts.

(C) A board of county commissioners described in division (G) of section 4123.01 of the Revised Code, as an employer, that will abide by the rules of the administrator and that may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and that does not desire to insure the payment thereof or indemnify itself against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or

the dependents of killed employees, thereby being granted status 83227
as a self-insuring employer. The administrator may charge a board 83228
of county commissioners described in division (G) of section 83229
4123.01 of the Revised Code that applies for the status as a 83230
self-insuring employer a reasonable application fee to cover the 83231
bureau's costs in connection with processing and making a 83232
determination with respect to an application. All employers 83233
granted such status shall demonstrate sufficient financial and 83234
administrative ability to assure that all obligations under this 83235
section are promptly met. The administrator shall deny the 83236
privilege where the employer is unable to demonstrate the 83237
employer's ability to promptly meet all the obligations imposed on 83238
the employer by this section. The administrator shall consider, 83239
but is not limited to, the following factors, where applicable, in 83240
determining the employer's ability to meet all of the obligations 83241
imposed on the board as an employer by this section: 83242

(1) The board as an employer employs a minimum of five 83243
hundred employees in this state; 83244

(2) The board has operated in this state for a minimum of two 83245
years; 83246

(3) Where the board previously contributed to the state 83247
insurance fund or is a successor employer as defined by bureau 83248
rules, the amount of the buyout, as defined by bureau rules; 83249

(4) The sufficiency of the board's assets located in this 83250
state to insure the board's solvency in paying compensation 83251
directly; 83252

(5) The financial records, documents, and data, certified by 83253
a certified public accountant, necessary to provide the board's 83254
full financial disclosure. The records, documents, and data 83255
include, but are not limited to, balance sheets and profit and 83256
loss history for the current year and previous four years. 83257

(6) The board's organizational plan for the administration of the workers' compensation law; 83258
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(7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits; 83260
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(8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state; 83264
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(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator. 83270
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(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed employees whose employers contribute to the fund, except when an employee of the employer, who has suffered the loss of a hand, arm, foot, leg, or eye prior to the injury for which compensation is to be paid, and thereafter suffers the loss of any other of the members as the result of any injury sustained in the course of and arising out of the employee's employment, the compensation to be paid by the self-insuring employer is limited to the disability suffered in the subsequent injury, additional compensation, if any, to be paid by the bureau out of the surplus created by section 4123.34 of the Revised Code. 83273
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(E) In addition to the requirements of this section, the administrator shall make and publish rules governing the manner of making application and the nature and extent of the proof required to justify a finding of fact by the administrator as to granting the status of a self-insuring employer, which rules shall be general in their application, one of which rules shall provide that all self-insuring employers shall pay into the state insurance fund such amounts as are required to be credited to the surplus fund in division (B) of section 4123.34 of the Revised Code. The administrator may adopt rules establishing requirements in addition to the requirements described in division (B)(2) of this section that a public employer shall meet in order to qualify for self-insuring status.

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.

(F) The bureau shall review completed applications within a reasonable time. If the bureau determines to grant an employer the status as a self-insuring employer, the bureau shall issue a

statement, containing its findings of fact, that is prepared by 83322
the bureau and signed by the administrator. If the bureau 83323
determines not to grant the status as a self-insuring employer, 83324
the bureau shall notify the employer of the determination and 83325
require the employer to continue to pay its full premium into the 83326
state insurance fund. The administrator also shall adopt rules 83327
establishing a minimum level of performance as a criterion for 83328
granting and maintaining the status as a self-insuring employer 83329
and fixing time limits beyond which failure of the self-insuring 83330
employer to provide for the necessary medical examinations and 83331
evaluations may not delay a decision on a claim. 83332

(G) The administrator shall adopt rules setting forth 83333
procedures for auditing the program of self-insuring employers. 83334
The bureau shall conduct the audit upon a random basis or whenever 83335
the bureau has grounds for believing that a self-insuring employer 83336
is not in full compliance with bureau rules or this chapter. 83337

The administrator shall monitor the programs conducted by 83338
self-insuring employers, to ensure compliance with bureau 83339
requirements and for that purpose, shall develop and issue to 83340
self-insuring employers standardized forms for use by the 83341
self-insuring employer in all aspects of the self-insuring 83342
employers' direct compensation program and for reporting of 83343
information to the bureau. 83344

The bureau shall receive and transmit to the self-insuring 83345
employer all complaints concerning any self-insuring employer. In 83346
the case of a complaint against a self-insuring employer, the 83347
administrator shall handle the complaint through the 83348
self-insurance division of the bureau. The bureau shall maintain a 83349
file by employer of all complaints received that relate to the 83350
employer. The bureau shall evaluate each complaint and take 83351
appropriate action. 83352

The administrator shall adopt as a rule a prohibition against 83353

any self-insuring employer from harassing, dismissing, or 83354
otherwise disciplining any employee making a complaint, which rule 83355
shall provide for a financial penalty to be levied by the 83356
administrator payable by the offending self-insuring employer. 83357

(H) For the purpose of making determinations as to whether to 83358
grant status as a self-insuring employer, the administrator may 83359
subscribe to and pay for a credit reporting service that offers 83360
financial and other business information about individual 83361
employers. The costs in connection with the bureau's subscription 83362
or individual reports from the service about an applicant may be 83363
included in the application fee charged employers under this 83364
section. 83365

(I) The administrator, notwithstanding other provisions of 83366
this chapter, may permit a self-insuring employer to resume 83367
payment of premiums to the state insurance fund with appropriate 83368
credit modifications to the employer's basic premium rate as such 83369
rate is determined pursuant to section 4123.29 of the Revised 83370
Code. 83371

(J) On the first day of July of each year, the administrator 83372
shall calculate separately each self-insuring employer's 83373
assessments for the safety and hygiene fund, administrative costs 83374
pursuant to section 4123.342 of the Revised Code, and for the 83375
portion of the surplus fund under division (B) of section 4123.34 83376
of the Revised Code that is not used for handicapped 83377
reimbursement, on the basis of the paid compensation attributable 83378
to the individual self-insuring employer according to the 83379
following calculation: 83380

(1) The total assessment against all self-insuring employers 83381
as a class for each fund and for the administrative costs for the 83382
year that the assessment is being made, as determined by the 83383
administrator, divided by the total amount of paid compensation 83384
for the previous calendar year attributable to all amenable 83385

self-insuring employers; 83386

(2) Multiply the quotient in division (J)(1) of this section 83387
by the total amount of paid compensation for the previous calendar 83388
year that is attributable to the individual self-insuring employer 83389
for whom the assessment is being determined. Each self-insuring 83390
employer shall pay the assessment that results from this 83391
calculation, unless the assessment resulting from this calculation 83392
falls below a minimum assessment, which minimum assessment the 83393
administrator shall determine on the first day of July of each 83394
year with the advice and consent of the bureau of workers' 83395
compensation board of directors, in which event, the self-insuring 83396
employer shall pay the minimum assessment. 83397

In determining the total amount due for the total assessment 83398
against all self-insuring employers as a class for each fund and 83399
the administrative assessment, the administrator shall reduce 83400
proportionately the total for each fund and assessment by the 83401
amount of money in the self-insurance assessment fund as of the 83402
date of the computation of the assessment. 83403

The administrator shall calculate the assessment for the 83404
portion of the surplus fund under division (B) of section 4123.34 83405
of the Revised Code that is used for handicapped reimbursement in 83406
the same manner as set forth in divisions (J)(1) and (2) of this 83407
section except that the administrator shall calculate the total 83408
assessment for this portion of the surplus fund only on the basis 83409
of those self-insuring employers that retain participation in the 83410
handicapped reimbursement program and the individual self-insuring 83411
employer's proportion of paid compensation shall be calculated 83412
only for those self-insuring employers who retain participation in 83413
the handicapped reimbursement program. The administrator, as the 83414
administrator determines appropriate, may determine the total 83415
assessment for the handicapped portion of the surplus fund in 83416
accordance with sound actuarial principles. 83417

The administrator shall calculate the assessment for the 83418
portion of the surplus fund under division (B) of section 4123.34 83419
of the Revised Code that under division (D) of section 4121.66 of 83420
the Revised Code is used for rehabilitation costs in the same 83421
manner as set forth in divisions (J)(1) and (2) of this section, 83422
except that the administrator shall calculate the total assessment 83423
for this portion of the surplus fund only on the basis of those 83424
self-insuring employers who have not made the election to make 83425
payments directly under division (D) of section 4121.66 of the 83426
Revised Code and an individual self-insuring employer's proportion 83427
of paid compensation only for those self-insuring employers who 83428
have not made that election. 83429

The administrator shall calculate the assessment for the 83430
portion of the surplus fund under division (B) of section 4123.34 83431
of the Revised Code that is used for reimbursement to a 83432
self-insuring employer under division (H) of section 4123.512 of 83433
the Revised Code in the same manner as set forth in divisions 83434
(J)(1) and (2) of this section except that the administrator shall 83435
calculate the total assessment for this portion of the surplus 83436
fund only on the basis of those self-insuring employers that 83437
retain participation in reimbursement to the self-insuring 83438
employer under division (H) of section 4123.512 of the Revised 83439
Code and the individual self-insuring employer's proportion of 83440
paid compensation shall be calculated only for those self-insuring 83441
employers who retain participation in reimbursement to the 83442
self-insuring employer under division (H) of section 4123.512 of 83443
the Revised Code. 83444

An employer who no longer is a self-insuring employer in this 83445
state or who no longer is operating in this state, shall continue 83446
to pay assessments for administrative costs and for the portion of 83447
the surplus fund under division (B) of section 4123.34 of the 83448
Revised Code that is not used for handicapped reimbursement, based 83449

upon paid compensation attributable to claims that occurred while 83450
the employer was a self-insuring employer within this state. 83451

~~(K) The administrator shall deposit any moneys received from 83452
a self-insuring employer for the self-insuring employer's 83453
assessment to pay the costs solely attributable to the workers' 83454
compensation council into the administrative assessment account 83455
described in division (B) of section 4123.342 of the Revised Code 83456
for the administrative cost assessment collected by the 83457
administrator for the council. There is hereby created in the 83458
state treasury the self-insurance assessment fund. All investment 83459
earnings of the fund shall be deposited in the fund. The 83460
administrator shall use the money in the self-insurance assessment 83461
fund only for administrative costs as specified in section 83462
4123.341 of the Revised Code. 83463~~

(L) Every self-insuring employer shall certify, in affidavit 83464
form subject to the penalty for perjury, to the bureau the amount 83465
of the self-insuring employer's paid compensation for the previous 83466
calendar year. In reporting paid compensation paid for the 83467
previous year, a self-insuring employer shall exclude from the 83468
total amount of paid compensation any reimbursement the 83469
self-insuring employer receives in the previous calendar year from 83470
the surplus fund pursuant to section 4123.512 of the Revised Code 83471
for any paid compensation. The self-insuring employer also shall 83472
exclude from the paid compensation reported any amount recovered 83473
under section 4123.931 of the Revised Code and any amount that is 83474
determined not to have been payable to or on behalf of a claimant 83475
in any final administrative or judicial proceeding. The 83476
self-insuring employer shall exclude such amounts from the paid 83477
compensation reported in the reporting period subsequent to the 83478
date the determination is made. The administrator shall adopt 83479
rules, in accordance with Chapter 119. of the Revised Code, that 83480
provide for all of the following: 83481

(1) Establishing the date by which self-insuring employers 83482
must submit such information and the amount of the assessments 83483
provided for in division (J) of this section for employers who 83484
have been granted self-insuring status within the last calendar 83485
year; 83486

(2) If an employer fails to pay the assessment when due, the 83487
administrator may add a late fee penalty of not more than five 83488
hundred dollars to the assessment plus an additional penalty 83489
amount as follows: 83490

(a) For an assessment from sixty-one to ninety days past due, 83491
the prime interest rate, multiplied by the assessment due; 83492

(b) For an assessment from ninety-one to one hundred twenty 83493
days past due, the prime interest rate plus two per cent, 83494
multiplied by the assessment due; 83495

(c) For an assessment from one hundred twenty-one to one 83496
hundred fifty days past due, the prime interest rate plus four per 83497
cent, multiplied by the assessment due; 83498

(d) For an assessment from one hundred fifty-one to one 83499
hundred eighty days past due, the prime interest rate plus six per 83500
cent, multiplied by the assessment due; 83501

(e) For an assessment from one hundred eighty-one to two 83502
hundred ten days past due, the prime interest rate plus eight per 83503
cent, multiplied by the assessment due; 83504

(f) For each additional thirty-day period or portion thereof 83505
that an assessment remains past due after it has remained past due 83506
for more than two hundred ten days, the prime interest rate plus 83507
eight per cent, multiplied by the assessment due. 83508

(3) An employer may appeal a late fee penalty and penalty 83509
assessment to the administrator. 83510

For purposes of division (L)(2) of this section, "prime 83511

interest rate" means the average bank prime rate, and the 83512
administrator shall determine the prime interest rate in the same 83513
manner as a county auditor determines the average bank prime rate 83514
under section 929.02 of the Revised Code. 83515

The administrator shall include any assessment and penalties 83516
that remain unpaid for previous assessment periods in the 83517
calculation and collection of any assessments due under this 83518
division or division (J) of this section. 83519

(M) As used in this section, "paid compensation" means all 83520
amounts paid by a self-insuring employer for living maintenance 83521
benefits, all amounts for compensation paid pursuant to sections 83522
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 83523
4123.64 of the Revised Code, all amounts paid as wages in lieu of 83524
such compensation, all amounts paid in lieu of such compensation 83525
under a nonoccupational accident and sickness program fully funded 83526
by the self-insuring employer, and all amounts paid by a 83527
self-insuring employer for a violation of a specific safety 83528
standard pursuant to Section 35 of Article II, Ohio Constitution 83529
and section 4121.47 of the Revised Code. 83530

(N) Should any section of this chapter or Chapter 4121. of 83531
the Revised Code providing for self-insuring employers' 83532
assessments based upon compensation paid be declared 83533
unconstitutional by a final decision of any court, then that 83534
section of the Revised Code declared unconstitutional shall revert 83535
back to the section in existence prior to November 3, 1989, 83536
providing for assessments based upon payroll. 83537

(O) The administrator may grant a self-insuring employer the 83538
privilege to self-insure a construction project entered into by 83539
the self-insuring employer that is scheduled for completion within 83540
six years after the date the project begins, and the total cost of 83541
which is estimated to exceed one hundred million dollars or, for 83542
employers described in division (R) of this section, if the 83543

construction project is estimated to exceed twenty-five million 83544
dollars. The administrator may waive such cost and time criteria 83545
and grant a self-insuring employer the privilege to self-insure a 83546
construction project regardless of the time needed to complete the 83547
construction project and provided that the cost of the 83548
construction project is estimated to exceed fifty million dollars. 83549
A self-insuring employer who desires to self-insure a construction 83550
project shall submit to the administrator an application listing 83551
the dates the construction project is scheduled to begin and end, 83552
the estimated cost of the construction project, the contractors 83553
and subcontractors whose employees are to be self-insured by the 83554
self-insuring employer, the provisions of a safety program that is 83555
specifically designed for the construction project, and a 83556
statement as to whether a collective bargaining agreement 83557
governing the rights, duties, and obligations of each of the 83558
parties to the agreement with respect to the construction project 83559
exists between the self-insuring employer and a labor 83560
organization. 83561

A self-insuring employer may apply to self-insure the 83562
employees of either of the following: 83563

(1) All contractors and subcontractors who perform labor or 83564
work or provide materials for the construction project; 83565

(2) All contractors and, at the administrator's discretion, a 83566
substantial number of all the subcontractors who perform labor or 83567
work or provide materials for the construction project. 83568

Upon approval of the application, the administrator shall 83569
mail a certificate granting the privilege to self-insure the 83570
construction project to the self-insuring employer. The 83571
certificate shall contain the name of the self-insuring employer 83572
and the name, address, and telephone number of the self-insuring 83573
employer's representatives who are responsible for administering 83574
workers' compensation claims for the construction project. The 83575

self-insuring employer shall post the certificate in a conspicuous place at the site of the construction project. 83576
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The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring employer immediately shall notify the administrator when any contractor or subcontractor is added or eliminated from inclusion under the certificate. 83578
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Upon approval of the application, the self-insuring employer is responsible for the administration and payment of all claims under this chapter and Chapter 4121. of the Revised Code for the employees of the contractor and subcontractors covered under the certificate who receive injuries or are killed in the course of and arising out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project. For purposes of this chapter and Chapter 4121. of the Revised Code, a claim that is administered and paid in accordance with this division is considered a claim against the self-insuring employer listed in the certificate. A contractor or subcontractor included under the certificate shall report to the self-insuring employer listed in the certificate, all claims that arise under this chapter and Chapter 4121. of the Revised Code in connection with the construction project for which the certificate is issued. 83584
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A self-insuring employer who complies with this division is entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the employees of the contractors and subcontractors covered under a certificate issued under this division for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project, as if the employees were employees of the self-insuring 83600
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employer, provided that the self-insuring employer also complies 83608
with this section. No employee of the contractors and 83609
subcontractors covered under a certificate issued under this 83610
division shall be considered the employee of the self-insuring 83611
employer listed in that certificate for any purposes other than 83612
this chapter and Chapter 4121. of the Revised Code. Nothing in 83613
this division gives a self-insuring employer authority to control 83614
the means, manner, or method of employment of the employees of the 83615
contractors and subcontractors covered under a certificate issued 83616
under this division. 83617

The contractors and subcontractors included under a 83618
certificate issued under this division are entitled to the 83619
protections provided under this chapter and Chapter 4121. of the 83620
Revised Code with respect to the contractor's or subcontractor's 83621
employees who are employed on the construction project which is 83622
the subject of the certificate, for death or injuries that arise 83623
out of, or death, injuries, or occupational diseases that arise in 83624
the course of, those employees' employment on that construction 83625
project. 83626

The contractors and subcontractors included under a 83627
certificate issued under this division shall identify in their 83628
payroll records the employees who are considered the employees of 83629
the self-insuring employer listed in that certificate for purposes 83630
of this chapter and Chapter 4121. of the Revised Code, and the 83631
amount that those employees earned for employment on the 83632
construction project that is the subject of that certificate. 83633
Notwithstanding any provision to the contrary under this chapter 83634
and Chapter 4121. of the Revised Code, the administrator shall 83635
exclude the payroll that is reported for employees who are 83636
considered the employees of the self-insuring employer listed in 83637
that certificate, and that the employees earned for employment on 83638
the construction project that is the subject of that certificate, 83639

when determining those contractors' or subcontractors' premiums or 83640
assessments required under this chapter and Chapter 4121. of the 83641
Revised Code. A self-insuring employer issued a certificate under 83642
this division shall include in the amount of paid compensation it 83643
reports pursuant to division (L) of this section, the amount of 83644
paid compensation the self-insuring employer paid pursuant to this 83645
division for the previous calendar year. 83646

Nothing in this division shall be construed as altering the 83647
rights of employees under this chapter and Chapter 4121. of the 83648
Revised Code as those rights existed prior to September 17, 1996. 83649
Nothing in this division shall be construed as altering the rights 83650
devolved under sections 2305.31 and 4123.82 of the Revised Code as 83651
those rights existed prior to September 17, 1996. 83652

As used in this division, "privilege to self-insure a 83653
construction project" means privilege to pay individually 83654
compensation, and to furnish medical, surgical, nursing, and 83655
hospital services and attention and funeral expenses directly to 83656
injured employees or the dependents of killed employees. 83657

(P) A self-insuring employer whose application is granted 83658
under division (O) of this section shall designate a safety 83659
professional to be responsible for the administration and 83660
enforcement of the safety program that is specifically designed 83661
for the construction project that is the subject of the 83662
application. 83663

A self-insuring employer whose application is granted under 83664
division (O) of this section shall employ an ombudsperson for the 83665
construction project that is the subject of the application. The 83666
ombudsperson shall have experience in workers' compensation or the 83667
construction industry, or both. The ombudsperson shall perform all 83668
of the following duties: 83669

(1) Communicate with and provide information to employees who 83670

are injured in the course of, or whose injury arises out of 83671
employment on the construction project, or who contract an 83672
occupational disease in the course of employment on the 83673
construction project; 83674

(2) Investigate the status of a claim upon the request of an 83675
employee to do so; 83676

(3) Provide information to claimants, third party 83677
administrators, employers, and other persons to assist those 83678
persons in protecting their rights under this chapter and Chapter 83679
4121. of the Revised Code. 83680

A self-insuring employer whose application is granted under 83681
division (O) of this section shall post the name of the safety 83682
professional and the ombudsperson and instructions for contacting 83683
the safety professional and the ombudsperson in a conspicuous 83684
place at the site of the construction project. 83685

(Q) The administrator may consider all of the following when 83686
deciding whether to grant a self-insuring employer the privilege 83687
to self-insure a construction project as provided under division 83688
(O) of this section: 83689

(1) Whether the self-insuring employer has an organizational 83690
plan for the administration of the workers' compensation law; 83691

(2) Whether the safety program that is specifically designed 83692
for the construction project provides for the safety of employees 83693
employed on the construction project, is applicable to all 83694
contractors and subcontractors who perform labor or work or 83695
provide materials for the construction project, and has as a 83696
component, a safety training program that complies with standards 83697
adopted pursuant to the "Occupational Safety and Health Act of 83698
1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing 83699
management and employee involvement; 83700

(3) Whether granting the privilege to self-insure the 83701

construction project will reduce the costs of the construction project; 83702
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(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section; 83704
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(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section. 83706
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(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section: 83711
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(1) A state institution of higher education; 83715

(2) A school district; 83716

(3) A county school financing district; 83717

(4) An educational service center; 83718

(5) A community school established under Chapter 3314. of the Revised Code; 83719
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(6) A municipal power agency as defined in section 3734.058 of the Revised Code. 83721
83722

(S) As used in this section: 83723

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy; 83724
83725

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to 83726
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Chapter 3357. of the Revised Code, and state community colleges 83731
created pursuant to Chapter 3358. of the Revised Code. 83732

Sec. 4131.03. (A) For the relief of persons who are entitled 83733
to receive benefits by virtue of the federal act, there is hereby 83734
established a coal-workers pneumoconiosis fund, which shall be 83735
separate from the funds established and administered pursuant to 83736
Chapter 4123. of the Revised Code. The fund shall consist of 83737
premiums and other payments thereto by subscribers who elect to 83738
subscribe to the fund to insure the payment of benefits required 83739
by the federal act. 83740

(B)(1) The coal-workers pneumoconiosis fund shall be in the 83741
custody of the treasurer of state. The bureau of workers' 83742
compensation shall make disbursements from the fund to those 83743
persons entitled to payment therefrom and in the amounts required 83744
pursuant to sections 4131.01 to 4131.06 of the Revised Code. All 83745
investment earnings of the fund shall be credited to the fund. 83746

(2) The Beginning July 1, 2011, and ending June 30, 2013, the 83747
director of natural resources annually may request the 83748
administrator of workers' compensation to transfer a portion of 83749
the investment earnings credited to the coal-workers 83750
pneumoconiosis fund as provided in this division. If the 83751
administrator receives a request from the director, the 83752
administrator of workers' compensation may, on the first day of 83753
July, or as soon as possible after that date, shall transfer a 83754
portion of from the investment earnings credited to the 83755
coal-workers pneumoconiosis fund an amount not to exceed three 83756
million dollars to the mine safety fund created in section 1561.24 83757
of the Revised Code for the purposes specified in that section and 83758
an amount not to exceed one million five hundred thousand dollars 83759
to the coal mining administration and reclamation reserve fund 83760
created in section 1513.181 of the Revised Code for the purposes 83761

specified in that section. The administrator, with the advice and 83762
consent of the bureau of workers' compensation board of directors, 83763
shall adopt rules governing the transfer in order to ensure the 83764
solvency of the coal-workers pneumoconiosis fund. For that 83765
purpose, the rules may establish tests based on measures of net 83766
assets, liabilities, expenses, interest, dividend income, or other 83767
factors that the administrator determines appropriate that may be 83768
applied prior to a transfer. 83769

(C) The administrator shall have the same powers to invest 83770
any of the surplus or reserve belonging to the coal-workers 83771
pneumoconiosis fund as are delegated to the administrator under 83772
section 4123.44 of the Revised Code with respect to the state 83773
insurance fund. 83774

(D) If the administrator determines that reinsurance of the 83775
risks of the coal-workers pneumoconiosis fund is necessary to 83776
assure solvency of the fund, the administrator may: 83777

(1) Enter into contracts for the purchase of reinsurance 83778
coverage of the risks of the fund with any company or agency 83779
authorized by law to issue contracts of reinsurance; 83780

(2) Pay the cost of reinsurance from the fund; 83781

(3) Include the costs of reinsurance as a liability and 83782
estimated liability of the fund. 83783

Sec. 4141.031. The director of the department of job and 83784
family services shall appoint a migrant agricultural ombudsperson 83785
as provided in section ~~3733.49~~ 3733.43 of the Revised Code. 83786

Sec. 4141.08. (A) There is hereby created an unemployment 83787
compensation advisory council appointed as follows: 83788

(1) Three members who on account of their vocation, 83789
employment, or affiliations can be classed as representative of 83790

employers and three members who on account of their vocation, 83791
employment, or affiliation can be classed as representatives of 83792
employees appointed by the governor with the advice and consent of 83793
the senate. All appointees shall be persons whose training and 83794
experience qualify them to deal with the difficult problems of 83795
unemployment compensation, particularly with respect to the legal, 83796
accounting, actuarial, economic, and social aspects of 83797
unemployment compensation; 83798

(2) The chairpersons of the standing committees of the senate 83799
and the house of representatives to which legislation pertaining 83800
to Chapter 4141. of the Revised Code is customarily referred; 83801

(3) Two members of the senate appointed by the president of 83802
the senate; and 83803

(4) Two members of the house of representatives appointed by 83804
the speaker of the house of representatives. 83805

The speaker and the president shall arrange that of the six 83806
legislative members appointed to the council, not more than three 83807
are members of the same political party. 83808

(B) Members appointed by the governor shall serve for a term 83809
of four years, each term ending on the same day as the date of 83810
their original appointment. Legislative members shall serve during 83811
the session of the general assembly to which they are elected and 83812
for as long as they are members of the general assembly. Vacancies 83813
shall be filled in the same manner as the original appointment but 83814
only for the unexpired part of a term. 83815

(C) Members of the council shall serve without salary but, 83816
notwithstanding section 101.26 of the Revised Code, shall be paid 83817
a meeting stipend of fifty dollars per day each and their actual 83818
and necessary expenses while engaged in the performance of their 83819
duties as members of the council which shall be paid from funds 83820
allocated to pay the expenses of the council pursuant to this 83821

section. 83822

(D) The council shall organize itself and select a 83823
chairperson or co-chairpersons and other officers and committees 83824
as it considers necessary. Seven members constitute a quorum and 83825
the council may act only upon the affirmative vote of seven 83826
members. The council shall meet at least once each calendar 83827
quarter but it may meet more often as the council considers 83828
necessary or at the request of the chairperson. 83829

(E) The council may employ professional and clerical 83830
assistance as it considers necessary and may request of the 83831
director of job and family services assistance as it considers 83832
necessary. The director shall furnish the council with office and 83833
meeting space as requested by the council. 83834

(F) The director shall pay the operating expenses of the 83835
council ~~as determined by the council~~ from moneys in the 83836
unemployment compensation special administrative fund established 83837
in section 4141.11 of the Revised Code. 83838

(G) The council shall have access to only the records of the 83839
department of job and family services that are necessary for the 83840
administration of this chapter and to the reasonable services of 83841
the employees of the department. It may request the director, or 83842
any of the employees appointed by the director, or any employer or 83843
employee subject to this chapter, to appear before it and to 83844
testify relative to the functioning of this chapter and to other 83845
relevant matters. The council may conduct research of its own, 83846
make and publish reports, and recommend to the director, the 83847
unemployment compensation review commission, the governor, or the 83848
general assembly needed changes in this chapter, or in the rules 83849
of the department as it considers necessary. 83850

Sec. 4141.11. There is hereby created in the state treasury 83851
the unemployment compensation special administrative fund. The 83852

fund shall consist of all interest collected on delinquent 83853
contributions pursuant to this chapter, all fines and forfeitures 83854
collected under this chapter, and all court costs and interest 83855
paid or collected in connection with the repayment of fraudulently 83856
obtained benefits pursuant to section 4141.35 of the Revised Code. 83857
All interest earned on the money in the fund shall be retained in 83858
the fund and shall not be credited or transferred to any other 83859
fund or account, except as provided in division (B) of this 83860
section. All moneys which are deposited or paid into this fund may 83861
be used by: 83862

(A) The director of job and family services ~~with the approval~~ 83863
~~of the unemployment compensation advisory council~~ whenever it 83864
appears that such use is necessary for: 83865

(1) The proper administration of this chapter and no federal 83866
funds are available for the specific purpose for which the 83867
expenditure is to be made, provided the moneys are not substituted 83868
for appropriations from federal funds, which in the absence of 83869
such moneys would be available; 83870

(2) The proper administration of this chapter for which 83871
purpose appropriations from federal funds have been requested and 83872
approved but not received, provided the fund would be reimbursed 83873
upon receipt of the federal appropriation; 83874

(3) To the extent possible, the repayment to the unemployment 83875
compensation administration fund of moneys found by the proper 83876
agency of the United States to have been lost or expended for 83877
purposes other than, or an amount in excess of, those found 83878
necessary by the proper agency of the United States for the 83879
administration of this chapter. 83880

(B) The director or the director's deputy whenever it appears 83881
that such use is necessary for the payment of refunds or 83882
adjustments of interest, fines, forfeitures, or court costs 83883

erroneously collected and paid into this fund pursuant to this 83884
chapter. 83885

(C) The director, to pay state disaster unemployment benefits 83886
pursuant to section 4141.292 of the Revised Code. ~~The director~~ 83887
~~need not have prior approval from the council to make these~~ 83888
~~payments.~~ 83889

(D) The director, to pay any costs attributable to the 83890
director that are associated with the sale of real property under 83891
section 4141.131 of the Revised Code. ~~The director need not have~~ 83892
~~prior approval from the council to make these payments.~~ 83893

Whenever the balance in the unemployment compensation special 83894
administrative fund is considered to be excessive by the ~~council~~ 83895
director, the director shall request the director of budget and 83896
management to transfer to the unemployment compensation fund the 83897
amount considered to be excessive. Any balance in the unemployment 83898
compensation special administrative fund shall not lapse at any 83899
time, but shall be continuously available to the director of ~~jobs~~ 83900
job and family services ~~or to the council~~ for expenditures 83901
consistent with this chapter. 83902

Sec. 4141.33. (A) "Seasonal employment" means employment of 83903
individuals hired primarily to perform services in an industry 83904
which because of climatic conditions or because of the seasonal 83905
nature of such industry it is customary to operate only during 83906
regularly recurring periods of forty weeks or less in any 83907
consecutive fifty-two weeks. "Seasonal employer" means an employer 83908
determined by the director of job and family services to be an 83909
employer whose operations and business, with the exception of 83910
certain administrative and maintenance operations, are 83911
substantially all in a seasonal industry. Any employer who claims 83912
to have seasonal employment in a seasonal industry may file with 83913
the director a written application for classification of such 83914

employment as seasonal. Whenever in any industry it is customary 83915
to operate because of climatic conditions or because of the 83916
seasonal nature of such industry only during regularly recurring 83917
periods of forty weeks or less duration, benefits shall be payable 83918
only during the longest seasonal periods which the best practice 83919
of such industry will reasonably permit. The director shall 83920
determine, after investigation, hearing, and due notice, whether 83921
the industry is seasonal and, if seasonal, establish seasonal 83922
periods for such seasonal employer. Until such determination by 83923
the director, no industry or employment shall be deemed seasonal. 83924

(B) When the director has determined such seasonal periods, 83925
the director shall also establish the proportionate number of 83926
weeks of employment and earnings required to qualify for seasonal 83927
benefit rights in place of the weeks of employment and earnings 83928
requirement stipulated in division (R) of section 4141.01 and 83929
section 4141.30 of the Revised Code, and the proportionate number 83930
of weeks for which seasonal benefits may be paid. An individual 83931
whose base period employment consists of only seasonal employment 83932
for a single seasonal employer and who meets the employment and 83933
earnings requirements determined by the director pursuant to this 83934
division will have benefit rights determined in accordance with 83935
this division. Benefit charges for such seasonal employment shall 83936
be computed and charged in accordance with division (D) of section 83937
4141.24 of the Revised Code. The director may adopt rules for 83938
implementation of this section. 83939

(C) ~~An~~ Subject to division (E) of this section, an individual 83940
whose base period employment consists of either seasonal 83941
employment with two or more seasonal employers or both seasonal 83942
employment and nonseasonal employment with employers subject to 83943
this chapter, will have benefit rights determined in accordance 83944
with division (R) of section 4141.01 and section 4141.30 of the 83945
Revised Code. Benefit charges for both seasonal and nonseasonal 83946

employment shall be computed and charged in accordance with 83947
division (D) of section 4141.24 of the Revised Code. The total 83948
seasonal and nonseasonal benefits during a benefit year cannot 83949
exceed twenty-six times the weekly benefit amount. 83950

(D) Benefits shall not be paid to any individual on the basis 83951
of any services, substantially all of which consist of 83952
participating in sports or athletic events or training or 83953
preparing to so participate, for any week which commences during 83954
the period between two successive sport seasons, or similar 83955
periods, if the individual performed services in the first of the 83956
seasons, or similar periods, and there is a reasonable assurance 83957
that the individual will perform services in the later of the 83958
seasons, or similar periods. 83959

~~(1)~~(E) Effective October 30, 2011, benefits shall not be paid 83960
to any individual on the basis of any services performed in 83961
seasonal employment for any week that commences during the period 83962
between two successive seasonal work periods if the individual 83963
performed services in the first of the seasonal work periods and 83964
there is a reasonable assurance that the individual will perform 83965
services in the later of the seasonal work periods. 83966

(F) The term "reasonable assurance" as used in this ~~division~~ 83967
section means a written, verbal, or implied agreement that the 83968
individual will perform services in the same or similar capacity 83969
during the ensuing sports season or seasonal work period. 83970

~~(2)~~(G) The director shall adopt rules concerning the 83971
eligibility for benefits of individuals under this ~~division~~ 83972
section. 83973

Sec. 4301.01. (A) As used in the Revised Code: 83974

(1) "Intoxicating liquor" and "liquor" include all liquids 83975
and compounds, other than beer, containing one-half of one per 83976

cent or more of alcohol by volume which are fit to use for 83977
beverage purposes, from whatever source and by whatever process 83978
produced, by whatever name called, and whether they are medicated, 83979
proprietary, or patented. "Intoxicating liquor" and "liquor" 83980
include wine even if it contains less than four per cent of 83981
alcohol by volume, mixed beverages even if they contain less than 83982
four per cent of alcohol by volume, cider, alcohol, and all solids 83983
and confections which contain any alcohol. 83984

(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 83985
4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the 83986
Revised Code, "sale" and "sell" include exchange, barter, gift, 83987
offer for sale, sale, distribution and delivery of any kind, and 83988
the transfer of title or possession of beer and intoxicating 83989
liquor either by constructive or actual delivery by any means or 83990
devices whatever, including the sale of beer or intoxicating 83991
liquor by means of a controlled access alcohol and beverage 83992
cabinet pursuant to section 4301.21 of the Revised Code. "Sale" 83993
and "sell" do not include the mere solicitation of orders for beer 83994
or intoxicating liquor from the holders of permits issued by the 83995
division of liquor control authorizing the sale of the beer or 83996
intoxicating liquor, but no solicitor shall solicit any such 83997
orders until the solicitor has been registered with the division 83998
pursuant to section 4303.25 of the Revised Code. 83999

(3) "Vehicle" includes all means of transportation by land, 84000
by water, or by air, and everything made use of in any way for 84001
such transportation. 84002

(B) As used in this chapter: 84003

(1) "Alcohol" means ethyl alcohol, whether rectified or 84004
diluted with water or not, whatever its origin may be, and 84005
includes synthetic ethyl alcohol. "Alcohol" does not include 84006
denatured alcohol and wood alcohol. 84007

(2) "Beer" includes all beverages brewed or fermented wholly 84008
or in part from malt products and containing one-half of one per 84009
cent or more, but not more than ~~twelve~~ eighteen per cent, of 84010
alcohol by volume. 84011

(3) "Wine" includes all liquids fit to use for beverage 84012
purposes containing not less than one-half of one per cent of 84013
alcohol by volume and not more than twenty-one per cent of alcohol 84014
by volume, which is made from the fermented juices of grapes, 84015
fruits, or other agricultural products, except that as used in 84016
sections 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44 of the 84017
Revised Code, and, for purposes of determining the rate of the tax 84018
that applies, division (B) of section 4301.43 of the Revised Code, 84019
"wine" does not include cider. 84020

(4) "Mixed beverages," such as bottled and prepared cordials, 84021
cocktails, and highballs, are products obtained by mixing any type 84022
of whiskey, neutral spirits, brandy, gin, or other distilled 84023
spirits with, or over, carbonated or plain water, pure juices from 84024
flowers and plants, and other flavoring materials. The completed 84025
product shall contain not less than one-half of one per cent of 84026
alcohol by volume and not more than twenty-one per cent of alcohol 84027
by volume. 84028

(5) "Spirituous liquor" includes all intoxicating liquors 84029
containing more than twenty-one per cent of alcohol by volume. 84030

(6) "Sealed container" means any container having a capacity 84031
of not more than one hundred twenty-eight fluid ounces, the 84032
opening of which is closed to prevent the entrance of air. 84033

(7) "Person" includes firms and corporations. 84034

(8) "Manufacture" includes all processes by which beer or 84035
intoxicating liquor is produced, whether by distillation, 84036
rectifying, fortifying, blending, fermentation, or brewing, or in 84037
any other manner. 84038

- (9) "Manufacturer" means any person engaged in the business of manufacturing beer or intoxicating liquor. 84039
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- (10) "Wholesale distributor" and "distributor" means a person engaged in the business of selling to retail dealers for purposes of resale. 84041
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- (11) "Hotel" has the same meaning as in section 3731.01 of the Revised Code, subject to the exceptions mentioned in section 3731.03 of the Revised Code. 84044
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- (12) "Restaurant" means a place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. "Restaurant" does not include pharmacies, confectionery stores, lunch stands, night clubs, and filling stations. 84047
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- (13) "Club" means a corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for those purposes, membership in which entails the prepayment of regular dues, and includes the place so operated. 84054
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- (14) "Night club" means a place operated for profit, where food is served for consumption on the premises and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons. 84061
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- (15) "At retail" means for use or consumption by the purchaser and not for resale. 84067
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- (16) "Pharmacy" means an establishment, as defined in section 84069

4729.01 of the Revised Code, that is under the management or 84070
control of a licensed pharmacist in accordance with section 84071
4729.27 of the Revised Code. 84072

(17) "Enclosed shopping center" means a group of retail sales 84073
and service business establishments that face into an enclosed 84074
mall, share common ingress, egress, and parking facilities, and 84075
are situated on a tract of land that contains an area of not less 84076
than five hundred thousand square feet. "Enclosed shopping center" 84077
also includes not more than one business establishment that is 84078
located within a free-standing building on such a tract of land, 84079
so long as the sale of beer and intoxicating liquor on the tract 84080
of land was approved in an election held under former section 84081
4301.353 of the Revised Code. 84082

(18) "Controlled access alcohol and beverage cabinet" means a 84083
closed container, either refrigerated, in whole or in part, or 84084
nonrefrigerated, access to the interior of which is restricted by 84085
means of a device that requires the use of a key, magnetic card, 84086
or similar device and from which beer, intoxicating liquor, other 84087
beverages, or food may be sold. 84088

(19) "Community facility" means either of the following: 84089

(a) Any convention, sports, or entertainment facility or 84090
complex, or any combination of these, that is used by or 84091
accessible to the general public and that is owned or operated in 84092
whole or in part by the state, a state agency, or a political 84093
subdivision of the state or that is leased from, or located on 84094
property owned by or leased from, the state, a state agency, a 84095
political subdivision of the state, or a convention facilities 84096
authority created pursuant to section 351.02 of the Revised Code; 84097

(b) An area designated as a community entertainment district 84098
pursuant to section 4301.80 of the Revised Code. 84099

(20) "Low-alcohol beverage" means any brewed or fermented 84100

malt product, or any product made from the fermented juices of 84101
grapes, fruits, or other agricultural products, that contains 84102
either no alcohol or less than one-half of one per cent of alcohol 84103
by volume. The beverages described in division (B)(20) of this 84104
section do not include a soft drink such as root beer, birch beer, 84105
or ginger beer. 84106

(21) "Cider" means all liquids fit to use for beverage 84107
purposes that contain one-half of one per cent of alcohol by 84108
volume, but not more than six per cent of alcohol by weight, and 84109
that are made through the normal alcoholic fermentation of the 84110
juice of sound, ripe apples, including, without limitation, 84111
flavored, sparkling, or carbonated cider and cider made from pure 84112
condensed apple must. 84113

(22) "Sales area or territory" means an exclusive geographic 84114
area or territory that is assigned to a particular A or B permit 84115
holder and that either has one or more political subdivisions as 84116
its boundaries or consists of an area of land with readily 84117
identifiable geographic boundaries. "Sales area or territory" does 84118
not include, however, any particular retail location in an 84119
exclusive geographic area or territory that had been assigned to 84120
another A or B permit holder before April 9, 2001. 84121

Sec. 4301.12. The division of liquor control shall provide 84122
for the custody, safekeeping, and deposit of all moneys, checks, 84123
and drafts received by it or any of its employees or agents prior 84124
to paying them to the treasurer of state as provided by section 84125
113.08 of the Revised Code. 84126

A sum equal to three dollars and thirty-eight cents for each 84127
gallon of spirituous liquor sold by the division, JobsOhio, or a 84128
designee of JobsOhio during the period covered by the payment 84129
shall be paid into the state treasury to the credit of the general 84130
revenue fund. All moneys received from permit fees, except B-2a 84131

and S permit fees from B-2a and S permit holders who do not also 84132
hold A-2 permits, shall be paid to the credit of the undivided 84133
liquor permit fund established by section 4301.30 of the Revised 84134
Code. 84135

Except as otherwise provided by law, all moneys collected 84136
under Chapters 4301. and 4303. of the Revised Code shall be paid 84137
by the division into the state treasury to the credit of the 84138
liquor control fund, which is hereby created. In addition, revenue 84139
resulting from any contracts with the department of commerce 84140
pertaining to the responsibilities and operations described in 84141
this chapter may be credited to the fund. Amounts in the liquor 84142
control fund may be used to pay the operating expenses of the 84143
liquor control commission. 84144

Whenever, in the judgment of the director of budget and 84145
management, the amount in the liquor control fund is in excess of 84146
that needed to meet the maturing obligations of the division, as 84147
working capital for its further operations, to pay the operating 84148
expenses of the commission, and for the alcohol testing program 84149
under section 3701.143 of the Revised Code, the director shall 84150
transfer the excess to the credit of the general revenue fund. If 84151
the director determines that the amount in the liquor control fund 84152
is insufficient, the director may transfer money from the general 84153
revenue fund to the liquor control fund. 84154

Sec. 4301.17. (A)(1) Subject to local option as provided in 84155
sections 4301.32 to 4301.40 of the Revised Code, five state liquor 84156
stores or agencies may be established in each county. One 84157
additional store may be established in any county for each twenty 84158
thousand of population of that county or major fraction thereof in 84159
excess of the first forty thousand, according to the last 84160
preceding federal decennial census or according to the population 84161
estimates certified by the department of development between 84162

decennial censuses. A person engaged in a mercantile business may 84163
act as the agent for the division of liquor control for the sale 84164
of spirituous liquor in a municipal corporation, in the 84165
unincorporated area of a township, or in an area designated and 84166
approved as a resort area under section 4303.262 of the Revised 84167
Code. The division shall fix the compensation for such an agent in 84168
the manner it considers best, but the compensation shall not 84169
exceed seven per cent of the gross sales made by the agent in any 84170
one year. 84171

(2) The division shall adopt rules in accordance with Chapter 84172
119. of the Revised Code governing the allocation and equitable 84173
distribution of agency store contracts. The division shall comply 84174
with the rules when awarding a contract under division (A)(1) of 84175
this section. 84176

(3) Except as otherwise provided in this section, no 84177
mercantile business that sells beer or intoxicating liquor for 84178
consumption on the premises under a permit issued by the division 84179
shall operate an agency store at the premises. An agency to which 84180
a D-1 permit has been issued may offer for sale tasting samples of 84181
beer, an agency to which a D-2 permit has been issued may offer 84182
for sale tasting samples of wine and mixed beverages, and an 84183
agency to which a D-5 permit has been issued may offer for sale 84184
tasting samples of beer, wine, ~~and~~ mixed beverages, ~~but not and~~ 84185
spirituous liquor. An agency store may offer for sale tasting 84186
samples of spirituous liquor. A tasting sample shall not be sold 84187
for the purpose of general consumption. As used in this section, 84188
"tasting sample" means either of the following: 84189

(a) In the case of beer, wine, and mixed beverages, a small 84190
amount of beer, wine, or mixed beverages that is provided in not 84191
more than four servings of not more than two ounces each to an 84192
authorized purchaser and that allows the purchaser to determine, 84193
by tasting only, the quality and character of the beverage; 84194

(b) In the case of spirituous liquor, a small amount of spirituous liquor that is provided in not more than four servings of not more than a quarter ounce of spirituous liquor and one ounce of nonalcoholic mixer each to an authorized purchaser and that allows the purchaser to determine, by tasting only, the quality and character of the beverage.

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(B) When an agency contract is proposed, when an existing agency contract is assigned, when an existing agency proposes to relocate, or when an existing agency is relocated and assigned, before entering into any contract, consenting to any assignment, or consenting to any relocation, the division shall notify the legislative authority of the municipal corporation in which the agency store is to be located, or the board of county commissioners and the board of township trustees of the county and the township in which the agency store is to be located if the agency store is to be located outside the corporate limits of a municipal corporation, of the proposed contract, assignment, or relocation, and an opportunity shall be provided officials or employees of the municipal corporation or county and township for a complete hearing upon the advisability of entering into the contract or consenting to the assignment or relocation. When the division sends notice to the legislative authority of the political subdivision, the division shall notify, by certified mail or by personal service, the chief peace officer of the political subdivision, who may appear and testify, either in person or through a representative, at any hearing held on the advisability of entering into the contract or consenting to the assignment or relocation.

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If the proposed agency store, the assignment of an agency contract, or the relocation of an agency store would be located within five hundred feet of a school, church, library, public playground, or township park, the division shall not enter into an

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agency contract until it has provided notice of the proposed 84227
contract to the authorities in control of the school, church, 84228
library, public playground, or township park and has provided 84229
those authorities with an opportunity for a complete hearing upon 84230
the advisability of entering into the contract. If an agency store 84231
so located is operating under an agency contract, the division may 84232
consent to relocation of the agency store or to the assignment of 84233
that contract to operate an agency store at the same location. The 84234
division may also consent to the assignment of an existing agency 84235
contract simultaneously with the relocation of the agency store. 84236
In any such assignment or relocation, the assignee and the 84237
location shall be subject to the same requirements that the 84238
existing location met at the time that the contract was first 84239
entered into as well as any additional requirements imposed by the 84240
division in rules adopted by the superintendent of liquor control. 84241
The division shall not consent to an assignment or relocation of 84242
an agency store until it has notified the authorities in control 84243
of the school, church, library, public playground, or township 84244
park and has provided those authorities with an opportunity for a 84245
complete hearing upon the advisability of consenting to the 84246
assignment or relocation. 84247

Any hearing provided for in this division shall be held in 84248
the central office of the division, except that upon written 84249
request of the legislative authority of the municipal corporation, 84250
the board of county commissioners, the board of township trustees, 84251
or the authorities in control of the school, church, library, 84252
public playground, or township park, the hearing shall be held in 84253
the county seat of the county where the proposed agency store is 84254
to be located. 84255

(C) All agency contracts entered into by the division 84256
pursuant to this section shall be in writing and shall contain a 84257
clause providing for the termination of the contract at will by 84258

the division upon its giving ninety days' notice in writing to the 84259
agent of its intention to do so. Any agency contract may include a 84260
clause requiring the agent to report to the appropriate law 84261
enforcement agency the name and address of any individual under 84262
twenty-one years of age who attempts to make an illegal purchase. 84263

An agent may engage in the selling of beer, mixed beverages, 84264
and wine pursuant to permits issued to the agent under Chapter 84265
4303. of the Revised Code. 84266

The division shall issue a C-1 and C-2 permit to each agent 84267
who prior to November 1, 1994, had not been issued both of these 84268
permits, notwithstanding the population quota restrictions 84269
contained in section 4303.29 of the Revised Code or in any rule of 84270
the liquor control commission and notwithstanding the requirements 84271
of section 4303.31 of the Revised Code. The location of a C-1 or 84272
C-2 permit issued to such an agent shall not be transferred. The 84273
division shall revoke any C-1 or C-2 permit issued to an agent 84274
under this paragraph if the agent no longer operates an agency 84275
store. 84276

The division may enter into agreements with the department of 84277
development to implement a minority loan program to provide 84278
low-interest loans to minority business enterprises, as defined in 84279
section 122.71 of the Revised Code, that are awarded liquor agency 84280
contracts or assignments. 84281

(D) If the division closes a state liquor store and replaces 84282
that store with an agency store, any employees of the division 84283
employed at that state liquor store who lose their jobs at that 84284
store as a result shall be given preference by the agent who 84285
operates the agency store in filling any vacancies that occur 84286
among the agent's employees, if that preference does not conflict 84287
with the agent's obligations pursuant to a collective bargaining 84288
agreement. 84289

If the division closes a state liquor store and replaces the store with an agency store, any employees of the division employed at the state liquor store who lose their jobs at that store as a result may displace other employees as provided in sections 124.321 to 124.328 of the Revised Code. If an employee cannot displace other employees and is laid off, the employee shall be reinstated in another job as provided in sections 124.321 to 124.328 of the Revised Code, except that the employee's rights of reinstatement in a job at a state liquor store shall continue for a period of two years after the date of the employee's layoff and shall apply to jobs at state liquor stores located in the employee's layoff jurisdiction and any layoff jurisdiction adjacent to the employee's layoff jurisdiction.

(E) The division shall require every agent to give bond with surety to the satisfaction of the division, in the amount the division fixes, conditioned for the faithful performance of the agent's duties as prescribed by the division.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of the Revised Code:

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces.

(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale.

(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine containing

more than fourteen per cent but not more than twenty-one per cent 84321
of alcohol by volume, one dollar and eight cents per wine gallon 84322
for vermouth, and one dollar and forty-eight cents per wine gallon 84323
for sparkling and carbonated wine and champagne, the tax to be 84324
paid by the holders of A-2 and B-5 permits or by any other person 84325
selling or distributing wine upon which no tax has been paid. From 84326
the tax paid under this section on wine, vermouth, and sparkling 84327
and carbonated wine and champagne, the treasurer of state shall 84328
credit to the Ohio grape industries fund created under section 84329
924.54 of the Revised Code a sum equal to one cent per gallon for 84330
each gallon upon which the tax is paid. 84331

(C) For the purpose of providing revenues for the support of 84332
the state, there is hereby levied a tax on prepared and bottled 84333
highballs, cocktails, cordials, and other mixed beverages at the 84334
rate of one dollar and twenty cents per wine gallon to be paid by 84335
holders of A-4 permits or by any other person selling or 84336
distributing those products upon which no tax has been paid. Only 84337
one sale of the same article shall be used in computing the amount 84338
of tax due. The tax on mixed beverages to be paid by holders of 84339
A-4 permits under this section shall not attach until the 84340
ownership of the mixed beverage is transferred for valuable 84341
consideration to a wholesaler or retailer, and no payment of the 84342
tax shall be required prior to that time. 84343

(D) During the period of July 1, ~~2009~~ 2011, through June 30, 84344
~~2011~~ 2013, from the tax paid under this section on wine, vermouth, 84345
and sparkling and carbonated wine and champagne, the treasurer of 84346
state shall credit to the Ohio grape industries fund created under 84347
section 924.54 of the Revised Code a sum equal to two cents per 84348
gallon upon which the tax is paid. The amount credited under this 84349
division is in addition to the amount credited to the Ohio grape 84350
industries fund under division (B) of this section. 84351

(E) For the purpose of providing revenues for the support of 84352

the state, there is hereby levied a tax on cider at the rate of 84353
twenty-four cents per wine gallon to be paid by the holders of A-2 84354
and B-5 permits or by any other person selling or distributing 84355
cider upon which no tax has been paid. Only one sale of the same 84356
article shall be used in computing the amount of the tax due. 84357

Sec. 4301.62. (A) As used in this section: 84358

(1) "Chauffeured limousine" means a vehicle registered under 84359
section 4503.24 of the Revised Code. 84360

(2) "Street," "highway," and "motor vehicle" have the same 84361
meanings as in section 4511.01 of the Revised Code. 84362

(B) No person shall have in the person's possession an opened 84363
container of beer or intoxicating liquor in any of the following 84364
circumstances: 84365

(1) ~~In a state liquor~~ Except as provided in division (C) of 84366
this section, in an agency store; 84367

(2) Except as provided in division (C) of this section, on 84368
the premises of the holder of any permit issued by the division of 84369
liquor control; 84370

(3) In any other public place; 84371

(4) Except as provided in division (D) or (E) of this 84372
section, while operating or being a passenger in or on a motor 84373
vehicle on any street, highway, or other public or private 84374
property open to the public for purposes of vehicular travel or 84375
parking; 84376

(5) Except as provided in division (D) or (E) of this 84377
section, while being in or on a stationary motor vehicle on any 84378
street, highway, or other public or private property open to the 84379
public for purposes of vehicular travel or parking. 84380

(C)(1) A person may have in the person's possession an opened 84381

container of any of the following: 84382

(a) Beer or intoxicating liquor that has been lawfully 84383
purchased for consumption on the premises where bought from the 84384
holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, 84385
D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, 84386
D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or 84387
F-8 permit; 84388

(b) Beer, wine, or mixed beverages served for consumption on 84389
the premises by the holder of an F-3 permit or wine served for 84390
consumption on the premises by the holder of an F-4 or F-6 permit; 84391

(c) Beer or intoxicating liquor consumed on the premises of a 84392
convention facility as provided in section 4303.201 of the Revised 84393
Code; 84394

(d) Beer or intoxicating liquor to be consumed during 84395
tastings and samplings approved by rule of the liquor control 84396
commission; 84397

(e) A tasting sample of spirituous liquor, as defined in 84398
section 4301.17 of the Revised Code, to be consumed in an agency 84399
store. 84400

(2) A person may have in the person's possession on an F 84401
liquor permit premises an opened container of beer or intoxicating 84402
liquor that was not purchased from the holder of the F permit if 84403
the premises for which the F permit is issued is a music festival 84404
and the holder of the F permit grants permission for that 84405
possession on the premises during the period for which the F 84406
permit is issued. As used in this division, "music festival" means 84407
a series of outdoor live musical performances, extending for a 84408
period of at least three consecutive days and located on an area 84409
of land of at least forty acres. 84410

(3)(a) A person may have in the person's possession on a D-2 84411
liquor permit premises an opened or unopened container of wine 84412

that was not purchased from the holder of the D-2 permit if the 84413
premises for which the D-2 permit is issued is an outdoor 84414
performing arts center, the person is attending an orchestral 84415
performance, and the holder of the D-2 permit grants permission 84416
for the possession and consumption of wine in certain 84417
predesignated areas of the premises during the period for which 84418
the D-2 permit is issued. 84419

(b) As used in division (C)(3)(a) of this section: 84420

(i) "Orchestral performance" means a concert comprised of a 84421
group of not fewer than forty musicians playing various musical 84422
instruments. 84423

(ii) "Outdoor performing arts center" means an outdoor 84424
performing arts center that is located on not less than one 84425
hundred fifty acres of land and that is open for performances from 84426
the first day of April to the last day of October of each year. 84427

(4) A person may have in the person's possession an opened or 84428
unopened container of beer or intoxicating liquor at an outdoor 84429
location at which the person is attending an orchestral 84430
performance as defined in division (C)(3)(b)(i) of this section if 84431
the person with supervision and control over the performance 84432
grants permission for the possession and consumption of beer or 84433
intoxicating liquor in certain predesignated areas of that outdoor 84434
location. 84435

(5) A person may have in the person's possession on an F-9 84436
liquor permit premises an opened or unopened container of beer or 84437
intoxicating liquor that was not purchased from the holder of the 84438
F-9 permit if the person is attending an orchestral performance 84439
and the holder of the F-9 permit grants permission for the 84440
possession and consumption of beer or intoxicating liquor in 84441
certain predesignated areas of the premises during the period for 84442
which the F-9 permit is issued. 84443

As used in division (C)(5) of this section, "orchestral performance" has the same meaning as in division (C)(3)(b) of this section. 84444
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(D) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of the person, when all of the following apply: 84447
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(1) The person or guest is a passenger in the limousine. 84451

(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located. 84452
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(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking. 84455
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(E) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply: 84458
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(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with. 84462
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(2) The opened bottle of wine that is resealed in accordance with division (E)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver. 84467
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Sec. 4301.80. (A) As used in this section, "community 84473

entertainment district" means a bounded area that includes or will 84474
include a combination of entertainment, retail, educational, 84475
sporting, social, cultural, or arts establishments within close 84476
proximity to some or all of the following types of establishments 84477
within the district, or other types of establishments similar to 84478
these: 84479

- (1) Hotels; 84480
- (2) Restaurants; 84481
- (3) Retail sales establishments; 84482
- (4) Enclosed shopping centers; 84483
- (5) Museums; 84484
- (6) Performing arts theaters; 84485
- (7) Motion picture theaters; 84486
- (8) Night clubs; 84487
- (9) Convention facilities; 84488
- (10) Sports facilities; 84489
- (11) Entertainment facilities or complexes; 84490
- (12) Any combination of the establishments described in 84491
division (A)(1) to (11) of this section that provide similar 84492
services to the community. 84493

(B) Any owner of property located in a municipal corporation 84494
seeking to have that property, or that property and other 84495
surrounding property, designated as a community entertainment 84496
district shall file an application seeking this designation with 84497
the mayor of the municipal corporation in which that property is 84498
located. Any owner of property located in the unincorporated area 84499
of a township seeking to have that property, or that property and 84500
other surrounding property, designated as a community 84501
entertainment district shall file an application seeking this 84502

designation with the board of township trustees of the township in 84503
whose unincorporated area that property is located. An application 84504
to designate an area as a community entertainment district shall 84505
contain all of the following: 84506

(1) The applicant's name and address; 84507

(2) A map or survey of the proposed community entertainment 84508
district in sufficient detail to identify the boundaries of the 84509
district and the property owned by the applicant; 84510

(3) A general statement of the nature and types of 84511
establishments described in division (A) of this section that are 84512
or will be located within the proposed community improvement 84513
district and any other establishments located in the proposed 84514
community entertainment district that are not described in 84515
division (A) of this section; 84516

(4) If some or all of the establishments within the proposed 84517
community entertainment district have not yet been developed, the 84518
proposed time frame for completing the development of these 84519
establishments; 84520

(5) Evidence that the uses of land within the proposed 84521
community entertainment district are in accord with the municipal 84522
corporation's or township's master zoning plan or map; 84523

(6) A certificate from a surveyor or engineer licensed under 84524
Chapter 4733. of the Revised Code indicating that the area 84525
encompassed by the proposed community entertainment district 84526
contains no less than twenty contiguous acres; 84527

(7) A handling and processing fee to accompany the 84528
application, payable to the applicable municipal corporation or 84529
township, in an amount determined by that municipal corporation or 84530
township. 84531

(C) An application described in division (B) of this section 84532

relating to an area located in a municipal corporation shall be 84533
addressed and submitted to the mayor of the municipal corporation 84534
in which the area described in the application is located. The 84535
mayor, within thirty days after receiving the application, shall 84536
submit the application with the mayor's recommendation to the 84537
legislative authority of the municipal corporation. An application 84538
described in division (B) of this section relating to an area 84539
located in the unincorporated area of a township shall be 84540
addressed and submitted to the board of township trustees of the 84541
township in whose unincorporated area the area described in the 84542
application is located. The application is a public record for 84543
purposes of section 149.43 of the Revised Code upon its receipt by 84544
the mayor or board of township trustees. 84545

Within thirty days after it receives the application and the 84546
mayor's recommendations relating to the application, the 84547
legislative authority of the municipal corporation, by notice 84548
published once a week for two consecutive weeks in ~~at least~~ one 84549
newspaper of general circulation in the municipal corporation or 84550
as provided in section 7.16 of the Revised Code, shall notify the 84551
public that the application is on file in the office of the clerk 84552
of the municipal corporation and is available for inspection by 84553
the public during regular business hours. Within thirty days after 84554
it receives the application, the board of township trustees, by 84555
notice published once a week for two consecutive weeks in ~~at least~~ 84556
one newspaper of general circulation in the township or as 84557
provided in section 7.16 of the Revised Code, shall notify the 84558
public that the application is on file in the office of the 84559
township fiscal officer and is available for inspection by the 84560
public during regular business hours. The notice shall also 84561
indicate the date and time of any public hearing by the 84562
legislative authority or board of township trustees on the 84563
application. 84564

Within seventy-five days after the date the application is filed with the mayor of a municipal corporation, the legislative authority of the municipal corporation by ordinance or resolution shall approve or disapprove the application based on whether the proposed community entertainment district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the municipal corporation in which the community is located. Any approval of an application shall be by an affirmative majority vote of the legislative authority.

Within seventy-five days after the date the application is filed with a board of township trustees, the board by resolution shall approve or disapprove the application based on whether the proposed community entertainment district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the township in which the community is located. Any approval of an application shall be by an affirmative majority vote of the board of township trustees.

If the legislative authority or board of township trustees disapproves the application, the applicant may make changes in the application to secure its approval by the legislative authority or board of township trustees. Any area approved by the legislative authority or board of township trustees constitutes a community entertainment district, and a local option election may be conducted in the district, as a type of community facility, under section 4301.356 of the Revised Code.

(D) All or part of an area designated as a community entertainment district may lose this designation as provided in this division. The legislative authority of a municipal

corporation in which a community entertainment district is 84597
located, or the board of township trustees of the township in 84598
whose unincorporated area a community entertainment district is 84599
located, after giving notice of its proposed action by publication 84600
once a week for two consecutive weeks in ~~at least~~ one newspaper of 84601
general circulation in the municipal corporation or township or as 84602
provided in section 7.16 of the Revised Code, may determine by 84603
ordinance or resolution in the case of the legislative authority 84604
of a municipal corporation, or by resolution in the case of a 84605
board of township trustees of a township, that all or part of the 84606
area fails to meet the standards described in this section for 84607
designation of an area as a community entertainment district. If 84608
the legislative authority or board so determines, the area 84609
designated in the ordinance or resolution no longer constitutes a 84610
community entertainment district. 84611

Sec. 4301.81. (A) As used in this section: 84612

(1) "Revitalization district" means a bounded area that 84613
includes or will include a combination of entertainment, retail, 84614
educational, sporting, social, cultural, or arts establishments 84615
within close proximity to some or all of the following types of 84616
establishments within the district, or other types of 84617
establishments similar to these: 84618

(a) Hotels; 84619

(b) Restaurants; 84620

(c) Retail sales establishments; 84621

(d) Enclosed shopping centers; 84622

(e) Museums; 84623

(f) Performing arts theaters; 84624

(g) Motion picture theaters; 84625

(h) Night clubs;	84626
(i) Convention facilities;	84627
(j) Sports facilities;	84628
(k) Entertainment facilities or complexes;	84629
(1) Any combination of the establishments described in	84630
divisions (A)(1)(a) to (k) of this section that provide similar	84631
services to the community.	84632
(2) "Municipal corporation" means a municipal corporation	84633
with a population of less than one hundred thousand.	84634
(3) "Township" means a township with a population in its	84635
unincorporated area of less than one hundred thousand.	84636
(B) Any owner of property located in a municipal corporation	84637
seeking to have that property, or that property and other	84638
surrounding property, designated as a revitalization district	84639
shall file an application seeking this designation with the mayor	84640
of the municipal corporation in which that property is located.	84641
Any owner of property located in the unincorporated area of a	84642
township seeking to have that property, or that property and other	84643
surrounding property, designated as a revitalization district	84644
shall file an application seeking this designation with the board	84645
of township trustees of the township in whose unincorporated area	84646
that property is located. An application to designate an area as a	84647
revitalization district shall contain all of the following:	84648
(1) The applicant's name and address;	84649
(2) A map or survey of the proposed revitalization district	84650
in sufficient detail to identify the boundaries of the district	84651
and the property owned by the applicant;	84652
(3) A general statement of the nature and types of	84653
establishments described in division (A) of this section that are	84654
or will be located within the proposed revitalization district and	84655

any other establishments located in the proposed revitalization 84656
district that are not described in division (A) of this section; 84657

(4) If some or all of the establishments within the proposed 84658
revitalization district have not yet been developed, the proposed 84659
time frame for completing the development of these establishments; 84660

(5) Evidence that the uses of land within the proposed 84661
revitalization district are in accord with the municipal 84662
corporation's or township's master zoning plan or map; and 84663

(6) A handling and processing fee to accompany the 84664
application, payable to the applicable municipal corporation or 84665
township, in an amount determined by that municipal corporation or 84666
township. 84667

(C) An application relating to an area located in a municipal 84668
corporation shall be addressed and submitted to the mayor of the 84669
municipal corporation in which the area described in the 84670
application is located. The mayor, within thirty days after 84671
receiving the application, shall submit the application with the 84672
mayor's recommendation to the legislative authority of the 84673
municipal corporation. An application relating to an area located 84674
in the unincorporated area of a township shall be addressed and 84675
submitted to the board of township trustees of the township in 84676
whose unincorporated area the area described in the application is 84677
located. The application is a public record for purposes of 84678
section 149.43 of the Revised Code upon its receipt by the mayor 84679
or board of township trustees. 84680

Within thirty days after it receives the application and the 84681
mayor's recommendations relating to the application, the 84682
legislative authority of the municipal corporation, by notice 84683
published once a week for two consecutive weeks in ~~at least~~ one 84684
newspaper of general circulation in the municipal corporation or 84685
as provided in section 7.16 of the Revised Code, shall notify the 84686

public that the application is on file in the office of the clerk 84687
of the municipal corporation and is available for inspection by 84688
the public during regular business hours. Within thirty days after 84689
it receives the application, the board of township trustees, by 84690
notice published once a week for two consecutive weeks in ~~at least~~ 84691
one newspaper of general circulation in the township or as 84692
provided in section 7.16 of the Revised Code, shall notify the 84693
public that the application is on file in the office of the 84694
township fiscal officer and is available for inspection by the 84695
public during regular business hours. The notice shall also 84696
indicate the date and time of any public hearing by the municipal 84697
legislative authority or board of township trustees on the 84698
application. 84699

Within seventy-five days after the date the application is 84700
filed with the mayor of a municipal corporation, the legislative 84701
authority of the municipal corporation by ordinance or resolution 84702
shall approve or disapprove the application based on whether the 84703
proposed revitalization district does or will substantially 84704
contribute to entertainment, retail, educational, sporting, 84705
social, cultural, or arts opportunities for the community. The 84706
community considered shall at a minimum include the municipal 84707
corporation in which the community is located. Any approval of an 84708
application shall be by an affirmative majority vote of the 84709
legislative authority. Not more than one revitalization district 84710
shall be designated within the municipal corporation. 84711

Within seventy-five days after the date the application is 84712
filed with a board of township trustees, the board by resolution 84713
shall approve or disapprove the application based on whether the 84714
proposed revitalization district does or will substantially 84715
contribute to entertainment, retail, educational, sporting, 84716
social, cultural, or arts opportunities for the community. The 84717
community considered shall at a minimum include the township in 84718

which the community is located. Any approval of an application 84719
shall be by an affirmative majority vote of the board of township 84720
trustees. Not more than one revitalization district shall be 84721
designated within the unincorporated area of the township. 84722

If the municipal legislative authority or board of township 84723
trustees disapproves the application, the applicant may make 84724
changes in the application to secure its approval by the 84725
legislative authority or board of township trustees. Any area 84726
approved by the legislative authority or board of township 84727
trustees constitutes a revitalization district, and a local option 84728
election may be conducted in the district, as a type of community 84729
facility, under section 4301.356 of the Revised Code. 84730

(D) All or part of an area designated as a revitalization 84731
district may lose this designation as provided in this division. 84732
The legislative authority of a municipal corporation in which a 84733
revitalization district is located, or the board of township 84734
trustees of the township in whose unincorporated area a 84735
revitalization district is located, after giving notice of its 84736
proposed action by publication once a week for two consecutive 84737
weeks in ~~at least~~ one newspaper of general circulation in the 84738
municipal corporation or township or as provided in section 7.16 84739
of the Revised Code, may determine by ordinance or resolution in 84740
the case of the legislative authority of a municipal corporation, 84741
or by resolution in the case of a board of township trustees of a 84742
township, that all or part of the area fails to meet the standards 84743
described in this section for designation of an area as a 84744
revitalization district. If the legislative authority or board so 84745
determines, the area designated in the ordinance or resolution no 84746
longer constitutes a revitalization district. 84747

Sec. 4303.02. Permit A-1 may be issued to a manufacturer to 84748
manufacture beer and sell beer products in bottles or containers 84749

for home use and to retail and wholesale permit holders under 84750
rules ~~promulgated~~ adopted by the division of liquor control. In 84751
addition, an A-1 permit holder may sell beer and beer products 84752
manufactured on the premises at retail, by individual drink in a 84753
glass or from a container, for consumption on the premises where 84754
sold. The fee for this permit is three thousand nine hundred six 84755
dollars for each plant during the year covered by the permit. 84756

Sec. 4303.209. (A)(1) The division of liquor control may 84757
issue an F-9 permit to a nonprofit corporation that operates a 84758
park on property leased from a municipal corporation or a 84759
nonprofit corporation that provides or manages entertainment 84760
programming pursuant to an agreement with a nonprofit corporation 84761
that operates a park on property leased from a municipal 84762
corporation to sell beer or intoxicating liquor by the individual 84763
drink at specific events conducted within the park property and 84764
appurtenant streets, but only if, and only at times at which, the 84765
sale of beer and intoxicating liquor on the premises is otherwise 84766
permitted by law. Additionally, an F-9 permit may be issued only 84767
if the park property is located in a county that has a population 84768
of between one million one hundred thousand and one million two 84769
hundred thousand on the effective date of this section. 84770

(2) The division may issue separate F-9 permits to a 84771
nonprofit corporation that operates a park on property leased from 84772
a municipal corporation and a nonprofit corporation that provides 84773
or manages entertainment programming pursuant to an agreement with 84774
a nonprofit corporation that operates a park on property leased 84775
from a municipal corporation to be effective during the same time 84776
period. However, the permit privileges may be exercised by only 84777
one of the holders of an F-9 permit at specific events. The other 84778
holder of an F-9 permit shall certify to the division that it will 84779
not exercise its permit privileges during that specific event. 84780

(3) The premises on which an F-9 permit will be used shall be 84781
clearly defined and sufficiently restricted to allow proper 84782
supervision of the permit's use by state and local law enforcement 84783
officers. Sales under an F-9 permit shall be confined to the same 84784
hours permitted to the holder of a D-3 permit. 84785

(4) The fee for an F-9 permit is one thousand seven hundred 84786
dollars. An F-9 permit is effective for a period not to exceed 84787
nine months as specified in the permit. An F-9 permit is not 84788
transferable or renewable. However, the holder of an F-9 permit 84789
may apply for a new F-9 permit at any time. The holder of an F-9 84790
permit shall make sales only at those specific events about which 84791
the permit holder has notified in advance the division of liquor 84792
control, the department of public safety, and the chief, sheriff, 84793
or other principal peace officer of the local law enforcement 84794
agencies having jurisdiction over the premises. 84795

(B)(1) An application for the issuance of an F-9 permit is 84796
subject to the notice and hearing requirements established in 84797
division (A) of section 4303.26 of the Revised Code. 84798

(2) The liquor control commission shall adopt rules under 84799
Chapter 119. of the Revised Code necessary to administer this 84800
section. 84801

(C) No F-9 permit holder shall sell beer or intoxicating 84802
liquor beyond the hours of sale allowed by the permit. This 84803
division imposes strict liability on the holder of an F-9 permit 84804
and on any officer, agent, or employee of that permit holder. 84805

Sec. 4313.01. As used in this chapter: 84806

(A) "Enterprise acquisition project" means, as applicable, 84807
all or any portion of the capital or other assets of the 84808
spirituous liquor distribution and merchandising operations of the 84809
division of liquor control, including, without limitation, 84810

inventory, real property rights, equipment, furnishings, the 84811
spirituous liquor distribution system including transportation, 84812
the monetary management system, warehouses, contract rights, 84813
rights to take assignment of contracts and related receipts and 84814
revenues, accounts receivable, the exclusive right to manage and 84815
control spirituous liquor distribution and merchandising and to 84816
sell spirituous liquor in the state subject to the control of the 84817
division of liquor control pursuant to the terms of the transfer 84818
agreement, and all necessary appurtenances thereto, or leasehold 84819
interests therein, and the assets and liabilities of the 84820
facilities establishment fund. 84821

(B) "JobsOhio" means the nonprofit corporation formed under 84822
section 187.01 of the Revised Code and includes any subsidiary of 84823
that corporation unless otherwise specified or clearly implied 84824
from the context, together with any successor or assignee of that 84825
corporation or any such subsidiary if and to the extent permitted 84826
by the transfer agreement or Chapter 187. of the Revised Code. 84827

(C) "Spirituous liquor profits" means all receipts 84828
representing the gross profit on the sale of spirituous liquor, as 84829
referred to in division (B)(4) of section 4301.10 of the Revised 84830
Code, less the costs, expenses, and working capital provided for 84831
therein, but excluding the sum required by the second paragraph of 84832
section 4301.12 of the Revised Code, as in effect on May 2, 1980, 84833
to be paid into the state treasury, provided that from and after 84834
the initial transfer of the enterprise acquisition project to 84835
JobsOhio and until the transfer back to the state under division 84836
(D) of section 4313.02 of the Revised Code, the reference in 84837
division (B)(4) of section 4301.10 of the Revised Code to all 84838
costs and expenses of the division and also an adequate working 84839
capital reserve for the division shall be to all costs and 84840
expenses of JobsOhio and providing an adequate working capital 84841
reserve for JobsOhio. 84842

(D) "Transfer" means an assignment and sale, conveyance, granting of a franchise, lease, or transfer of all or an interest. 84843
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(E) "Transfer agreement" means the agreement entered into between the state and JobsOhio providing for the transfer of the enterprise acquisition project pursuant to section 4313.02 of the Revised Code and any amendments or supplements thereto. 84845
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Sec. 4313.02. (A) The state may transfer to JobsOhio, and JobsOhio may accept the transfer of, all or a portion of the enterprise acquisition project for a transfer price payable by JobsOhio to the state. Any such transfer shall be treated as an absolute conveyance and true sale of the interest in the enterprise acquisition project purported to be conveyed for all purposes, and not as a pledge or other security interest. The characterization of any such transfer as a true sale and absolute conveyance shall not be negated or adversely affected by the acquisition or retention by the state of a residual interest in the enterprise acquisition project, the participation of any state officer or employee as a member or officer of, or provision of staff support to, JobsOhio, any responsibility an officer or employee of the state may have to collect amounts to be received by JobsOhio from the enterprise acquisition project, or the retention of the state of any legal title to or interest in any portion of the enterprise acquisition project for the purpose of these collection activities, or any characterization of JobsOhio or obligations of JobsOhio under accounting, taxation, or securities regulations, or any other reason whatsoever. An absolute conveyance and true sale or lease shall exist under this section regardless of whether JobsOhio has any recourse against the state or the treatment or characterization of the transfer as a financing for any purpose. Upon and following the transfer, the state shall not have any right, title, or interest in the enterprise acquisition project so transferred other than any 84849
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residual interest that may be described in the transfer agreement 84875
pursuant to the following paragraph and division (D) of this 84876
section. Any determination of the fair market value of the 84877
enterprise acquisition project reflected in the transfer agreement 84878
shall be conclusive and binding on the state and JobsOhio. 84879

Any transfer of the enterprise acquisition project that is a 84880
lease or grant of a franchise shall be for a term not to exceed 84881
twenty-five years. Any transfer of the enterprise acquisition 84882
project that is an assignment and sale, conveyance, or other 84883
transfer shall contain a provision that the state shall have the 84884
option to have conveyed or transferred back to it, at no cost, the 84885
enterprise acquisition project, as it then exists, no later than 84886
twenty-five years after the original transfer authorized in the 84887
transfer agreement on such other terms as shall be provided in the 84888
transfer agreement. 84889

The exercise of the powers granted by this section will be 84890
for the benefit of the people of the state. As the services 84891
performed by JobsOhio will constitute the performance of essential 84892
government functions, all or any portion of the enterprise 84893
acquisition project transferred pursuant to the transfer agreement 84894
that would be exempt from real property taxes or assessments or 84895
real property taxes or assessments in the absence of such transfer 84896
shall, as it may from time to time exist thereafter, remain exempt 84897
from real property taxes or assessments levied by the state and 84898
its subdivisions to the same extent as if not transferred. The 84899
gross receipts and income of JobsOhio derived from the enterprise 84900
acquisition project shall be exempt from taxation levied by the 84901
state and its subdivisions, including, but not limited to, the 84902
taxes levied pursuant to Chapters 718., 5739., 5741., 5747., and 84903
5751. of the Revised Code. Any transfer from the state to JobsOhio 84904
of the enterprise acquisition project, or item included or to be 84905
included in the project, shall be exempt from the taxes levied 84906

pursuant to Chapters 5739. and 5741. of the Revised Code. 84907

(B) The proceeds of any transfer under division (A) of this section may be expended as provided in the transfer agreement for any one or more of the following purposes: 84908
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(1) Funding, payment, or defeasance of outstanding bonds issued pursuant to Chapters 151. and 166. of the Revised Code and secured by pledged liquor profits as defined in section 151.40 of the Revised Code; 84911
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(2) Deposit into the general revenue fund; 84915

(3) Deposit into the clean Ohio revitalization fund created pursuant to section 122.658 of the Revised Code, the innovation Ohio loan fund created pursuant to section 166.16 of the Revised Code, the research and development loan fund created pursuant to section 166.20 of the Revised Code, the logistics and distribution infrastructure fund created pursuant to section 166.26 of the Revised Code, the advanced energy research and development fund created pursuant to section 3706.27 of the Revised Code, and the advanced energy research and development taxable fund created pursuant to section 3706.27 of the Revised Code; 84916
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(4) Conveyance to JobsOhio for the purposes for which it was created. 84926
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(C)(1) The state may covenant, pledge, and agree in the transfer agreement, with and for the benefit of JobsOhio, that it shall maintain statutory authority for the enterprise acquisition project and the revenues of the enterprise acquisition project and not otherwise materially impair any obligations supported by a pledge of revenues of the enterprise acquisition project. The transfer agreement may provide or authorize the manner for determining material impairment of the security for any such outstanding obligations, including by assessing and evaluating the revenues of the enterprise acquisition project. 84928
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(2) The governor, director of development, director of 84938
commerce, and director of budget and management may, without need 84939
for any other approval, take any action and execute any documents, 84940
including any transfer agreements, necessary to effect the 84941
transfer and the acceptance of the transfer of the enterprise 84942
acquisition project. The director of budget and management, 84943
director of commerce, and director of development may also, 84944
without need for any other approval, retain or contract for the 84945
services of commercial appraisers, underwriters, investment 84946
bankers, and financial advisers, as are necessary in their 84947
judgment to effect the transfer agreement. Any transfer agreement 84948
may contain terms and conditions established by the state to carry 84949
out and effectuate the purposes of this section, including, 84950
without limitation, covenants binding the state in favor of 84951
JobsOhio. Any such transfer agreement shall be sufficient to 84952
effectuate the transfer without regard to any other laws governing 84953
other property sales or financial transactions by the state. The 84954
director of budget and management may create any funds or 84955
accounts, within or without the state treasury, as are needed for 84956
the transactions and activities authorized by this section. 84957

(3) The transfer agreement may authorize JobsOhio to sell, 84958
lease, release, or otherwise dispose of real and personal property 84959
or interests therein, or a combination thereof, acquired by 84960
JobsOhio under this section and no longer needed for the purposes 84961
of this chapter, the enterprise acquisition project, or JobsOhio, 84962
and to grant such easements and other interests and rights in, 84963
over, under, or across all or a portion of the enterprise 84964
acquisition project as will not interfere with its use of such 84965
property. Such sale, lease, release, disposition, or grant may be 84966
made without competitive bidding and in such manner and for such 84967
consideration as JobsOhio in its judgment deems appropriate. 84968
Subject to the provisions of the first sentence of this paragraph, 84969
ownership of the interest in the enterprise acquisition project 84970

that is transferred to JobsOhio under this section and the 84971
transfer agreement shall be maintained in JobsOhio or a nonprofit 84972
entity the sole member of which is JobsOhio until the enterprise 84973
acquisition project is transferred back to the state pursuant to 84974
the second paragraph of division (A) and division (D) of this 84975
section. 84976

(D) The transfer agreement may authorize JobsOhio to fix, 84977
alter, and collect rentals and other charges for the use and 84978
occupancy of all or any portion of the enterprise acquisition 84979
project and to lease any portion of the enterprise acquisition 84980
project to others, and shall include a contract with, or the 84981
granting of an option to, the state to have the enterprise 84982
acquisition project, as it then exists, transferred back to it 84983
without charge in accordance with the terms of the transfer 84984
agreement after retirement or redemption, or provision therefor, 84985
of all obligations supported by a pledge of spirituous liquor 84986
profits. 84987

(E) JobsOhio, the director of budget and management, the 84988
director of commerce, and the director of development may also, 84989
without need for any other approval, enter into a contract, which 84990
may be part of the transfer agreement, for the continuing 84991
operation by the division of liquor control of spirituous liquor 84992
distribution and merchandising subject to standards for 84993
performance provided in that contract that may relate to or 84994
support division (C)(1) of this section. The contract may 84995
establish other terms and conditions for the assignment of duties 84996
to, and the provision of advice, services, and other assistance 84997
by, the division of liquor control, including providing for the 84998
necessary staffing and payment by JobsOhio of appropriate 84999
compensation to the division for the performance of such duties 85000
and the provision of such advice, services, and other assistance. 85001
The provisions of, and activities under, any such contract are 85002

subject to the requirements of, and limitations established under, 85003
divisions (A)(1), (3), and (5) and (B)(4) of section 4301.10 and 85004
section 4301.17 of the Revised Code. 85005

(F) The transfer agreement shall require JobsOhio to pay for 85006
the operations of the division of liquor control with regard to 85007
the spirituous liquor merchandising operations of the division. 85008
The payments from JobsOhio shall be deposited into the state 85009
treasury to the credit of the liquor control fund created in 85010
section 4301.12 of the Revised Code. 85011

Sec. 4503.03. (A)(1)(a) The registrar of motor vehicles may 85012
designate the county auditor in each county a deputy registrar. If 85013
the population of a county is forty thousand or less according to 85014
the last federal census and if the county auditor is designated by 85015
the registrar as a deputy registrar, no other person need be 85016
designated in the county to act as a deputy registrar. 85017

(b) The registrar may designate a clerk of a court of common 85018
pleas as a deputy registrar if the population of the county is 85019
forty thousand or less according to the last federal census. In a 85020
county with a population greater than forty thousand but not more 85021
than fifty thousand according to the last federal census, the 85022
clerk of a court of common pleas is eligible to act as a deputy 85023
registrar and may participate in the competitive selection process 85024
for the award of a deputy registrar contract by applying in the 85025
same manner as any other person. All fees collected and retained 85026
by a clerk for conducting deputy registrar services shall be paid 85027
into the county treasury to the credit of the certificate of title 85028
administration fund created under section 325.33 of the Revised 85029
Code. 85030

(c) In all other instances, the registrar shall contract with 85031
one or more other persons in each county to act as deputy 85032
registrars. Notwithstanding the county population restrictions in 85033

division (A)(1)(b) of this section, if no person applies to act 85034
under contract as a deputy registrar in a county and the county 85035
auditor is not designated as a deputy registrar, the registrar may 85036
ask the clerk of a court of common pleas to serve as the deputy 85037
registrar for that county. 85038

(2) Deputy registrars shall accept applications for the 85039
annual license tax for any vehicle not taxed under section 4503.63 85040
of the Revised Code and shall assign distinctive numbers in the 85041
same manner as the registrar. Such deputies shall be located in 85042
such locations in the county as the registrar sees fit. There 85043
shall be at least one deputy registrar in each county. 85044

Deputy registrar contracts are subject to the provisions of 85045
division (B) of section 125.081 of the Revised Code. 85046

(B) The registrar shall not contract with any person to act 85047
as a deputy registrar if the person or, where applicable, the 85048
person's spouse or a member of the person's immediate family has 85049
made, within the current calendar year or any one of the previous 85050
three calendar years, one or more contributions totaling in excess 85051
of one hundred dollars to any person or entity included in 85052
division (A)(2) of section 4503.033 of the Revised Code. As used 85053
in this division, "immediate family" has the same meaning as in 85054
division (D) of section 102.01 of the Revised Code, and "entity" 85055
includes any political party and any "continuing association" as 85056
defined in division (B)(4) of section 3517.01 of the Revised Code 85057
or "political action committee" as defined in division (B)(8) of 85058
that section that is primarily associated with that political 85059
party. For purposes of this division, contributions to any 85060
continuing association or any political action committee that is 85061
primarily associated with a political party shall be aggregated 85062
with contributions to that political party. 85063

The contribution limitations contained in this division do 85064
not apply to any county auditor or clerk of a court of common 85065

pleas. A county auditor or clerk of a court of common pleas is not 85066
required to file the disclosure statement or pay the filing fee 85067
required under section 4503.033 of the Revised Code. The 85068
limitations of this division also do not apply to a deputy 85069
registrar who, subsequent to being awarded a deputy registrar 85070
contract, is elected to an office of a political subdivision. 85071

The registrar shall not contract with either of the following 85072
to act as a deputy registrar: 85073

(1) Any elected public official other than a county auditor 85074
or, as authorized by division (A)(1)(b) of this section, a clerk 85075
of a court of common pleas, acting in an official capacity, except 85076
that, the registrar shall continue and may renew a contract with 85077
any deputy registrar who, subsequent to being awarded a deputy 85078
registrar contract, is elected to an office of a political 85079
subdivision; 85080

(2) Any person holding a current, valid contract to conduct 85081
motor vehicle inspections under section 3704.14 of the Revised 85082
Code. 85083

As used in division (B) of this section, "political 85084
subdivision" has the same meaning as in section 3501.01 of the 85085
Revised Code. 85086

(C)(1) Except as provided in division (C)(2) of this section, 85087
deputy registrars are independent contractors and neither they nor 85088
their employees are employees of this state, except that nothing 85089
in this section shall affect the status of county auditors or 85090
clerks of courts of common pleas as public officials, nor the 85091
status of their employees as employees of any of the counties of 85092
this state, which are political subdivisions of this state. Each 85093
deputy registrar shall be responsible for the payment of all 85094
unemployment compensation premiums, all workers' compensation 85095
premiums, social security contributions, and any and all taxes for 85096

which the deputy registrar is legally responsible. Each deputy registrar shall comply with all applicable federal, state, and local laws requiring the withholding of income taxes or other taxes from the compensation of the deputy registrar's employees. Each deputy registrar shall maintain during the entire term of the deputy registrar's contract a policy of business liability insurance satisfactory to the registrar and shall hold the department of public safety, the director of public safety, the bureau of motor vehicles, and the registrar harmless upon any and all claims for damages arising out of the operation of the deputy registrar agency.

(2) For purposes of Chapter 4141. of the Revised Code, determinations concerning the employment of deputy registrars and their employees shall be made under Chapter 4141. of the Revised Code.

(D)(1) With the approval of the director, the registrar shall adopt rules governing the terms of the contract between the registrar and each deputy registrar and specifications for the services to be performed. The rules shall include specifications relating to the amount of bond to be given as provided in this section; the size and location of the deputy's office; and the leasing of equipment necessary to conduct the vision screenings required under section 4507.12 of the Revised Code and training in the use of the equipment. The specifications shall permit and encourage every deputy registrar to inform the public of the location of the deputy registrar's office and hours of operation by means of public service announcements and allow any deputy registrar to advertise in regard to the operation of the deputy registrar's office. The rules also shall include specifications for the hours the deputy's office is to be open to the public and shall require as a minimum that one deputy's office in each county be open to the public for at least four hours each weekend,

provided that if only one deputy's office is located within the 85129
boundary of the county seat, that office is the office that shall 85130
be open for the four-hour period each weekend, and that every 85131
deputy's office in each county shall be open to the public until 85132
six-thirty p.m. on at least one weeknight each week. The rules 85133
also shall include specifications providing that every deputy in 85134
each county, upon request, provide any person with information 85135
about the location and office hours of all deputy registrars in 85136
the county and that every deputy prominently display within the 85137
deputy's office, the toll-free telephone number of the bureau. The 85138
rules shall not prohibit the award of a deputy registrar contract 85139
to a nonprofit corporation formed under the laws of this state. 85140
The rules shall prohibit any deputy registrar from operating more 85141
than one such office at any time, except that the rules may permit 85142
a nonprofit corporation formed for the purposes of providing 85143
automobile-related services to its members or the public and that 85144
provides such services from more than one location in this state 85145
to operate a deputy registrar office at any such location, 85146
provided that the nonprofit corporation operates no more than one 85147
deputy registrar office in any one county. The rules may include 85148
such other specifications as the registrar and director consider 85149
necessary to provide a high level of service. 85150

~~The rules shall establish procedures for a deputy registrar 85151
who requests such authority to collect reinstatement fees under 85152
sections 4507.1612, 4507.45, 4509.101, 4509.81, 4510.10, 4510.22, 85153
4510.72, and 4511.191 of the Revised Code and to transmit the 85154
reinstatement fees and two dollars of the service fee collected 85155
under those sections. The registrar shall ensure that, not later 85156
than January 1, 2012, at least one deputy registrar in each county 85157
has the necessary equipment and is able to accept reinstatement 85158
fees. The registrar shall deposit the service fees received from a 85159
deputy registrar under those sections into the state bureau of 85160
motor vehicles fund created in section 4501.25 of the Revised Code 85161~~

~~and shall use the money for deputy registrar equipment necessary~~ 85162
~~in connection with accepting reinstatement fees.~~ 85163

(2) As a daily adjustment, the bureau of motor vehicles shall 85164
credit to a deputy registrar three dollars and fifty cents for 85165
each damaged license plate or validation sticker the deputy 85166
registrar replaces as a service to a member of the public. 85167

(3) With the prior approval of the registrar, each deputy 85168
registrar may conduct at the location of the deputy registrar's 85169
office any business that is consistent with the functions of a 85170
deputy registrar and that is not specifically mandated or 85171
authorized by this or another chapter of the Revised Code or by 85172
implementing rules of the registrar. 85173

In accordance with guidelines the director of public safety 85174
shall establish, a deputy registrar may operate or contract for 85175
the operation of a vending machine at a deputy registrar location 85176
if products of the vending machine are consistent with the 85177
functions of a deputy registrar. 85178

(4) As used in this section and in section 4507.01 of the 85179
Revised Code, "nonprofit corporation" has the same meaning as in 85180
section 1702.01 of the Revised Code. 85181

(E) Unless otherwise terminated and except for interim 85182
contracts of less than one year, contracts with deputy registrars 85183
shall be for a term of at least two years, but no more than three 85184
years, and all contracts effective on or after July 1, 1996, shall 85185
be for a term of more than two years, but not more than three 85186
years. All contracts with deputy registrars shall expire on the 85187
last Saturday of June in the year of their expiration. The auditor 85188
of state may examine the accounts, reports, systems, and other 85189
data of each deputy registrar at least every two years. The 85190
registrar, with the approval of the director, shall immediately 85191
remove a deputy who violates any provision of the Revised Code 85192

related to the duties as a deputy, any rule adopted by the registrar, or a term of the deputy's contract with the registrar. The registrar also may remove a deputy who, in the opinion of the registrar, has engaged in any conduct that is either unbecoming to one representing this state or is inconsistent with the efficient operation of the deputy's office.

If the registrar, with the approval of the director, determines that there is good cause to believe that a deputy registrar or a person proposing for a deputy registrar contract has engaged in any conduct that would require the denial or termination of the deputy registrar contract, the registrar may require the production of books, records, and papers as the registrar determines are necessary, and may take the depositions of witnesses residing within or outside the state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the registrar may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where the witness resides or is found. Such a subpoena shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fees and mileage shall be paid from the fund in the state treasury for the use of the agency in the same manner as other expenses of the agency are paid.

In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which the witness lawfully may be interrogated, the court of common pleas of any county where the disobedience, neglect, or refusal occurs or any judge of that court, on

application by the registrar, shall compel obedience by attachment 85225
proceedings for contempt, as in the case of disobedience of the 85226
requirements of a subpoena issued from that court, or a refusal to 85227
testify in that court. 85228

Nothing in this division shall be construed to require a 85229
hearing of any nature prior to the termination of any deputy 85230
registrar contract by the registrar, with the approval of the 85231
director, for cause. 85232

(F) Except as provided in section 2743.03 of the Revised 85233
Code, no court, other than the court of common pleas of Franklin 85234
county, has jurisdiction of any action against the department of 85235
public safety, the director, the bureau, or the registrar to 85236
restrain the exercise of any power or authority, or to entertain 85237
any action for declaratory judgment, in the selection and 85238
appointment of, or contracting with, deputy registrars. Neither 85239
the department, the director, the bureau, nor the registrar is 85240
liable in any action at law for damages sustained by any person 85241
because of any acts of the department, the director, the bureau, 85242
or the registrar, or of any employee of the department or bureau, 85243
in the performance of official duties in the selection and 85244
appointment of, and contracting with, deputy registrars. 85245

(G) The registrar shall assign to each deputy registrar a 85246
series of numbers sufficient to supply the demand at all times in 85247
the area the deputy registrar serves, and the registrar shall keep 85248
a record in the registrar's office of the numbers within the 85249
series assigned. Each deputy shall be required to give bond in the 85250
amount of at least twenty-five thousand dollars, or in such higher 85251
amount as the registrar determines necessary, based on a uniform 85252
schedule of bond amounts established by the registrar and 85253
determined by the volume of registrations handled by the deputy. 85254
The form of the bond shall be prescribed by the registrar. The 85255
bonds required of deputy registrars, in the discretion of the 85256

registrar, may be individual or schedule bonds or may be included 85257
in any blanket bond coverage carried by the department. 85258

(H) Each deputy registrar shall keep a file of each 85259
application received by the deputy and shall register that motor 85260
vehicle with the name and address of its owner. 85261

(I) Upon request, a deputy registrar shall make the physical 85262
inspection of a motor vehicle and issue the physical inspection 85263
certificate required in section 4505.061 of the Revised Code. 85264

(J) Each deputy registrar shall file a report ~~semi-annually~~ 85265
semiannually with the registrar of motor vehicles listing the 85266
number of applicants for licenses the deputy has served, the 85267
number of voter registration applications the deputy has completed 85268
and transmitted to the board of elections, and the number of voter 85269
registration applications declined. 85270

Sec. 4503.06. (A) The owner of each manufactured or mobile 85271
home that has acquired situs in this state shall pay either a real 85272
property tax pursuant to Title LVII of the Revised Code or a 85273
manufactured home tax pursuant to division (C) of this section. 85274

(B) The owner of a manufactured or mobile home shall pay real 85275
property taxes if either of the following applies: 85276

(1) The manufactured or mobile home acquired situs in the 85277
state or ownership in the home was transferred on or after January 85278
1, 2000, and all of the following apply: 85279

(a) The home is affixed to a permanent foundation as defined 85280
in division (C)(5) of section 3781.06 of the Revised Code. 85281

(b) The home is located on land that is owned by the owner of 85282
the home. 85283

(c) The certificate of title has been inactivated by the 85284
clerk of the court of common pleas that issued it, pursuant to 85285
division (H) of section 4505.11 of the Revised Code. 85286

(2) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred before January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code.

(b) The home is located on land that is owned by the owner of the home.

(c) The owner of the home has elected to have the home taxed as real property and, pursuant to section 4505.11 of the Revised Code, has surrendered the certificate of title to the auditor of the county containing the taxing district in which the home has its situs, together with proof that all taxes have been paid.

(d) The county auditor has placed the home on the real property tax list and delivered the certificate of title to the clerk of the court of common pleas that issued it and the clerk has inactivated the certificate.

(C)(1) Any mobile or manufactured home that is not taxed as real property as provided in division (B) of this section is subject to an annual manufactured home tax, payable by the owner, for locating the home in this state. The tax as levied in this section is for the purpose of supplementing the general revenue funds of the local subdivisions in which the home has its situs pursuant to this section.

(2) The year for which the manufactured home tax is levied commences on the first day of January and ends on the following thirty-first day of December. The state shall have the first lien on any manufactured or mobile home on the list for the amount of taxes, penalties, and interest charged against the owner of the home under this section. The lien of the state for the tax for a year shall attach on the first day of January to a home that has acquired situs on that date. The lien for a home that has not

acquired situs on the first day of January, but that acquires 85318
situs during the year, shall attach on the next first day of 85319
January. The lien shall continue until the tax, including any 85320
penalty or interest, is paid. 85321

(3)(a) The situs of a manufactured or mobile home located in 85322
this state on the first day of January is the local taxing 85323
district in which the home is located on that date. 85324

(b) The situs of a manufactured or mobile home not located in 85325
this state on the first day of January, but located in this state 85326
subsequent to that date, is the local taxing district in which the 85327
home is located thirty days after it is acquired or first enters 85328
this state. 85329

(4) The tax is collected by and paid to the county treasurer 85330
of the county containing the taxing district in which the home has 85331
its situs. 85332

(D) The manufactured home tax shall be computed and assessed 85333
by the county auditor of the county containing the taxing district 85334
in which the home has its situs as follows: 85335

(1) On a home that acquired situs in this state prior to 85336
January 1, 2000: 85337

(a) By multiplying the assessable value of the home by the 85338
tax rate of the taxing district in which the home has its situs, 85339
and deducting from the product thus obtained any reduction 85340
authorized under section 4503.065 of the Revised Code. The tax 85341
levied under this formula shall not be less than thirty-six 85342
dollars, unless the home qualifies for a reduction in assessable 85343
value under section 4503.065 of the Revised Code, in which case 85344
there shall be no minimum tax and the tax shall be the amount 85345
calculated under this division. 85346

(b) The assessable value of the home shall be forty per cent 85347
of the amount arrived at by the following computation: 85348

(i) If the cost to the owner, or market value at time of purchase, whichever is greater, of the home includes the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year			85349
in which the			85350
home is owned by the			85351
current owner	x	80%	85352
2nd calendar year	x	75%	85353
3rd "	x	70%	85354
4th "	x	65%	85355
5th "	x	60%	85356
6th "	x	55%	85357
7th "	x	50%	85358
8th "	x	45%	85359
9th "	x	40%	85360
10th and each year thereafter	x	35%	85361

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(ii) If the cost to the owner, or market value at the time of purchase, whichever is greater, of the home does not include the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year			85366
in which the			85367
home is owned by the			85368
current owner	x	95%	85369
2nd calendar year	x	90%	85370
3rd "	x	85%	85371
4th "	x	80%	85372
5th "	x	75%	85373

6th "	x	70%	85381
7th "	x	65%	85382
8th "	x	60%	85383
9th "	x	55%	85384
10th and each year thereafter	x	50%	85385

The first calendar year means any period between the first 85386
day of January and the thirty-first day of December of the first 85387
year. 85388

(2) On a home in which ownership was transferred or that 85389
first acquired situs in this state on or after January 1, 2000: 85390

(a) By multiplying the assessable value of the home by the 85391
effective tax rate, as defined in section 323.08 of the Revised 85392
Code, for residential real property of the taxing district in 85393
which the home has its situs, and deducting from the product thus 85394
obtained the reductions required or authorized under section 85395
319.302, division (B) of section 323.152, or section 4503.065 of 85396
the Revised Code. 85397

(b) The assessable value of the home shall be thirty-five per 85398
cent of its true value as determined under division (L) of this 85399
section. 85400

(3) On or before the fifteenth day of January each year, the 85401
county auditor shall record the assessable value and the amount of 85402
tax on the manufactured or mobile home on the tax list and deliver 85403
a duplicate of the list to the county treasurer. In the case of an 85404
emergency as defined in section 323.17 of the Revised Code, the 85405
tax commissioner, by journal entry, may extend the times for 85406
delivery of the duplicate for an additional fifteen days upon 85407
receiving a written application from the county auditor regarding 85408
an extension for the delivery of the duplicate, or from the county 85409
treasurer regarding an extension of the time for the billing and 85410
collection of taxes. The application shall contain a statement 85411
describing the emergency that will cause the unavoidable delay and 85412

must be received by the tax commissioner on or before the last day 85413
of the month preceding the day delivery of the duplicate is 85414
otherwise required. When an extension is granted for delivery of 85415
the duplicate, the time period for payment of taxes shall be 85416
extended for a like period of time. When a delay in the closing of 85417
a tax collection period becomes unavoidable, the tax commissioner, 85418
upon application by the county auditor and county treasurer, may 85419
order the time for payment of taxes to be extended if the tax 85420
commissioner determines that penalties have accrued or would 85421
otherwise accrue for reasons beyond the control of the taxpayers 85422
of the county. The order shall prescribe the final extended date 85423
for payment of taxes for that collection period. 85424

(4) After January 1, 1999, the owner of a manufactured or 85425
mobile home taxed pursuant to division (D)(1) of this section may 85426
elect to have the home taxed pursuant to division (D)(2) of this 85427
section by filing a written request with the county auditor of the 85428
taxing district in which the home is located on or before the 85429
first day of December of any year. Upon the filing of the request, 85430
the county auditor shall determine whether all taxes levied under 85431
division (D)(1) of this section have been paid, and if those taxes 85432
have been paid, the county auditor shall tax the manufactured or 85433
mobile home pursuant to division (D)(2) of this section commencing 85434
in the next tax year. 85435

(5) A manufactured or mobile home that acquired situs in this 85436
state prior to January 1, 2000, shall be taxed pursuant to 85437
division (D)(2) of this section if no manufactured home tax had 85438
been paid for the home and the home was not exempted from taxation 85439
pursuant to division (E) of this section for the year for which 85440
the taxes were not paid. 85441

(6)(a) Immediately upon receipt of any manufactured home tax 85442
duplicate from the county auditor, but not less than twenty days 85443
prior to the last date on which the first one-half taxes may be 85444

paid without penalty as prescribed in division (F) of this 85445
section, the county treasurer shall cause to be prepared and 85446
mailed or delivered to each person charged on that duplicate with 85447
taxes, or to an agent designated by such person, the tax bill 85448
prescribed by the tax commissioner under division (D)(7) of this 85449
section. When taxes are paid by installments, the county treasurer 85450
shall mail or deliver to each person charged on such duplicate or 85451
the agent designated by that person a second tax bill showing the 85452
amount due at the time of the second tax collection. The second 85453
half tax bill shall be mailed or delivered at least twenty days 85454
prior to the close of the second half tax collection period. A 85455
change in the mailing address of any tax bill shall be made in 85456
writing to the county treasurer. Failure to receive a bill 85457
required by this section does not excuse failure or delay to pay 85458
any taxes shown on the bill or, except as provided in division 85459
(B)(1) of section 5715.39 of the Revised Code, avoid any penalty, 85460
interest, or charge for such delay. 85461

(b) After delivery of the copy of the delinquent manufactured 85462
home tax list under division (H) of this section, the county 85463
treasurer may prepare and mail to each person in whose name a home 85464
is listed an additional tax bill showing the total amount of 85465
delinquent taxes charged against the home as shown on the list. 85466
The tax bill shall include a notice that the interest charge 85467
prescribed by division (G) of this section has begun to accrue. 85468

(7) Each tax bill prepared and mailed or delivered under 85469
division (D)(6) of this section shall be in the form and contain 85470
the information required by the tax commissioner. The commissioner 85471
may prescribe different forms for each county and may authorize 85472
the county auditor to make up tax bills and tax receipts to be 85473
used by the county treasurer. The tax bill shall not contain or be 85474
mailed or delivered with any information or material that is not 85475
required by this section or that is not authorized by section 85476

321.45 of the Revised Code or by the tax commissioner. In addition 85477
to the information required by the commissioner, each tax bill 85478
shall contain the following information: 85479

(a) The taxes levied and the taxes charged and payable 85480
against the manufactured or mobile home; 85481

(b) The following notice: "Notice: If the taxes are not paid 85482
within sixty days after the county auditor delivers the delinquent 85483
manufactured home tax list to the county treasurer, you and your 85484
home may be subject to collection proceedings for tax 85485
delinquency." Failure to provide such notice has no effect upon 85486
the validity of any tax judgment to which a home may be subjected. 85487

(c) In the case of manufactured or mobile homes taxed under 85488
division (D)(2) of this section, the following additional 85489
information: 85490

(i) The effective tax rate. The words "effective tax rate" 85491
shall appear in boldface type. 85492

(ii) The following notice: "Notice: If the taxes charged 85493
against this home have been reduced by the 2-1/2 per cent tax 85494
reduction for residences occupied by the owner but the home is not 85495
a residence occupied by the owner, the owner must notify the 85496
county auditor's office not later than March 31 of the year for 85497
which the taxes are due. Failure to do so may result in the owner 85498
being convicted of a fourth degree misdemeanor, which is 85499
punishable by imprisonment up to 30 days, a fine up to \$250, or 85500
both, and in the owner having to repay the amount by which the 85501
taxes were erroneously or illegally reduced, plus any interest 85502
that may apply. 85503

If the taxes charged against this home have not been reduced 85504
by the 2-1/2 per cent tax reduction and the home is a residence 85505
occupied by the owner, the home may qualify for the tax reduction. 85506
To obtain an application for the tax reduction or further 85507

information, the owner may contact the county auditor's office at 85508
..... (insert the address and telephone number of the county 85509
auditor's office)." 85510

(E)(1) A manufactured or mobile home is not subject to this 85511
section when any of the following applies: 85512

(a) It is taxable as personal property pursuant to section 85513
5709.01 of the Revised Code. Any manufactured or mobile home that 85514
is used as a residence shall be subject to this section and shall 85515
not be taxable as personal property pursuant to section 5709.01 of 85516
the Revised Code. 85517

(b) It bears a license plate issued by any state other than 85518
this state unless the home is in this state in excess of an 85519
accumulative period of thirty days in any calendar year. 85520

(c) The annual tax has been paid on the home in this state 85521
for the current year. 85522

(d) The tax commissioner has determined, pursuant to section 85523
5715.27 of the Revised Code, that the property is exempt from 85524
taxation, or would be exempt from taxation under Chapter 5709. of 85525
the Revised Code if it were classified as real property. 85526

(2) A travel trailer or park trailer, as these terms are 85527
defined in section 4501.01 of the Revised Code, is not subject to 85528
this section if it is unused or unoccupied and stored at the 85529
owner's normal place of residence or at a recognized storage 85530
facility. 85531

(3) A travel trailer or park trailer, as these terms are 85532
defined in section 4501.01 of the Revised Code, is subject to this 85533
section and shall be taxed as a manufactured or mobile home if it 85534
has a situs longer than thirty days in one location and is 85535
connected to existing utilities, unless either of the following 85536
applies: 85537

(a) The situs is in a state facility or a camping or park area as defined in division (C), (Q), (S), or (V) of section 3729.01 of the Revised Code. 85538
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(b) The situs is in a camping or park area that is a tract of land that has been limited to recreational use by deed or zoning restrictions and subdivided for sale of five or more individual lots for the express or implied purpose of occupancy by either self-contained recreational vehicles as defined in division (T) of section 3729.01 of the Revised Code or by dependent recreational vehicles as defined in division (D) of section 3729.01 of the Revised Code. 85541
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(F) Except as provided in division (D)(3) of this section, the manufactured home tax is due and payable as follows: 85549
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(1) When a manufactured or mobile home has a situs in this state, as provided in this section, on the first day of January, one-half of the amount of the tax is due and payable on or before the first day of March and the balance is due and payable on or before the thirty-first day of July. At the option of the owner of the home, the tax for the entire year may be paid in full on the first day of March. 85551
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(2) When a manufactured or mobile home first acquires a situs in this state after the first day of January, no tax is due and payable for that year. 85558
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(G)(1)(a) Except as otherwise provided in division (G)(1)(b) of this section, if one-half of the current taxes charged under this section against a manufactured or mobile home, together with the full amount of any delinquent taxes, are not paid on or before the first day of March in that year, or on or before the last day for such payment as extended pursuant to section 4503.063 of the Revised Code, a penalty of ten per cent shall be charged against the unpaid balance of such half of the current taxes. If the total 85561
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amount of all such taxes is not paid on or before the thirty-first 85569
day of July, next thereafter, or on or before the last day for 85570
payment as extended pursuant to section 4503.063 of the Revised 85571
Code, a like penalty shall be charged on the balance of the total 85572
amount of the unpaid current taxes. 85573

(b) After a valid delinquent tax contract that includes 85574
unpaid current taxes from a first-half collection period described 85575
in division (F) of this section has been entered into under 85576
section 323.31 of the Revised Code, no ten per cent penalty shall 85577
be charged against such taxes after the second-half collection 85578
period while the delinquent tax contract remains in effect. On the 85579
day a delinquent tax contract becomes void, the ten per cent 85580
penalty shall be charged against such taxes and shall equal the 85581
amount of penalty that would have been charged against unpaid 85582
current taxes outstanding on the date on which the second-half 85583
penalty would have been charged thereon under division (G)(1)(a) 85584
of this section if the contract had not been in effect. 85585

(2)(a) On the first day of the month following the last day 85586
the second installment of taxes may be paid without penalty 85587
beginning in 2000, interest shall be charged against and computed 85588
on all delinquent taxes other than the current taxes that became 85589
delinquent taxes at the close of the last day such second 85590
installment could be paid without penalty. The charge shall be for 85591
interest that accrued during the period that began on the 85592
preceding first day of December and ended on the last day of the 85593
month that included the last date such second installment could be 85594
paid without penalty. The interest shall be computed at the rate 85595
per annum prescribed by section 5703.47 of the Revised Code and 85596
shall be entered as a separate item on the delinquent manufactured 85597
home tax list compiled under division (H) of this section. 85598

(b) On the first day of December beginning in 2000, the 85599
interest shall be charged against and computed on all delinquent 85600

taxes. The charge shall be for interest that accrued during the 85601
period that began on the first day of the month following the last 85602
date prescribed for the payment of the second installment of taxes 85603
in the current year and ended on the immediately preceding last 85604
day of November. The interest shall be computed at the rate per 85605
annum prescribed by section 5703.47 of the Revised Code and shall 85606
be entered as a separate item on the delinquent manufactured home 85607
tax list. 85608

(c) After a valid undertaking has been entered into for the 85609
payment of any delinquent taxes, no interest shall be charged 85610
against such delinquent taxes while the undertaking remains in 85611
effect in compliance with section 323.31 of the Revised Code. If a 85612
valid undertaking becomes void, interest shall be charged against 85613
the delinquent taxes for the periods that interest was not 85614
permitted to be charged while the undertaking was in effect. The 85615
interest shall be charged on the day the undertaking becomes void 85616
and shall equal the amount of interest that would have been 85617
charged against the unpaid delinquent taxes outstanding on the 85618
dates on which interest would have been charged thereon under 85619
divisions (G)(1) and (2) of this section had the undertaking not 85620
been in effect. 85621

(3) If the full amount of the taxes due at either of the 85622
times prescribed by division (F) of this section is paid within 85623
ten days after such time, the county treasurer shall waive the 85624
collection of and the county auditor shall remit one-half of the 85625
penalty provided for in this division for failure to make that 85626
payment by the prescribed time. 85627

(4) The treasurer shall compile and deliver to the county 85628
auditor a list of all tax payments the treasurer has received as 85629
provided in division (G)(3) of this section. The list shall 85630
include any information required by the auditor for the remission 85631
of the penalties waived by the treasurer. The taxes so collected 85632

shall be included in the settlement next succeeding the settlement 85633
then in process. 85634

(H)(1) ~~Beginning in 2000, the~~ The county auditor shall 85635
compile annually a "delinquent manufactured home tax list" 85636
consisting of homes the county treasurer's records indicate have 85637
taxes that were not paid within the time prescribed by divisions 85638
(D)(3) and (F) of this section, have taxes that remain unpaid from 85639
prior years, or have unpaid tax penalties or interest that have 85640
been assessed. 85641

(2) Within thirty days after the settlement under division 85642
(H)(2) of section 321.24 of the Revised Code ~~beginning in 2000,~~ 85643
the county auditor shall deliver a copy of the delinquent 85644
manufactured home tax list to the county treasurer. The auditor 85645
shall update and publish the delinquent manufactured home tax list 85646
annually in the same manner as delinquent real property tax lists 85647
are published. The county auditor ~~shall~~ may apportion the cost of 85648
publishing the list among taxing districts in proportion to the 85649
amount of delinquent manufactured home taxes so published that 85650
each taxing district is entitled to receive upon collection of 85651
those taxes, or the county auditor may charge the owner of a home 85652
on the list a flat fee established under section 319.54 of the 85653
Revised Code for the cost of publishing the list and, if the fee 85654
is not paid, may place the fee upon the delinquent manufactured 85655
home tax list as a lien on the listed home, to be collected as 85656
other manufactured home taxes. 85657

(3) When taxes, penalties, or interest are charged against a 85658
person on the delinquent manufactured home tax list and are not 85659
paid within sixty days after the list is delivered to the county 85660
treasurer, the county treasurer shall, in addition to any other 85661
remedy provided by law for the collection of taxes, penalties, and 85662
interest, enforce collection of such taxes, penalties, and 85663
interest by civil action in the name of the treasurer against the 85664

owner for the recovery of the unpaid taxes following the 85665
procedures for the recovery of delinquent real property taxes in 85666
sections 323.25 to 323.28 of the Revised Code. The action may be 85667
brought in municipal or county court, provided the amount charged 85668
does not exceed the monetary limitations for original jurisdiction 85669
for civil actions in those courts. 85670

It is sufficient, having made proper parties to the suit, for 85671
the county treasurer to allege in the treasurer's bill of 85672
particulars or petition that the taxes stand chargeable on the 85673
books of the county treasurer against such person, that they are 85674
due and unpaid, and that such person is indebted in the amount of 85675
taxes appearing to be due the county. The treasurer need not set 85676
forth any other matter relating thereto. If it is found on the 85677
trial of the action that the person is indebted to the state, 85678
judgment shall be rendered in favor of the county treasurer 85679
prosecuting the action. The judgment debtor is not entitled to the 85680
benefit of any law for stay of execution or exemption of property 85681
from levy or sale on execution in the enforcement of the judgment. 85682

Upon the filing of an entry of confirmation of sale or an 85683
order of forfeiture in a proceeding brought under this division, 85684
title to the manufactured or mobile home shall be in the 85685
purchaser. The clerk of courts shall issue a certificate of title 85686
to the purchaser upon presentation of proof of filing of the entry 85687
of confirmation or order and, in the case of a forfeiture, 85688
presentation of the county auditor's certificate of sale. 85689

(I) The total amount of taxes collected shall be distributed 85690
in the following manner: four per cent shall be allowed as 85691
compensation to the county auditor for the county auditor's 85692
service in assessing the taxes; two per cent shall be allowed as 85693
compensation to the county treasurer for the services the county 85694
treasurer renders as a result of the tax levied by this section. 85695
Such amounts shall be paid into the county treasury, to the credit 85696

of the county general revenue fund, on the warrant of the county auditor. Fees to be paid to the credit of the real estate assessment fund shall be collected pursuant to division (C) of section 319.54 of the Revised Code and paid into the county treasury, on the warrant of the county auditor. The balance of the taxes collected shall be distributed among the taxing subdivisions of the county in which the taxes are collected and paid in the same ratio as those taxes were collected for the benefit of the taxing subdivision. The taxes levied and revenues collected under this section shall be in lieu of any general property tax and any tax levied with respect to the privilege of using or occupying a manufactured or mobile home in this state except as provided in sections 4503.04 and 5741.02 of the Revised Code.

(J) An agreement to purchase or a bill of sale for a manufactured home shall show whether or not the furnishings and equipment are included in the purchase price.

(K) If the county treasurer and the county prosecuting attorney agree that an item charged on the delinquent manufactured home tax list is uncollectible, they shall certify that determination and the reasons to the county board of revision. If the board determines the amount is uncollectible, it shall certify its determination to the county auditor, who shall strike the item from the list.

(L)(1) The county auditor shall appraise at its true value any manufactured or mobile home in which ownership is transferred or which first acquires situs in this state on or after January 1, 2000, and any manufactured or mobile home the owner of which has elected, under division (D)(4) of this section, to have the home taxed under division (D)(2) of this section. The true value shall include the value of the home, any additions, and any fixtures, but not any furnishings in the home. In determining the true value of a manufactured or mobile home, the auditor shall consider all

facts and circumstances relating to the value of the home, 85729
including its age, its capacity to function as a residence, any 85730
obsolete characteristics, and other factors that may tend to prove 85731
its true value. 85732

(2)(a) If a manufactured or mobile home has been the subject 85733
of an arm's length sale between a willing seller and a willing 85734
buyer within a reasonable length of time prior to the 85735
determination of true value, the county auditor shall consider the 85736
sale price of the home to be the true value for taxation purposes. 85737

(b) The sale price in an arm's length transaction between a 85738
willing seller and a willing buyer shall not be considered the 85739
true value of the home if either of the following occurred after 85740
the sale: 85741

(i) The home has lost value due to a casualty. 85742

(ii) An addition or fixture has been added to the home. 85743

(3) The county auditor shall have each home viewed and 85744
appraised at least once in each six-year period in the same year 85745
in which real property in the county is appraised pursuant to 85746
Chapter 5713. of the Revised Code, and shall update the appraised 85747
values in the third calendar year following the appraisal. The 85748
person viewing or appraising a home may enter the home to 85749
determine by actual view any additions or fixtures that have been 85750
added since the last appraisal. In conducting the appraisals and 85751
establishing the true value, the auditor shall follow the 85752
procedures set forth for appraising real property in sections 85753
5713.01 and 5713.03 of the Revised Code. 85754

(4) The county auditor shall place the true value of each 85755
home on the manufactured home tax list upon completion of an 85756
appraisal. 85757

(5)(a) If the county auditor changes the true value of a 85758
home, the auditor shall notify the owner of the home in writing, 85759

delivered by mail or in person. The notice shall be given at least 85760
thirty days prior to the issuance of any tax bill that reflects 85761
the change. Failure to receive the notice does not invalidate any 85762
proceeding under this section. 85763

(b) Any owner of a home or any other person or party listed 85764
in division (A)(1) of section 5715.19 of the Revised Code may file 85765
a complaint against the true value of the home as appraised under 85766
this section. The complaint shall be filed with the county auditor 85767
on or before the thirty-first day of March of the current tax year 85768
or the date of closing of the collection for the first half of 85769
manufactured home taxes for the current tax year, whichever is 85770
later. The auditor shall present to the county board of revision 85771
all complaints filed with the auditor under this section. The 85772
board shall hear and investigate the complaint and may take action 85773
on it as provided under sections 5715.11 to 5715.19 of the Revised 85774
Code. 85775

(c) If the county board of revision determines, pursuant to a 85776
complaint against the valuation of a manufactured or mobile home 85777
filed under this section, that the amount of taxes, assessments, 85778
or other charges paid was in excess of the amount due based on the 85779
valuation as finally determined, then the overpayment shall be 85780
refunded in the manner prescribed in section 5715.22 of the 85781
Revised Code. 85782

(d) Payment of all or part of a tax under this section for 85783
any year for which a complaint is pending before the county board 85784
of revision does not abate the complaint or in any way affect the 85785
hearing and determination thereof. 85786

(M) If the county auditor determines that any tax or other 85787
charge or any part thereof has been erroneously charged as a 85788
result of a clerical error as defined in section 319.35 of the 85789
Revised Code, the county auditor shall call the attention of the 85790
county board of revision to the erroneous charges. If the board 85791

finds that the taxes or other charges have been erroneously 85792
charged or collected, it shall certify the finding to the auditor. 85793
Upon receipt of the certification, the auditor shall remove the 85794
erroneous charges on the manufactured home tax list or delinquent 85795
manufactured home tax list in the same manner as is prescribed in 85796
section 319.35 of the Revised Code for erroneous charges against 85797
real property, and refund any erroneous charges that have been 85798
collected, with interest, in the same manner as is prescribed in 85799
section 319.36 of the Revised Code for erroneous charges against 85800
real property. 85801

(N) As used in this section and section 4503.061 of the 85802
Revised Code: 85803

(1) "Manufactured home taxes" includes taxes, penalties, and 85804
interest charged under division (C) or (G) of this section and any 85805
penalties charged under division (G) or (H)(5) of section 4503.061 85806
of the Revised Code. 85807

(2) "Current taxes" means all manufactured home taxes charged 85808
against a manufactured or mobile home that have not appeared on 85809
the manufactured home tax list for any prior year. Current taxes 85810
become delinquent taxes if they remain unpaid after the last day 85811
prescribed for payment of the second installment of current taxes 85812
without penalty, whether or not they have been certified 85813
delinquent. 85814

(3) "Delinquent taxes" means: 85815

(a) Any manufactured home taxes that were charged against a 85816
manufactured or mobile home for a prior year, including any 85817
penalties or interest charged for a prior year and the costs of 85818
publication under division (H)(2) of this section, and that remain 85819
unpaid; 85820

(b) Any current manufactured home taxes charged against a 85821
manufactured or mobile home that remain unpaid after the last day 85822

prescribed for payment of the second installment of current taxes 85823
without penalty, whether or not they have been certified 85824
delinquent, including any penalties or interest and the costs of 85825
publication under division (H)(2) of this section. 85826

Sec. 4503.061. (A) All manufactured and mobile homes shall be 85827
listed on either the real property tax list or the manufactured 85828
home tax list of the county in which the home has situs. Each 85829
owner shall follow the procedures in this section to identify the 85830
home to the county auditor of the county containing the taxing 85831
district in which the home has situs so that the auditor may place 85832
the home on the appropriate tax list. 85833

(B) When a manufactured or mobile home first acquires situs 85834
in this state and is subject to real property taxation pursuant to 85835
division (B)(1) or (2) of section 4503.06 of the Revised Code, the 85836
owner shall present to the auditor of the county containing the 85837
taxing district in which the home has its situs the certificate of 85838
title for the home, together with proof that all taxes due have 85839
been paid and proof that a relocation notice was obtained for the 85840
home if required under this section. Upon receiving the 85841
certificate of title and the required proofs, the auditor shall 85842
place the home on the real property tax list and proceed to treat 85843
the home as other properties on that list. After the auditor has 85844
placed the home on the tax list of real and public utility 85845
property, the auditor shall deliver the certificate of title to 85846
the clerk of the court of common pleas that issued it pursuant to 85847
section 4505.11 of the Revised Code, and the clerk shall 85848
inactivate the certificate of title. 85849

(C)(1) When a manufactured or mobile home subject to a 85850
manufactured home tax is relocated to or first acquires situs in 85851
any county that has adopted a permanent manufactured home 85852
registration system, as provided in division (F) of this section, 85853

the owner, within thirty days after the home is relocated or first 85854
acquires situs under section 4503.06 of the Revised Code, shall 85855
register the home with the county auditor of the county containing 85856
the taxing district in which the home has its situs. For the first 85857
registration in each county of situs, the owner or vendee in 85858
possession shall present to the county auditor an Ohio certificate 85859
of title, certified copy of the certificate of title, or 85860
memorandum certificate of title as such are required by law, and 85861
proof, as required by the county auditor, that the home, if it has 85862
previously been occupied and is being relocated, has been 85863
previously registered, that all taxes due and required to be paid 85864
under division (H)(1) of this section before a relocation notice 85865
may be issued have been paid, and that a relocation notice was 85866
obtained for the home if required by division (H) of this section. 85867
If the owner or vendee does not possess the Ohio certificate of 85868
title, certified copy of the certificate of title, or memorandum 85869
certificate of title at the time the owner or vendee first 85870
registers the home in a county, the county auditor shall register 85871
the home without presentation of the document, but the owner or 85872
vendee shall present the certificate of title, certified copy of 85873
the certificate of title, or memorandum certificate of title to 85874
the county auditor within fourteen days after the owner or vendee 85875
obtains possession of the document. 85876

(2) When a manufactured or mobile home is registered for the 85877
first time in a county and when the total tax due has been paid as 85878
required by division (F) of section 4503.06 of the Revised Code or 85879
divisions (E) and (H) of this section, the county treasurer shall 85880
note by writing or by a stamp on the certificate of title, 85881
certified copy of certificate of title, or memorandum certificate 85882
of title that the home has been registered and that the taxes due, 85883
if any, have been paid for the preceding five years and for the 85884
current year. The treasurer shall then issue a certificate 85885
evidencing registration and a decal to be displayed on the street 85886

side of the home. The certificate is valid in any county in this 85887
state during the year for which it is issued. 85888

(3) For each year thereafter, the county treasurer shall 85889
issue a tax bill stating the amount of tax due under section 85890
4503.06 of the Revised Code, as provided in division (D)(6) of 85891
that section. When the total tax due has been paid as required by 85892
division (F) of that section, the county treasurer shall issue a 85893
certificate evidencing registration that shall be valid in any 85894
county in this state during the year for which the certificate is 85895
issued. 85896

(4) The permanent decal issued under this division is valid 85897
during the period of ownership, except that when a manufactured 85898
home is relocated in another county the owner shall apply for a 85899
new registration as required by this section and section 4503.06 85900
of the Revised Code. 85901

(D)(1) All owners of manufactured or mobile homes subject to 85902
the manufactured home tax being relocated to or having situs in a 85903
county that has not adopted a permanent registration system, as 85904
provided in division (F) of this section, shall register the home 85905
within thirty days after the home is relocated or first acquires 85906
situs under section 4503.06 of the Revised Code and thereafter 85907
shall annually register the home with the county auditor of the 85908
county containing the taxing district in which the home has its 85909
situs. 85910

(2) Upon the annual registration, the county treasurer shall 85911
issue a tax bill stating the amount of annual manufactured home 85912
tax due under section 4503.06 of the Revised Code, as provided in 85913
division (D)(6) of that section. When a manufactured or mobile 85914
home is registered and when the tax for the current one-half year 85915
has been paid as required by division (F) of that section, the 85916
county treasurer shall issue a certificate evidencing registration 85917
and a decal. The certificate and decal are valid in any county in 85918

this state during the year for which they are issued. The decal 85919
shall be displayed on the street side of the home. 85920

(3) For the first annual registration in each county of 85921
situs, the county auditor shall require the owner or vendee to 85922
present an Ohio certificate of title, certified copy of the 85923
certificate of title, or memorandum certificate of title as such 85924
are required by law, and proof, as required by the county auditor, 85925
that the manufactured or mobile home has been previously 85926
registered, if such registration was required, that all taxes due 85927
and required to be paid under division (H)(1) of this section 85928
before a relocation notice may be issued have been paid, and that 85929
a relocation notice was obtained for the home if required by 85930
division (H) of this section. If the owner or vendee does not 85931
possess the Ohio certificate of title, certified copy of the 85932
certificate of title, or memorandum certificate of title at the 85933
time the owner or vendee first registers the home in a county, the 85934
county auditor shall register the home without presentation of the 85935
document, but the owner or vendee shall present the certificate of 85936
title, certified copy of the certificate of title, or memorandum 85937
certificate of title to the county auditor within fourteen days 85938
after the owner or vendee obtains possession of the document. When 85939
the county treasurer receives the tax payment, the county 85940
treasurer shall note by writing or by a stamp on the certificate 85941
of title, certified copy of the certificate of title, or 85942
memorandum certificate of title that the home has been registered 85943
for the current year and that the manufactured home taxes due, if 85944
any, have been paid for the preceding five years and for the 85945
current year. 85946

(4) For subsequent annual registrations, the auditor may 85947
require the owner or vendee in possession to present an Ohio 85948
certificate of title, certified copy of the certificate of title, 85949
or memorandum certificate of title to the county treasurer upon 85950

payment of the manufactured home tax that is due. 85951

(E)(1) Upon the application to transfer ownership of a 85952
manufactured or mobile home for which manufactured home taxes are 85953
paid pursuant to division (C) of section 4503.06 of the Revised 85954
Code the clerk of the court of common pleas shall not issue any 85955
certificate of title that does not contain or have attached both 85956
of the following: 85957

(a) An endorsement of the county treasurer stating that the 85958
home has been registered for each year of ownership and that all 85959
manufactured home taxes imposed pursuant to section 4503.06 of the 85960
Revised Code have been paid or that no tax is due; 85961

(b) An endorsement of the county auditor that the 85962
manufactured home transfer tax imposed pursuant to section 322.06 85963
of the Revised Code and any fees imposed under division (G) of 85964
section 319.54 of the Revised Code have been paid. 85965

(2) If all the taxes have not been paid, the clerk shall 85966
notify the vendee to contact the county treasurer of the county 85967
containing the taxing district in which the home has its situs at 85968
the time of the proposed transfer. The county treasurer shall then 85969
collect all the taxes that are due for the year of the transfer 85970
and all previous years not exceeding a total of five years. The 85971
county treasurer shall distribute that part of the collection owed 85972
to the county treasurer of other counties if the home had its 85973
situs in another county during a particular year when the unpaid 85974
tax became due and payable. The burden to prove the situs of the 85975
home in the years that the taxes were not paid is on the 85976
transferor of the home. Upon payment of the taxes, the county 85977
auditor shall remove all remaining taxes from the manufactured 85978
home tax list and the delinquent manufactured home tax list, and 85979
the county treasurer shall release all liens for such taxes. The 85980
clerk of courts shall issue a certificate of title, free and clear 85981
of all liens for manufactured home taxes, to the transferee of the 85982

home. 85983

(3) Once the transfer is complete and the certificate of 85984
title has been issued, the transferee shall register the 85985
manufactured or mobile home pursuant to division (C) or (D) of 85986
this section with the county auditor of the county containing the 85987
taxing district in which the home remains after the transfer or, 85988
if the home is relocated to another county, with the county 85989
auditor of the county to which the home is relocated. The 85990
transferee need not pay the annual tax for the year of acquisition 85991
if the original owner has already paid the annual tax for that 85992
year. 85993

(F) The county auditor may adopt a permanent registration 85994
system and issue a permanent decal with the first registration as 85995
prescribed by the tax commissioner. 85996

(G) When any manufactured or mobile home required to be 85997
registered by this section is not registered, the county auditor 85998
shall impose a penalty of one hundred dollars upon the owner and 85999
deposit the amount to the credit of the county real estate 86000
assessment fund to be used to pay the costs of administering this 86001
section and section 4503.06 of the Revised Code. If unpaid, the 86002
penalty shall constitute a lien on the home and shall be added by 86003
the county auditor to the manufactured home tax list for 86004
collection. 86005

(H)(1) Except as otherwise provided in this division, before 86006
moving a manufactured or mobile home on public roads from one 86007
address within this state to another address within or outside 86008
this state, the owner of the home shall obtain a relocation 86009
notice, as provided by this section, from the auditor of the 86010
county in which the home is located if the home is currently 86011
subject to taxation pursuant to section 4503.06 of the Revised 86012
Code. The auditor shall charge five dollars for the notice, and 86013
deposit the amount to the credit of the county real estate 86014

assessment fund to be used to pay the costs of administering this 86015
section and section 4503.06 of the Revised Code. The auditor shall 86016
not issue a relocation notice unless all taxes owed on the home 86017
under section 4503.06 of the Revised Code that were first charged 86018
to the home during the period of ownership of the owner seeking 86019
the relocation notice have been paid. If the home is being moved 86020
by a new owner of the home or by a party taking repossession of 86021
the home, the auditor shall not issue a relocation notice unless 86022
all of the taxes due for the preceding five years and for the 86023
current year have been paid. A relocation notice issued by a 86024
county auditor is valid until the last day of December of the year 86025
in which it was issued. 86026

If the home is being moved by a sheriff, police officer, 86027
constable, bailiff, or manufactured home park operator, as defined 86028
in section ~~3733.01~~ 4781.01 of the Revised Code, or any agent of 86029
any of these persons, for purposes of removal from a manufactured 86030
home park and storage, sale, or destruction under section 1923.14 86031
of the Revised Code, the auditor shall issue a relocation notice 86032
without requiring payment of any taxes owed on the home under 86033
section 4503.06 of the Revised Code. 86034

(2) If a manufactured or mobile home is not yet subject to 86035
taxation under section 4503.06 of the Revised Code, the owner of 86036
the home shall obtain a relocation notice from the dealer of the 86037
home. Within thirty days after the manufactured or mobile home is 86038
purchased, the dealer of the home shall provide the auditor of the 86039
county in which the home is to be located written notice of the 86040
name of the purchaser of the home, the registration number or 86041
vehicle identification number of the home, and the address or 86042
location to which the home is to be moved. The county auditor 86043
shall provide to each manufactured and mobile home dealer, without 86044
charge, a supply of relocation notices to be distributed to 86045
purchasers pursuant to this section. 86046

(3) The notice shall be in the form of a one-foot square yellow sign with the words "manufactured home relocation notice" printed prominently on it. The name of the owner of the home, the home's registration number or vehicle identification number, the county and the address or location to which the home is being moved, and the county in which the notice is issued shall also be entered on the notice.

(4) The relocation notice must be attached to the rear of the home when the home is being moved on a public road. Except as provided in divisions (H)(1) and (5) of this section, no person shall drive a motor vehicle moving a manufactured or mobile home on a public road from one address to another address within this state unless a relocation notice is attached to the rear of the home.

(5) If the county auditor determines that a manufactured or mobile home has been moved without a relocation notice as required under this division, the auditor shall impose a penalty of one hundred dollars upon the owner of the home and upon the person who moved the home and deposit the amount to the credit of the county real estate assessment fund to pay the costs of administering this section and section 4503.06 of the Revised Code. If the home was relocated from one county in this state to another county in this state and the county auditor of the county to which the home was relocated imposes the penalty, that county auditor, upon collection of the penalty, shall cause an amount equal to the penalty to be transmitted from the county real estate assessment fund to the county auditor of the county from which the home was relocated, who shall deposit the amount to the credit of the county real estate assessment fund. If the penalty on the owner is unpaid, the penalty shall constitute a lien on the home and the auditor shall add the penalty to the manufactured home tax list for collection. If the county auditor determines that a dealer

that has sold a manufactured or mobile home has failed to timely 86079
provide the information required under this division, the auditor 86080
shall impose a penalty upon the dealer in the amount of one 86081
hundred dollars. The penalty shall be credited to the county real 86082
estate assessment fund and used to pay the costs of administering 86083
this section and section 4503.06 of the Revised Code. 86084

(I) Whoever violates division (H)(4) of this section is 86085
guilty of a minor misdemeanor. 86086

Sec. 4503.062. (A) Every operator of a manufactured home 86087
court, or manufactured home park, as defined in section ~~3733.01~~ 86088
4781.01 of the Revised Code, or when there is no operator, every 86089
owner of property used for such purposes on which three or more 86090
manufactured or mobile homes are located, shall keep a register of 86091
all manufactured and mobile homes that make use of the court, 86092
park, or property. The register shall contain all of the 86093
following: 86094

(1) The name of the owner and all inhabitants of each home; 86095

(2) The ages of all inhabitants of each home; 86096

(3) The permanent and temporary post office addresses of all 86097
inhabitants of each home; 86098

(4) The license number of each home; 86099

(5) The state issuing each such license; 86100

(6) The date of arrival and of departure of each home; 86101

(7) The make and model of each home, if known and if either 86102
of the following applies: 86103

(a) The home enters the court, park, or property on or after 86104
January 1, 2003. 86105

(b) Ownership of the home in the court or park, or on the 86106
property, is transferred on or after January 1, 2003. 86107

(B) The register shall be open to inspection by the county auditor, the county treasurer, agents of the auditor or treasurer, and all law enforcement agencies at all times.

(C) Any person who fails to comply with this section shall be fined not less than twenty-five nor more than one hundred dollars.

Sec. 4503.235. (A) If division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code requires a court, as part of the sentence of an offender who is convicted of or pleads guilty to a violation of division (A) of section 4511.19 of the Revised Code or as a sanction for an offender who is convicted of or pleaded guilty to a violation of a municipal OVI ordinance, to order the immobilization of a vehicle for a specified period of time, notwithstanding the requirement, the court in its discretion may determine not to order the immobilization of the vehicle if both of the following apply:

(1) Prior to the issuance of the order of immobilization, a family or household member of the offender files a motion with the court identifying the vehicle and requesting that the immobilization order not be issued on the ground that the family or household member is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle would be an undue hardship to the family or household member.

(2) The court determines that the family or household member who files the motion is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle would be an undue hardship to the family or household member.

(B) If a court pursuant to division (A) of this section determines not to order the immobilization of a vehicle that otherwise would be required pursuant to division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code, the court shall issue an order that waives the

immobilization that otherwise would be required pursuant to either 86139
of those divisions. The immobilization waiver order shall be in 86140
effect for the period of time for which the immobilization of the 86141
vehicle otherwise would have been required under division (G) of 86142
section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the 86143
Revised Code if the immobilization waiver order had not been 86144
issued, subject to division (D) of this section. The 86145
immobilization waiver order shall specify the period of time for 86146
which it is in effect. The court shall provide a copy of an 86147
immobilization waiver order to the offender and to the family or 86148
household member of the offender who filed the motion requesting 86149
that the immobilization order not be issued and shall place a copy 86150
of the immobilization waiver order in the record in the case. The 86151
court shall impose an immobilization waiver fee in the amount of 86152
fifty dollars. The court shall determine whether the fee is to be 86153
paid by the offender or by the family or household member. The 86154
clerk of the court shall deposit all of the fees collected during 86155
a month on or before the twenty-third day of the following month 86156
into the county or municipal indigent drivers alcohol treatment 86157
fund under the control of that court, as created by the county or 86158
municipal corporation under division (F) of section 4511.191 of 86159
the Revised Code. 86160

(C) If a court pursuant to division (B) of this section 86161
issues an immobilization waiver order, the order shall identify 86162
the family or household member who requested the order and the 86163
vehicle to which the order applies, shall identify the family or 86164
household members who are permitted to operate the vehicle, and 86165
shall identify the offender and specify that the offender is not 86166
permitted to operate the vehicle. The immobilization waiver order 86167
shall require that the family or household member display on the 86168
vehicle to which the order applies restricted license plates that 86169
are issued under section 4503.231 of the Revised Code for the 86170
entire period for which the immobilization of the vehicle 86171

otherwise would have been required under division (G) of section 86172
4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code 86173
if the immobilization waiver order had not been issued. 86174

(D) A family or household member who is permitted to operate 86175
a vehicle under an immobilization waiver order issued under this 86176
section shall not permit the offender to operate the vehicle. If a 86177
family or household member who is permitted to operate a vehicle 86178
under an immobilization waiver order issued under this section 86179
permits the offender to operate the vehicle, both of the following 86180
apply: 86181

(1) The court that issued the immobilization waiver order 86182
shall terminate that order and shall issue an immobilization order 86183
in accordance with section 4503.233 of the Revised Code that 86184
applies to the vehicle, and the immobilization order shall be in 86185
effect for the remaining period of time for which the 86186
immobilization of the vehicle otherwise would have been required 86187
under division (G) of section 4511.19 or division ~~(B)~~(C) of 86188
section 4511.193 of the Revised Code if the immobilization waiver 86189
order had not been issued. 86190

(2) The conduct of the family or household member in 86191
permitting the offender to operate the vehicle is a violation of 86192
section 4511.203 of the Revised Code. 86193

(E) No offender shall operate a motor vehicle subject to an 86194
immobilization waiver order. Whoever violates this division is 86195
guilty of operating a motor vehicle in violation of an 86196
immobilization waiver, a misdemeanor of the first degree. 86197

(F) "Family or household member" has the same meaning as in 86198
section 2919.25 of the Revised Code, except that the person must 86199
be currently residing with the offender. 86200

Sec. 4503.70. The owner or lessee of any passenger car, 86201

noncommercial motor vehicle, recreational vehicle, or other 86202
vehicle of a class approved by the registrar of motor vehicles who 86203
is a member in good standing of the grand lodge of free and 86204
accepted masons of Ohio may apply to the registrar for the 86205
registration of the vehicle and issuance of freemason license 86206
plates. The application for freemason license plates may be 86207
combined with a request for a special reserved license plate under 86208
section 4503.40 or 4503.42 of the Revised Code. Upon receipt of 86209
the completed application, presentation by the applicant of 86210
satisfactory evidence showing that the applicant is a member in 86211
good standing of the grand lodge of free and accepted masons of 86212
Ohio, and compliance by the applicant with this section, the 86213
registrar shall issue to the applicant the appropriate vehicle 86214
registration and a set of freemason license plates with a 86215
validation sticker or a validation sticker alone when required by 86216
section 4503.191 of the Revised Code. 86217

In addition to the letters and numbers ordinarily inscribed 86218
thereon, freemason license plates shall be inscribed with 86219
identifying words and a symbol or logo designed by the grand lodge 86220
of free and accepted masons of Ohio and approved by the registrar. 86221
Freemason license plates shall bear county identification stickers 86222
that identify the county of registration by name or number. 86223

Freemason license plates and validation stickers shall be 86224
issued upon payment of the regular license fee required by section 86225
4503.04 of the Revised Code, payment of any local motor vehicle 86226
license tax levied under Chapter 4504. of the Revised Code, 86227
payment of an additional fee of ten dollars, and compliance with 86228
all other applicable laws relating to the registration of motor 86229
vehicles. If the application for freemason license plates is 86230
combined with a request for a special reserved license plate under 86231
section 4503.40 or 4503.42 of the Revised Code, the license plates 86232
and validation sticker shall be issued upon payment of the fees 86233

and taxes contained in this section and the additional fee 86234
prescribed under section 4503.40 or 4503.42 of the Revised Code. 86235
The additional fee of ten dollars shall be for the purpose of 86236
compensating the bureau of motor vehicles for additional services 86237
required in the issuing of freemason license plates, and shall be 86238
transmitted by the registrar to the treasurer of state for deposit 86239
into the state treasury to the credit of the state bureau of motor 86240
vehicles fund created by section 4501.25 of the Revised Code. 86241

Sec. 4503.93. (A) The owner or lessee of any passenger car, 86242
noncommercial motor vehicle, recreational vehicle, or other 86243
vehicle of a class approved by the registrar of motor vehicles may 86244
apply to the registrar for the registration of the vehicle and 86245
issuance of Ohio "volunteer" license plates. The application for 86246
Ohio "volunteer" license plates may be combined with a request for 86247
a special reserved license plate under section 4503.40 or 4503.42 86248
of the Revised Code. Upon receipt of the completed application and 86249
compliance with divisions (B) and (C) of this section, the 86250
registrar shall issue to the applicant the appropriate vehicle 86251
registration and a set of Ohio "volunteer" license plates with a 86252
validation sticker or a validation sticker alone when required by 86253
section 4503.191 of the Revised Code. 86254

In addition to the letters and numbers ordinarily inscribed 86255
on license plates, Ohio "volunteer" license plates shall be 86256
inscribed with words and markings designed by the Ohio ~~community~~ 86257
commission on service ~~council~~ and volunteerism created by section 86258
121.40 of the Revised Code and approved by the registrar. Ohio 86259
"volunteer" license plates shall bear county identification 86260
stickers that identify the county of registration by name or 86261
number. 86262

(B) Ohio "volunteer" license plates and a validation sticker, 86263
or a validation sticker alone, shall be issued upon receipt of a 86264

contribution as provided in division (C) of this section and upon 86265
payment of the regular license tax prescribed in section 4503.04 86266
of the Revised Code, any applicable motor vehicle tax levied under 86267
Chapter 4504. of the Revised Code, any applicable additional fee 86268
prescribed by section 4503.40 or 4503.42 of the Revised Code, a 86269
bureau of motor vehicles fee of ten dollars, and compliance with 86270
all other applicable laws relating to the registration of motor 86271
vehicles. 86272

(C)(1) For each application for registration and registration 86273
renewal received under this section, the registrar shall collect a 86274
contribution of fifteen dollars. The registrar shall transmit this 86275
contribution to the treasurer of state for deposit in the Ohio 86276
~~community~~ commission on service council and volunteerism gifts and 86277
donations fund created by section 121.403 of the Revised Code. The 86278
~~council~~ commission shall use all such contributions for the 86279
purposes described in divisions (B)(2) and (3) of that section. 86280

(2) The registrar shall deposit the bureau of motor vehicles 86281
fee of ten dollars specified in division (B) of this section, 86282
which is for the purpose of compensating the bureau for the 86283
additional services required in issuing Ohio "volunteer" license 86284
plates, in the state bureau of motor vehicles fund created in 86285
section 4501.25 of the Revised Code. 86286

Sec. 4504.02. For the purpose of paying the costs of 86287
enforcing and administering the tax provided for in this section; 86288
and for planning, constructing, improving, maintaining, and 86289
repairing public roads, highways, and streets; maintaining and 86290
repairing bridges and viaducts; paying the county's portion of the 86291
costs and expenses of cooperating with the department of 86292
transportation in the planning, improvement, and construction of 86293
state highways; paying the county's portion of the compensation, 86294
damages, cost, and expenses of planning, constructing, 86295

reconstructing, improving, maintaining, and repairing roads; 86296
paying any costs apportioned to the county under section 4907.47 86297
of the Revised Code; paying debt service charges on notes or bonds 86298
of the county issued for such purposes; paying all or part of the 86299
costs and expenses of municipal corporations in planning, 86300
constructing, reconstructing, improving, maintaining, and 86301
repairing highways, roads, and streets designated as necessary or 86302
conducive to the orderly and efficient flow of traffic within and 86303
through the county pursuant to section 4504.03 of the Revised 86304
Code; purchasing, erecting, and maintaining street and traffic 86305
signs and markers; purchasing, erecting, and maintaining traffic 86306
lights and signals; and to supplement revenue already available 86307
for such purposes, any county by resolution adopted by its board 86308
of county commissioners may levy an annual license tax, in 86309
addition to the tax levied by sections 4503.02, 4503.07, and 86310
4503.18 of the Revised Code, upon the operation of motor vehicles 86311
on the public roads or highways. Such tax shall be at the rate of 86312
five dollars per motor vehicle on all motor vehicles the district 86313
of registration of which, as defined in section 4503.10 of the 86314
Revised Code, is located in the county levying the tax and shall 86315
be in addition to the taxes at the rates specified in sections 86316
4503.04 and 4503.16 of the Revised Code, subject to reductions in 86317
the manner provided in section 4503.11 of the Revised Code and the 86318
exemptions provided in sections 4503.16, 4503.17, 4503.171, 86319
4503.173, 4503.41, 4503.43, and 4503.46 of the Revised Code. 86320

Prior to the adoption of any resolution under this section, 86321
the board of county commissioners shall conduct two public 86322
hearings thereon, the second hearing to be not less than three nor 86323
more than ten days after the first. Notice of the date, time, and 86324
place of such hearings shall be given by publication in a 86325
newspaper of general circulation in the county or as provided in 86326
section 7.16 of the Revised Code, once a week on the same day of 86327
the week for two consecutive weeks, the second publication being 86328

not less than ten nor more than thirty days prior to the first 86329
hearing. 86330

No resolution under this section shall become effective 86331
sooner than thirty days following its adoption, and such 86332
resolution is subject to a referendum as provided in sections 86333
305.31 to 305.41 of the Revised Code, unless such resolution is 86334
adopted as an emergency measure necessary for the immediate 86335
preservation of the public peace, health, or safety, in which case 86336
it shall go into immediate effect. Such emergency measure must 86337
receive an affirmative vote of all of the members of the board of 86338
county commissioners, and shall state the reasons for such 86339
necessity. A resolution may direct the board of elections to 86340
submit the question of levying the tax to the electors of the 86341
county at the next primary or general election in the county 86342
occurring not less than seventy-five days after such resolution is 86343
certified to the board; no such resolution shall go into effect 86344
unless approved by a majority of those voting upon it. 86345

Sec. 4504.021. The question of repeal of a county permissive 86346
tax adopted as an emergency measure pursuant to section 4504.02, 86347
4504.15, or 4504.16 of the Revised Code may be initiated by filing 86348
with the board of elections of the county not less than ninety 86349
days before the general election in any year a petition requesting 86350
that an election be held on such question. Such petition shall be 86351
signed by qualified electors residing in the county equal in 86352
number to ten per cent of those voting for governor at the most 86353
recent gubernatorial election. 86354

After determination by it that such petition is valid, the 86355
board of elections shall submit the question to the electors of 86356
the county at the next general election. The election shall be 86357
conducted, canvassed, and certified in the same manner as regular 86358
elections for county offices in the county. Notice of the election 86359

shall be published in a newspaper of general circulation in the 86360
district, or as provided in section 7.16 of the Revised Code, once 86361
a week for two consecutive weeks prior to the election ~~and, if~~. If 86362
the board of elections operates and maintains a web site, notice 86363
of the election also shall be posted on that web site for thirty 86364
days prior to the election. The notice shall state the purpose, 86365
time, and place of the election. The form of the ballot cast at 86366
such election shall be prescribed by the secretary of state. The 86367
question covered by such petition shall be submitted as a separate 86368
proposition, but it may be printed on the same ballot with any 86369
other proposition submitted at the same election other than the 86370
election of officers. If a majority of the qualified electors 86371
voting on the question of repeal approve the repeal, the result of 86372
the election shall be certified immediately after the canvass by 86373
the board of elections to the county commissioners, who shall 86374
thereupon, after the current year, cease to levy the tax. 86375

Sec. 4504.15. For the purpose of paying the costs of 86376
enforcing and administering the tax provided for in this section; 86377
for the various purposes stated in section 4504.02 of the Revised 86378
Code; and to supplement revenue already available for those 86379
purposes, any county may, by resolution adopted by its board of 86380
county commissioners, levy an annual license tax, that shall be in 86381
addition to the tax levied by sections 4503.02, 4503.07, and 86382
4503.18 of the Revised Code, upon the operation of motor vehicles 86383
upon the public roads and highways. The tax shall be at the rate 86384
of five dollars per motor vehicle on all motor vehicles the 86385
district of registration of which, as defined in section 4503.10 86386
of the Revised Code, is located in the county levying the tax but 86387
is not located within any municipal corporation levying the tax 86388
authorized by section 4504.17 of the Revised Code, and shall be in 86389
addition to the taxes at the rates specified in sections 4503.04 86390
and 4503.16 of the Revised Code, subject to reductions in the 86391

manner provided in section 4503.11 of the Revised Code and the 86392
exemptions provided in sections 4503.16, 4503.17, 4503.171, 86393
4503.41, and 4503.43 of the Revised Code. 86394

Prior to the adoption of any resolution under this section, 86395
the board of county commissioners shall conduct two public 86396
hearings thereon, the second hearing to be not less than three nor 86397
more than ten days after the first. Notice of the date, time, and 86398
place of such hearings shall be given by publication in a 86399
newspaper of general circulation in the county, or as provided in 86400
section 7.16 of the Revised Code, once a week for two consecutive 86401
weeks, ~~the~~. The second publication ~~being~~ shall be not less than 86402
ten nor more than thirty days prior to the first hearing. 86403

No resolution under this section shall become effective 86404
sooner than thirty days following its adoption, and such 86405
resolution is subject to a referendum as provided in sections 86406
305.31 to 305.41 of the Revised Code, unless the resolution is 86407
adopted as an emergency measure necessary for the immediate 86408
preservation of the public peace, health, or safety, in which case 86409
it shall go into immediate effect. The emergency measure must 86410
receive an affirmative vote of all of the members of the board of 86411
county commissioners, and shall state the reasons for the 86412
necessity. A resolution may direct the board of elections to 86413
submit the question of levying the tax to the electors of the 86414
county at the next primary or general election occurring not less 86415
than ninety days after the resolution is certified to the board; 86416
no such resolution shall go into effect unless approved by a 86417
majority of those voting upon it. A county is not required to 86418
enact the tax authorized by section 4504.02 of the Revised Code in 86419
order to levy the tax authorized by this section, but no county 86420
may have in effect the tax authorized by this section if it 86421
repeals the tax authorized by section 4504.02 of the Revised Code 86422
after April 1, 1987. 86423

Sec. 4504.16. For the purpose of paying the costs of 86424
enforcing and administering the tax provided for in this section; 86425
for the various purposes stated in section 4504.02 of the Revised 86426
Code; and to supplement revenue already available for those 86427
purposes, any county that currently levies the tax authorized by 86428
section 4504.15 of the Revised Code may, by resolution adopted by 86429
its board of county commissioners, levy an annual license tax, 86430
that shall be in addition to the tax levied by that section and by 86431
sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon 86432
the operation of motor vehicles upon the public roads and 86433
highways. The tax shall be at the rate of five dollars per motor 86434
vehicle on all motor vehicles the district of registration of 86435
which, as defined in section 4503.10 of the Revised Code, is 86436
located in the county levying the tax but is not located within 86437
any municipal corporation levying the tax authorized by section 86438
4504.171 of the Revised Code, and shall be in addition to the 86439
taxes at the rates specified in sections 4503.04 and 4503.16 of 86440
the Revised Code, subject to reductions in the manner provided in 86441
section 4503.11 of the Revised Code and the exemptions provided in 86442
sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the 86443
Revised Code. 86444

Prior to the adoption of any resolution under this section, 86445
the board of county commissioners shall conduct two public 86446
hearings thereon, the second hearing to be not less than three nor 86447
more than ten days after the first. Notice of the date, time, and 86448
place of such hearings shall be given by publication in a 86449
newspaper of general circulation in the county, or as provided in 86450
section 7.16 of the Revised Code, once a week for two consecutive 86451
weeks, ~~the~~. The second publication ~~being~~ shall be not less than 86452
ten nor more than thirty days prior to the first hearing. 86453

No resolution under this section shall become effective 86454
sooner than thirty days following its adoption, and such 86455

resolution is subject to a referendum as provided in sections 86456
305.31 to 305.41 of the Revised Code, unless the resolution is 86457
adopted as an emergency measure necessary for the immediate 86458
preservation of the public peace, health, or safety, in which case 86459
it shall go into immediate effect. The emergency measure must 86460
receive an affirmative vote of all of the members of the board of 86461
county commissioners, and shall state the reasons for the 86462
necessity. A resolution may direct the board of elections to 86463
submit the question of levying the tax to the electors of the 86464
county at the next primary or general election occurring not less 86465
than ninety days after the resolution is certified to the board; 86466
no such resolution shall go into effect unless approved by a 86467
majority of those voting upon it. 86468

Nothing in this section or in section 4504.15 of the Revised 86469
Code shall be interpreted as preventing a county from levying the 86470
county motor vehicle license taxes authorized by such sections in 86471
a single resolution. 86472

Sec. 4504.18. For the purpose of paying the costs and 86473
expenses of enforcing and administering the tax provided for in 86474
this section; for the construction, reconstruction, improvement, 86475
maintenance, and repair of township roads, bridges, and culverts; 86476
for purchasing, erecting, and maintaining traffic signs, markers, 86477
lights, and signals; for purchasing road machinery and equipment, 86478
and planning, constructing, and maintaining suitable buildings to 86479
house such equipment; for paying any costs apportioned to the 86480
township under section 4907.47 of the Revised Code; and to 86481
supplement revenue already available for such purposes, the board 86482
of township trustees may levy an annual license tax, in addition 86483
to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the 86484
Revised Code, upon the operation of motor vehicles on the public 86485
roads and highways in the unincorporated territory of the 86486
township. The tax shall be at the rate of five dollars per motor 86487

vehicle on all motor vehicles the owners of which reside in the 86488
unincorporated area of the township and shall be in addition to 86489
the taxes at the rates specified in sections 4503.04 and 4503.16 86490
of the Revised Code, subject to reductions in the manner provided 86491
in section 4503.11 of the Revised Code and the exemptions provided 86492
in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of 86493
the Revised Code. 86494

Prior to the adoption of any resolution under this section, 86495
the board of township trustees shall conduct two public hearings 86496
thereon, the second hearing to be not less than three nor more 86497
than ten days after the first. Notice of the date, time, and place 86498
of such hearings shall be given by publication in a newspaper of 86499
general circulation in the township or as provided in section 7.16 86500
of the Revised Code, once a week on the same day of the week for 86501
two consecutive weeks, the second publication being not less than 86502
ten nor more than thirty days prior to the first hearing. 86503

No resolution under this section shall become effective 86504
sooner than thirty days following its adoption, and such 86505
resolution is subject to a referendum in the same manner, except 86506
as to the form of the petition, as provided in division (H) of 86507
section 519.12 of the Revised Code for a proposed amendment to a 86508
township zoning resolution. In addition, a petition under this 86509
section shall be governed by the rules specified in section 86510
3501.38 of the Revised Code. No resolution levying a tax under 86511
this section for which a referendum vote has been requested shall 86512
go into effect unless approved by a majority of those voting upon 86513
it. 86514

A township license tax levied under this section shall 86515
continue in effect until repealed. 86516

Sec. 4506.071. On receipt of a notice pursuant to section 86517
3123.54 of the Revised Code, the registrar of motor vehicles shall 86518

comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the 86519
Revised Code and any applicable rules adopted under section 86520
3123.63 of the Revised Code with respect to a commercial driver's 86521
license or commercial driver's temporary instruction permit issued 86522
pursuant to this chapter. 86523

Sec. 4507.111. On receipt of a notice pursuant to section 86524
3123.54 of the Revised Code, the registrar of motor vehicles shall 86525
comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the 86526
Revised Code and any applicable rules adopted under section 86527
3123.63 of the Revised Code with respect to any driver's or 86528
commercial license or permit, motorcycle operator's license or 86529
endorsement, or temporary instruction permit or commercial 86530
driver's temporary instruction permit issued by this state that is 86531
the subject of the notice. 86532

Sec. 4507.164. (A) Except as provided in divisions (C) to (E) 86533
of this section, when the license of any person is suspended 86534
pursuant to any provision of the Revised Code other than division 86535
(G) of section 4511.19 of the Revised Code and other than section 86536
4510.07 of the Revised Code for a violation of a municipal OVI 86537
ordinance, the trial judge may impound the identification license 86538
plates of any motor vehicle registered in the name of the person. 86539

(B)(1) When the license of any person is suspended pursuant 86540
to division (G)(1)(a) of section 4511.19 of the Revised Code, or 86541
pursuant to section 4510.07 of the Revised Code for a municipal 86542
OVI offense when the suspension is equivalent in length to the 86543
suspension under division (G) of section 4511.19 of the Revised 86544
Code that is specified in this division, the trial judge of the 86545
court of record or the mayor of the mayor's court that suspended 86546
the license may impound the identification license plates of any 86547
motor vehicle registered in the name of the person. 86548

(2) When the license of any person is suspended pursuant to 86549
division (G)(1)(b) of section 4511.19 of the Revised Code, or 86550
pursuant to section 4510.07 of the Revised Code for a municipal 86551
OVI offense when the suspension is equivalent in length to the 86552
suspension under division (G) of section 4511.19 of the Revised 86553
Code that is specified in this division, the trial judge of the 86554
court of record that suspended the license shall order the 86555
impoundment of the identification license plates of the motor 86556
vehicle the offender was operating at the time of the offense and 86557
the immobilization of that vehicle in accordance with section 86558
4503.233 and division (G)(1)(b) of section 4511.19 or division 86559
~~(B)~~(C)(2)(a) of section 4511.193 of the Revised Code and may 86560
impound the identification license plates of any other motor 86561
vehicle registered in the name of the person whose license is 86562
suspended. 86563

(3) When the license of any person is suspended pursuant to 86564
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 86565
Code, or pursuant to section 4510.07 of the Revised Code for a 86566
municipal OVI offense when the suspension is equivalent in length 86567
to the suspension under division (G) of section 4511.19 of the 86568
Revised Code that is specified in this division, the trial judge 86569
of the court of record that suspended the license shall order the 86570
criminal forfeiture to the state of the motor vehicle the offender 86571
was operating at the time of the offense in accordance with 86572
section 4503.234 and division (G)(1)(c), (d), or (e) of section 86573
4511.19 or division ~~(B)~~(C)(2)(b) of section 4511.193 of the 86574
Revised Code and may impound the identification license plates of 86575
any other motor vehicle registered in the name of the person whose 86576
license is suspended. 86577

(C)(1) When a person is convicted of or pleads guilty to a 86578
violation of section 4510.14 of the Revised Code or a 86579
substantially equivalent municipal ordinance and division (B)(1) 86580

or (2) of section 4510.14 or division (C)(1) or (2) of section 86581
4510.161 of the Revised Code applies, the trial judge of the court 86582
of record or the mayor of the mayor's court that imposes sentence 86583
shall order the immobilization of the vehicle the person was 86584
operating at the time of the offense and the impoundment of its 86585
identification license plates in accordance with section 4503.233 86586
and division (B)(1) or (2) of section 4510.14 or division (C)(1) 86587
or (2) of section 4510.161 of the Revised Code and may impound the 86588
identification license plates of any other vehicle registered in 86589
the name of that person. 86590

(2) When a person is convicted of or pleads guilty to a 86591
violation of section 4510.14 of the Revised Code or a 86592
substantially equivalent municipal ordinance and division (B)(3) 86593
of section 4510.14 or division (C)(3) of section 4510.161 of the 86594
Revised Code applies, the trial judge of the court of record that 86595
imposes sentence shall order the criminal forfeiture to the state 86596
of the vehicle the person was operating at the time of the offense 86597
in accordance with section 4503.234 and division (B)(3) of section 86598
4510.14 or division (C)(3) of section 4510.161 of the Revised Code 86599
and may impound the identification license plates of any other 86600
vehicle registered in the name of that person. 86601

~~(D)(1)~~ When a person is convicted of or pleads guilty to a 86602
violation of division (A) of section 4510.16 of the Revised Code 86603
or a substantially equivalent municipal ordinance, division (B) of 86604
section 4510.16 or division (B) of section 4510.161 of the Revised 86605
Code applies in determining whether the immobilization of the 86606
vehicle the person was operating at the time of the offense and 86607
the impoundment of its identification license plates or the 86608
criminal forfeiture to the state of the vehicle the person was 86609
operating at the time of the offense is authorized or required. 86610
The trial judge of the court of record or the mayor of the mayor's 86611
court that imposes sentence may impound the identification license 86612

plates of any other vehicle registered in the name of that person. 86613

(E)(1) When a person is convicted of or pleads guilty to a 86614
violation of section 4511.203 of the Revised Code and the person 86615
is sentenced pursuant to division (C)(1) or (2) of section 86616
4511.203 of the Revised Code, the trial judge of the court of 86617
record or the mayor of the mayor's court that imposes sentence 86618
shall order the immobilization of the vehicle that was involved in 86619
the commission of the offense and the impoundment of its 86620
identification license plates in accordance with division (C)(1) 86621
or (2) of section 4511.203 and section 4503.233 of the Revised 86622
Code and may impound the identification license plates of any 86623
other vehicle registered in the name of that person. 86624

(2) When a person is convicted of or pleads guilty to a 86625
violation of section 4511.203 of the Revised Code and the person 86626
is sentenced pursuant to division (C)(3) of section 4511.203 of 86627
the Revised Code, the trial judge of the court of record or the 86628
mayor of the mayor's court that imposes sentence shall order the 86629
criminal forfeiture to the state of the vehicle that was involved 86630
in the commission of the offense in accordance with division 86631
(C)(3) of section 4511.203 and section 4503.234 of the Revised 86632
Code and may impound the identification license plates of any 86633
other vehicle registered in the name of that person. 86634

(F) Except as provided in section 4503.233 or 4503.234 of the 86635
Revised Code, when the certificate of registration, the 86636
identification license plates, or both have been impounded, 86637
division (B) of section 4507.02 of the Revised Code is applicable. 86638

(G) As used in this section, "municipal OVI offense" has the 86639
same meaning as in section 4511.181 of the Revised Code. 86640

Sec. 4507.1612. The registrar of motor vehicles shall not 86641
restore any operating privileges or reissue a probationary 86642
driver's license, restricted license, driver's license, or 86643

probationary commercial driver's license suspended under section 86644
2923.122 of the Revised Code until the person whose license was 86645
suspended pays a reinstatement fee of thirty dollars to the 86646
registrar ~~or an eligible deputy registrar. In addition, each~~ 86647
~~deputy registrar shall collect a service fee of ten dollars to~~ 86648
~~compensate the deputy registrar for services performed under this~~ 86649
~~section. The deputy registrar shall retain eight dollars of the~~ 86650
~~service fee and shall transmit the reinstatement fee, plus two~~ 86651
~~dollars of the service fee, to the registrar in the manner the~~ 86652
~~registrar shall determine.~~ 86653

The bureau of motor vehicles shall pay all fees collected 86654
under this section into the state treasury to the credit of the 86655
state bureau of motor vehicles fund created by section 4501.25 of 86656
the Revised Code. 86657

Sec. 4507.45. If a person's driver's license, commercial 86658
driver's license, or nonresident operating privilege is suspended, 86659
disqualified, or canceled for an indefinite period of time or for 86660
a period of at least ninety days, and if at the end of the period 86661
of suspension, disqualification, or cancellation the person is 86662
eligible to have the license or privilege reinstated, the 86663
registrar of motor vehicles ~~or an eligible deputy registrar~~ shall 86664
collect a reinstatement fee of forty dollars when the person 86665
requests reinstatement. ~~In addition, each deputy registrar shall~~ 86666
~~collect a service fee of ten dollars to compensate the deputy~~ 86667
~~registrar for services performed under this section. The deputy~~ 86668
~~registrar shall retain eight dollars of the service fee and shall~~ 86669
~~transmit the reinstatement fee, plus two dollars of the service~~ 86670
~~fee, to the registrar in the manner the registrar shall determine.~~ 86671
However, the registrar ~~or an eligible deputy registrar~~ shall not 86672
collect the fee prescribed by this section if a different driver's 86673
license, commercial driver's license, or nonresident operating 86674
privilege reinstatement fee is prescribed by law. 86675

The registrar shall deposit ten dollars of each forty-dollar fee into the state treasury to the credit of the indigent defense support fund created by section 120.08 of the Revised Code and thirty dollars of each fee into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

Sec. 4509.101. (A)(1) No person shall operate, or permit the operation of, a motor vehicle in this state, unless proof of financial responsibility is maintained continuously throughout the registration period with respect to that vehicle, or, in the case of a driver who is not the owner, with respect to that driver's operation of that vehicle.

(2) Whoever violates division (A)(1) of this section shall be subject to the following civil penalties:

(a) Subject to divisions (A)(2)(b) and (c) of this section, a class E suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code and impoundment of the person's license. The court may grant limited driving privileges to the person only if the person presents proof of financial responsibility and has complied with division (A)(5) of this section.

(b) If, within five years of the violation, the person's operating privileges are again suspended and the person's license again is impounded for a violation of division (A)(1) of this section, a class C suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code. The court may grant limited driving privileges

to the person only if the person presents proof of financial 86707
responsibility and has complied with division (A)(5) of this 86708
section, and no court may grant limited driving privileges for the 86709
first fifteen days of the suspension. 86710

(c) If, within five years of the violation, the person's 86711
operating privileges are suspended and the person's license is 86712
impounded two or more times for a violation of division (A)(1) of 86713
this section, a class B suspension of the person's driver's 86714
license, commercial driver's license, temporary instruction 86715
permit, probationary license, or nonresident operating privilege 86716
for the period of time specified in division (B)(2) of section 86717
4510.02 of the Revised Code. No court may grant limited driving 86718
privileges during the suspension. 86719

(d) In addition to the suspension of an owner's license under 86720
division (A)(2)(a), (b), or (c) of this section, the suspension of 86721
the rights of the owner to register the motor vehicle and the 86722
impoundment of the owner's certificate of registration and license 86723
plates until the owner complies with division (A)(5) of this 86724
section. 86725

(3) A person to whom this state has issued a certificate of 86726
registration for a motor vehicle or a license to operate a motor 86727
vehicle or who is determined to have operated any motor vehicle or 86728
permitted the operation in this state of a motor vehicle owned by 86729
the person shall be required to verify the existence of proof of 86730
financial responsibility covering the operation of the motor 86731
vehicle or the person's operation of the motor vehicle under any 86732
of the following circumstances: 86733

(a) The person or a motor vehicle owned by the person is 86734
involved in a traffic accident that requires the filing of an 86735
accident report under section 4509.06 of the Revised Code. 86736

(b) The person receives a traffic ticket indicating that 86737

proof of the maintenance of financial responsibility was not 86738
produced upon the request of a peace officer or state highway 86739
patrol trooper made in accordance with division (D)(2) of this 86740
section. 86741

(c) Whenever, in accordance with rules adopted by the 86742
registrar, the person is randomly selected by the registrar and 86743
requested to provide such verification. 86744

(4) An order of the registrar that suspends and impounds a 86745
license or registration, or both, shall state the date on or 86746
before which the person is required to surrender the person's 86747
license or certificate of registration and license plates. The 86748
person is deemed to have surrendered the license or certificate of 86749
registration and license plates, in compliance with the order, if 86750
the person does either of the following: 86751

(a) On or before the date specified in the order, personally 86752
delivers the license or certificate of registration and license 86753
plates, or causes the delivery of the items, to the registrar; 86754

(b) Mails the license or certificate of registration and 86755
license plates to the registrar in an envelope or container 86756
bearing a postmark showing a date no later than the date specified 86757
in the order. 86758

(5) Except as provided in division (A)(6) or (L) of this 86759
section, the registrar shall not restore any operating privileges 86760
or registration rights suspended under this section, return any 86761
license, certificate of registration, or license plates impounded 86762
under this section, or reissue license plates under section 86763
4503.232 of the Revised Code, if the registrar destroyed the 86764
impounded license plates under that section, or reissue a license 86765
under section 4510.52 of the Revised Code, if the registrar 86766
destroyed the suspended license under that section, unless the 86767
rights are not subject to suspension or revocation under any other 86768

law and unless the person, in addition to complying with all other 86769
conditions required by law for reinstatement of the operating 86770
privileges or registration rights, complies with all of the 86771
following: 86772

(a) Pays to the registrar ~~or an eligible deputy registrar~~ a 86773
financial responsibility reinstatement fee of one hundred dollars 86774
for the first violation of division (A)(1) of this section, three 86775
hundred dollars for a second violation of that division, and six 86776
hundred dollars for a third or subsequent violation of that 86777
division; 86778

(b) If the person has not voluntarily surrendered the 86779
license, certificate, or license plates in compliance with the 86780
order, pays to the registrar ~~or an eligible deputy registrar~~ a 86781
financial responsibility nonvoluntary compliance fee in an amount, 86782
not to exceed fifty dollars, determined by the registrar; 86783

(c) Files and continuously maintains proof of financial 86784
responsibility under sections 4509.44 to 4509.65 of the Revised 86785
Code; 86786

~~(d) Pays a deputy registrar a service fee of ten dollars to 86787
compensate the deputy registrar for services performed under this 86788
section. The deputy registrar shall retain eight dollars of the 86789
service fee and shall transmit the reinstatement fee, any 86790
nonvoluntary compliance fee, and two dollars of the service fee to 86791
the registrar in the manner the registrar shall determine. 86792~~

(6) If the registrar issues an order under division (A)(2) of 86793
this section resulting from the failure of a person to respond to 86794
a financial responsibility random verification request under 86795
division (A)(3)(c) of this section and the person successfully 86796
maintains an affirmative defense to a violation of section 4510.16 86797
of the Revised Code or is determined by the registrar or a deputy 86798
registrar to have been in compliance with division (A)(1) of this 86799

section at the time of the initial financial responsibility random 86800
verification request, the registrar shall do both of the 86801
following: 86802

(a) Terminate the order of suspension or impoundment; 86803

(b) Restore the operating privileges and registration rights 86804
of the person without payment of the fees established in divisions 86805
(A)(5)(a) and (b) of this section and without a requirement to 86806
file proof of financial responsibility. 86807

(B)(1) Every party required to file an accident report under 86808
section 4509.06 of the Revised Code also shall include with the 86809
report a document described in division (G)(1) of this section. 86810

If the registrar determines, within forty-five days after the 86811
report is filed, that an operator or owner has violated division 86812
(A)(1) of this section, the registrar shall do all of the 86813
following: 86814

(a) Order the impoundment, with respect to the motor vehicle 86815
involved, required under division (A)(2)(d) of this section, of 86816
the certificate of registration and license plates of any owner 86817
who has violated division (A)(1) of this section; 86818

(b) Order the suspension required under division (A)(2)(a), 86819
(b), or (c) of this section of the license of any operator or 86820
owner who has violated division (A)(1) of this section; 86821

(c) Record the name and address of the person whose 86822
certificate of registration and license plates have been impounded 86823
or are under an order of impoundment, or whose license has been 86824
suspended or is under an order of suspension; the serial number of 86825
the person's license; the serial numbers of the person's 86826
certificate of registration and license plates; and the person's 86827
social security account number, if assigned, or, where the motor 86828
vehicle is used for hire or principally in connection with any 86829
established business, the person's federal taxpayer identification 86830

number. The information shall be recorded in such a manner that it 86831
becomes a part of the person's permanent record, and assists the 86832
registrar in monitoring compliance with the orders of suspension 86833
or impoundment. 86834

(d) Send written notification to every person to whom the 86835
order pertains, at the person's last known address as shown on the 86836
records of the bureau. The person, within ten days after the date 86837
of the mailing of the notification, shall surrender to the 86838
registrar, in a manner set forth in division (A)(4) of this 86839
section, any certificate of registration and registration plates 86840
under an order of impoundment, or any license under an order of 86841
suspension. 86842

(2) The registrar shall issue any order under division (B)(1) 86843
of this section without a hearing. Any person adversely affected 86844
by the order, within ten days after the issuance of the order, may 86845
request an administrative hearing before the registrar, who shall 86846
provide the person with an opportunity for a hearing in accordance 86847
with this paragraph. A request for a hearing does not operate as a 86848
suspension of the order. The scope of the hearing shall be limited 86849
to whether the person in fact demonstrated to the registrar proof 86850
of financial responsibility in accordance with this section. The 86851
registrar shall determine the date, time, and place of any 86852
hearing, provided that the hearing shall be held, and an order 86853
issued or findings made, within thirty days after the registrar 86854
receives a request for a hearing. If requested by the person in 86855
writing, the registrar may designate as the place of hearing the 86856
county seat of the county in which the person resides or a place 86857
within fifty miles of the person's residence. The person shall pay 86858
the cost of the hearing before the registrar, if the registrar's 86859
order of suspension or impoundment is upheld. 86860

(C) Any order of suspension or impoundment issued under this 86861
section or division (B) of section 4509.37 of the Revised Code may 86862

be terminated at any time if the registrar determines upon a 86863
showing of proof of financial responsibility that the operator or 86864
owner of the motor vehicle was in compliance with division (A)(1) 86865
of this section at the time of the traffic offense, motor vehicle 86866
inspection, or accident that resulted in the order against the 86867
person. A determination may be made without a hearing. This 86868
division does not apply unless the person shows good cause for the 86869
person's failure to present satisfactory proof of financial 86870
responsibility to the registrar prior to the issuance of the 86871
order. 86872

(D)(1) For the purpose of enforcing this section, every peace 86873
officer is deemed an agent of the registrar. 86874

(a) Except as provided in division (D)(1)(b) of this section, 86875
any peace officer who, in the performance of the peace officer's 86876
duties as authorized by law, becomes aware of a person whose 86877
license is under an order of suspension, or whose certificate of 86878
registration and license plates are under an order of impoundment, 86879
pursuant to this section, may confiscate the license, certificate 86880
of registration, and license plates, and return them to the 86881
registrar. 86882

(b) Any peace officer who, in the performance of the peace 86883
officer's duties as authorized by law, becomes aware of a person 86884
whose license is under an order of suspension, or whose 86885
certificate of registration and license plates are under an order 86886
of impoundment resulting from failure to respond to a financial 86887
responsibility random verification, shall not, for that reason, 86888
arrest the owner or operator or seize the vehicle or license 86889
plates. Instead, the peace officer shall issue a citation for a 86890
violation of section 4510.16 of the Revised Code specifying the 86891
circumstances as failure to respond to a financial responsibility 86892
random verification. 86893

(2) A peace officer shall request the owner or operator of a 86894

motor vehicle to produce proof of financial responsibility in a 86895
manner described in division (G) of this section at the time the 86896
peace officer acts to enforce the traffic laws of this state and 86897
during motor vehicle inspections conducted pursuant to section 86898
4513.02 of the Revised Code. 86899

(3) A peace officer shall indicate on every traffic ticket 86900
whether the person receiving the traffic ticket produced proof of 86901
the maintenance of financial responsibility in response to the 86902
officer's request under division (D)(2) of this section. The peace 86903
officer shall inform every person who receives a traffic ticket 86904
and who has failed to produce proof of the maintenance of 86905
financial responsibility that the person must submit proof to the 86906
traffic violations bureau with any payment of a fine and costs for 86907
the ticketed violation or, if the person is to appear in court for 86908
the violation, the person must submit proof to the court. 86909

(4)(a) If a person who has failed to produce proof of the 86910
maintenance of financial responsibility appears in court for a 86911
ticketed violation, the court may permit the defendant to present 86912
evidence of proof of financial responsibility to the court at such 86913
time and in such manner as the court determines to be necessary or 86914
appropriate. In a manner prescribed by the registrar, the clerk of 86915
courts shall provide the registrar with the identity of any person 86916
who fails to submit proof of the maintenance of financial 86917
responsibility pursuant to division (D)(3) of this section. 86918

(b) If a person who has failed to produce proof of the 86919
maintenance of financial responsibility also fails to submit that 86920
proof to the traffic violations bureau with payment of a fine and 86921
costs for the ticketed violation, the traffic violations bureau, 86922
in a manner prescribed by the registrar, shall notify the 86923
registrar of the identity of that person. 86924

(5)(a) Upon receiving notice from a clerk of courts or 86925
traffic violations bureau pursuant to division (D)(4) of this 86926

section, the registrar shall order the suspension of the license 86927
of the person required under division (A)(2)(a), (b), or (c) of 86928
this section and the impoundment of the person's certificate of 86929
registration and license plates required under division (A)(2)(d) 86930
of this section, effective thirty days after the date of the 86931
mailing of notification. The registrar also shall notify the 86932
person that the person must present the registrar with proof of 86933
financial responsibility in accordance with this section, 86934
surrender to the registrar the person's certificate of 86935
registration, license plates, and license, or submit a statement 86936
subject to section 2921.13 of the Revised Code that the person did 86937
not operate or permit the operation of the motor vehicle at the 86938
time of the offense. Notification shall be in writing and shall be 86939
sent to the person at the person's last known address as shown on 86940
the records of the bureau of motor vehicles. The person, within 86941
fifteen days after the date of the mailing of notification, shall 86942
present proof of financial responsibility, surrender the 86943
certificate of registration, license plates, and license to the 86944
registrar in a manner set forth in division (A)(4) of this 86945
section, or submit the statement required under this section 86946
together with other information the person considers appropriate. 86947

If the registrar does not receive proof or the person does 86948
not surrender the certificate of registration, license plates, and 86949
license, in accordance with this division, the registrar shall 86950
permit the order for the suspension of the license of the person 86951
and the impoundment of the person's certificate of registration 86952
and license plates to take effect. 86953

(b) In the case of a person who presents, within the 86954
fifteen-day period, documents to show proof of financial 86955
responsibility, the registrar shall terminate the order of 86956
suspension and the impoundment of the registration and license 86957
plates required under division (A)(2)(d) of this section and shall 86958

send written notification to the person, at the person's last 86959
known address as shown on the records of the bureau. 86960

(c) Any person adversely affected by the order of the 86961
registrar under division (D)(5)(a) or (b) of this section, within 86962
ten days after the issuance of the order, may request an 86963
administrative hearing before the registrar, who shall provide the 86964
person with an opportunity for a hearing in accordance with this 86965
paragraph. A request for a hearing does not operate as a 86966
suspension of the order. The scope of the hearing shall be limited 86967
to whether, at the time of the hearing, the person presents proof 86968
of financial responsibility covering the vehicle and whether the 86969
person is eligible for an exemption in accordance with this 86970
section or any rule adopted under it. The registrar shall 86971
determine the date, time, and place of any hearing; provided, that 86972
the hearing shall be held, and an order issued or findings made, 86973
within thirty days after the registrar receives a request for a 86974
hearing. If requested by the person in writing, the registrar may 86975
designate as the place of hearing the county seat of the county in 86976
which the person resides or a place within fifty miles of the 86977
person's residence. Such person shall pay the cost of the hearing 86978
before the registrar, if the registrar's order of suspension or 86979
impoundment under division (D)(5)(a) or (b) of this section is 86980
upheld. 86981

(6) A peace officer may charge an owner or operator of a 86982
motor vehicle with a violation of section 4510.16 of the Revised 86983
Code when the owner or operator fails to show proof of the 86984
maintenance of financial responsibility pursuant to a peace 86985
officer's request under division (D)(2) of this section, if a 86986
check of the owner or operator's driving record indicates that the 86987
owner or operator, at the time of the operation of the motor 86988
vehicle, is required to file and maintain proof of financial 86989
responsibility under section 4509.45 of the Revised Code for a 86990

previous violation of this chapter. 86991

(7) Any forms used by law enforcement agencies in 86992
administering this section shall be prescribed, supplied, and paid 86993
for by the registrar. 86994

(8) No peace officer, law enforcement agency employing a 86995
peace officer, or political subdivision or governmental agency 86996
that employs a peace officer shall be liable in a civil action for 86997
damages or loss to persons arising out of the performance of any 86998
duty required or authorized by this section. 86999

(9) As used in this division and divisions (E) and (G) of 87000
this section, "peace officer" has the meaning set forth in section 87001
2935.01 of the Revised Code. 87002

(E) All fees, except court costs, ~~fees paid to a deputy~~ 87003
~~registrar,~~ and those portions of the financial responsibility 87004
reinstatement fees as otherwise specified in this division, 87005
collected under this section shall be paid into the state treasury 87006
to the credit of the financial responsibility compliance fund. The 87007
financial responsibility compliance fund shall be used exclusively 87008
to cover costs incurred by the bureau in the administration of 87009
this section and sections 4503.20, 4507.212, and 4509.81 of the 87010
Revised Code, and by any law enforcement agency employing any 87011
peace officer who returns any license, certificate of 87012
registration, and license plates to the registrar pursuant to 87013
division (C) of this section, except that the director of budget 87014
and management may transfer excess money from the financial 87015
responsibility compliance fund to the state bureau of motor 87016
vehicles fund if the registrar determines that the amount of money 87017
in the financial responsibility compliance fund exceeds the amount 87018
required to cover such costs incurred by the bureau or a law 87019
enforcement agency and requests the director to make the transfer. 87020

Of each financial responsibility reinstatement fee the 87021

registrar collects pursuant to division (A)(5)(a) of this section 87022
~~or receives from a deputy registrar under division (A)(5)(d) of~~ 87023
~~this section~~, the registrar shall deposit twenty-five dollars of 87024
each one-hundred-dollar reinstatement fee, fifty dollars of each 87025
three-hundred-dollar reinstatement fee, and one hundred dollars of 87026
each six-hundred-dollar reinstatement fee into the state treasury 87027
to the credit of the indigent defense support fund created by 87028
section 120.08 of the Revised Code. 87029

All investment earnings of the financial responsibility 87030
compliance fund shall be credited to the fund. 87031

(F) Chapter 119. of the Revised Code applies to this section 87032
only to the extent that any provision in that chapter is not 87033
clearly inconsistent with this section. 87034

(G)(1) The registrar, court, traffic violations bureau, or 87035
peace officer may require proof of financial responsibility to be 87036
demonstrated by use of a standard form prescribed by the 87037
registrar. If the use of a standard form is not required, a person 87038
may demonstrate proof of financial responsibility under this 87039
section by presenting to the traffic violations bureau, court, 87040
registrar, or peace officer any of the following documents or a 87041
copy of the documents: 87042

(a) A financial responsibility identification card as 87043
provided in section 4509.103 of the Revised Code; 87044

(b) A certificate of proof of financial responsibility on a 87045
form provided and approved by the registrar for the filing of an 87046
accident report required to be filed under section 4509.06 of the 87047
Revised Code; 87048

(c) A policy of liability insurance, a declaration page of a 87049
policy of liability insurance, or liability bond, if the policy or 87050
bond complies with section 4509.20 or sections 4509.49 to 4509.61 87051
of the Revised Code; 87052

(d) A bond or certification of the issuance of a bond as provided in section 4509.59 of the Revised Code; 87053
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(e) A certificate of deposit of money or securities as provided in section 4509.62 of the Revised Code; 87055
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(f) A certificate of self-insurance as provided in section 4509.72 of the Revised Code. 87057
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(2) If a person fails to demonstrate proof of financial responsibility in a manner described in division (G)(1) of this section, the person may demonstrate proof of financial responsibility under this section by any other method that the court or the bureau, by reason of circumstances in a particular case, may consider appropriate. 87059
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(3) A motor carrier certificated by the interstate commerce commission or by the public utilities commission may demonstrate proof of financial responsibility by providing a statement designating the motor carrier's operating authority and averring that the insurance coverage required by the certificating authority is in full force and effect. 87065
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(4)(a) A finding by the registrar or court that a person is covered by proof of financial responsibility in the form of an insurance policy or surety bond is not binding upon the named insurer or surety or any of its officers, employees, agents, or representatives and has no legal effect except for the purpose of administering this section. 87071
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(b) The preparation and delivery of a financial responsibility identification card or any other document authorized to be used as proof of financial responsibility under this division does not do any of the following: 87077
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(i) Create any liability or estoppel against an insurer or surety, or any of its officers, employees, agents, or representatives; 87081
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(ii) Constitute an admission of the existence of, or of any liability or coverage under, any policy or bond; 87084
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(iii) Waive any defenses or counterclaims available to an insurer, surety, agent, employee, or representative in an action commenced by an insured or third-party claimant upon a cause of action alleged to have arisen under an insurance policy or surety bond or by reason of the preparation and delivery of a document for use as proof of financial responsibility. 87086
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(c) Whenever it is determined by a final judgment in a judicial proceeding that an insurer or surety, which has been named on a document accepted by a court or the registrar as proof of financial responsibility covering the operation of a motor vehicle at the time of an accident or offense, is not liable to pay a judgment for injuries or damages resulting from such operation, the registrar, notwithstanding any previous contrary finding, shall forthwith suspend the operating privileges and registration rights of the person against whom the judgment was rendered as provided in division (A)(2) of this section. 87092
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(H) In order for any document described in division (G)(1)(b) of this section to be used for the demonstration of proof of financial responsibility under this section, the document shall state the name of the insured or obligor, the name of the insurer or surety company, and the effective and expiration dates of the financial responsibility, and designate by explicit description or by appropriate reference all motor vehicles covered which may include a reference to fleet insurance coverage. 87102
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(I) For purposes of this section, "owner" does not include a licensed motor vehicle leasing dealer as defined in section 4517.01 of the Revised Code, but does include a motor vehicle renting dealer as defined in section 4549.65 of the Revised Code. Nothing in this section or in section 4509.51 of the Revised Code shall be construed to prohibit a motor vehicle renting dealer from 87110
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entering into a contractual agreement with a person whereby the 87116
person renting the motor vehicle agrees to be solely responsible 87117
for maintaining proof of financial responsibility, in accordance 87118
with this section, with respect to the operation, maintenance, or 87119
use of the motor vehicle during the period of the motor vehicle's 87120
rental. 87121

(J) The purpose of this section is to require the maintenance 87122
of proof of financial responsibility with respect to the operation 87123
of motor vehicles on the highways of this state, so as to minimize 87124
those situations in which persons are not compensated for injuries 87125
and damages sustained in motor vehicle accidents. The general 87126
assembly finds that this section contains reasonable civil 87127
penalties and procedures for achieving this purpose. 87128

(K) Nothing in this section shall be construed to be subject 87129
to section 4509.78 of the Revised Code. 87130

(L)(1) The registrar may terminate any suspension imposed 87131
under this section and not require the owner to comply with 87132
divisions (A)(5)(a), (b), and (c) of this section if the registrar 87133
with or without a hearing determines that the owner of the vehicle 87134
has established by clear and convincing evidence that all of the 87135
following apply: 87136

(a) The owner customarily maintains proof of financial 87137
responsibility. 87138

(b) Proof of financial responsibility was not in effect for 87139
the vehicle on the date in question for one of the following 87140
reasons: 87141

(i) The vehicle was inoperable. 87142

(ii) The vehicle is operated only seasonally, and the date in 87143
question was outside the season of operation. 87144

(iii) A person other than the vehicle owner or driver was at 87145

fault for the lapse of proof of financial responsibility through 87146
no fault of the owner or driver. 87147

(iv) The lapse of proof of financial responsibility was 87148
caused by excusable neglect under circumstances that are not 87149
likely to recur and do not suggest a purpose to evade the 87150
requirements of this chapter. 87151

(2) The registrar may grant an owner or driver relief for a 87152
reason specified in division (L)(1)(b)(i) or (ii) of this section 87153
whenever the owner or driver is randomly selected to verify the 87154
existence of proof of financial responsibility for such a vehicle. 87155
However, the registrar may grant an owner or driver relief for a 87156
reason specified in division (L)(1)(b)(iii) or (iv) of this 87157
section only if the owner or driver has not previously been 87158
granted relief under division (L)(1)(b)(iii) or (iv) of this 87159
section. 87160

(M) The registrar shall adopt rules in accordance with 87161
Chapter 119. of the Revised Code that are necessary to administer 87162
and enforce this section. The rules shall include procedures for 87163
the surrender of license plates upon failure to maintain proof of 87164
financial responsibility and provisions relating to reinstatement 87165
of registration rights, acceptable forms of proof of financial 87166
responsibility, and verification of the existence of financial 87167
responsibility during the period of registration. 87168

Sec. 4509.81. (A) Upon receipt of a notification of violation 87169
as provided in division (C) of section 4509.80 of the Revised 87170
Code; upon failure of a timely surrender of the livery license 87171
plate sticker as required by division (D) of section 4509.80 of 87172
the Revised Code; or if the registrar of motor vehicles, upon 87173
receipt of notification from an insurer of the imminent 87174
cancellation or termination of coverage required by section 87175
4509.80 of the Revised Code, fails to receive evidence of a 87176

continuation or substitution of coverage prior to the cancellation 87177
or termination date, the registrar shall order the immediate 87178
suspension of the rights of the owner of the chauffeured limousine 87179
described in the notice to register the limousine and the 87180
impoundment of the certificate of registration and registration 87181
plates for the limousine. The registrar shall notify the owner 87182
that the owner must surrender the certificate of registration and 87183
registration plates to the registrar. The notification shall be in 87184
writing and sent to the owner at the owner's last known address as 87185
shown in the records of the bureau of motor vehicles. Proceedings 87186
under this section are deemed special, summary statutory 87187
proceedings. 87188

(B) The order of suspension and impoundment of a registration 87189
shall state the date on or before which the owner of the 87190
chauffeured limousine involved is required to surrender the 87191
certificate of registration and registration plates to the 87192
registrar. The owner shall be deemed to have surrendered the 87193
certificate of registration and registration plates if the owner 87194
causes the items to be delivered to the registrar on or before the 87195
date specified in the order or mails the items to the registrar in 87196
an envelope or container bearing a postmark showing a date no 87197
later than the date specified in the order. 87198

(C) The registrar shall not restore any registration rights 87199
suspended under this section, return any certificate of 87200
registration or registration plates impounded under this section, 87201
or reissue registration plates under section 4503.232 of the 87202
Revised Code, if the registrar destroyed the impounded 87203
registration plates under that section, unless those rights are 87204
not subject to suspension under any other law and unless the owner 87205
complies with both of the following: 87206

(1) Pays to the registrar ~~or an eligible deputy registrar~~ a 87207

financial responsibility reinstatement fee of thirty dollars. The 87208
reinstatement fee may be increased, upon approval of the 87209
controlling board, up to an amount not exceeding fifty dollars. ~~In~~ 87210
~~addition, pays a service fee of ten dollars to each deputy~~ 87211
~~registrar to compensate the deputy registrar for services~~ 87212
~~performed under this section. The deputy registrar shall retain~~ 87213
~~eight dollars of the service fee and shall transmit the~~ 87214
~~reinstatement fee and two dollars of the service fee to the~~ 87215
~~registrar in the manner the registrar shall determine.~~ 87216

(2) Files and maintains proof of financial responsibility 87217
under section 4509.80 of the Revised Code. 87218

(D) Any owner adversely affected by the order of the 87219
registrar under this section ~~may~~, within ten days after the 87220
issuance of the order, may request an administrative hearing 87221
before the registrar, who shall provide the owner with an 87222
opportunity for a hearing in accordance with this division. A 87223
request for a hearing does not operate as a suspension of the 87224
order unless the owner establishes to the satisfaction of the 87225
registrar that the operation of the owner's chauffeured limousine 87226
will be covered by proof of financial responsibility during the 87227
pendency of the appeal. The scope of the hearing shall be limited 87228
to whether the owner in fact demonstrated to the registrar proof 87229
of financial responsibility in accordance with section 4509.80 of 87230
the Revised Code. The registrar shall determine the date, time, 87231
and place of any hearing, provided that the hearing shall be held 87232
and an order issued or findings made within thirty days after the 87233
registrar receives a request for a hearing. If requested by the 87234
owner in writing, the registrar may designate as the place of 87235
hearing the county seat of the county in which the owner resides 87236
or a place within fifty miles of the owner's residence. The owner 87237
shall pay the cost of the hearing before the registrar, if the 87238
registrar's order of suspension or impoundment is upheld. 87239

(E) Any order of suspension or impoundment issued under this 87240
section may be terminated at any time if the registrar determines 87241
upon a showing of proof of financial responsibility that the owner 87242
of the limousine was in compliance with section 4509.80 of the 87243
Revised Code at the time of the incident that resulted in the 87244
order against the owner. Such a determination may be made without 87245
a hearing. 87246

(F) All fees ~~except the two dollar service fee transmitted to~~ 87247
~~the registrar by a deputy registrar,~~ that are collected by the 87248
registrar ~~or transmitted to the registrar~~ under this section shall 87249
be paid into the state treasury to the credit of the financial 87250
responsibility compliance fund created by section 4509.101 of the 87251
Revised Code. 87252

(G) Chapter 119. of the Revised Code applies to this section 87253
only to the extent that any provision in that chapter is not 87254
clearly inconsistent with this section. 87255

(H)(1) Proof of financial responsibility may be demonstrated 87256
by any of the methods authorized in section 4509.80 of the Revised 87257
Code. 87258

(2) Divisions (G)(4)(a) and (b) of section 4509.101 of the 87259
Revised Code apply to any finding by the registrar under this 87260
section that an owner is covered by proof of financial 87261
responsibility. 87262

Sec. 4510.10. (A) As used in this section, "reinstatement 87263
fees" means the fees that are required under section 4507.1612, 87264
4507.45, 4509.101, 4509.81, 4511.191, 4511.951, or any other 87265
provision of the Revised Code, or under a schedule established by 87266
the bureau of motor vehicles, in order to reinstate a driver's or 87267
commercial driver's license or permit or nonresident operating 87268
privilege of an offender under a suspension. 87269

(B) Reinstatement fees are those fees that compensate the bureau of motor vehicles for suspensions, cancellations, or disqualifications of a person's driving privileges and to compensate the bureau and other agencies in their administration of programs intended to reduce and eliminate threats to public safety through education, treatment, and other activities. The registrar of motor vehicles shall not reinstate a driver's or commercial driver's license or permit or nonresident operating privilege of a person until the person has paid all reinstatement fees and has complied with all conditions for each suspension, cancellation, or disqualification incurred by that person.

(C) When a municipal court or county court determines in a pending case involving an offender that the offender cannot reasonably pay reinstatement fees due and owing by the offender relative to one or more suspensions that have been or will be imposed by the bureau of motor vehicles or by a court of this state, the court, by order, may undertake an installment payment plan or a payment extension plan for the payment of reinstatement fees due and owing to the bureau in that pending case. The court shall establish an installment payment plan or a payment extension plan under this division in accordance with the requirements of divisions (D)(1) and (2) of this section.

(D) Independent of the provisions of division (C) of this section, an offender who cannot reasonably pay reinstatement fees due and owing by the offender relative to a suspension that has been imposed on the offender may file a petition in the municipal court, county court, or, if the person is under the age of eighteen, the juvenile division of the court of common pleas in whose jurisdiction the person resides or, if the person is not a resident of this state, in the Franklin county municipal court or juvenile division of the Franklin county court of common pleas for an order that does either of the following, in order of

preference: 87302

(1) Establishes a reasonable payment plan of not less than 87303
fifty dollars per month, to be paid by the offender to the 87304
registrar of motor vehicles ~~or an eligible deputy registrar~~, in 87305
all succeeding months until all reinstatement fees required of the 87306
offender are paid in full. ~~If the person is making payments to a~~ 87307
~~deputy registrar, the deputy registrar shall collect a service fee~~ 87308
~~of ten dollars each time the deputy registrar collects a payment~~ 87309
~~to compensate the deputy registrar for services performed under~~ 87310
~~this section. The deputy registrar shall retain eight dollars of~~ 87311
~~the service fee and shall transmit the reinstatement payments,~~ 87312
~~plus two dollars of each service fee, to the registrar in the~~ 87313
~~manner the registrar shall determine.~~ 87314

(2) If the offender, but for the payment of the reinstatement 87315
fees, otherwise would be entitled to operate a vehicle in this 87316
state or to obtain reinstatement of the offender's operating 87317
privileges, permits the offender to operate a motor vehicle, as 87318
authorized by the court, until a future date upon which date all 87319
reinstatement fees must be paid in full. A payment extension 87320
granted under this division shall not exceed one hundred eighty 87321
days, and any operating privileges granted under this division 87322
shall be solely for the purpose of permitting the offender 87323
occupational or "family necessity" privileges in order to enable 87324
the offender to reasonably acquire the delinquent reinstatement 87325
fees due and owing. 87326

(E) If a municipal court, county court, or juvenile division 87327
enters an order of the type described in division (C) or division 87328
(D)(1) or (2) of this section, the court, at any time after the 87329
issuance of the order, may determine that a change of 87330
circumstances has occurred and may amend the order as justice 87331
requires, provided that the amended order also shall be an order 87332
that is permitted under division (C) or division (D)(1) or (2) of 87333

this section. 87334

(F) If a court enters an order of the type described in 87335
division (C), (D)(1), (D)(2), or (E) of this section, during the 87336
pendency of the order, the offender in relation to whom it applies 87337
is not subject to prosecution for failing to pay the reinstatement 87338
fees covered by the order. 87339

(G) Reinstatement fees are debts that may be discharged in 87340
bankruptcy. 87341

(H)(1)(a) The registrar, in accordance with Chapter 119. of 87342
the Revised Code, shall adopt rules establishing a reinstatement 87343
fee payment pilot program not later than January 1, 2013. The 87344
pilot program shall permit the registrar, with the approval of the 87345
director of public safety, to designate at least one but not more 87346
than three clerks of a municipal court or county court to collect 87347
reinstatement fees and processing fees on behalf of the registrar. 87348
The rules shall specify all of the following: 87349

(i) The reinstatement and processing fees that the clerk may 87350
collect under the program; 87351

(ii) Minimum standards the clerk is required to meet and 87352
maintain; 87353

(iii) Terms of the contract between the registrar and the 87354
clerk; 87355

(iv) The amount of bond that will be required of the clerk; 87356

(v) Requirements for employees and facilities of the clerk; 87357

(vi) Any other requirements as the registrar may prescribe. 87358

(b) In addition to the reinstatement and processing fees the 87359
clerk collects on behalf of the registrar, the clerk may collect a 87360
service fee of ten dollars. If the clerk collects such a service 87361
fee, the clerk shall collect only one service fee irrespective of 87362
the number of reinstatement and processing fees the clerk collects 87363

at any one time relative to one person. The clerk shall retain 87364
eight dollars of each service fee for the clerk's services and 87365
shall transmit the reinstatement and processing fees and the 87366
remaining two dollars of each service fee to the registrar. The 87367
registrar shall deposit the two dollars of each service fee the 87368
registrar receives from a clerk under division (H)(1)(b) of this 87369
section into the state bureau of motor vehicles fund created in 87370
section 4501.25 of the Revised Code. The rules may require a clerk 87371
who collects a reinstatement or processing fee also to collect any 87372
other valid reinstatement documents or other evidence that is 87373
submitted with the payment of the reinstatement or processing fee. 87374
The rules shall specify the time and manner in which the clerk 87375
shall transmit the fees, documents, and evidence to the registrar 87376
for final approval and clearance, as appropriate. 87377

(2) The registrar shall evaluate the effectiveness of the 87378
reinstatement fee payment pilot program for a period not to exceed 87379
one year. After completion of the evaluation, if the registrar 87380
determines that the pilot program was a success, the registrar, 87381
with the approval of the director, shall adopt any amendments to 87382
the rules adopted under division (H)(1)(a) of this section based 87383
on the evaluation that are necessary to make the pilot program 87384
permanent and to expand the pilot program as described in division 87385
(H)(2) of this section. At a minimum, the amended rules shall 87386
require the registrar to make reasonable attempts to contract with 87387
at least one clerk of a municipal or county court in each county 87388
to collect reinstatement, processing, and service fees on behalf 87389
of the registrar unless a reinstatement office already exists in 87390
that county or the registrar determines that it is not practical 87391
to enter into such a contract with a clerk of a municipal or 87392
county court in a particular county. 87393

(3) A clerk of a municipal or county court who collects 87394
reinstatement fees, processing fees, service fees, and 87395

reinstatement documents or evidence under division (H) of this 87396
section and the applicable rules may issue an order that permits a 87397
person to operate a motor vehicle for a period not exceeding 87398
thirty days pending the registrar's final determination of whether 87399
all reinstatement requirements have been met or if additional 87400
reinstatement requirements must be met before the suspension may 87401
be terminated or the reinstatement may be entered. The registrar 87402
shall send a written notice of the registrar's final determination 87403
to the person at the person's last known address as shown in the 87404
records of the bureau. 87405

Sec. 4510.22. (A) If a person who has a current valid Ohio 87406
driver's, commercial driver's license, or temporary instruction 87407
permit is charged with a violation of any provision in sections 87408
4511.01 to 4511.76, 4511.84, 4513.01 to 4513.65, or 4549.01 to 87409
4549.65 of the Revised Code that is classified as a misdemeanor of 87410
the first, second, third, or fourth degree or with a violation of 87411
any substantially equivalent municipal ordinance and if the person 87412
either fails to appear in court at the required time and place to 87413
answer the charge or pleads guilty to or is found guilty of the 87414
violation and fails within the time allowed by the court to pay 87415
the fine imposed by the court, the court shall declare the 87416
forfeiture of the person's license. Thirty days after the 87417
declaration of forfeiture, the court shall inform the registrar of 87418
motor vehicles of the forfeiture by entering information relative 87419
to the forfeiture on a form approved and furnished by the 87420
registrar and sending the form to the registrar. The court also 87421
shall forward the person's license, if it is in the possession of 87422
the court, to the registrar. 87423

The registrar shall impose a class F suspension of the 87424
person's driver's or commercial driver's license, or temporary 87425
instruction permit for the period of time specified in division 87426
(B)(6) of section 4510.02 of the Revised Code on any person who is 87427

named in a declaration received by the registrar under this 87428
section. The registrar shall send written notification of the 87429
suspension to the person at the person's last known address and, 87430
if the person is in possession of the license, order the person to 87431
surrender the person's license or permit to the registrar within 87432
forty-eight hours. 87433

No valid driver's or commercial driver's license shall be 87434
granted to the person after the suspension, unless the court 87435
having jurisdiction of the offense that led to the suspension 87436
orders that the forfeiture be terminated. The court shall order 87437
the termination of the forfeiture if the person thereafter appears 87438
to answer the charge and pays any fine imposed by the court or 87439
pays the fine originally imposed by the court. The court shall 87440
inform the registrar of the termination of the forfeiture by 87441
entering information relative to the termination on a form 87442
approved and furnished by the registrar and sending the form to 87443
the registrar. The person shall pay to the registrar of motor 87444
vehicles ~~or an eligible deputy registrar~~ a twenty-five-dollar 87445
reinstatement fee. ~~In addition, each deputy registrar shall~~ 87446
~~collect a service fee of ten dollars to compensate the deputy~~ 87447
~~registrar for services performed under this section. The deputy~~ 87448
~~registrar shall retain eight dollars of the service fee and shall~~ 87449
~~transmit the reinstatement fee, plus two dollars of the service~~ 87450
~~fee, to the registrar in the manner the registrar shall determine.~~ 87451
The registrar shall deposit fifteen dollars of the reinstatement 87452
fee into the state treasury to the credit of the state bureau of 87453
motor vehicles fund created by section 4501.25 of the Revised Code 87454
to cover the costs of the bureau in administering this section and 87455
shall deposit ten dollars of the fee into the state treasury to 87456
the credit of the indigent defense support fund created by section 87457
120.08 of the Revised Code. 87458

(B) In addition to suspending the driver's or commercial 87459

driver's license or permit of the person named in a declaration of 87460
forfeiture, the registrar, upon receipt from the court of the copy 87461
of the declaration of forfeiture, shall take any measures that may 87462
be necessary to ensure that neither the registrar nor any deputy 87463
registrar accepts any application for the registration or transfer 87464
of registration of any motor vehicle owned or leased by the person 87465
named in the declaration of forfeiture. However, for a motor 87466
vehicle leased by a person named in a declaration of forfeiture, 87467
the registrar shall not implement the preceding sentence until the 87468
registrar adopts procedures for that implementation under section 87469
4503.39 of the Revised Code. The period of denial of registration 87470
or transfer shall continue until such time as the court having 87471
jurisdiction of the offense that led to the suspension orders the 87472
forfeiture be terminated. Upon receipt by the registrar of an 87473
order terminating the forfeiture, the registrar also shall take 87474
any measures that may be necessary to permit the person to 87475
register a motor vehicle owned or leased by the person or to 87476
transfer the registration of such a motor vehicle, if the person 87477
later makes application to take such action and otherwise is 87478
eligible to register the motor vehicle or to transfer its 87479
registration. 87480

The registrar shall not be required to give effect to any 87481
declaration of forfeiture or order terminating a forfeiture 87482
provided by a court under this section unless the information 87483
contained in the declaration or order is transmitted to the 87484
registrar by means of an electronic transfer system. The registrar 87485
shall not restore the person's driving or vehicle registration 87486
privileges until the person pays the reinstatement fee as provided 87487
in this section. 87488

The period of denial relating to the issuance or transfer of 87489
a certificate of registration for a motor vehicle imposed pursuant 87490
to this division remains in effect until the person pays any fine 87491

imposed by the court relative to the offense. 87492

Sec. 4510.72. (A) A fee of thirty dollars shall be charged by 87493
the registrar of motor vehicles ~~or an eligible deputy registrar~~ 87494
for the reinstatement of any driver's license suspended pursuant 87495
to division (A) of Article IV of the compact enacted in section 87496
4510.71 of the Revised Code. ~~In addition, each deputy registrar~~ 87497
~~shall collect a service fee of ten dollars to compensate the~~ 87498
~~deputy registrar for services performed under this section. The~~ 87499
~~deputy registrar shall retain eight dollars of the service fee and~~ 87500
~~shall transmit the reinstatement fee, plus two dollars of the~~ 87501
~~service fee, to the registrar in the manner the registrar shall~~ 87502
~~determine.~~ 87503

(B) Pursuant to division (A) of Article VI of the nonresident 87504
violin compact of 1977 enacted in section 4510.71 of the Revised 87505
Code, the director of public safety shall serve as the compact 87506
administrator for Ohio. 87507

Sec. 4511.191. (A)(1) As used in this section: 87508

(a) "Physical control" has the same meaning as in section 87509
4511.194 of the Revised Code. 87510

(b) "Alcohol monitoring device" means any device that 87511
provides for continuous alcohol monitoring, any ignition interlock 87512
device, any immobilizing or disabling device other than an 87513
ignition interlock device that is constantly available to monitor 87514
the concentration of alcohol in a person's system, or any other 87515
device that provides for the automatic testing and periodic 87516
reporting of alcohol consumption by a person and that a court 87517
orders a person to use as a sanction imposed as a result of the 87518
person's conviction of or plea of guilty to an offense. 87519

(2) Any person who operates a vehicle, streetcar, or 87520
trackless trolley upon a highway or any public or private property 87521

used by the public for vehicular travel or parking within this 87522
state or who is in physical control of a vehicle, streetcar, or 87523
trackless trolley shall be deemed to have given consent to a 87524
chemical test or tests of the person's whole blood, blood serum or 87525
plasma, breath, or urine to determine the alcohol, drug of abuse, 87526
controlled substance, metabolite of a controlled substance, or 87527
combination content of the person's whole blood, blood serum or 87528
plasma, breath, or urine if arrested for a violation of division 87529
(A) or (B) of section 4511.19 of the Revised Code, section 87530
4511.194 of the Revised Code or a substantially equivalent 87531
municipal ordinance, or a municipal OVI ordinance. 87532

(3) The chemical test or tests under division (A)(2) of this 87533
section shall be administered at the request of a law enforcement 87534
officer having reasonable grounds to believe the person was 87535
operating or in physical control of a vehicle, streetcar, or 87536
trackless trolley in violation of a division, section, or 87537
ordinance identified in division (A)(2) of this section. The law 87538
enforcement agency by which the officer is employed shall 87539
designate which of the tests shall be administered. 87540

(4) Any person who is dead or unconscious, or who otherwise 87541
is in a condition rendering the person incapable of refusal, shall 87542
be deemed to have consented as provided in division (A)(2) of this 87543
section, and the test or tests may be administered, subject to 87544
sections 313.12 to 313.16 of the Revised Code. 87545

(5)(a) If a law enforcement officer arrests a person for a 87546
violation of division (A) or (B) of section 4511.19 of the Revised 87547
Code, section 4511.194 of the Revised Code or a substantially 87548
equivalent municipal ordinance, or a municipal OVI ordinance and 87549
if the person if convicted would be required to be sentenced under 87550
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 87551
Code, the law enforcement officer shall request the person to 87552
submit, and the person shall submit, to a chemical test or tests 87553

of the person's whole blood, blood serum or plasma, breath, or 87554
urine for the purpose of determining the alcohol, drug of abuse, 87555
controlled substance, metabolite of a controlled substance, or 87556
combination content of the person's whole blood, blood serum or 87557
plasma, breath, or urine. A law enforcement officer who makes a 87558
request pursuant to this division that a person submit to a 87559
chemical test or tests is not required to advise the person of the 87560
consequences of submitting to, or refusing to submit to, the test 87561
or tests and is not required to give the person the form described 87562
in division (B) of section 4511.192 of the Revised Code, but the 87563
officer shall advise the person at the time of the arrest that if 87564
the person refuses to take a chemical test the officer may employ 87565
whatever reasonable means are necessary to ensure that the person 87566
submits to a chemical test of the person's whole blood or blood 87567
serum or plasma. The officer shall also advise the person at the 87568
time of the arrest that the person may have an independent 87569
chemical test taken at the person's own expense. Divisions (A)(3) 87570
and (4) of this section apply to the administration of a chemical 87571
test or tests pursuant to this division. 87572

(b) If a person refuses to submit to a chemical test upon a 87573
request made pursuant to division (A)(5)(a) of this section, the 87574
law enforcement officer who made the request may employ whatever 87575
reasonable means are necessary to ensure that the person submits 87576
to a chemical test of the person's whole blood or blood serum or 87577
plasma. A law enforcement officer who acts pursuant to this 87578
division to ensure that a person submits to a chemical test of the 87579
person's whole blood or blood serum or plasma is immune from 87580
criminal and civil liability based upon a claim for assault and 87581
battery or any other claim for the acts, unless the officer so 87582
acted with malicious purpose, in bad faith, or in a wanton or 87583
reckless manner. 87584

(B)(1) Upon receipt of the sworn report of a law enforcement 87585

officer who arrested a person for a violation of division (A) or 87586
(B) of section 4511.19 of the Revised Code, section 4511.194 of 87587
the Revised Code or a substantially equivalent municipal 87588
ordinance, or a municipal OVI ordinance that was completed and 87589
sent to the registrar of motor vehicles and a court pursuant to 87590
section 4511.192 of the Revised Code in regard to a person who 87591
refused to take the designated chemical test, the registrar shall 87592
enter into the registrar's records the fact that the person's 87593
driver's or commercial driver's license or permit or nonresident 87594
operating privilege was suspended by the arresting officer under 87595
this division and that section and the period of the suspension, 87596
as determined under this section. The suspension shall be subject 87597
to appeal as provided in section 4511.197 of the Revised Code. The 87598
suspension shall be for whichever of the following periods 87599
applies: 87600

(a) Except when division (B)(1)(b), (c), or (d) of this 87601
section applies and specifies a different class or length of 87602
suspension, the suspension shall be a class C suspension for the 87603
period of time specified in division (B)(3) of section 4510.02 of 87604
the Revised Code. 87605

(b) If the arrested person, within six years of the date on 87606
which the person refused the request to consent to the chemical 87607
test, had refused one previous request to consent to a chemical 87608
test or had been convicted of or pleaded guilty to one violation 87609
of division (A) or (B) of section 4511.19 of the Revised Code or 87610
one other equivalent offense, the suspension shall be a class B 87611
suspension imposed for the period of time specified in division 87612
(B)(2) of section 4510.02 of the Revised Code. 87613

(c) If the arrested person, within six years of the date on 87614
which the person refused the request to consent to the chemical 87615
test, had refused two previous requests to consent to a chemical 87616
test, had been convicted of or pleaded guilty to two violations of 87617

division (A) or (B) of section 4511.19 of the Revised Code or 87618
other equivalent offenses, or had refused one previous request to 87619
consent to a chemical test and also had been convicted of or 87620
pleaded guilty to one violation of division (A) or (B) of section 87621
4511.19 of the Revised Code or other equivalent offenses, which 87622
violation or offense arose from an incident other than the 87623
incident that led to the refusal, the suspension shall be a class 87624
A suspension imposed for the period of time specified in division 87625
(B)(1) of section 4510.02 of the Revised Code. 87626

(d) If the arrested person, within six years of the date on 87627
which the person refused the request to consent to the chemical 87628
test, had refused three or more previous requests to consent to a 87629
chemical test, had been convicted of or pleaded guilty to three or 87630
more violations of division (A) or (B) of section 4511.19 of the 87631
Revised Code or other equivalent offenses, or had refused a number 87632
of previous requests to consent to a chemical test and also had 87633
been convicted of or pleaded guilty to a number of violations of 87634
division (A) or (B) of section 4511.19 of the Revised Code or 87635
other equivalent offenses that cumulatively total three or more 87636
such refusals, convictions, and guilty pleas, the suspension shall 87637
be for five years. 87638

(2) The registrar shall terminate a suspension of the 87639
driver's or commercial driver's license or permit of a resident or 87640
of the operating privilege of a nonresident, or a denial of a 87641
driver's or commercial driver's license or permit, imposed 87642
pursuant to division (B)(1) of this section upon receipt of notice 87643
that the person has entered a plea of guilty to, or that the 87644
person has been convicted after entering a plea of no contest to, 87645
operating a vehicle in violation of section 4511.19 of the Revised 87646
Code or in violation of a municipal OVI ordinance, if the offense 87647
for which the conviction is had or the plea is entered arose from 87648
the same incident that led to the suspension or denial. 87649

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (C)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense

for which the conviction is had or the plea is entered arose from 87714
the same incident that led to the suspension or denial. 87715

The registrar shall credit against any judicial suspension of 87716
a person's driver's or commercial driver's license or permit or 87717
nonresident operating privilege imposed pursuant to section 87718
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 87719
Revised Code for a violation of a municipal OVI ordinance, any 87720
time during which the person serves a related suspension imposed 87721
pursuant to division (C)(1) of this section. 87722

(D)(1) A suspension of a person's driver's or commercial 87723
driver's license or permit or nonresident operating privilege 87724
under this section for the time described in division (B) or (C) 87725
of this section is effective immediately from the time at which 87726
the arresting officer serves the notice of suspension upon the 87727
arrested person. Any subsequent finding that the person is not 87728
guilty of the charge that resulted in the person being requested 87729
to take the chemical test or tests under division (A) of this 87730
section does not affect the suspension. 87731

(2) If a person is arrested for operating a vehicle, 87732
streetcar, or trackless trolley in violation of division (A) or 87733
(B) of section 4511.19 of the Revised Code or a municipal OVI 87734
ordinance, or for being in physical control of a vehicle, 87735
streetcar, or trackless trolley in violation of section 4511.194 87736
of the Revised Code or a substantially equivalent municipal 87737
ordinance, regardless of whether the person's driver's or 87738
commercial driver's license or permit or nonresident operating 87739
privilege is or is not suspended under division (B) or (C) of this 87740
section or Chapter 4510. of the Revised Code, the person's initial 87741
appearance on the charge resulting from the arrest shall be held 87742
within five days of the person's arrest or the issuance of the 87743
citation to the person, subject to any continuance granted by the 87744
court pursuant to section 4511.197 of the Revised Code regarding 87745

the issues specified in that division. 87746

(E) When it finally has been determined under the procedures 87747
of this section and sections 4511.192 to 4511.197 of the Revised 87748
Code that a nonresident's privilege to operate a vehicle within 87749
this state has been suspended, the registrar shall give 87750
information in writing of the action taken to the motor vehicle 87751
administrator of the state of the person's residence and of any 87752
state in which the person has a license. 87753

(F) At the end of a suspension period under this section, 87754
under section 4511.194, section 4511.196, or division (G) of 87755
section 4511.19 of the Revised Code, or under section 4510.07 of 87756
the Revised Code for a violation of a municipal OVI ordinance and 87757
upon the request of the person whose driver's or commercial 87758
driver's license or permit was suspended and who is not otherwise 87759
subject to suspension, cancellation, or disqualification, the 87760
registrar shall return the driver's or commercial driver's license 87761
or permit to the person upon the occurrence of all of the 87762
conditions specified in divisions (F)(1) and (2) of this section: 87763

(1) A showing that the person has proof of financial 87764
responsibility, a policy of liability insurance in effect that 87765
meets the minimum standards set forth in section 4509.51 of the 87766
Revised Code, or proof, to the satisfaction of the registrar, that 87767
the person is able to respond in damages in an amount at least 87768
equal to the minimum amounts specified in section 4509.51 of the 87769
Revised Code. 87770

(2) Subject to the limitation contained in division (F)(3) of 87771
this section, payment by the person to the registrar ~~of motor~~ 87772
~~vehicles or an eligible deputy registrar~~ of a license 87773
reinstatement fee of four hundred seventy-five dollars, which fee 87774
shall be deposited in the state treasury and credited as follows: 87775

(a) One hundred twelve dollars and fifty cents shall be 87776

credited to the statewide treatment and prevention fund created by 87777
section 4301.30 of the Revised Code. The Money credited to the 87778
fund under this section shall be used ~~to pay the costs of driver~~ 87779
~~treatment and intervention programs operated pursuant to sections~~ 87780
~~3793.02 and 3793.10~~ for purposes identified in the comprehensive 87781
statewide alcohol and drug addiction services plan developed under 87782
section 3793.04 of the Revised Code. ~~The director of alcohol and~~ 87783
~~drug addiction services shall determine the share of the fund that~~ 87784
~~is to be allocated to alcohol and drug addiction programs~~ 87785
~~authorized by section 3793.02 of the Revised Code, and the share~~ 87786
~~of the fund that is to be allocated to drivers' intervention~~ 87787
~~programs authorized by section 3793.10 of the Revised Code.~~ 87788

(b) Seventy-five dollars shall be credited to the reparations 87789
fund created by section 2743.191 of the Revised Code. 87790

(c) Thirty-seven dollars and fifty cents shall be credited to 87791
the indigent drivers alcohol treatment fund, which is hereby 87792
established in the state treasury. Except as otherwise provided in 87793
division (F)(2)(c) of this section, moneys in the fund shall be 87794
distributed by the department of alcohol and drug addiction 87795
services to the county indigent drivers alcohol treatment funds, 87796
the county juvenile indigent drivers alcohol treatment funds, and 87797
the municipal indigent drivers alcohol treatment funds that are 87798
required to be established by counties and municipal corporations 87799
pursuant to division (H) of this section, and shall be used only 87800
to pay the cost of an alcohol and drug addiction treatment program 87801
attended by an offender or juvenile traffic offender who is 87802
ordered to attend an alcohol and drug addiction treatment program 87803
by a county, juvenile, or municipal court judge and who is 87804
determined by the county, juvenile, or municipal court judge not 87805
to have the means to pay for the person's attendance at the 87806
program or to pay the costs specified in division (H)(4) of this 87807
section in accordance with that division. In addition, a county, 87808

juvenile, or municipal court judge may use moneys in the county 87809
indigent drivers alcohol treatment fund, county juvenile indigent 87810
drivers alcohol treatment fund, or municipal indigent drivers 87811
alcohol treatment fund to pay for the cost of the continued use of 87812
an alcohol monitoring device as described in divisions (H)(3) and 87813
(4) of this section. Moneys in the fund that are not distributed 87814
to a county indigent drivers alcohol treatment fund, a county 87815
juvenile indigent drivers alcohol treatment fund, or a municipal 87816
indigent drivers alcohol treatment fund under division (H) of this 87817
section because the director of alcohol and drug addiction 87818
services does not have the information necessary to identify the 87819
county or municipal corporation where the offender or juvenile 87820
offender was arrested may be transferred by the director of budget 87821
and management to the statewide treatment and prevention fund 87822
created by section 4301.30 of the Revised Code, upon certification 87823
of the amount by the director of alcohol and drug addiction 87824
services. 87825

(d) Seventy-five dollars shall be credited to the Ohio 87826
rehabilitation services commission established by section 3304.12 87827
of the Revised Code, to the services for rehabilitation fund, 87828
which is hereby established. The fund shall be used to match 87829
available federal matching funds where appropriate, and for any 87830
other purpose or program of the commission to rehabilitate people 87831
with disabilities to help them become employed and independent. 87832

(e) Seventy-five dollars shall be deposited into the state 87833
treasury and credited to the drug abuse resistance education 87834
programs fund, which is hereby established, to be used by the 87835
attorney general for the purposes specified in division (F)(4) of 87836
this section. 87837

(f) Thirty dollars shall be credited to the state bureau of 87838
motor vehicles fund created by section 4501.25 of the Revised 87839
Code. 87840

(g) Twenty dollars shall be credited to the trauma and 87841
emergency medical services grants fund created by section 4513.263 87842
of the Revised Code. 87843

(h) Fifty dollars shall be credited to the indigent drivers 87844
interlock and alcohol monitoring fund, which is hereby established 87845
in the state treasury. ~~Monies~~ Moneys in the fund shall be 87846
distributed by the department of public safety to the county 87847
indigent drivers interlock and alcohol monitoring funds, the 87848
county juvenile indigent drivers interlock and alcohol monitoring 87849
funds, and the municipal indigent drivers interlock and alcohol 87850
monitoring funds that are required to be established by counties 87851
and municipal corporations pursuant to this section, and shall be 87852
used only to pay the cost of an immobilizing or disabling device, 87853
including a certified ignition interlock device, or an alcohol 87854
monitoring device used by an offender or juvenile offender who is 87855
ordered to use the device by a county, juvenile, or municipal 87856
court judge and who is determined by the county, juvenile, or 87857
municipal court judge not to have the means to pay for the 87858
person's use of the device. 87859

(3) If a person's driver's or commercial driver's license or 87860
permit is suspended under this section, under section 4511.196 or 87861
division (G) of section 4511.19 of the Revised Code, under section 87862
4510.07 of the Revised Code for a violation of a municipal OVI 87863
ordinance or under any combination of the suspensions described in 87864
division (F)(3) of this section, and if the suspensions arise from 87865
a single incident or a single set of facts and circumstances, the 87866
person is liable for payment of, and shall be required to pay to 87867
the registrar ~~or an eligible deputy registrar~~, only one 87868
reinstatement fee of four hundred seventy-five dollars. The 87869
reinstatement fee shall be distributed by the bureau in accordance 87870
with division (F)(2) of this section. 87871

(4) The attorney general shall use amounts in the drug abuse 87872

resistance education programs fund to award grants to law 87873
enforcement agencies to establish and implement drug abuse 87874
resistance education programs in public schools. Grants awarded to 87875
a law enforcement agency under this section shall be used by the 87876
agency to pay for not more than fifty per cent of the amount of 87877
the salaries of law enforcement officers who conduct drug abuse 87878
resistance education programs in public schools. The attorney 87879
general shall not use more than six per cent of the amounts the 87880
attorney general's office receives under division (F)(2)(e) of 87881
this section to pay the costs it incurs in administering the grant 87882
program established by division (F)(2)(e) of this section and in 87883
providing training and materials relating to drug abuse resistance 87884
education programs. 87885

The attorney general shall report to the governor and the 87886
general assembly each fiscal year on the progress made in 87887
establishing and implementing drug abuse resistance education 87888
programs. These reports shall include an evaluation of the 87889
effectiveness of these programs. 87890

~~(5) In addition to the reinstatement fee under this section, 87891
if the person pays the reinstatement fee to a deputy registrar, 87892
the deputy registrar shall collect a service fee of ten dollars to 87893
compensate the deputy registrar for services performed under this 87894
section. The deputy registrar shall retain eight dollars of the 87895
service fee and shall transmit the reinstatement fee, plus two 87896
dollars of the service fee, to the registrar in the manner the 87897
registrar shall determine. 87898~~

(G) Suspension of a commercial driver's license under 87899
division (B) or (C) of this section shall be concurrent with any 87900
period of disqualification under section 3123.611 or 4506.16 of 87901
the Revised Code or any period of suspension under section 3123.58 87902
of the Revised Code. No person who is disqualified for life from 87903
holding a commercial driver's license under section 4506.16 of the 87904

Revised Code shall be issued a driver's license under Chapter 87905
4507. of the Revised Code during the period for which the 87906
commercial driver's license was suspended under division (B) or 87907
(C) of this section. No person whose commercial driver's license 87908
is suspended under division (B) or (C) of this section shall be 87909
issued a driver's license under Chapter 4507. of the Revised Code 87910
during the period of the suspension. 87911

(H)(1) Each county shall establish an indigent drivers 87912
alcohol treatment fund, each county shall establish a juvenile 87913
indigent drivers alcohol treatment fund, and each municipal 87914
corporation in which there is a municipal court shall establish an 87915
indigent drivers alcohol treatment fund. All revenue that the 87916
general assembly appropriates to the indigent drivers alcohol 87917
treatment fund for transfer to a county indigent drivers alcohol 87918
treatment fund, a county juvenile indigent drivers alcohol 87919
treatment fund, or a municipal indigent drivers alcohol treatment 87920
fund, all portions of fees that are paid under division (F) of 87921
this section and that are credited under that division to the 87922
indigent drivers alcohol treatment fund in the state treasury for 87923
a county indigent drivers alcohol treatment fund, a county 87924
juvenile indigent drivers alcohol treatment fund, or a municipal 87925
indigent drivers alcohol treatment fund, all portions of 87926
additional costs imposed under section 2949.094 of the Revised 87927
Code that are specified for deposit into a county, county 87928
juvenile, or municipal indigent drivers alcohol treatment fund by 87929
that section, and all portions of fines that are specified for 87930
deposit into a county or municipal indigent drivers alcohol 87931
treatment fund by section 4511.193 of the Revised Code shall be 87932
deposited into that county indigent drivers alcohol treatment 87933
fund, county juvenile indigent drivers alcohol treatment fund, or 87934
municipal indigent drivers alcohol treatment fund. The portions of 87935
the fees paid under division (F) of this section that are to be so 87936
deposited shall be determined in accordance with division (H)(2) 87937

of this section. Additionally, all portions of fines that are paid 87938
for a violation of section 4511.19 of the Revised Code or of any 87939
prohibition contained in Chapter 4510. of the Revised Code, and 87940
that are required under section 4511.19 or any provision of 87941
Chapter 4510. of the Revised Code to be deposited into a county 87942
indigent drivers alcohol treatment fund or municipal indigent 87943
drivers alcohol treatment fund shall be deposited into the 87944
appropriate fund in accordance with the applicable division of the 87945
section or provision. 87946

(2) That portion of the license reinstatement fee that is 87947
paid under division (F) of this section and that is credited under 87948
that division to the indigent drivers alcohol treatment fund shall 87949
be deposited into a county indigent drivers alcohol treatment 87950
fund, a county juvenile indigent drivers alcohol treatment fund, 87951
or a municipal indigent drivers alcohol treatment fund as follows: 87952

(a) Regarding a suspension imposed under this section, that 87953
portion of the fee shall be deposited as follows: 87954

(i) If the fee is paid by a person who was charged in a 87955
county court with the violation that resulted in the suspension or 87956
in the imposition of the court costs, the portion shall be 87957
deposited into the county indigent drivers alcohol treatment fund 87958
under the control of that court; 87959

(ii) If the fee is paid by a person who was charged in a 87960
juvenile court with the violation that resulted in the suspension 87961
or in the imposition of the court costs, the portion shall be 87962
deposited into the county juvenile indigent drivers alcohol 87963
treatment fund established in the county served by the court; 87964

(iii) If the fee is paid by a person who was charged in a 87965
municipal court with the violation that resulted in the suspension 87966
or in the imposition of the court costs, the portion shall be 87967
deposited into the municipal indigent drivers alcohol treatment 87968

fund under the control of that court. 87969

(b) Regarding a suspension imposed under section 4511.19 of 87970
the Revised Code or under section 4510.07 of the Revised Code for 87971
a violation of a municipal OVI ordinance, that portion of the fee 87972
shall be deposited as follows: 87973

(i) If the fee is paid by a person whose license or permit 87974
was suspended by a county court, the portion shall be deposited 87975
into the county indigent drivers alcohol treatment fund under the 87976
control of that court; 87977

(ii) If the fee is paid by a person whose license or permit 87978
was suspended by a municipal court, the portion shall be deposited 87979
into the municipal indigent drivers alcohol treatment fund under 87980
the control of that court. 87981

(3) Expenditures from a county indigent drivers alcohol 87982
treatment fund, a county juvenile indigent drivers alcohol 87983
treatment fund, or a municipal indigent drivers alcohol treatment 87984
fund shall be made only upon the order of a county, juvenile, or 87985
municipal court judge and only for payment of the cost of an 87986
assessment or the cost of the attendance at an alcohol and drug 87987
addiction treatment program of a person who is convicted of, or 87988
found to be a juvenile traffic offender by reason of, a violation 87989
of division (A) of section 4511.19 of the Revised Code or a 87990
substantially similar municipal ordinance, who is ordered by the 87991
court to attend the alcohol and drug addiction treatment program, 87992
and who is determined by the court to be unable to pay the cost of 87993
the assessment or the cost of attendance at the treatment program 87994
or for payment of the costs specified in division (H)(4) of this 87995
section in accordance with that division. The alcohol and drug 87996
addiction services board or the board of alcohol, drug addiction, 87997
and mental health services established pursuant to section 340.02 87998
or 340.021 of the Revised Code and serving the alcohol, drug 87999
addiction, and mental health service district in which the court 88000

is located shall administer the indigent drivers alcohol treatment 88001
program of the court. When a court orders an offender or juvenile 88002
traffic offender to obtain an assessment or attend an alcohol and 88003
drug addiction treatment program, the board shall determine which 88004
program is suitable to meet the needs of the offender or juvenile 88005
traffic offender, and when a suitable program is located and space 88006
is available at the program, the offender or juvenile traffic 88007
offender shall attend the program designated by the board. A 88008
reasonable amount not to exceed five per cent of the amounts 88009
credited to and deposited into the county indigent drivers alcohol 88010
treatment fund, the county juvenile indigent drivers alcohol 88011
treatment fund, or the municipal indigent drivers alcohol 88012
treatment fund serving every court whose program is administered 88013
by that board shall be paid to the board to cover the costs it 88014
incurs in administering those indigent drivers alcohol treatment 88015
programs. 88016

In addition, upon exhaustion of moneys in the indigent 88017
drivers interlock and alcohol monitoring fund for the use of an 88018
alcohol monitoring device, a county, juvenile, or municipal court 88019
judge may use moneys in the county indigent drivers alcohol 88020
treatment fund, county juvenile indigent drivers alcohol treatment 88021
fund, or municipal indigent drivers alcohol treatment fund in the 88022
following manners: 88023

(a) If the source of the moneys was an appropriation of the 88024
general assembly, a portion of a fee that was paid under division 88025
(F) of this section, a portion of a fine that was specified for 88026
deposit into the fund by section 4511.193 of the Revised Code, or 88027
a portion of a fine that was paid for a violation of section 88028
4511.19 of the Revised Code or of a provision contained in Chapter 88029
4510. of the Revised Code that was required to be deposited into 88030
the fund, to pay for the continued use of an alcohol monitoring 88031
device by an offender or juvenile traffic offender, in conjunction 88032

with a treatment program approved by the department of alcohol and 88033
drug addiction services, when such use is determined clinically 88034
necessary by the treatment program and when the court determines 88035
that the offender or juvenile traffic offender is unable to pay 88036
all or part of the daily monitoring or cost of the device; 88037

(b) If the source of the moneys was a portion of an 88038
additional court cost imposed under section 2949.094 of the 88039
Revised Code, to pay for the continued use of an alcohol 88040
monitoring device by an offender or juvenile traffic offender when 88041
the court determines that the offender or juvenile traffic 88042
offender is unable to pay all or part of the daily monitoring or 88043
cost of the device. The moneys may be used for a device as 88044
described in this division if the use of the device is in 88045
conjunction with a treatment program approved by the department of 88046
alcohol and drug addiction services, when the use of the device is 88047
determined clinically necessary by the treatment program, but the 88048
use of a device is not required to be in conjunction with a 88049
treatment program approved by the department in order for the 88050
moneys to be used for the device as described in this division. 88051

(4) If a county, juvenile, or municipal court determines, in 88052
consultation with the alcohol and drug addiction services board or 88053
the board of alcohol, drug addiction, and mental health services 88054
established pursuant to section 340.02 or 340.021 of the Revised 88055
Code and serving the alcohol, drug addiction, and mental health 88056
district in which the court is located, that the funds in the 88057
county indigent drivers alcohol treatment fund, the county 88058
juvenile indigent drivers alcohol treatment fund, or the municipal 88059
indigent drivers alcohol treatment fund under the control of the 88060
court are more than sufficient to satisfy the purpose for which 88061
the fund was established, as specified in divisions (H)(1) to (3) 88062
of this section, the court may declare a surplus in the fund. If 88063
the court declares a surplus in the fund, the court may expend the 88064

amount of the surplus in the fund for: 88065

(a) Alcohol and drug abuse assessment and treatment of 88066
persons who are charged in the court with committing a criminal 88067
offense or with being a delinquent child or juvenile traffic 88068
offender and in relation to whom both of the following apply: 88069

(i) The court determines that substance abuse was a 88070
contributing factor leading to the criminal or delinquent activity 88071
or the juvenile traffic offense with which the person is charged. 88072

(ii) The court determines that the person is unable to pay 88073
the cost of the alcohol and drug abuse assessment and treatment 88074
for which the surplus money will be used. 88075

(b) All or part of the cost of purchasing alcohol monitoring 88076
devices to be used in conjunction with division (H)(3) of this 88077
section, upon exhaustion of moneys in the indigent drivers 88078
interlock and alcohol monitoring fund for the use of an alcohol 88079
monitoring device. 88080

(5) For the purpose of determining as described in division 88081
(F)(2)(c) of this section whether an offender does not have the 88082
means to pay for the offender's attendance at an alcohol and drug 88083
addiction treatment program or whether an alleged offender or 88084
delinquent child is unable to pay the costs specified in division 88085
(H)(4) of this section, the court shall use the indigent client 88086
eligibility guidelines and the standards of indigency established 88087
by the state public defender to make the determination. 88088

(6) The court shall identify and refer any alcohol and drug 88089
addiction program that is not certified under section 3793.06 of 88090
the Revised Code and that is interested in receiving amounts from 88091
the surplus in the fund declared under division (H)(4) of this 88092
section to the department of alcohol and drug addiction services 88093
in order for the program to become a certified alcohol and drug 88094
addiction program. The department shall keep a record of applicant 88095

referrals received pursuant to this division and shall submit a 88096
report on the referrals each year to the general assembly. If a 88097
program interested in becoming certified makes an application to 88098
become certified pursuant to section 3793.06 of the Revised Code, 88099
the program is eligible to receive surplus funds as long as the 88100
application is pending with the department. The department of 88101
alcohol and drug addiction services must offer technical 88102
assistance to the applicant. If the interested program withdraws 88103
the certification application, the department must notify the 88104
court, and the court shall not provide the interested program with 88105
any further surplus funds. 88106

(7)(a) Each alcohol and drug addiction services board and 88107
board of alcohol, drug addiction, and mental health services 88108
established pursuant to section 340.02 or 340.021 of the Revised 88109
Code shall submit to the department of alcohol and drug addiction 88110
services an annual report for each indigent drivers alcohol 88111
treatment fund in that board's area. 88112

(b) The report, which shall be submitted not later than sixty 88113
days after the end of the state fiscal year, shall provide the 88114
total payment that was made from the fund, including the number of 88115
indigent consumers that received treatment services and the number 88116
of indigent consumers that received an alcohol monitoring device. 88117
The report shall identify the treatment program and expenditure 88118
for an alcohol monitoring device for which that payment was made. 88119
The report shall include the fiscal year balance of each indigent 88120
drivers alcohol treatment fund located in that board's area. In 88121
the event that a surplus is declared in the fund pursuant to 88122
division (H)(4) of this section, the report also shall provide the 88123
total payment that was made from the surplus moneys and identify 88124
the treatment program and expenditure for an alcohol monitoring 88125
device for which that payment was made. The department may require 88126
additional information necessary to complete the comprehensive 88127

statewide alcohol and drug addiction services plan as required by 88128
section 3793.04 of the Revised Code. 88129

(c) If a board is unable to obtain adequate information to 88130
develop the report to submit to the department for a particular 88131
indigent drivers alcohol treatment fund, the board shall submit a 88132
report detailing the effort made in obtaining the information. 88133

(I)(1) Each county shall establish an indigent drivers 88134
interlock and alcohol monitoring fund and a juvenile indigent 88135
drivers interlock and alcohol treatment fund, and each municipal 88136
corporation in which there is a municipal court shall establish an 88137
indigent drivers interlock and alcohol monitoring fund. All 88138
revenue that the general assembly appropriates to the indigent 88139
drivers interlock and alcohol monitoring fund for transfer to a 88140
county indigent drivers interlock and alcohol monitoring fund, a 88141
county juvenile indigent drivers interlock and alcohol monitoring 88142
fund, or a municipal indigent drivers interlock and alcohol 88143
monitoring fund, all portions of license reinstatement fees that 88144
are paid under division (F)(2) of this section and that are 88145
credited under that division to the indigent drivers interlock and 88146
alcohol monitoring fund in the state treasury, and all portions of 88147
fines that are paid under division (G) of section 4511.19 of the 88148
Revised Code and that are credited by division (G)(5)(e) of that 88149
section to the indigent drivers interlock and alcohol monitoring 88150
fund in the state treasury shall be deposited in the appropriate 88151
fund in accordance with division (I)(2) of this section. 88152

(2) That portion of the license reinstatement fee that is 88153
paid under division (F) of this section and that portion of the 88154
fine paid under division (G) of section 4511.19 of the Revised 88155
Code and that is credited under either division to the indigent 88156
drivers interlock and alcohol monitoring fund shall be deposited 88157
into a county indigent drivers interlock and alcohol monitoring 88158
fund, a county juvenile indigent drivers interlock and alcohol 88159

monitoring fund, or a municipal indigent drivers interlock and 88160
alcohol monitoring fund as follows: 88161

(a) If the fee or fine is paid by a person who was charged in 88162
a county court with the violation that resulted in the suspension 88163
or fine, the portion shall be deposited into the county indigent 88164
drivers interlock and alcohol monitoring fund under the control of 88165
that court. 88166

(b) If the fee or fine is paid by a person who was charged in 88167
a juvenile court with the violation that resulted in the 88168
suspension or fine, the portion shall be deposited into the county 88169
juvenile indigent drivers interlock and alcohol monitoring fund 88170
established in the county served by the court. 88171

(c) If the fee or fine is paid by a person who was charged in 88172
a municipal court with the violation that resulted in the 88173
suspension, the portion shall be deposited into the municipal 88174
indigent drivers interlock and alcohol monitoring fund under the 88175
control of that court. 88176

Sec. 4511.193. (A) Twenty-five dollars of any fine imposed 88177
for a violation of a municipal OVI ordinance shall be deposited 88178
into the municipal or county indigent drivers alcohol treatment 88179
fund created pursuant to division (H) of section 4511.191 of the 88180
Revised Code in accordance with this section and section 733.40, 88181
divisions (A) ~~and~~, (B), ~~and~~ (C) of section 1901.024, division (F) 88182
of section 1901.31, or division (C) of section 1907.20 of the 88183
Revised Code. Regardless of whether the fine is imposed by a 88184
municipal court, a mayor's court, or a juvenile court, if the fine 88185
was imposed for a violation of an ordinance of a municipal 88186
corporation that is within the jurisdiction of a county-operated 88187
municipal court or a municipal court that is not a county-operated 88188
municipal court, the twenty-five dollars that is subject to this 88189
section shall be deposited into the indigent drivers alcohol 88190

treatment fund of the county in which that municipal corporation 88191
is located if the municipal court that has jurisdiction over that 88192
municipal corporation is a county-operated municipal court or of 88193
the municipal corporation in which is located the municipal court 88194
that has jurisdiction over that municipal corporation if that 88195
municipal court is not a county-operated municipal court. 88196

Regardless of whether the fine is imposed by a county court, a 88197
mayor's court, or a juvenile court, if the fine was imposed for a 88198
violation of an ordinance of a municipal corporation that is 88199
within the jurisdiction of a county court, the twenty-five dollars 88200
that is subject to this section shall be deposited into the 88201
indigent drivers alcohol treatment fund of the county in which is 88202
located the county court that has jurisdiction over that municipal 88203
corporation. The deposit shall be made in accordance with section 88204
733.40, divisions (A) ~~and~~, (B), and (C) of section 1901.024, 88205
division (F) of section 1901.31, or division (C) of section 88206
1907.20 of the Revised Code. 88207

(B) Any court cost imposed as a result of a violation of a 88208
municipal ordinance that is a moving violation and designated for 88209
an indigent drivers alcohol treatment fund established pursuant to 88210
division (H) of section 4511.191 of the Revised Code shall be 88211
deposited into the municipal or county indigent drivers alcohol 88212
treatment fund created pursuant to division (H) of section 88213
4511.191 of the Revised Code in accordance with this section and 88214
section 733.40, divisions (A), (B), and (C) of section 1901.024, 88215
division (F) of section 1901.31, or division (C) of section 88216
1907.20 of the Revised Code. Regardless of whether the court cost 88217
is imposed by a municipal court, a mayor's court, or a juvenile 88218
court, if the court cost was imposed for a violation of an 88219
ordinance of a municipal corporation that is within the 88220
jurisdiction of a county-operated municipal court or a municipal 88221
court that is not a county-operated municipal court, the court 88222

cost that is subject to this section shall be deposited into the 88223
indigent drivers alcohol treatment fund of the county in which 88224
that municipal corporation is located if the municipal court that 88225
has jurisdiction over that municipal corporation is a 88226
county-operated municipal court or of the municipal corporation in 88227
which is located the municipal court that has jurisdiction over 88228
that municipal corporation if that municipal court is not a 88229
county-operated municipal court. Regardless of whether the court 88230
cost is imposed by a county court, a mayor's court, or a juvenile 88231
court, if the court cost was imposed for a violation of an 88232
ordinance of a municipal corporation that is within the 88233
jurisdiction of a county court, the court cost that is subject to 88234
this section shall be deposited into the indigent drivers alcohol 88235
treatment fund of the county in which is located the county court 88236
that has jurisdiction over that municipal corporation. The deposit 88237
shall be made in accordance with section 733.40, divisions (A), 88238
(B), and (C) of section 1901.024, division (F) of section 1901.31, 88239
or division (C) of section 1907.20 of the Revised Code. 88240

(C)(1) The requirements and sanctions imposed by divisions 88241
~~(B)~~(C)(1) and (2) of this section are an adjunct to and derive 88242
from the state's exclusive authority over the registration and 88243
titling of motor vehicles and do not comprise a part of the 88244
criminal sentence to be imposed upon a person who violates a 88245
municipal OVI ordinance. 88246

(2) If a person is convicted of or pleads guilty to a 88247
violation of a municipal OVI ordinance, if the vehicle the 88248
offender was operating at the time of the offense is registered in 88249
the offender's name, and if, within six years of the current 88250
offense, the offender has been convicted of or pleaded guilty to 88251
one or more violations of division (A) or (B) of section 4511.19 88252
of the Revised Code or one or more other equivalent offenses, the 88253
court, in addition to and independent of any sentence that it 88254

imposes upon the offender for the offense, shall do whichever of 88255
the following is applicable: 88256

(a) Except as otherwise provided in division ~~(B)~~(C)(2)(b) of 88257
this section, if, within six years of the current offense, the 88258
offender has been convicted of or pleaded guilty to one violation 88259
described in division ~~(B)~~(C)(2) of this section, the court shall 88260
order the immobilization for ninety days of that vehicle and the 88261
impoundment for ninety days of the license plates of that vehicle. 88262
The order for the immobilization and impoundment shall be issued 88263
and enforced in accordance with section 4503.233 of the Revised 88264
Code. 88265

(b) If, within six years of the current offense, the offender 88266
has been convicted of or pleaded guilty to two or more violations 88267
described in division ~~(B)~~(C)(2) of this section, or if the 88268
offender previously has been convicted of or pleaded guilty to a 88269
violation of division (A) of section 4511.19 of the Revised Code 88270
under circumstances in which the violation was a felony and 88271
regardless of when the violation and the conviction or guilty plea 88272
occurred, the court shall order the criminal forfeiture to the 88273
state of that vehicle. The order of criminal forfeiture shall be 88274
issued and enforced in accordance with section 4503.234 of the 88275
Revised Code. 88276

(D) As used in this section, "county-operated municipal 88277
court" has the same meaning as in section 1901.03 of the Revised 88278
Code. 88279

Sec. 4513.39. (A) The state highway patrol and sheriffs or 88280
their deputies shall exercise, to the exclusion of all other peace 88281
officers except within municipal corporations and except as 88282
specified in division (B) of this section and division (E) of 88283
section 2935.03 of the Revised Code, the power to make arrests for 88284
violations on all state highways, of sections 4503.11, 4503.21, 88285

4511.14 to 4511.16, 4511.20 to 4511.23, 4511.26 to 4511.40, 88286
4511.42 to 4511.48, 4511.58, 4511.59, 4511.62 to 4511.71, 4513.03 88287
to 4513.13, 4513.15 to 4513.22, 4513.24 to 4513.34, 4549.01, 88288
4549.08 to 4549.12, and 4549.62 of the Revised Code. 88289

(B) A member of the police force of a township police 88290
district created under section 505.48 of the Revised Code or of a 88291
joint police district created under section 505.482 of the Revised 88292
Code, and a township constable appointed pursuant to section 88293
509.01 of the Revised Code, who has received a certificate from 88294
the Ohio peace officer training commission under section 109.75 of 88295
the Revised Code, shall exercise the power to make arrests for 88296
violations of those sections listed in division (A) of this 88297
section, other than sections 4513.33 and 4513.34 of the Revised 88298
Code, as follows: 88299

(1) If the population of the township that created the 88300
township or joint police district served by the member's police 88301
force or the township that is served by the township constable is 88302
fifty thousand or less, the member or constable shall exercise 88303
that power on those portions of all state highways, except those 88304
highways included as part of the interstate system, as defined in 88305
section 5516.01 of the Revised Code, that are located within the 88306
township or joint police district, in the case of a member of a 88307
township or joint police district police force, or within the 88308
unincorporated territory of the township, in the case of a 88309
township constable; 88310

(2) If the population of the township that created the 88311
township or joint police district served by the member's police 88312
force or the township that is served by the township constable is 88313
greater than fifty thousand, the member or constable shall 88314
exercise that power on those portions of all state highways and 88315
highways included as part of the interstate highway system, as 88316
defined in section 5516.01 of the Revised Code, that are located 88317

within the township or joint police district, in the case of a 88318
member of a township or joint police district police force, or 88319
within the unincorporated territory of the township, in the case 88320
of a township constable. 88321

Sec. 4513.60. (A)(1) The sheriff of a county or chief of 88322
police of a municipal corporation, township, or township or joint 88323
police district, within the sheriff's or chief's respective 88324
territorial jurisdiction, upon complaint of any person adversely 88325
affected, may order into storage any motor vehicle, other than an 88326
abandoned junk motor vehicle as defined in section 4513.63 of the 88327
Revised Code, that has been left on private residential or private 88328
agricultural property for at least four hours without the 88329
permission of the person having the right to the possession of the 88330
property. The sheriff or chief of police, upon complaint of the 88331
owner of a repair garage or place of storage, may order into 88332
storage any motor vehicle, other than an abandoned junk motor 88333
vehicle, that has been left at the garage or place of storage for 88334
a longer period than that agreed upon. The place of storage shall 88335
be designated by the sheriff or chief of police. When ordering a 88336
motor vehicle into storage pursuant to this division, a sheriff or 88337
chief of police, whenever possible, shall arrange for the removal 88338
of the motor vehicle by a private tow truck operator or towing 88339
company. Subject to division (C) of this section, the owner of a 88340
motor vehicle that has been removed pursuant to this division may 88341
recover the vehicle only in accordance with division (E) of this 88342
section. 88343

(2) Divisions (A)(1) to (3) of this section do not apply to 88344
any private residential or private agricultural property that is 88345
established as a private tow-away zone in accordance with division 88346
(B) of this section. 88347

(3) As used in divisions (A)(1) and (2) of this section, 88348

"private residential property" means private property on which is 88349
located one or more structures that are used as a home, residence, 88350
or sleeping place by one or more persons, if no more than three 88351
separate households are maintained in the structure or structures. 88352
"Private residential property" does not include any private 88353
property on which is located one or more structures that are used 88354
as a home, residence, or sleeping place by two or more persons, if 88355
more than three separate households are maintained in the 88356
structure or structures. 88357

(B)(1) The owner of private property may establish a private 88358
tow-away zone only if all of the following conditions are 88359
satisfied: 88360

(a) The owner posts on the owner's property a sign, that is 88361
at least eighteen inches by twenty-four inches in size, that is 88362
visible from all entrances to the property, and that contains at 88363
least all of the following information: 88364

(i) A notice that the property is a private tow-away zone and 88365
that vehicles not authorized to park on the property will be towed 88366
away; 88367

(ii) The telephone number of the person from whom a 88368
towed-away vehicle can be recovered, and the address of the place 88369
to which the vehicle will be taken and the place from which it may 88370
be recovered; 88371

(iii) A statement that the vehicle may be recovered at any 88372
time during the day or night upon the submission of proof of 88373
ownership and the payment of a towing charge, in an amount not to 88374
exceed ninety dollars, and a storage charge, in an amount not to 88375
exceed twelve dollars per twenty-four-hour period; except that the 88376
charge for towing shall not exceed one hundred fifty dollars, and 88377
the storage charge shall not exceed twenty dollars per 88378
twenty-four-hour period, if the vehicle has a manufacturer's gross 88379

vehicle weight rating in excess of ten thousand pounds and is a 88380
truck, bus, or a combination of a commercial tractor and trailer 88381
or semitrailer. 88382

(b) The place to which the towed vehicle is taken and from 88383
which it may be recovered is conveniently located, is well 88384
lighted, and is on or within a reasonable distance of a regularly 88385
scheduled route of one or more modes of public transportation, if 88386
any public transportation is available in the municipal 88387
corporation or township in which the private tow-away zone is 88388
located. 88389

(2) If a vehicle is parked on private property that is 88390
established as a private tow-away zone in accordance with division 88391
(B)(1) of this section, without the consent of the owner of the 88392
property or in violation of any posted parking condition or 88393
regulation, the owner or the owner's agent may remove, or cause 88394
the removal of, the vehicle, the owner and the operator of the 88395
vehicle shall be deemed to have consented to the removal and 88396
storage of the vehicle and to the payment of the towing and 88397
storage charges specified in division (B)(1)(a)(iii) of this 88398
section, and the owner, subject to division (C) of this section, 88399
may recover a vehicle that has been so removed only in accordance 88400
with division (E) of this section. 88401

(3) If a municipal corporation requires tow trucks and tow 88402
truck operators to be licensed, no owner of private property 88403
located within the municipal corporation shall remove, or shall 88404
cause the removal and storage of, any vehicle pursuant to division 88405
(B)(2) of this section by an unlicensed tow truck or unlicensed 88406
tow truck operator. 88407

(4) Divisions (B)(1) to (3) of this section do not affect or 88408
limit the operation of division (A) of this section or sections 88409
4513.61 to 4513.65 of the Revised Code as they relate to property 88410
other than private property that is established as a private 88411

tow-away zone under division (B)(1) of this section. 88412

(C) If the owner or operator of a motor vehicle that has been 88413
ordered into storage pursuant to division (A)(1) of this section 88414
or of a vehicle that is being removed under authority of division 88415
(B)(2) of this section arrives after the motor vehicle or vehicle 88416
has been prepared for removal, but prior to its actual removal 88417
from the property, the owner or operator shall be given the 88418
opportunity to pay a fee of not more than one-half of the charge 88419
for the removal of motor vehicles under division (A)(1) of this 88420
section or of vehicles under division (B)(2) of this section, 88421
whichever is applicable, that normally is assessed by the person 88422
who has prepared the motor vehicle or vehicle for removal, in 88423
order to obtain release of the motor vehicle or vehicle. Upon 88424
payment of that fee, the motor vehicle or vehicle shall be 88425
released to the owner or operator, and upon its release, the owner 88426
or operator immediately shall move it so that: 88427

(1) If the motor vehicle was ordered into storage pursuant to 88428
division (A)(1) of this section, it is not on the private 88429
residential or private agricultural property without the 88430
permission of the person having the right to possession of the 88431
property, or is not at the garage or place of storage without the 88432
permission of the owner, whichever is applicable. 88433

(2) If the vehicle was being removed under authority of 88434
division (B)(2) of this section, it is not parked on the private 88435
property established as a private tow-away zone without the 88436
consent of the owner or in violation of any posted parking 88437
condition or regulation. 88438

(D)(1) If an owner of private property that is established as 88439
a private tow-away zone in accordance with division (B)(1) of this 88440
section or the authorized agent of such an owner removes or causes 88441
the removal of a vehicle from that property under authority of 88442
division (B)(2) of this section, the owner or agent promptly shall 88443

notify the police department of the municipal corporation, 88444
township, or township or joint police district in which the 88445
property is located, of the removal, the vehicle's license number, 88446
make, model, and color, the location from which it was removed, 88447
the date and time of its removal, the telephone number of the 88448
person from whom it may be recovered, and the address of the place 88449
to which it has been taken and from which it may be recovered. 88450

(2) Each county sheriff and each chief of police of a 88451
municipal corporation, township, or township or joint police 88452
district shall maintain a record of motor vehicles that the 88453
sheriff or chief orders into storage pursuant to division (A)(1) 88454
of this section and of vehicles removed from private property in 88455
the sheriff's or chief's jurisdiction that is established as a 88456
private tow-away zone of which the sheriff or chief has received 88457
notice under division (D)(1) of this section. The record shall 88458
include an entry for each such motor vehicle or vehicle that 88459
identifies the motor vehicle's or vehicle's license number, make, 88460
model, and color, the location from which it was removed, the date 88461
and time of its removal, the telephone number of the person from 88462
whom it may be recovered, and the address of the place to which it 88463
has been taken and from which it may be recovered. Any information 88464
in the record that pertains to a particular motor vehicle or 88465
vehicle shall be provided to any person who, either in person or 88466
pursuant to a telephone call, identifies self as the owner or 88467
operator of the motor vehicle or vehicle and requests information 88468
pertaining to its location. 88469

(3) Any person who registers a complaint that is the basis of 88470
a sheriff's or police chief's order for the removal and storage of 88471
a motor vehicle under division (A)(1) of this section shall 88472
provide the identity of the law enforcement agency with which the 88473
complaint was registered to any person who identifies self as the 88474
owner or operator of the motor vehicle and requests information 88475

pertaining to its location. 88476

(E) The owner of a motor vehicle that is ordered into storage 88477
pursuant to division (A)(1) of this section or of a vehicle that 88478
is removed under authority of division (B)(2) of this section may 88479
reclaim it upon payment of any expenses or charges incurred in its 88480
removal, in an amount not to exceed ninety dollars, and storage, 88481
in an amount not to exceed twelve dollars per twenty-four-hour 88482
period; except that the charge for towing shall not exceed one 88483
hundred fifty dollars, and the storage charge shall not exceed 88484
twenty dollars per twenty-four-hour period, if the vehicle has a 88485
manufacturer's gross vehicle weight rating in excess of ten 88486
thousand pounds and is a truck, bus, or a combination of a 88487
commercial tractor and trailer or semitrailer. Presentation of 88488
proof of ownership, which may be evidenced by a certificate of 88489
title to the motor vehicle or vehicle also shall be required for 88490
reclamation of the vehicle. If a motor vehicle that is ordered 88491
into storage pursuant to division (A)(1) of this section remains 88492
unclaimed by the owner for thirty days, the procedures established 88493
by sections 4513.61 and 4513.62 of the Revised Code shall apply. 88494

(F) No person shall remove, or cause the removal of, any 88495
vehicle from private property that is established as a private 88496
tow-away zone under division (B)(1) of this section other than in 88497
accordance with division (B)(2) of this section, and no person 88498
shall remove, or cause the removal of, any motor vehicle from any 88499
other private property other than in accordance with division 88500
(A)(1) of this section or sections 4513.61 to 4513.65 of the 88501
Revised Code. 88502

(G) Whoever violates division (B)(3) or (F) of this section 88503
is guilty of a minor misdemeanor. 88504

Sec. 4513.61. The sheriff of a county or chief of police of a 88505
municipal corporation, township, or township or joint police 88506

district, within the sheriff's or chief's respective territorial 88507
jurisdiction, or a state highway patrol trooper, upon notification 88508
to the sheriff or chief of police of such action and of the 88509
location of the place of storage, may order into storage any motor 88510
vehicle, including an abandoned junk motor vehicle as defined in 88511
section 4513.63 of the Revised Code, that has come into the 88512
possession of the sheriff, chief of police, or state highway 88513
patrol trooper as a result of the performance of the sheriff's, 88514
chief's, or trooper's duties or that has been left on a public 88515
street or other property open to the public for purposes of 88516
vehicular travel, or upon or within the right-of-way of any road 88517
or highway, for forty-eight hours or longer without notification 88518
to the sheriff or chief of police of the reasons for leaving the 88519
motor vehicle in such place, except that when such a motor vehicle 88520
constitutes an obstruction to traffic it may be ordered into 88521
storage immediately. The sheriff or chief of police shall 88522
designate the place of storage of any motor vehicle so ordered 88523
removed. 88524

The sheriff or chief of police immediately shall cause a 88525
search to be made of the records of the bureau of motor vehicles 88526
to ascertain the owner and any lienholder of a motor vehicle 88527
ordered into storage by the sheriff or chief of police, or by a 88528
state highway patrol trooper, and, if known, shall send or cause 88529
to be sent notice to the owner or lienholder at the owner's or 88530
lienholder's last known address by certified mail with return 88531
receipt requested, that the motor vehicle will be declared a 88532
nuisance and disposed of if not claimed within ten days of the 88533
date of mailing of the notice. The owner or lienholder of the 88534
motor vehicle may reclaim it upon payment of any expenses or 88535
charges incurred in its removal and storage, and presentation of 88536
proof of ownership, which may be evidenced by a certificate of 88537
title or memorandum certificate of title to the motor vehicle. If 88538
the owner or lienholder of the motor vehicle reclaims it after a 88539

search of the records of the bureau has been conducted and after 88540
notice has been sent to the owner or lienholder as described in 88541
this section, and the search was conducted by the owner of the 88542
place of storage or the owner's employee, and the notice was sent 88543
to the motor vehicle owner by the owner of the place of storage or 88544
the owner's employee, the owner or lienholder shall pay to the 88545
place of storage a processing fee of twenty-five dollars, in 88546
addition to any expenses or charges incurred in the removal and 88547
storage of the vehicle. 88548

If the owner or lienholder makes no claim to the motor 88549
vehicle within ten days of the date of mailing of the notice, and 88550
if the vehicle is to be disposed of at public auction as provided 88551
in section 4513.62 of the Revised Code, the sheriff or chief of 88552
police, without charge to any party, shall file with the clerk of 88553
courts of the county in which the place of storage is located an 88554
affidavit showing compliance with the requirements of this 88555
section. Upon presentation of the affidavit, the clerk, without 88556
charge, shall issue a salvage certificate of title, free and clear 88557
of all liens and encumbrances, to the sheriff or chief of police. 88558
If the vehicle is to be disposed of to a motor vehicle salvage 88559
dealer or other facility as provided in section 4513.62 of the 88560
Revised Code, the sheriff or chief of police shall execute in 88561
triplicate an affidavit, as prescribed by the registrar of motor 88562
vehicles, describing the motor vehicle and the manner in which it 88563
was disposed of, and that all requirements of this section have 88564
been complied with. The sheriff or chief of police shall retain 88565
the original of the affidavit for the sheriff's or chief's 88566
records, and shall furnish two copies to the motor vehicle salvage 88567
dealer or other facility. Upon presentation of a copy of the 88568
affidavit by the motor vehicle salvage dealer, the clerk of 88569
courts, within thirty days of the presentation, shall issue to 88570
such owner a salvage certificate of title, free and clear of all 88571
liens and encumbrances. 88572

Whenever a motor vehicle salvage dealer or other facility 88573
receives an affidavit for the disposal of a motor vehicle as 88574
provided in this section, the dealer or facility shall not be 88575
required to obtain an Ohio certificate of title to the motor 88576
vehicle in the dealer's or facility's own name if the vehicle is 88577
dismantled or destroyed and both copies of the affidavit are 88578
delivered to the clerk of courts. 88579

Sec. 4513.62. Unclaimed motor vehicles ordered into storage 88580
pursuant to division (A)(1) of section 4513.60 or section 4513.61 88581
of the Revised Code shall be disposed of at the order of the 88582
sheriff of the county or the chief of police of the municipal 88583
corporation, township, or township or joint police district to a 88584
motor vehicle salvage dealer or scrap metal processing facility as 88585
defined in section 4737.05 of the Revised Code, or to any other 88586
facility owned by or under contract with the county, municipal 88587
corporation, or township, for the disposal of such motor vehicles, 88588
or shall be sold by the sheriff, chief of police, or licensed 88589
auctioneer at public auction, after giving notice thereof by 88590
advertisement, published once a week for two successive weeks in a 88591
newspaper of general circulation in the county or as provided in 88592
section 7.16 of the Revised Code. Any moneys accruing from the 88593
disposition of an unclaimed motor vehicle that are in excess of 88594
the expenses resulting from the removal and storage of the vehicle 88595
shall be credited to the general fund of the county, ~~the~~ municipal 88596
corporation, ~~or the~~ township, or joint police district, as the 88597
case may be. 88598

Sec. 4513.63. "Abandoned junk motor vehicle" means any motor 88599
vehicle meeting all of the following requirements: 88600

(A) Left on private property for forty-eight hours or longer 88601
without the permission of the person having the right to the 88602
possession of the property, on a public street or other property 88603

open to the public for purposes of vehicular travel or parking, or 88604
upon or within the right-of-way of any road or highway, for 88605
forty-eight hours or longer; 88606

(B) Three years old, or older; 88607

(C) Extensively damaged, such damage including but not 88608
limited to any of the following: missing wheels, tires, motor, or 88609
transmission; 88610

(D) Apparently inoperable; 88611

(E) Having a fair market value of one thousand five hundred 88612
dollars or less. 88613

The sheriff of a county or chief of police of a municipal 88614
corporation, township, or township or joint police district, 88615
within the sheriff's or chief's respective territorial 88616
jurisdiction, or a state highway patrol trooper, upon notification 88617
to the sheriff or chief of police of such action, shall order any 88618
abandoned junk motor vehicle to be photographed by a law 88619
enforcement officer. The officer shall record the make of motor 88620
vehicle, the serial number when available, and shall also detail 88621
the damage or missing equipment to substantiate the value of one 88622
thousand five hundred dollars or less. The sheriff or chief of 88623
police shall thereupon immediately dispose of the abandoned junk 88624
motor vehicle to a motor vehicle salvage dealer as defined in 88625
section 4738.01 of the Revised Code or a scrap metal processing 88626
facility as defined in section 4737.05 of the Revised Code which 88627
is under contract to the county, township, or municipal 88628
corporation, or to any other facility owned by or under contract 88629
with the county, township, or municipal corporation for the 88630
destruction of such motor vehicles. The records and photograph 88631
relating to the abandoned junk motor vehicle shall be retained by 88632
the law enforcement agency ordering the disposition of such 88633
vehicle for a period of at least two years. The law enforcement 88634

agency shall execute in quadruplicate an affidavit, as prescribed 88635
by the registrar of motor vehicles, describing the motor vehicle 88636
and the manner in which it was disposed of, and that all 88637
requirements of this section have been complied with, and, within 88638
thirty days of disposing of the vehicle, shall sign and file the 88639
affidavit with the clerk of courts of the county in which the 88640
motor vehicle was abandoned. The clerk of courts shall retain the 88641
original of the affidavit for the clerk's files, shall furnish one 88642
copy thereof to the registrar, one copy to the motor vehicle 88643
salvage dealer or other facility handling the disposal of the 88644
vehicle, and one copy to the law enforcement agency ordering the 88645
disposal, who shall file such copy with the records and photograph 88646
relating to the disposal. Any moneys arising from the disposal of 88647
an abandoned junk motor vehicle shall be deposited in the general 88648
fund of the county, township, or the municipal corporation, as the 88649
case may be. 88650

Notwithstanding section 4513.61 of the Revised Code, any 88651
motor vehicle meeting the requirements of divisions (C), (D), and 88652
(E) of this section which has remained unclaimed by the owner or 88653
lienholder for a period of ten days or longer following 88654
notification as provided in section 4513.61 of the Revised Code 88655
may be disposed of as provided in this section. 88656

Sec. 4513.64. (A) No person shall willfully leave an 88657
abandoned junk motor vehicle as defined in section 4513.63 of the 88658
Revised Code on private property for more than seventy-two hours 88659
without the permission of the person having the right to the 88660
possession of the property, or on a public street or other 88661
property open to the public for purposes of vehicular travel or 88662
parking, or upon or within the right-of-way of any road or 88663
highway, for forty-eight hours or longer without notification to 88664
the sheriff of the county or chief of police of the municipal 88665
corporation, township, or township or joint police district of the 88666

reasons for leaving the motor vehicle in such place. 88667

For purposes of this section, the fact that a motor vehicle 88668
has been so left without permission or notification is prima-facie 88669
evidence of abandonment. 88670

Nothing contained in sections 4513.60, 4513.61, and 4513.63 88671
of the Revised Code shall invalidate the provisions of municipal 88672
ordinances or township resolutions regulating or prohibiting the 88673
abandonment of motor vehicles on streets, highways, public 88674
property, or private property within municipal corporations or 88675
townships. 88676

(B) Whoever violates this section is guilty of a minor 88677
misdemeanor and shall also be assessed any costs incurred by the 88678
county, township, joint police district, or municipal corporation 88679
in disposing of the abandoned junk motor vehicle that is the basis 88680
of the violation, less any money accruing to the county, ~~to the~~ 88681
township, joint police district, or ~~to the~~ municipal corporation 88682
from this disposal of the vehicle. 88683

Sec. 4513.66. (A) If a motor vehicle accident occurs on any 88684
highway, public street, or other property open to the public for 88685
purposes of vehicular travel and if any motor vehicle, cargo, or 88686
personal property that has been damaged or spilled as a result of 88687
the motor vehicle accident is blocking the highway, street, or 88688
other property or is otherwise endangering public safety, the 88689
sheriff of the county, or the chief of police of the municipal 88690
corporation, township, or township or joint police district, in 88691
which the accident occurred, a state highway patrol trooper, or 88692
the chief of the fire department having jurisdiction where the 88693
accident occurred may, without consent of the owner but with the 88694
approval of the law enforcement agency conducting any 88695
investigation of the accident, remove the motor vehicle if the 88696

motor vehicle is unoccupied, cargo, or personal property from the 88697
portion of the highway, public street, or property ordinarily used 88698
for vehicular travel on the highway, public street, or other 88699
property open to the public for purposes of vehicular travel. 88700

(B)(1) Except as provided in division (B)(2) or (3) of this 88701
section, no employee of the department of transportation, sheriff, 88702
deputy sheriff, chief of police or police officer of a municipal 88703
corporation, township, or township or joint police district, state 88704
highway patrol trooper, chief of a fire department, or fire 88705
fighter who authorizes or participates in the removal of any 88706
unoccupied motor vehicle, cargo, or personal property as 88707
authorized by division (A) of this section is liable in civil 88708
damages for any injury, death, or loss to person or property that 88709
results from the removal of that unoccupied motor vehicle, cargo, 88710
or personal property. Except as provided in division (B)(2) or (3) 88711
of this section, if the department of transportation or a sheriff, 88712
chief of police of a municipal corporation, township, or township 88713
or joint police district, head of the state highway patrol, or 88714
chief of a fire department authorizes, employs, or arranges to 88715
have a private tow truck operator or towing company remove any 88716
unoccupied motor vehicle, cargo, or personal property as 88717
authorized by division (A) of this section, that private tow truck 88718
operator or towing company is not liable in civil damages for any 88719
injury, death, or loss to person or property that results from the 88720
removal of that unoccupied motor vehicle, cargo, or personal 88721
property, and the department of transportation, sheriff, chief of 88722
police, head of the state highway patrol, or fire department chief 88723
is not liable in civil damages for any injury, death, or loss to 88724
person or property that results from the private tow truck 88725
operator or towing company's removal of that unoccupied motor 88726
vehicle, cargo, or personal property. 88727

(2) Division (B)(1) of this section does not apply to any 88728

person or entity involved in the removal of an unoccupied motor 88729
vehicle, cargo, or personal property pursuant to division (A) of 88730
this section if that removal causes or contributes to the release 88731
of a hazardous material or to structural damage to the roadway. 88732

(3) Division (B)(1) of this section does not apply to a 88733
private tow truck operator or towing company that was not 88734
authorized, employed, or arranged by the department of 88735
transportation, a sheriff, a chief of police of a municipal 88736
corporation, township, or township or joint police district, the 88737
head of the state highway patrol, or a chief of a fire department 88738
or to a private tow truck operator or towing company that was 88739
authorized, employed, or arranged by the department of 88740
transportation, a sheriff, a chief of police of a municipal 88741
corporation, township, or township or joint police district, the 88742
head of the state highway patrol, or a chief of a fire department 88743
to perform the removal of the unoccupied motor vehicle, cargo, or 88744
personal property and the private tow truck operator or towing 88745
company performed the removal in a reckless or willful manner. 88746

(C) As used in this section, "hazardous material" has the 88747
same meaning as in section 2305.232 of the Revised Code. 88748

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the 88749
Revised Code: 88750

(A) "Persons" includes individuals, firms, partnerships, 88751
associations, joint stock companies, corporations, and any 88752
combinations of individuals. 88753

(B) "Motor vehicle" means motor vehicle as defined in section 88754
4501.01 of the Revised Code and also includes "all-purpose 88755
vehicle" and "off-highway motorcycle" as those terms are defined 88756
in section 4519.01 of the Revised Code. "Motor vehicle" does not 88757
include a snowmobile as defined in section 4519.01 of the Revised 88758
Code or manufactured and mobile homes. 88759

(C) "New motor vehicle" means a motor vehicle, the legal title to which has never been transferred by a manufacturer, remanufacturer, distributor, or dealer to an ultimate purchaser.

(D) "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a dealer purchasing in the capacity of a dealer, who in good faith purchases such new motor vehicle for purposes other than resale.

(E) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.

(F) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.

(G) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to an ultimate purchaser for use as a consumer.

(H) "Retail installment contract" includes any contract in the form of a note, chattel mortgage, conditional sales contract, lease, agreement, or other instrument payable in one or more installments over a period of time and arising out of the retail sale of a motor vehicle.

(I) "Farm machinery" means all machines and tools used in the production, harvesting, and care of farm products.

(J) "Dealer" or "motor vehicle dealer" means any new motor vehicle dealer, any motor vehicle leasing dealer, and any used motor vehicle dealer.

(K) "New motor vehicle dealer" means any person engaged in 88791
the business of selling at retail, displaying, offering for sale, 88792
or dealing in new motor vehicles pursuant to a contract or 88793
agreement entered into with the manufacturer, remanufacturer, or 88794
distributor of the motor vehicles. 88795

(L) "Used motor vehicle dealer" means any person engaged in 88796
the business of selling, displaying, offering for sale, or dealing 88797
in used motor vehicles, at retail or wholesale, but does not mean 88798
any new motor vehicle dealer selling, displaying, offering for 88799
sale, or dealing in used motor vehicles incidentally to engaging 88800
in the business of selling, displaying, offering for sale, or 88801
dealing in new motor vehicles, any person engaged in the business 88802
of dismantling, salvaging, or rebuilding motor vehicles by means 88803
of using used parts, or any public officer performing official 88804
duties. 88805

(M) "Motor vehicle leasing dealer" means any person engaged 88806
in the business of regularly making available, offering to make 88807
available, or arranging for another person to use a motor vehicle 88808
pursuant to a bailment, lease, sublease, or other contractual 88809
arrangement under which a charge is made for its use at a periodic 88810
rate for a term of thirty days or more, and title to the motor 88811
vehicle is in and remains in the motor vehicle leasing dealer who 88812
originally leases it, irrespective of whether or not the motor 88813
vehicle is the subject of a later sublease, and not in the user, 88814
but does not mean a manufacturer or its affiliate leasing to its 88815
employees or to dealers. 88816

(N) "Salesperson" means any person employed by a dealer ~~or~~ 88817
~~manufactured home broker~~ to sell, display, and offer for sale, or 88818
deal in motor vehicles for a commission, compensation, or other 88819
valuable consideration, but does not mean any public officer 88820
performing official duties. 88821

(O) "Casual sale" means any transfer of a motor vehicle by a 88822

person other than a new motor vehicle dealer, used motor vehicle 88823
dealer, motor vehicle salvage dealer, as defined in division (A) 88824
of section 4738.01 of the Revised Code, salesperson, motor vehicle 88825
auction owner, manufacturer, or distributor acting in the capacity 88826
of a dealer, salesperson, auction owner, manufacturer, or 88827
distributor, to a person who purchases the motor vehicle for use 88828
as a consumer. 88829

(P) "Motor vehicle show" means a display of current models of 88830
motor vehicles whereby the primary purpose is the exhibition of 88831
competitive makes and models in order to provide the general 88832
public the opportunity to review and inspect various makes and 88833
models of motor vehicles at a single location. 88834

(Q) "Motor vehicle auction owner" means any person who is 88835
engaged wholly or in part in the business of auctioning motor 88836
vehicles, but does not mean a construction equipment auctioneer or 88837
a construction equipment auction licensee. 88838

(R) "Manufacturer" means a person who manufactures, 88839
assembles, or imports motor vehicles, including motor homes, but 88840
does not mean a person who only assembles or installs a body, 88841
special equipment unit, finishing trim, or accessories on a motor 88842
vehicle chassis supplied by a manufacturer or distributor. 88843

(S) "Tent-type fold-out camping trailer" means any vehicle 88844
intended to be used, when stationary, as a temporary shelter with 88845
living and sleeping facilities, and that is subject to the 88846
following properties and limitations: 88847

(1) A minimum of twenty-five per cent of the fold-out portion 88848
of the top and sidewalls combined must be constructed of canvas, 88849
vinyl, or other fabric, and form an integral part of the shelter. 88850

(2) When folded, the unit must not exceed: 88851

(a) Fifteen feet in length, exclusive of bumper and tongue; 88852

(b) Sixty inches in height from the point of contact with the ground;	88853 88854
(c) Eight feet in width;	88855
(d) One ton gross weight at time of sale.	88856
(T) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.	88857 88858 88859 88860 88861 88862
(U) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.	88863 88864 88865 88866
(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to such agreement, contract, or understanding.	88867 88868 88869 88870 88871
(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.	88872 88873 88874 88875
(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.	88876 88877 88878
(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.	88879 88880 88881
(Z) "Factory representative" means a representative employed	88882

by a manufacturer, remanufacturer, or by a factory branch 88883
primarily for the purpose of promoting the sale of its motor 88884
vehicles, parts, or accessories to dealers or for supervising or 88885
contacting its dealers or prospective dealers. 88886

(AA) "Administrative or executive management" means those 88887
individuals who are not subject to federal wage and hour laws. 88888

(BB) "Good faith" means honesty in the conduct or transaction 88889
concerned and the observance of reasonable commercial standards of 88890
fair dealing in the trade as is defined in section 1301.201 of the 88891
Revised Code, including, but not limited to, the duty to act in a 88892
fair and equitable manner so as to guarantee freedom from 88893
coercion, intimidation, or threats of coercion or intimidation; 88894
provided however, that recommendation, endorsement, exposition, 88895
persuasion, urging, or argument shall not be considered to 88896
constitute a lack of good faith. 88897

(CC) "Coerce" means to compel or attempt to compel by failing 88898
to act in good faith or by threat of economic harm, breach of 88899
contract, or other adverse consequences. Coerce does not mean to 88900
argue, urge, recommend, or persuade. 88901

(DD) "Relevant market area" means any area within a radius of 88902
ten miles from the site of a potential new dealership, except that 88903
for manufactured home or recreational vehicle dealerships the 88904
radius shall be twenty-five miles. The ten-mile radius shall be 88905
measured from the dealer's established place of business that is 88906
used exclusively for the purpose of selling, displaying, offering 88907
for sale, or dealing in motor vehicles. 88908

(EE) "Wholesale" or "at wholesale" means the act or attempted 88909
act of selling, bartering, exchanging, or otherwise disposing of a 88910
motor vehicle to a transferee for the purpose of resale and not 88911
for ultimate consumption by that transferee. 88912

(FF) "Motor vehicle wholesaler" means any person licensed as 88913

a dealer under the laws of another state and engaged in the 88914
business of selling, displaying, or offering for sale used motor 88915
vehicles, at wholesale, but does not mean any motor vehicle dealer 88916
as defined in this section. 88917

(GG)(1) "Remanufacturer" means a person who assembles or 88918
installs passenger seating, walls, a roof elevation, or a body 88919
extension on a conversion van with the motor vehicle chassis 88920
supplied by a manufacturer or distributor, a person who modifies a 88921
truck chassis supplied by a manufacturer or distributor for use as 88922
a public safety or public service vehicle, a person who modifies a 88923
motor vehicle chassis supplied by a manufacturer or distributor 88924
for use as a limousine or hearse, or a person who modifies an 88925
incomplete motor vehicle cab and chassis supplied by a new motor 88926
vehicle dealer or distributor for use as a tow truck, but does not 88927
mean either of the following: 88928

(a) A person who assembles or installs passenger seating, a 88929
roof elevation, or a body extension on a recreational vehicle as 88930
defined in division (Q) and referred to in division (B) of section 88931
4501.01 of the Revised Code; 88932

(b) A person who assembles or installs special equipment or 88933
accessories for handicapped persons, as defined in section 4503.44 88934
of the Revised Code, upon a motor vehicle chassis supplied by a 88935
manufacturer or distributor. 88936

(2) For the purposes of division (GG)(1) of this section, 88937
"public safety vehicle or public service vehicle" means a fire 88938
truck, ambulance, school bus, street sweeper, garbage packing 88939
truck, or cement mixer, or a mobile self-contained facility 88940
vehicle. 88941

(3) For the purposes of division (GG)(1) of this section, 88942
"limousine" means a motor vehicle, designed only for the purpose 88943
of carrying nine or fewer passengers, that a person modifies by 88944

cutting the original chassis, lengthening the wheelbase by forty 88945
inches or more, and reinforcing the chassis in such a way that all 88946
modifications comply with all applicable federal motor vehicle 88947
safety standards. No person shall qualify as or be deemed to be a 88948
remanufacturer who produces limousines unless the person has a 88949
written agreement with the manufacturer of the chassis the person 88950
utilizes to produce the limousines to complete properly the 88951
remanufacture of the chassis into limousines. 88952

(4) For the purposes of division (GG)(1) of this section, 88953
"hearse" means a motor vehicle, designed only for the purpose of 88954
transporting a single casket, that is equipped with a compartment 88955
designed specifically to carry a single casket that a person 88956
modifies by cutting the original chassis, lengthening the 88957
wheelbase by ten inches or more, and reinforcing the chassis in 88958
such a way that all modifications comply with all applicable 88959
federal motor vehicle safety standards. No person shall qualify as 88960
or be deemed to be a remanufacturer who produces hearses unless 88961
the person has a written agreement with the manufacturer of the 88962
chassis the person utilizes to produce the hearses to complete 88963
properly the remanufacture of the chassis into hearses. 88964

(5) For the purposes of division (GG)(1) of this section, 88965
"mobile self-contained facility vehicle" means a mobile classroom 88966
vehicle, mobile laboratory vehicle, bookmobile, bloodmobile, 88967
testing laboratory, and mobile display vehicle, each of which is 88968
designed for purposes other than for passenger transportation and 88969
other than the transportation or displacement of cargo, freight, 88970
materials, or merchandise. A vehicle is remanufactured into a 88971
mobile self-contained facility vehicle in part by the addition of 88972
insulation to the body shell, and installation of all of the 88973
following: a generator, electrical wiring, plumbing, holding 88974
tanks, doors, windows, cabinets, shelving, and heating, 88975
ventilating, and air conditioning systems. 88976

(6) For the purposes of division (GG)(1) of this section, 88977
"tow truck" means both of the following: 88978

(a) An incomplete cab and chassis that are purchased by a 88979
remanufacturer from a new motor vehicle dealer or distributor of 88980
the cab and chassis and on which the remanufacturer then installs 88981
in a permanent manner a wrecker body it purchases from a 88982
manufacturer or distributor of wrecker bodies, installs an 88983
emergency flashing light pylon and emergency lights upon the mast 88984
of the wrecker body or rooftop, and installs such other related 88985
accessories and equipment, including push bumpers, front grille 88986
guards with pads and other custom-ordered items such as painting, 88987
special lettering, and safety striping so as to create a complete 88988
motor vehicle capable of lifting and towing another motor vehicle. 88989

(b) An incomplete cab and chassis that are purchased by a 88990
remanufacturer from a new motor vehicle dealer or distributor of 88991
the cab and chassis and on which the remanufacturer then installs 88992
in a permanent manner a car carrier body it purchases from a 88993
manufacturer or distributor of car carrier bodies, installs an 88994
emergency flashing light pylon and emergency lights upon the 88995
rooftop, and installs such other related accessories and 88996
equipment, including push bumpers, front grille guards with pads 88997
and other custom-ordered items such as painting, special 88998
lettering, and safety striping. 88999

As used in division (GG)(6)(b) of this section, "car carrier 89000
body" means a mechanical or hydraulic apparatus capable of lifting 89001
and holding a motor vehicle on a flat level surface so that one or 89002
more motor vehicles can be transported, once the car carrier is 89003
permanently installed upon an incomplete cab and chassis. 89004

(HH) "Operating as a new motor vehicle dealership" means 89005
engaging in activities such as displaying, offering for sale, and 89006
selling new motor vehicles at retail, operating a service facility 89007
to perform repairs and maintenance on motor vehicles, offering for 89008

sale and selling motor vehicle parts at retail, and conducting all 89009
other acts that are usual and customary to the operation of a new 89010
motor vehicle dealership. For the purposes of this chapter only, 89011
possession of either a valid new motor vehicle dealer franchise 89012
agreement or a new motor vehicle dealers license, or both of these 89013
items, is not evidence that a person is operating as a new motor 89014
vehicle dealership. 89015

(II) "Outdoor power equipment" means garden and small utility 89016
tractors, walk-behind and riding mowers, chainsaws, and tillers. 89017

(JJ) "Remote service facility" means premises that are 89018
separate from a licensed new motor vehicle dealer's sales facility 89019
by not more than one mile and that are used by the dealer to 89020
perform repairs, warranty work, recall work, and maintenance on 89021
motor vehicles pursuant to a franchise agreement entered into with 89022
a manufacturer of motor vehicles. A remote service facility shall 89023
be deemed to be part of the franchise agreement and is subject to 89024
all the rights, duties, obligations, and requirements of Chapter 89025
4517. of the Revised Code that relate to the performance of motor 89026
vehicle repairs, warranty work, recall work, and maintenance work 89027
by new motor vehicle dealers. 89028

(KK) "Recreational vehicle" has the same meaning as in 89029
section 4501.01 of the Revised Code. 89030

(LL) "Construction equipment auctioneer" means a person who 89031
holds both a valid ~~auctioneer's~~ auction firm license issued under 89032
Chapter 4707. of the Revised Code and a valid construction 89033
equipment auction license issued under this chapter. 89034

(MM) "Large construction or transportation equipment" means 89035
vehicles having a gross vehicle weight rating of more than ten 89036
thousand pounds and includes road rollers, traction engines, power 89037
shovels, power cranes, commercial cars and trucks, or farm trucks, 89038
and other similar vehicles obtained primarily from the 89039

construction, mining, transportation or farming industries. 89040

Sec. 4517.02. (A) Except as otherwise provided in this 89041
section, no person shall do any of the following: 89042

(1) Engage in the business of displaying or selling at retail 89043
new motor vehicles or assume to engage in that business, unless 89044
the person is licensed as a new motor vehicle dealer under 89045
sections 4517.01 to 4517.45 of the Revised Code, or is a 89046
salesperson licensed under those sections and employed by a 89047
licensed new motor vehicle dealer; 89048

(2) Engage in the business of offering for sale, displaying 89049
for sale, or selling at retail or wholesale used motor vehicles or 89050
assume to engage in that business, unless the person is licensed 89051
as a dealer under sections 4517.01 to 4517.45 of the Revised Code, 89052
is a salesperson licensed under those sections and employed by a 89053
licensed used motor vehicle dealer or licensed new motor vehicle 89054
dealer, or the person holds a construction equipment auction 89055
license issued under section 4517.17 of the Revised Code; 89056

(3) Engage in the business of regularly making available, 89057
offering to make available, or arranging for another person to use 89058
a motor vehicle, in the manner described in division (M) of 89059
section 4517.01 of the Revised Code, unless the person is licensed 89060
as a motor vehicle leasing dealer under sections 4517.01 to 89061
4517.45 of the Revised Code; 89062

(4) Engage in the business of motor vehicle auctioning or 89063
assume to engage in that business, unless the person is licensed 89064
as a motor vehicle auction owner under sections 4517.01 to 4517.45 89065
of the Revised Code and the person uses an auctioneer who is 89066
licensed under Chapter 4707. of the Revised Code to conduct the 89067
motor vehicle auctions or the person holds a construction 89068
equipment auction license issued under section 4517.17 of the 89069
Revised Code; 89070

(5) Engage in the business of distributing motor vehicles or
assume to engage in that business, unless the person is licensed
as a distributor under sections 4517.01 to 4517.45 of the Revised
Code;

(6) Make more than five casual sales of motor vehicles in a
twelve-month period, commencing with the day of the month in which
the first such sale is made, nor provide a location or space for
the sale of motor vehicles at a flea market, without obtaining a
license as a dealer under sections 4517.01 to 4517.45 of the
Revised Code, provided that nothing in this section shall be
construed to prohibit the disposition without a license of a motor
vehicle originally acquired and held for purposes other than sale,
rental, or lease to an employee, retiree, officer, or director of
the person making the disposition, to a corporation affiliated
with the person making the disposition, or to a person licensed
under sections 4517.01 to 4517.45 of the Revised Code;

(7) Engage in the business of auctioning both large
construction or transportation equipment and also motor vehicles
incident thereto, unless the person is a construction equipment
auctioneer or the person is licensed as a motor vehicle auction
owner and the person uses an auctioneer who is licensed under
Chapter 4707. of the Revised Code to conduct the auction.

(B) Nothing in this section shall be construed to require an
auctioneer licensed under sections 4707.01 to 4707.19 of the
Revised Code, to obtain a motor vehicle salesperson's license
under sections 4517.01 to 4517.45 of the Revised Code when
conducting an auction sale for a licensed motor vehicle dealer on
the dealer's premises, or when conducting an auction sale for a
licensed motor vehicle auction owner; nor shall such an auctioneer
be required to obtain a motor vehicle auction owner's license
under sections 4517.01 to 4517.45 of the Revised Code when engaged
in auctioning for a licensed motor vehicle auction owner.

The establishment of a construction equipment auction license 89103
by Am. Sub. H.B. 114 of the 129th general assembly shall not in 89104
any way modify, limit, or restrict in any manner the conduct of 89105
auctions by persons licensed under Chapter 4707. of the Revised 89106
Code who are acting in compliance with that chapter. 89107

(C) Sections 4517.01 to 4517.45 of the Revised Code do not 89108
apply to any of the following: 89109

(1) Persons engaging in the business of selling commercial 89110
tractors, trailers, or semitrailers incidentally to engaging 89111
primarily in business other than the selling or leasing of motor 89112
vehicles; 89113

(2) Mortgagees selling at retail only those motor vehicles 89114
that have come into their possession by a default in the terms of 89115
a mortgage contract; 89116

(3) The leasing, rental, and interchange of motor vehicles 89117
used directly in the rendition of a public utility service by 89118
regulated motor carriers. 89119

(D) When a partnership licensed under sections 4517.01 to 89120
4517.45 of the Revised Code is dissolved by death, the surviving 89121
partners may operate under the license for a period of sixty days, 89122
and the heirs or representatives of deceased persons and receivers 89123
or trustees in bankruptcy appointed by any competent authority may 89124
operate under the license of the person succeeded in possession by 89125
that heir, representative, receiver, or trustee in bankruptcy. 89126

(E) No remanufacturer shall engage in the business of selling 89127
at retail any new motor vehicle without having written authority 89128
from the manufacturer or distributor of the vehicle to sell new 89129
motor vehicles and to perform repairs under the terms of the 89130
manufacturer's or distributor's new motor vehicle warranty, 89131
unless, at the time of the sale of the vehicle, each customer is 89132
furnished with a binding agreement ensuring that the customer has 89133

the right to have the vehicle serviced or repaired by a new motor 89134
vehicle dealer who is franchised to sell and service vehicles of 89135
the same line-make as the chassis of the remanufactured vehicle 89136
purchased by the customer and whose service or repair facility is 89137
located within either twenty miles of the remanufacturer's 89138
location and place of business or twenty miles of the customer's 89139
residence or place of business. If there is no such new motor 89140
vehicle dealer located within twenty miles of the remanufacturer's 89141
location and place of business or the customer's residence or 89142
place of business, the binding agreement furnished to the customer 89143
may be with the new motor vehicle dealer who is franchised to sell 89144
and service vehicles of the same line-make as the chassis of the 89145
remanufactured vehicle purchased by the customer and whose service 89146
or repair facility is located nearest to the remanufacturer's 89147
location and place of business or the customer's residence or 89148
place of business. Additionally, at the time of sale of any 89149
vehicle, each customer of the remanufacturer shall be furnished 89150
with a warranty issued by the remanufacturer for a term of at 89151
least one year. 89152

(F) Except as otherwise provided in this division, whoever 89153
violates this section is guilty of a minor misdemeanor and shall 89154
be subject to a mandatory fine of one hundred dollars. If the 89155
offender previously has been convicted of or pleaded guilty to a 89156
violation of this section, whoever violates this section is guilty 89157
of a misdemeanor of the first degree and shall be subject to a 89158
mandatory fine of one thousand dollars. 89159

Sec. 4517.04. Each person applying for a new motor vehicle 89160
dealer's license shall ~~annually~~ biennially make out and deliver to 89161
the registrar of motor vehicles, before the first day of April, 89162
and upon a blank to be furnished by the registrar for that 89163
purpose, a separate application for license for each county in 89164
which the business of selling new motor vehicles is to be 89165

conducted. The application shall be in the form prescribed by the registrar, shall be signed and sworn to by the applicant, and, in addition to any other information required by the registrar, shall include the following:

(A) Name of applicant and location of principal place of business;

(B) Name or style under which business is to be conducted and, if a corporation, the state of incorporation;

(C) Name and address of each owner or partner and, if a corporation, the names of the officers and directors;

(D) The county in which the business is to be conducted and the address of each place of business therein;

(E) A statement of the previous history, record, and association of the applicant and of each owner, partner, officer, and director, that shall be sufficient to establish to the satisfaction of the registrar the reputation in business of the applicant;

(F) A statement showing whether the applicant has previously applied for a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license,~~ distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, and the result of the application, and whether the applicant has ever been the holder of any such license that was revoked or suspended;

(G) If the applicant is a corporation or partnership, a statement showing whether any partner, employee, officer, or director has been refused a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license,~~ distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, or has been the holder of any such license that was revoked or suspended;

(H) A statement of the makes of new motor vehicles to be 89197
handled. 89198

The statement required by division (E) of this section shall 89199
indicate whether the applicant or, if applicable, any of the 89200
applicant's owners, partners, officers, or directors, 89201
individually, or as owner, partner, officer, or director of a 89202
business entity, has been convicted of, pleaded guilty, or pleaded 89203
no contest, in a criminal action, or had a judgment rendered 89204
against ~~him~~ the person in a civil action for, a violation of 89205
sections 4549.41 to 4549.46 of the Revised Code, of any 89206
substantively comparable provisions of the law of any other state, 89207
or of subchapter IV of the "Motor Vehicle Information and Cost 89208
Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 89209

A true copy of the contract, agreement, or understanding the 89210
applicant has entered into or is about to enter into with the 89211
manufacturer or distributor of the new motor vehicles the 89212
applicant will handle shall be filed with the application. If the 89213
contract, agreement, or understanding is not in writing, a written 89214
statement of all the terms thereof shall be filed. Each such copy 89215
or statement shall bear a certificate signed by each party to the 89216
contract, agreement, or understanding, to the effect that the copy 89217
or statement is true and complete and contains all of the 89218
agreements made or about to be made between the parties. 89219

The application also shall be accompanied by a photograph, as 89220
prescribed by the registrar, of each place of business operated, 89221
or to be operated, by the applicant. 89222

Sec. 4517.09. Each person applying for a salesperson's 89223
license shall ~~annually~~ biennially make out and deliver to the 89224
registrar of motor vehicles, before the first day of July and upon 89225
a blank to be furnished by the registrar for that purpose, an 89226
application for license. The application shall be in the form 89227

prescribed by the registrar, shall be signed and sworn to by the 89228
applicant, and, in addition to any other information required by 89229
the registrar, shall include the following: 89230

(A) Name and post-office address of the applicant; 89231

(B) Name and post-office address of the motor vehicle dealer 89232
~~or manufactured home broker~~ for whom the applicant intends to act 89233
as salesperson; 89234

(C) A statement of the applicant's previous history, record, 89235
and association, that shall be sufficient to establish to the 89236
satisfaction of the registrar the applicant's reputation in 89237
business; 89238

(D) A statement as to whether the applicant intends to engage 89239
in any occupation or business other than that of a motor vehicle 89240
salesperson; 89241

(E) A statement as to whether the applicant has ever had any 89242
previous application refused, and whether the applicant has 89243
previously had a license revoked or suspended; 89244

(F) A statement as to whether the applicant was an employee 89245
of or salesperson for a dealer ~~or manufactured home broker~~ whose 89246
license was suspended or revoked; 89247

(G) A statement of the motor vehicle dealer ~~or manufactured~~ 89248
~~home broker~~ named therein, designating the applicant as the 89249
dealer's ~~or broker's~~ salesperson. 89250

The statement required by division (C) of this section shall 89251
indicate whether the applicant individually, or as an owner, 89252
partner, officer, or director of a business entity, has been 89253
convicted of, or pleaded guilty to, in a criminal action, or had a 89254
judgment rendered against the applicant in a civil action for, a 89255
violation of sections 4549.41 to 4549.46 of the Revised Code, of 89256
any substantively comparable provisions of the law of any other 89257

state, or of subchapter IV of the "Motor Vehicle Information and 89258
Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 89259

Sec. 4517.10. At the time the registrar of motor vehicles 89260
grants the application of any person for a license as motor 89261
vehicle dealer, motor vehicle leasing dealer, ~~manufactured home~~ 89262
~~broker~~, distributor, motor vehicle auction owner, or motor vehicle 89263
salesperson, the registrar shall issue to the person a license. 89264
The registrar shall prescribe different forms for the licenses of 89265
motor vehicle dealers, motor vehicle leasing dealers, ~~manufactured~~ 89266
~~home brokers~~, distributors, motor vehicle auction owners, and 89267
motor vehicle salespersons, and all licenses shall include the 89268
name and post-office address of the person licensed. 89269

The fee for a dealer's license, and a motor vehicle leasing 89270
dealer's license, ~~and a manufactured home broker's license~~ shall 89271
be fifty dollars, and the fee for a salesperson's license shall be 89272
ten dollars. The fee for a motor vehicle auction owner's license 89273
shall be one hundred dollars for each location. The fee for a 89274
distributor's license shall be one hundred dollars for each 89275
distributorship. In all cases, the fee shall accompany the 89276
application for license. 89277

The registrar may require each applicant for a license issued 89278
under this chapter to pay an additional fee, which shall be used 89279
by the registrar to pay the costs of obtaining a record of any 89280
arrests and convictions of the applicant from the Ohio bureau of 89281
identification and investigation. The amount of the fee shall be 89282
equal to that paid by the registrar to obtain such record. 89283

If a dealer, or a motor vehicle leasing dealer, ~~or a~~ 89284
~~manufactured home broker~~, has more than one place of business in 89285
the county, the dealer ~~or the broker~~ shall make application, in 89286
such form as the registrar prescribes, for a certified copy of the 89287
license issued to the dealer ~~or manufactured home broker~~ for each 89288

place of business operated. In the event of the loss, mutilation, 89289
or destruction of a license issued under sections 4517.01 to 89290
4517.65 of the Revised Code, any licensee may make application to 89291
the registrar, in such form as the registrar prescribes, for a 89292
duplicate copy thereof. The fee for a certified or duplicate copy 89293
of a dealer's, motor vehicle leasing dealer's, ~~manufactured home~~ 89294
~~broker's~~, distributor's, or auction owner's license, is two 89295
dollars, and the fee for a duplicate copy of a salesperson's 89296
license is one dollar. All fees for such copies shall accompany 89297
the applications. 89298

Beginning on ~~the effective date of this amendment~~ September 89299
16, 2004, all dealers' licenses, motor vehicle leasing dealers' 89300
licenses, ~~manufactured home broker's licenses~~, distributors' 89301
licenses, auction owners' licenses, and all salespersons' licenses 89302
issued or renewed shall expire biennially on a day within the 89303
two-year cycle that is prescribed by the registrar, unless sooner 89304
suspended or revoked. Before the first day after the day 89305
prescribed by the registrar in the year that the license expires, 89306
each licensed dealer, motor vehicle leasing dealer, ~~manufactured~~ 89307
~~home broker~~, distributor, and auction owner and each licensed 89308
salesperson, in the year in which the license will expire, shall 89309
file an application, in such form as the registrar prescribes, for 89310
the renewal of such license. The fee provided in this section for 89311
the original license shall accompany the application. 89312

Any salesperson's license shall be suspended upon the 89313
termination, suspension, or revocation of the license of the motor 89314
vehicle dealer ~~or manufactured home broker~~ for whom the 89315
salesperson is acting, or upon the salesperson leaving the service 89316
of the motor vehicle dealer ~~or manufactured home broker~~; provided 89317
that upon the termination, suspension, or revocation of the 89318
license of the motor vehicle dealer ~~or manufactured home broker~~ 89319
for whom the salesperson is acting, or upon the salesperson 89320

leaving the service of a licensed motor vehicle dealer ~~or~~ 89321
~~manufactured home broker~~, the licensed salesperson, upon entering 89322
the service of any other licensed motor vehicle dealer ~~or~~ 89323
~~manufactured home broker~~, shall make application to the registrar, 89324
in such form as the registrar prescribes, to have the 89325
salesperson's license reinstated, transferred, and registered as a 89326
salesperson for the other dealer ~~or broker~~. If the information 89327
contained in the application is satisfactory to the registrar, the 89328
registrar shall have the salesperson's license reinstated, 89329
transferred, and registered as a salesperson for the other dealer 89330
~~or broker~~. The fee for the reinstatement and transfer of license 89331
shall be two dollars. No license issued to a dealer, motor vehicle 89332
leasing dealer, auction owner, ~~manufactured home broker~~, or 89333
salesperson, under sections 4517.01 to 4517.65 of the Revised Code 89334
shall be transferable to any other person. 89335

Each dealer, motor vehicle leasing dealer, ~~manufactured home~~ 89336
~~broker~~, distributor, and auction owner shall keep the license or a 89337
certified copy thereof and, in the case of a dealer ~~or broker~~, a 89338
current list of the dealer's ~~or the broker's~~ licensed 89339
salespersons, showing the names, addresses, and serial numbers of 89340
their licenses, posted in a conspicuous place in each place of 89341
business. Each salesperson shall carry the salesperson's license 89342
or a certified copy thereof and shall exhibit such license or copy 89343
upon demand to any inspector of the bureau of motor vehicles, 89344
state highway patrol trooper, police officer, or person with whom 89345
the salesperson seeks to transact business as a motor vehicle 89346
salesperson. 89347

The notice of refusal to grant a license shall disclose the 89348
reason for refusal. 89349

Sec. 4517.12. (A) The registrar of motor vehicles shall deny 89350
the application of any person for a license as a motor vehicle 89351

dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, or 89352
motor vehicle auction owner and refuse to issue the license if the 89353
registrar finds that the applicant: 89354

(1) Has made any false statement of a material fact in the 89355
application; 89356

(2) Has not complied with sections 4517.01 to 4517.45 of the 89357
Revised Code; 89358

(3) Is of bad business repute or has habitually defaulted on 89359
financial obligations; 89360

(4) Is engaged or will engage in the business of selling at 89361
retail any new motor vehicles without having written authority 89362
from the manufacturer or distributor thereof to sell new motor 89363
vehicles and to perform repairs under the terms of the 89364
manufacturer's or distributor's new motor vehicle warranty, except 89365
as provided in division (C) of this section and except that a 89366
person who assembles or installs special equipment or accessories 89367
for handicapped persons, as defined in section 4503.44 of the 89368
Revised Code, upon a motor vehicle chassis supplied by a 89369
manufacturer or distributor shall not be denied a license pursuant 89370
to division (A)(4) of this section; 89371

(5) Has been guilty of a fraudulent act in connection with 89372
selling or otherwise dealing in, or leasing, motor vehicles, or in 89373
connection with brokering manufactured homes; 89374

(6) Has entered into or is about to enter into a contract or 89375
agreement with a manufacturer or distributor of motor vehicles 89376
that is contrary to sections 4517.01 to 4517.45 of the Revised 89377
Code; 89378

(7) Is insolvent; 89379

(8) Is of insufficient responsibility to ensure the prompt 89380
payment of any final judgments that might reasonably be entered 89381

against the applicant because of the transaction of business as a 89382
motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured~~ 89383
~~home broker~~, or motor vehicle auction owner during the period of 89384
the license applied for, or has failed to satisfy any such 89385
judgment; 89386

(9) Has no established place of business that, where 89387
applicable, is used or will be used for the purpose of selling, 89388
displaying, offering for sale, dealing in, or leasing motor 89389
vehicles at the location for which application is made; 89390

(10) Has, less than twelve months prior to making 89391
application, been denied a motor vehicle dealer's, motor vehicle 89392
leasing dealer's, ~~manufactured home broker's~~, or motor vehicle 89393
auction owner's license, or has any such license revoked. 89394

(B) If the applicant is a corporation or partnership, the 89395
registrar may refuse to issue a license if any officer, director, 89396
or partner of the applicant has been guilty of any act or omission 89397
that would be cause for refusing or revoking a license issued to 89398
such officer, director, or partner as an individual. The 89399
registrar's finding may be based upon facts contained in the 89400
application or upon any other information the registrar may have. 89401
Immediately upon denying an application for any of the reasons in 89402
this section, the registrar shall enter a final order together 89403
with the registrar's findings and certify the same to the motor 89404
vehicle dealers' and salespersons' licensing board. 89405

(C) Notwithstanding division (A)(4) of this section, the 89406
registrar shall not deny the application of any person and refuse 89407
to issue a license if the registrar finds that the applicant is 89408
engaged or will engage in the business of selling at retail any 89409
new motor vehicles and demonstrates all of the following in the 89410
form prescribed by the registrar: 89411

(1) That the applicant has posted a bond, surety, or 89412

certificate of deposit with the registrar in an amount not less 89413
than one hundred thousand dollars for the protection and benefit 89414
of the applicant's customers except that a new motor vehicle 89415
dealer who is not exclusively engaged in the business of selling 89416
remanufactured vehicles shall not be required to post the bond, 89417
surety, or certificate of deposit otherwise required by division 89418
(C)(1) of this section; 89419

~~(2) That, at the time of the sale of the vehicle, each 89420
customer of the applicant will be furnished with a binding 89421
agreement ensuring that the customer has the right to have the 89422
vehicle serviced or repaired by a new motor vehicle dealer who is 89423
licensed to sell and service vehicles of the same line make as the 89424
chassis of the remanufactured vehicle purchased by the customer 89425
and whose service or repair facility is located within either 89426
twenty miles of the applicant's location and place of business or 89427
twenty miles of the customer's residence or place of business. If 89428
there is no such new motor vehicle dealer located within twenty 89429
miles of the applicant's location and place of business or the 89430
customer's residence or place of business, the binding agreement 89431
furnished to the customer may be with the new motor vehicle dealer 89432
who is franchised to sell and service vehicles of the same 89433
line make as the chassis of the remanufactured vehicle purchased 89434
by the customer and whose service or repair facility is located 89435
nearest to the remanufacturer's location and place of business or 89436
the customer's residence or place of business. 89437~~

~~(3) That, at the time of the sale of the vehicle, each 89438
customer of the applicant will be furnished with a warranty issued 89439
by the remanufacturer for a term of at least one year; 89440~~

~~(4)(3) That the applicant provides and maintains at the 89441
applicant's location and place of business a permanent facility 89442
with all of the following: 89443~~

~~(a) A showroom with space, under roof, for the display of at 89444~~

least one new motor vehicle;	89445
(b) A service and parts facility for remanufactured vehicles;	89446
(c) Full-time service and parts personnel with the proper training and technical expertise to service the remanufactured vehicles sold by the applicant.	89447 89448 89449
Sec. 4517.13. The registrar of motor vehicles shall deny the application of any person for a license as a distributor and refuse to issue the license if the registrar finds that the applicant:	89450 89451 89452 89453
(A) Has made any false statement of a material fact in the application;	89454 89455
(B) Has not complied with sections 4517.01 to 4517.45 of the Revised Code;	89456 89457
(C) Is of bad business repute or has habitually defaulted on financial obligations;	89458 89459
(D) Is engaged or will engage in the business of distributing any new motor vehicle without having the authority of a contract with the manufacturer of the vehicle;	89460 89461 89462
(E) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in motor vehicles;	89463 89464
(F) Has entered into or is about to enter into a contract or agreement with a manufacturer of motor vehicles that is contrary to sections 4517.01 to 4517.45 of the Revised Code;	89465 89466 89467
(G) Is insolvent;	89468
(H) Is of insufficient responsibility to ensure the prompt payment of any financial judgment that might reasonably be entered against the applicant because of the transaction of business as a distributor during the period of the license applied for, or has failed to satisfy any such judgment;	89469 89470 89471 89472 89473

(I) Has no established place of business that, where 89474
applicable, is used or will be used exclusively for the purpose of 89475
distributing new motor vehicles at the location for which 89476
application is made; 89477

(J) Has, less than twelve months prior to making application, 89478
been denied a distributor's, motor vehicle dealer's, motor vehicle 89479
leasing dealer's, ~~manufactured home broker's,~~ or motor vehicle 89480
auction owner's license, or had any such license revoked. 89481

If the applicant is a corporation or partnership, the 89482
registrar may refuse to issue a license if any officer, director, 89483
employee, or partner of the applicant has been guilty of any act 89484
or omission that would be cause for refusing or revoking a license 89485
issued to such officer, director, employee, or partner as an 89486
individual. The registrar's finding may be based upon facts 89487
contained in the application or upon any other information the 89488
registrar may have. Immediately upon denying an application for 89489
any of the reasons in this section, the registrar shall enter a 89490
final order together with the registrar's findings and certify the 89491
same to the motor vehicle dealers board. 89492

Sec. 4517.14. The registrar of motor vehicles shall deny the 89493
application of any person for a license as a salesperson and 89494
refuse to issue the license if the registrar finds that the 89495
applicant: 89496

(A) Has made any false statement of a material fact in the 89497
application; 89498

(B) Has not complied with sections 4517.01 to 4517.45 of the 89499
Revised Code; 89500

(C) Is of bad business repute or has habitually defaulted on 89501
financial obligations; 89502

(D) Has been guilty of a fraudulent act in connection with 89503

selling or otherwise dealing in motor vehicles; 89504

(E) Has not been designated to act as salesperson for a motor 89505
vehicle dealer ~~or manufactured home broker~~ licensed to do business 89506
in this state under section 4517.10 of the Revised Code, or 89507
intends to act as salesperson for more than one licensed motor 89508
vehicle dealer ~~or manufactured home broker~~ at the same time, 89509
except that a licensed salesperson may act as a salesperson at any 89510
licensed dealership owned or operated by the same ~~corporation~~ 89511
company, regardless of the county in which the dealership's 89512
facility is located; 89513

(F) Holds a current motor vehicle dealer's ~~or manufactured~~ 89514
~~home broker's~~ license issued under section 4517.10 of the Revised 89515
Code, and intends to act as salesperson for another licensed motor 89516
vehicle dealer ~~or manufactured home broker~~; 89517

(G) Has, less than twelve months prior to making application, 89518
been denied a salesperson's license or had a salesperson's license 89519
revoked. 89520

The registrar may refuse to issue a salesperson's license to 89521
an applicant who was salesperson for, or in the employ of, a motor 89522
vehicle dealer ~~or manufactured home broker~~ at the time the 89523
dealer's ~~or broker's~~ license was revoked. The registrar's finding 89524
may be based upon any statement contained in the application or 89525
upon any facts within the registrar's knowledge, and, immediately 89526
upon refusing to issue a salesperson's license, the registrar 89527
shall enter a final order and shall certify the final order 89528
together with his findings to the motor vehicle dealers board. 89529

Sec. 4517.23. (A) Any licensed motor vehicle dealer, motor 89530
vehicle leasing dealer, ~~manufactured home broker~~, or distributor 89531
shall notify the registrar of motor vehicles concerning any change 89532
in status as a dealer, motor vehicle leasing dealer, ~~manufactured~~ 89533
~~home broker~~, or distributor during the period for which the 89534

dealer, ~~broker~~, or distributor is licensed, if the change of status concerns any of the following:

(1) Personnel of owners, partners, officers, or directors;

(2) Location of office or principal place of business;

(3) In the case of a motor vehicle dealer, any contract or agreement with any manufacturer or distributor; and in the case of a distributor, any contract or agreement with any manufacturer.

(B) The notification required by division (A) of this section shall be made by filing with the registrar, within fifteen days after the change of status, a supplemental statement in a form prescribed by the registrar showing in what respect the status has been changed. If the change involves a change in any contract or agreement between any manufacturer or distributor, and dealer, or any manufacturer and distributor, the supplemental statement shall be accompanied by such copies of contracts, statements, and certificates as would have been required by sections 4517.01 to 4517.45 of the Revised Code if the change had occurred prior to the licensee's application for license.

The motor vehicle dealers board may adopt a rule exempting from the notification requirement of division (A)(1) of this section any dealer if stock in the dealer or its parent company is publicly traded and if there are public records with state or federal agencies that provide the information required by division (A)(1) of this section.

(C) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4517.24. (A) No two motor vehicle dealers shall engage in business at the same location, unless they agree to be jointly, severally, and personally liable for any liability arising from their engaging in business at the same location. The agreement

shall be filed with the motor vehicle dealers board, and shall 89565
also be made a part of the articles of incorporation of each such 89566
dealer filed with the secretary of state. Whenever the board has 89567
reason to believe that a dealer who has entered into such an 89568
agreement has revoked the agreement but continues to engage in 89569
business at the same location, the board shall revoke the dealer's 89570
license. 89571

~~(B) This section does not apply to two or more motor vehicle 89572
dealers engaged in the business of selling new or used 89573
manufactured or mobile homes in the same manufactured home park. 89574~~

~~(C) Whoever violates this section is guilty of a misdemeanor 89575
of the fourth degree. 89576~~

Sec. 4517.44. (A) No manufacturer or distributor of motor 89577
vehicles, dealer in motor vehicles, ~~or manufactured home broker,~~ 89578
nor any owner, proprietor, person in control, or keeper of any 89579
garage, stable, shop, or other place of business, shall fail to 89580
keep or cause to be kept any record required by law. 89581

(B) Whoever violates this section is guilty of a minor 89582
misdemeanor. 89583

Sec. 4549.17. (A) No law enforcement officer employed by a 89584
law enforcement agency of a municipal corporation, township, or 89585
joint ~~township~~ police district shall issue any citation, summons, 89586
or ticket for a violation of section 4511.21 of the Revised Code 89587
or a substantially similar municipal ordinance or for a violation 89588
of section 5577.04 of the Revised Code or a substantially similar 89589
municipal ordinance, if all of the following apply: 89590

(1) The citation, summons, or ticket would be issued for a 89591
violation described in division (A) of this section that occurs on 89592
a freeway that is part of the interstate system; 89593

(2) The municipal corporation, township, or joint ~~township~~ 89594

police district that employs the law enforcement officer has less than eight hundred eighty yards of the freeway that is part of the interstate system within its jurisdiction;

(3) The law enforcement officer must travel outside the boundaries of the municipal corporation, township, or joint township police district that employs ~~him~~ the officer in order to enter onto the freeway;

(4) The law enforcement officer travels onto the freeway for the primary purpose of issuing citations, summonses, or tickets for violations of section 4511.21 of the Revised Code or a substantially similar municipal ordinance or for violations of section 5577.04 of the Revised Code or a substantially similar municipal ordinance.

(B) As used in this section, "interstate system" has the same meaning as in section 5516.01 of the Revised Code.

Sec. 4582.12. (A)(1) Except as otherwise provided in division (E) of section 307.671 of the Revised Code, division (A) of this section does not apply to a port authority educational and cultural facility acquired, constructed, and equipped pursuant to a cooperative agreement entered into under section 307.671 of the Revised Code.

(2)(a) Except as provided in division (C) of this section, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding the higher of one hundred thousand dollars or the amount as adjusted under division (A)(2)(b) of this section and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation

in the area of the jurisdiction of the port authority. Each such 89626
contract shall be let to the lowest responsive and responsible 89627
bidder in accordance with section 9.312 of the Revised Code. Every 89628
contract let shall be in writing and if the contract involves work 89629
or construction, it shall be accompanied by or shall refer to 89630
plans and specifications for the work to be done, prepared for and 89631
approved by the port authority, signed by an authorized officer of 89632
the port authority and by the contractor, and shall be executed in 89633
triplicate. 89634

Each bid shall be awarded in accordance with sections 153.54, 89635
153.57, and 153.571 of the Revised Code. 89636

The port authority may reject any and all bids. 89637

(b) On January 1, 2012, and the first day of January of every 89638
even-numbered year thereafter, the director of commerce shall 89639
adjust the threshold level for contracts subject to the bidding 89640
requirements contained in division (A)(2)(a) of this section. The 89641
director shall adjust this amount according to the average 89642
increase for each of the two years immediately preceding the 89643
adjustment as set forth in the producer price index for material 89644
and supply inputs for new nonresidential construction as 89645
determined by the bureau of labor statistics of the United States 89646
department of labor or, if that index no longer is published, a 89647
generally available comparable index. If there is no resulting 89648
increase, the threshold shall remain the same until the next 89649
scheduled adjustment on the first day of January of the next 89650
even-numbered year. 89651

(B) The board of directors of a port authority by rule may 89652
provide criteria for the negotiation and award without competitive 89653
bidding of any contract as to which the port authority is the 89654
contracting entity for the construction of any building, 89655
structure, or other improvement under any of the following 89656
circumstances: 89657

(1) There exists a real and present emergency that threatens 89658
damage or injury to persons or property of the port authority or 89659
other persons, provided that a statement specifying the nature of 89660
the emergency that is the basis for the negotiation and award of a 89661
contract without competitive bidding shall be signed by the 89662
officer of the port authority that executes that contract at the 89663
time of the contract's execution and shall be attached to the 89664
contract. 89665

(2) A commonly recognized industry or other standard or 89666
specification does not exist and cannot objectively be articulated 89667
for the improvement. 89668

(3) The contract is for any energy conservation measure as 89669
defined in section 307.041 of the Revised Code. 89670

(4) With respect to material to be incorporated into the 89671
improvement, only a single source or supplier exists for the 89672
material. 89673

(5) A single bid is received by the port authority after 89674
complying with the provisions of division (A) of this section. 89675

(C)(1) If a contract is to be negotiated and awarded without 89676
competitive bidding for the reason set forth in division (B)(2) of 89677
this section, the port authority shall publish a notice calling 89678
for technical proposals at least twice, with at least seven days 89679
between publications, in a newspaper of general circulation in the 89680
area of the port authority. After receipt of the technical 89681
proposals, the port authority may negotiate with and award a 89682
contract for the improvement to the proposer making the proposal 89683
considered to be the most advantageous to the port authority. 89684

(2) If a contract is to be negotiated and awarded without 89685
competitive bidding for the reason set forth in division (B)(4) of 89686
this section, any construction activities related to the 89687
incorporation of the material into the improvement also may be 89688

provided without competitive bidding by the source or supplier of 89689
that material. 89690

~~(D) No contract for the construction or repair of any 89691
building, structure, or other improvement and no loan agreement 89692
for the borrowing of funds for any such improvement undertaken by 89693
a port authority, where the port authority is the contracting 89694
entity, shall be executed unless laborers and mechanics employed 89695
on such improvements are paid at the prevailing rates of wages of 89696
laborers and mechanics for the class of work called for by the 89697
improvement. The wages shall be determined in accordance with the 89698
requirements of Chapter 4115. of the Revised Code for the 89699
determination of prevailing wage rates, provided that the 89700
requirements of this section do not apply where the federal 89701
government or any of its agencies furnishes by loan or grant all 89702
or any part of the funds used in connection with such project and 89703
prescribes predetermined minimum wages to be paid to the laborers 89704
and mechanics. 89705~~

Sec. 4582.31. (A) A port authority created in accordance with 89706
section 4582.22 of the Revised Code may: 89707

(1) Adopt bylaws for the regulation of its affairs and the 89708
conduct of its business; 89709

(2) Adopt an official seal; 89710

(3) Maintain a principal office within its jurisdiction, and 89711
maintain such branch offices as it may require; 89712

(4) Acquire, construct, furnish, equip, maintain, repair, 89713
sell, exchange, lease to or from, or lease with an option to 89714
purchase, convey other interests in real or personal property, or 89715
any combination thereof, related to, useful for, or in furtherance 89716
of any authorized purpose and operate any property in connection 89717
with transportation, recreational, governmental operations, or 89718

cultural activities;	89719
(5) Straighten, deepen, and improve any channel, river,	89720
stream, or other water course or way which may be necessary or	89721
proper in the development of the facilities of a port authority;	89722
(6) Make available the use or services of any port authority	89723
facility to one or more persons, one or more governmental	89724
agencies, or any combination thereof;	89725
(7) Issue bonds or notes for the acquisition, construction,	89726
furnishing, or equipping of any port authority facility or other	89727
permanent improvement that a port authority is authorized to	89728
acquire, construct, furnish, or equip, in compliance with Chapter	89729
133. of the Revised Code, except that such bonds or notes may only	89730
be issued pursuant to a vote of the electors residing within the	89731
area of jurisdiction of the port authority. The net indebtedness	89732
incurred by a port authority shall never exceed two per cent of	89733
the total value of all property within the territory comprising	89734
the port authority as listed and assessed for taxation.	89735
(8) Issue port authority revenue bonds beyond the limit of	89736
bonded indebtedness provided by law, payable solely from revenues	89737
as provided in section 4582.48 of the Revised Code, for the	89738
purpose of providing funds to pay the costs of any port authority	89739
facility or facilities or parts thereof;	89740
(9) Apply to the proper authorities of the United States	89741
pursuant to appropriate law for the right to establish, operate,	89742
and maintain foreign trade zones and establish, operate, and	89743
maintain foreign trade zones and to acquire, exchange, sell, lease	89744
to or from, lease with an option to purchase, or operate	89745
facilities, land, or property therefor in accordance with the	89746
"Foreign Trade Zones Act," 48 Stat. 998 (1934), 19 U.S.C. 81a to	89747
81u;	89748
(10) Enjoy and possess the same rights, privileges, and	89749

powers granted municipal corporations under sections 721.04 to 89750
721.11 of the Revised Code; 89751

(11) Maintain such funds as it considers necessary; 89752

(12) Direct its agents or employees, when properly identified 89753
in writing, and after at least five days' written notice, to enter 89754
upon lands within the confines of its jurisdiction in order to 89755
make surveys and examinations preliminary to location and 89756
construction of works for the purposes of the port authority, 89757
without liability of the port authority or its agents or employees 89758
except for actual damage done; 89759

(13) Promote, advertise, and publicize the port authority and 89760
its facilities; provide information to shippers and other 89761
commercial interests; and appear before rate-making authorities to 89762
represent and promote the interests of the port authority; 89763

(14) Adopt rules, not in conflict with general law, it finds 89764
necessary or incidental to the performance of its duties and the 89765
execution of its powers under sections 4582.21 to 4582.54 of the 89766
Revised Code. Any such rule shall be posted at no less than five 89767
public places in the port authority, as determined by the board of 89768
directors, for a period of not fewer than fifteen days, and shall 89769
be available for public inspection at the principal office of the 89770
port authority during regular business hours. No person shall 89771
violate any lawful rule adopted and posted as provided in this 89772
division. 89773

(15) Do any of the following, in regard to any interests in 89774
any real or personal property, or any combination thereof, 89775
including, without limitation, machinery, equipment, plants, 89776
factories, offices, and other structures and facilities related 89777
to, useful for, or in furtherance of any authorized purpose, for 89778
such consideration and in such manner, consistent with Article 89779
VIII of the Ohio Constitution, as the board in its sole discretion 89780

may determine: 89781

(a) Loan moneys to any person or governmental entity for the 89782
acquisition, construction, furnishing, and equipping of the 89783
property; 89784

(b) Acquire, construct, maintain, repair, furnish, and equip 89785
the property; 89786

(c) Sell to, exchange with, lease, convey other interests in, 89787
or lease with an option to purchase the same or any lesser 89788
interest in the property to the same or any other person or 89789
governmental entity; 89790

(d) Guarantee the obligations of any person or governmental 89791
entity. 89792

A port authority may accept and hold as consideration for the 89793
conveyance of property or any interest therein such property or 89794
interests therein as the board in its discretion may determine, 89795
notwithstanding any restrictions that apply to the investment of 89796
funds by a port authority. 89797

(16) Sell, lease, or convey other interests in real and 89798
personal property, and grant easements or rights-of-way over 89799
property of the port authority. The board of directors shall 89800
specify the consideration and any terms for the sale, lease, or 89801
conveyance of other interests in real and personal property. Any 89802
determination made by the board under this division shall be 89803
conclusive. The sale, lease, or conveyance may be made without 89804
advertising and the receipt of bids. 89805

(17) Exercise the right of eminent domain to appropriate any 89806
land, rights, rights-of-way, franchises, easements, or other 89807
property, necessary or proper for any authorized purpose, pursuant 89808
to the procedure provided in sections 163.01 to 163.22 of the 89809
Revised Code, if funds equal to the appraised value of the 89810
property to be acquired as a result of such proceedings are 89811

available for that purpose. However, nothing contained in sections 89812
4582.201 to 4582.59 of the Revised Code shall authorize a port 89813
authority to take or disturb property or facilities belonging to 89814
any agency or political subdivision of this state, public utility, 89815
cable operator, or common carrier, which property or facilities 89816
are necessary and convenient in the operation of the agency or 89817
political subdivision, public utility, cable operator, or common 89818
carrier, unless provision is made for the restoration, relocation, 89819
or duplication of such property or facilities, or upon the 89820
election of the agency or political subdivision, public utility, 89821
cable operator, or common carrier, for the payment of 89822
compensation, if any, at the sole cost of the port authority, 89823
provided that: 89824

(a) If any restoration or duplication proposed to be made 89825
under this section involves a relocation of the property or 89826
facilities, the new facilities and location shall be of at least 89827
comparable utilitarian value and effectiveness and shall not 89828
impair the ability of the public utility, cable operator, or 89829
common carrier to compete in its original area of operation; 89830

(b) If any restoration or duplication made under this section 89831
involves a relocation of the property or facilities, the port 89832
authority shall acquire no interest or right in or to the 89833
appropriated property or facilities, except as provided in 89834
division (A)(15) of this section, until the relocated property or 89835
facilities are available for use and until marketable title 89836
thereto has been transferred to the public utility, cable 89837
operator, or common carrier. 89838

As used in division (A)(17) of this section, "cable operator" 89839
has the same meaning as in the "Cable Communications Policy Act of 89840
1984," Pub. L. No. 98-549, 98 Stat. 2780, 47 U.S.C. 522, as 89841
amended by the "Telecommunications Act of 1996," Pub. L. No. 89842
104-104, 110 Stat. 56. 89843

(18)(a) Make and enter into all contracts and agreements and 89844
execute all instruments necessary or incidental to the performance 89845
of its duties and the execution of its powers under sections 89846
4582.21 to 4582.59 of the Revised Code. 89847

(b)(i) Except as provided in division (A)(18)(c) of this 89848
section, when the cost of a contract for the construction of any 89849
building, structure, or other improvement undertaken by a port 89850
authority involves an expenditure exceeding the higher of one 89851
hundred thousand dollars or the amount as adjusted under division 89852
(A)(18)(b)(ii) of this section, and the port authority is the 89853
contracting entity, the port authority shall make a written 89854
contract after notice calling for bids for the award of the 89855
contract has been given by publication twice, with at least seven 89856
days between publications, in a newspaper of general circulation 89857
in the area of the port authority or as provided in section 7.16 89858
of the Revised Code. Each such contract shall be let to the lowest 89859
responsive and responsible bidder in accordance with section 9.312 89860
of the Revised Code. Every contract shall be accompanied by or 89861
shall refer to plans and specifications for the work to be done, 89862
prepared for and approved by the port authority, signed by an 89863
authorized officer of the port authority and by the contractor, 89864
and shall be executed in triplicate. 89865

Each bid shall be awarded in accordance with sections 153.54, 89866
153.57, and 153.571 of the Revised Code. The port authority may 89867
reject any and all bids. 89868

(ii) On January 1, 2012, and the first day of January of 89869
every even-numbered year thereafter, the director of commerce 89870
shall adjust the threshold level for contracts subject to the 89871
bidding requirements contained in division (A)(18)(b)(i) of this 89872
section. The director shall adjust this amount according to the 89873
average increase for each of the two years immediately preceding 89874
the adjustment as set forth in the producer price index for 89875

material and supply inputs for new nonresidential construction as 89876
determined by the bureau of labor statistics of the United States 89877
department of labor or, if that index no longer is published, a 89878
generally available comparable index. If there is no resulting 89879
increase, the threshold shall remain the same until the next 89880
scheduled adjustment on the first day of January of the next 89881
even-numbered year. 89882

(c) The board of directors by rule may provide criteria for 89883
the negotiation and award without competitive bidding of any 89884
contract as to which the port authority is the contracting entity 89885
for the construction of any building or structure or other 89886
improvement under any of the following circumstances: 89887

(i) There exists a real and present emergency that threatens 89888
damage or injury to persons or property of the port authority or 89889
other persons, provided that a statement specifying the nature of 89890
the emergency that is the basis for the negotiation and award of a 89891
contract without competitive bidding shall be signed by the 89892
officer of the port authority that executes that contract at the 89893
time of the contract's execution and shall be attached to the 89894
contract. 89895

(ii) A commonly recognized industry or other standard or 89896
specification does not exist and cannot objectively be articulated 89897
for the improvement. 89898

(iii) The contract is for any energy conservation measure as 89899
defined in section 307.041 of the Revised Code. 89900

(iv) With respect to material to be incorporated into the 89901
improvement, only a single source or supplier exists for the 89902
material. 89903

(v) A single bid is received by the port authority after 89904
complying with the provisions of division (A)(18)(b) of this 89905
section. 89906

(d)(i) If a contract is to be negotiated and awarded without 89907
competitive bidding for the reason set forth in division 89908
(A)(18)(c)(ii) of this section, the port authority shall publish a 89909
notice calling for technical proposals ~~at least~~ twice, with at 89910
least seven days between publications, in a newspaper of general 89911
circulation in the area of the port authority or as provided in 89912
section 7.16 of the Revised Code. After receipt of the technical 89913
proposals, the port authority may negotiate with and award a 89914
contract for the improvement to the proposer making the proposal 89915
considered to be the most advantageous to the port authority. 89916

(ii) If a contract is to be negotiated and awarded without 89917
competitive bidding for the reason set forth in division 89918
(A)(18)(c)(iv) of this section, any construction activities 89919
related to the incorporation of the material into the improvement 89920
also may be provided without competitive bidding by the source or 89921
supplier of that material. 89922

(e)(i) Any purchase, exchange, sale, lease, lease with an 89923
option to purchase, conveyance of other interests in, or other 89924
contract with a person or governmental entity that pertains to the 89925
acquisition, construction, maintenance, repair, furnishing, 89926
equipping, or operation of any real or personal property, or any 89927
combination thereof, related to, useful for, or in furtherance of 89928
an activity contemplated by Section 13 or 16 of Article VIII, Ohio 89929
Constitution, shall be made in such manner and subject to such 89930
terms and conditions as may be determined by the board of 89931
directors in its discretion. 89932

(ii) Division (A)(18)(e)(i) of this section applies to all 89933
contracts that are subject to the division, notwithstanding any 89934
other provision of law that might otherwise apply, including, 89935
without limitation, any requirement of notice, any requirement of 89936
competitive bidding or selection, or any requirement for the 89937
provision of security. 89938

(iii) Divisions (A)(18)(e)(i) and (ii) of this section do not 89939
apply to either of the following: any contract secured by or to be 89940
paid from moneys raised by taxation or the proceeds of obligations 89941
secured by a pledge of moneys raised by taxation; or any contract 89942
secured exclusively by or to be paid exclusively from the general 89943
revenues of the port authority. For the purposes of this section, 89944
any revenues derived by the port authority under a lease or other 89945
agreement that, by its terms, contemplates the use of amounts 89946
payable under the agreement either to pay the costs of the 89947
improvement that is the subject of the contract or to secure 89948
obligations of the port authority issued to finance costs of such 89949
improvement, are excluded from general revenues. 89950

(19) Employ managers, superintendents, and other employees 89951
and retain or contract with consulting engineers, financial 89952
consultants, accounting experts, architects, attorneys, and any 89953
other consultants and independent contractors as are necessary in 89954
its judgment to carry out this chapter, and fix the compensation 89955
thereof. All expenses thereof shall be payable from any available 89956
funds of the port authority or from funds appropriated for that 89957
purpose by a political subdivision creating or participating in 89958
the creation of the port authority. 89959

(20) Receive and accept from any state or federal agency 89960
grants and loans for or in aid of the construction of any port 89961
authority facility or for research and development with respect to 89962
port authority facilities, and receive and accept aid or 89963
contributions from any source of money, property, labor, or other 89964
things of value, to be held, used, and applied only for the 89965
purposes for which the grants and contributions are made; 89966

(21) Engage in research and development with respect to port 89967
authority facilities; 89968

(22) Purchase fire and extended coverage and liability 89969
insurance for any port authority facility and for the principal 89970

office and branch offices of the port authority, insurance 89971
protecting the port authority and its officers and employees 89972
against liability for damage to property or injury to or death of 89973
persons arising from its operations, and any other insurance the 89974
port authority may agree to provide under any resolution 89975
authorizing its port authority revenue bonds or in any trust 89976
agreement securing the same; 89977

(23) Charge, alter, and collect rentals and other charges for 89978
the use or services of any port authority facility as provided in 89979
section 4582.43 of the Revised Code; 89980

(24) Provide coverage for its employees under Chapters 145., 89981
4123., and 4141. of the Revised Code; 89982

(25) Do all acts necessary or proper to carry out the powers 89983
expressly granted in sections 4582.21 to 4582.59 of the Revised 89984
Code. 89985

(B) Any instrument by which real property is acquired 89986
pursuant to this section shall identify the agency of the state 89987
that has the use and benefit of the real property as specified in 89988
section 5301.012 of the Revised Code. 89989

(C) Whoever violates division (A)(14) of this section is 89990
guilty of a minor misdemeanor. 89991

Sec. 4585.10. The officer holding a writ for the sale of a 89992
watercraft, its apparel, or furniture, before ~~he proceeds~~ 89993
proceeding to sell it, shall give public notice of the time and 89994
place of sale for at least ten days previous thereto or as 89995
provided in section 7.16 of the Revised Code, by advertisement in 89996
a newspaper published of general circulation in the county, and by 89997
advertisement posted in at least five public places in the county. 89998
Such sales shall be conducted, and the court shall have the same 89999
power over them as sales upon execution. 90000

Sec. 4705.021. (A) As used in this section: 90001

(1) "Disciplinary counsel" means the disciplinary counsel 90002
appointed by the board of commissioners on grievances and 90003
discipline of the supreme court under the Rules for the Government 90004
of the Bar of Ohio. 90005

(2) "Certified grievance committee" means a duly constituted 90006
and organized committee of the Ohio state bar association or of 90007
one or more local bar associations of the state that complies with 90008
the criteria set forth in rule V, section 3 of the Rules for the 90009
Government of the Bar of Ohio. 90010

(3) "Child support order" has the same meaning as in section 90011
3119.01 of the Revised Code. 90012

(B) If an individual who has been admitted to the bar by 90013
order of the supreme court in compliance with its published rules 90014
is determined pursuant to sections 3123.01 to 3123.07 of the 90015
Revised Code by a court or child support enforcement agency to be 90016
in default under a support order being administered or handled by 90017
a child support enforcement agency, that agency may send a notice 90018
listing the name and social security number or other 90019
identification number of the individual and a certified copy of 90020
the court or agency determination that the individual is in 90021
default to the secretary of the board of commissioners on 90022
grievances and discipline of the supreme court and to either the 90023
disciplinary counsel or the president, secretary, and chairperson 90024
of each certified grievance committee if both of the following are 90025
the case: 90026

(1) At least ninety days have elapsed since the final and 90027
enforceable determination of default; 90028

(2) In the preceding ninety days, the obligor has failed to 90029
pay at least fifty per cent of the arrearage through means other 90030

than those described in sections 3123.81 to 3123.85 of the Revised Code. 90031
90032

Sec. 4725.34. (A) The state board of optometry shall charge 90033
the following nonrefundable fees: 90034

(1) One hundred ~~ten~~ thirty dollars for application for a 90035
certificate of licensure; 90036

(2) ~~Twenty-five~~ Forty-five dollars for application for a 90037
therapeutic pharmaceutical agents certificate, except when the 90038
certificate is to be issued pursuant to division (A)(3) of section 90039
4725.13 of the Revised Code, in which case the fee shall be 90040
thirty-five dollars; 90041

(3) One hundred ~~ten~~ thirty dollars for renewal of a 90042
certificate of licensure; 90043

(4) ~~Twenty-five~~ Forty-five dollars for renewal of a topical 90044
ocular pharmaceutical agents certificate; 90045

(5) ~~Twenty-five~~ Forty-five dollars for renewal of a 90046
therapeutic pharmaceutical agents certificate; 90047

(6) ~~Seventy-five~~ One hundred twenty-five dollars for late 90048
completion or submission, or both, of continuing optometric 90049
education; 90050

(7) ~~Seventy-five~~ One hundred twenty-five dollars for late 90051
renewal of one or more certificates that have expired; 90052

(8) Seventy-five dollars for reinstatement of one or more 90053
certificates classified as delinquent under section 4725.16 of the 90054
Revised Code, multiplied by the number of years the one or more 90055
certificates have been classified as delinquent; 90056

(9) Seventy-five dollars for reinstatement of one or more 90057
certificates placed on inactive status under section 4725.17 of 90058
the Revised Code; 90059

(10) Seventy-five dollars for reinstatement under section 90060
4725.171 of the Revised Code of one or more expired certificates; 90061

(11) Additional fees to cover administrative costs incurred 90062
by the board, including fees for replacing licenses issued by the 90063
board and providing rosters of currently licensed optometrists. 90064
Such fees shall be established at a regular meeting of the board 90065
and shall comply with any applicable guidelines or policies set by 90066
the department of administrative services or the office of budget 90067
and management. 90068

(B) The board, subject to the approval of the controlling 90069
board, may establish fees in excess of the amounts specified in 90070
division (A) of this section if the fees do not exceed the amounts 90071
specified by more than fifty per cent. 90072

(C) All receipts of the board, from any source, shall be 90073
deposited in the state treasury to the credit of the occupational 90074
licensing and regulatory fund. 90075

Sec. 4725.48. (A) Any person who desires to engage in optical 90076
dispensing, except as provided in section 4725.47 of the Revised 90077
Code, shall file a properly completed written application for an 90078
examination with the Ohio optical dispensers board or with the 90079
testing service the board has contracted with pursuant to section 90080
4725.49 of the Revised Code. The application for examination shall 90081
be made on a form provided by the board or testing service and 90082
shall be accompanied by an examination fee the board shall 90083
establish by rule. Applicants must return the application to the 90084
board or testing service at least sixty days prior to the date the 90085
examination is scheduled to be administered. 90086

(B) Except as provided in section 4725.47 of the Revised 90087
Code, any person who desires to engage in optical dispensing shall 90088
file a properly completed written application for a license with 90089
the board with ~~the appropriate license~~ a licensure application fee 90090

~~as set forth under section 4725.50 of the Revised Code of fifty~~ 90091
~~dollars.~~ 90092

No person shall be eligible to apply for a license under this 90093
division, unless the person is at least eighteen years of age, is 90094
of good moral character, is free of contagious or infectious 90095
disease, has received a passing score, as determined by the board, 90096
on the examination administered under division (A) of this 90097
section, is a graduate of an accredited high school of any state, 90098
or has received an equivalent education and has successfully 90099
completed either of the following: 90100

(1) Two years of supervised experience under a licensed 90101
dispensing optician, optometrist, or physician engaged in the 90102
practice of ophthalmology, up to one year of which may be 90103
continuous experience of not less than thirty hours a week in an 90104
optical laboratory; 90105

(2) A two-year college level program in optical dispensing 90106
that has been approved by the board and that includes, but is not 90107
limited to, courses of study in mathematics, science, English, 90108
anatomy and physiology of the eye, applied optics, ophthalmic 90109
optics, measurement and inspection of lenses, lens grinding and 90110
edging, ophthalmic lens design, keratometry, and the fitting and 90111
adjusting of spectacle lenses and frames and contact lenses, 90112
including methods of fitting contact lenses and post-fitting care. 90113

(C) Any person who desires to obtain a license to practice as 90114
an ocularist shall file a properly completed written application 90115
with the board accompanied by the appropriate fee and proof that 90116
the applicant has met the requirements for licensure. The board 90117
shall establish, by rule, the application fee and the minimum 90118
requirements for licensure, including education, examination, or 90119
experience standards recognized by the board as national standards 90120
for ocularists. The board shall issue a license to practice as an 90121
ocularist to an applicant who satisfies the requirements of this 90122

division and rules adopted pursuant to this division. 90123

Sec. 4725.50. (A) Except for a person who qualifies for 90124
licensure as an ocularist, each person who qualifies for licensure 90125
under sections 4725.40 to 4725.59 of the Revised Code shall 90126
receive from the Ohio optical dispensers board, under its seal, a 90127
certificate of licensure entitling ~~him~~ the person to practice as a 90128
licensed spectacle dispensing optician, licensed contact lens 90129
dispensing optician, or a licensed spectacle-contact lens 90130
dispensing optician. The appropriate certificate of licensure 90131
shall be issued by the board no later than sixty days after it has 90132
notified the applicant of ~~his~~ the applicant's approval for 90133
licensure. 90134

(B) ~~The licensure fee shall be fifty dollars for applications 90135
submitted in January through March; thirty seven dollars and fifty 90136
cents, in April through June; twenty five dollars, in July through 90137
September; and twelve dollars and fifty cents, in October through 90138
December.~~ 90139

~~(C)~~ Each licensed dispensing optician shall display ~~his~~ the 90140
licensed dispensing optician's certificate of licensure in a 90141
conspicuous place in ~~his~~ the licensed dispensing optician's office 90142
or place of business. If a licensed dispensing optician maintains 90143
more than one office or place of business, ~~he~~ the licensed 90144
dispensing optician shall display a duplicate copy of such 90145
certificate at each location. The board shall issue duplicate 90146
copies of the appropriate certificate of licensure for this 90147
purpose upon the filing of an application form therefor and the 90148
payment of a five-dollar fee for each duplicate copy. 90149

Sec. 4725.52. Any licensed dispensing optician may supervise 90150
a maximum of three apprentices who shall be permitted to engage in 90151
optical dispensing only under the supervision of the licensed 90152

dispensing optician. 90153

~~A person serving~~ To serve as an apprentice, a person shall 90154
register ~~annually~~ with the Ohio optical dispensers board either on 90155
a form provided by the board or in the form of a statement giving 90156
the name and address of the supervising licensed dispensing 90157
optician, the location at which the apprentice will be employed, 90158
and any other information required by the board. ~~Each registrant~~ 90159
For the duration of the apprenticeship, the apprentice shall 90160
register annually on the form provided by the board or in the form 90161
of a statement. 90162

Each apprentice shall pay a an initial registration fee of 90163
~~ten~~ twenty dollars. For each registration renewal thereafter, each 90164
apprentice shall pay a registration renewal fee of twenty dollars. 90165

A person who is gaining experience under the supervision of a 90166
licensed optometrist or ophthalmologist that would qualify ~~him~~ the 90167
person under division (B)(1) of section 4725.48 of the Revised 90168
Code to take the examination for optical dispensing is not 90169
required to register with the board. 90170

Sec. 4725.57. An applicant for licensure as a licensed 90171
dispensing optician who is licensed or registered in another state 90172
shall be accorded the full privileges of practice within this 90173
state, upon the payment of a ~~seventy-five~~ fifty-dollar fee and the 90174
submission of a certified copy of the license or certificate 90175
issued by such other state, without the necessity of examination, 90176
if the board determines that the applicant meets the ~~criteria of~~ 90177
~~division (A) of section 4725.48 of the Revised Code and further~~ 90178
~~determines that the educational background or experience of the~~ 90179
~~applicant satisfies the~~ remaining requirements of division (B) of 90180
section 4725.48 of the Revised Code. The board may require that 90181
the applicant have received a passing score, as determined by the 90182
board, on an examination that is substantially the same as the 90183

examination described in division (A) of section 4725.48 of the 90184
Revised Code. 90185

Sec. 4729.52. (A) A person desiring to be registered as a 90186
wholesale distributor of dangerous drugs shall file with the 90187
executive director of the state board of pharmacy a verified 90188
application containing such information as the board requires of 90189
the applicant relative to the qualifications to be registered as a 90190
wholesale distributor of dangerous drugs set forth in section 90191
4729.53 of the Revised Code and the rules adopted under that 90192
section. The board shall register as a wholesale distributor of 90193
dangerous drugs each applicant who has paid the required 90194
registration fee, if the board determines that the applicant meets 90195
the qualifications to be registered as a wholesale distributor of 90196
dangerous drugs set forth in section 4729.53 of the Revised Code 90197
and the rules adopted under that section. 90198

(B) The board may register and issue to a person who does not 90199
reside in this state a registration certificate as a wholesale 90200
distributor of dangerous drugs if the person possesses a current 90201
and valid wholesale distributor of dangerous drugs registration 90202
certificate or license issued by another state that has 90203
qualifications for licensure or registration comparable to the 90204
registration requirements in this state and pays the required 90205
registration fee. 90206

(C) All registration certificates issued pursuant to this 90207
section are effective for a period of twelve months from the first 90208
day of July of each year. A registration certificate shall be 90209
renewed annually by the board for a like period, pursuant to this 90210
section and the standard renewal procedure of Chapter 4745. of the 90211
Revised Code. A person desiring to renew a registration 90212
certificate shall submit an application for renewal and pay the 90213
required renewal fee before the first day of July each year. 90214

(D) Each registration certificate and its application shall describe not more than one establishment or place where the registrant or applicant may engage in the sale of dangerous drugs at wholesale. No registration certificate shall authorize or permit the wholesale distributor of dangerous drugs named therein to engage in the sale of drugs at wholesale or to maintain possession, custody, or control of dangerous drugs for any purpose other than for the registrant's own use and consumption at any establishment or place other than that described in the certificate.

(E)(1) The registration fee is ~~one~~ seven hundred fifty dollars and shall accompany each application for registration. The registration renewal fee is ~~one~~ seven hundred fifty dollars and shall accompany each renewal application.

A registration certificate that has not been renewed in any year by the first day of August may be reinstated upon payment of the renewal fee and a penalty of ~~fifty-five~~ one hundred fifty dollars.

(2) Renewal fees and penalties assessed under division (E)(1) of this section shall not be returned if the applicant fails to qualify for renewal.

(F) The registration of any person as a wholesale distributor of dangerous drugs subjects the person and the person's agents and employees to the jurisdiction of the board and to the laws of this state for the purpose of the enforcement of this chapter and the rules of the board. However, the filing of an application for registration as a wholesale distributor of dangerous drugs by, or on behalf of, any person or the registration of any person as a wholesale distributor of dangerous drugs shall not, of itself, constitute evidence that the person is doing business within this state.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code: 90246
90247

(A)(1) "Clinical laboratory services" means either of the following: 90248
90249

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health; 90250
90251
90252
90253

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body. 90254
90255
90256

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens. 90257
90258

(B) "Designated health services" means any of the following: 90259

(1) Clinical laboratory services; 90260

(2) Home health care services; 90261

(3) Outpatient prescription drugs. 90262

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and: 90263
90264

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use; 90265
90266
90267

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee. 90268
90269
90270
90271

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, 90272
90273
90274

including the medicare program established under Title XVIII of 90275
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 90276
as amended, health care coverage for public employees, health care 90277
benefits administered by the bureau of workers' compensation, and 90278
the medicaid program established under Chapter 5111. of the 90279
Revised Code, ~~and the children's buy in program established under~~ 90280
~~sections 5101.5211 to 5101.5216 of the Revised Code.~~ 90281

(E)(1) "Group practice" means a group of two or more holders 90282
of certificates under this chapter legally organized as a 90283
partnership, professional corporation or association, limited 90284
liability company, foundation, nonprofit corporation, faculty 90285
practice plan, or similar group practice entity, including an 90286
organization comprised of a nonprofit medical clinic that 90287
contracts with a professional corporation or association of 90288
physicians to provide medical services exclusively to patients of 90289
the clinic in order to comply with section 1701.03 of the Revised 90290
Code and including a corporation, limited liability company, 90291
partnership, or professional association described in division (B) 90292
of section 4731.226 of the Revised Code formed for the purpose of 90293
providing a combination of the professional services of 90294
optometrists who are licensed, certificated, or otherwise legally 90295
authorized to practice optometry under Chapter 4725. of the 90296
Revised Code, chiropractors who are licensed, certificated, or 90297
otherwise legally authorized to practice chiropractic or 90298
acupuncture under Chapter 4734. of the Revised Code, psychologists 90299
who are licensed, certificated, or otherwise legally authorized to 90300
practice psychology under Chapter 4732. of the Revised Code, 90301
registered or licensed practical nurses who are licensed, 90302
certificated, or otherwise legally authorized to practice nursing 90303
under Chapter 4723. of the Revised Code, pharmacists who are 90304
licensed, certificated, or otherwise legally authorized to 90305
practice pharmacy under Chapter 4729. of the Revised Code, 90306
physical therapists who are licensed, certificated, or otherwise 90307

legally authorized to practice physical therapy under sections 90308
4755.40 to 4755.56 of the Revised Code, occupational therapists 90309
who are licensed, certificated, or otherwise legally authorized to 90310
practice occupational therapy under sections 4755.04 to 4755.13 of 90311
the Revised Code, mechanotherapists who are licensed, 90312
certificated, or otherwise legally authorized to practice 90313
mechanotherapy under section 4731.151 of the Revised Code, and 90314
doctors of medicine and surgery, osteopathic medicine and surgery, 90315
or podiatric medicine and surgery who are licensed, certificated, 90316
or otherwise legally authorized for their respective practices 90317
under this chapter, to which all of the following apply: 90318

(a) Each physician who is a member of the group practice 90319
provides substantially the full range of services that the 90320
physician routinely provides, including medical care, 90321
consultation, diagnosis, or treatment, through the joint use of 90322
shared office space, facilities, equipment, and personnel. 90323

(b) Substantially all of the services of the members of the 90324
group are provided through the group and are billed in the name of 90325
the group and amounts so received are treated as receipts of the 90326
group. 90327

(c) The overhead expenses of and the income from the practice 90328
are distributed in accordance with methods previously determined 90329
by members of the group. 90330

(d) The group practice meets any other requirements that the 90331
state medical board applies in rules adopted under section 4731.70 90332
of the Revised Code. 90333

(2) In the case of a faculty practice plan associated with a 90334
hospital with a medical residency training program in which 90335
physician members may provide a variety of specialty services and 90336
provide professional services both within and outside the group, 90337
as well as perform other tasks such as research, the criteria in 90338

division (E)(1) of this section apply only with respect to 90339
services rendered within the faculty practice plan. 90340

(F) "Home health care services" and "immediate family" have 90341
the same meanings as in the rules adopted under section 4731.70 of 90342
the Revised Code. 90343

(G) "Hospital" has the same meaning as in section 3727.01 of 90344
the Revised Code. 90345

(H) A "referral" includes both of the following: 90346

(1) A request by a holder of a certificate under this chapter 90347
for an item or service, including a request for a consultation 90348
with another physician and any test or procedure ordered by or to 90349
be performed by or under the supervision of the other physician; 90350

(2) A request for or establishment of a plan of care by a 90351
certificate holder that includes the provision of designated 90352
health services. 90353

(I) "Third-party payer" has the same meaning as in section 90354
3901.38 of the Revised Code. 90355

Sec. 4731.71. The auditor of state may implement procedures 90356
to detect violations of section 4731.66 or 4731.69 of the Revised 90357
Code within governmental health care programs administered by the 90358
state. The auditor of state shall report any violation of either 90359
section to the state medical board and shall certify to the 90360
attorney general in accordance with section 131.02 of the Revised 90361
Code the amount of any refund owed to a state-administered 90362
governmental health care program under section 4731.69 of the 90363
Revised Code as a result of a violation. If a refund is owed to 90364
the medicaid program established under Chapter 5111. of the 90365
Revised Code ~~or the children's buy-in program established under~~ 90366
~~sections 5101.5211 to 5101.5216 of the Revised Code,~~ the auditor 90367
of state also shall report the amount to the department of job and 90368

family services. 90369

The state medical board also may implement procedures to 90370
detect violations of section 4731.66 or 4731.69 of the Revised 90371
Code. 90372

Sec. 4733.15. (A) Registration expires ~~annually~~ on the last 90373
day of December ~~following initial registration or renewal of~~ 90374
~~registration 2011~~, and becomes invalid on that date unless renewed 90375
~~pursuant to this section and the standard renewal procedure of~~ 90376
~~sections 4745.01 to 4745.03 of the Revised Code. For renewals~~ 90377
~~after that date, registration expires biennially on the last day~~ 90378
~~of December following initial registration or renewal of~~ 90379
~~registration and becomes invalid on that date unless renewed.~~ 90380
Renewal may be effected ~~at any time prior to the date of~~ 90381
~~expiration for a period of one year~~ by the applicant's payment to 90382
the treasurer of state of a fee of ~~twenty~~ forty dollars for a 90383
renewal of registration as either a professional engineer or 90384
professional surveyor and, ~~for renewals for calendar year 2008 and~~ 90385
~~thereafter~~, demonstration of completion of the continuing 90386
professional development requirements of section 4733.151 of the 90387
Revised Code. When notified as required in this section, a 90388
registrant's failure to renew registration shall not deprive the 90389
registrant of the right of renewal within the following twelve 90390
months, but the fee to renew a registration within twelve months 90391
after expiration shall be increased fifty per cent, and the 90392
registrant shall certify completion of continuing professional 90393
development hours as required in section 4733.151 of the Revised 90394
Code. 90395

The state board of registration for professional engineers 90396
and surveyors may, upon request, waive the payment of renewal fees 90397
or the completion of continuing professional development 90398
requirements for a registrant during the period when the 90399

registrant is on active duty in connection with any branch of the 90400
armed forces of the United States. 90401

(B) Each certificate of authorization issued pursuant to 90402
section 4733.16 of the Revised Code shall authorize the holder to 90403
provide professional engineering or professional surveying 90404
services, through the registered professional engineer or 90405
professional surveyor designated as being in responsible charge of 90406
the professional engineering or professional surveying practice, 90407
from the date of issuance until the last day of June next 90408
succeeding the date upon which the certificate was issued, unless 90409
the certificate has been revoked or suspended for cause as 90410
provided in section 4733.20 of the Revised Code or has been 90411
suspended pursuant to section 3123.47 of the Revised Code. 90412

(C) If a registrant fails to renew registration as provided 90413
under division (A) of this section, renewal and reinstatement may 90414
be effected under rules the board adopts regarding requirements 90415
for reexamination or reapplication, and reinstatement penalty 90416
fees. The board may require a registrant who fails to renew 90417
registration to complete ~~these~~ the required hours of continuing 90418
professional development ~~required from the effective date of this~~ 90419
~~section,~~ as a condition of renewal and reinstatement if the 90420
registrant seeks renewal and reinstatement under this division ~~on~~ 90421
~~or after January 1, 2009.~~ 90422

Sec. 4733.151. (A) ~~Each~~ For registrations expiring on the 90423
last day of December 2011, each registrant for renewal ~~for~~ 90424
~~ealendar year 2008 and thereafter~~ shall have completed, ~~within the~~ 90425
~~preceding in~~ calendar year 2011, at least fifteen hours of 90426
continuing professional development for professional engineers and 90427
surveyors. Thereafter, each registrant shall complete at least 90428
thirty hours of continuing professional development during the 90429
two-year period immediately preceding the biennial renewal 90430

expiration date. 90431

(B) The continuing professional development requirement may 90432
be satisfied by coursework or activities dealing with technical, 90433
ethical, or managerial topics relevant to the practice of 90434
engineering or surveying. A registrant may earn continuing 90435
professional development hours by completing or teaching 90436
university or college level coursework, attending seminars, 90437
workshops, or conferences, authoring relevant published papers, 90438
articles, or books, receiving patent awards, or actively 90439
participating in professional or technical societies serving the 90440
engineering or surveying professions. 90441

In the case of the board disputing the content of any credit 90442
hours or coursework, then the board shall presume as a matter of 90443
law that any credit hours submitted by a registrant, or any 90444
coursework or activity submitted for approval, complies with this 90445
section if submitted and if a statement signed by a current 90446
registrant not otherwise participating in the event, affirms that 90447
the material is relevant to the registrant's practice and will 90448
assist the registrant's development in the profession. 90449

Credit for university or college level coursework shall be 90450
based on the credit established by the university or college. One 90451
semester hour as established by the university or college shall be 90452
the equivalent of forty-five hours of continuing professional 90453
development, and one quarter hour as established by the university 90454
or college shall be the equivalent of thirty hours of continuing 90455
professional development. 90456

Credit for seminars, workshops, or conferences offering 90457
continuing education units shall be based on the units awarded by 90458
the organization presenting the seminar, workshop, or conference. 90459
A registrant may earn ten continuing professional development 90460
hours for each continuing education unit awarded. Each hour of 90461
attendance at a seminar, workshop, or conference for which no 90462

continuing education units are offered shall be the equivalent of 90463
one continuing professional development hour. 90464

A registrant may earn two continuing professional development 90465
hours for each year of service as an officer or active committee 90466
member of a professional or technical society or association that 90467
represents registrants or entities composed of registrants. A 90468
registrant may earn ten continuing professional development hours 90469
for authoring relevant published papers, articles, or books. A 90470
registrant may earn ten continuing professional development hours 90471
for each such published paper, article, or book. A registrant may 90472
earn ten continuing professional development hours for each patent 90473
award. 90474

(C) A person registered as both a professional engineer and 90475
professional surveyor shall complete at least ~~five~~ ten of the 90476
~~fifteen~~ thirty hours required under division (A) of this section 90477
in engineering-related coursework or activities and at least ~~five~~ 90478
ten of those ~~fifteen~~ thirty hours in surveying-related coursework 90479
or activities. 90480

(D) A registrant is exempt from the continuing professional 90481
development requirements of this section during the first calendar 90482
year of registration. 90483

(E) A registrant who completes more than ~~fifteen~~ thirty hours 90484
of approved coursework or activities in ~~any calendar year~~ a 90485
biennial renewal period may carry forward to the next ~~calendar~~ 90486
~~year~~ biennial renewal period a maximum of fifteen of the excess 90487
hours. 90488

(F) A registrant shall maintain records to demonstrate 90489
completion of the continuing professional development requirements 90490
specified in this section for a period of ~~three~~ four calendar 90491
years beyond the year in which certification of the completion of 90492
the requirements is obtained by the registrant. The records shall 90493

include all of the following: 90494

(1) A log specifying the type of coursework or activity, its 90495
location and duration along with the instructor's name, and the 90496
number of continuing professional development hours earned; 90497

(2) Certificates of completion or other evidence verifying 90498
attendance. 90499

(G) The records specified in division (F) of this section may 90500
be audited at any time by the state board of registration for 90501
professional engineers and surveyors. If the board discovers that 90502
a registrant has failed to complete coursework or activities, it 90503
shall notify the registrant of the deficiencies and allow the 90504
registrant six months from the date of the notice to rectify the 90505
deficiencies and to provide the board with evidence of 90506
satisfactory completion of the continuing professional development 90507
requirements. If the registrant fails to provide such evidence 90508
within that six-month period, the board may revoke or suspend the 90509
registration after offering an adjudication hearing in accordance 90510
with Chapter 119. of the Revised Code. 90511

Sec. 4735.01. As used in this chapter: 90512

(A) "Real estate broker" includes any person, partnership, 90513
association, limited liability company, limited liability 90514
partnership, or corporation, foreign or domestic, who for another, 90515
whether pursuant to a power of attorney or otherwise, and who for 90516
a fee, commission, or other valuable consideration, or with the 90517
intention, or in the expectation, or upon the promise of receiving 90518
or collecting a fee, commission, or other valuable consideration 90519
does any of the following: 90520

(1) Sells, exchanges, purchases, rents, or leases, or 90521
negotiates the sale, exchange, purchase, rental, or leasing of any 90522
real estate; 90523

(2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate;	90524
	90525
(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;	90526
	90527
	90528
(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;	90529
	90530
(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;	90531
	90532
	90533
	90534
(6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;	90535
	90536
	90537
(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;	90538
	90539
	90540
	90541
(8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;	90542
	90543
	90544
	90545
	90546
	90547
	90548
	90549
	90550
(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.	90551
	90552
	90553

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(C) "Real estate salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise.

(D) "Institution of higher education" means either of the following:

(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school;

(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school.

(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(F) "Foreign real estate dealer" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified

or comprehended in division (A) of this section with respect to 90585
foreign real estate. 90586

(G) "Foreign real estate salesperson" means any person 90587
associated with a licensed foreign real estate dealer to do or 90588
deal in any act or transaction specified or comprehended in 90589
division (A) of this section with respect to foreign real estate, 90590
for compensation or otherwise. 90591

(H) Any person, partnership, association, limited liability 90592
company, limited liability partnership, or corporation, who, for 90593
another, in consideration of compensation, by fee, commission, 90594
salary, or otherwise, or with the intention, in the expectation, 90595
or upon the promise of receiving or collecting a fee, does, or 90596
offers, attempts, or agrees to engage in, any single act or 90597
transaction contained in the definition of a real estate broker, 90598
whether an act is an incidental part of a transaction, or the 90599
entire transaction, shall be constituted a real estate broker or 90600
real estate salesperson under this chapter. 90601

(I)(1) The terms "real estate broker," "real estate 90602
salesperson," "foreign real estate dealer," and "foreign real 90603
estate salesperson" do not include a person, partnership, 90604
association, limited liability company, limited liability 90605
partnership, or corporation, or the regular employees thereof, who 90606
perform any of the acts or transactions specified or comprehended 90607
in division (A) of this section, whether or not for, or with the 90608
intention, in expectation, or upon the promise of receiving or 90609
collecting a fee, commission, or other valuable consideration: 90610

~~(1)(a)~~ With reference to real estate situated in this state 90611
~~or any interest in it~~ owned by such person, partnership, 90612
association, limited liability company, limited liability 90613
partnership, or corporation, or acquired on its own account in the 90614
regular course of, or as an incident to the management of the 90615
property and the investment in it; 90616

~~(2)~~(b) As receiver or trustee in bankruptcy, as guardian, 90617
executor, administrator, trustee, assignee, commissioner, or any 90618
person doing the things mentioned in this section, under authority 90619
or appointment of, or incident to a proceeding in, any court, or 90620
as a bona fide public officer, or as executor, trustee, or other 90621
bona fide fiduciary under any trust agreement, deed of trust, 90622
will, or other instrument that has been executed in good faith 90623
creating a like bona fide fiduciary obligation; 90624

~~(3)~~(c) As a public officer while performing the officer's 90625
official duties; 90626

~~(4)~~(d) As an attorney at law in the performance of the 90627
attorney's duties; 90628

~~(5)~~(e) As a person who engages in the brokering of the sale 90629
of business assets, not including the ~~negotiation of the sale,~~ 90630
lease, exchange, or assignment of any interest in real estate; 90631

~~(6)~~(f) As a person who engages in the sale of manufactured 90632
homes as defined in division (C)(4) of section 3781.06 of the 90633
Revised Code, or of mobile homes as defined in division (O) of 90634
section 4501.01 of the Revised Code, provided the sale does not 90635
include the negotiation, sale, lease, exchange, or assignment of 90636
any interest in real estate; 90637

~~(7)~~(g) As a person who engages in the sale of commercial real 90638
estate pursuant to the requirements of section 4735.022 of the 90639
Revised Code. 90640

(2) A person, partnership, association, limited liability 90641
company, limited liability partnership, or corporation exempt 90642
under division (I)(1)(a) of this section shall be limited by the 90643
legal interest in the real estate held by that person or entity to 90644
performing any of the acts or transactions specified in or 90645
comprehended by division (A) of this section. 90646

(J) "~~Physically handicapped~~ Disabled licensee" means a person 90647

licensed pursuant to this chapter who is under a severe ~~physical~~ 90648
disability which is of such a nature as to prevent the person from 90649
being able to attend any instruction lasting at least three hours 90650
in duration. 90651

(K) "Division of real estate" may be used interchangeably 90652
with, and for all purposes has the same meaning as, "division of 90653
real estate and professional licensing." 90654

(L) "Superintendent" or "superintendent of real estate" means 90655
the superintendent of the division of real estate and professional 90656
licensing of this state. Whenever the division or superintendent 90657
of real estate is referred to or designated in any statute, rule, 90658
contract, or other document, the reference or designation shall be 90659
deemed to refer to the division or superintendent of real estate 90660
and professional licensing, as the case may be. 90661

(M) "Inactive license" means the license status in which a 90662
salesperson's license is in the possession of the division, 90663
renewed as required under this chapter or rules adopted under this 90664
chapter, and not associated with a real estate broker. 90665

(N) "Broker's license on deposit" means the license status in 90666
which a broker's license is in the possession of the division of 90667
real estate and professional licensing and renewed as required 90668
under this chapter or rules adopted under this chapter. 90669

(O) "Suspended license" means the license status that 90670
prohibits a licensee from providing services that require a 90671
license under this chapter for a specified interval of time. 90672

(P) "Reactivate" means the process prescribed by the 90673
superintendent of real estate and professional licensing to remove 90674
a license from an inactive, voluntary hold, suspended, or broker's 90675
license on deposit status to allow a licensee to provide services 90676
that require a license under this chapter. 90677

(Q) "Revoked" means the license status in which the license 90678

is void and not eligible for reactivation. 90679

(R) "Commercial real estate" means any parcel of real estate 90680
in this state other than real estate containing one to four 90681
residential units. "Commercial real estate" does not include 90682
single-family residential units such as condominiums, townhouses, 90683
manufactured homes, or homes in a subdivision when sold, leased, 90684
or otherwise conveyed on a unit-by-unit basis, even when those 90685
units are a part of a larger building or parcel of real estate 90686
containing more than four residential units. 90687

(S) "Out-of-state commercial broker" includes any person, 90688
partnership, association, limited liability company, limited 90689
liability partnership, or corporation that is licensed to do 90690
business as a real estate broker in a jurisdiction other than 90691
Ohio. 90692

(T) "Out-of-state commercial salesperson" includes any person 90693
affiliated with an out-of-state commercial broker who is not 90694
licensed as a real estate salesperson in Ohio. 90695

(U) "Exclusive right to sell or lease listing agreement" 90696
means an agency agreement between a seller and broker that meets 90697
the requirements of section 4735.55 of the Revised Code and does 90698
both of the following: 90699

(1) Grants the broker the exclusive right to represent the 90700
seller in the sale or lease of the seller's property; 90701

(2) Provides the broker will be compensated if the broker, 90702
the seller, or any other person or entity produces a purchaser or 90703
tenant in accordance with the terms specified in the listing 90704
agreement or if the property is sold or leased during the term of 90705
the listing agreement to anyone other than to specifically 90706
exempted persons or entities. 90707

(V) "Exclusive agency agreement" means an agency agreement 90708
between a seller and broker that meets the requirements of section 90709

4735.55 of the Revised Code and does both of the following: 90710

(1) Grants the broker the exclusive right to represent the 90711
seller in the sale or lease of the seller's property; 90712

(2) Provides the broker will be compensated if the broker or 90713
any other person or entity produces a purchaser or tenant in 90714
accordance with the terms specified in the listing agreement or if 90715
the property is sold or leased during the term of the listing 90716
agreement, unless the property is sold or leased solely through 90717
the efforts of the seller or to the specifically exempted persons 90718
or entities. 90719

(W) "Exclusive purchaser agency agreement" means an agency 90720
agreement between a purchaser and broker that meets the 90721
requirements of section 4735.55 of the Revised Code and does both 90722
of the following: 90723

(1) Grants the broker the exclusive right to represent the 90724
purchaser in the purchase or lease of property; 90725

(2) Provides the broker will be compensated in accordance 90726
with the terms specified in the exclusive agency agreement or if a 90727
property is purchased or leased by the purchaser during the term 90728
of the agency agreement unless the property is specifically 90729
exempted in the agency agreement. 90730

The agreement may authorize the broker to receive 90731
compensation from the seller or the seller's agent and may provide 90732
that the purchaser is not obligated to compensate the broker if 90733
the property is purchased or leased solely through the efforts of 90734
the purchaser. 90735

(X) "Seller" means a party in a real estate transaction who 90736
is the potential transferor of property. "Seller" includes an 90737
owner of property who is seeking to sell the property and a 90738
landlord who is seeking to rent or lease property to another 90739
person. 90740

(Y) "Voluntary hold" means the license status in which a license is in the possession of the division of real estate and professional licensing for a period of not more than twelve months pursuant to section 4735.142 of the Revised Code, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

(Z) "Resigned" means the license status in which a license has been voluntarily surrendered to or is otherwise in the possession of the division of real estate and professional licensing, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

(AA) "Bona fide" means made in good faith or without purpose of circumventing license law.

Sec. 4735.02. (A) Except as provided in section 4735.022 of the Revised Code, no person, partnership, association, limited liability company, limited liability partnership, or corporation shall act as a real estate broker or real estate salesperson, or advertise or assume to act as such, without first being licensed as provided in this chapter. No person, partnership, association, limited liability company, limited liability partnership, or corporation shall provide services that require a license under this chapter if the licensee's license is inactive, suspended, placed on voluntary hold, resigned, or a broker's license on deposit, or if the license has been revoked. Nothing contained in this chapter shall be construed as authorizing a real estate broker or salesperson to perform any service constituting the practice of law.

(B) No partnership, association, limited liability company, limited liability partnership, or corporation holding a real

estate license shall employ as an officer, director, manager, or 90772
principal employee any person previously holding a license as a 90773
real estate broker, real estate salesperson, foreign real estate 90774
dealer, or foreign real estate salesperson, whose license has been 90775
placed in inactive, voluntary hold, or resigned status, or is 90776
suspended, or revoked and who has not thereafter reactivated the 90777
license or received a new license. 90778

Sec. 4735.03. There is hereby created the Ohio real estate 90779
commission, consisting of five members who shall be appointed by 90780
the governor, with the advice and consent of the senate. Four 90781
members shall have been engaged in the real estate business as 90782
licensed real estate brokers in the state for a period of ten 90783
years immediately preceding the appointment. One member shall 90784
represent the public. Terms of office shall be for five years, 90785
commencing on the first day of July and ending on the thirtieth 90786
day of June. Each member shall hold office from the date of 90787
appointment until the end of the term for which appointed. No more 90788
than three members shall be members of any one political party and 90789
no member of the commission concurrently may be a member of the 90790
commission and the real estate appraiser board created pursuant to 90791
section 4763.02 of the Revised Code. Each member, before entering 90792
upon the duties of office, shall subscribe to and file with the 90793
secretary of state the constitutional oath of office. All 90794
vacancies which occur shall be filled in the manner prescribed for 90795
the regular appointments to the commission. Any member appointed 90796
to fill a vacancy occurring prior to the expiration of the term 90797
for which the member's predecessor was appointed shall hold office 90798
for the remainder of such term. Any member shall continue in 90799
office subsequent to the expiration date of the member's term 90800
until the member's successor takes office, or until a period of 90801
sixty days has elapsed, whichever occurs first. No member shall 90802
hold office for more than two consecutive full terms. Annually, 90803

upon the qualification of the member appointed in such year, the 90804
commission shall organize by selecting from its members a 90805
president and vice-president, and shall do all things necessary 90806
and proper to carry out and enforce this chapter. A majority of 90807
the members of the commission shall constitute a quorum, but a 90808
lesser number may adjourn from time to time. Each member of the 90809
commission shall receive an amount fixed pursuant to section 90810
124.14 of the Revised Code for each day employed in the discharge 90811
of official duties, and the member's actual and necessary expenses 90812
incurred in the discharge of those duties. 90813

The commission or the superintendent of real estate may 90814
investigate complaints concerning the violation of section 4735.02 90815
or 4735.25 of the Revised Code and may subpoena witnesses in 90816
connection with such investigations as provided in section 4735.04 90817
of the Revised Code. The commission or the superintendent may make 90818
application to the appropriate court for an order enjoining the 90819
violation of section 4735.02 or 4735.25 of the Revised Code, and 90820
upon a showing by the commission or the superintendent that any 90821
person, firm, partnership, association, limited liability company, 90822
limited liability partnership, or corporation has violated or is 90823
about to violate section 4735.02 or 4735.25 of the Revised Code, 90824
an injunction, restraining order, or such other order as may be 90825
appropriate shall be granted by such court. 90826

The commission shall: 90827

(A) Adopt canons of ethics for the real estate industry; 90828

(B) Upon appeal by any party affected, or may upon its own 90829
motion, review any order or application determination of the 90830
superintendent, and may reverse, vacate, or modify any order of 90831
the superintendent; 90832

(C) Administer the real estate education and research fund 90833
and hear appeals from orders of the superintendent regarding 90834

claims against that fund or against the real estate recovery fund; 90835

(D) Direct the superintendent on the content, scheduling, 90836
instruction, and offerings of real estate courses for salesperson 90837
and broker educational requirements; 90838

(E) Disseminate to licensees and the public, information 90839
relative to commission activities and decisions; 90840

(F) Notify licensees of changes in state and federal civil 90841
rights laws pertaining to discrimination in the purchase or sale 90842
of real estate and relevant case law, and inform licensees that 90843
they are subject to disciplinary action if they do not comply with 90844
the changes; 90845

(G) Publish and furnish to public libraries and to brokers 90846
booklets on housing and remedies available to dissatisfied clients 90847
under this chapter and Chapter 4112. of the Revised Code; 90848

(H) Provide training to commission members and employees of 90849
the division of real estate and professional licensing on issues 90850
relative to the real estate industry, which may include but not be 90851
limited to investigative techniques, real estate law, and real 90852
estate practices and procedures. 90853

Sec. 4735.05. (A) The Ohio real estate commission is a part 90854
of the department of commerce for administrative purposes. The 90855
director of commerce is ex officio the executive officer of the 90856
commission, or the director may designate any employee of the 90857
department as superintendent of real estate and professional 90858
licensing to act as executive officer of the commission. 90859

The commission and the real estate appraiser board created 90860
pursuant to section 4763.02 of the Revised Code shall each submit 90861
to the director a list of three persons whom the commission and 90862
the board consider qualified to be superintendent within sixty 90863
days after the office of superintendent becomes vacant. The 90864

director shall appoint a superintendent from the lists submitted 90865
by the commission and the board, and the superintendent shall 90866
serve at the pleasure of the director. 90867

(B) The superintendent, except as otherwise provided, shall 90868
do all of the following in regard to this chapter: 90869

(1) Administer this chapter; 90870

(2) Issue all orders necessary to implement this chapter; 90871

(3) Investigate complaints concerning the violation of this 90872
chapter or the conduct of any licensee; 90873

(4) Establish and maintain an investigation and audit section 90874
to investigate complaints and conduct inspections, audits, and 90875
other inquiries as in the judgment of the superintendent are 90876
appropriate to enforce this chapter. The investigators or auditors 90877
have the right to review and audit the business records of 90878
licensees and continuing education course providers during normal 90879
business hours. 90880

(5) Appoint a hearing examiner for any proceeding involving 90881
disciplinary action under section 3123.47, 4735.052, or 4735.18 of 90882
the Revised Code; 90883

(6) Administer the real estate recovery fund. 90884

(C) The superintendent may do all of the following: 90885

(1) In connection with investigations and audits under 90886
division (B) of this section, subpoena witnesses as provided in 90887
section 4735.04 of the Revised Code; 90888

(2) Apply to the appropriate court to enjoin any violation of 90889
this chapter. Upon a showing by the superintendent that any person 90890
has violated or is about to violate any provision of this chapter, 90891
the court shall grant an injunction, restraining order, or other 90892
appropriate order. 90893

(3) Upon the death of a licensed broker or the revocation or 90894

suspension of the broker's license, if there is no other licensed 90895
broker within the business entity of the broker, appoint upon 90896
application by any interested party, or, in the case of a deceased 90897
broker, subject to the approval by the appropriate probate court, 90898
recommend the appointment of, an ancillary trustee who is 90899
qualified as determined by the superintendent to conclude the 90900
business transactions of the deceased, revoked, or suspended 90901
broker; 90902

(4) In conjunction with the enforcement of this chapter, when 90903
the superintendent of real estate has reasonable cause to believe 90904
that an applicant or licensee has committed a criminal offense, 90905
the superintendent of real estate may request the superintendent 90906
of the bureau of criminal identification and investigation to 90907
conduct a criminal records check of the applicant or licensee. The 90908
superintendent of the bureau of criminal identification and 90909
investigation shall obtain information from the federal bureau of 90910
investigation as part of the criminal records check of the 90911
applicant or licensee. The superintendent of real estate may 90912
assess the applicant or licensee a fee equal to the fee assessed 90913
for the criminal records check. 90914

(5) In conjunction with the enforcement of this chapter, 90915
issue advisory letters in lieu of initiating disciplinary action 90916
under section 4735.051 or 4735.052 of the Revised Code or issuing 90917
a citation under section 4735.16 or 4735.181 of the Revised Code. 90918

(D) All information that is obtained by investigators and 90919
auditors performing investigations or conducting inspections, 90920
audits, and other inquiries pursuant to division (B)(4) of this 90921
section, from licensees, complainants, or other persons, and all 90922
reports, documents, and other work products that arise from that 90923
information and that are prepared by the investigators, auditors, 90924
or other personnel of the department, shall be held in confidence 90925
by the superintendent, the investigators and auditors, and other 90926

personnel of the department. Notwithstanding division (D) of 90927
section 2317.023 of the Revised Code, all information obtained by 90928
investigators or auditors from an informal mediation meeting held 90929
pursuant to section 4735.051 of the Revised Code, including but 90930
not limited to the agreement to mediate and the accommodation 90931
agreement, shall be held in confidence by the superintendent, 90932
investigators, auditors, and other personnel of the department. 90933

(E) This section does not prevent the division of real estate 90934
and professional licensing from releasing information relating to 90935
licensees to the superintendent of financial institutions for 90936
purposes relating to the administration of sections 1322.01 to 90937
1322.12 of the Revised Code, to the superintendent of insurance 90938
for purposes relating to the administration of Chapter 3953. of 90939
the Revised Code, to the attorney general, or to local law 90940
enforcement agencies and local prosecutors. Information released 90941
by the division pursuant to this section remains confidential. 90942

Sec. 4735.052. (A) Upon receipt of a written complaint or 90943
upon the superintendent's own motion, the superintendent may 90944
investigate any person that has allegedly violated section 4735.02 90945
or 4735.25 of the Revised Code, except that the superintendent 90946
shall not initiate an investigation, pursuant to this section, of 90947
any person who held a ~~valid license on voluntary hold or a~~ 90948
~~suspended or inactive~~ license under this chapter ~~any time during~~ 90949
~~the twelve months preceding~~ on the date of the alleged violation. 90950

(B) If, after investigation, the superintendent determines 90951
there exists reasonable evidence of a violation of section 4735.02 90952
or 4735.25 of the Revised Code, within ~~seven~~ fourteen business 90953
days after that determination, the superintendent shall send the 90954
party who is the subject of the investigation, a written notice, 90955
by regular mail, that includes all of the following information: 90956

(1) A description of the activity in which the party 90957

allegedly is engaging or has engaged that is a violation of 90958
section 4735.02 or 4735.25 of the Revised Code; 90959

(2) The applicable law allegedly violated; 90960

(3) A statement informing the party that a hearing concerning 90961
the alleged violation will be held ~~at the next regularly scheduled~~ 90962
~~meeting of the Ohio real estate commission, and a statement giving~~ 90963
~~the date and place of that meeting;~~ 90964

~~(4) A statement informing the party that the party or the~~ 90965
~~party's attorney may appear in person at the hearing and present~~ 90966
~~evidence and examine witnesses appearing for and against the~~ 90967
~~party, or the party may submit written testimony stating any~~ 90968
~~positions, arguments, or contentions, upon the party's request,~~ 90969
~~before a hearing examiner pursuant to Chapter 119. of the Revised~~ 90970
~~Code.~~ 90971

(C) ~~The commission~~ (1) If a hearing is requested, the hearing 90972
examiner shall hear the testimony of all parties present at the 90973
hearing and consider any written testimony submitted pursuant to 90974
~~division (B)(4) of this section, and determine if there has been a~~ 90975
violation of section 4735.02 or 4735.25 of the Revised Code. ~~¶¶~~ 90976

(2) After the conclusion of formal hearings, the hearing 90977
examiner shall file a report of findings of fact and conclusions 90978
of law with the superintendent, the commission, the complainant, 90979
and the parties. Within twenty days of receipt of such copy of the 90980
written report of findings of fact and conclusions of law, the 90981
parties and the division may file with the commission written 90982
objections to the report, which shall be considered by the 90983
commission before approving, modifying, or disapproving the 90984
report. 90985

(3) The commission shall review the hearing examiner's report 90986
at the next regularly scheduled commission meeting held at least 90987
twenty business days after receipt of the hearing examiner's 90988

report. The commission shall hear the testimony of the complainant 90989
or the parties. 90990

(4) The commission shall decide whether to impose 90991
disciplinary sanctions upon a party for a violation of section 90992
4735.02 of the Revised Code. If the commission finds that a 90993
violation has occurred, the commission may assess a civil penalty, 90994
in an amount it determines, not to exceed one thousand dollars per 90995
violation. Each day a violation occurs or continues is a separate 90996
violation. The commission shall determine the terms of payment. 90997
The commission shall maintain a ~~transcript~~ record of the 90998
proceedings of the hearing and issue a written opinion to all 90999
parties, citing its findings and grounds for any action taken. 91000

(D) Civil penalties collected under this section shall be 91001
deposited in the real estate ~~recovery~~ operating fund, which is 91002
created in the state treasury under section ~~4735.12~~ 4735.211 of 91003
the Revised Code. 91004

(E) If a party fails to pay a civil penalty assessed pursuant 91005
to this section within the time prescribed by the commission, the 91006
superintendent shall forward to the attorney general the name of 91007
the party and the amount of the civil penalty, for the purpose of 91008
collecting that civil penalty. In addition to the civil penalty 91009
assessed pursuant to this section, the party also shall pay any 91010
fee assessed by the attorney general for collection of the civil 91011
penalty. 91012

(F) The superintendent may reserve the right to bring a civil 91013
action against a party that fails to pay a civil penalty for 91014
breach of contract in a court of competent jurisdiction. 91015

Sec. 4735.06. (A) Application for a license as a real estate 91016
broker shall be made to the superintendent of real estate on forms 91017
furnished by the superintendent and filed with the superintendent 91018
and shall be signed by the applicant or its members or officers. 91019

Each application shall state the name of the person applying and 91020
the location of the place of business for which the license is 91021
desired, and give such other information as the superintendent 91022
requires in the form of application prescribed by the 91023
superintendent. 91024

If the applicant is a partnership, limited liability company, 91025
limited liability partnership, or association, the names of all 91026
the members also shall be stated, and, if the applicant is a 91027
corporation, the names of its president and of each of its 91028
officers also shall be stated. The superintendent has the right to 91029
reject the application of any partnership, association, limited 91030
liability company, limited liability partnership, or corporation 91031
if the name proposed to be used by such partnership, association, 91032
limited liability company, limited liability partnership, or 91033
corporation is likely to mislead the public or if the name is not 91034
such as to distinguish it from the name of any existing 91035
partnership, association, limited liability company, limited 91036
liability partnership, or corporation licensed under this chapter, 91037
unless there is filed with the application the written consent of 91038
such existing partnership, association, limited liability company, 91039
limited liability partnership, or corporation, executed by a duly 91040
authorized representative of it, permitting the use of the name of 91041
such existing partnership, association, limited liability company, 91042
limited liability partnership, or corporation. 91043

(B) A fee of one hundred dollars shall accompany the 91044
application for a real estate broker's license, ~~which fee includes~~ 91045
~~the fee for the initial year of the licensing period, if a license~~ 91046
~~is issued. The initial licensing period commences at the time the~~ 91047
~~license is issued and ends on the applicant's first birthday~~ 91048
~~thereafter. However, if the applicant was an inactive or active~~ 91049
~~salesperson immediately preceding application for a broker's~~ 91050
~~license, then the initial licensing period shall commence at the~~ 91051

time the broker's license is issued and ends on the date the 91052
licensee's continuing education is due as set when the applicant 91053
was a salesperson. The application fee shall be ~~retained by the~~ 91054
~~superintendent if the applicant is admitted to the examination for~~ 91055
~~the license or the examination requirement is waived, but, if an~~ 91056
~~applicant is not so admitted and a waiver is not involved,~~ 91057
~~one half of the fee shall be retained by the superintendent to~~ 91058
~~cover the expenses of processing the application and the other~~ 91059
~~one half shall be returned to the applicant~~ nonrefundable. A fee 91060
of one hundred dollars shall be charged by the superintendent for 91061
each successive application made by an applicant. In the case of 91062
issuance of a three-year license, upon passing the examination, or 91063
upon waiver of the examination requirement, if the superintendent 91064
determines it is necessary, the applicant shall submit an 91065
additional fee determined by the superintendent based upon the 91066
number of years remaining in a real estate salesperson's licensing 91067
period. 91068

(C) One dollar of each application fee for a real estate 91069
broker's license shall be credited to the real estate education 91070
and research fund, which is hereby created in the state treasury. 91071
The Ohio real estate commission may use the fund in discharging 91072
the duties prescribed in divisions (E), (F), (G), and (H) of 91073
section 4735.03 of the Revised Code and shall use it in the 91074
advancement of education and research in real estate at any 91075
institution of higher education in the state, or in contracting 91076
with any such institution or a trade organization for a particular 91077
research or educational project in the field of real estate, or in 91078
advancing loans, not exceeding ~~eight hundred~~ two thousand dollars, 91079
to applicants for salesperson licenses, to defray the costs of 91080
satisfying the educational requirements of division (F) of section 91081
4735.09 of the Revised Code. Such loans shall be made according to 91082
rules established by the commission under the procedures of 91083
Chapter 119. of the Revised Code, and they shall be repaid to the 91084

fund within three years of the time they are made. No more than 91085
ten thousand dollars shall be lent from the fund in any one year. 91086

The governor may appoint a representative from the executive 91087
branch to be a member ex officio of the commission for the purpose 91088
of advising on research requests or educational projects. The 91089
commission shall report to the general assembly on the third 91090
Tuesday after the third Monday in January of each year setting 91091
forth the total amount contained in the fund and the amount of 91092
each research grant that it has authorized and the amount of each 91093
research grant requested. A copy of all research reports shall be 91094
submitted to the state library of Ohio and the library of the 91095
legislative service commission. 91096

(D) If the superintendent, with the consent of the 91097
commission, enters into an agreement with a national testing 91098
service to administer the real estate broker's examination, 91099
pursuant to division (A) of section 4735.07 of the Revised Code, 91100
the superintendent may require an applicant to pay the testing 91101
service's examination fee directly to the testing service. If the 91102
superintendent requires the payment of the examination fee 91103
directly to the testing service, each applicant shall submit to 91104
the superintendent a processing fee in an amount determined by the 91105
Ohio real estate commission pursuant to division (A)(2) of section 91106
4735.10 of the Revised Code. 91107

Sec. 4735.07. (A) The superintendent of real estate, with the 91108
consent of the Ohio real estate commission, may enter into 91109
agreements with recognized national testing services to administer 91110
the real estate broker's examination under the superintendent's 91111
supervision and control, consistent with the requirements of this 91112
chapter as to the contents of such examination. 91113

(B) No applicant for a real estate broker's license shall 91114
take the broker's examination who has not established to the 91115

satisfaction of the superintendent that the applicant:	91116
(1) Is honest, truthful, and of good reputation;	91117
(2)(a) Has not been convicted of a felony or crime of moral turpitude, or if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;	91118 91119 91120 91121 91122 91123 91124 91125 91126
(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant's activities and employment record since the adjudication show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will again violate the laws involved.	91127 91128 91129 91130 91131 91132 91133 91134 91135 91136 91137
(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to, this chapter, or, if the applicant has violated any such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;	91138 91139 91140 91141 91142 91143
(4) Is at least eighteen years of age;	91144
(5) Has been a licensed real estate broker or salesperson for at least two years; during at least two of the five years	91145 91146

preceding the person's application, has worked as a licensed real estate broker or salesperson for an average of at least thirty hours per week; and has completed one of the following:

(a) At least twenty real estate transactions, in which property was sold for another by the applicant while acting in the capacity of a real estate broker or salesperson;

(b) Such equivalent experience as is defined by rules adopted by the commission.

(6)(a) If licensed as a real estate salesperson prior to August 1, 2001, successfully has completed at an institution of higher education all of the following:

(i) Thirty hours of classroom instruction in real estate practice;

(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Thirty hours of classroom instruction in real estate appraisal;

(iv) Thirty hours of classroom instruction in real estate finance;

(v) Three quarter hours, or its equivalent in semester hours, in financial management;	91178 91179
(vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;	91180 91181
(vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;	91182 91183
(viii) Three quarter hours, or its equivalent in semester hours, in business law.	91184 91185
(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:	91186 91187 91188
(i) Forty hours of classroom instruction in real estate practice;	91189 91190
(ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.	91191 91192 91193 91194 91195 91196 91197 91198 91199 91200 91201 91202 91203 91204
(iii) Twenty hours of classroom instruction in real estate appraisal;	91205 91206
(iv) Twenty hours of classroom instruction in real estate	91207

finance; 91208

(v) The training in the amount of hours specified under 91209
divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section. 91210

(c) Division (B)(6)(a) or (b) of this section does not apply 91211
to any applicant who holds a valid real estate salesperson's 91212
license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), 91213
(vi), (vii), and (viii) or division (B)(6)(b)(v) of this section 91214
do not apply to any applicant who holds a valid real estate 91215
salesperson's license issued prior to January 3, 1984. 91216

(7) If licensed as a real estate salesperson on or after 91217
January 3, 1984, satisfactorily has completed a minimum of two 91218
years of post-secondary education, or its equivalent in semester 91219
or quarter hours, at an institution of higher education, and has 91220
fulfilled the requirements of division (B)(6)(a) or (b) of this 91221
section. The requirements of division (B)(6)(a) or (b) of this 91222
section may be included in the two years of post-secondary 91223
education, or its equivalent in semester or quarter hours, that is 91224
required by this division. 91225

(C) Each applicant for a broker's license shall be examined 91226
in the principles of real estate practice, Ohio real estate law, 91227
and financing and appraisal, and as to the duties of real estate 91228
brokers and real estate salespersons, the applicant's knowledge of 91229
real estate transactions and instruments relating to them, and the 91230
canons of business ethics pertaining to them. The commission from 91231
time to time shall promulgate such canons and cause them to be 91232
published in printed form. 91233

(D) Examinations shall be administered with reasonable 91234
accommodations in accordance with the requirements of the 91235
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 91236
U.S.C. 12101. The contents of an examination shall be consistent 91237
with the requirements of division (B)(6) of this section and with 91238

the other specific requirements of this section. An applicant who 91239
has completed the requirements of division (B)(6) of this section 91240
at the time of application shall be examined no later than twelve 91241
months after the applicant is notified of admission to the 91242
examination. 91243

(E) The superintendent may waive one or more of the 91244
requirements of this section in the case of an application from a 91245
nonresident real estate broker pursuant to a reciprocity agreement 91246
with the licensing authority of the state from which the 91247
nonresident applicant holds a valid real estate broker license. 91248

(F) There shall be no limit placed on the number of times an 91249
applicant may retake the examination. 91250

(G)(1) ~~Not earlier than the date of issue of a real estate~~ 91251
~~broker's license to a licensee, but not~~ later than twelve months 91252
after the date of issue of a real estate broker's license to a 91253
licensee, the licensee shall submit proof satisfactory to the 91254
superintendent, on forms made available by the superintendent, of 91255
the completion of ten hours of classroom instruction ~~in real~~ 91256
~~estate brokerage at an institution of higher education or any~~ 91257
~~other institution that shall be completed in schools, seminars,~~ 91258
~~and educational institutions that is~~ are approved by the 91259
commission. ~~That instruction shall include, but not be limited to,~~ 91260
~~current issues in managing a real estate company or office~~ 91261
Approval of the curriculum and providers shall be granted 91262
according to rules adopted pursuant to section 4735.10 of the 91263
Revised Code. 91264

If the required proof of completion is not submitted to the 91265
superintendent within twelve months of the date a license is 91266
issued under this section, the license of the real estate broker 91267
is suspended automatically without the taking of any action by the 91268
superintendent. The broker's license shall not be reactivated by 91269
the superintendent until it is established, to the satisfaction of 91270

the superintendent, that the requirements of this division have 91271
been met and that the licensee is in compliance with this chapter. 91272
A licensee's license is revoked automatically without the taking 91273
of any action by the superintendent if the licensee fails to 91274
submit proof of completion of the education requirements specified 91275
under division (G)(1) of this section within twelve months of the 91276
date the license is suspended. 91277

(2) If the license of a real estate broker is suspended 91278
pursuant to division (G)(1) of this section, the license of a real 91279
estate salesperson associated with that broker correspondingly is 91280
suspended pursuant to division (H) of section 4735.20 of the 91281
Revised Code. However, the suspended license of the associated 91282
real estate salesperson shall be reactivated and no fee shall be 91283
charged or collected for that reactivation if all of the following 91284
occur: 91285

(a) That broker subsequently submits satisfactory proof to 91286
the superintendent that the broker has complied with the 91287
requirements of division (G)(1) of this section and requests that 91288
the broker's license as a real estate broker be reactivated; 91289

(b) The superintendent then reactivates the broker's license 91290
as a real estate broker; 91291

(c) The associated real estate salesperson intends to 91292
continue to be associated with that broker and otherwise is in 91293
compliance with this chapter. 91294

Sec. 4735.09. (A) Application for a license as a real estate 91295
salesperson shall be made to the superintendent of real estate on 91296
forms furnished by the superintendent and signed by the applicant. 91297
The application shall be in the form prescribed by the 91298
superintendent and shall contain such information as is required 91299
by this chapter and the rules of the Ohio real estate commission. 91300
The application shall be accompanied by the recommendation of the 91301

real estate broker with whom the applicant is associated or with whom the applicant intends to be associated, certifying that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, which conviction or adjudication the applicant has not disclosed to the superintendent, and recommending that the applicant be admitted to the real estate salesperson examination.

(B) A fee of sixty dollars shall accompany the application, which fee includes the fee for the initial year of the licensing period, if a license is issued. The initial year of the licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. ~~The application fee shall be retained by the superintendent if the applicant is admitted to the examination for the license or the examination requirement is waived, but, if an applicant is not so admitted and a waiver is not involved, one half of the fee shall be retained by the superintendent to cover the expenses of processing the application and the other one half shall be returned to the applicant nonrefundable.~~ A fee of sixty dollars shall be charged by the superintendent for each successive application made by the applicant. One dollar of each application fee shall be credited to the real estate education and research fund.

(C) There shall be no limit placed on the number of times an applicant may retake the examination.

(D) The superintendent, with the consent of the commission, may enter into an agreement with a recognized national testing service to administer the real estate salesperson's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of the

examination. 91334

If the superintendent, with the consent of the commission, 91335
enters into an agreement with a national testing service to 91336
administer the real estate salesperson's examination, the 91337
superintendent may require an applicant to pay the testing 91338
service's examination fee directly to the testing service. If the 91339
superintendent requires the payment of the examination fee 91340
directly to the testing service, each applicant shall submit to 91341
the superintendent a processing fee in an amount determined by the 91342
Ohio real estate commission pursuant to division (A)(1) of section 91343
4735.10 of the Revised Code. 91344

(E) The superintendent shall issue a real estate 91345
salesperson's license when satisfied that the applicant has 91346
received a passing score on each portion of the salesperson's 91347
examination as determined by rule by the real estate commission, 91348
except that the superintendent may waive one or more of the 91349
requirements of this section in the case of an applicant who is a 91350
licensed real estate salesperson in another state pursuant to a 91351
reciprocity agreement with the licensing authority of the state 91352
from which the applicant holds a valid real estate salesperson's 91353
license. 91354

(F) No applicant for a salesperson's license shall take the 91355
salesperson's examination who has not established to the 91356
satisfaction of the superintendent that the applicant: 91357

(1) Is honest, truthful, and of good reputation; 91358

(2)(a) Has not been convicted of a felony or crime of moral 91359
turpitude or, if the applicant has been so convicted, the 91360
superintendent has disregarded the conviction because the 91361
applicant has proven to the superintendent, by a preponderance of 91362
the evidence, that the applicant's activities and employment 91363
record since the conviction show that the applicant is honest, 91364

truthful, and of good reputation, and there is no basis in fact 91365
for believing that the applicant again will violate the laws 91366
involved; 91367

(b) Has not been finally adjudged by a court to have violated 91368
any municipal, state, or federal civil rights laws relevant to the 91369
protection of purchasers or sellers of real estate or, if the 91370
applicant has been so adjudged, at least two years have passed 91371
since the court decision and the superintendent has disregarded 91372
the adjudication because the applicant has proven, by a 91373
preponderance of the evidence, that the applicant is honest, 91374
truthful, and of good reputation, and there is no basis in fact 91375
for believing that the applicant again will violate the laws 91376
involved. 91377

(3) Has not, during any period in which the applicant was 91378
licensed under this chapter, violated any provision of, or any 91379
rule adopted pursuant to this chapter, or, if the applicant has 91380
violated such provision or rule, has established to the 91381
satisfaction of the superintendent that the applicant will not 91382
again violate such provision or rule; 91383

(4) Is at least eighteen years of age; 91384

(5) If born after the year 1950, has a high school diploma or 91385
its equivalent as recognized by the state department of education; 91386

~~(6)(a) If beginning instruction prior to August 1, 2001, has 91387
successfully completed at an institution of higher education all 91388
of the following: 91389~~

~~(i) Thirty hours of classroom instruction in real estate 91390
practice; 91391~~

~~(ii) Thirty hours of classroom instruction that includes the 91392
subjects of Ohio real estate law, municipal, state, and federal 91393
civil rights law, new case law on housing discrimination, 91394
desegregation issues, and methods of eliminating the effects of 91395~~

~~prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.~~

~~(iii) Thirty hours of classroom instruction in real estate appraisal;~~

~~(iv) Thirty hours of classroom instruction in real estate finance.~~

~~(b) Any person who has not been licensed as a real estate salesperson or broker within a four year period immediately preceding the person's current application for the salesperson's examination shall have successfully completed the classroom instruction required by division (F)(6)(a) of this section within a ten year period immediately preceding the person's current application for the salesperson's examination.~~

~~(7) If beginning instruction, as determined by the superintendent, on or after August 1, 2001, has Has successfully completed at an institution of higher education all of the following:~~

~~(a) Forty hours of classroom instruction in real estate practice;~~

~~(b) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of~~

prior discrimination. If feasible, the classroom instruction in 91427
Ohio real estate law shall be taught by a member of the faculty of 91428
an accredited law school. If feasible, the classroom instruction 91429
in municipal, state, and federal civil rights law, new case law on 91430
housing discrimination, desegregation issues, and methods of 91431
eliminating the effects of prior discrimination shall be taught by 91432
a staff member of the Ohio civil rights commission who is 91433
knowledgeable with respect to those subjects. The requirements of 91434
this division do not apply to an applicant who is admitted to 91435
practice before the supreme court. 91436

(c) Twenty hours of classroom instruction in real estate 91437
appraisal; 91438

(d) Twenty hours of classroom instruction in real estate 91439
finance. 91440

(G) ~~No~~ Any person who has not been licensed as a real estate 91441
salesperson or broker within a four-year period immediately 91442
preceding the person's current application for the salesperson's 91443
examination shall have successfully completed the prelicensure 91444
classroom instruction required by division (F)(6) of this section 91445
within a ten-year period immediately preceding the person's 91446
current application for the salesperson's examination. 91447

(H) Not earlier than the date of issue of a real estate 91448
salesperson's license to a licensee, but not later than twelve 91449
months after the date of issue of a real estate salesperson 91450
license to a licensee, the licensee shall submit proof 91451
satisfactory to the superintendent, on forms made available by the 91452
superintendent, of the completion, at an institution of higher 91453
education or any other institution of ten hours of classroom 91454
instruction that shall be completed in schools, seminars, and 91455
educational institutions approved by the commission, ~~of ten hours 91456
of classroom instruction in real estate courses that cover current 91457
issues regarding consumers, real estate practice, ethics, and real 91458~~

~~estate law. Approval of the curriculum and providers shall be~~ 91459
~~granted according to rules adopted pursuant to section 4735.10 of~~ 91460
~~the Revised Code.~~ 91461

If proof of completion of the required instruction is not 91462
submitted within twelve months of the date a license is issued 91463
under this section, the licensee's license is suspended 91464
automatically without the taking of any action by the 91465
superintendent. The superintendent immediately shall notify the 91466
broker with whom such salesperson is associated of the suspension 91467
of the salesperson's license. A salesperson whose license has been 91468
suspended under this division shall have twelve months after the 91469
date of the suspension of the salesperson's license to submit 91470
proof of successful completion of the instruction required under 91471
this division. No such license shall be reactivated by the 91472
superintendent until it is established, to the satisfaction of the 91473
superintendent, that the requirements of this division have been 91474
met and that the licensee is in compliance with this chapter. A 91475
licensee's license is revoked automatically without the taking of 91476
any action by the superintendent when the licensee fails to submit 91477
the required proof of completion of the education requirements 91478
under division ~~(G)~~(H) of this section within twelve months of the 91479
date the license is suspended. 91480

~~(H)~~(I) Examinations shall be administered with reasonable 91481
accommodations in accordance with the requirements of the 91482
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 91483
U.S.C. ~~12101~~ 12189. The contents of an examination shall be 91484
consistent with the classroom instructional requirements of 91485
division (F)(6) ~~or (7)~~ of this section. An applicant who has 91486
completed the classroom instructional requirements of division 91487
(F)(6) ~~or (7)~~ of this section at the time of application shall be 91488
examined no later than twelve months after the applicant is 91489
notified of the applicant's admission to the examination. 91490

Sec. 4735.10. (A)(1) The Ohio real estate commission may	91491
adopt reasonable rules in accordance with Chapter 119. of the	91492
Revised Code, necessary for implementing the provisions of this	91493
chapter relating, but not limited to, the following:	91494
(a) The form and manner of filing applications for license	91495
<u>licensure</u> ;	91496
(b) Times and form of examination for license;	91497
(c) Placing an existing broker's license on deposit or a	91498
salesperson's license on an inactive status for an indefinite	91499
period;	91500
(d) Specifying the process by which a licensee may place the	91501
licensee's license on voluntary hold or resigned status;	91502
(e) Defining any additional license status that the	91503
commission determines is necessary and that is not otherwise	91504
defined in this chapter and establishing the process by which a	91505
licensee places the licensee's license in a status defined by the	91506
commission in the rules the commission adopts;	91507
<u>(f) Clarification of the activities that require a license</u>	91508
<u>under this chapter.</u>	91509
(2) The commission shall adopt reasonable rules in accordance	91510
with Chapter 119. of the Revised Code, for implementing the	91511
provisions of this chapter relating to the following:	91512
(a) The issuance, renewal, suspension, and revocation of	91513
licenses, other sanctions that may be imposed for violations of	91514
this chapter, the conduct of hearings related to these actions,	91515
and the process of reactivating a license;	91516
(b) By not later than January 1, 2004, a <u>A</u> three-year license	91517
and a three-year license renewal system;	91518
(c) Standards for the approval of <u>the ten hour postlicensure</u>	91519

courses as required by division (H) of section 4735.07 and 91520
division (H) of section 4735.09 of the Revised Code, courses of 91521
study required for licenses, ~~or~~ courses offered in preparation for 91522
license examinations, or courses required as continuing education 91523
for licenses. 91524

(d) Guidelines to ensure that continuing education classes 91525
are open to all persons licensed under this chapter. The rules 91526
shall specify that an organization that sponsors a continuing 91527
education class may offer its members a reasonable reduction in 91528
the fees charged for the class. 91529

(e) Requirements for trust accounts and property management 91530
accounts. The rules shall specify that: 91531

(i) Brokerages engaged in the management of property for 91532
another may, pursuant to a written contract with the property 91533
owner, exercise signatory authority for withdrawals from property 91534
management accounts maintained in the name of the property owner. 91535
The exercise of authority for withdrawals does not constitute a 91536
violation of any provision of division (A) of section 4735.18 of 91537
the Revised Code. 91538

(ii) The interest earned on property management trust 91539
accounts maintained in the name of the property owner or the 91540
broker shall be payable to the property owner unless otherwise 91541
specified in a written contract. 91542

(f) Notice of renewal forms and filing deadlines; 91543

(g) Special assessments under division (A) of section 4735.12 91544
of the Revised Code. 91545

(B) The commission may adopt rules in accordance with Chapter 91546
119. of the Revised Code establishing standards and guidelines 91547
with which the superintendent of real estate shall comply in the 91548
exercise of the following powers: 91549

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;	91550 91551
(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (A) of section 4735.06 of the Revised Code;	91552 91553 91554 91555
(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code;	91556 91557 91558 91559
(4) Approval of applications of brokers to place their licenses on deposit <u>in an inactive status</u> and to become salespersons under section 4735.13 of the Revised Code;	91560 91561 91562
(5) Appointment of hearing examiners under section 119.09 of the Revised Code;	91563 91564
(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of examination, under sections 4735.27 and 4735.28 of the Revised Code;	91565 91566 91567 91568
(7) Qualification of foreign real estate under section 4735.25 of the Revised Code.	91569 91570
If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose.	91571 91572 91573 91574
(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or superintendent may require other proof of the honesty, truthfulness, and good reputation of any person named	91575 91576 91577 91578 91579

in an application for a real estate broker's or real estate 91580
salesperson's license before admitting the applicant to the 91581
examination or issuing a license. 91582

Sec. 4735.13. (A) Every real estate broker licensed under 91583
this chapter shall have and maintain a definite place of business 91584
in this state. A post office box address is not a definite place 91585
of business for purposes of this section. The license of a real 91586
estate broker shall be prominently displayed in the office or 91587
place of business of the broker, and no license shall authorize 91588
the licensee to do business except from the location specified in 91589
it. If the broker maintains more than one place of business within 91590
the state, the broker shall apply for and procure a duplicate 91591
license for each branch office maintained by the broker. Each 91592
branch office shall be in the charge of a licensed broker or 91593
salesperson. The branch office license shall be prominently 91594
displayed at the branch office location. 91595

(B) The license of each real estate salesperson shall be 91596
mailed to and remain in the possession of the licensed broker with 91597
whom the salesperson is or is to be associated until the licensee 91598
places the license on inactive, voluntary hold, or resigned status 91599
or until the salesperson leaves the brokerage or is terminated. 91600
The broker shall keep each salesperson's license in a way that it 91601
can, and shall on request, be made immediately available for 91602
public inspection at the office or place of business of the 91603
broker. Except as provided in divisions (G) and (H) of this 91604
section, immediately upon the salesperson's leaving the 91605
association or termination of the association of a real estate 91606
salesperson with the broker, the broker shall return the 91607
salesperson's license to the superintendent of real estate. 91608

The failure of a broker to return the license of a real 91609
estate salesperson or broker who leaves or who is terminated, via 91610

certified mail return receipt requested, within three business 91611
days of the receipt of a written request from the superintendent 91612
for the return of the license, is prima-facie evidence of 91613
misconduct under division (A)(6) of section 4735.18 of the Revised 91614
Code. 91615

(C) Any licensee ~~who~~ shall notify the superintendent in 91616
writing within fifteen days of any of the following occurrences: 91617

(1) The licensee is convicted of a felony ~~or~~. 91618

(2) The licensee is convicted of a crime involving moral 91619
turpitude ~~or of violating~~. 91620

(3) The licensee is found to have violated any federal, 91621
state, or municipal civil rights law pertaining to discrimination 91622
in housing, ~~or any court that issues a finding of an unlawful~~. 91623

(4) The licensee is found to have engaged in a discriminatory 91624
practice pertaining to housing accommodations described in 91625
division (H) of section 4112.02 of the Revised Code ~~or that~~ 91626
convicts a. 91627

(5) The licensee ~~of a violation of~~ is found to have violated 91628
any municipal civil rights law pertaining to housing 91629
discrimination, ~~shall notify the superintendent of the conviction~~ 91630
~~or finding within fifteen days. If~~. 91631

(6) The licensee is the subject of an order by the department 91632
of commerce, the department of insurance, or the department of 91633
agriculture revoking or permanently surrendering any professional 91634
license, certificate, or registration. 91635

(7) The licensee is the subject of an order by any government 91636
agency concerning real estate, financial matters, or the 91637
performance of fiduciary duties with respect to any license, 91638
certificate, or registration. 91639

If a licensee fails to notify the superintendent within the 91640

required time, the superintendent immediately may ~~revoke~~ suspend 91641
the license of the licensee. 91642

Any court that convicts a licensee of a violation of any 91643
municipal civil rights law pertaining to housing discrimination 91644
also shall notify the Ohio civil rights commission within fifteen 91645
days of the conviction. 91646

(D) In case of any change of business location, a broker 91647
shall give notice ~~in writing~~ to the superintendent, on a form 91648
prescribed by the superintendent, within thirty days after the 91649
change of location, whereupon the superintendent shall issue new 91650
licenses for the unexpired period without charge. If a broker 91651
changes a business location without giving the required notice and 91652
without receiving new licenses that action is prima-facie evidence 91653
of misconduct under division (A)(6) of section 4735.18 of the 91654
Revised Code. 91655

(E) If a real estate broker desires to associate with another 91656
real estate broker in the capacity of a real estate salesperson, 91657
the broker shall apply to the superintendent to deposit the 91658
broker's real estate broker's license with the superintendent and 91659
for the issuance of a real estate salesperson's license. The 91660
application shall be made on a form prescribed by the 91661
superintendent and shall be accompanied by the recommendation of 91662
the real estate broker with whom the applicant intends to become 91663
associated and a fee of twenty-five dollars for the real estate 91664
salesperson's license. One dollar of the fee shall be credited to 91665
the real estate education and research fund. If the superintendent 91666
is satisfied that the applicant is honest, truthful, and of good 91667
reputation, has not been convicted of a felony or a crime 91668
involving moral turpitude, and has not been finally adjudged by a 91669
court to have violated any municipal, state, or federal civil 91670
rights laws relevant to the protection of purchasers or sellers of 91671
real estate, and that the association of the real estate broker 91672

and the applicant will be in the public interest, the 91673
superintendent shall grant the application and issue a real estate 91674
salesperson's license to the applicant. Any license so deposited 91675
with the superintendent shall be subject to this chapter. A broker 91676
who intends to deposit the broker's license with the 91677
superintendent, as provided in this section, shall give written 91678
notice of this fact in a format prescribed by the superintendent 91679
to all salespersons associated with the broker when applying to 91680
place the broker's license on deposit. 91681

(F) If a real estate broker desires to become a member or 91682
officer of a partnership, association, limited liability company, 91683
limited liability partnership, or corporation that is or intends 91684
to become a licensed real estate broker, the broker shall notify 91685
the superintendent of the broker's intentions. The notice of 91686
intention shall be on a form prescribed by the superintendent and 91687
shall be accompanied by a fee of twenty-five dollars. One dollar 91688
of the fee shall be credited to the real estate education and 91689
research fund. 91690

~~No~~ A licensed real estate broker who is a member or officer 91691
of a partnership, association, limited liability company, limited 91692
liability partnership, or corporation ~~that is a licensed real~~ 91693
~~estate broker~~ shall ~~perform any acts~~ only act as a real estate 91694
broker ~~other than as the agent of the~~ for such partnership, 91695
association, limited liability company, limited liability 91696
partnership, or corporation, ~~and such broker shall not have any~~ 91697
~~real estate salespersons associated with the broker.~~ 91698

(G) If a real estate broker or salesperson enters the armed 91699
forces, the broker or salesperson may place the broker's or 91700
salesperson's license on deposit with the Ohio real estate 91701
commission. The licensee shall not be required to renew the 91702
license until the renewal date that follows the date of discharge 91703
from the armed forces. Any license deposited with the commission 91704

shall be subject to this chapter. Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months of the licensee's first birthday after discharge. The ~~commission~~ superintendent shall notify the licensee of the licensee's obligations under section 4735.141 of the Revised Code at the time the licensee applies for reactivation of the licensee's license.

(H) If a licensed real estate salesperson submits an application to the superintendent to leave the association of one broker to associate with a different broker, the broker possessing the licensee's license need not return the salesperson's license to the superintendent. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Sec. 4735.14. (A) Each license issued under this chapter, shall be valid without further recommendation or examination until it is placed in an inactive, voluntary hold, or resigned status, is revoked or suspended, or such license expires by operation of law.

(B) Except for a licensee who has placed the licensee's license on voluntary hold or resigned status pursuant to section 4735.142 of the Revised Code, each licensed broker, brokerage, or salesperson shall file, on or before the date the Ohio real estate commission has adopted by rule for that licensee in accordance with division (A)(2)(f) of section 4735.10 of the Revised Code, a notice of renewal on a form prescribed by the superintendent of real estate. The notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the ~~most~~

~~current~~ personal residence address of each broker or salesperson 91736
~~as filed with the superintendent by the licensee and the place of~~ 91737
~~business address of the brokerage that is on file with the~~ 91738
division. If the licensee is a partnership, association, limited 91739
liability company, limited liability partnership, or corporation, 91740
the notice of renewal shall be mailed by the superintendent two 91741
months prior to the filing deadline to the brokerage's business 91742
address on file with the division. A licensee shall not renew the 91743
licensee's license any earlier than two months prior to the filing 91744
deadline. 91745

(C) Except as otherwise provided in division (B) of this 91746
section, the license of any real estate broker, brokerage, or 91747
salesperson that fails to file a notice of renewal on or before 91748
the filing deadline of each ensuing year shall be suspended 91749
automatically without the taking of any action by the 91750
superintendent. A suspended license may be reactivated within 91751
twelve months of the date of suspension, provided that the renewal 91752
fee plus a penalty fee of fifty per cent of the renewal fee is 91753
paid to the superintendent. Failure to reactivate the license as 91754
provided in this division shall result in automatic revocation of 91755
the license without the taking of any action by the 91756
superintendent. No person, partnership, association, corporation, 91757
limited liability company, or limited partnership shall engage in 91758
any act or acts for which a real estate license is required while 91759
that entity's license is placed in an inactive, voluntary hold, or 91760
resigned status, or is suspended, or revoked. The commission shall 91761
adopt rules in accordance with Chapter 119. of the Revised Code to 91762
provide to licensees notice of suspension or revocation or both. 91763

(D) Each licensee shall notify the commission of a change in 91764
personal residence address. A licensee's failure to notify the 91765
commission of a change in personal residence address does not 91766
negate the requirement to file the license renewal by the required 91767

deadline established by the commission by rule under division 91768
(A)(2)(f) of section 4735.10 of the Revised Code. 91769

(E) The superintendent shall not renew a license if the 91770
licensee fails to comply with section 4735.141 of the Revised Code 91771
or is otherwise not in compliance with this chapter. 91772

(F) The superintendent shall make notice of successful 91773
renewal available electronically to licensees as soon as 91774
practicable, but not later than thirty days after receipt by the 91775
division of a complete application and renewal fee. This notice 91776
shall serve as a notice of renewal for purposes of section 4745.02 91777
of the Revised Code. 91778

Sec. 4735.141. (A) Except as otherwise provided in this 91779
division and except for a licensee who has placed the licensee's 91780
license on voluntary hold or resigned status pursuant to section 91781
4735.142 of the Revised Code, each person licensed under section 91782
4735.07 or 4735.09 of the Revised Code shall submit proof 91783
satisfactory to the superintendent of real estate that the 91784
licensee has satisfactorily completed thirty hours of continuing 91785
education, as prescribed by the Ohio real estate commission 91786
pursuant to section 4735.10 of the Revised Code, on or before the 91787
licensee's birthday occurring three years after the licensee's 91788
date of initial licensure, and on or before the licensee's 91789
birthday every three years thereafter. 91790

Persons licensed as real estate salespersons who subsequently 91791
become licensed real estate brokers shall continue to submit proof 91792
of continuing education in accordance with the time period 91793
established in this section. 91794

The requirements of this section shall not apply to any 91795
~~physically handicapped~~ disabled licensee as provided in division 91796
(E) of this section. 91797

Each licensee who is seventy years of age or older, within a continuing education reporting period, shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed a total of nine classroom hours of continuing education, including instruction in Ohio real estate law; recently enacted state and federal laws affecting the real estate industry; municipal, state, and federal civil rights law; and canons of ethics for the real estate industry as adopted by the commission. The required proof of completion shall be submitted on or before the licensee's birthday that falls in the third year of that continuing education reporting period. A licensee who is seventy years of age or older whose license is in an inactive status is exempt from the continuing education requirements specified in this section. The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this paragraph.

(B) The continuing education requirements of this section shall be completed in schools, seminars, and educational institutions approved by the commission. Such approval shall be given according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and shall not be limited to institutions providing two-year or four-year degrees. Each school, seminar, or educational institution approved under this division shall be open to all licensees on an equal basis.

(C) If the requirements of this section are not met by a licensee within the period specified, the licensee's license shall be suspended automatically without the taking of any action by the superintendent. The superintendent shall notify the licensee of the license suspension, and such notification shall be sent by regular mail to the personal residence address of the licensee that is on file with the division. Any license so suspended shall remain suspended until it is reactivated by the superintendent. No

such license shall be reactivated until it is established, to the 91830
satisfaction of the superintendent, that the requirements of this 91831
section have been met. If the requirements of this section are not 91832
met within twelve months from the date the license was suspended, 91833
the license shall be revoked automatically without the taking of 91834
any action by the superintendent. 91835

(D) If the license of a real estate broker is suspended 91836
pursuant to division (C) of this section, the license of a real 91837
estate salesperson associated with that broker correspondingly is 91838
suspended pursuant to division (H) of section 4735.20 of the 91839
Revised Code. ~~However, the~~ A sole broker shall notify affiliated 91840
salespersons of the suspension in writing within three days of 91841
receiving the notice required by division (C) of this section. 91842

(1) The suspended license of the associated real estate 91843
salesperson shall be reactivated and no fee shall be charged or 91844
collected for that reactivation if ~~all of the following occur:~~ 91845

~~(1) That~~ that broker subsequently submits proof to the 91846
superintendent that the broker has complied with the requirements 91847
of this section and requests that the broker's license as a real 91848
estate broker be reactivated. 91849

~~(2) The, and the~~ superintendent then reactivates the broker's 91850
license as a real estate broker. 91851

~~(3) The associated real estate salesperson intends to~~ 91852
~~continue to be associated with that broker, has complied with the~~ 91853
~~requirements of this section, and otherwise is in compliance with~~ 91854
~~this chapter.~~ 91855

(2) If the real estate salesperson submits an application to 91856
leave the association of the suspended broker in order to 91857
associate with a different broker, the suspended license of the 91858
associated real estate salesperson shall be reactivated and no fee 91859
shall be charged or collected for that reactivation. The 91860

superintendent may process the application regardless of whether 91861
the licensee's license is returned to the superintendent. 91862

Any person whose license is reactivated pursuant to this 91863
division shall ~~submit proof satisfactory to the superintendent~~ 91864
~~that the person has completed thirty hours of continuing~~ 91865
~~education, as prescribed by the Ohio real estate commission, on or~~ 91866
~~before the third year following the licensee's birthday occurring~~ 91867
~~immediately after reactivation~~ comply with the requirements of 91868
this section and otherwise be in compliance with this chapter. 91869

(E) Any licensee who is a ~~physically handicapped~~ disabled 91870
licensee at any time during the last three months of the third 91871
year of the licensee's continuing education reporting period may 91872
receive an extension of time as deemed appropriate by the 91873
superintendent to submit proof to the superintendent that the 91874
licensee has satisfactorily completed the required thirty hours of 91875
continuing education. To receive an extension of time, the 91876
licensee shall submit a request to the division of real estate for 91877
the extension and proof satisfactory to the commission that the 91878
licensee was a ~~physically handicapped~~ disabled licensee at some 91879
time during the last three months of the three-year reporting 91880
period. The proof shall include, but is not limited to, a signed 91881
statement by the licensee's attending physician describing the 91882
~~physical~~ disability, certifying that the licensee's disability is 91883
of such a nature as to prevent the licensee from attending any 91884
instruction lasting at least three hours in duration, and stating 91885
the expected duration of the ~~physical~~ disability. The licensee 91886
shall request the extension and provide the physician's statement 91887
to the division no later than one month prior to the end of the 91888
licensee's three-year continuing education reporting period, 91889
unless the ~~physical~~ disability did not arise until the last month 91890
of the three-year reporting period, in which event the licensee 91891
shall request the extension and provide the physician's statement 91892

as soon as practical after the occurrence of the ~~physical~~ 91893
disability. A licensee granted an extension pursuant to this 91894
division who is no longer a ~~physically handicapped~~ disabled 91895
licensee and who submits proof of completion of the continuing 91896
education during the extension period, shall submit, for future 91897
continuing education reporting periods, proof of completion of the 91898
continuing education requirements according to the schedule 91899
established in division (A) of this section. 91900

(F) The superintendent shall not renew a license if the 91901
licensee fails to comply with this section, and the licensee shall 91902
be required to pay the penalty fee provided in section 4735.14 of 91903
the Revised Code. 91904

(G) A licensee shall submit proof of completion of the 91905
required continuing education with the licensee's notice of 91906
renewal. The proof shall be submitted in the manner provided by 91907
the superintendent. 91908

Sec. 4735.142. (A) Any person licensed under section 4735.07 91909
or 4735.09 of the Revised Code, at any time prior to the date the 91910
licensee is required to file a notice of renewal pursuant to 91911
division (B) of section 4735.14 of the Revised Code may apply to 91912
the superintendent of real estate and professional licensing to 91913
place the licensee's license on voluntary hold or a resigned 91914
status. 91915

(B) If the superintendent has placed a license on voluntary 91916
hold pursuant to a request made under division (A) of this 91917
section, the licensee who requested that the licensee's license be 91918
placed on voluntary hold may apply to the superintendent to 91919
reactivate that license within twelve months after the date the 91920
license is placed on voluntary hold. The superintendent shall 91921
reactivate that license if the licensee complies with the 91922
requirements for such reactivation that are specified in rules 91923

adopted by the Ohio real estate commission pursuant to division 91924
(A) of section 4735.10 of the Revised Code and satisfies all of 91925
the following requirements: 91926

(1) The licensee complies with the postlicensure education 91927
requirements specified in section 4735.07 or 4735.09 of the 91928
Revised Code, as applicable; 91929

(2) The licensee complies with the continuing education 91930
requirements specified in section 4735.141 of the Revised Code; 91931

(3) The licensee renews the licensee's license in accordance 91932
with section 4735.14 of the Revised Code and, if applicable, pays 91933
the annual brokerage assessment fee in accordance with the 91934
requirements specified in rules adopted by the commission. 91935

(C) If a licensee does not apply to reactivate a license on 91936
voluntary hold pursuant to division (B) of this section during the 91937
twelve-month time period specified in that division or does not 91938
satisfy the requirements specified in that division during that 91939
twelve-month period, the superintendent shall consider that 91940
license to be in a resigned status. The superintendent shall not 91941
reactivate a resigned license. The resignation of a license is 91942
considered to be final without the taking of any action by the 91943
superintendent. If a person whose license is in a resigned status 91944
pursuant to this division wishes to obtain an active license, the 91945
person shall apply for an active license in accordance with the 91946
requirements specified in section 4735.07 or 4735.09 of the 91947
Revised Code, as applicable. 91948

(D) A licensee, at any time during which a license has been 91949
suspended pursuant to division (G) of section 4735.07, division 91950
~~(G)~~(H) of section 4735.09, division (E) of section 4735.12, 91951
division (C) of section 4735.14, division (C) of section 4735.141, 91952
or section 4735.182 of the Revised Code, may apply to the 91953
superintendent on a form prescribed by the superintendent to 91954

voluntarily resign the licensee's license. The resignation of a 91955
license is considered to be final without the taking of any action 91956
by the superintendent. If a person whose license is in a resigned 91957
status pursuant to a request made under this division wishes to 91958
obtain an active or inactive license, the person shall apply for 91959
such a license in accordance with the requirements specified in 91960
section 4735.07 or 4735.09 of the Revised Code, as applicable, or 91961
in the rules adopted by the commission pursuant to division (A) of 91962
section 4735.10 of the Revised Code. 91963

(E) If placing a broker's license on voluntary hold or a 91964
resigned status will result in the closure of the broker's 91965
brokerage, the broker, within three days after applying to the 91966
superintendent to place the license on voluntary hold or a 91967
resigned status, shall provide to each salesperson associated with 91968
that broker a written notice stating that fact. 91969

(F) This section does not apply to any licensee whose license 91970
has been suspended pursuant to division (F) of section 4735.181 of 91971
the Revised Code or due to disciplinary action ordered by the 91972
commission pursuant to section 4735.051 of the Revised Code. 91973

Sec. 4735.15. (A) The nonrefundable fees for reactivation or 91974
transfer of a license shall be as follows: 91975

(1) Reactivation or transfer of a broker's license into or 91976
out of a partnership, association, limited liability company, 91977
limited liability partnership, or corporation or from one 91978
partnership, association, limited liability company, limited 91979
liability partnership, or corporation to another partnership, 91980
association, limited liability company, limited liability 91981
partnership, or corporation, twenty-five dollars. An application 91982
for such transfer shall be made to the superintendent of real 91983
estate on forms provided by the superintendent. 91984

(2) Reactivation or transfer of a license by a real estate 91985

salesperson, twenty-five dollars.	91986
(B) Except as may otherwise be specified pursuant to division	91987
(F) of this section, the nonrefundable fees for a branch office	91988
license, license renewal, late filing, and foreign real estate	91989
dealer and salesperson license are as follows per year for each	91990
year of a licensing period:	91991
(1) Branch office license, fifteen dollars;	91992
(2) Renewal of a real estate broker's license, sixty dollars.	91993
If the licensee is a partnership, association, limited liability	91994
company, limited liability partnership, or corporation, the full	91995
broker's renewal fee shall be required for each member of such	91996
partnership, association, limited liability company, limited	91997
liability partnership, or corporation that is a real estate	91998
broker. If the real estate broker has not less than eleven nor	91999
more than twenty real estate salespersons associated with the	92000
broker, an additional fee of sixty-four dollars shall be assessed	92001
to the brokerage. For every additional ten real estate	92002
salespersons or fraction of that number, the brokerage assessment	92003
fee shall be increased in the amount of thirty-seven dollars.	92004
(3) Renewal of a real estate salesperson's license,	92005
forty-five dollars;	92006
(4) Renewal of a real estate broker's or salesperson's	92007
license filed within twelve months after the licensee's renewal	92008
date, an additional late filing penalty of fifty per cent of the	92009
required fee;	92010
(5) Foreign real estate dealer's license and each renewal of	92011
the license, thirty dollars per salesperson employed by the	92012
dealer, but not less than one hundred fifty dollars;	92013
(6) Foreign real estate salesperson's license and each	92014
renewal of the license, fifty dollars.	92015

(C) All fees collected under this section shall be paid to 92016
the treasurer of state. One dollar of each such fee shall be 92017
credited to the real estate education and research fund, except 92018
that for fees that are assessed only once every three years, three 92019
dollars of each triennial fee shall be credited to the real estate 92020
education and research fund. 92021

(D) In all cases, the fee and any penalty shall accompany the 92022
application for the license, license transfer, or license 92023
reactivation or shall accompany the filing of the renewal. 92024

(E) The commission may establish by rule reasonable fees for 92025
services not otherwise established by this chapter. 92026

(F) The commission may adopt rules that provide for a 92027
reduction in the fees established in divisions (B)(2) and (3) of 92028
this section. 92029

Sec. 4735.16. (A) Every real estate broker licensed under 92030
this chapter ~~shall have and maintain a definite place of business~~ 92031
~~in this state and~~ shall erect or maintain a sign on the business 92032
premises plainly stating that the licensee is a real estate 92033
broker. If the real estate broker maintains one or more branch 92034
offices, the real estate broker shall erect or maintain a sign at 92035
each branch office plainly stating that the licensee is a real 92036
estate broker. 92037

(B)(1) Any licensed real estate broker or salesperson who 92038
advertises to buy, sell, exchange, or lease real estate, or to 92039
engage in any act regulated by this chapter, ~~including, but not~~ 92040
~~limited to, any licensed real estate broker or salesperson who~~ 92041
~~advertises to sell, exchange, or lease real estate that the~~ 92042
~~licensee owns~~ with respect to property the licensee does not own, 92043
shall be identified in the advertisement by name and ~~by indicating~~ 92044
~~that the licensee is a real estate broker or real estate~~ 92045
~~salesperson. Except a real estate salesperson who advertises the~~ 92046

~~sale, exchange, or lease of real estate that the salesperson owns 92047
and that is not listed for sale, exchange, or lease with a real 92048
estate broker, any real estate salesperson who advertises, as 92049
provided in this section, also shall indicate in the advertisement 92050
the name of the broker under whom the salesperson is licensed and 92051
the fact that the salesperson's broker is a real estate broker. 92052
The name of the broker shall be displayed in equal prominence with 92053
the name of the salesperson in the advertisement indicate the name 92054
of the brokerage with which the licensee is affiliated. 92055~~

(2) Any licensed real estate broker or sales person who 92056
advertises to sell, exchange, or lease real estate, or to engage 92057
in any act regulated by this chapter, with respect to property 92058
that the licensee owns, shall be identified in the advertisement 92059
by name and indicate that the property is agent owned, and if the 92060
property is listed with a real estate brokerage, the advertisement 92061
shall also indicate the name of the brokerage with which the 92062
property is listed. 92063

(3) The name of the brokerage shall be displayed in equal 92064
prominence with the name of the salesperson in the advertisement. 92065
For purposes of this section, "brokerage" means the name the real 92066
estate company or sole broker is doing business as, or if the real 92067
estate company or sole broker does not use such a name, the name 92068
of the real estate company or sole broker as licensed. 92069

(4) A real estate broker who is representing a seller under 92070
an exclusive right to sell or lease listing agreement shall not 92071
advertise such property to the public as "for sale by owner" or 92072
otherwise mislead the public to believe that the seller is not 92073
represented by a real estate broker. 92074

~~(3)~~(5) If any real estate broker or real estate salesperson 92075
advertises in a manner other than as provided in this section or 92076
the rules adopted under this section, that advertisement is 92077
prima-facie evidence of a violation under division (A)(21) of 92078

section 4735.18 of the Revised Code. 92079

When the superintendent determines that prima-facie evidence 92080
of a violation of division (A)(21) of section 4735.18 of the 92081
Revised Code or any of the rules adopted thereunder exists, the 92082
superintendent may do either of the following: 92083

(a) Initiate disciplinary action under section 4735.051 of 92084
the Revised Code for a violation of division (A)(21) of section 92085
4735.18 of the Revised Code, in accordance with Chapter 119. of 92086
the Revised Code; 92087

(b) Personally, or by certified mail, serve a citation upon 92088
the licensee. 92089

(C)(1) Every citation served under this section shall give 92090
notice to the licensee of the alleged violation or violations 92091
charged and inform the licensee of the opportunity to request a 92092
hearing in accordance with Chapter 119. of the Revised Code. The 92093
citation also shall contain a statement of a fine of two hundred 92094
dollars per violation, not to exceed two thousand five hundred 92095
dollars per citation. All fines collected pursuant to this section 92096
shall be credited to the real estate recovery fund, created in the 92097
state treasury under section 4735.12 of the Revised Code. 92098

(2) If any licensee is cited three times within twelve 92099
consecutive months, the superintendent shall initiate disciplinary 92100
action pursuant to section 4735.051 of the Revised Code for any 92101
subsequent violation that occurs within the same twelve-month 92102
period. 92103

(3) If a licensee fails to request a hearing within thirty 92104
days of the date of service of the citation, or the licensee and 92105
the superintendent fail to reach an alternative agreement, the 92106
citation shall become final. 92107

(4) Unless otherwise indicated, the licensee named in a final 92108
citation must meet all requirements contained in the final 92109

citation within thirty days of the effective date of that 92110
citation. 92111

(5) The superintendent shall suspend automatically a 92112
licensee's license if the licensee fails to comply with division 92113
(C)(4) of this section. 92114

(D) A real estate broker or salesperson obtaining the 92115
signature of a party to a listing or other agreement involved in a 92116
real estate transaction shall furnish a copy of the listing or 92117
other agreement to the party immediately after obtaining the 92118
party's signature. Every broker's office shall prominently display 92119
in the same immediate area as licenses are displayed a statement 92120
that it is illegal to discriminate against any person because of 92121
race, color, religion, sex, familial status as defined in section 92122
4112.01 of the Revised Code, national origin, military status as 92123
defined in that section, disability as defined in that section, or 92124
ancestry in the sale or rental of housing or residential lots, in 92125
advertising the sale or rental of housing, in the financing of 92126
housing, or in the provision of real estate brokerage services and 92127
that blockbusting also is illegal. The statement shall bear the 92128
United States department of housing and urban development equal 92129
housing logo, shall contain the information that the broker and 92130
the broker's salespersons are licensed by the division of real 92131
estate and professional licensing and that the division can assist 92132
with any consumer complaints or inquiries, and shall explain the 92133
provisions of section 4735.12 of the Revised Code. The statement 92134
shall provide the division's address and telephone number. The 92135
Ohio real estate commission shall provide by rule for the wording 92136
and size of the statement. The pamphlet required under section 92137
4735.03 of the Revised Code shall contain the same statement that 92138
is required on the statement displayed as provided in this section 92139
and shall be made available by real estate brokers and 92140
salespersons to their clients. The commission shall provide the 92141

wording and size of the pamphlet. 92142

Sec. 4735.17. Licenses may be issued under sections 4735.01 92143
to 4735.23 of the Revised Code, to nonresidents of this state and 92144
to foreign corporations, subject to the following additional 92145
requirements: 92146

(A) The licensee, if a broker, shall maintain an active place 92147
of business in this state. A post office box is not an active 92148
place of business for purposes of this section. 92149

(B) Every nonresident applicant shall file an irrevocable 92150
consent that suits and actions may be commenced against such 92151
applicant in the proper court of any county of this state in which 92152
a cause of action may arise or in which the plaintiff may reside 92153
by the service of any process or pleading authorized by the laws 92154
of this state on the superintendent of real estate. The consent 92155
shall stipulate that such service shall be taken and held in all 92156
courts as valid and binding as if proper service had been made 92157
upon the applicant in this state. The instrument containing such 92158
consent shall be authenticated by signature or by corporate seal. 92159
All applications of firms or corporations shall be accompanied by 92160
a certified copy of the resolution of the proper officers or 92161
managing board authorizing the proper officer to execute them. A 92162
duplicate copy of any process or pleading served on the 92163
superintendent shall be immediately forwarded by certified mail to 92164
the main office of the licensee against which that process or 92165
pleading is directed. 92166

Sec. 4735.18. (A) Subject to section 4735.32 of the Revised 92167
Code, the superintendent of real estate, upon the superintendent's 92168
own motion, may investigate the conduct of any licensee. Subject 92169
to section 4735.32 of the Revised Code, the Ohio real estate 92170
commission shall, ~~pursuant to section 4735.051 of the Revised~~ 92171

~~Code,~~ impose disciplinary sanctions upon any licensee who, whether 92172
or not acting in the licensee's capacity as a real estate broker 92173
or salesperson, or in handling the licensee's own property, is 92174
found to have been convicted of a felony or a crime of moral 92175
turpitude, and ~~shall, pursuant to section 4735.051 of the Revised~~ 92176
~~Code,~~ may impose disciplinary sanctions upon any licensee who, in 92177
the licensee's capacity as a real estate broker or salesperson, or 92178
in handling the licensee's own property, is found guilty of: 92179

(1) Knowingly making any misrepresentation; 92180

(2) Making any false promises with intent to influence, 92181
persuade, or induce; 92182

(3) A continued course of misrepresentation or the making of 92183
false promises through agents, salespersons, advertising, or 92184
otherwise; 92185

(4) Acting for more than one party in a transaction except as 92186
permitted by and in compliance with section 4735.71 of the Revised 92187
Code; 92188

(5) Failure within a reasonable time to account for or to 92189
remit any money coming into the licensee's possession which 92190
belongs to others; 92191

(6) Dishonest or illegal dealing, gross negligence, 92192
incompetency, or misconduct; 92193

(7)(a) By final adjudication by a court, a violation of any 92194
municipal or federal civil rights law relevant to the protection 92195
of purchasers or sellers of real estate or, by final adjudication 92196
by a court, any unlawful discriminatory practice pertaining to the 92197
purchase or sale of real estate prohibited by Chapter 4112. of the 92198
Revised Code, provided that such violation arose out of a 92199
situation wherein parties were engaged in bona fide efforts to 92200
purchase, sell, or lease real estate, in the licensee's practice 92201
as a licensed real estate broker or salesperson; 92202

(b) A second or subsequent violation of any unlawful 92203
discriminatory practice pertaining to the purchase or sale of real 92204
estate prohibited by Chapter 4112. of the Revised Code or any 92205
second or subsequent violation of municipal or federal civil 92206
rights laws relevant to purchasing or selling real estate whether 92207
or not there has been a final adjudication by a court, provided 92208
that such violation arose out of a situation wherein parties were 92209
engaged in bona fide efforts to purchase, sell, or lease real 92210
estate. For any second offense under this division, the commission 92211
shall suspend for a minimum of two months or revoke the license of 92212
the broker or salesperson. For any subsequent offense, the 92213
commission shall revoke the license of the broker or salesperson. 92214

(8) Procuring a license under this chapter, for the licensee 92215
or any salesperson by fraud, misrepresentation, or deceit; 92216

(9) Having violated or failed to comply with any provision of 92217
sections 4735.51 to 4735.74 of the Revised Code or having 92218
willfully disregarded or violated any other provisions of this 92219
chapter; 92220

(10) As a real estate broker, having demanded, without 92221
reasonable cause, other than from a broker licensed under this 92222
chapter, a commission to which the licensee is not entitled, or, 92223
as a real estate salesperson, having demanded, without reasonable 92224
cause, a commission to which the licensee is not entitled; 92225

(11) Except as permitted under section 4735.20 of the Revised 92226
Code, having paid commissions or fees to, or divided commissions 92227
or fees with, anyone not licensed as a real estate broker or 92228
salesperson under this chapter or anyone not operating as an 92229
out-of-state commercial real estate broker or salesperson under 92230
section 4735.022 of the Revised Code; 92231

(12) Having falsely represented membership in any real estate 92232
professional association of which the licensee is not a member; 92233

(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;	92234 92235 92236
(14) Having offered anything of value other than the consideration recited in the sales contract as an inducement to a person to enter into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;	92237 92238 92239 92240 92241
(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;	92242 92243 92244
(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;	92245 92246 92247
(17) Having <u>advertised or</u> placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's authorized agent;	92248 92249 92250
(18) Having induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu of it a new contract with another principal;	92251 92252 92253
(19) Having negotiated the sale, exchange, or lease of any real property directly with a seller, purchaser, lessor, or tenant knowing that such seller, purchaser, lessor, or tenant is represented by another broker under a written exclusive agency agreement, exclusive right to sell or lease listing agreement, or exclusive purchaser agency agreement with respect to such property except as provided for in section 4735.75 of the Revised Code;	92254 92255 92256 92257 92258 92259 92260
(20) Having offered real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;	92261 92262 92263 92264

(21) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any properties, terms, values, policies, or services of the business conducted;

(22) Having knowingly withheld from or inserted in any statement of account or invoice any statement that made it inaccurate in any material particular;

(23) Having published or circulated unjustified or unwarranted threats of legal proceedings which tended to or had the effect of harassing competitors or intimidating their customers;

(24) Having failed to keep complete and accurate records of all transactions for a period of three years from the date of the transaction, such records to include copies of listing forms, earnest money receipts, offers to purchase and acceptances of them, records of receipts and disbursements of all funds received by the licensee as broker and incident to the licensee's transactions as such, and records required pursuant to divisions (C)(4) and (5) of section 4735.20 of the Revised Code, and any other instruments or papers related to the performance of any of the acts set forth in the definition of a real estate broker;

(25) Failure of a real estate broker or salesperson to furnish all parties involved in a real estate transaction true copies of all listings and other agreements to which they are a party, at the time each party signs them;

(26) Failure to maintain at all times a special or trust bank account in a depository located in this state. The account shall be noninterest-bearing, separate and distinct from any personal or other account of the broker, and, except as provided in division (A)(27) of this section, shall be used for the deposit and

maintenance of all escrow funds, security deposits, and other 92296
moneys received by the broker in a fiduciary capacity. The name, 92297
account number, if any, and location of the depository wherein 92298
such special or trust account is maintained shall be submitted in 92299
writing to the superintendent. Checks drawn on such special or 92300
trust bank accounts are deemed to meet the conditions imposed by 92301
section 1349.21 of the Revised Code. Funds deposited in the trust 92302
or special account in connection with a purchase agreement shall 92303
be maintained in accordance with section 4735.24 of the Revised 92304
Code. 92305

(27) Failure to maintain at all times a special or trust bank 92306
account in a depository in this state, to be used exclusively for 92307
the deposit and maintenance of all rents, security deposits, 92308
escrow funds, and other moneys received by the broker in a 92309
fiduciary capacity in the course of managing real property. This 92310
account shall be separate and distinct from any other account 92311
maintained by the broker. The name, account number, and location 92312
of the depository shall be submitted in writing to the 92313
superintendent. This account may earn interest, which shall be 92314
paid to the property owners on a pro rata basis. 92315

Division (A)(27) of this section does not apply to brokers 92316
who are not engaged in the management of real property on behalf 92317
of real property owners. 92318

(28) Having failed to put definite expiration dates in all 92319
written agency agreements to which the broker is a party; 92320

(29) Having an unsatisfied final judgment or lien in any 92321
court of record against the licensee arising out of the licensee's 92322
conduct as a licensed broker or salesperson; 92323

(30) Failing to render promptly upon demand a full and 92324
complete statement of the expenditures by the broker or 92325
salesperson of funds advanced by or on behalf of a party to a real 92326

estate transaction to the broker or salesperson for the purpose of 92327
performing duties as a licensee under this chapter in conjunction 92328
with the real estate transaction; 92329

(31) Failure within a reasonable time, after the receipt of 92330
the commission by the broker, to render an accounting to and pay a 92331
real estate salesperson the salesperson's earned share of it; 92332

(32) Performing any service for another constituting the 92333
practice of law, as determined by any court of law; 92334

(33) Having been adjudicated incompetent for the purpose of 92335
holding the license by a court, as provided in section 5122.301 of 92336
the Revised Code. A license revoked or suspended under this 92337
division shall be reactivated upon proof to the commission of the 92338
removal of the disability. 92339

(34) Having authorized or permitted a person to act as an 92340
agent in the capacity of a real estate broker, or a real estate 92341
salesperson, who was not then licensed as a real estate broker or 92342
real estate salesperson under this chapter or who was not then 92343
operating as an out-of-state commercial real estate broker or 92344
salesperson under section 4735.022 of the Revised Code; 92345

(35) Having knowingly inserted or participated in inserting 92346
any materially inaccurate term in a document, including naming a 92347
false consideration; 92348

(36) Having failed to inform the licensee's client of the 92349
existence of an offer or counteroffer or having failed to present 92350
an offer or counteroffer in a timely manner, unless otherwise 92351
instructed by the client, provided the instruction of the client 92352
does not conflict with any state or federal law; 92353

(37) Having failed to comply with section 4735.24 of the 92354
Revised Code. 92355

(B) Whenever the commission, pursuant to section 4735.051 of 92356

the Revised Code, imposes disciplinary sanctions for any violation 92357
of this section, the commission also may impose such sanctions 92358
upon the broker with whom the salesperson is affiliated if the 92359
commission finds that the broker had knowledge of the 92360
salesperson's actions that violated this section. 92361

(C) The commission shall, pursuant to section 4735.051 of the 92362
Revised Code, impose disciplinary sanctions upon any foreign real 92363
estate dealer or salesperson who, in that capacity or in handling 92364
the dealer's or salesperson's own property, is found guilty of any 92365
of the acts or omissions specified or comprehended in division (A) 92366
of this section insofar as the acts or omissions pertain to 92367
foreign real estate. If the commission imposes such sanctions upon 92368
a foreign real estate salesperson for a violation of this section, 92369
the commission also may suspend or revoke the license of the 92370
foreign real estate dealer with whom the salesperson is affiliated 92371
if the commission finds that the dealer had knowledge of the 92372
salesperson's actions that violated this section. 92373

(D) The commission may suspend, in whole or in part, the 92374
imposition of the penalty of suspension of a license under this 92375
section. 92376

~~(E) The commission immediately shall notify the real estate 92377
appraiser board of any disciplinary action taken under this 92378
section against a licensee who also is a state certified real 92379
estate appraiser under Chapter 4763. of the Revised Code. 92380~~

Sec. 4735.181. (A) No real estate broker or salesperson 92381
licensed pursuant to this chapter shall fail to comply with 92382
divisions (B) or (D) of section 4735.13, division (D) of section 92383
4735.14, or sections 4735.55, 4735.56, and 4735.58 of the Revised 92384
Code or any rules adopted under those divisions or sections. 92385

(B) When the superintendent determines that a licensee has 92386
violated division (A) of this section, the superintendent may do 92387

either of the following: 92388

(1) Initiate disciplinary action under section 4735.051 of 92389
the Revised Code, in accordance with Chapter 119. of the Revised 92390
Code; 92391

(2) Personally, or by certified mail, serve a citation and 92392
impose sanctions in accordance with this section upon the 92393
licensee. 92394

(C) Every citation served under this section shall give 92395
notice to the licensee of the alleged violation or violations 92396
charged and inform the licensee of the opportunity to request a 92397
hearing in accordance with Chapter 119. of the Revised Code. The 92398
citation also shall contain a statement of a fine of up to two 92399
hundred dollars per violation. All fines collected pursuant to 92400
this section shall be credited to the real estate recovery fund, 92401
created in the state treasury under section 4735.12 of the Revised 92402
Code. 92403

(D) If any licensee is cited three times under this section 92404
within twelve consecutive months, the superintendent shall 92405
initiate disciplinary action pursuant to section 4735.051 of the 92406
Revised Code for any subsequent violation that occurs within the 92407
same twelve-month period. 92408

If a licensee fails to request a hearing within thirty days 92409
after the date of service of the citation, or the licensee and the 92410
superintendent fail to reach an alternative agreement, the 92411
citation shall become final. 92412

(E) Unless otherwise indicated, the licensee named in a final 92413
citation under this section must meet all requirements contained 92414
in the final citation within thirty days after the effective date 92415
of that citation. 92416

(F) The superintendent shall suspend automatically a 92417
licensee's license if the licensee fails to comply with division 92418

(E) of this section. 92419

Sec. 4735.182. If a check or other draft instrument used to 92420
pay any fee required under this chapter is returned to the 92421
superintendent ~~for insufficient funds~~ unpaid by the financial 92422
institution upon which it is drawn for any reason, the 92423
superintendent shall notify the ~~licensee~~ entity or person that the 92424
check or other draft instrument was returned for insufficient 92425
funds ~~and.~~ 92426

(A) If the check or draft instrument was submitted by a 92427
licensee, the superintendent shall also notify the licensee that 92428
the licensee's license will be suspended unless the licensee, 92429
within fifteen days after the mailing of the notice, submits the 92430
fee and a one-hundred-dollar fee to the superintendent. If the 92431
licensee does not submit both fees within that time period, or if 92432
any check or other draft instrument used to pay either of those 92433
fees is returned to the superintendent ~~for insufficient funds~~ 92434
unpaid by the financial institution upon which it is drawn for any 92435
reason, the license shall be suspended immediately without a 92436
hearing and the licensee shall cease activity as a licensee under 92437
this chapter. 92438

(B) If the check or draft instrument was remitted by a person 92439
or entity applying to qualify foreign real estate or renew a 92440
property registration, the superintendent shall also notify the 92441
applicant that registration will be suspended, unless the 92442
applicant, within fifteen days after the mailing of the notice, 92443
submits the fee and a one-hundred-dollar fee to the 92444
superintendent. If the applicant does not submit both fees within 92445
that time period, or if any check or other draft instrument used 92446
to pay either of the fees is returned to the superintendent unpaid 92447
by the financial institution upon which it is drawn for any 92448
reason, the property registration shall be suspended immediately 92449

without a hearing and the applicant shall cease activity. 92450

(C) If the check or draft instrument was remitted by an applicant for licensure, that application shall automatically be rejected or approval withdrawn, unless the applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the application shall be denied or approval withdrawn. 92451
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(D) If the check or draft instrument was remitted by an education course provider or course provider applicant, that application shall automatically be rejected or approval withdrawn, unless applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the application shall be denied or approval withdrawn. 92461
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Sec. 4735.19. The Ohio real estate commission shall keep a record of its proceedings and, upon application of an interested party, or upon its own motion and notice to the interested parties, may ~~reverse, vacate, or modify~~ hold a hearing to consider reversing, vacating, or modifying its own orders. An application ~~to the commission to reverse, vacate, or modify an order~~ shall be filed with the division within fifteen days after the mailing of the notice of the order of the commission to the interested parties ~~pursuant to section 119.09 of the Revised Code. The commission may adopt rules in accordance with Chapter 119. of the~~ 92471
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Revised Code establishing the circumstances in which an interested party may request reconsideration. 92481
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Any applicant, ~~licensee~~, or ~~complainant~~, respondent 92483
dissatisfied with an order of the commission may appeal in 92484
accordance with Chapter 119. of the Revised Code. 92485

Sec. 4735.20. (A) Except as provided in divisions (B), (C), 92486
and (G) of this section, no licensed real estate broker or 92487
licensed foreign real estate dealer shall pay a commission, fee, 92488
or other compensation for performing any of the acts specified in 92489
section 4735.01 of the Revised Code to any person who is not a 92490
licensed real estate broker or a licensed real estate salesperson 92491
or to any person who is not a licensed foreign real estate dealer 92492
or a licensed foreign real estate salesperson. 92493

(B) A licensed real estate broker or licensed foreign real 92494
estate dealer may pay a commission to a licensed real estate 92495
broker or licensed foreign real estate dealer of another state or 92496
country and may receive a commission from a licensed real estate 92497
broker or licensed foreign real estate dealer of another state or 92498
country, but only when done in accordance with rules adopted by 92499
the Ohio real estate commission pursuant to section 4735.10 of the 92500
Revised Code. 92501

(C) A licensed real estate broker may pay all or part of a 92502
fee, commission, or other compensation earned by an affiliated 92503
licensee to a partnership, association, limited liability company, 92504
limited liability partnership, or corporation that is not licensed 92505
as a real estate broker on the condition that all of the following 92506
conditions are satisfied: 92507

(1) At least one of the partners, members, officers, or 92508
shareholders of the unlicensed partnership, association, limited 92509
liability company, limited liability partnership, or corporation 92510
holds a valid and active license issued under this chapter. 92511

(2) At least one of the partners, members, officers, or 92512
shareholders of the unlicensed partnership, association, limited 92513
liability company, limited liability partnership, or corporation 92514
is the affiliated licensee who earned the fee, commission, or 92515
other compensation. 92516

(3) The unlicensed partnership, association, limited 92517
liability company, limited liability partnership, or corporation 92518
does not engage in any of the acts specified in division (A) of 92519
section 4735.01 of the Revised Code. 92520

(4) The broker verifies that the affiliated licensee complies 92521
with divisions (C)(1) and (2) of this section and keeps a record 92522
of this verification for a period of three years after the date of 92523
verification. 92524

(5) The broker keeps a record of all of the following 92525
information for each transaction, for a period of three years 92526
after the date of the transaction: 92527

(a) The name of the affiliated licensee who earned the fee, 92528
commission, or other compensation; 92529

(b) The amount of the fee, commission, or other compensation 92530
that was earned; 92531

(c) The name of the unlicensed partnership, association, 92532
limited liability company, limited liability partnership, or 92533
corporation to which the broker paid the affiliated licensee's 92534
fee, commission, or other compensation. 92535

(D) Compliance with division (C) of this section does not 92536
relieve a broker described in that division of any obligations to 92537
supervise an affiliated licensee, or of any other requirements of 92538
this chapter or rules adopted pursuant to this chapter. 92539

(E) Compliance with division (C) of this section does not 92540
render a broker described in that division or an affiliated 92541

licensee exempt from sections 4735.051, 4735.18, ~~or~~ and 4735.32 of 92542
the Revised Code, or immune from personal liability in a civil 92543
action against the broker or affiliated licensee for a violation 92544
of this chapter. 92545

(F) No broker shall pay a fee, commission, or other 92546
compensation that is due to an affiliated licensee to a 92547
third-party creditor of the affiliated licensee. 92548

(G) Any owner of any interest in foreign real estate may 92549
refer a prospective buyer to the person who sold the owner that 92550
foreign real estate with the expectation of receiving valuable 92551
consideration, if all of the following conditions are satisfied: 92552

(1) The person who sold the owner that foreign real estate is 92553
selling qualified foreign real estate pursuant to section 4735.25 92554
of the Revised Code. 92555

(2) Any fee, commission, or other valuable consideration 92556
promised or collected during any period consisting of twelve 92557
consecutive months does not exceed one thousand dollars. 92558

(3) The owner does not engage in referring prospective buyers 92559
of foreign real estate pursuant to this section in the ordinary 92560
course of business or as a regular business practice. 92561

(4) The owner does not show the foreign real estate, discuss 92562
terms or conditions of purchasing the foreign real estate, or 92563
otherwise participate in negotiations with regard to the offering 92564
or sale of the foreign real estate. 92565

(5) If a foreign real estate transaction is consummated with 92566
a buyer who was referred by the owner to the person who sold the 92567
owner that foreign real estate, the occurrence of the referral 92568
shall be disclosed by the person who sold the owner that foreign 92569
real estate. 92570

(H) The suspension or revocation of a real estate broker's or 92571

foreign real estate dealer's license automatically shall suspend 92572
every real estate salesperson's or foreign real estate 92573
salesperson's license granted to any person by virtue of 92574
association with the broker or dealer whose license has been 92575
suspended or revoked, pending a change of broker or dealer and the 92576
issuance of a new license. Such new license shall be issued 92577
without charges, if granted during the same year in which the 92578
original license was granted. 92579

(I) A violation of this section is cause for imposing 92580
disciplinary sanctions in accordance with the proceedings 92581
specified in sections 4735.051, 4735.18, and 4735.32 of the 92582
Revised Code. 92583

(J) For purposes of this section, "affiliated licensee" means 92584
a person who holds a valid and active license issued under this 92585
chapter and who is associated with the broker that is paying a 92586
fee, commission, or other compensation at the time that that fee, 92587
commission, or other compensation is earned. 92588

Sec. 4735.21. No right of action shall accrue to any person, 92589
partnership, association, or corporation for the collection of 92590
compensation for the performance of the acts mentioned in section 92591
4735.01 of the Revised Code, without alleging and proving that 92592
such person, partnership, association, or corporation was licensed 92593
as a real estate broker or foreign real estate dealer. Nothing 92594
contained in this section shall prevent a right of action from 92595
accruing after the expiration of a real estate or foreign real 92596
estate license if the act giving rise to the cause of action was 92597
performed by a licensee prior to such expiration. 92598

No real estate ~~salesman~~ salesperson or foreign real estate 92599
~~salesman~~ salesperson shall collect any money in connection with 92600
any real estate or foreign real estate brokerage transaction, 92601
whether as a commission, deposit, payment, rental, or otherwise, 92602

except in the name of and with the consent of the licensed real 92603
estate broker or licensed foreign real estate dealer under whom ~~he~~ 92604
the salesperson is licensed at the time the sales person earned 92605
the commission. Nor shall any real estate ~~salesman~~ salesperson or 92606
foreign real estate ~~salesman~~ salesperson commence or maintain any 92607
action for a commission or other compensation in connection with a 92608
real estate or foreign real estate brokerage transaction, against 92609
any person except a person licensed as a real estate broker or 92610
foreign real estate dealer under whom ~~he~~ the salesperson is 92611
licensed as a ~~salesman~~ salesperson at the time the cause of action 92612
arose. 92613

A salesperson licensed under this chapter shall not sell, 92614
assign, or otherwise transfer the salesperson's interest in a 92615
commission or any portion thereof to an unlicensed person or 92616
entity. If a salesperson makes such assignment or transfer, the 92617
broker shall not pay the transferee or assignee any portion of the 92618
commission. No cause of action shall arise on behalf of any person 92619
against a broker for not paying an assignee or transferee any 92620
portion of such an assignment or transfer. 92621

Sec. 4735.211. All fines imposed under section 4735.051 of 92622
the Revised Code, and all fees and charges collected under 92623
sections 4735.06, 4735.09, 4735.13, 4735.15, 4735.25, 4735.27, 92624
4735.28, and 4735.29 of the Revised Code, except such fees as are 92625
paid to the real estate education and research fund and real 92626
estate recovery fund as provided in this chapter, shall be paid 92627
into the state treasury to the credit of the division of real 92628
estate operating fund, which is hereby created. All operating 92629
expenses of the division of real estate shall be paid from the 92630
division of real estate operating fund. 92631

The division of real estate operating fund shall be assessed 92632
a proportionate share of the administrative costs of the 92633

department of commerce in accordance with procedures prescribed by 92634
the director of commerce and approved by the director of budget 92635
and management. Such assessments shall be paid from the division 92636
of real estate operating fund to the division of administration 92637
fund. 92638

If funds in the division of real estate operating fund are 92639
determined by the director of commerce to be in excess of those 92640
necessary to fund all the expenses of the division in any 92641
biennium, ~~he shall~~ the director may pay the excess funds to the 92642
real estate education and research fund. 92643

Sec. 4735.32. (A)(1) The Ohio real estate commission or the 92644
superintendent of real estate may commence, at any time within 92645
three years from the date on which an alleged violation of a 92646
provision of this or another chapter of the Revised Code occurred, 92647
any investigation that relates to the conduct of a licensed real 92648
estate broker, real estate salesperson, foreign real estate 92649
dealer, or foreign real estate salesperson, that is authorized 92650
pursuant to section 1349.11, 4735.051, 4735.052, or 4735.18, or 92651
any other section of the Revised Code, and that is for purposes of 92652
determining whether ~~the~~ a licensee, unlicensed person, or 92653
unlicensed entity has violated a provision of this or another 92654
chapter of the Revised Code and whether, as a consequence, ~~the~~ a 92655
licensee's license should be suspended or revoked, or other 92656
disciplinary action taken, as provided in this or another chapter 92657
of the Revised Code. If such an investigation is not commenced 92658
within the three-year period, it shall be barred, and neither the 92659
commission nor the superintendent shall suspend or revoke the 92660
license of any licensee, or take other disciplinary action against 92661
any licensee, unlicensed person, or unlicensed entity because of 92662
the alleged violation of a provision of this or another chapter of 92663
the Revised Code that could have been the subject of the barred 92664
investigation. 92665

(2) For purposes of division (A)(1) of this section, if an investigation that is authorized by section 4735.051 of the Revised Code is involved, it shall be considered to be commenced as of the date on which a person files a the complaint with the division of real estate ~~pursuant to division (A) of that section.~~

(B) This section does not affect any criminal or civil liability that a licensed real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, or any unlicensed person, may have under this or another chapter of the Revised Code or under the common law of this state.

Sec. 4735.55. (A) Each written agency agreement shall contain all of the following:

(1) An expiration date;

(2) A statement that it is illegal, pursuant to the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, as amended, to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, ancestry, military status as defined in that section, disability as defined in that section, or national origin or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services;

(3) A statement defining the practice known as "blockbusting" and stating that it is illegal;

(4) A copy of the United States department of housing and

urban development equal housing opportunity logotype, as set forth 92696
in 24 C.F.R. 109.30, as amended. 92697

(B) Each written agency agreement shall contain a place for 92698
the licensee and the client to sign and date the agreement. 92699

(C) A licensee shall furnish a copy of any written agency 92700
agreement to a client in a timely manner after the licensee and 92701
the client have signed and dated it. 92702

Sec. 4735.58. (A)(1) A licensee who is a purchaser's agent or 92703
a seller's subagent working with a purchaser shall present the 92704
agency disclosure statement described in section 4735.57 of the 92705
Revised Code to the purchaser and request the purchaser to sign 92706
and date the statement no later than the preparation of an offer 92707
to purchase or lease, or a written request for a proposal to 92708
lease. The licensee shall deliver the statement signed by the 92709
purchaser to the seller's agent, or to the seller if the seller is 92710
not represented by an agent. Prior to presenting the seller with 92711
either a written offer to purchase or lease, or a written request 92712
for a proposal to lease, the seller's agent, or the purchaser's 92713
agent if the seller is not represented by an agent, shall present 92714
the agency disclosure statement to the seller and request the 92715
seller to sign and date the statement. 92716

(2) A licensee shall indicate the accurate agency 92717
relationship on the agency disclosure statement. 92718

(B) A licensee selling property at auction shall, prior to 92719
the auction, verbally disclose to the audience that the licensee 92720
represents the seller in the real estate transaction. The licensee 92721
shall provide the agency disclosure statement described in section 92722
4735.57 of the Revised Code to the successful bidder prior to the 92723
bidder's signing a purchase contract. 92724

(C) Evidence that a licensee has failed to comply with this 92725

section constitutes prima-facie evidence of misconduct in 92726
violation of division (A)(6) of section 4735.18 of the Revised 92727
Code. 92728

(D) The disclosure requirements of this section do not apply 92729
in any of the following situations: 92730

(1) The rental or leasing of residential premises as defined 92731
in section 5321.01 of the Revised Code, if the rental or lease 92732
agreement can be performed in eighteen months or less; 92733

(2) The referral of a prospective purchaser or seller to 92734
another licensee; 92735

(3) Transactions involving the sale, lease, or exchange of 92736
foreign real estate as defined in division (E) of section 4735.01 92737
of the Revised Code; 92738

(4) Transactions involving the sale of a cemetery lot or a 92739
cemetery interment right. 92740

(E) The licensee is obligated to perform all duties imposed 92741
on a real estate agent at common law except to the extent the 92742
duties are inconsistent with the duties prescribed in this chapter 92743
or are otherwise modified by agreement. 92744

Sec. 4735.59. To change the party a licensee represents in a 92745
real estate transaction after an agency disclosure statement has 92746
been signed and dated or following verbal disclosure of the agency 92747
relationship, the licensee shall obtain written consent from the 92748
party originally represented to represent another party in the 92749
transaction. The licensee shall promptly notify all persons who 92750
had been notified of the original relationship. 92751

The Ohio real estate commission may adopt rules in accordance 92752
with Chapter 119. of the Revised Code to provide for required 92753
disclosures when a licensee terminates an agency relationship and 92754
becomes a principal in the transaction. 92755

Sec. 4735.62. In representing any client in an agency or subagency relationship, the licensee shall be a fiduciary of the client and shall use the licensee's best efforts to further the interest of the client including, but not limited to, doing all of the following:

(A) Exercising reasonable skill and care in representing the client and carrying out the responsibilities of the agency relationship;

(B) Performing the terms of any written agency agreement;

(C) Following any lawful instructions of the client;

(D) Performing all duties specified in this chapter in a manner that is loyal to the interest of the client;

(E) Complying with all requirements of this chapter and other applicable statutes, rules, and regulations, including the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, as amended;

(F) Disclosing to the client any material facts of the transaction of which the licensee is aware or should be aware in the exercise of reasonable skill and care and that are not confidential information pursuant to a current or prior agency or dual agency relationship;

(G) Advising the client to obtain expert advice related to material matters when necessary or appropriate;

(H) Accounting in a timely manner for all moneys and property received in which the client has or may have an interest;

(I) Keeping confidential all confidential information, unless the licensee is permitted to disclose the information pursuant to division (B) of section 4735.74 of the Revised Code. This requirement includes not disclosing confidential information to

any licensee who is not an agent of the client. 92786

Sec. 4735.68. (A) A licensee is not liable to any party for 92787
false information that the licensee's client provided to the 92788
licensee and that the licensee in turn provided to another party 92789
in the real estate transaction, unless the licensee had actual 92790
knowledge that the information was false or acted with reckless 92791
disregard for the truth. 92792

(B) No cause of action shall arise on behalf of any person 92793
against a client for any misrepresentation a licensee made while 92794
representing that client unless the client had actual knowledge of 92795
the licensee's misrepresentation. 92796

(C) Knowledge of or information contained in a brokerage or 92797
an affiliated or past licensee's transaction records of any 92798
current or previous defect, adverse condition, or repair in real 92799
property shall not be imputed to that broker or to other licensees 92800
affiliated with that broker. No cause of action based on imputed 92801
knowledge shall accrue on behalf of any person against a broker or 92802
affiliated licensee for failure to disclose such defects, adverse 92803
condition, or repair. 92804

Sec. 4735.71. (A) No licensee or brokerage shall participate 92805
in a dual agency relationship described in section 4735.70 of the 92806
Revised Code unless both the seller and the purchaser in the 92807
transaction have full knowledge of the dual representation and 92808
consent in writing to the dual representation on the agency 92809
disclosure statement described in section 4735.57 of the Revised 92810
Code. Before a licensee obtains the consent of any party to a dual 92811
agency relationship, the licensee shall disclose to both the 92812
purchaser and the seller all relevant information necessary to 92813
enable each party to make an informed decision as to whether to 92814
consent to the dual agency relationship. If, after consent is 92815

obtained, there is a material change in the information disclosed 92816
to the purchaser and the seller, the licensee shall disclose the 92817
change of information to the purchaser and the seller and give 92818
them an opportunity to revoke their consent. 92819

(B) No brokerage shall participate in a dual agency 92820
relationship described in division (C) of section 4735.70 of the 92821
Revised Code, unless each of the following conditions is met: 92822

(1) The brokerage has established a procedure under section 92823
4735.54 of the Revised Code under which licensees, including 92824
management level licensees, who represent one client will not have 92825
access to and will not obtain confidential information concerning 92826
another client of the brokerage involved in the dual agency 92827
transaction. 92828

(2) Each licensee fulfills the licensee's duties exclusively 92829
to the licensee's client. 92830

(C) No salesperson or broker licensed under this chapter 92831
shall participate in a dual agency relationship in which the 92832
licensee is a party to the transaction, either personally or as an 92833
officer or member of a partnership, association, limited liability 92834
company, limited liability partnership, or corporation that has an 92835
interest in the real property that is the subject of the 92836
transaction or an entity that has an intention of purchasing, 92837
leasing, or exchanging the real property. 92838

Sec. 4735.74. Unless otherwise agreed in writing, a licensee 92839
owes no further duty to a client after performance of all duties 92840
or after any contract has terminated or expired, except for both 92841
of the following: 92842

(A) Providing the client with an accounting of all moneys and 92843
property relating to the transaction; 92844

(B) Keeping confidential all information received during the 92845

course of the transaction unless:	92846
(1) The client permits disclosure;	92847
(2) Disclosure is required by law or by court order;	92848
(3) The information becomes public from a source other than the licensee;	92849 92850
(4) The information is necessary to prevent a crime the client intends to commit;	92851 92852
(5) Disclosure is necessary to defend the brokerage or its licensees against an accusation of wrongful conduct or to establish or defend a claim that a commission is owed on a transaction.	92853 92854 92855 92856
<u>(6) Disclosure is regarding sales information requested by a registered appraiser assistant or a licensed or certified appraiser for the purposes of performing an appraisal. No cause of action shall arise on behalf of any person against a licensee for releasing information pursuant to this division.</u>	92857 92858 92859 92860 92861
Sec. 4736.12. (A) The state board of sanitarian registration shall charge the following fees:	92862 92863
(1) To apply as a sanitarian-in-training, eighty dollars;	92864
(2) For sanitarians-in-training to apply for registration as sanitarians, eighty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.	92865 92866 92867 92868
(3) For persons other than sanitarians-in-training to apply for registration as sanitarians, including persons meeting the requirements of section 4736.16 of the Revised Code, one hundred sixty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.	92869 92870 92871 92872 92873 92874

(4) The renewal fee for registered sanitarians shall be 92875
~~seventy four~~ eighty dollars. 92876

(5) The renewal fee for sanitarians-in-training shall be 92877
~~seventy four~~ eighty dollars. 92878

(6) For late application for renewal, ~~twenty seven~~ an 92879
additional fifty dollars. 92880

The board of sanitarian registration, with the approval of 92881
the controlling board, may establish fees in excess of the amounts 92882
provided in this section, provided that such fees do not exceed 92883
the amounts permitted by this section by more than fifty per cent. 92884

(B) The board of sanitarian registration shall charge 92885
separate fees for examinations as required by section 4736.08 of 92886
the Revised Code, provided that the fees are not in excess of the 92887
actual cost to the board of conducting the examinations. 92888

(C) The board of sanitarian registration may adopt rules 92889
establishing fees for all of the following: 92890

(1) Application for the registration of a training agency 92891
approved under rules adopted by the board pursuant to section 92892
4736.11 of the Revised Code and for the annual registration 92893
renewal of an approved training agency. 92894

(2) Application for the review of continuing education hours 92895
submitted for the board's approval by approved training agencies 92896
or by registered sanitarians or sanitarians-in-training. 92897

(3) Additional copies of pocket identification cards and wall 92898
certificates. 92899

Sec. 4743.05. Except as otherwise provided in sections 92900
4701.20, 4723.062, 4723.082, ~~and~~ 4729.65, 4781.121, and 4781.28 of 92901
the Revised Code, all money collected under Chapters 3773., 4701., 92902
4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., 4732., 92903
4733., 4734., 4736., 4741., 4753., 4755., 4757., 4758., 4759., 92904

4761., 4766., 4771., 4775., 4779., and 4781. of the Revised Code 92905
shall be paid into the state treasury to the credit of the 92906
occupational licensing and regulatory fund, which is hereby 92907
created for use in administering such chapters. 92908

At the end of each quarter, the director of budget and 92909
management shall transfer from the occupational licensing and 92910
regulatory fund to the nurse education assistance fund created in 92911
section 3333.28 of the Revised Code the amount certified to the 92912
director under division (B) of section 4723.08 of the Revised 92913
Code. 92914

At the end of each quarter, the director shall transfer from 92915
the occupational licensing and regulatory fund to the certified 92916
public accountant education assistance fund created in section 92917
4701.26 of the Revised Code the amount certified to the director 92918
under division (H)(2) of section 4701.10 of the Revised Code. 92919

Sec. 4757.31. (A) Subject to division (B) of this section, 92920
the counselor, social worker, and marriage and family therapist 92921
board shall establish, and may from time to time adjust, fees to 92922
be charged for the following: 92923

(1) Examination for licensure as a professional clinical 92924
counselor, professional counselor, marriage and family therapist, 92925
independent marriage and family therapist, social worker, or 92926
independent social worker; 92927

(2) Initial licenses of professional clinical counselors, 92928
professional counselors, marriage and family therapists, 92929
independent marriage and family therapists, social workers, and 92930
independent social workers, except that the board shall charge 92931
only one fee to a person who fulfills all requirements for more 92932
than one of the following initial licenses: an initial license as 92933
a social worker or independent social worker, an initial license 92934
as a professional counselor or professional clinical counselor, 92935

and an initial license as a marriage and family therapist or	92936
independent marriage and family therapist;	92937
(3) Initial certificates of registration of social work	92938
assistants;	92939
(4) Renewal and late renewal of licenses of professional	92940
clinical counselors, professional counselors, marriage and family	92941
therapists, independent marriage and family therapists, social	92942
workers, and independent social workers and renewal and late	92943
renewal of certificates of registration of social work assistants;	92944
(5) Verification, to another jurisdiction, of a license or	92945
registration issued by the board;	92946
(6) Continuing education programs offered by the board to	92947
licensees or registrants;	92948
<u>(7) Approval of continuing education programs;</u>	92949
<u>(8) Approval of continuing education providers to be</u>	92950
<u>authorized to offer continuing education programs without prior</u>	92951
<u>approval from the board for each program offered;</u>	92952
<u>(9) Issuance of a replacement copy of any wall certificate</u>	92953
<u>issued by the board.</u>	92954
(B) The fees charged under division (A)(1) of this section	92955
shall be established in amounts sufficient to cover the direct	92956
expenses incurred in examining applicants for licensure. The fees	92957
charged under divisions (A)(2) to (6) <u>(9)</u> of this section shall be	92958
nonrefundable and shall be established in amounts sufficient to	92959
cover the necessary expenses in administering this chapter and	92960
rules adopted under it that are not covered by fees charged under	92961
division (A)(1) or (C) of this section. The renewal fee for a	92962
license or certificate of registration shall not be less than the	92963
initial fee for that license or certificate. The fees charged for	92964
licensure and registration and the renewal of licensure and	92965

registration may differ for the various types of licensure and 92966
registration, but shall not exceed one hundred twenty-five dollars 92967
each, unless the board determines that amounts in excess of one 92968
hundred twenty-five dollars are needed to cover its necessary 92969
expenses in administering this chapter and rules adopted under it 92970
and the amounts in excess of one hundred twenty-five dollars are 92971
approved by the controlling board. 92972

(C) All receipts of the board shall be deposited in the state 92973
treasury to the credit of the occupational licensing and 92974
regulatory fund. All vouchers of the board shall be approved by 92975
the chairperson or executive director of the board, or both, as 92976
authorized by the board. 92977

Sec. 4776.01. As used in this chapter: 92978

(A) "License" means any of the following: 92979

(1) An authorization evidenced by a license, certificate, 92980
registration, permit, card, or other authority that is issued or 92981
conferred by a licensing agency described in division (C)(1) of 92982
this section to a licensee or to an applicant for an initial 92983
license by which the licensee or initial license applicant has or 92984
claims the privilege to engage in a profession, occupation, or 92985
occupational activity, or to have control of and operate certain 92986
specific equipment, machinery, or premises, over which the 92987
licensing agency has jurisdiction. 92988

(2) An authorization evidenced by a license or certificate 92989
that is issued by a licensing agency described in division (C)(2) 92990
of this section pursuant to section 4715.12, 4715.16, 4715.21, or 92991
4715.27 of the Revised Code to a licensee or to an applicant for 92992
an initial license by which the licensee or initial license 92993
applicant has or claims the privilege to engage in a profession, 92994
occupation, or occupational activity over which the licensing 92995
agency has jurisdiction. 92996

(B) "Licensee" means the person to whom the license is issued 92997
by a licensing agency. 92998

(C) "Licensing agency" means any of the following: 92999

(1) The board authorized by Chapters 4701., 4717., 4725., 93000
4729., 4730., 4731., 4732., 4734., 4740., 4741., 4755., 4757., 93001
4759., 4760., 4761., 4762., and 4779. of the Revised Code to issue 93002
a license to engage in a specific profession, occupation, or 93003
occupational activity, or to have charge of and operate certain 93004
specified equipment, machinery, or premises. 93005

(2) The state dental board, relative to its authority to 93006
issue a license pursuant to section 4715.12, 4715.16, 4715.21, or 93007
4715.27 of the Revised Code. 93008

(D) "Applicant for an initial license" includes persons 93009
seeking a license for the first time and persons seeking a license 93010
by reciprocity, endorsement, or similar manner of a license issued 93011
in another state. 93012

(E) "Applicant for a restored license" includes persons 93013
seeking restoration of a certificate under section 4730.14, 93014
4731.281, 4760.06, or 4762.06 of the Revised Code. 93015

(F) "Criminal records check" has the same meaning as in 93016
~~division (E)~~ of section 109.572 of the Revised Code. 93017

Sec. 4781.01. As used in this chapter: 93018

(A) "Industrialized unit" has the same meaning as in division 93019
(C)(3) of section 3781.06 of the Revised Code. 93020

(B) "Installation" means any of the following: 93021

(1) The temporary or permanent construction of stabilization, 93022
support, and anchoring systems for manufactured housing; 93023

(2) The placement and erection of a manufactured housing unit 93024
or components of a unit on a structural support system; 93025

(3) The supporting, blocking, leveling, securing, anchoring, 93026
underpinning, or adjusting of any section or component of a 93027
manufactured housing unit; 93028

(4) The joining or connecting of all sections or components 93029
of a manufactured housing unit. 93030

(C) "Manufactured home" has the same meaning as in division 93031
(C)(4) of section 3781.06 of the Revised Code. 93032

(D) "Manufactured home park" ~~has the same meaning as in~~ 93033
~~division (A) of section 3733.01 of the Revised Code~~ means any 93034
tract of land upon which three or more manufactured or mobile 93035
homes used for habitation are parked, either free of charge or for 93036
revenue purposes, and includes any roadway, building, structure, 93037
vehicle, or enclosure used or intended for use as a part of the 93038
facilities of the park. "Manufactured home park" does not include 93039
any of the following: 93040

(1) A tract of land used solely for the storage or display 93041
for sale of manufactured or mobile homes or solely as a temporary 93042
park-camp as defined in section 3729.01 of the Revised Code; 93043

(2) A tract of land that is subdivided and the individual 93044
lots are for sale or sold for the purpose of installation of 93045
manufactured or mobile homes used for habitation and the roadways 93046
are dedicated to the local government authority; 93047

(3) A tract of land within an area that is subject to local 93048
zoning authority and subdivision requirements and is subdivided, 93049
and the individual lots are for sale or sold for the purpose of 93050
installation of manufactured or mobile homes for habitation. 93051

(E) "Manufactured housing" means manufactured homes and 93052
mobile homes. 93053

(F) "Manufactured housing installer" means an individual who 93054
installs manufactured housing. 93055

(G) "Mobile home" has the same meaning as in division (O) of section 4501.01 of the Revised Code. 93056
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(H) "Model standards" means the federal manufactured home installation standards established pursuant to 42 U.S.C. 5404. 93058
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(I) "Permanent foundation" has the same meaning as in division (C)(5) of section 3781.06 of the Revised Code. 93060
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(J) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect. 93062
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(K) "Casual sale" means any transfer of a manufactured home or mobile home by a person other than a manufactured housing dealer, manufactured housing salesperson, or manufacturer to an ultimate consumer or a person who purchases the home for use as a residence. 93065
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(L) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business. 93070
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(M) "Manufactured home park operator" ~~has the same meaning as "operator" in section 3733.01 of the Revised Code~~ or "park operator" means the person who has responsible charge of a manufactured home park and who is licensed under sections 4781.26 to 4781.35 of the Revised Code. 93077
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(N) "Manufactured housing broker" means any person acting as a selling agent on behalf of an owner of a manufactured home or mobile home that is subject to taxation under section 4503.06 of the Revised Code. 93082
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(O) "Manufactured housing dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in manufactured homes or mobile homes.

(P) "Manufacturer" means a person who manufactures, assembles, or imports manufactured homes or mobile homes.

(Q) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a manufactured home or mobile home to an ultimate purchaser for use as a residence.

(R) "Salesperson" means any individual employed by a manufactured housing dealer or manufactured housing broker to sell, display, and offer for sale, or deal in manufactured homes or mobile homes for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(S) "Ultimate purchaser" means, with respect to any new manufactured home, the first person, other than a manufactured housing dealer purchasing in the capacity of a manufactured housing dealer, who purchases such new manufactured home for purposes other than resale.

(T) "Tenant" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who does not own the home occupying the lot.

(U) "Owner" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who owns the home occupying the lot.

(V) "Resident" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others. "Resident" includes both tenants and owners.

(W) "Residential premises" means a lot located within a manufactured home park and the grounds, areas, and facilities contained within the manufactured home park for the use of residents generally or the use of which is promised to a resident.

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(X) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties.

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(Y) "Security deposit" means any deposit of money or property to secure performance by the resident under a rental agreement.

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(Z) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a manufactured home park, for which plan review is required under division (A) of section 4781.31 of the Revised Code. "Development" does not include the building, construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

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(AA) "Flood" or "flooding" means either of the following:

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(1) A general and temporary condition of partial or complete inundation of normally dry land areas from any of the following:

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(a) The overflow of inland or tidal waters;

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(b) The unusual and rapid accumulation or runoff of surface waters from any source;

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(c) Mudslides that are proximately caused by flooding as defined in division (AA)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and

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deposited along the path of the current. 93147

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining that is caused by waves or currents of water exceeding anticipated cyclical levels or that is suddenly caused by an unusually high water level in a natural body of water, and that is accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood, by an abnormal tidal surge, or by some similarly unusual and unforeseeable event, that results in flooding as defined in division (AA)(1)(a) of this section. 93148
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(BB) "Flood plain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water. 93157
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(CC) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year. 93160
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(DD) "One-hundred-year flood plain" means that portion of a flood plain inundated by a one-hundred-year flood. 93162
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(EE) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes this state, any political subdivision of this state, and any other state or local body of this state. 93164
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(FF) "Substantial damage" means damage of any origin sustained by a manufactured or mobile home that is situated in a manufactured home park located in a flood plain when the cost of restoring the home to its condition before the damage occurred will equal or exceed fifty per cent of the market value of the home before the damage occurred. 93168
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(GG) "Substantially alter" means a change in the layout or design of a manufactured home park, including, without limitation, the movement of utilities or changes in established streets, lots, or sites or in other facilities. In the case of manufactured home 93174
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parks located within a one-hundred-year flood plain, 93178
"substantially alter" also includes changes in elevation resulting 93179
from the addition of fill, grading, or excavation that may affect 93180
flood plain management. 93181

(HH) "Tract" means a contiguous area of land that consists of 93182
one or more parcels, lots, or sites that have been separately 93183
surveyed regardless of whether the individual parcels, lots, or 93184
sites have been recorded and regardless of whether the one or more 93185
parcels, lots, or sites are under common or different ownership. 93186

Sec. 4781.02. (A) There is hereby created the manufactured 93187
homes commission which consists of nine members, with three 93188
members appointed by the governor, three members appointed by the 93189
president of the senate, and three members appointed by the 93190
speaker of the house of representatives. 93191

(B)(1) Commission members shall be residents of this state, 93192
except for members appointed pursuant to divisions (B)(3)(b) and 93193
(B)(4)(a) of this section. Members shall be selected from a list 93194
of persons the Ohio manufactured homes association, or any 93195
successor entity, recommends, except for appointments made 93196
pursuant to division (B)(2) of this section. 93197

(2) The governor shall appoint the following members: 93198

(a) One member to represent the board of building standards, 93199
who may be a member of the board or a board employee not in the 93200
classified civil service, with an initial term ending December 31, 93201
2007; 93202

(b) ~~One member to represent the department of health, who may~~ 93203
~~be a department employee not in the classified civil service, with~~ 93204
~~an initial term ending December 31, 2005~~ who is registered as a 93205
sanitarian in accordance with Chapter 4736. of the Revised Code, 93206
has experience with the regulation of manufactured homes, and is 93207

an employee of a health district described in section 3709.01 of 93208
the Revised Code; 93209

(c) One member whose primary residence is a manufactured 93210
home, with an initial term ending December 31, 2006. 93211

(3) The president of the senate shall appoint the following 93212
members: 93213

(a) Two members who are manufactured housing installers who 93214
have been actively engaged in the installation of manufactured 93215
housing for the five years immediately prior to appointment, with 93216
the initial term of one installer ending December 31, 2007, and 93217
the initial term of the other installer ending December 31, 2005. 93218

(b) One member who manufactures manufactured homes in this 93219
state or who manufactures manufactured homes in another state and 93220
ships homes into this state, to represent manufactured home 93221
manufacturers, with an initial term ending December 31, 2006. 93222

(4) The speaker of the house of representatives shall appoint 93223
the following members: 93224

(a) One member who operates a manufactured or mobile home 93225
retail business in this state to represent manufactured housing 93226
dealers, with an initial term ending December 31, 2007; 93227

(b) One member who is a manufactured home park operator or is 93228
employed by an operator, with an initial term ending December 31, 93229
2005; 93230

(c) One member to represent the Ohio manufactured home 93231
association, or any successor entity, who may be the president or 93232
executive director of the association or the successor entity, 93233
with an initial term ending December 31, 2006. 93234

(C)(1) After the initial term, each term of office is for 93235
four years ending on the thirty-first day of December. A member 93236
holds office from the date of appointment until the end of the 93237

term. No member may serve more than two consecutive four-year terms. 93238
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(2) Any member appointed to fill a vacancy that occurs prior to the expiration of a term continues in office for the remainder of that term. Any member continues in office subsequent to the expiration date of the term until the member's successor takes office or until sixty days have elapsed, which ever occurs first. 93240
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(3) A vacancy on the commission does not impair the authority of the remaining members to exercise all of the commission's powers. 93245
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(D)(1) The governor may remove any member from office for incompetence, neglect of duty, misfeasance, nonfeasance, malfeasance, or unprofessional conduct in office. 93248
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(2) Vacancies shall be filled in the manner of the original appointment. 93251
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Sec. 4781.04. (A) The manufactured homes commission shall adopt rules pursuant to Chapter 119. of the Revised Code to do all of the following: 93253
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(1) Establish uniform standards that govern the installation of manufactured housing. Not later than one hundred eighty days after the secretary of the United States department of housing and urban development adopts model standards for the installation of manufactured housing or amends those standards, the commission shall amend its standards as necessary to be consistent with, and not less stringent than, the model standards for the design and installation of manufactured housing the secretary adopts or any manufacturers' standards that the secretary determines are equal to or not less stringent than the model standards. 93256
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(2) Govern the inspection of the installation of manufactured housing. The rules shall specify that the commission, any building 93266
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department or personnel of any department, ~~any licensor or~~ 93268
~~personnel of any licensor,~~ or any private third party, certified 93269
pursuant to section 4781.07 of the Revised Code shall conduct all 93270
inspections of the installation of manufactured housing located in 93271
manufactured home parks to determine compliance with the uniform 93272
installation standards the commission establishes pursuant to this 93273
section. 93274

~~As used in division (A)(2) of this section, "licensor" has~~ 93275
~~the same meaning as in section 3733.01 of the Revised Code.~~ 93276

(3) Govern the design, construction, installation, approval, 93277
and inspection of foundations and the base support systems for 93278
manufactured housing. The rules shall specify that the commission, 93279
any building department or personnel of any department, ~~any~~ 93280
~~licensor or personnel of any licensor,~~ or any private third party, 93281
certified pursuant to section 4781.07 of the Revised Code shall 93282
conduct all inspections of the installation, foundations, and base 93283
support systems of manufactured housing located in manufactured 93284
home parks to determine compliance with the uniform installation 93285
standards and foundation and base support system design the 93286
commission establishes pursuant to this section. 93287

~~As used in division (A)(3) of this section, "licensor" has~~ 93288
~~the same meaning as in section 3733.01 of the Revised Code.~~ 93289

(4) Govern the training, experience, and education 93290
requirements for manufactured housing installers, manufactured 93291
housing dealers, manufactured housing brokers, and manufactured 93292
housing salespersons; 93293

(5) Establish a code of ethics for manufactured housing 93294
installers; 93295

(6) Govern the issuance, revocation, and suspension of 93296
licenses to manufactured housing installers; 93297

(7) Establish fees for the issuance and renewal of licenses, 93298

for conducting inspections to determine an applicant's compliance 93299
with this chapter and the rules adopted pursuant to it, and for 93300
the commission's expenses incurred in implementing this chapter; 93301

(8) Establish conditions under which a licensee may enter 93302
into contracts to fulfill the licensee's responsibilities; 93303

(9) Govern the investigation of complaints concerning any 93304
violation of this chapter or the rules adopted pursuant to it or 93305
complaints involving the conduct of any licensed manufactured 93306
housing installer or person installing manufactured housing 93307
without a license, licensed manufactured housing dealer, licensed 93308
manufactured housing broker, or manufactured housing salesperson; 93309

(10) Establish a dispute resolution program for the timely 93310
resolution of warranty issues involving new manufactured homes, 93311
disputes regarding responsibility for the correction or repair of 93312
defects in manufactured housing, and the installation of 93313
manufactured housing. The rules shall provide for the timely 93314
resolution of disputes between manufacturers, manufactured housing 93315
dealers, and installers regarding the correction or repair of 93316
defects in manufactured housing that are reported by the purchaser 93317
of the home during the one-year period beginning on the date of 93318
installation of the home. The rules also shall provide that 93319
decisions made regarding the dispute under the program are not 93320
binding upon the purchaser of the home or the other parties 93321
involved in the dispute unless the purchaser so agrees in a 93322
written acknowledgement that the purchaser signs and delivers to 93323
the program within ten business days after the decision is issued. 93324

(11) Establish the requirements and procedures for the 93325
certification of building departments and building department 93326
personnel pursuant to section 4781.07 of the Revised Code; 93327

(12) Establish fees to be charged to building departments and 93328
building department personnel applying for certification and 93329

renewal of certification pursuant to section 4781.07 of the Revised Code; 93330
93331

(13) Develop a policy regarding the maintenance of records for any inspection authorized or conducted pursuant to this chapter. Any record maintained under division (A)(13) of this section shall be a public record under section 149.43 of the Revised Code. 93332
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(14) Carry out any other provision of this chapter. 93337

(B) The manufactured homes commission shall do all of the following: 93338
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(1) Prepare and administer a licensure examination to determine an applicant's knowledge of manufactured housing installation and other aspects of installation the commission determines appropriate; 93340
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(2) Select, provide, or procure appropriate examination questions and answers for the licensure examination and establish the criteria for successful completion of the examination; 93344
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(3) Prepare and distribute any application form this chapter requires; 93347
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(4) Receive applications for licenses and renewal of licenses and issue licenses to qualified applicants; 93349
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(5) Establish procedures for processing, approving, and disapproving applications for licensure; 93351
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(6) Retain records of applications for licensure, including all application materials submitted and a written record of the action taken on each application; 93353
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(7) Review the design and plans for manufactured housing installations, foundations, and support systems; 93356
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(8) Inspect a sample of homes at a percentage the commission determines to evaluate the construction and installation of 93358
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manufactured housing installations, foundations, and support systems to determine compliance with the standards the commission adopts; 93360
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(9) Investigate complaints concerning violations of this chapter or the rules adopted pursuant to it, or the conduct of any manufactured housing installer, manufactured housing dealer, manufactured housing broker, or manufactured housing salesperson; 93363
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(10) Determine appropriate disciplinary actions for violations of this chapter; 93367
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(11) Conduct audits and inquiries of manufactured housing installers, manufactured housing dealers, and manufactured housing brokers as appropriate for the enforcement of this chapter. The commission, or any person the commission employs for the purpose, may review and audit the business records of any manufactured housing installer, dealer, or broker during normal business hours. 93369
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(12) Approve an installation training course, which may be offered by the Ohio manufactured homes association or other entity; 93375
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(13) Perform any function or duty necessary to administer this chapter and the rules adopted pursuant to it. 93378
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(C) Nothing in this section shall be construed to limit the authority of a board of health to enforce section 3701.344 of the Revised Code or Chapters 3703., 3718., and 3781. of the Revised Code. 93380
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Sec. 4781.07. (A) Pursuant to rules the manufactured homes commission adopts, the commission may certify municipal, township, and county building departments and the personnel of those departments, ~~licensors as defined in section 3733.01 of the Revised Code and the personnel of those licensors,~~ or any private third party, to exercise the commission's enforcement authority, 93384
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accept and approve plans and specifications for foundations, 93390
support systems and installations, and inspect manufactured 93391
housing foundations, support systems, and manufactured housing 93392
installations. Any certification is effective for three years. 93393

(B) Following an investigation and finding of facts that 93394
support its action, the commission may revoke or suspend 93395
certification. The commission may initiate an investigation on its 93396
own motion or the petition of a person affected by the enforcement 93397
or approval of plans. 93398

Sec. 4781.09. (A) The manufactured homes commission may deny, 93399
suspend, revoke, or refuse to renew the license of any 93400
manufactured home installer for any of the following reasons: 93401

(1) Failure to satisfy the requirements of section 4781.08 or 93402
4781.10 of the Revised Code; 93403

(2) Violation of this chapter or any rule adopted pursuant to 93404
it; 93405

(3) Making a material misstatement in an application for a 93406
license; 93407

(4) Installing manufactured housing without a license or 93408
without being under the supervision of a licensed manufactured 93409
housing installer; 93410

(5) Failure to appear for a hearing before the commission or 93411
to comply with any final adjudication order of the commission 93412
issued pursuant to this chapter; 93413

(6) Conviction of a felony or a crime involving moral 93414
turpitude; 93415

(7) Having had a license revoked, suspended, or denied by the 93416
commission during the preceding two years; 93417

(8) Having had a license revoked, suspended, or denied by 93418

another state or jurisdiction during the preceding two years; 93419

(9) Engaging in conduct in another state or jurisdiction that 93420
would violate this chapter if committed in this state. 93421

(10) Failing to provide written notification of an 93422
installation pursuant to division (D) of section 4781.11 of the 93423
Revised Code to a county treasurer or county auditor. 93424

(B)(1) Any person whose license or license application is 93425
revoked, suspended, denied, or not renewed or upon whom a civil 93426
penalty is imposed ~~pursuant to division (C) of this section~~ may 93427
request an adjudication hearing on the matter within thirty days 93428
after receipt of the notice of the action. The hearing shall be 93429
held in accordance with Chapter 119. of the Revised Code. 93430

(2) Any licensee or applicant may appeal an order made 93431
pursuant to an adjudication hearing in the manner provided in 93432
section 119.12 of the Revised Code. 93433

(C) ~~As an alternative to suspending, revoking, or refusing to~~ 93434
~~renew a manufactured housing installer's license, the commission~~ 93435
~~may impose a civil penalty of not less than one hundred dollars or~~ 93436
~~more than five hundred dollars per violation of this chapter or~~ 93437
~~any rule adopted pursuant to it. The commission shall deposit~~ 93438
~~penalties in the occupational licensing and regulatory fund~~ 93439
~~pursuant to section 4743.05 of the Revised Code.~~ 93440

~~(D)~~ A person whose license is suspended, revoked, or not 93441
renewed may apply for a new license two years after the date on 93442
which the license was suspended, revoked, or not renewed. 93443

Sec. 4781.121. (A) The manufactured homes commission, 93444
pursuant to section 4781.04 of the Revised Code, may investigate 93445
any person who allegedly has committed a violation. If, after an 93446
investigation the commission determines that reasonable evidence 93447
exists that a person has committed a violation, within seven days 93448

after that determination, the commission shall send a written notice to that person in the same manner as prescribed in section 119.07 of the Revised Code for licensees, except that the notice shall specify that a hearing will be held and specify the date, time, and place of the hearing. 93449
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(B) The commission shall hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under section 119.09 of the Revised Code. If the commission, after the hearing, determines that a violation has occurred, the commission, upon an affirmative vote of five of its members, may impose a fine not exceeding one thousand dollars per violation per day. The commission's determination is an order that the person may appeal in accordance with section 119.12 of the Revised Code. 93454
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(C) If the person who allegedly committed a violation fails to appear for a hearing, the commission may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the commission for a hearing. 93463
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(D) If the commission assesses a person a civil penalty for a violation and the person fails to pay that civil penalty within the time period prescribed by the commission pursuant to section 131.02 of the Revised Code, the commission shall forward to the attorney general the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the person also shall pay any fee assessed by the attorney general for collection of the civil penalty. 93467
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(E) The authority provided to the commission pursuant to this section, and any fine imposed under this section, shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter. Any fines collected pursuant to this section shall be used solely to administer and enforce this 93476
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chapter and rules adopted under it. Any fees collected pursuant to 93481
this section shall be transmitted to the treasurer of state and 93482
shall be credited to the manufactured homes commission regulatory 93483
fund created in section 4781.54 of the Revised Code; the fees 93484
shall be used only for the purpose of administering and enforcing 93485
sections 4781.26 to 4781.35 of the Revised Code and the rules 93486
adopted thereunder. 93487

(F) As used in this section, "violation" means a violation of 93488
section 4781.11, 4781.16, or 4781.27, or any rule adopted pursuant 93489
to section 4781.04, of the Revised Code. 93490

Sec. 4781.14. (A) ~~Except as provided in division (A)(3) of~~ 93491
~~section 3733.02 of the Revised Code, the state, through the~~ The 93492
manufactured homes commission, has exclusive authority to regulate 93493
manufactured home installers, the installation of manufactured 93494
housing, and manufactured housing foundations and support systems 93495
in ~~the~~ this state. By enacting this chapter, it is the intent of 93496
the general assembly to preempt municipal corporations and other 93497
political subdivisions from regulating and licensing manufactured 93498
housing installers and regulating and inspecting the installation 93499
of manufactured housing and manufactured housing foundations and 93500
support systems. 93501

(B) ~~Except as provided in division (A)(3) of section 3733.02~~ 93502
~~of the Revised Code, the~~ The manufactured homes commission has 93503
exclusive power to adopt rules of uniform application throughout 93504
the state governing installation of manufactured housing, the 93505
inspection of manufactured housing foundations and support 93506
systems, the inspection of the installation of manufactured 93507
housing, the training and licensing of manufactured housing 93508
installers, and the investigation of complaints concerning 93509
manufactured housing installers. 93510

(C) ~~Except as provided in division (A)(3) of section 3733.02~~ 93511

~~of the Revised Code, the~~ The rules the commission adopts pursuant 93512
to this chapter are the exclusive rules governing the installation 93513
of manufactured housing, the design, construction, and approval of 93514
foundations for manufactured housing, the licensure of 93515
manufactured home installers, and the fees charged for licensure 93516
of manufactured home installers. No political subdivision of the 93517
state or any department or agency of the state may establish any 93518
other standards governing the installation of manufactured 93519
housing, manufactured housing foundations and support systems, the 93520
licensure of manufactured housing installers, or fees charged for 93521
the licensure of manufactured housing installers. 93522

(D) Nothing in this section limits the authority of the 93523
attorney general to enforce Chapter 1345. of the Revised Code or 93524
to take any action permitted by the Revised Code against 93525
manufactured housing installers, retailers, or manufacturers. 93526

Sec. 4781.15. The remedies provided in ~~sections 4781.01 to~~ 93527
~~4781.14 of the Revised Code~~ this chapter are in addition to 93528
remedies otherwise available for the same conduct under state or 93529
local law. 93530

Sec. ~~3733.02~~ 4781.26. (A)(1) The ~~public health council~~ 93531
manufactured homes commission, subject to Chapter 119. of the 93532
Revised Code, shall adopt, and has the exclusive power to adopt, 93533
rules of uniform application throughout the state governing the 93534
review of plans, issuance of flood plain management permits, and 93535
issuance of licenses for manufactured home parks; the location, 93536
layout, density, construction, drainage, sanitation, safety, and 93537
operation of those parks; and notices of flood events concerning, 93538
and flood protection at, those parks. The rules pertaining to 93539
flood plain management shall be consistent with and not less 93540
stringent than the flood plain management criteria of the national 93541
flood insurance program adopted under the "National Flood 93542

Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 93543
amended. The rules shall not apply to the construction, erection, 93544
or manufacture of any building to which section 3781.06 of the 93545
Revised Code is applicable. 93546

~~(2)(B)~~ The rules pertaining to manufactured home parks 93547
constructed after June 30, 1971, shall specify that each home must 93548
be placed on its lot to provide not less than fifteen feet between 93549
the side of one home and the side of another home, ten feet 93550
between the end of one home and the side of another home, and five 93551
feet between the ends of two homes placed end to end. 93552

~~(3)(C)~~ The manufactured homes commission shall determine 93553
compliance with the installation, blocking, tiedown, foundation, 93554
and base support system standards for manufactured housing located 93555
in manufactured home parks adopted by the commission pursuant to 93556
section 4781.04 of the Revised Code. All inspections of the 93557
installation, blocking, tiedown, foundation, and base support 93558
systems of manufactured housing in a manufactured home park that 93559
the ~~department of health or a licenser~~ commission conducts shall 93560
be conducted by a person ~~who has completed an installation~~ 93561
~~training course approved by~~ the manufactured homes commission 93562
certifies pursuant to ~~division (B)(12) of section 4781.04~~ 4781.07 93563
of the Revised Code. 93564

~~As used in division (A)(3) of this section, "manufactured~~ 93565
~~housing" has the same meaning as in section 4781.01 of the Revised~~ 93566
~~Code.~~ 93567

~~(B) The public health council, in accordance with Chapter~~ 93568
~~119. of the Revised Code, shall adopt rules of uniform application~~ 93569
~~throughout the state establishing requirements and procedures in~~ 93570
~~accordance with which the director of health may authorize~~ 93571
~~licensors for the purposes of sections 3733.022 and 3733.025 of~~ 93572
~~the Revised Code. The rules shall include at least provisions~~ 93573
~~under which a licenser may enter into contracts for the purpose of~~ 93574

~~fulfilling the licensor's responsibilities under either or both of~~ 93575
~~those sections.~~ 93576

(D) The manufactured homes commission may enter into 93577
contracts for the purpose of fulfilling the commission's annual 93578
inspection responsibilities for manufactured home parks under this 93579
chapter. Boards of health of city or general health districts 93580
shall have the right of first refusal for those contracts. 93581

Sec. ~~3733.03~~ 4781.27. (A)(1) On or after the first day of 93582
December, but before the first day of January of the next year, 93583
every person who intends to operate a manufactured home park shall 93584
procure a license to operate the park for the next year from the 93585
~~licensor~~ manufactured homes commission. If the applicable license 93586
fee prescribed under section ~~3733.04~~ 4781.28 of the Revised Code 93587
is not received by the ~~licensor~~ commission by the close of 93588
business on the last day of December, the applicant for the 93589
license shall pay a penalty equal to twenty-five per cent of the 93590
applicable license fee. The penalty shall accompany the license 93591
fee. If the last day of December is not a business day, the 93592
penalty attaches upon the close of business on the next business 93593
day. 93594

(2) No manufactured home park shall be maintained or operated 93595
in this state without a license. 93596

(3) No person who has received a license, upon the sale or 93597
disposition of the manufactured home park, may have the license 93598
transferred to the new operator. A person shall obtain a separate 93599
license to operate each manufactured home park. 93600

(B) Before a license is initially issued and annually 93601
thereafter, or more often if necessary, the ~~licensor~~ commission 93602
shall cause each manufactured home park to be inspected ~~relative~~ 93603
~~to~~ for compliance with sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 93604
of the Revised Code and the rules adopted under those sections. A 93605

record shall be made of each inspection on a form prescribed by 93606
the ~~director of health~~ commission. 93607

(C) Each person applying for an initial license to operate a 93608
manufactured home park shall provide acceptable proof to the 93609
~~director~~ commission that adequate fire protection will be provided 93610
and that applicable fire codes will be adhered to in the 93611
construction and operation of the park. 93612

Sec. ~~3733.04~~ 4781.28. The ~~licensor of a manufactured home~~ 93613
~~park~~ manufactured homes commission may charge a fee for an annual 93614
license to operate ~~such a~~ manufactured home park. The fee for a 93615
license shall be determined in accordance with section ~~3709.09~~ 93616
4781.26 of the Revised Code and shall include the cost of 93617
licensing and all inspections. 93618

~~The fee also shall include any additional amount determined~~ 93619
~~by rule of the public health council, which shall be collected and~~ 93620
~~transmitted by the board of health to the director of health~~ 93621
~~pursuant to section 3709.092 of the Revised Code and used only for~~ 93622
~~the purpose of administering and enforcing sections 3733.01 to~~ 93623
~~3733.08 of the Revised Code and the rules adopted under those~~ 93624
~~sections. The portion of any fee retained by the board of health~~ 93625
Any fees collected shall be paid into a special fund transmitted 93626
to the treasurer of state and shall be credited to the 93627
manufactured homes commission regulatory fund created in section 93628
4781.54 of the Revised Code and used only for the purpose of 93629
administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 93630
4781.35 of the Revised Code and the rules adopted thereunder. 93631

Sec. ~~3733.05~~ 4781.29. The ~~licensor of the health district in~~ 93632
~~which a manufactured home park is or is to be located, in~~ 93633
~~accordance with Chapter 119. of the Revised Code, manufactured~~ 93634
homes commission may refuse to grant, may suspend, or may revoke 93635

any license granted to any person for failure to comply with 93636
sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or 93637
with any rule adopted ~~by the public health council~~ under section 93638
~~3733.02~~ 4781.26 of the Revised Code. 93639

Sec. ~~3733.06~~ 4781.30. (A) Upon a license being issued under 93640
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code, 93641
any operator shall have the right to rent or use each lot for the 93642
parking or placement of a manufactured home or mobile home to be 93643
used for human habitation without interruption for any period 93644
coextensive with any license or consecutive licenses issued under 93645
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code. 93646

(B) No operator of a manufactured home park shall sell 93647
individual lots in a park for eight years following the issuance 93648
of the initial license for the park unless, at the time of sale, 93649
the park fulfills all platting and subdivision requirements 93650
established by the political subdivision in which the park is 93651
located, or the political subdivision has entered into an 93652
agreement with the operator regarding platting and subdivision 93653
requirements and the operator has fulfilled the terms of that 93654
agreement. 93655

Sec. ~~3733.021~~ 4781.31. (A) No person shall cause development 93656
to occur within any portion of a manufactured home park until the 93657
plans for the development have been submitted to and reviewed and 93658
approved by the ~~director of health~~ manufactured homes commission. 93659
This division does not require that plans be submitted to the 93660
~~director~~ commission for approval for the replacement of 93661
manufactured or mobile homes on previously approved lots in a 93662
manufactured home park when no development is to occur in 93663
connection with the replacement. Within thirty days after receipt 93664
of the plans, all supporting documents and materials required to 93665
complete the review, and the applicable plan review fee 93666

established under division (D) of this section, the ~~director~~ commission shall approve or disapprove the plans. 93667
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(B) Any person aggrieved by the ~~director's~~ commission's disapproval of a set of plans under division (A) of this section may request a hearing on the matter within thirty days after receipt of the ~~director's~~ commission's notice of the disapproval. The hearing shall be held in accordance with Chapter 119. of the Revised Code. Thereafter, the disapproval may be appealed in the manner provided in section 119.12 of the Revised Code. 93669
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(C) The ~~director~~ commission shall establish a system by which development occurring within a manufactured home park is inspected or verified in accordance with rules adopted under ~~division (A) of~~ section ~~3733.02~~ 4781.26 of the Revised Code to ensure that the development complies with the plans approved under division (A) of this section. 93676
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(D) The ~~public health council~~ commission shall establish fees for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section. 93682
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(E) The ~~director~~ commission shall charge the appropriate fees established under division (D) of this section for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section. All such plan review and inspection fees received by the ~~director~~ commission shall be transmitted to the treasurer of state and shall be credited to the ~~general operations~~ occupational licensing and regulatory fund created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so credited to the fund shall be used only for the purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those sections. 93685
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(F) Plan approvals issued under this section do not 93697

constitute an exemption from the land use and building 93698
requirements of the political subdivision in which the 93699
manufactured home park is or is to be located. 93700

Sec. ~~3733.022~~ 4781.32. (A) No person shall cause development 93701
to occur or cause the replacement of a mobile or manufactured home 93702
within any portion of a manufactured home park that is located 93703
within a one-hundred-year flood plain unless the person first 93704
obtains a permit from the ~~director of health or a licensor~~ 93705
~~authorized by the director~~ manufactured homes commission. If the 93706
development for which a permit is required under this division is 93707
to occur on a lot where a mobile or manufactured home is or is to 93708
be located, the owner of the home and the operator of the 93709
manufactured home park shall jointly obtain the permit. Each of 93710
the persons to whom a permit is jointly issued is responsible for 93711
compliance with the provisions of the approved permit that are 93712
applicable to that person. 93713

The ~~director or a licensor authorized by the director~~ 93714
commission shall disapprove an application for a permit required 93715
under this division unless the ~~director or the licensor~~ commission 93716
finds that the proposed development or replacement of a mobile or 93717
manufactured home complies with the rules adopted under ~~division~~ 93718
~~(A) of section 3733.02~~ 4781.26 of the Revised Code. No permit is 93719
required under this division for the construction, erection, or 93720
manufacture of any building to which section 3781.06 of the 93721
Revised Code applies. 93722

The ~~director or a licensor authorized by the director~~ 93723
commission may suspend or revoke a permit issued under this 93724
division for failure to comply with the rules adopted under 93725
~~division (A) of section 3733.02~~ 4781.26 of the Revised Code 93726
pertaining to flood plain management or for failure to comply with 93727
the approved permit. 93728

Any person aggrieved by the disapproval, suspension, or 93729
revocation of a permit under this division by the ~~director or by a~~ 93730
~~licensor authorized by the director~~ commission may request a 93731
hearing on the matter within thirty days after receipt of the 93732
notice of the disapproval, suspension, or revocation. The hearing 93733
shall be held in accordance with Chapter 119. of the Revised Code. 93734
Thereafter, an appeal of the disapproval, suspension, or 93735
revocation may be taken in the manner provided in section 119.12 93736
of the Revised Code. 93737

(B) The ~~public health council~~ commission shall establish fees 93738
for the issuance of permits under division (A) of this section and 93739
for necessary inspections conducted to determine compliance with 93740
those permits. 93741

(C) The ~~director or a licensor authorized by the director~~ 93742
commission shall charge the appropriate fee established under 93743
division (B) of this section for the issuance of a permit under 93744
division (A) of this section or for conducting any necessary 93745
inspection to determine compliance with the permit. If the 93746
~~director~~ commission issues such a permit or conducts such an 93747
inspection, the fee for the permit or inspection shall be 93748
transmitted to the treasurer of state and shall be credited to the 93749
~~general operations~~ occupational licensing and regulatory fund 93750
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 93751
credited to the fund shall be used ~~by the director~~ only for the 93752
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 93753
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 93754
sections. ~~If the licensor is a board of health, the permit or~~ 93755
~~inspection fee shall be deposited to the credit of the special~~ 93756
~~fund of the health district created in section 3733.04 of the~~ 93757
~~Revised Code and shall be used only for the purpose set forth in~~ 93758
~~that section.~~ 93759

Sec. ~~3733.024~~ 4781.33. ~~(A)~~ When a flood event affects a 93760
manufactured home park, the operator of the manufactured home 93761
park, in accordance with rules adopted under ~~division (A) of~~ 93762
section ~~3733.02~~ 4781.26 of the Revised Code, shall notify the 93763
~~licensor having jurisdiction of the occurrence of~~ manufactured 93764
homes commission and the board of health having jurisdiction where 93765
the flood event occurred within forty-eight hours after the end of 93766
the flood event. The commission, after receiving notification, 93767
shall immediately notify the board of health. 93768

~~No person shall fail to comply with this division.~~ 93769

~~(B) The licensor having jurisdiction where a flood event~~ 93770
~~occurred that affected a manufactured home park shall notify the~~ 93771
~~director of health of the occurrence of the flood event within~~ 93772
~~twenty four hours after being notified of the flood event under~~ 93773
~~division (A) of this section. Within forty eight hours after~~ After 93774
being notified of such a flood event by a licensor, the director 93775
board of health shall cause an inspection to be made of the 93776
manufactured home park named in the notice. The board of health 93777
shall issue a report of the inspection to the commission within 93778
ten days after the inspection is completed. 93779

Sec. ~~3733.025~~ 4781.34. (A) If a mobile or manufactured home 93780
that is located in a flood plain is substantially damaged, the 93781
owner of the home shall make all alterations, repairs, or changes 93782
to the home, and the operator of the manufactured home park shall 93783
make all alterations, repairs, or changes to the lot on which the 93784
home is located, that are necessary to ensure compliance with the 93785
flood plain management rules adopted under ~~division (A) of~~ section 93786
~~3733.02~~ 4781.26 of the Revised Code. Such alterations, repairs, or 93787
changes may include, without limitation, removal of the home or 93788
other structures. 93789

No person shall fail to comply with this division. 93790

(B) No person shall cause to be performed any alteration, 93791
repair, or change required by division (A) of this section unless 93792
the person first obtains a permit from the ~~director of health or a~~ 93793
~~licensor authorized by the director~~ manufactured homes commission. 93794
~~The owner of the home and the operator of the manufactured home~~ 93795
~~park shall jointly obtain the permit required by this division.~~ 93796
~~Each of the persons to whom a permit is jointly issued is~~ 93797
~~responsible for compliance with the provisions of the approved~~ 93798
~~permit that are applicable to that person.~~ 93799

The ~~director or a licensor authorized by the director~~ 93800
commission shall disapprove an application for a permit required 93801
under this division unless the ~~director or the licensor~~ commission 93802
finds that the proposed alteration, repair, or change complies 93803
with the rules adopted under ~~division (A) of section 3733.02~~ 93804
4781.26 of the Revised Code. No permit is required under this 93805
division for the construction, erection, or manufacture of any 93806
building to which section 3781.06 of the Revised Code applies. 93807

The ~~director or a licensor authorized by the director~~ 93808
commission may suspend or revoke a permit issued under this 93809
division for failure to comply with the rules adopted under 93810
~~division (A) of section 3733.02~~ 4781.26 of the Revised Code 93811
pertaining to flood plain management or for failure to comply with 93812
the approved permit for making alterations, repairs, or changes to 93813
the lot on which the manufactured home is located. 93814

Any person aggrieved by the disapproval, suspension, or 93815
revocation of a permit under this division by the ~~director or by a~~ 93816
~~licensor authorized by the director~~ commission may request a 93817
hearing on the matter within thirty days after receipt of the 93818
notice of the disapproval, suspension, or revocation. The hearing 93819
shall be held in accordance with Chapter 119. of the Revised Code. 93820
Thereafter, an appeal of the disapproval, suspension, or 93821

revocation may be taken in the manner provided in section 119.12 93822
of the Revised Code and for necessary inspections conducted to 93823
determine compliance with those permits. 93824

(C) The ~~public health council~~ commission shall establish fees 93825
for the issuance of permits under division (B) of this section and 93826
for necessary inspections conducted to determine compliance with 93827
those permits for making alterations, repairs, or changes to the 93828
lot on which the manufactured home is located. 93829

(D) The ~~director or a licensor authorized by the director~~ 93830
commission shall charge the appropriate fee established under 93831
division (C) of this section for the issuance of a permit under 93832
division (B) of this section or for conducting any necessary 93833
inspection to determine compliance with the permit. If the 93834
~~director~~ commission issues such a permit or conducts such an 93835
inspection, the fee for the permit or inspection shall be 93836
transmitted to the treasurer of state and shall be credited to the 93837
~~general operations~~ occupational licensing and regulatory fund 93838
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 93839
credited to the fund shall be used ~~by the director~~ only for the 93840
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 93841
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 93842
sections. ~~If the licensor is a board of health, the permit or~~ 93843
~~inspection fee shall be deposited to the credit of the special~~ 93844
~~fund of the health district created in section 3733.04 of the~~ 93845
~~Revised Code and shall be used only for the purpose set forth in~~ 93846
~~that section.~~ 93847

Sec. ~~3733.08~~ 4781.35. (A) No person shall violate sections 93848
~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or the 93849
rules adopted thereunder. 93850

(B) The prosecuting attorney of the county, the city director 93851
of law, or the attorney general, upon complaint of the ~~licensor or~~ 93852

~~the director of health~~ manufactured homes commission, shall 93853
prosecute to termination or bring an action for injunction against 93854
any person violating sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 93855
of the Revised Code or the rules adopted thereunder. 93856

Sec. ~~3733.09~~ 4781.36. (A) Subject to section ~~3733.091~~ 4781.37 93857
of the Revised Code, a park operator shall not retaliate against a 93858
resident by increasing the resident's rent, decreasing services 93859
that are due to the resident, refusing to renew or threatening to 93860
refuse to renew the rental agreement with the resident, or 93861
bringing or threatening to bring an action for possession of the 93862
resident's premises because: 93863

(1) The resident has complained to an appropriate 93864
governmental agency of a violation of a building, housing, health, 93865
or safety code that is applicable to the premises, and the 93866
violation materially affects health and safety; 93867

(2) The resident has complained to the park operator of any 93868
violation of section ~~3733.10~~ 4781.38 of the Revised Code; 93869

(3) The resident joined with other residents for the purpose 93870
of negotiating or dealing collectively with the park operator on 93871
any of the terms and conditions of a rental agreement. 93872

(B) If a park operator acts in violation of division (A) of 93873
this section, the resident may: 93874

(1) Use the retaliatory action of the park operator as a 93875
defense to an action by the park operator to recover possession of 93876
the premises; 93877

(2) Recover possession of the premises; 93878

(3) Terminate the rental agreement. 93879

In addition, the resident may recover from the park operator 93880
any actual damages together with reasonable attorneys fees. 93881

(C) Nothing in division (A) of this section prohibits a park operator from increasing the rent to reflect the cost of improvements installed by the park operator in or about the premises or to reflect an increase in other costs of operation of the premises.

Sec. ~~3733.091~~ 4781.37. (A) Notwithstanding section ~~3733.09~~ 4781.36 of the Revised Code, a park operator may bring an action under Chapter 1923. of the Revised Code for possession of the premises if any of the following applies:

(1) The resident is in default in the payment of rent.

(2) The violation of the applicable building, housing, health, or safety code that the resident complained of was primarily caused by any act or lack of reasonable care by the resident, by any other person in the resident's household, or by anyone on the premises with the consent of the resident.

(3) The resident is holding over the resident's term.

(4) The resident is in violation of rules of the ~~public health council~~ manufactured homes commission adopted pursuant to section ~~3733.02~~ 4781.26 of the Revised Code or rules of the manufactured home park adopted pursuant to the rules of the ~~public health council~~ manufactured homes commission.

(5) The resident has been absent from the manufactured home park for a period of thirty consecutive days prior to the commencement of the action, and the resident's manufactured home, mobile home, or recreational vehicle parked in the manufactured home park has been left unoccupied for that thirty-day period, without notice to the park operator and without payment of rent due under the rental agreement.

(B) The maintenance of an action by the park operator under this section does not prevent the resident from recovering damages

for any violation by the park operator of the rental agreement or 93912
of section ~~3733.10~~ 4781.38 of the Revised Code. 93913

Sec. ~~3733.10~~ 4781.38. (A) A park operator who is a party to a 93914
rental agreement shall: 93915

(1) Comply with the requirements of all applicable building, 93916
housing, health, and safety codes which materially affect health 93917
and safety, and comply with rules of the ~~public health council~~ 93918
manufactured homes commission; 93919

(2) Make all repairs and do whatever is reasonably necessary 93920
to put and keep the premises in a fit and habitable condition; 93921

(3) Keep all common areas of the premises in a safe and 93922
sanitary condition; 93923

(4) Maintain in good and safe working order and condition all 93924
electrical and plumbing fixtures and appliances, and septic 93925
systems, sanitary and storm sewers, refuse receptacles, and well 93926
and water systems that are supplied or required to be supplied by 93927
~~him~~ the park operator; 93928

(5) Not abuse the right of access conferred by division (B) 93929
of section ~~3733.101~~ 4781.39 of the Revised Code; 93930

(6) Except in the case of emergency or if it is impracticable 93931
to do so, give the resident reasonable notice of ~~his~~ the park 93932
operator's intent to enter onto the residential premises and enter 93933
only at reasonable times. Twenty-four hours' notice shall be 93934
presumed to be a reasonable notice in the absence of evidence to 93935
the contrary. 93936

(B) If the park operator violates any provision of this 93937
section, makes a lawful entry onto the residential premises in an 93938
unreasonable manner, or makes repeated demands for entry otherwise 93939
lawful which demands have the effect of harassing the resident, 93940
the resident may recover actual damages resulting from the 93941

violation, entry, or demands and injunctive relief to prevent the 93942
recurrence of the conduct, and if ~~he~~ the resident obtains a 93943
judgment, reasonable attorneys' fees, or terminate the rental 93944
agreement. 93945

Sec. ~~3733.101~~ 4781.39. (A) A resident who is a party to a 93946
rental agreement shall: 93947

(1) Keep that part of the premises that the resident occupies 93948
and uses safe and sanitary; 93949

(2) Dispose of all rubbish, garbage, and other waste in a 93950
clean, safe, and sanitary manner; 93951

(3) Comply with the requirements imposed on residents by all 93952
applicable state and local housing, health, and safety codes, 93953
rules of the ~~public health council~~ manufactured homes commission, 93954
and rules of the manufactured home park; 93955

(4) Personally refrain, and forbid any other person who is on 93956
the premises with the resident's permission, from intentionally or 93957
negligently destroying, defacing, damaging, or removing any 93958
fixture, appliance, or other part of the residential premises; 93959

(5) Conduct self and require other persons on the premises 93960
with the resident's consent to conduct themselves in a manner that 93961
will not disturb the resident's neighbors' peaceful enjoyment of 93962
the manufactured home park. 93963

(B) The resident shall not unreasonably withhold consent for 93964
the park operator to enter the home to inspect utility 93965
connections, or enter onto the premises in order to inspect the 93966
premises, make ordinary, necessary, or agreed repairs, 93967
decorations, alterations, or improvements, deliver parcels which 93968
are too large for the resident's mail facilities, or supply 93969
necessary or agreed services. 93970

(C) If the resident violates any provision of this section, 93971

the park operator may recover any actual damages which result from 93972
the violation and reasonable attorneys' fees. This remedy is in 93973
addition to any right of the park operator to terminate the rental 93974
agreement, to maintain an action for the possession of the 93975
premises, or injunctive relief to compel access under division (B) 93976
of this section. 93977

Sec. ~~3733.11~~ 4781.40. (A)(1) ~~The~~ A manufactured home park 93978
operator shall offer each home owner a written rental agreement 93979
for a manufactured home park lot for a term of one year or more 93980
that contains terms essentially the same as any alternative 93981
month-to-month rental agreement offered to current and prospective 93982
tenants and owners. The park operator shall offer the minimum 93983
one-year rental agreement to the owner prior to installation of 93984
the home in the manufactured home park or, if the home is in the 93985
manufactured home park, prior to the expiration of the owner's 93986
existing rental agreement. 93987

(2) The park operator shall deliver the offer to the owner by 93988
certified mail, return receipt requested, or in person. If the 93989
park operator delivers the offer to the owner in person, the owner 93990
shall complete a return showing receipt of the offer. If the owner 93991
does not accept the offer, the park operator is discharged from 93992
any obligation to make any further such offers. If the owner 93993
accepts the offer, the park operator shall, at the expiration of 93994
each successive rental agreement, offer the owner another rental 93995
agreement, for a term that is mutually agreed upon, and that 93996
contains terms essentially the same as the alternative 93997
month-to-month agreement. The park operator shall deliver 93998
subsequent rental offers by ordinary mail or personal delivery. If 93999
the park operator sells the manufactured home park to another 94000
manufactured home park operator, the purchaser is bound by the 94001
rental agreements entered into by the purchaser's predecessor. 94002

(3) If the park operator sells the manufactured home park for a use other than as a manufactured home park, the park operator shall give each tenant and owner a written notification by certified mail, return receipt requested, or by handing it to the tenant or owner in person. If the park operator delivers the notification in person, the recipient shall complete a return showing receipt of the notification. This notification shall contain notice of the sale of the manufactured home park, and notice of the date by which the tenant or owner shall vacate. The date by which the tenant shall vacate shall be at least one hundred twenty days after receipt of the written notification, and the date by which the owner shall vacate shall be at least one hundred eighty days after receipt of the written notification.

(B) A park operator shall fully disclose in writing all fees, charges, assessments, including rental fees, and rules prior to a tenant or owner executing a rental agreement and assuming occupancy in the manufactured home park. No fees, charges, assessments, or rental fees so disclosed may be increased nor rules changed by a park operator without specifying the date of implementation of the changed fees, charges, assessments, rental fees, or rules, which date shall be not less than thirty days after written notice of the change and its effective date to all tenants or owners in the manufactured home park, and no fee, charge, assessment, or rental fee shall be increased during the term of any tenant's or owner's rental agreement. Failure on the part of the park operator to fully disclose all fees, charges, or assessments shall prevent the park operator from collecting the undisclosed fees, charges, or assessments. If a tenant or owner refuses to pay any undisclosed fees, charges, or assessments, the refusal shall not be used by the park operator as a cause for eviction in any court.

(C) A park operator shall promulgate rules governing the

rental or occupancy of a lot in the manufactured home park. The 94035
rules shall not be unreasonable, arbitrary, or capricious. A copy 94036
of the rules and any amendments to them shall be delivered by the 94037
park operator to the tenant or owner prior to signing the rental 94038
agreement. A copy of the rules and any amendments to them shall be 94039
posted in a conspicuous place upon the manufactured home park 94040
grounds. 94041

(D) No park operator shall require an owner to purchase from 94042
the park operator any personal property. The park operator may 94043
determine by rule the style or quality of skirting, equipment for 94044
tying down homes, manufactured or mobile home accessories, or 94045
other equipment to be purchased by an owner from a vendor of the 94046
owner's choosing, provided that the equipment is readily available 94047
to the owner. Any such equipment shall be installed in accordance 94048
with the manufactured home park rules. 94049

(E) No park operator shall charge any owner who chooses to 94050
install an electric or gas appliance in a home an additional fee 94051
solely on the basis of the installation, unless the installation 94052
is performed by the park operator at the request of the owner, nor 94053
shall the park operator restrict the installation, service, or 94054
maintenance of the appliance, restrict the ingress or egress of 94055
repairpersons to the manufactured home park for the purpose of 94056
installation, service, or maintenance of the appliance, nor 94057
restrict the making of any interior improvement in a home, if the 94058
installation or improvement is in compliance with applicable 94059
building codes and other provisions of law and if adequate utility 94060
services are available for the installation or improvement. 94061

(F) No park operator shall require a tenant to lease or an 94062
owner to purchase a manufactured or mobile home from the park 94063
operator or any specific person as a condition of or prerequisite 94064
to entering into a rental agreement. 94065

(G) No park operator shall require an owner to use the 94066

services of the park operator or any other specific person for 94067
installation of the manufactured or mobile home on the residential 94068
premises or for the performance of any service. 94069

(H) No park operator shall: 94070

(1) Deny any owner the right to sell the owner's manufactured 94071
home within the manufactured home park if the owner gives the park 94072
operator ten days' notice of the intention to sell the home; 94073

(2) Require the owner to remove the home from the 94074
manufactured home park solely on the basis of the sale of the 94075
home; 94076

(3) Unreasonably refuse to enter into a rental agreement with 94077
a purchaser of a home located within the operator's manufactured 94078
home park; 94079

(4) Charge any tenant or owner any fee, charge, or 94080
assessment, including a rental fee, that is not set forth in the 94081
rental agreement or, if the rental agreement is oral, is not set 94082
forth in a written disclosure given to the tenant or owner prior 94083
to the tenant or owner entering into a rental agreement; 94084

(5) Charge any owner any fee, charge, or assessment because 94085
of the transfer of ownership of a home or because a home is moved 94086
out of or into the manufactured home park, except a charge for the 94087
actual costs and expenses that are incurred by the park operator 94088
in moving the home out of or into the manufactured home park, or 94089
in installing the home in the manufactured home park and that have 94090
not been reimbursed by another tenant or owner. 94091

(I) If the park operator violates any provision of divisions 94092
(A) to (H) of this section, the tenant or owner may recover actual 94093
damages resulting from the violation, and, if the tenant or owner 94094
obtains a judgment, reasonable attorneys' fees, or terminate the 94095
rental agreement. 94096

(J) No rental agreement shall require a tenant or owner to 94097
sell, lease, or sublet the tenant's or owner's interest in the 94098
rental agreement or the manufactured or mobile home that is or 94099
will be located on the lot that is the subject of the rental 94100
agreement to any specific person or through any specific person as 94101
the person's agent. 94102

(K) No park operator shall enter into a rental agreement with 94103
the owner of a manufactured or mobile home for the use of 94104
residential premises, if the rental agreement requires the owner 94105
of the home, as a condition to the owner's renting, occupying, or 94106
remaining on the residential premises, to pay the park operator or 94107
any other person specified in the rental agreement a fee or any 94108
sum of money based on the sale of the home, unless the owner of 94109
the home uses the park operator or other person as the owner's 94110
agent in the sale of the home. 94111

(L) A park operator and a tenant or owner may include in a 94112
rental agreement any terms and conditions, including any term 94113
relating to rent, the duration of an agreement, and any other 94114
provisions governing the rights and obligations of the parties 94115
that are not inconsistent with or prohibited by sections 3733.09 94116
to 3733.20 of the Revised Code or any other rule of law. 94117

(M) Notwithstanding any other provision of the Revised Code, 94118
the owner of a manufactured or mobile home ~~that was previously~~ 94119
~~titled by a dealer~~ may utilize the services of a manufactured home 94120
housing dealer or broker licensed under ~~Chapter 4517. of the~~ 94121
~~Revised Code~~ this chapter or a person properly licensed under 94122
Chapter 4735. of the Revised Code to sell or lease the home. 94123

Sec. ~~3733.12~~ 4781.41. (A) If a park operator fails to fulfill 94124
any obligation imposed upon ~~him~~ the park operator by section 94125
~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or 94126
the conditions of the premises are such that the resident 94127

reasonably believes that a park operator has failed to fulfill any 94128
such obligations, or a governmental agency has found that the 94129
premises are not in compliance with building, housing, health, or 94130
safety codes which apply to any condition of the residential 94131
premises that could materially affect the health and safety of an 94132
occupant, the resident may give notice in writing to the park 94133
operator specifying the acts, omissions, or code violations that 94134
constitute noncompliance with such provisions. The notice shall be 94135
sent to the person or place where rent is normally paid. 94136
94137

(B) If a park operator receives the notice described in 94138
division (A) of this section and after receipt of the notice fails 94139
to remedy the condition within a reasonable time, considering the 94140
severity of the condition and the time necessary to remedy such 94141
condition, or within thirty days, whichever is sooner, and if the 94142
resident is current in rent payments due under the rental 94143
agreement, the resident may do one of the following: 94144

(1) Deposit all rent that is due and thereafter becomes due 94145
the park operator with the clerk of court of the municipal or 94146
county court having jurisdiction in the territory in which the 94147
residential premises are located; 94148

(2) Apply to the court for an order directing the park 94149
operator to remedy the condition. As part thereof, the resident 94150
may deposit rent pursuant to division (B)(1) of this section, and 94151
may apply for an order reducing the periodic rent due the park 94152
operator until such time as the park operator does remedy the 94153
condition, and may apply for an order to use the rent deposited to 94154
remedy the condition. In any order issued pursuant to this 94155
division, the court may require the resident to deposit rent with 94156
the clerk of court as provided in division (B)(1) of this section. 94157

Sec. ~~3733.121~~ 4781.42. (A) Whenever a resident deposits rent 94158

with the clerk of a court as provided in section ~~3733.12~~ 4781.41 94159
of the Revised Code, the clerk shall give written notice of this 94160
fact to the park operator and to ~~his~~ the park operator's agent, if 94161
any. 94162

(B) The clerk shall place all rent deposited with ~~him~~ the 94163
clerk in a separate rent escrow account in the name of the clerk 94164
in a bank or building and loan association domiciled in this 94165
state. 94166

(C) The clerk shall keep in a separate docket an account of 94167
each deposit, with the name and address of the resident, and the 94168
name and address of the park operator and of ~~his~~ the park
operator's agent, if any. 94169
94170

(D) For ~~his~~ the clerk's costs, the clerk may charge a fee of 94171
one per cent of the amount of the rent deposited, which shall be 94172
assessed as court costs. 94173

(E) All interest that has accrued on the rent deposited by 94174
the clerk of a county court under division (B) of this section 94175
shall be paid into the treasury of the political subdivision for 94176
which the clerk performs ~~his~~ the clerk's duties. All interest that 94177
has accrued on the rent deposited by the clerk of a municipal 94178
court under division (B) of this section shall be paid into the 94179
city treasury as defined in division (B) of section 1901.03 of the 94180
Revised Code. 94181

Sec. ~~3733.122~~ 4781.43. (A) A park operator who receives 94182
notice that rent due ~~him~~ the park operator has been deposited with 94183
a clerk of court pursuant to section ~~3733.12~~ 4781.41 of the 94184
Revised Code, may: 94185

(1) Apply to the clerk of court for release of the rent on 94186
the ground that the condition contained in the notice given 94187
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 94188

Code has been remedied. The clerk shall forthwith release the 94189
rent, less costs, to the park operator if the resident gives 94190
written notice to the clerk that the condition has been remedied. 94191

(2) Apply to the court for release of the rent on the grounds 94192
that the resident did not comply with the notice requirement of 94193
division (A) of section ~~3733.12~~ 4781.41 of the Revised Code, or 94194
that the resident was not current in rent payments due under the 94195
rental agreement at the time the resident initiated rent deposits 94196
with the clerk of courts under division (B)(1) of section ~~3733.12~~ 94197
4781.41 of the Revised Code; 94198

(3) Apply to the court for release of the rent on the grounds 94199
that there was no violation of any obligation imposed upon the 94200
park operator by section ~~3733.10~~ 4781.38 of the Revised Code or by 94201
the rental agreement, or by any building, housing, health, or 94202
safety code, or that the condition contained in the notice given 94203
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 94204
Code has been remedied. 94205

(B) The resident shall be named as a party to any action 94206
filed by the park operator under this section, and shall have the 94207
right to file an answer and counterclaim, as in other civil cases. 94208
A trial shall be held within sixty days of the date of filing of 94209
the park operator's complaint, unless for good cause shown the 94210
court grants a continuance. 94211

(C) If the court finds that there was no violation of any 94212
obligation imposed upon the park operator by section ~~3733.10~~ 94213
4781.38 of the Revised Code or by the rental agreement, or by any 94214
building, housing, health, or safety code, or that the condition 94215
contained in the notice given pursuant to division (A) of section 94216
~~3733.12~~ 4781.41 of the Revised Code has been remedied, or that the 94217
resident did not comply with the notice requirement of division 94218
(A) of section ~~3733.12~~ 4781.41 of the Revised Code, or that the 94219
resident was not current in rent payments at the time the resident 94220

initiated rent deposits with the clerk of court under division 94221
(B)(1) of section ~~3733.12~~ 4781.41 of the Revised Code, the court 94222
shall order the release to the park operator of rent on deposit 94223
with the clerk, less costs. 94224

(D) If the court finds that the condition contained in the 94225
notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 94226
of the Revised Code was the result of an act or omission of the 94227
resident, or that the resident intentionally acted in bad faith in 94228
proceeding under section ~~3733.12~~ 4781.41 of the Revised Code, the 94229
resident shall be liable for damages caused to the park operator, 94230
and for costs, together with reasonable attorneys' fees if the 94231
resident intentionally acted in bad faith. 94232

Sec. ~~3733.123~~ 4781.44. (A) If a park operator brings an 94233
action for the release of rent deposited with a clerk of court, 94234
the court may, during the pendency of the action, upon application 94235
of the park operator, release part of the rent on deposit for 94236
payment of the periodic interest on a mortgage on the premises, 94237
the periodic principal payments on a mortgage on the premises, the 94238
insurance premiums for the premises, real estate taxes on the 94239
premises, utility services, repairs, and other customary and usual 94240
costs of operating the premises. 94241

(B) In determining whether to release rent for the payments 94242
described in division (A) of this section, the court shall 94243
consider the amount of rent the park operator receives from other 94244
lots, the cost of operating these lots, and the costs which may be 94245
required to remedy the condition contained in the notice given 94246
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 94247
Code. 94248

Sec. ~~3733.13~~ 4781.45. If a resident commits a material 94249
violation of the rules of the manufactured home park, of the 94250

~~public health council~~ manufactured homes commission, or of 94251
applicable state and local health and safety codes, the park 94252
operator may deliver a written notification of the violation to 94253
the resident. The notification shall contain all of the following: 94254

(A) A description of the violation; 94255

(B) A statement that the rental agreement will terminate upon 94256
a date specified in the written notice not less than thirty days 94257
after receipt of the notice unless the resident remedies the 94258
violation; 94259

(C) A statement that the violation was material and that if a 94260
second material violation of any park or ~~public health council~~ 94261
commission rule, or any health and safety code, occurs within six 94262
months after the date of this notice, the rental agreement will 94263
terminate immediately; 94264

(D) A statement that a defense available to termination of 94265
the rental agreement for two material violations of park or ~~public~~ 94266
~~health council~~ commission rules, or of health and safety codes, is 94267
that the park rule is unreasonable, or that the park or ~~public~~ 94268
~~health council rule~~ commission, or health or safety code, is not 94269
being enforced against other manufactured home park residents, or 94270
that the two violations were not willful and not committed in bad 94271
faith. 94272

If the resident remedies the condition described in the 94273
notice, whether by repair, the payment of damages, or otherwise, 94274
the rental agreement shall not terminate. The park operator may 94275
terminate the rental agreement immediately if the resident commits 94276
a second material violation of the park or ~~public health council~~ 94277
commission rules, or of applicable state and local health and 94278
safety codes, subject to the defense that the park rule is 94279
unreasonable, that the park or ~~public health council~~ commission 94280
rule, or health or safety code, is not being enforced against 94281

other manufactured home park residents, or that the two violations 94282
were not willful and not committed in bad faith. 94283

Sec. ~~3733.14~~ 4781.46. In any action under sections ~~3733.09~~ 94284
4781.36 to ~~3733.20~~ 4781.52 of the Revised Code, any party may 94285
recover damages for the breach of contract or the breach of any 94286
duty that is imposed by law. 94287

Sec. ~~3733.15~~ 4781.47. (A) No provision of sections ~~3733.09~~ 94288
4781.36 to ~~3733.20~~ 4781.52 of the Revised Code may be modified or 94289
waived by any oral or written agreement except as provided in 94290
division (F) of this section. 94291

(B) No warrant of attorney to confess judgment shall be 94292
recognized in any rental agreement or in any other agreement 94293
between a park operator and resident for the recovery of rent or 94294
damages to the residential premises. 94295

(C) No agreement to pay the park operator's or resident's 94296
attorney fees shall be recognized in any rental agreement for 94297
residential premises or in any other agreement between a park 94298
operator and resident. 94299

(D) No agreement by a resident to the exculpation or 94300
limitation of any liability of the park operator arising under law 94301
or to indemnify the park operator for that liability or its 94302
related costs shall be recognized in any rental agreement or in 94303
any other agreement between a park operator and resident. 94304

(E) A rental agreement, or the assignment, conveyance, trust 94305
deed, or security instrument of the park operator's interest in 94306
the rental agreement may not permit the receipt of rent free of 94307
the obligation to comply with section ~~3733.10~~ 4781.38 of the 94308
Revised Code. 94309

(F) The park operator may agree to assume responsibility for 94310
fulfilling any duty or obligation imposed on a resident by section 94311

~~3733.101~~ 4781.39 of the Revised Code. 94312

Sec. ~~3733.16~~ 4781.48. (A) If the court as a matter of law 94313
finds a rental agreement, or any clause of it, to have been 94314
unconscionable at the time it was made, it may refuse to enforce 94315
the rental agreement or it may enforce the remainder of the rental 94316
agreement without the unconscionable clause, or it may so limit 94317
the application of any unconscionable clause as to avoid any 94318
unconscionable result. 94319

(B) When it is claimed or appears to the court that the 94320
rental agreement, or any clause of it, may be unconscionable, the 94321
parties shall be afforded a reasonable opportunity to present 94322
evidence as to its setting, purpose, and effect to aid the court 94323
in making the determination. 94324

Sec. ~~3733.17~~ 4781.49. (A) No park operator of residential 94325
premises shall initiate any act, including termination of 94326
utilities or services, exclusion from the premises, or threat of 94327
any unlawful act, against a resident, or a resident whose right to 94328
possession has terminated, for the purpose of recovering 94329
possession of residential premises, other than as provided in 94330
Chapters 1923., ~~3733-~~ 4781., and 5303. of the Revised Code. 94331

(B) No park operator of residential premises shall seize the 94332
furnishings or possessions of a resident, or of a resident whose 94333
right to possession was terminated, for the purpose of recovering 94334
rent payments, other than in accordance with an order issued by a 94335
court of competent jurisdiction. 94336

(C) A park operator who violates this section is liable in a 94337
civil action for all damages caused to a resident, or to a 94338
resident whose right to possession has terminated, together with 94339
reasonable attorneys' fees. 94340

Sec. ~~3733.18~~ 4781.50. (A) Any security deposit in excess of 94341
fifty dollars or one month's periodic rent, whichever is greater, 94342
shall bear interest on the excess at the rate of five per cent per 94343
annum if the resident remains in possession of the premises for 94344
six months or more, and shall be computed and paid annually by the 94345
park operator to the resident. 94346

(B) Upon termination of the rental agreement any property or 94347
money held by the park operator as a security deposit may be 94348
applied to the payment of past due rent and to the payment of the 94349
amount of damages that the park operator has suffered by reason of 94350
the resident's noncompliance with section ~~3733.101~~ 4781.39 of the 94351
Revised Code or the rental agreement. Any deduction from the 94352
security deposit shall be itemized and identified by the park 94353
operator in a written notice delivered to the resident together 94354
with the amount due, within thirty days after termination of the 94355
rental agreement and delivery of possession. The resident shall 94356
provide the park operator in writing with a forwarding address or 94357
new address to which the written notice and amount due from the 94358
park operator may be sent. If the resident fails to provide the 94359
park operator with the forwarding or new address as required, the 94360
resident shall not be entitled to damages or attorneys' fees under 94361
division (C) of this section. 94362

(C) If the park operator fails to comply with division (B) of 94363
this section, the resident may recover the property and money due 94364
~~him~~ the resident, together with damages in an amount equal to the 94365
amount wrongfully withheld, and reasonable attorneys' fees. 94366

Sec. ~~3733.19~~ 4781.51. (A) Every written rental agreement for 94367
residential premises shall contain the name and address of the 94368
owner of the residential premises and the name and address of the 94369
owner's agent, if any. If the owner or the owner's agent is a 94370
corporation, partnership, limited partnership, association, trust, 94371

or other entity, the address shall be the principal place of 94372
business in the county in which the residential premises are 94373
situated or if there is no place of business in such county then 94374
its principal place of business in this state, and shall include 94375
the name of the person in charge thereof. 94376

(B) If the rental agreement is oral, the park operator, at 94377
the commencement of the term of occupancy, shall deliver to the 94378
resident a written notice containing the information required in 94379
division (A) of this section. 94380

(C) If the park operator fails to provide the notice of the 94381
name and address of the owner and owner's agent, if any, as 94382
required under division (A) or (B) of this section, the notices to 94383
the park operator required under division (A) of sections ~~3733.12~~ 94384
4781.41 and ~~3733.121~~ 4781.42 of the Revised Code are waived by the 94385
park operator and the operator's agent. 94386

(D) Every written rental agreement for residential premises 94387
shall contain the following notice in ten-point boldface type: 94388

"YOUR RIGHTS AS A RESIDENT AND YOUR MANUFACTURED HOME PARK 94389
OPERATOR'S RIGHTS ARE PROTECTED BY SECTIONS ~~3733.09~~ 4781.36 TO 94390
~~3733.20~~ 4781.52 OF THE REVISED CODE, WHICH REGULATE RENTAL 94391
AGREEMENTS IN MANUFACTURED HOME PARKS." 94392

If the rental agreement is oral, the park operator, at the 94393
commencement of the term of occupancy, shall deliver the notice to 94394
the resident in writing. 94395

Sec. ~~3733.20~~ 4781.52. No municipal corporation may adopt or 94396
continue in existence any ordinance and no township may adopt or 94397
continue in existence any resolution that is in conflict with 94398
sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code, 94399
or that regulates those rights and obligations of parties to a 94400
rental agreement that are regulated by sections ~~3733.09~~ 4781.36 to 94401

~~3733.20~~ 4781.52 of the Revised Code. Sections ~~3733.09~~ 4781.36 to 94402
~~3733.20~~ 4781.52 of the Revised Code do not preempt any housing, 94403
building, health, or safety codes of any municipal corporation or 94404
township. 94405

Sec. 4781.54. There is hereby created in the state treasury 94406
the manufactured homes commission regulatory fund. The fund shall 94407
consist of fees collected under section 4781.121 of the Revised 94408
Code and fees paid under section 4781.28 of the Revised Code and 94409
shall be used for the purposes described in those sections. 94410

Sec. 4781.99. (A) Whoever violates division (A) of section 94411
4781.16 of the Revised Code is guilty of a minor misdemeanor on a 94412
first offense and shall be subject to a mandatory fine of one 94413
hundred dollars. On a second offense, the person is guilty of a 94414
misdemeanor of the first degree and shall be subject to a 94415
mandatory fine of one thousand dollars. 94416

(B) Whoever violates section 4781.20 of the Revised Code is 94417
guilty of a minor misdemeanor. 94418

(C) Whoever violates any of the following is guilty of a 94419
misdemeanor of the fourth degree: 94420

(1) Division (B) or (C) of section 4781.16 of the Revised 94421
Code; 94422

(2) Section 4781.22 of the Revised Code; 94423

(3) Section 4781.23 of the Revised Code; 94424

(4) Division (A) of section 4781.24 of the Revised Code; 94425

(5) Section 4781.25 of the Revised Code; 94426

(6) Division (A) of section 4781.35 of the Revised Code. 94427

Sec. 4905.90. As used in sections 4905.90 to 4905.96 of the 94428
Revised Code: 94429

(A) "Contiguous property" includes, but is not limited to, a 94430
manufactured home park as defined in section ~~3733.01~~ 4781.01 of 94431
the Revised Code; a public or publicly subsidized housing project; 94432
an apartment complex; a condominium complex; a college or 94433
university; an office complex; a shopping center; a hotel; an 94434
industrial park; and a race track. 94435

(B) "Gas" means natural gas, flammable gas, or gas which is 94436
toxic or corrosive. 94437

(C) "Gathering lines" and the "gathering of gas" have the 94438
same meaning as in the Natural Gas Pipeline Safety Act and the 94439
rules adopted by the United States department of transportation 94440
pursuant to the Natural Gas Pipeline Safety Act, including 49 94441
C.F.R. part 192, as amended. 94442

(D) "Intrastate pipe-line transportation" has the same 94443
meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as 94444
amended, but excludes the gathering of gas exempted by the Natural 94445
Gas Pipeline Safety Act. 94446

(E) "Master-meter system" means a pipe-line system that 94447
distributes gas within a contiguous property for which the system 94448
operator purchases gas for resale to consumers, including tenants. 94449
Such pipe-line system supplies consumers who purchase the gas 94450
directly through a meter, or by paying rent, or by other means. 94451
The term includes a master-meter system as defined in 49 C.F.R. 94452
191.3, as amended. The term excludes a pipeline within a 94453
manufactured home, mobile home, or a building. 94454

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas 94455
Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 94456
et seq., as amended. 94457

(G) "Operator" means any of the following: 94458

(1) A gas company or natural gas company as defined in 94459
section 4905.03 of the Revised Code, except that division (A)(5) 94460

of that section does not authorize the public utilities commission 94461
to relieve any producer of gas, as a gas company or natural gas 94462
company, of compliance with sections 4905.90 to 4905.96 of the 94463
Revised Code or the pipe-line safety code created under section 94464
4905.91 of the Revised Code; 94465

(2) A pipe-line company, as defined in section 4905.03 of the 94466
Revised Code, when engaged in the business of transporting gas by 94467
pipeline; 94468

(3) A public utility that is excepted from the definition of 94469
"public utility" under division (B) or (C) of section 4905.02 of 94470
the Revised Code, when engaged in supplying or transporting gas by 94471
pipeline within this state; 94472

(4) Any person that owns, operates, manages, controls, or 94473
leases any of the following: 94474

(a) Intrastate pipe-line transportation facilities within 94475
this state; 94476

(b) Gas gathering lines within this state which are not 94477
exempted by the Natural Gas Pipeline Safety Act; 94478

(c) A master-meter system within this state. 94479

"Operator" does not include an ultimate consumer who owns a 94480
service line, as defined in 49 C.F.R. 192.3, as amended, on the 94481
real property of that ultimate consumer. 94482

(H) "Operator of a master-meter system" means a person 94483
described under division ~~(F)~~(G)(4)(c) of this section. An operator 94484
of a master-meter system is not a public utility under section 94485
4905.02 or a gas or natural gas company under section 4905.03 of 94486
the Revised Code. 94487

(I) "Person" means: 94488

(1) In addition to those defined in division (C) of section 94489
1.59 of the Revised Code, a joint venture or a municipal 94490

corporation;	94491
(2) Any trustee, receiver, assignee, or personal representative of persons defined in division (H) (I)(1) of this section.	94492 94493 94494
(J) "Safety audit" means the public utilities commission's audit of the premises, pipe-line facilities, and the records, maps, and other relevant documents of a master-meter system to determine the operator's compliance with sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code.	94495 94496 94497 94498 94499
(K) "Safety inspection" means any inspection, survey, or testing of a master-meter system which is authorized or required by sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code. The term includes, but is not limited to, leak surveys, inspection of regulators and critical valves, and monitoring of cathodic protection systems, where applicable.	94500 94501 94502 94503 94504 94505
(L) "Safety-related condition" means any safety-related condition defined in 49 C.F.R. 191.23, as amended.	94506 94507
(M) "Total Mcfs of gas it supplied or delivered" means the sum of the following volumes of gas that an operator supplied or delivered, measured in units per one thousand cubic feet:	94508 94509 94510
(1) Residential sales;	94511
(2) Commercial and industrial sales;	94512
(3) Other sales to public authorities;	94513
(4) Interdepartmental sales;	94514
(5) Sales for resale;	94515
(6) Transportation of gas.	94516
Sec. 4906.01. As used in Chapter 4906. of the Revised Code:	94517
(A) "Person" means an individual, corporation, business	94518

trust, association, estate, trust, or partnership or any officer, 94519
board, commission, department, division, or bureau of the state or 94520
a political subdivision of the state, or any other entity. 94521

(B)(1) "Major utility facility" means: 94522

~~(1)(a)~~ Electric generating plant and associated facilities 94523
designed for, or capable of, operation at a capacity of fifty 94524
megawatts or more; 94525

~~(2)(b)~~ An electric transmission line and associated 94526
facilities of a design capacity of one hundred twenty-five 94527
kilovolts or more; 94528

~~(3)(c)~~ A gas or natural gas transmission line and associated 94529
facilities designed for, or capable of, transporting gas or 94530
natural gas at pressures in excess of one hundred twenty-five 94531
pounds per square inch. 94532

(2) "Major utility facility" does not include electric gas or 94533
natural gas transmission lines over which an agency of the United 94534
States has exclusive jurisdiction, any solid waste facilities as 94535
defined in section 6123.01 of the Revised Code, or either of the 94536
following as defined by the power siting board: 94537

(a) Electric, gas, natural gas distributing lines and gas or 94538
natural gas gathering lines and associated facilities as defined 94539
by the power siting board, nor gas or natural gas transmission 94540
lines over which an agency of the United States has exclusive 94541
jurisdiction, nor any solid waste facilities as defined in section 94542
6123.01 of the Revised Code; 94543

(b) Any manufacturing facility that creates byproducts that 94544
may be used in the generation of electricity. 94545

(C) "Commence to construct" means any clearing of land, 94546
excavation, or other action that would adversely affect the 94547
natural environment of the site or route of a major utility 94548

facility, but does not include surveying changes needed for 94549
temporary use of sites or routes for nonutility purposes, or uses 94550
in securing geological data, including necessary borings to 94551
ascertain foundation conditions. 94552

(D) "Certificate" means a certificate of environmental 94553
compatibility and public need issued by the power siting board 94554
under section 4906.10 of the Revised Code or a construction 94555
certificate issued by the board under rules adopted under division 94556
(E) of section 4906.03 of the Revised Code. 94557

Sec. 4909.15. (A) The public utilities commission, when 94558
fixing and determining just and reasonable rates, fares, tolls, 94559
rentals, and charges, shall determine: 94560

(1) The valuation as of the date certain of the property of 94561
the public utility used and useful in rendering the public utility 94562
service for which rates are to be fixed and determined. The 94563
valuation so determined shall be the total value as set forth in 94564
division (J) of section 4909.05 of the Revised Code, and a 94565
reasonable allowance for materials and supplies and cash working 94566
capital, as determined by the commission. 94567

The commission, in its discretion, may include in the 94568
valuation a reasonable allowance for construction work in progress 94569
but, in no event, may such an allowance be made by the commission 94570
until it has determined that the particular construction project 94571
is at least seventy-five per cent complete. 94572

In determining the percentage completion of a particular 94573
construction project, the commission shall consider, among other 94574
relevant criteria, the per cent of time elapsed in construction; 94575
the per cent of construction funds, excluding allowance for funds 94576
used during construction, expended, or obligated to such 94577
construction funds budgeted where all such funds are adjusted to 94578
reflect current purchasing power; and any physical inspection 94579

performed by or on behalf of any party, including the commission's staff. 94580
94581

A reasonable allowance for construction work in progress shall not exceed ten per cent of the total valuation as stated in this division, not including such allowance for construction work in progress. 94582
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Where the commission permits an allowance for construction work in progress, the dollar value of the project or portion thereof included in the valuation as construction work in progress shall not be included in the valuation as plant in service until such time as the total revenue effect of the construction work in progress allowance is offset by the total revenue effect of the plant in service exclusion. Carrying charges calculated in a manner similar to allowance for funds used during construction shall accrue on that portion of the project in service but not reflected in rates as plant in service, and such accrued carrying charges shall be included in the valuation of the property at the conclusion of the offset period for purposes of division (J) of section 4909.05 of the Revised Code. 94586
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From and after April 10, 1985, no allowance for construction work in progress as it relates to a particular construction project shall be reflected in rates for a period exceeding forty-eight consecutive months commencing on the date the initial rates reflecting such allowance become effective, except as otherwise provided in this division. 94599
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The applicable maximum period in rates for an allowance for construction work in progress as it relates to a particular construction project shall be tolled if, and to the extent, a delay in the in-service date of the project is caused by the action or inaction of any federal, state, county, or municipal agency having jurisdiction, where such action or inaction relates to a change in a rule, standard, or approval of such agency, and 94605
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where such action or inaction is not the result of the failure of 94612
the utility to reasonably endeavor to comply with any rule, 94613
standard, or approval prior to such change. 94614

In the event that such period expires before the project goes 94615
into service, the commission shall exclude, from the date of 94616
expiration, the allowance for the project as construction work in 94617
progress from rates, except that the commission may extend the 94618
expiration date up to twelve months for good cause shown. 94619

In the event that a utility has permanently canceled, 94620
abandoned, or terminated construction of a project for which it 94621
was previously permitted a construction work in progress 94622
allowance, the commission immediately shall exclude the allowance 94623
for the project from the valuation. 94624

In the event that a construction work in progress project 94625
previously included in the valuation is removed from the valuation 94626
pursuant to this division, any revenues collected by the utility 94627
from its customers after April 10, 1985, that resulted from such 94628
prior inclusion shall be offset against future revenues over the 94629
same period of time as the project was included in the valuation 94630
as construction work in progress. The total revenue effect of such 94631
offset shall not exceed the total revenues previously collected. 94632

In no event shall the total revenue effect of any offset or 94633
offsets provided under division (A)(1) of this section exceed the 94634
total revenue effect of any construction work in progress 94635
allowance. 94636

(2) A fair and reasonable rate of return to the utility on 94637
the valuation as determined in division (A)(1) of this section; 94638

(3) The dollar annual return to which the utility is entitled 94639
by applying the fair and reasonable rate of return as determined 94640
under division (A)(2) of this section to the valuation of the 94641
utility determined under division (A)(1) of this section; 94642

(4) The cost to the utility of rendering the public utility service for the test period less the total of any interest on cash or credit refunds paid, pursuant to section 4909.42 of the Revised Code, by the utility during the test period.

(a) Federal, state, and local taxes imposed on or measured by net income may, in the discretion of the commission, be computed by the normalization method of accounting, provided the utility maintains accounting reserves that reflect differences between taxes actually payable and taxes on a normalized basis, provided that no determination as to the treatment in the rate-making process of such taxes shall be made that will result in loss of any tax depreciation or other tax benefit to which the utility would otherwise be entitled, and further provided that such tax benefit as redounds to the utility as a result of such a computation may not be retained by the company, used to fund any dividend or distribution, or utilized for any purpose other than the defrayal of the operating expenses of the utility and the defrayal of the expenses of the utility in connection with construction work.

(b) The amount of any tax credits granted to an electric light company under section 5727.391 of the Revised Code for Ohio coal burned prior to January 1, 2000, shall not be retained by the company, used to fund any dividend or distribution, or utilized for any purposes other than the defrayal of the allowable operating expenses of the company and the defrayal of the allowable expenses of the company in connection with the installation, acquisition, construction, or use of a compliance facility. The amount of the tax credits granted to an electric light company under that section for Ohio coal burned prior to January 1, 2000, shall be returned to its customers within three years after initially claiming the credit through an offset to the company's rates or fuel component, as determined by the

commission, as set forth in schedules filed by the company under 94675
section 4905.30 of the Revised Code. As used in division 94676
(A)(4)~~(e)~~(b) of this section, "compliance facility" has the same 94677
meaning as in section 5727.391 of the Revised Code. 94678

(B) The commission shall compute the gross annual revenues to 94679
which the utility is entitled by adding the dollar amount of 94680
return under division (A)(3) of this section to the cost of 94681
rendering the public utility service for the test period under 94682
division (A)(4) of this section. 94683

(C) The test period, unless otherwise ordered by the 94684
commission, shall be the twelve-month period beginning six months 94685
prior to the date the application is filed and ending six months 94686
subsequent to that date. In no event shall the test period end 94687
more than nine months subsequent to the date the application is 94688
filed. The revenues and expenses of the utility shall be 94689
determined during the test period. The date certain shall be not 94690
later than the date of filing. 94691

(D) ~~When the~~ (1) The commission shall fix and determine the 94692
just and reasonable rate, fare, charge, toll, rental, or service 94693
to be rendered, charged, demanded, exacted, or collected for the 94694
performance or rendition of a service that will provide a public 94695
utility the allowable gross annual revenues under division (B) of 94696
this section, and order such just and reasonable rate, fare, 94697
charge, toll, rental, or service to be substituted for the 94698
existing one, when either of the following apply: 94699

(a) The commission is of the opinion, after hearing and after 94700
making the determinations under divisions (A) and (B) of this 94701
section, that any of the following apply: 94702

(i) Any rate, fare, charge, toll, rental, schedule, 94703
classification, or service, or any joint rate, fare, charge, toll, 94704
rental, schedule, classification, or service rendered, charged, 94705

demanded, exacted, or proposed to be rendered, charged, demanded, 94706
or exacted, is, or will be, unjust, unreasonable, unjustly 94707
discriminatory, unjustly preferential, or in violation of law, 94708
~~that the.~~ 94709

(ii) The service is, or will be, inadequate, or that the. 94710

(iii) The maximum rates, charges, tolls, or rentals 94711
chargeable by any such public utility are insufficient to yield 94712
reasonable compensation for the service rendered, and are unjust 94713
and unreasonable, ~~the commission shall.~~ 94714

(b) A public utility's rate, fare, charge, toll, rental, or 94715
schedule, or joint rate, fare, charge, toll, rental, or schedule, 94716
charged, demanded, exacted, or proposed to be charged, demanded, 94717
or exacted, was, or will be, determined in part based on the 94718
utility's payments of assessments under section 4911.18 of the 94719
Revised Code that were based on an appropriation to the office of 94720
the consumers' counsel for fiscal year 2011 or a prior fiscal year 94721
and that exceeded the minimum assessment under that section. 94722

(2) The commission shall make the fixations and 94723
determinations under division (D)(1)(a) of this section: 94724

~~(1)~~(a) With due regard among other things to the value of all 94725
property of the public utility actually used and useful for the 94726
convenience of the public as determined under division (A)(1) of 94727
this section, excluding from such value the value of any franchise 94728
or right to own, operate, or enjoy the same in excess of the 94729
amount, exclusive of any tax or annual charge, actually paid to 94730
any political subdivision of the state or county, as the 94731
consideration for the grant of such franchise or right, and 94732
excluding any value added to such property by reason of a monopoly 94733
or merger, with due regard in determining the dollar annual return 94734
under division (A)(3) of this section to the necessity of making 94735
reservation out of the income for surplus, depreciation, and 94736

contingencies, and; 94737

~~(2)(b)~~ With due regard to all such other matters as are 94738
proper, according to the facts in each case, 94739

~~(a)(i)~~ Including a fair and reasonable rate of return 94740
determined by the commission with reference to a cost of debt 94741
equal to the actual embedded cost of debt of such public utility, 94742

~~(b)(ii)~~ But not including the portion of any periodic rental 94743
or use payments representing that cost of property that is 94744
included in the valuation report under divisions (F) and (G) of 94745
section 4909.05 of the Revised Code, ~~fix and determine the just~~ 94746
~~and reasonable rate, fare, charge, toll, rental, or service to be~~ 94747
~~rendered, charged, demanded, exacted, or collected for the~~ 94748
~~performance or rendition of the service that will provide the~~ 94749
~~public utility the allowable gross annual revenues under division~~ 94750
~~(B) of this section, and order such just and reasonable rate,~~ 94751
~~fare, charge, toll, rental, or service to be substituted for the~~ 94752
~~existing one. After such determination.~~ 94753

(3) The commission shall make the fixations and 94754
determinations under division (D)(1)(b) of this section 94755
exclusively with regard to the payments of assessments that are 94756
required to be calculated based on the appropriation to the office 94757
of the consumers' counsel for fiscal year 2012. The commission 94758
shall make all such fixations and determinations on or before 94759
December 31, 2011, unless the public utility has filed an 94760
application with the commission under section 4909.18 of the 94761
Revised Code and the application is pending on the effective date 94762
of this section. 94763

(4) After a determination and order made under division (D) 94764
of this section, no change in the rate, fare, toll, charge, 94765
rental, schedule, classification, or service shall be made, 94766
rendered, charged, demanded, exacted, or changed by such public 94767

utility without the order of the commission, and any other rate, 94768
fare, toll, charge, rental, classification, or service is 94769
prohibited. 94770

(E) Upon application of any person or any public utility, and 94771
after notice to the parties in interest and opportunity to be 94772
heard as provided in Chapters 4901., 4903., 4905., 4907., 4909., 94773
4921., and 4923. of the Revised Code for other hearings, has been 94774
given, the commission may rescind, alter, or amend an order fixing 94775
any rate, fare, toll, charge, rental, classification, or service, 94776
or any other order made by the commission. Certified copies of 94777
such orders shall be served and take effect as provided for 94778
original orders. 94779

Sec. 4911.02. (A) The consumers' counsel shall be appointed 94780
by the consumers' counsel governing board, and shall hold office 94781
at the pleasure of the board. 94782

(B)(1) The counsel may sue or be sued and has the powers and 94783
duties granted ~~him~~ the counsel under this chapter, and all 94784
necessary powers to carry out the purposes of this chapter. 94785

(2) Without limitation because of enumeration, the counsel: 94786

(a) Shall have all the rights and powers of any party in 94787
interest appearing before the public utilities commission 94788
regarding examination and cross-examination of witnesses, 94789
presentation of evidence, and other matters; 94790

(b) May take appropriate action with respect to residential 94791
consumer complaints concerning quality of service, service 94792
charges, and the operation of the public utilities commission; 94793

(c) May institute, intervene in, or otherwise participate in 94794
proceedings in both state and federal courts and administrative 94795
agencies on behalf of the residential consumers concerning review 94796
of decisions rendered by, or failure to act by, the public 94797

utilities commission; 94798

(d) May conduct long range studies concerning various topics 94799
relevant to the rates charged to ~~residential~~ residential consumers. 94800

(C) The counsel shall follow the policies of the state as set 94801
forth in Chapter 4929. of the Revised Code. 94802

Sec. 4911.021. The consumers' counsel shall not operate a 94803
telephone call center for consumer complaints. Any calls received 94804
by the consumers' counsel concerning consumer complaints shall be 94805
forwarded to the public utilities commission's call center. 94806

Sec. 4928.18. (A) Notwithstanding division (D)(2)~~(a)~~(b)(i) of 94807
section 4909.15 of the Revised Code, nothing in this chapter 94808
prevents the public utilities commission from exercising its 94809
authority under Title XLIX of the Revised Code to protect 94810
customers of retail electric service supplied by an electric 94811
utility from any adverse effect of the utility's provision of a 94812
product or service other than retail electric service. 94813

(B) The commission has jurisdiction under section 4905.26 of 94814
the Revised Code, upon complaint of any person or upon complaint 94815
or initiative of the commission on or after the starting date of 94816
competitive retail electric service, to determine whether an 94817
electric utility or its affiliate has violated any provision of 94818
section 4928.17 of the Revised Code or an order issued or rule 94819
adopted under that section. For this purpose, the commission may 94820
examine such books, accounts, or other records kept by an electric 94821
utility or its affiliate as may relate to the businesses for which 94822
corporate separation is required under section 4928.17 of the 94823
Revised Code, and may investigate such utility or affiliate 94824
operations as may relate to those businesses and investigate the 94825
interrelationship of those operations. Any such examination or 94826
investigation by the commission shall be governed by Chapter 4903. 94827

of the Revised Code. 94828

(C) In addition to any remedies otherwise provided by law, 94829
the commission, regarding a determination of a violation pursuant 94830
to division (B) of this section, may do any of the following: 94831

(1) Issue an order directing the utility or affiliate to 94832
comply; 94833

(2) Modify an order as the commission finds reasonable and 94834
appropriate and order the utility or affiliate to comply with the 94835
modified order; 94836

(3) Suspend or abrogate an order, in whole or in part; 94837

(4) Issue an order that the utility or affiliate pay 94838
restitution to any person injured by the violation or failure to 94839
comply; 94840

(D) In addition to any remedies otherwise provided by law, 94841
the commission, regarding a determination of a violation pursuant 94842
to division (B) of this section and commensurate with the severity 94843
of the violation, the source of the violation, any pattern of 94844
violations, or any monetary damages caused by the violation, may 94845
do either of the following: 94846

(1) Impose a forfeiture on the utility or affiliate of up to 94847
twenty-five thousand dollars per day per violation. The recovery 94848
and deposit of any such forfeiture shall be subject to sections 94849
4905.57 and 4905.59 of the Revised Code. 94850

(2) Regarding a violation by an electric utility relating to 94851
a corporate separation plan involving competitive retail electric 94852
service, suspend or abrogate all or part of an order, to the 94853
extent it is in effect, authorizing an opportunity for the utility 94854
to receive transition revenues under a transition plan approved by 94855
the commission under section 4928.33 of the Revised Code. 94856

Corporate separation under this section does not prohibit the 94857

common use of employee benefit plans, facilities, equipment, or 94858
employees, subject to proper accounting and the code of conduct 94859
ordered by the commission as provided in division (A)(1) of this 94860
section. 94861

(E) Section 4905.61 of the Revised Code applies in the case 94862
of any violation of section 4928.17 of the Revised Code or of any 94863
rule adopted or order issued under that section. 94864

Sec. 4928.20. (A) The legislative authority of a municipal 94865
corporation may adopt an ordinance, or the board of township 94866
trustees of a township or the board of county commissioners of a 94867
county may adopt a resolution, under which, on or after the 94868
starting date of competitive retail electric service, it may 94869
aggregate in accordance with this section the retail electrical 94870
loads located, respectively, within the municipal corporation, 94871
township, or unincorporated area of the county and, for that 94872
purpose, may enter into service agreements to facilitate for those 94873
loads the sale and purchase of electricity. The legislative 94874
authority or board also may exercise such authority jointly with 94875
any other such legislative authority or board. For customers that 94876
are not mercantile customers, an ordinance or resolution under 94877
this division shall specify whether the aggregation will occur 94878
only with the prior, affirmative consent of each person owning, 94879
occupying, controlling, or using an electric load center proposed 94880
to be aggregated or will occur automatically for all such persons 94881
pursuant to the opt-out requirements of division (D) of this 94882
section. The aggregation of mercantile customers shall occur only 94883
with the prior, affirmative consent of each such person owning, 94884
occupying, controlling, or using an electric load center proposed 94885
to be aggregated. Nothing in this division, however, authorizes 94886
the aggregation of the retail electric loads of an electric load 94887
center, as defined in section 4933.81 of the Revised Code, that is 94888
located in the certified territory of a nonprofit electric 94889

supplier under sections 4933.81 to 4933.90 of the Revised Code or 94890
an electric load center served by transmission or distribution 94891
facilities of a municipal electric utility. 94892

(B) If an ordinance or resolution adopted under division (A) 94893
of this section specifies that aggregation of customers that are 94894
not mercantile customers will occur automatically as described in 94895
that division, the ordinance or resolution shall direct the board 94896
of elections to submit the question of the authority to aggregate 94897
to the electors of the respective municipal corporation, township, 94898
or unincorporated area of a county at a special election on the 94899
day of the next primary or general election in the municipal 94900
corporation, township, or county. The legislative authority or 94901
board shall certify a copy of the ordinance or resolution to the 94902
board of elections not less than ninety days before the day of the 94903
special election. No ordinance or resolution adopted under 94904
division (A) of this section that provides for an election under 94905
this division shall take effect unless approved by a majority of 94906
the electors voting upon the ordinance or resolution at the 94907
election held pursuant to this division. 94908

(C) Upon the applicable requisite authority under divisions 94909
(A) and (B) of this section, the legislative authority or board 94910
shall develop a plan of operation and governance for the 94911
aggregation program so authorized. Before adopting a plan under 94912
this division, the legislative authority or board shall hold at 94913
least two public hearings on the plan. Before the first hearing, 94914
the legislative authority or board shall publish notice of the 94915
hearings once a week for two consecutive weeks in a newspaper of 94916
general circulation in the jurisdiction or as provided in section 94917
7.16 of the Revised Code. The notice shall summarize the plan and 94918
state the date, time, and location of each hearing. 94919

(D) No legislative authority or board, pursuant to an 94920
ordinance or resolution under divisions (A) and (B) of this 94921

section that provides for automatic aggregation of customers that 94922
are not mercantile customers as described in division (A) of this 94923
section, shall aggregate the electrical load of any electric load 94924
center located within its jurisdiction unless it in advance 94925
clearly discloses to the person owning, occupying, controlling, or 94926
using the load center that the person will be enrolled 94927
automatically in the aggregation program and will remain so 94928
enrolled unless the person affirmatively elects by a stated 94929
procedure not to be so enrolled. The disclosure shall state 94930
prominently the rates, charges, and other terms and conditions of 94931
enrollment. The stated procedure shall allow any person enrolled 94932
in the aggregation program the opportunity to opt out of the 94933
program every three years, without paying a switching fee. Any 94934
such person that opts out before the commencement of the 94935
aggregation program pursuant to the stated procedure shall default 94936
to the standard service offer provided under section 4928.14 or 94937
division (D) of section 4928.35 of the Revised Code until the 94938
person chooses an alternative supplier. 94939

(E)(1) With respect to a governmental aggregation for a 94940
municipal corporation that is authorized pursuant to divisions (A) 94941
to (D) of this section, resolutions may be proposed by initiative 94942
or referendum petitions in accordance with sections 731.28 to 94943
731.41 of the Revised Code. 94944

(2) With respect to a governmental aggregation for a township 94945
or the unincorporated area of a county, which aggregation is 94946
authorized pursuant to divisions (A) to (D) of this section, 94947
resolutions may be proposed by initiative or referendum petitions 94948
in accordance with sections 731.28 to 731.40 of the Revised Code, 94949
except that: 94950

(a) The petitions shall be filed, respectively, with the 94951
township fiscal officer or the board of county commissioners, who 94952
shall perform those duties imposed under those sections upon the 94953

city auditor or village clerk. 94954

(b) The petitions shall contain the signatures of not less 94955
than ten per cent of the total number of electors in, 94956
respectively, the township or the unincorporated area of the 94957
county who voted for the office of governor at the preceding 94958
general election for that office in that area. 94959

(F) A governmental aggregator under division (A) of this 94960
section is not a public utility engaging in the wholesale purchase 94961
and resale of electricity, and provision of the aggregated service 94962
is not a wholesale utility transaction. A governmental aggregator 94963
shall be subject to supervision and regulation by the public 94964
utilities commission only to the extent of any competitive retail 94965
electric service it provides and commission authority under this 94966
chapter. 94967

(G) This section does not apply in the case of a municipal 94968
corporation that supplies such aggregated service to electric load 94969
centers to which its municipal electric utility also supplies a 94970
noncompetitive retail electric service through transmission or 94971
distribution facilities the utility singly or jointly owns or 94972
operates. 94973

(H) A governmental aggregator shall not include in its 94974
aggregation the accounts of any of the following: 94975

(1) A customer that has opted out of the aggregation; 94976

(2) A customer in contract with a certified electric services 94977
company; 94978

(3) A customer that has a special contract with an electric 94979
distribution utility; 94980

(4) A customer that is not located within the governmental 94981
aggregator's governmental boundaries; 94982

(5) Subject to division (C) of section 4928.21 of the Revised 94983

Code, a customer who appears on the "do not aggregate" list 94984
maintained under that section. 94985

(I) Customers that are part of a governmental aggregation 94986
under this section shall be responsible only for such portion of a 94987
surcharge under section 4928.144 of the Revised Code that is 94988
proportionate to the benefits, as determined by the commission, 94989
that electric load centers within the jurisdiction of the 94990
governmental aggregation as a group receive. The proportionate 94991
surcharge so established shall apply to each customer of the 94992
governmental aggregation while the customer is part of that 94993
aggregation. If a customer ceases being such a customer, the 94994
otherwise applicable surcharge shall apply. Nothing in this 94995
section shall result in less than full recovery by an electric 94996
distribution utility of any surcharge authorized under section 94997
4928.144 of the Revised Code. 94998

(J) On behalf of the customers that are part of a 94999
governmental aggregation under this section and by filing written 95000
notice with the public utilities commission, the legislative 95001
authority that formed or is forming that governmental aggregation 95002
may elect not to receive standby service within the meaning of 95003
division (B)(2)(d) of section 4928.143 of the Revised Code from an 95004
electric distribution utility in whose certified territory the 95005
governmental aggregation is located and that operates under an 95006
approved electric security plan under that section. Upon the 95007
filing of that notice, the electric distribution utility shall not 95008
charge any such customer to whom competitive retail electric 95009
generation service is provided by another supplier under the 95010
governmental aggregation for the standby service. Any such 95011
consumer that returns to the utility for competitive retail 95012
electric service shall pay the market price of power incurred by 95013
the utility to serve that consumer plus any amount attributable to 95014
the utility's cost of compliance with the alternative energy 95015

resource provisions of section 4928.64 of the Revised Code to 95016
serve the consumer. Such market price shall include, but not be 95017
limited to, capacity and energy charges; all charges associated 95018
with the provision of that power supply through the regional 95019
transmission organization, including, but not limited to, 95020
transmission, ancillary services, congestion, and settlement and 95021
administrative charges; and all other costs incurred by the 95022
utility that are associated with the procurement, provision, and 95023
administration of that power supply, as such costs may be approved 95024
by the commission. The period of time during which the market 95025
price and alternative energy resource amount shall be so assessed 95026
on the consumer shall be from the time the consumer so returns to 95027
the electric distribution utility until the expiration of the 95028
electric security plan. However, if that period of time is 95029
expected to be more than two years, the commission may reduce the 95030
time period to a period of not less than two years. 95031

(K) The commission shall adopt rules to encourage and promote 95032
large-scale governmental aggregation in this state. For that 95033
purpose, the commission shall conduct an immediate review of any 95034
rules it has adopted for the purpose of this section that are in 95035
effect on the effective date of the amendment of this section by 95036
S.B. 221 of the 127th general assembly, July 31, 2008. Further, 95037
within the context of an electric security plan under section 95038
4928.143 of the Revised Code, the commission shall consider the 95039
effect on large-scale governmental aggregation of any 95040
nonbypassable generation charges, however collected, that would be 95041
established under that plan, except any nonbypassable generation 95042
charges that relate to any cost incurred by the electric 95043
distribution utility, the deferral of which has been authorized by 95044
the commission prior to the effective date of the amendment of 95045
this section by S.B. 221 of the 127th general assembly, July 31, 95046
2008. 95047

Sec. 4929.26. (A)(1) The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, in accordance with this section and except as otherwise provided in division (A)(2) of this section, the legislative authority or board may aggregate automatically, subject to the opt-out requirements of division (D) of this section, competitive retail natural gas service for the retail natural gas loads that are located, respectively, within the municipal corporation, township, or unincorporated area of the county and for which there is a choice of supplier of that service as a result of revised schedules approved under division (C) of section 4929.29 of the Revised Code, a rule or order adopted or issued by the commission under Chapter 4905. of the Revised Code, or an exemption granted by the commission under sections 4929.04 to 4929.08 of the Revised Code. An ordinance or a resolution adopted under this section shall expressly state that it is adopted pursuant to the authority conferred by this section. The legislative authority or board also may exercise its authority under this section jointly with any other such legislative authority or board. For the purpose of the aggregation, the legislative authority or board may enter into service agreements to facilitate the sale and purchase of the service for the retail natural gas loads.

(2)(a) No aggregation under an ordinance or resolution adopted under division (A)(1) of this section shall include the retail natural gas load of any person that meets any of the following criteria:

(i) The person is both a distribution service customer and a mercantile customer on the date of commencement of service to the aggregated load, or the person becomes a distribution service customer after that date and also is a mercantile customer.

(ii) The person is supplied with commodity sales service 95080
pursuant to a contract with a retail natural gas supplier that is 95081
in effect on the effective date of the ordinance or resolution. 95082

(iii) The person is supplied with commodity sales service as 95083
part of a retail natural gas load aggregation provided for 95084
pursuant to a rule or order adopted or issued by the commission 95085
under this chapter or Chapter 4905. of the Revised Code. 95086

(b) Nothing in division (A)(2)(a) of this section precludes a 95087
governmental aggregation under this section from permitting the 95088
retail natural gas load of a person described in division 95089
(A)(2)(a) of this section from being included in the aggregation 95090
upon the expiration of any contract or aggregation as described in 95091
division (A)(2)(a)(ii) or (iii) of this section or upon the person 95092
no longer being a customer as described in division (A)(2)(a)(i) 95093
of this section or qualifying to be included in an aggregation 95094
described under division (A)(2)(a)(iii) of this section. 95095

(B) An ordinance or resolution adopted under division (A) of 95096
this section shall direct the board of elections to submit the 95097
question of the authority to aggregate to the electors of the 95098
respective municipal corporation, township, or unincorporated area 95099
of a county at a special election on the day of the next primary 95100
or general election in the municipal corporation, township, or 95101
county. The legislative authority or board shall certify a copy of 95102
the ordinance or resolution to the board of elections not less 95103
than ninety days before the day of the special election. No 95104
ordinance or resolution adopted under division (A) of this section 95105
that provides for an election under this division shall take 95106
effect unless approved by a majority of the electors voting upon 95107
the ordinance or resolution at the election held pursuant to this 95108
division. 95109

(C) Upon the applicable requisite authority under divisions 95110
(A) and (B) of this section, the legislative authority or board 95111

shall develop a plan of operation and governance for the 95112
aggregation program so authorized. Before adopting a plan under 95113
this division, the legislative authority or board shall hold at 95114
least two public hearings on the plan. Before the first hearing, 95115
the legislative authority or board shall publish notice of the 95116
hearings once a week for two consecutive weeks in a newspaper of 95117
general circulation in the jurisdiction or as provided in section 95118
7.16 of the Revised Code. The notice shall summarize the plan and 95119
state the date, time, and location of each hearing. 95120

(D) No legislative authority or board, pursuant to an 95121
ordinance or resolution under divisions (A) and (B) of this 95122
section, shall aggregate any retail natural gas load located 95123
within its jurisdiction unless it in advance clearly discloses to 95124
the person whose retail natural gas load is to be so aggregated 95125
that the person will be enrolled automatically in the aggregation 95126
and will remain so enrolled unless the person affirmatively elects 95127
by a stated procedure not to be so enrolled. The disclosure shall 95128
state prominently the rates, charges, and other terms and 95129
conditions of enrollment. The stated procedure shall allow any 95130
person enrolled in the aggregation the opportunity to opt out of 95131
the aggregation every two years, without paying a switching fee. 95132
Any such person that opts out of the aggregation pursuant to the 95133
stated procedure shall default to the natural gas company 95134
providing distribution service for the person's retail natural gas 95135
load, until the person chooses an alternative supplier. 95136

(E)(1) With respect to a governmental aggregation for a 95137
municipal corporation that is authorized pursuant to divisions (A) 95138
to (D) of this section, resolutions may be proposed by initiative 95139
or referendum petitions in accordance with sections 731.28 to 95140
731.41 of the Revised Code. 95141

(2) With respect to a governmental aggregation for a township 95142
or the unincorporated area of a county, which aggregation is 95143

authorized pursuant to divisions (A) to (D) of this section, 95144
resolutions may be proposed by initiative or referendum petitions 95145
in accordance with sections 731.28 to 731.40 of the Revised Code, 95146
except that: 95147

(a) The petitions shall be filed, respectively, with the 95148
township fiscal officer or the board of county commissioners, who 95149
shall perform those duties imposed under those sections upon the 95150
city auditor or village clerk. 95151

(b) The petitions shall contain the signatures of not less 95152
than ten per cent of the total number of electors in the township 95153
or the unincorporated area of the county, respectively, who voted 95154
for the office of governor at the preceding general election for 95155
that office in that area. 95156

(F) A governmental aggregator under division (A) of this 95157
section is not a public utility engaging in the wholesale purchase 95158
and resale of natural gas, and provision of the aggregated service 95159
is not a wholesale utility transaction. A governmental aggregator 95160
shall be subject to supervision and regulation by the public 95161
utilities commission only to the extent of any competitive retail 95162
natural gas service it provides and commission authority under 95163
this chapter. 95164

Sec. 4929.27. (A)(1) The legislative authority of a municipal 95165
corporation may adopt an ordinance, or the board of township 95166
trustees of a township or the board of county commissioners of a 95167
county may adopt a resolution, under which, in accordance with 95168
this section and except as otherwise provided in division (A)(2) 95169
of this section, the legislative authority or board may aggregate, 95170
with the prior consent of each person whose retail natural gas 95171
load is proposed to be aggregated, competitive retail natural gas 95172
service for any such retail natural gas load that is located, 95173
respectively, within the municipal corporation, township, or 95174

unincorporated area of the county and for which there is a choice 95175
of supplier of that service as a result of revised schedules 95176
approved under division (C) of section 4929.29 of the Revised 95177
Code, a rule or order adopted or issued by the commission under 95178
Chapter 4905. of the Revised Code, or an exemption granted by the 95179
commission under sections 4929.04 to 4929.08 of the Revised Code. 95180
An ordinance or a resolution adopted under this section shall 95181
expressly state that it is adopted pursuant to the authority 95182
conferred by this section. The legislative authority or board also 95183
may exercise such authority jointly with any other such 95184
legislative authority or board. For the purpose of the 95185
aggregation, the legislative authority or board may enter into 95186
service agreements to facilitate the sale and purchase of the 95187
service for the retail natural gas loads. 95188

(2)(a) No aggregation under an ordinance or resolution 95189
adopted under division (A)(1) of this section shall include the 95190
retail natural gas load of any person that meets either of the 95191
following criteria: 95192

(i) The person is supplied with commodity sales service 95193
pursuant to a contract with a retail natural gas supplier that is 95194
in effect on the effective date of the ordinance or resolution. 95195

(ii) The person is supplied with commodity sales service as 95196
part of a retail natural gas load aggregation provided for 95197
pursuant to a rule or order adopted or issued by the commission 95198
under this chapter or Chapter 4905. of the Revised Code. 95199

(b) Nothing in division (A)(2)(a) of this section precludes a 95200
governmental aggregation under this section from permitting the 95201
retail natural gas load of a person described in division 95202
(A)(2)(a) of this section from being included in the aggregation 95203
upon the expiration of any contract or aggregation as described in 95204
division (A)(2)(a)(i) or (ii) of this section or upon the person 95205

no longer qualifying to be included in an aggregation. 95206

(B) Upon the applicable requisite authority under division 95207
(A) of this section, the legislative authority or board shall 95208
develop a plan of operation and governance for the aggregation 95209
program so authorized. Before adopting a plan under this division, 95210
the legislative authority or board shall hold at least two public 95211
hearings on the plan. Before the first hearing, the legislative 95212
authority or board shall publish notice of the hearings once a 95213
week for two consecutive weeks in a newspaper of general 95214
circulation in the jurisdiction or as provided in section 7.16 of 95215
the Revised Code. The notice shall summarize the plan and state 95216
the date, time, and location of each hearing. 95217

(C)(1) With respect to a governmental aggregation for a 95218
municipal corporation that is authorized pursuant to division (A) 95219
of this section, resolutions may be proposed by initiative or 95220
referendum petitions in accordance with sections 731.28 to 731.41 95221
of the Revised Code. 95222

(2) With respect to a governmental aggregation for a township 95223
or the unincorporated area of a county, which aggregation is 95224
authorized pursuant to division (A) of this section, resolutions 95225
may be proposed by initiative or referendum petitions in 95226
accordance with sections 731.28 to 731.40 of the Revised Code, 95227
except that: 95228

(a) The petitions shall be filed, respectively, with the 95229
township fiscal officer or the board of county commissioners, who 95230
shall perform those duties imposed under those sections upon the 95231
city auditor or village clerk. 95232

(b) The petitions shall contain the signatures of not less 95233
than ten per cent of the total number of electors in the township 95234
or the unincorporated area of the county, respectively, who voted 95235
for the office of governor at the preceding general election for 95236

that office in that area. 95237

(D) A governmental aggregator under division (A) of this 95238
section is not a public utility engaging in the wholesale purchase 95239
and resale of natural gas, and provision of the aggregated service 95240
is not a wholesale utility transaction. A governmental aggregator 95241
shall be subject to supervision and regulation by the public 95242
utilities commission only to the extent of any competitive retail 95243
natural gas service it provides and commission authority under 95244
this chapter. 95245

Sec. 4931.40. As used in sections 4931.40 to 4931.70 of the 95246
Revised Code: 95247

(A) "9-1-1 system" means a system through which individuals 95248
can request emergency service using the telephone number 9-1-1. 95249

(B) "Basic 9-1-1" means a 9-1-1 system in which a caller 95250
provides information on the nature of and the location of an 95251
emergency, and the personnel receiving the call must determine the 95252
appropriate emergency service provider to respond at that 95253
location. 95254

(C) "Enhanced 9-1-1" means a 9-1-1 system capable of 95255
providing both enhanced wireline 9-1-1 and wireless enhanced 95256
9-1-1. 95257

(D) "Enhanced wireline 9-1-1" means a 9-1-1 system in which 95258
the wireline telephone network, in providing wireline 9-1-1, 95259
automatically routes the call to emergency service providers that 95260
serve the location from which the call is made and immediately 95261
provides to personnel answering the 9-1-1 call information on the 95262
location and the telephone number from which the call is being 95263
made. 95264

(E) "Wireless enhanced 9-1-1" means a 9-1-1 system that, in 95265
providing wireless 9-1-1, has the capabilities of phase I and, to 95266

the extent available, phase II enhanced 9-1-1 services as 95267
described in 47 C.F.R. 20.18 (d) to (h). 95268

(F)(1) "Wireless service" means federally licensed commercial 95269
mobile service as defined in 47 U.S.C. 332(d) and further defined 95270
as commercial mobile radio service in 47 C.F.R. 20.3, and includes 95271
service provided by any wireless, two-way communications device, 95272
including a radio-telephone communications line used in cellular 95273
telephone service or personal communications service, a network 95274
radio access line, or any functional or competitive equivalent of 95275
such a radio-telephone communications or network radio access 95276
line. 95277

(2) Nothing in sections 4931.40 to 4931.70 of the Revised 95278
Code applies to paging or any service that cannot be used to call 95279
9-1-1. 95280

(G) "Wireless service provider" means a facilities-based 95281
provider of wireless service to one or more end users in this 95282
state. 95283

(H) "Wireless 9-1-1" means the emergency calling service 95284
provided by a 9-1-1 system pursuant to a call originating in the 95285
network of a wireless service provider. 95286

(I) "Wireline 9-1-1" means the emergency calling service 95287
provided by a 9-1-1 system pursuant to a call originating in the 95288
network of a wireline service provider. 95289

(J) "Wireline service provider" means a facilities-based 95290
provider of wireline service to one or more end-users in this 95291
state. 95292

(K) "Wireline service" means basic local exchange service, as 95293
defined in section 4927.01 of the Revised Code, that is 95294
transmitted by means of interconnected wires or cables by a 95295
wireline service provider authorized by the public utilities 95296
commission. 95297

(L) "Wireline telephone network" means the selective router 95298
and data base processing systems, trunking and data wiring cross 95299
connection points at the public safety answering point, and all 95300
other voice and data components of the 9-1-1 system. 95301

(M) "Subdivision" means a county, municipal corporation, 95302
township, township fire district, joint fire district, township 95303
police district, joint police district, joint ambulance district, 95304
or joint emergency medical services district that provides 95305
emergency service within its territory, or that contracts with 95306
another municipal corporation, township, or district or with a 95307
private entity to provide such service; and a state college or 95308
university, port authority, or park district of any kind that 95309
employs law enforcement officers that act as the primary police 95310
force on the grounds of the college or university or port 95311
authority or in the parks operated by the district. 95312

(N) "Emergency service" means emergency law enforcement, 95313
firefighting, ambulance, rescue, and medical service. 95314

(O) "Emergency service provider" means the state highway 95315
patrol and an emergency service department or unit of a 95316
subdivision or that provides emergency service to a subdivision 95317
under contract with the subdivision. 95318

(P) "Public safety answering point" means a facility to which 95319
9-1-1 system calls for a specific territory are initially routed 95320
for response and where personnel respond to specific requests for 95321
emergency service by directly dispatching the appropriate 95322
emergency service provider, relaying a message to the appropriate 95323
provider, or transferring the call to the appropriate provider. 95324

(Q) "Customer premises equipment" means telecommunications 95325
equipment, including telephone instruments, on the premises of a 95326
public safety answering point that is used in answering and 95327
responding to 9-1-1 system calls. 95328

(R) "Municipal corporation in the county" includes any 95329
municipal corporation that is wholly contained in the county and 95330
each municipal corporation located in more than one county that 95331
has a greater proportion of its territory in the county to which 95332
the term refers than in any other county. 95333

(S) "Board of county commissioners" includes the legislative 95334
authority of a county established under Section 3 of Article X, 95335
Ohio Constitution, or Chapter 302. of the Revised Code. 95336

(T) "Final plan" means a final plan adopted under division 95337
(B) of section 4931.44 of the Revised Code and, except as 95338
otherwise expressly provided, an amended final plan adopted under 95339
section 4931.45 of the Revised Code. 95340

(U) "Subdivision served by a public safety answering point" 95341
means a subdivision that provides emergency service for any part 95342
of its territory that is located within the territory of a public 95343
safety answering point whether the subdivision provides the 95344
emergency service with its own employees or pursuant to a 95345
contract. 95346

(V) A township's population includes only population of the 95347
unincorporated portion of the township. 95348

(W) "Telephone company" means a company engaged in the 95349
business of providing local exchange telephone service by making 95350
available or furnishing access and a dial tone to persons within a 95351
local calling area for use in originating and receiving voice 95352
grade communications over a switched network operated by the 95353
provider of the service within the area and gaining access to 95354
other telecommunications services. "Telephone company" includes a 95355
wireline service provider and a wireless service provider unless 95356
otherwise expressly specified. For purposes of sections 4931.52 95357
and 4931.53 of the Revised Code, "telephone company" means a 95358
wireline service provider. 95359

Sec. 4931.51. (A)(1) For the purpose of paying the costs of 95360
establishing, equipping, and furnishing one or more public safety 95361
answering points as part of a countywide 9-1-1 system effective 95362
under division (B) of section 4931.44 of the Revised Code and 95363
paying the expense of administering and enforcing this section, 95364
the board of county commissioners of a county, in accordance with 95365
this section, may fix and impose, on each lot or parcel of real 95366
property in the county that is owned by a person, municipal 95367
corporation, township, or other political subdivision and is 95368
improved, or is in the process of being improved, reasonable 95369
charges to be paid by each such owner. The charges shall be 95370
sufficient to pay only the estimated allowed costs and shall be 95371
equal in amount for all such lots or parcels. 95372

(2) For the purpose of paying the costs of operating and 95373
maintaining the answering points and paying the expense of 95374
administering and enforcing this section, the board, in accordance 95375
with this section, may fix and impose reasonable charges to be 95376
paid by each owner, as provided in division (A)(1) of this 95377
section, that shall be sufficient to pay only the estimated 95378
allowed costs and shall be equal in amount for all such lots or 95379
parcels. The board may fix and impose charges under this division 95380
pursuant to a resolution adopted for the purposes of both 95381
divisions (A)(1) and (2) of this section or pursuant to a 95382
resolution adopted solely for the purpose of division (A)(2) of 95383
this section, and charges imposed under division (A)(2) of this 95384
section may be separately imposed or combined with charges imposed 95385
under division (A)(1) of this section. 95386

(B) Any board adopting a resolution under this section 95387
pursuant to a final plan initiating the establishment of a 9-1-1 95388
system or pursuant to an amendment to a final plan shall adopt the 95389
resolution within sixty days after the board receives the final 95390
plan for the 9-1-1 system pursuant to division (C) of section 95391

4931.43 of the Revised Code. The board by resolution may change 95392
any charge imposed under this section whenever the board considers 95393
it advisable. Any resolution adopted under this section shall 95394
declare whether securities will be issued under Chapter 133. of 95395
the Revised Code in anticipation of the collection of unpaid 95396
special assessments levied under this section. 95397

(C) The board shall adopt a resolution under this section at 95398
a public meeting held in accordance with section 121.22 of the 95399
Revised Code. Additionally, the board, before adopting any such 95400
resolution, shall hold at least two public hearings on the 95401
proposed charges. Prior to the first hearing, the board shall 95402
publish notice of the hearings once a week for two consecutive 95403
weeks in a newspaper of general circulation in the county or as 95404
provided in section 7.16 of the Revised Code. The notice shall 95405
include a listing of the charges proposed in the resolution and 95406
the date, time, and location of each of the hearings. The board 95407
shall hear any person who wishes to testify on the charges or the 95408
resolution. 95409

(D) No resolution adopted under this section shall be 95410
effective sooner than thirty days following its adoption nor shall 95411
any such resolution be adopted as an emergency measure. The 95412
resolution is subject to a referendum in accordance with sections 95413
305.31 to 305.41 of the Revised Code unless, in the resolution, 95414
the board of county commissioners directs the board of elections 95415
of the county to submit the question of imposing the charges to 95416
the electors of the county at the next primary or general election 95417
in the county occurring not less than ninety days after the 95418
resolution is certified to the board. No resolution shall go into 95419
effect unless approved by a majority of those voting upon it in 95420
any election allowed under this division. 95421

(E) To collect charges imposed under division (A) of this 95422
section, the board of county commissioners shall certify them to 95423

the county auditor of the county who then shall place them upon 95424
the real property duplicate against the properties to be assessed, 95425
as provided in division (A) of this section. Each assessment shall 95426
bear interest at the same rate that securities issued in 95427
anticipation of the collection of the assessments bear, is a lien 95428
on the property assessed from the date placed upon the real 95429
property duplicate by the auditor, and shall be collected in the 95430
same manner as other taxes. 95431

(F) All money collected by or on behalf of a county under 95432
this section shall be paid to the county treasurer of the county 95433
and kept in a separate and distinct fund to the credit of the 95434
county. The fund shall be used to pay the costs allowed in 95435
division (A) of this section and specified in the resolution 95436
adopted under that division. In no case shall any surplus so 95437
collected be expended for other than the use and benefit of the 95438
county. 95439

Sec. 4931.52. (A) This section applies only to a county that 95440
meets both of the following conditions: 95441

(1) A final plan for a countywide 9-1-1 system either has not 95442
been approved in the county under section 4931.44 of the Revised 95443
Code or has been approved but has not been put into operation 95444
because of a lack of funding; 95445

(2) The board of county commissioners, at least once, has 95446
submitted to the electors of the county the question of raising 95447
funds for a 9-1-1 system under section 4931.51, 5705.19, or 95448
5739.026 of the Revised Code, and a majority of the electors has 95449
disapproved the question each time it was submitted. 95450

(B) A board of county commissioners may adopt a resolution 95451
imposing a monthly charge on telephone access lines to pay for the 95452
equipment costs of establishing and maintaining no more than three 95453
public safety answering points of a countywide 9-1-1 system, which 95454

public safety answering points shall be only twenty-four-hour 95455
dispatching points already existing in the county. The resolution 95456
shall state the amount of the charge, which shall not exceed fifty 95457
cents per month, and the month the charge will first be imposed, 95458
which shall be no earlier than four months after the special 95459
election held pursuant to this section. Each residential and 95460
business telephone company customer within the area served by the 95461
9-1-1 system shall pay the monthly charge for each of its 95462
residential or business customer access lines or their equivalent. 95463

Before adopting a resolution under this division, the board 95464
of county commissioners shall hold at least two public hearings on 95465
the proposed charge. Before the first hearing, the board shall 95466
publish notice of the hearings once a week for two consecutive 95467
weeks in a newspaper of general circulation in the county or as 95468
provided in section 7.16 of the Revised Code. The notice shall 95469
state the amount of the proposed charge, an explanation of the 95470
necessity for the charge, and the date, time, and location of each 95471
of the hearings. 95472

(C) A resolution adopted under division (B) of this section 95473
shall direct the board of elections to submit the question of 95474
imposing the charge to the electors of the county at a special 95475
election on the day of the next primary or general election in the 95476
county. The board of county commissioners shall certify a copy of 95477
the resolution to the board of elections not less than ninety days 95478
before the day of the special election. No resolution adopted 95479
under division (B) of this section shall take effect unless 95480
approved by a majority of the electors voting upon the resolution 95481
at an election held pursuant to this section. 95482

In any year, the board of county commissioners may impose a 95483
lesser charge than the amount originally approved by the electors. 95484
The board may change the amount of the charge no more than once a 95485
year. The board may not impose a charge greater than the amount 95486

approved by the electors without first holding an election on the 95487
question of the greater charge. 95488

(D) Money raised from a monthly charge on telephone access 95489
lines under this section shall be deposited into a special fund 95490
created in the county treasury by the board of county 95491
commissioners pursuant to section 5705.12 of the Revised Code, to 95492
be used only for the necessary equipment costs of establishing and 95493
maintaining no more than three public safety answering points of a 95494
countywide 9-1-1 system pursuant to a resolution adopted under 95495
division (B) of this section. In complying with this division, any 95496
county may seek the assistance of the public utilities commission 95497
with regard to operating and maintaining a 9-1-1 system. 95498

(E) Pursuant to the voter approval required by division (C) 95499
of this section, the final plan for a countywide 9-1-1 system that 95500
will be funded through a monthly charge imposed in accordance with 95501
this section shall be amended by the existing 9-1-1 planning 95502
committee, and the amendment of such a final plan is not an 95503
amendment of a final plan for the purpose of division (A) of 95504
section 4931.45 of the Revised Code. 95505

Sec. 4931.53. (A) This section applies only to a county that 95506
has a final plan for a countywide 9-1-1 system that either has not 95507
been approved in the county under section 4931.44 of the Revised 95508
Code or has been approved but has not been put into operation 95509
because of a lack of funding. 95510

(B) A board of county commissioners may adopt a resolution 95511
imposing a monthly charge on telephone access lines to pay for the 95512
operating and equipment costs of establishing and maintaining no 95513
more than one public safety answering point of a countywide 9-1-1 95514
system. The resolution shall state the amount of the charge, which 95515
shall not exceed fifty cents per month, and the month the charge 95516
will first be imposed, which shall be no earlier than four months 95517

after the special election held pursuant to this section. Each 95518
residential and business telephone company customer within the 95519
area of the county served by the 9-1-1 system shall pay the 95520
monthly charge for each of its residential or business customer 95521
access lines or their equivalent. 95522

Before adopting a resolution under this division, the board 95523
of county commissioners shall hold at least two public hearings on 95524
the proposed charge. Before the first hearing, the board shall 95525
publish notice of the hearings once a week for two consecutive 95526
weeks in a newspaper of general circulation in the county or as 95527
provided in section 7.16 of the Revised Code. The notice shall 95528
state the amount of the proposed charge, an explanation of the 95529
necessity for the charge, and the date, time, and location of each 95530
of the hearings. 95531

(C) A resolution adopted under division (B) of this section 95532
shall direct the board of elections to submit the question of 95533
imposing the charge to the electors of the county at a special 95534
election on the day of the next primary or general election in the 95535
county. The board of county commissioners shall certify a copy of 95536
the resolution to the board of elections not less than ninety days 95537
before the day of the special election. No resolution adopted 95538
under division (B) of this section shall take effect unless 95539
approved by a majority of the electors voting upon the resolution 95540
at an election held pursuant to this section. 95541

In any year, the board of county commissioners may impose a 95542
lesser charge than the amount originally approved by the electors. 95543
The board may change the amount of the charge no more than once a 95544
year. The board shall not impose a charge greater than the amount 95545
approved by the electors without first holding an election on the 95546
question of the greater charge. 95547

(D) Money raised from a monthly charge on telephone access 95548
lines under this section shall be deposited into a special fund 95549

created in the county treasury by the board of county 95550
commissioners pursuant to section 5705.12 of the Revised Code, to 95551
be used only for the necessary operating and equipment costs of 95552
establishing and maintaining no more than one public safety 95553
answering point of a countywide 9-1-1 system pursuant to a 95554
resolution adopted under division (B) of this section. In 95555
complying with this division, any county may seek the assistance 95556
of the public utilities commission with regard to operating and 95557
maintaining a 9-1-1 system. 95558

(E) Nothing in sections 4931.40 to 4931.53 of the Revised 95559
Code precludes a final plan adopted in accordance with those 95560
sections from being amended to provide that, by agreement included 95561
in the plan, a public safety answering point of another countywide 95562
9-1-1 system is the public safety answering point of a countywide 95563
9-1-1 system funded through a monthly charge imposed in accordance 95564
with this section. In that event, the county for which the public 95565
safety answering point is provided shall be deemed the subdivision 95566
operating the public safety answering point for purposes of 95567
sections 4931.40 to 4931.53 of the Revised Code, except that, for 95568
the purpose of division (D) of section 4931.41 of the Revised 95569
Code, the county shall pay only so much of the costs associated 95570
with establishing, equipping, furnishing, operating, or 95571
maintaining the public safety answering point specified in the 95572
agreement included in the final plan. 95573

(F) Pursuant to the voter approval required by division (C) 95574
of this section, the final plan for a countywide 9-1-1 system that 95575
will be funded through a monthly charge imposed in accordance with 95576
this section, or that will be amended to include an agreement 95577
described in division (E) of this section, shall be amended by the 95578
existing 9-1-1 planning committee, and the amendment of such a 95579
final plan is not an amendment of a final plan for the purpose of 95580
division (A) of section 4931.45 of the Revised Code. 95581

Sec. 5101.16. (A) As used in this section and sections	95582
5101.161 and 5101.162 of the Revised Code:	95583
(1) "Disability financial assistance" means the financial	95584
assistance program established under Chapter 5115. of the Revised	95585
Code.	95586
(2) " Supplemental nutrition assistance program" means the	95587
program administered by the department of job and family services	95588
pursuant to section 5101.54 of the Revised Code.	95589
(3) "Medicaid" means the medical assistance program	95590
established by Chapter 5111. of the Revised Code, excluding	95591
transportation services provided under that chapter.	95592
(4) "Ohio works first" means the program established by	95593
Chapter 5107. of the Revised Code.	95594
(5) "Prevention, retention, and contingency" means the	95595
program established by Chapter 5108. of the Revised Code.	95596
(6) "Public assistance expenditures" means expenditures for	95597
all of the following:	95598
(a) Ohio works first;	95599
(b) County administration of Ohio works first;	95600
(c) Prevention, retention, and contingency;	95601
(d) County administration of prevention, retention, and	95602
contingency;	95603
(e) Disability financial assistance;	95604
(f) County administration of disability financial assistance;	95605
(g) County administration of the supplemental nutrition	95606
assistance program;	95607
(h) County administration of medicaid.	95608
(7) "Title IV-A program" has the same meaning as in section	95609

5101.80 of the Revised Code. 95610

(B) Each board of county commissioners shall pay the county 95611
share of public assistance expenditures in accordance with section 95612
5101.161 of the Revised Code. Except as provided in division (C) 95613
of this section, a county's share of public assistance 95614
expenditures is the sum of all of the following for state fiscal 95615
year 1998 and each state fiscal year thereafter: 95616

(1) The amount that is twenty-five per cent of the county's 95617
total expenditures for disability financial assistance and county 95618
administration of that program during the state fiscal year ending 95619
in the previous calendar year that the department of job and 95620
family services determines are allowable. 95621

(2) The amount that is ten per cent, or other percentage 95622
determined under division (D) of this section, of the county's 95623
total expenditures for county administration of the supplemental 95624
nutrition assistance program and medicaid during the state fiscal 95625
year ending in the previous calendar year that the department 95626
determines are allowable, less the amount of federal reimbursement 95627
credited to the county under division (E) of this section for the 95628
state fiscal year ending in the previous calendar year; 95629

(3) A percentage of the actual amount of the county share of 95630
program and administrative expenditures during federal fiscal year 95631
1994 for assistance and services, other than child care, provided 95632
under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 95633
620 (1935), 42 U.S.C. 301, as those titles existed prior to the 95634
enactment of the "Personal Responsibility and Work Opportunity 95635
Reconciliation Act of 1996," 110 Stat. 2105. The department of job 95636
and family services shall determine the actual amount of the 95637
county share from expenditure reports submitted to the United 95638
States department of health and human services. The percentage 95639
shall be the percentage established in rules adopted under 95640
division (F) of this section. 95641

(C)(1) If a county's share of public assistance expenditures 95642
determined under division (B) of this section for a state fiscal 95643
year exceeds one hundred ~~ten~~ five per cent of the county's share 95644
for those expenditures for the immediately preceding state fiscal 95645
year, the department of job and family services shall reduce the 95646
county's share for expenditures under divisions (B)(1) and (2) of 95647
this section so that the total of the county's share for 95648
expenditures under division (B) of this section equals one hundred 95649
~~ten~~ five per cent of the county's share of those expenditures for 95650
the immediately preceding state fiscal year. 95651

(2) A county's share of public assistance expenditures 95652
determined under division (B) of this section may be increased 95653
pursuant to section 5101.163 of the Revised Code and a sanction 95654
under section 5101.24 of the Revised Code. An increase made 95655
pursuant to section 5101.163 of the Revised Code may cause the 95656
county's share to exceed the limit established by division (C)(1) 95657
of this section. 95658

(D)(1) If the per capita tax duplicate of a county is less 95659
than the per capita tax duplicate of the state as a whole and 95660
division (D)(2) of this section does not apply to the county, the 95661
percentage to be used for the purpose of division (B)(2) of this 95662
section is the product of ten multiplied by a fraction of which 95663
the numerator is the per capita tax duplicate of the county and 95664
the denominator is the per capita tax duplicate of the state as a 95665
whole. The department of job and family services shall compute the 95666
per capita tax duplicate for the state and for each county by 95667
dividing the tax duplicate for the most recent available year by 95668
the current estimate of population prepared by the department of 95669
development. 95670

(2) If the percentage of families in a county with an annual 95671
income of less than three thousand dollars is greater than the 95672
percentage of such families in the state and division (D)(1) of 95673

this section does not apply to the county, the percentage to be 95674
used for the purpose of division (B)(2) of this section is the 95675
product of ten multiplied by a fraction of which the numerator is 95676
the percentage of families in the state with an annual income of 95677
less than three thousand dollars a year and the denominator is the 95678
percentage of such families in the county. The department of job 95679
and family services shall compute the percentage of families with 95680
an annual income of less than three thousand dollars for the state 95681
and for each county by multiplying the most recent estimate of 95682
such families published by the department of development, by a 95683
fraction, the numerator of which is the estimate of average annual 95684
personal income published by the bureau of economic analysis of 95685
the United States department of commerce for the year on which the 95686
census estimate is based and the denominator of which is the most 95687
recent such estimate published by the bureau. 95688

(3) If the per capita tax duplicate of a county is less than 95689
the per capita tax duplicate of the state as a whole and the 95690
percentage of families in the county with an annual income of less 95691
than three thousand dollars is greater than the percentage of such 95692
families in the state, the percentage to be used for the purpose 95693
of division (B)(2) of this section shall be determined as follows: 95694

(a) Multiply ten by the fraction determined under division 95695
(D)(1) of this section; 95696

(b) Multiply the product determined under division (D)(3)(a) 95697
of this section by the fraction determined under division (D)(2) 95698
of this section. 95699

(4) The department of job and family services shall 95700
determine, for each county, the percentage to be used for the 95701
purpose of division (B)(2) of this section not later than the 95702
first day of July of the year preceding the state fiscal year for 95703
which the percentage is used. 95704

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of the supplemental nutrition assistance program and medicaid that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

(a) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(b) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

(c) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

(d) The percentage to be used for the purpose of division (B)(3) of this section, which shall, except as provided in section 5101.163 of the Revised Code, meet both of the following requirements:

(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent;

(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7).

(e) Other procedures and requirements necessary to implement

this section. 95735

(2) The director of job and family services may amend the 95736
rule adopted under division (F)(1)(d) of this section to modify 95737
the percentage on determination that the amount the general 95738
assembly appropriates for Title IV-A programs makes the 95739
modification necessary. The rule shall be adopted and amended as 95740
if an internal management rule and in consultation with the 95741
director of budget and management. 95742

Sec. 5101.181. (A) As used in this section and section 95743
5101.182 of the Revised Code, ~~"public:~~ 95744

~~(1) "Public assistance" includes, in addition to Ohio works~~ 95745
~~first,~~ means any or all of the following: 95746

~~(1)(a)~~ Ohio works first; 95747

(b) Prevention, retention, and contingency; 95748

~~(2) Medicaid;~~ 95749

~~(3)(c)~~ Disability financial assistance; 95750

~~(4)(d)~~ General assistance provided prior to July 17, 1995, 95751
under former Chapter 5113. of the Revised Code. 95752

(2) "Medical assistance" means medical assistance provided 95753
pursuant to, or under programs established by, section 5101.49, 95754
sections 5101.50 to 5101.529, Chapter 5111., or any other 95755
provision of the Revised Code. 95756

(B) As part of the procedure for the determination of 95757
overpayment to a recipient of public assistance under Chapter 95758
5107., 5108., ~~5111.,~~ or 5115. of the Revised Code, the director of 95759
job and family services ~~shall~~ may furnish quarterly the name and 95760
social security number of each individual who receives public 95761
assistance to the director of administrative services, the 95762
administrator of the bureau of workers' compensation, and each of 95763

the state's retirement boards. Within fourteen days after 95764
receiving the name and social security number of an individual who 95765
receives public assistance, the director of administrative 95766
services, administrator, or board shall inform the auditor of 95767
state as to whether such individual is receiving wages or 95768
benefits, the amount of any wages or benefits being received, the 95769
social security number, and the address of the individual. The 95770
director of administrative services, administrator, boards, and 95771
any agent or employee of those officials and boards shall comply 95772
with the rules of the director of job and family services 95773
restricting the disclosure of information regarding recipients of 95774
public assistance. Any person who violates this provision shall 95775
thereafter be disqualified from acting as an agent or employee or 95776
in any other capacity under appointment or employment of any state 95777
board, commission, or agency. 95778

(C) The auditor of state may enter into a reciprocal 95779
agreement with the director of job and family services or 95780
comparable officer of any other state for the exchange of names, 95781
current or most recent addresses, or social security numbers of 95782
persons receiving public assistance under Title IV-A ~~or under~~ 95783
~~Title XIX~~ of the "Social Security Act," 49 Stat. 620 (1935), 42 95784
U.S.C. 301, as amended. 95785

(D)~~(1)~~ The auditor of state shall retain, for not less than 95786
two years, at least one copy of all information received under 95787
this section and sections 145.27, 742.41, 3307.20, 3309.22, 95788
4123.27, 5101.182, and 5505.04 of the Revised Code. ~~The~~ 95789

(E) On the request of the director of job and family 95790
services, the auditor of state may conduct an audit of an 95791
individual who receives medical assistance. If the auditor decides 95792
to conduct an audit, the auditor shall enter into an interagency 95793
agreement with the department of job and family services that 95794
specifies that the auditor agrees to comply with section 5101.271 95795

of the Revised Code with respect to any information the auditor receives pursuant to the audit. 95796
95797

(F) The auditor shall review the information described in division (D) of this section 95798
to determine whether overpayments 95799
were made to recipients of public assistance under Chapters 5107., 95800
5108., ~~5111.~~, and 5115. of the Revised Code. The auditor of state 95801
shall initiate action leading to prosecution, where warranted, of 95802
recipients who received overpayments by forwarding the name of 95803
each recipient who received overpayment, together with other 95804
pertinent information, to the director of job and family services 95805
~~and, the attorney general, to the district director of job and~~ 95806
~~family services of the district through which public assistance~~ 95807
~~was received,~~ and ~~to~~ the county director of job and family 95808
services and county prosecutor of the county through which public 95809
assistance was received. 95810

~~(2)~~(G) The auditor of state and the attorney general or their 95811
designees may examine any records, whether in computer or printed 95812
format, in the possession of the director of job and family 95813
services or any county director of job and family services. They 95814
shall provide safeguards which restrict access to such records to 95815
purposes directly connected with an audit or investigation, 95816
prosecution, or criminal or civil proceeding conducted in 95817
connection with the administration of the programs and shall 95818
comply with ~~the~~ sections 5101.27 and 5101.271 of the Revised Code 95819
and adopts rules of the director of job and family services 95820
restricting the disclosure of information regarding recipients of 95821
public assistance or medical assistance. Any person who violates 95822
this provision shall thereafter be disqualified from acting as an 95823
agent or employee or in any other capacity under appointment or 95824
employment of any state board, commission, or agency. 95825

~~(3)~~(H) Costs incurred by the auditor of state in carrying out 95826
the auditor of state's duties under this ~~division~~ section shall be 95827

borne by the auditor of state. 95828

Sec. 5101.182. As part of the procedure for the determination 95829
of overpayment to a recipient of public assistance ~~under Chapter~~ 95830
~~5107., 5111., or 5115.~~ pursuant to section 5101.181 of the Revised 95831
Code, the director of job and family services ~~shall~~ may 95832
semiannually, at times determined jointly by the auditor of state 95833
and the tax commissioner, furnish to the tax commissioner in 95834
computer format the name and social security number of each 95835
individual who receives public assistance. Within sixty days after 95836
receiving the name and social security number of a recipient of 95837
public assistance, the commissioner shall inform the auditor of 95838
state whether the individual filed an Ohio individual income tax 95839
return, separate or joint, as provided by section 5747.08 of the 95840
Revised Code, for either or both of the two taxable years 95841
preceding the year in which the director furnished the names and 95842
social security numbers to the commissioner. If the individual did 95843
so file, at the same time the commissioner shall also inform the 95844
auditor of state of the amount of the federal adjusted gross 95845
income as reported on such returns and of the addresses on such 95846
returns. The commissioner shall also advise the auditor of state 95847
whether such returns were filed on a joint basis, as provided in 95848
section 5747.08 of the Revised Code, in which case the federal 95849
adjusted gross income as reported may be that of the individual or 95850
the individual's spouse. 95851

If the auditor of state determines that further investigation 95852
is needed, the auditor of state may request the commissioner to 95853
determine whether the individual filed income tax returns for any 95854
previous taxable years in which the individual received public 95855
assistance and for which the tax department retains income tax 95856
returns. Within fourteen days of receipt of the request, the 95857
commissioner shall inform the auditor of state whether the 95858
individual filed an individual income tax return for the taxable 95859

years in question, of the amount of the federal adjusted gross 95860
income as reported on such returns, of the addresses on such 95861
returns, and whether the returns were filed on a joint or separate 95862
basis. 95863

If the auditor of state determines that further investigation 95864
is needed of a recipient of public assistance who filed an Ohio 95865
individual income tax return, the auditor of state may request a 95866
certified copy of the Ohio individual income tax return or returns 95867
of that person for the taxable years described above, together 95868
with any other documents the commissioner has concerning the 95869
return or returns. Within fourteen days of receipt of such a 95870
request in writing, the commissioner shall forward the returns and 95871
documents to the auditor of state. 95872

The director of job and family services, ~~district director of~~ 95873
~~job and family services~~, county director of job and family 95874
services, county prosecutor, attorney general, auditor of state, 95875
or any agent or employee of those officials having access to any 95876
information or documents furnished by the commissioner pursuant to 95877
this section shall not divulge or use any such information except 95878
for the purpose of determining overpayment of public assistance, 95879
or for an audit, investigation, or prosecution, or in accordance 95880
with a proper judicial order. Any person who violates this 95881
provision shall thereafter be disqualified from acting as an agent 95882
or employee or in any other capacity under appointment or 95883
employment of any state or county board, commission, or agency. 95884

Sec. 5101.183. (A) The Except as provided in section 5111.12 95885
of the Revised Code, the director of job and family services, in 95886
accordance with section 111.15 of the Revised Code, may adopt 95887
rules under which county ~~departments of job and~~ family services ~~or~~ 95888
~~public children services~~ agencies shall take action to recover the 95889
cost of ~~social~~ the following benefits and services: 95890

(1) Benefits or services provided to any of the following: 95891

~~(1)(a)~~ Persons who were not eligible for ~~social~~ the benefits 95892
or services but who secured ~~social~~ the benefits or services 95893
through fraud or misrepresentation; 95894

~~(2)(b)~~ Persons who were eligible for ~~social~~ the benefits or 95895
services but who intentionally diverted the benefits or services 95896
to other persons who were not eligible for the benefits or 95897
services. 95898

(2) Any benefits or services provided by a county family 95899
services agency for which recovery is required or permitted by 95900
federal law for the federal programs administered by the agency. 95901

(B) A county ~~department of job and family services or public~~ 95902
~~children services~~ agency may bring a civil action against a 95903
recipient of ~~social~~ benefits or services to recover any costs 95904
described in division (A) of this section. 95905

(C) A county ~~department of job and family services or public~~ 95906
~~children services~~ agency shall retain any money it recovers under 95907
division (A) of this section and shall use the money ~~for the~~ 95908
~~provision of social~~ to meet a family services duty, except that, 95909
if federal law requires the department of job and family services 95910
to return any portion of the money so recovered to the federal 95911
government, the county ~~department or~~ family services agency shall 95912
pay that portion to the department of job and family services. 95913

Sec. 5101.244. (A) If the department of job and family 95914
services determines that a grant awarded to a county grantee in a 95915
grant agreement entered into under section 5101.21 of the Revised 95916
Code, an allocation, advance, or reimbursement the department 95917
makes to a county family services agency, or a cash draw a county 95918
family services agency makes exceeds the allowable amount for the 95919
grant, allocation, advance, reimbursement, or cash draw, the 95920

department may ~~adjust~~ take one or more of the following actions to 95921
recover the excess amount: 95922

(1) The department may adjust, offset, withhold, or reduce an 95923
allocation, cash draw, advance, reimbursement, or other financial 95924
assistance to the county grantee or county family services agency 95925
as necessary to recover the excess amount ~~of the excess grant,~~ 95926
~~allocation, advance, reimbursement, or cash draw.~~ 95927

(2) The department may enter into an agreement with the 95928
county grantee or county family services agency for repayment of 95929
the excess amount by the grantee or agency. The department may 95930
require that the repayment include interest on the excess amount, 95931
calculated from the day that the excess occurred at a rate not 95932
exceeding the rate per annum prescribed by section 5703.47 of the 95933
Revised Code. 95934

(3) The department may certify a claim to the attorney 95935
general under section 131.02 of the Revised Code for the attorney 95936
general to take action under that section against the county 95937
grantee or county family services agency to recover the excess 95938
amount. The 95939

(B) In taking an action authorized under this section, the 95940
department is not required to ~~make the adjustment, offset,~~ 95941
~~withholding, or reduction~~ take the action in accordance with 95942
section 5101.24 of the Revised Code. 95943

(C) The director of job and family services may adopt rules 95944
under section 111.15 of the Revised Code as necessary to implement 95945
this section. The director shall adopt the rules as if they were 95946
internal management rules. 95947

Sec. 5101.26. As used in this section and in sections 5101.27 95948
to 5101.30 of the Revised Code: 95949

(A) "County agency" means a county department of job and 95950

family services or a public children services agency. 95951

(B) "Fugitive felon" means an individual who is fleeing to 95952
avoid prosecution, or custody or confinement after conviction, 95953
under the laws of the place from which the individual is fleeing, 95954
for a crime or an attempt to commit a crime that is a felony under 95955
the laws of the place from which the individual is fleeing or, in 95956
the case of New Jersey, a high misdemeanor, regardless of whether 95957
the individual has departed from the individual's usual place of 95958
residence. 95959

(C) "Information" means records as defined in section 149.011 95960
of the Revised Code, any other documents in any format, and data 95961
derived from records and documents that are generated, acquired, 95962
or maintained by the department of job and family services, a 95963
county agency, or an entity performing duties on behalf of the 95964
department or a county agency. 95965

(D) "Law enforcement agency" means the state highway patrol, 95966
an agency that employs peace officers as defined in section 109.71 95967
of the Revised Code, the adult parole authority, a county 95968
department of probation, a prosecuting attorney, the attorney 95969
general, similar agencies of other states, federal law enforcement 95970
agencies, and postal inspectors. "Law enforcement agency" includes 95971
the peace officers and other law enforcement officers employed by 95972
the agency. 95973

(E) "Medical assistance ~~provided under a public assistance~~ 95974
~~program~~" means medical assistance provided pursuant to, or under 95975
~~the~~ programs established ~~under sections~~ by, section 5101.49, 95976
sections 5101.50, ~~5101.51, 5101.52, and 5101.5211 to 5101.5216 to~~ 95977
5101.529, Chapter 5111., or any other provision of the Revised 95978
Code. 95979

(F) "Medical assistance recipient" means an applicant for or 95980
recipient or former recipient of medical assistance. 95981

(G) "Public assistance" means financial assistance, ~~medical~~ 95982
~~assistance,~~ or social services that are not medical assistance 95983
provided under a program administered by the department of job and 95984
family services or a county agency pursuant to Chapter 329., 95985
5101., 5104., 5107., 5108., ~~5111.7~~, or 5115. of the Revised Code or 95986
an executive order issued under section 107.17 of the Revised 95987
Code. 95988

~~(G)~~(H) "Public assistance recipient" means an applicant for 95989
or recipient or former recipient of public assistance. 95990

Sec. 5101.27. (A) Except as permitted by this section, 95991
section ~~5101.272~~ 5101.273, 5101.28, or 5101.29 of the Revised 95992
Code, or the rules adopted under ~~division (A)~~ of section 5101.30 95993
of the Revised Code, or when required by federal law, no person or 95994
government entity shall solicit, disclose, receive, use, or 95995
knowingly permit, or participate in the use of any information 95996
regarding a public assistance recipient for any purpose not 95997
directly connected with the administration of a public assistance 95998
program. 95999

(B) To the extent permitted by federal law, the department of 96000
job and family services and county agencies shall do all of the 96001
following: 96002

(1) Release information regarding a public assistance 96003
recipient for purposes directly connected to the administration of 96004
the program to a government entity responsible for administering 96005
that public assistance program; 96006

(2) Provide information regarding a public assistance 96007
recipient to a law enforcement agency for the purpose of any 96008
investigation, prosecution, or criminal or civil proceeding 96009
relating to the administration of that public assistance program; 96010

(3) Provide, for purposes directly connected to the 96011

administration of a program that assists needy individuals with 96012
the costs of public utility services, information regarding a 96013
recipient of financial assistance provided under a program 96014
administered by the department or a county agency pursuant to 96015
Chapter 5107. or 5108. of the Revised Code or sections 5115.01 to 96016
5115.07 of the Revised Code to an entity administering the public 96017
utility services program. 96018

(C) To the extent permitted by federal law and section 96019
1347.08 of the Revised Code, the department and county agencies 96020
shall provide access to information regarding a public assistance 96021
recipient to all of the following: 96022

(1) The recipient; 96023

(2) The authorized representative; 96024

(3) The legal guardian of the recipient; 96025

(4) The attorney of the recipient, if the attorney has 96026
written authorization that complies with section ~~5101.271~~ 5101.272 96027
of the Revised Code from the recipient. 96028

(D) To the extent permitted by federal law and subject to 96029
division (E) of this section, the department and county agencies 96030
may do both of the following: 96031

(1) Release information about a public assistance recipient 96032
if the recipient gives voluntary, written authorization that 96033
complies with section ~~5101.271~~ 5101.272 of the Revised Code; 96034

(2) Release information regarding a public assistance 96035
recipient to a state, federal, or federally assisted program that 96036
provides cash or in-kind assistance or services directly to 96037
individuals based on need or for the purpose of protecting 96038
children to a government entity responsible for administering a 96039
children's protective services program. 96040

(E) Except when the release is required by division (B), (C), 96041

or (D)(2) of this section, the department or county agency shall 96042
release the information only in accordance with the authorization. 96043
The department or county agency shall provide, at no cost, a copy 96044
of each written authorization to the individual who signed it. 96045

~~(F) The department or county agency may release information 96046
under division (D) of this section concerning the receipt of 96047
medical assistance provided under a public assistance program only 96048
if all of the following conditions are met: 96049~~

~~(1) The release of information is for purposes directly 96050
connected to the administration of or provision of medical 96051
assistance provided under a public assistance program; 96052~~

~~(2) The information is released to persons or government 96053
entities that are subject to standards of confidentiality and 96054
safeguarding information substantially comparable to those 96055
established for medical assistance provided under a public 96056
assistance program; 96057~~

~~(3) The department or county agency has obtained an 96058
authorization consistent with section 5101.271 of the Revised 96059
Code. 96060~~

~~(G) Information concerning the receipt of medical assistance 96061
provided under a public assistance program may be released only if 96062
the release complies with this section and rules adopted by the 96063
department pursuant to section 5101.30 of the Revised Code or, if 96064
more restrictive, the Health Insurance Portability and 96065
Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 96066
42 U.S.C. 1320d, et seq., as amended, and regulations adopted by 96067
the United States department of health and human services to 96068
implement the act. 96069~~

~~(H) The department of job and family services may adopt rules 96070
defining "authorized representative" for purposes of division 96071
(C)(2) of this section. 96072~~

Sec. 5101.271. (A) Except as permitted by this section, section 5101.273, or rules adopted under section 5101.30 of the Revised Code, or when required by federal law, no person or government entity shall use or disclose information regarding a medical assistance recipient for any purpose not directly connected with the administration of the medical assistance program. 96073
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(B) Both of the following shall be considered to be purposes directly connected with the administration of the medical assistance program: 96080
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(1) Treatment, payment, or other operations or activities authorized by 42 C.F.R. Chapter IV; 96083
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(2) Any administrative function or duty the department of job and family services performs alone or jointly with a federal government entity, another state government entity, or a local government entity implementing a provision of federal law. 96085
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(C) The department or a county agency may disclose information regarding a medical assistance recipient to any of the following: 96089
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(1) The recipient or the recipient's authorized representative; 96092
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(2) The recipient's legal guardian in accordance with division (C) of section 2111.13 of the Revised Code; 96094
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(3) The attorney of the recipient, if the department or county agency has obtained authorization from the recipient, the recipient's authorized representative, or the recipient's legal guardian that meets all requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d et seq., as amended, regulations promulgated by the United States department of health and human 96096
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services to implement the act, section 5101.272 of the Revised Code, and any rules the director of job and family services adopts under section 5101.30 of the Revised Code; 96103
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96105

(4) A health information or health records management entity that has executed with the department a business associate agreement required by 45 C.F.R 164.502(e)(2) and has been authorized by the recipient, the recipient's authorized representative, or the recipient's legal guardian to receive the recipient's electronic health records in accordance with rules the director of job and family services adopts under section 5101.30 of the Revised Code; 96106
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(5) A court if pursuant to a written order of the court. 96114

(D) The department may receive from county departments of job and family services information regarding any medical assistance recipient for purposes of training and verifying the accuracy of eligibility determinations for medical assistance. The department may assemble information received under this division into a report if the report is in a form specified by the department. Information received and assembled into a report under this division shall remain confidential and not be subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code. 96115
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(E) The department shall notify courts in this state regarding its authority, under division (C)(5) of this section, to disclose information regarding a medical assistance recipient pursuant to a written court order. 96125
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Sec. ~~5101.271~~ 5101.272. (A) For the purposes of ~~section~~ sections 5101.27 and 5101.271 of the Revised Code, an authorization shall be made on a form that uses language understandable to the average person and contains all of the following: 96129
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- (1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion; 96134
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- (2) The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure; 96137
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96139
- (3) The name or other specific identification of the person or governmental entity to which the information may be released; 96140
96141
- (4) A description of each purpose of the requested use or disclosure of the information; 96142
96143
- (5) The date on which the authorization expires or an event related either to the individual who is the subject of the request or to the purposes of the requested use or disclosure, the occurrence of which will cause the authorization to expire; 96144
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- (6) A statement that the information used or disclosed pursuant to the authorization may be disclosed by the recipient of the information and may no longer be protected from disclosure; 96148
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- (7) The signature of the individual or the individual's authorized representative and the date on which the authorization was signed; 96151
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- (8) If signed by an authorized representative, a description of the representative's authority to act for the individual; 96154
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- (9) A statement of the individual or authorized representative's right to prospectively revoke the written authorization in writing, along with one of the following: 96156
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- (a) A description of how the individual or authorized representative may revoke the authorization; 96159
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- (b) If the department of job and family services' privacy notice contains a description of how the individual or authorized representative may revoke the authorization, a reference to that 96161
96162
96163

privacy notice. 96164

(10) A statement that treatment, payment, enrollment, or 96165
eligibility for public assistance or medical assistance cannot be 96166
conditioned on signing the authorization unless the authorization 96167
is necessary for determining eligibility for the public assistance 96168
or medical assistance program. 96169

(B) An authorization for the release of information regarding 96170
a medical assistance recipient to the recipient's attorney under 96171
division (C)(3) of section 5101.271 of the Revised Code may 96172
include a provision specifically authorizing the release of the 96173
recipient's electronic health records, if any, in accordance with 96174
rules the director of job and family services adopts under section 96175
5101.30 of the Revised Code. 96176

(C) When an individual requests information pursuant to 96177
section 5101.27 or 5101.271 of the Revised Code regarding the 96178
individual's receipt of public assistance or medical assistance 96179
and does not wish to provide a statement of purpose, the statement 96180
"at request of the individual" is a sufficient description for 96181
purposes of division (A)(4) of this section. 96182

~~Sec. 5101.272 5101.273. Not later than August 31, 2007, the~~ 96183
~~director of job and family services shall submit a report to the~~ 96184
~~general assembly on the costs and potential three year cost~~ 96185
~~savings associated with participation in the~~ 96186
~~federally administered public assistance reporting information~~ 96187
~~system. If cost savings are indicated in the report, not later~~ 96188
~~than October 1, 2007, the~~ The department of job and family 96189
services shall enter into any necessary agreements with the United 96190
States department of health and human services and neighboring 96191
states to join and participate as an active member in the public 96192
assistance reporting information system. The department may 96193
disclose information regarding a public assistance recipient or 96194

medical assistance recipient to the extent necessary to 96195
participate as an active member in the public assistance reporting 96196
information system. 96197

Sec. 5101.28. (A)(1) On request of the department of job and 96198
family services or a county agency, a law enforcement agency shall 96199
provide information regarding public assistance recipients to 96200
enable the department or county agency to determine, for 96201
eligibility purposes, whether a recipient or a member of a 96202
recipient's assistance group is a fugitive felon or violating a 96203
condition of probation, a community control sanction, parole, or a 96204
post-release control sanction imposed under state or federal law. 96205

(2) A county agency may enter into a written agreement with a 96206
local law enforcement agency establishing procedures concerning 96207
access to information and providing for compliance with division 96208
(F) of this section. 96209

(B) To the extent permitted by federal law, the department 96210
and county agencies shall provide information, ~~except information~~ 96211
~~directly related to the receipt of medical assistance or medical~~ 96212
~~services,~~ regarding recipients of public assistance under a 96213
program administered by the state department or a county agency 96214
pursuant to Chapter 5107., 5108., or 5115. of the Revised Code to 96215
law enforcement agencies on request for the purposes of 96216
investigations, prosecutions, and criminal and civil proceedings 96217
that are within the scope of the law enforcement agencies' 96218
official duties. 96219

(C) Information about a public assistance recipient shall be 96220
exchanged, obtained, or shared only if the department, county 96221
agency, or law enforcement agency requesting the information gives 96222
sufficient information to specifically identify the recipient. In 96223
addition to the recipient's name, identifying information may 96224
include the recipient's current or last known address, social 96225

security number, other identifying number, age, gender, physical 96226
characteristics, any information specified in an agreement entered 96227
into under division (A) of this section, or any information 96228
considered appropriate by the department or agency. 96229

(D)(1) The department and its officers and employees are not 96230
liable in damages in a civil action for any injury, death, or loss 96231
to person or property that allegedly arises from the release of 96232
information in accordance with divisions (A), (B), and (C) of this 96233
section. This section does not affect any immunity or defense that 96234
the department and its officers and employees may be entitled to 96235
under another section of the Revised Code or the common law of 96236
this state, including section 9.86 of the Revised Code. 96237

(2) The county agencies and their employees are not liable in 96238
damages in a civil action for any injury, death, or loss to person 96239
or property that allegedly arises from the release of information 96240
in accordance with divisions (A), (B), and (C) of this section. 96241
"Employee" has the same meaning as in division (B) of section 96242
2744.01 of the Revised Code. This section does not affect any 96243
immunity or defense that the county agencies and their employees 96244
may be entitled to under another section of the Revised Code or 96245
the common law of this state, including section 2744.02 and 96246
division (A)(6) of section 2744.03 of the Revised Code. 96247

(E) To the extent permitted by federal law, the department 96248
and county agencies shall provide access to information to the 96249
auditor of state acting pursuant to Chapter 117. or sections 96250
5101.181 and 5101.182 of the Revised Code and to any other 96251
government entity authorized by federal law to conduct an audit 96252
of, or similar activity involving, a public assistance program. 96253

(F) The auditor of state shall prepare an annual report on 96254
the outcome of the agreements required under division (A) of this 96255
section. The report shall include the number of fugitive felons, 96256
probation and parole violators, and violators of community control 96257

sanctions and post-release control sanctions apprehended during 96258
the immediately preceding year as a result of the exchange of 96259
information pursuant to that division. The auditor of state shall 96260
file the report with the governor, the president and minority 96261
leader of the senate, and the speaker and minority leader of the 96262
house of representatives. The state department, county agencies, 96263
and law enforcement agencies shall cooperate with the auditor of 96264
state's office in gathering the information required under this 96265
division. 96266

(G) To the extent permitted by federal law, the department of 96267
job and family services, county departments of job and family 96268
services, and employees of the departments may report to a public 96269
children services agency or other appropriate agency information 96270
on known or suspected physical or mental injury, sexual abuse or 96271
exploitation, or negligent treatment or maltreatment, of a child 96272
receiving public assistance, if circumstances indicate that the 96273
child's health or welfare is threatened. 96274

(H) As used in this section: 96275

(1) "Community control sanction" has the same meaning as in 96276
section 2929.01 of the Revised Code. 96277

(2) "Post-release control sanction" has the same meaning as 96278
in section 2967.01 of the Revised Code. 96279

Sec. 5101.30. (A) The director of job and family services 96280
shall adopt rules in accordance with Chapter 119. of the Revised 96281
Code implementing sections 5101.26 to 5101.30 of the Revised Code 96282
and governing the custody, use, disclosure, and preservation of 96283
the information generated or received by the department of job and 96284
family services, county agencies, other state and county entities, 96285
contractors, grantees, private entities, or officials 96286
participating in the administration of public assistance or 96287
medical assistance programs. The rules shall comply with 96288

applicable federal statutes and regulations. The 96289

~~(1) The rules shall specify conditions and procedures for the~~ 96290
~~release of information. The rules shall comply with applicable~~ 96291
~~federal statutes and regulations. To the extent permitted by~~ 96292
~~federal law which may include, among other conditions and~~ 96293
~~procedures, both of the following:~~ 96294

~~(1) The rules may permit (a) Permitting~~ providers of services 96295
or assistance under public assistance programs limited access to 96296
information that is essential for the providers to render services 96297
or assistance or to bill for services or assistance rendered. The 96298
department of aging, when investigating a complaint under section 96299
173.20 of the Revised Code, shall be granted any limited access 96300
permitted in the rules pursuant to division (A)(1) of this 96301
section. 96302

~~(2) The rules may permit (b) Permitting~~ a contractor, 96303
grantee, or other state or county entity limited access to 96304
information that is essential for the contractor, grantee, or 96305
entity to perform administrative or other duties on behalf of the 96306
department or county agency. A contractor, grantee, or entity 96307
given access to information pursuant to division (A)(2) of this 96308
section is bound by the director's rules, and disclosure of the 96309
information by the contractor, grantee, or entity in a manner not 96310
authorized by the rules is a violation of section 5101.27 of the 96311
Revised Code. 96312

(2) The rules may define who is an "authorized 96313
representative" for purposes of sections 5101.27, 5101.271, and 96314
5101.272 of the Revised Code. 96315

(B) Whenever names, addresses, or other information relating 96316
to public assistance recipients is held by any agency other than 96317
the department or a county agency, that other agency shall adopt 96318
rules consistent with sections 5101.26 to 5101.30 of the Revised 96319

Code to prevent the publication or disclosure of names, lists, or 96320
other information concerning those recipients. 96321

Sec. 5101.35. (A) As used in this section: 96322

(1) "Agency" means the following entities that administer a 96323
family services program: 96324

(a) The department of job and family services; 96325

(b) A county department of job and family services; 96326

(c) A public children services agency; 96327

(d) A private or government entity administering, in whole or 96328
in part, a family services program for or on behalf of the 96329
department of job and family services or a county department of 96330
job and family services or public children services agency. 96331

(2) "Appellant" means an applicant, participant, former 96332
participant, recipient, or former recipient of a family services 96333
program who is entitled by federal or state law to a hearing 96334
regarding a decision or order of the agency that administers the 96335
program. 96336

(3) "Family services program" means assistance provided under 96337
a Title IV-A program as defined in section 5101.80 of the Revised 96338
Code or under Chapter 5104., 5111., or 5115. or section ~~473.35~~ 96339
5119.69, 5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 96340
5153.165 of the Revised Code, other than assistance provided under 96341
section 5101.46 of the Revised Code by the department of mental 96342
health, the department of developmental disabilities, a board of 96343
alcohol, drug addiction, and mental health services, or a county 96344
board of developmental disabilities. 96345

(B) Except as provided by divisions (G) and (H) of this 96346
section, an appellant who appeals under federal or state law a 96347
decision or order of an agency administering a family services 96348
program shall, at the appellant's request, be granted a state 96349

hearing by the department of job and family services. This state 96350
hearing shall be conducted in accordance with rules adopted under 96351
this section. The state hearing shall be recorded, but neither the 96352
recording nor a transcript of the recording shall be part of the 96353
official record of the proceeding. A state hearing decision is 96354
binding upon the agency and department, unless it is reversed or 96355
modified on appeal to the director of job and family services or a 96356
court of common pleas. 96357

(C) Except as provided by division (G) of this section, an 96358
appellant who disagrees with a state hearing decision may make an 96359
administrative appeal to the director of job and family services 96360
in accordance with rules adopted under this section. This 96361
administrative appeal does not require a hearing, but the director 96362
or the director's designee shall review the state hearing decision 96363
and previous administrative action and may affirm, modify, remand, 96364
or reverse the state hearing decision. Any person designated to 96365
make an administrative appeal decision on behalf of the director 96366
shall have been admitted to the practice of law in this state. An 96367
administrative appeal decision is the final decision of the 96368
department and is binding upon the department and agency, unless 96369
it is reversed or modified on appeal to the court of common pleas. 96370

(D) An agency shall comply with a decision issued pursuant to 96371
division (B) or (C) of this section within the time limits 96372
established by rules adopted under this section. If a county 96373
department of job and family services or a public children 96374
services agency fails to comply within these time limits, the 96375
department may take action pursuant to section 5101.24 of the 96376
Revised Code. If another agency fails to comply within the time 96377
limits, the department may force compliance by withholding funds 96378
due the agency or imposing another sanction established by rules 96379
adopted under this section. 96380

(E) An appellant who disagrees with an administrative appeal 96381

decision of the director of job and family services or the 96382
director's designee issued under division (C) of this section may 96383
appeal from the decision to the court of common pleas pursuant to 96384
section 119.12 of the Revised Code. The appeal shall be governed 96385
by section 119.12 of the Revised Code except that: 96386

(1) The person may appeal to the court of common pleas of the 96387
county in which the person resides, or to the court of common 96388
pleas of Franklin county if the person does not reside in this 96389
state. 96390

(2) The person may apply to the court for designation as an 96391
indigent and, if the court grants this application, the appellant 96392
shall not be required to furnish the costs of the appeal. 96393

(3) The appellant shall mail the notice of appeal to the 96394
department of job and family services and file notice of appeal 96395
with the court within thirty days after the department mails the 96396
administrative appeal decision to the appellant. For good cause 96397
shown, the court may extend the time for mailing and filing notice 96398
of appeal, but such time shall not exceed six months from the date 96399
the department mails the administrative appeal decision. Filing 96400
notice of appeal with the court shall be the only act necessary to 96401
vest jurisdiction in the court. 96402

(4) The department shall be required to file a transcript of 96403
the testimony of the state hearing with the court only if the 96404
court orders the department to file the transcript. The court 96405
shall make such an order only if it finds that the department and 96406
the appellant are unable to stipulate to the facts of the case and 96407
that the transcript is essential to a determination of the appeal. 96408
The department shall file the transcript not later than thirty 96409
days after the day such an order is issued. 96410

(F) The department of job and family services shall adopt 96411
rules in accordance with Chapter 119. of the Revised Code to 96412

implement this section, including rules governing the following: 96413

(1) State hearings under division (B) of this section. The 96414
rules shall include provisions regarding notice of eligibility 96415
termination and the opportunity of an appellant appealing a 96416
decision or order of a county department of job and family 96417
services to request a county conference with the county department 96418
before the state hearing is held. 96419

(2) Administrative appeals under division (C) of this 96420
section; 96421

(3) Time limits for complying with a decision issued under 96422
division (B) or (C) of this section; 96423

(4) Sanctions that may be applied against an agency under 96424
division (D) of this section. 96425

(G) The department of job and family services may adopt rules 96426
in accordance with Chapter 119. of the Revised Code establishing 96427
an appeals process for an appellant who appeals a decision or 96428
order regarding a Title IV-A program identified under division 96429
(A)(4)(c), (d), (e), or (f) of section 5101.80 of the Revised Code 96430
that is different from the appeals process established by this 96431
section. The different appeals process may include having a state 96432
agency that administers the Title IV-A program pursuant to an 96433
interagency agreement entered into under section 5101.801 of the 96434
Revised Code administer the appeals process. 96435

(H) If an appellant receiving medicaid through a health 96436
insuring corporation that holds a certificate of authority under 96437
Chapter 1751. of the Revised Code is appealing a denial of 96438
medicaid services based on lack of medical necessity or other 96439
clinical issues regarding coverage by the health insuring 96440
corporation, the person hearing the appeal may order an 96441
independent medical review if that person determines that a review 96442
is necessary. The review shall be performed by a health care 96443

professional with appropriate clinical expertise in treating the 96444
recipient's condition or disease. The department shall pay the 96445
costs associated with the review. 96446

A review ordered under this division shall be part of the 96447
record of the hearing and shall be given appropriate evidentiary 96448
consideration by the person hearing the appeal. 96449

(I) The requirements of Chapter 119. of the Revised Code 96450
apply to a state hearing or administrative appeal under this 96451
section only to the extent, if any, specifically provided by rules 96452
adopted under this section. 96453

Sec. 5101.37. (A) The department of job and family services 96454
and each county department of job and family services and child 96455
support enforcement agency may ~~make~~ conduct any audits or 96456
investigations that are necessary in the performance of their 96457
duties, and to that end they shall have the same power as a judge 96458
of a county court to administer oaths and to enforce the 96459
attendance and testimony of witnesses and the production of books 96460
or papers. 96461

The department and each county department and agency shall 96462
keep a record of their audits and investigations stating the time, 96463
place, charges, or subject, witnesses summoned and examined, and 96464
their conclusions. 96465

Witnesses shall be paid the fees and mileage provided for 96466
under section 119.094 of the Revised Code. 96467

(B) In conducting hearings pursuant to Chapters 3119., 3121., 96468
and 3123. or pursuant to division (B) of section 5101.35 of the 96469
Revised Code, the department and each child support enforcement 96470
agency have the same power as a judge of a county court to 96471
administer oaths and to enforce the attendance and testimony of 96472
witnesses and the production of books or papers. The department 96473

and each agency shall keep a record of those hearings stating the 96474
time, place, charges, or subject, witnesses summoned and 96475
examined, and their conclusions. 96476

The issuance of a subpoena by the department or a child 96477
support enforcement agency to enforce attendance and testimony of 96478
witnesses and the production of books or papers at a hearing is 96479
discretionary and the department or agency is not required to pay 96480
the fees of witnesses for attendance and travel. 96481

(C) Any judge of any division of the court of common pleas, 96482
upon application of the department or a county department or child 96483
support enforcement agency, may compel the attendance of 96484
witnesses, the production of books or papers, and the giving of 96485
testimony before the department, county department, or agency, by 96486
a judgment for contempt or otherwise, in the same manner as in 96487
cases before those courts. 96488

(D) Until an audit report is formally released by the 96489
department of job and family services, the audit report or any 96490
working paper or other document or record prepared by the 96491
department and related to the audit that is the subject of the 96492
audit report is not a public record under section 149.43 of the 96493
Revised Code. 96494

(E) The director of job and family services may adopt rules 96495
as necessary to implement this section. The rules shall be adopted 96496
in accordance with section 111.15 of the Revised Code as if they 96497
were internal management rules. 96498

Sec. 5101.46. (A) As used in this section: 96499

(1) "Title XX" means Title XX of the "Social Security Act," 96500
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 96501

(2) "Respective local agency" means, with respect to the 96502
department of job and family services, a county department of job 96503

and family services; with respect to the department of mental 96504
health, a board of alcohol, drug addiction, and mental health 96505
services; and with respect to the department of developmental 96506
disabilities, a county board of developmental disabilities. 96507

(3) "Federal poverty guidelines" means the poverty guidelines 96508
as revised annually by the United States department of health and 96509
human services in accordance with section 673(2) of the "Omnibus 96510
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 96511
9902, as amended, for a family size equal to the size of the 96512
family of the person whose income is being determined. 96513

(B) The departments of job and family services, mental 96514
health, and developmental disabilities, with their respective 96515
local agencies, shall administer the provision of social services 96516
funded through grants made under Title XX. The social services 96517
furnished with Title XX funds shall be directed at the following 96518
goals: 96519

(1) Achieving or maintaining economic self-support to 96520
prevent, reduce, or eliminate dependency; 96521

(2) Achieving or maintaining self-sufficiency, including 96522
reduction or prevention of dependency; 96523

(3) Preventing or remedying neglect, abuse, or exploitation 96524
of children and adults unable to protect their own interests, or 96525
preserving, rehabilitating, or reuniting families; 96526

(4) Preventing or reducing inappropriate institutional care 96527
by providing for community-based care, home-based care, or other 96528
forms of less intensive care; 96529

(5) Securing referral or admission for institutional care 96530
when other forms of care are not appropriate, or providing 96531
services to individuals in institutions. 96532

(C)(1) All federal funds received under Title XX shall be 96533

appropriated as follows: 96534

(a) Seventy-two and one-half per cent to the department of 96535
job and family services; 96536

(b) Twelve and ninety-three one-hundredths per cent to the 96537
department of mental health; 96538

(c) Fourteen and fifty-seven one-hundredths per cent to the 96539
department of developmental disabilities. 96540

(2) Each of the state department departments shall, subject 96541
to the approval of the controlling board, develop ~~formulas a~~ 96542
formula for the distribution of ~~their the~~ Title XX ~~appropriations~~ 96543
funds appropriated to the department to their its respective local 96544
agencies. The ~~formulas~~ formula developed by each state department 96545
shall take into account all of the following for each of its 96546
respective local agencies: 96547

(a) The total population of the area that is served by the 96548
respective local agency, ~~the;~~ 96549

(b) The percentage of the population in the area served that 96550
falls below the federal poverty guidelines, ~~and the;~~ 96551

(c) The respective local agency's history of and ability to 96552
utilize Title XX funds. 96553

(3) Each of the state departments shall expend ~~no~~ for state 96554
administrative costs not more than three per cent of ~~its the~~ Title 96555
XX ~~appropriation for state administrative costs~~ funds appropriated 96556
to the department. ~~Each of the department's respective local~~ 96557
~~agencies shall expend no more than fourteen per cent of its Title~~ 96558
~~XX appropriation~~ 96559

Each state department shall establish for each of its 96560
respective local agencies the maximum percentage of the Title XX 96561
funds distributed to the respective local agency that the 96562
respective local agency may expend for local administrative costs. 96563

The percentage shall be established by rule and shall comply with federal law governing the use of Title XX funds. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules. 96564
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(4) The department of job and family services shall expend ~~no~~ for the training of the following not more than two per cent of its the Title XX appropriation for the training of the following funds appropriated to the department: 96568
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(a) Employees of county departments of job and family services; 96572
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(b) Providers of services under contract with the state departments' respective local agencies; 96574
96575

(c) Employees of a public children services agency directly engaged in providing Title XX services. 96576
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(D) The department of job and family services shall prepare a biennial comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion. 96578
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For each state fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection. 96583
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The departments of mental health and developmental disabilities shall prepare and submit to the department of job and family services the portions of each biennial plan and annual report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of biennial plans and annual reports. 96587
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(E) Each county department shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or respective local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit

that are the responsibility of the provider. 96627

(G) The Except with respect to the matters for which each of 96628
the state departments must adopt rules under division (C)(3) of 96629
this section, the department of job and family services may adopt 96630
any rules it considers necessary to implement and carry out the 96631
purposes of this section. Rules governing financial and 96632
operational matters of the department or matters between the 96633
department and county departments of job and family services shall 96634
be adopted as internal management rules in accordance with section 96635
111.15 of the Revised Code. Rules governing eligibility for 96636
services, program participation, and other matters pertaining to 96637
applicants and participants shall be adopted in accordance with 96638
Chapter 119. of the Revised Code. 96639

Sec. 5101.47. (A) Except as provided in ~~division~~ divisions 96640
(B) and (C) of this section, the ~~director~~ department of job and 96641
family services may accept applications, determine eligibility, 96642
redetermine eligibility, and perform related administrative 96643
activities for one or more of the following: 96644

(1) The medicaid program established by Chapter 5111. of the 96645
Revised Code; 96646

(2) The children's health insurance program parts I, II, and 96647
III provided for under sections 5101.50, ~~5101.51, and 5101.52~~ to 96648
5101.529 of the Revised Code; 96649

(3) Publicly funded child care provided under Chapter 5104. 96650
of the Revised Code; 96651

(4) The supplemental nutrition assistance program 96652
administered by the department ~~of job and family services~~ pursuant 96653
to section 5101.54 of the Revised Code; 96654

(5) Other programs the director of job and family services 96655
determines are supportive of children, adults, or families; 96656

(6) Other programs regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities. 96657
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(B) To the extent permitted by federal law, the department may enter into agreements with one or more other state agencies, local government entities, or political subdivisions to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities on behalf of the department with respect to the medicaid program and the children's health insurance program. 96662
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(C) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services. 96669
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~~(C)~~(D) Subject to division ~~(B)~~(C) of this section, if the ~~director~~ department elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply: 96674
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(1) An individual seeking services under the program may apply for the program to the ~~director~~ department or to the entity that state law governing the program authorizes to accept applications for the program. 96679
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(2) The ~~director~~ department is subject to federal statutes and regulations and state statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program. 96683
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~~(D)~~(E) The director may adopt rules as necessary to implement this section. 96688
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Sec. 5101.50. (A) As used in sections 5101.50 to ~~5101.529~~ 5101.5210 of the Revised Code: 96690
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(1) "Children's health insurance program" means the program authorized by Title XXI of the "Social Security Act," 111 Stat. 552 (1997), 42 U.S.C.A. 1397aa. 96692
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(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code. 96695
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(3) "School-based health center" has the same meaning as in 42 U.S.C. 1397jj(c)(9). 96697
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(B) The director of job and family services may continue to operate the children's health insurance program initially authorized by an executive order issued under section 107.17 of the Revised Code as long as federal financial participation is available for the program. If operated, the program shall provide health assistance to uninsured individuals under nineteen years of age with family incomes not exceeding one hundred fifty per cent of the federal poverty guidelines. In accordance with 42 U.S.C.A. 1397aa, the director may provide for the health assistance to meet the requirements of 42 U.S.C.A. 1397cc, to be provided under the medicaid program established under Chapter 5111. of the Revised Code, or to be a combination of both. 96699
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Sec. 5101.504. Health assistance services that the children's health insurance program part I covers may be furnished through school-based health centers. Not later than July 1, 2012, the director of job and family services shall adopt rules under section 5101.502 of the Revised Code establishing billing, reimbursement, and data collection requirements for school-based health centers through which such health assistance services are 96711
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furnished. 96718

Sec. 5101.5110. Health assistance services that the 96719
children's health insurance program part II covers may be 96720
furnished through school-based health centers. Not later than July 96721
1, 2012, the director of job and family services shall adopt rules 96722
under section 5101.512 of the Revised Code establishing billing, 96723
reimbursement, and data collection requirements for school-based 96724
health centers through which such health assistance services are 96725
furnished. 96726

~~Sec. 5101.5110~~ 5101.5111. (A) The director of job and family 96727
services may submit a waiver request to the United States 96728
secretary of health and human services to provide health 96729
assistance to any individual who meets all of the following 96730
requirements: 96731

(1) Is the parent of a child under nineteen years of age who 96732
resides with the parent and is eligible for health assistance 96733
under the children's health insurance program part I or II or the 96734
medicaid program established under Chapter 5111. of the Revised 96735
Code; 96736

(2) Is uninsured; 96737

(3) Has a family income that does not exceed one hundred per 96738
cent of the federal poverty guidelines. 96739

(B) A waiver request the director submits under division (A) 96740
of this section may seek federal funds allotted to the state under 96741
Title XXI of the "Social Security Act," 111 Stat. 558 (1997), 42 96742
U.S.C.A. 1397dd, as amended, that are not otherwise used to fund 96743
the children's health insurance program parts I and II. 96744

(C) If a waiver request the director submits under division 96745
(A) of this section is granted, the director may adopt rules in 96746

accordance with Chapter 119. of the Revised Code as necessary for 96747
the efficient administration of the program authorization by the 96748
waiver. 96749

Sec. 5101.5210. Health assistance services that the 96750
children's health insurance program part III covers may be 96751
furnished through school-based health centers. Not later than July 96752
1, 2012, the director of job and family services shall adopt rules 96753
under section 5101.522 of the Revised Code establishing billing, 96754
reimbursement, and data collection requirements for school-based 96755
health centers through which such health assistance services are 96756
furnished. 96757

Sec. 5101.571. As used in sections 5101.571 to 5101.591 of 96758
the Revised Code: 96759

(A) "Information" means all of the following: 96760

(1) An individual's name, address, date of birth, and social 96761
security number; 96762

(2) The group or plan number, or other identifier, assigned 96763
by a third party to a policy held by an individual or a plan in 96764
which the individual participates and the nature of the coverage; 96765

(3) Any other data the director of job and family services 96766
specifies in rules adopted under section 5101.591 of the Revised 96767
Code. 96768

(B) "Medical assistance" means medical items or services 96769
provided under any of the following: 96770

(1) Medicaid, as defined in section 5111.01 of the Revised 96771
Code; 96772

(2) The children's health insurance program part I, part II, 96773
and part III established under sections 5101.50, 5101.51, and 96774
5101.52 of the Revised Code; 96775

~~(3) The children's buy in program established under sections 5101.5211 to 5101.5216 of the Revised Code.~~ 96776
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(C) "Medical support" means support specified as support for the purpose of medical care by order of a court or administrative agency. 96778
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(D) "Public assistance" means medical assistance or assistance under the Ohio works first program established under Chapter 5107. of the Revised Code. 96781
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(E)(1) Subject to division (E)(2) of this section, and except as provided in division (E)(3) of this section, "third party" means all of the following: 96784
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(a) A person authorized to engage in the business of sickness and accident insurance under Title XXXIX of the Revised Code; 96787
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(b) A person or governmental entity providing coverage for medical services or items to individuals on a self-insurance basis; 96789
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(c) A health insuring corporation as defined in section 1751.01 of the Revised Code; 96792
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(d) A group health plan as defined in 29 U.S.C. 1167; 96794

(e) A service benefit plan as referenced in 42 U.S.C. 1396a(a)(25); 96795
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(f) A managed care organization; 96797

(g) A pharmacy benefit manager; 96798

(h) A third party administrator; 96799

(i) Any other person or governmental entity that is, by law, contract, or agreement, responsible for the payment or processing of a claim for a medical item or service for a public assistance recipient or participant. 96800
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(2) Except when otherwise provided by 42 U.S.C. 1395y(b), a 96804

person or governmental entity listed in division (E)(1) of this 96805
section is a third party even if the person or governmental entity 96806
limits or excludes payments for a medical item or service in the 96807
case of a public assistance recipient. 96808

(3) "Third party" does not include the program for medically 96809
handicapped children established under section 3701.023 of the 96810
Revised Code. 96811

Sec. 5101.573. (A) Subject to divisions (B) and (C) of this 96812
section, a third party shall do all of the following: 96813

(1) Accept the department of job and family services' right 96814
of recovery under section 5101.58 of the Revised Code and the 96815
assignment of rights to the department that are described in 96816
section 5101.59 of the Revised Code; 96817

(2) Respond to an inquiry by the department regarding a claim 96818
for payment of a medical item or service that was submitted to the 96819
third party not later than ~~three~~ six years after the date of the 96820
provision of such medical item or service; 96821

(3) Not charge a fee to do either of the following for a 96822
claim described in division (A)(2) of this section: 96823

(a) Determine whether the claim should be paid; 96824

(b) Process the claim. 96825

(4) Pay a claim described in division (A)(2) of this section; 96826

~~(4)~~(5) Not deny a claim submitted by the department solely on 96827
the basis of the date of submission of the claim, type or format 96828
of the claim form, or a failure by the medical assistance 96829
recipient who is the subject of the claim to present proper 96830
documentation of coverage at the time of service, if both of the 96831
following are true: 96832

(a) The claim was submitted by the department not later than 96833

~~three~~ six years after the date of the provision of the medical item or service. 96834
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(b) An action by the department to enforce its right of recovery under section 5101.58 of the Revised Code on the claim was commenced not later than six years after the department's submission of the claim. 96836
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~~(5)~~(6) Consider the department's payment of a claim for a medical item or service to be the equivalent of the medical assistance recipient having obtained prior authorization for the item or service from the third party; 96840
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~~(6)~~(7) Not deny a claim described in division (A)~~(5)~~(6) of this section that is submitted by the department solely on the basis of the medical assistance recipient's failure to obtain prior authorization for the medical item or service. 96844
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(B) For purposes of the requirements in division (A) of this section, a third party shall treat a managed care organization as the department for a claim in which both of the following are true: 96848
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(1) The individual who is the subject of the claim received a medical item or service through a managed care organization that has entered into a contract with the department of job and family services under section 5111.17 of the Revised Code; 96852
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(2) The department has assigned its right of recovery for the claim to the managed care organization. 96856
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(C) The time limitations associated with the requirements in divisions (A)(2) and ~~(A)(4)~~(5) of this section apply only to submissions of claims to, and payments of claims by, a health insurer to which 42 U.S.C. 1396a(a)(25)(I) applies. 96858
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Sec. 5101.58. (A) The acceptance of public assistance gives an automatic right of recovery to the department of job and family 96862
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services and a county department of job and family services 96864
against the liability of a third party for the cost of medical 96865
assistance paid on behalf of the public assistance recipient or 96866
participant. When an action or claim is brought against a third 96867
party by a public assistance recipient or participant, any 96868
payment, settlement or compromise of the action or claim, or any 96869
court award or judgment, is subject to the recovery right of the 96870
department of job and family services or county department of job 96871
and family services. Except in the case of a recipient or 96872
participant who receives medical assistance through a managed care 96873
organization, the department's or county department's claim shall 96874
not exceed the amount of medical assistance paid by a department 96875
on behalf of the recipient or participant. A payment, settlement, 96876
compromise, judgment, or award that excludes the cost of medical 96877
assistance paid for by a department shall not preclude a 96878
department from enforcing its rights under this section. 96879

(B) In the case of a recipient or participant who receives 96880
medical assistance through a managed care organization, the amount 96881
of the department's or county department's claim shall be the 96882
amount the managed care organization pays for medical assistance 96883
rendered to the recipient or participant, even if that amount is 96884
more than the amount a department pays to the managed care 96885
organization for the recipient's or participant's medical 96886
assistance. 96887

(C) A recipient or participant, and the recipient's or 96888
participant's attorney, if any, shall cooperate with the 96889
departments. In furtherance of this requirement, the recipient or 96890
participant, or the recipient's or participant's attorney, if any, 96891
shall, not later than thirty days after initiating informal 96892
recovery activity or filing a legal recovery action against a 96893
third party, provide written notice of the activity or action to 96894
the department of job and family services when medical assistance 96895

under medicaid ~~or the children's buy in program~~ has been paid. 96896

(D) The written notice that must be given under division (C) 96897
of this section shall disclose the identity and address of any 96898
third party against whom the recipient or participant has or may 96899
have a right of recovery. 96900

(E) No settlement, compromise, judgment, or award or any 96901
recovery in any action or claim by a recipient or participant 96902
where the departments have a right of recovery shall be made final 96903
without first giving the appropriate departments written notice as 96904
described in division (C) of this section and a reasonable 96905
opportunity to perfect their rights of recovery. If the 96906
departments are not given the appropriate written notice, the 96907
recipient or participant and, if there is one, the recipient's or 96908
participant's attorney, are liable to reimburse the departments 96909
for the recovery received to the extent of medical payments made 96910
by the departments. 96911

(F) The departments shall be permitted to enforce their 96912
recovery rights against the third party even though they accepted 96913
prior payments in discharge of their rights under this section if, 96914
at the time the departments received such payments, they were not 96915
aware that additional medical expenses had been incurred but had 96916
not yet been paid by the departments. The third party becomes 96917
liable to the department of job and family services or county 96918
department of job and family services as soon as the third party 96919
is notified in writing of the valid claims for recovery under this 96920
section. 96921

(G)(1) Subject to division (G)(2) of this section, the right 96922
of recovery of a department does not apply to that portion of any 96923
judgment, award, settlement, or compromise of a claim, to the 96924
extent of attorneys' fees, costs, or other expenses incurred by a 96925
recipient or participant in securing the judgment, award, 96926
settlement, or compromise, or to the extent of medical, surgical, 96927

and hospital expenses paid by such recipient or participant from 96928
the recipient's or participant's own resources. 96929

(2) Reasonable attorneys' fees, not to exceed one-third of 96930
the total judgment, award, settlement, or compromise, plus costs 96931
and other expenses incurred by the recipient or participant in 96932
securing the judgment, award, settlement, or compromise, shall 96933
first be deducted from the total judgment, award, settlement, or 96934
compromise. After fees, costs, and other expenses are deducted 96935
from the total judgment, award, settlement, or compromise, the 96936
department of job and family services or appropriate county 96937
department of job and family services shall receive no less than 96938
one-half of the remaining amount, or the actual amount of medical 96939
assistance paid, whichever is less. 96940

(H) A right of recovery created by this section may be 96941
enforced separately or jointly by the department of job and family 96942
services or the appropriate county department of job and family 96943
services. To enforce their recovery rights, the departments may do 96944
any of the following: 96945

(1) Intervene or join in any action or proceeding brought by 96946
the recipient or participant or on the recipient's or 96947
participant's behalf against any third party who may be liable for 96948
the cost of medical assistance paid; 96949

(2) Institute and pursue legal proceedings against any third 96950
party who may be liable for the cost of medical assistance paid; 96951

(3) Initiate legal proceedings in conjunction with any 96952
injured, diseased, or disabled recipient or participant or the 96953
recipient's or participant's attorney or representative. 96954

(I) A recipient or participant shall not assess attorney 96955
fees, costs, or other expenses against the department of job and 96956
family services or a county department of job and family services 96957
when the department or county department enforces its right of 96958

recovery created by this section. 96959

(J) The right of recovery given to the department under this 96960
section does not include rights to support from any other person 96961
assigned to the state under sections 5107.20 and 5115.07 of the 96962
Revised Code, but includes payments made by a third party under 96963
contract with a person having a duty to support. 96964

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the 96965
Revised Code: 96966

(A) "Abuse" means the infliction upon an adult by self or 96967
others of injury, unreasonable confinement, intimidation, or cruel 96968
punishment with resulting physical harm, pain, or mental anguish. 96969

(B) "Adult" means any person sixty years of age or older 96970
within this state who is handicapped by the infirmities of aging 96971
or who has a physical or mental impairment which prevents the 96972
person from providing for the person's own care or protection, and 96973
who resides in an independent living arrangement. An "independent 96974
living arrangement" is a domicile of a person's own choosing, 96975
including, but not limited to, a private home, apartment, trailer, 96976
or rooming house. An "independent living arrangement" includes an 96977
adult care facility licensed pursuant to Chapter ~~3722~~. 5119. of 96978
the Revised Code, but does not include other institutions or 96979
facilities licensed by the state or facilities in which a person 96980
resides as a result of voluntary, civil, or criminal commitment. 96981

(C) "Caretaker" means the person assuming the responsibility 96982
for the care of an adult on a voluntary basis, by contract, 96983
through receipt of payment for care, as a result of a family 96984
relationship, or by order of a court of competent jurisdiction. 96985

(D) "Court" means the probate court in the county where an 96986
adult resides. 96987

(E) "Emergency" means that the adult is living in conditions 96988

which present a substantial risk of immediate and irreparable physical harm or death to self or any other person. 96989
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(F) "Emergency services" means protective services furnished to an adult in an emergency. 96991
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(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain. 96993
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(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result. 96996
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(I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support. 97000
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(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life. 97009
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(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services. 97013
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(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code. 97017
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(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

Sec. 5101.61. (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;

(b) Has health and medical care policies which are developed

with the advice of, and with the provision of review of such 97049
policies, an advisory committee of professional personnel, 97050
including one or more physicians, one or more dentists, if dental 97051
care is provided, and one or more registered nurses; 97052

(c) Has a medical director, a dental director, if dental care 97053
is provided, and a nursing director responsible for the execution 97054
of such policies, and has physicians, dentists, nursing, and 97055
ancillary staff appropriate to the scope of services provided; 97056

(d) Requires that the health care and medical care of every 97057
patient be under the supervision of a physician, provides for 97058
medical care in a case of emergency, has in effect a written 97059
agreement with one or more hospitals and other centers or clinics, 97060
and has an established patient referral system to other resources, 97061
and a utilization review plan and program; 97062

(e) Maintains clinical records on all patients; 97063

(f) Provides nursing services and other therapeutic services 97064
in accordance with programs and policies, with such services 97065
supervised by a registered professional nurse, and has a 97066
registered professional nurse on duty at all times of clinical 97067
operations; 97068

(g) Provides approved methods and procedures for the 97069
dispensing and administration of drugs and biologicals; 97070

(h) Has established an accounting and record keeping system 97071
to determine reasonable and allowable costs; 97072

(i) "Ambulatory health facilities" also includes an 97073
alcoholism treatment facility approved by the joint commission on 97074
accreditation of healthcare organizations as an alcoholism 97075
treatment facility or certified by the department of alcohol and 97076
drug addiction services, and such facility shall comply with other 97077
provisions of this division not inconsistent with such 97078
accreditation or certification. 97079

(3) "Community mental health facility" means a facility which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.

(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.

(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:

(a) Is primarily engaged in providing home health services;

(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;

(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;

(d) Maintains comprehensive records on all patients;

(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home:	97111 97112 97113 97114
(a) Nursing care provided by or under the supervision of a registered professional nurse;	97115 97116
(b) Physical, occupational, or speech therapy ordered by the patient's attending physician;	97117 97118
(c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician;	97119 97120 97121
(d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse;	97122 97123 97124
(e) Medical supplies and the use of medical appliances;	97125
(f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;	97126 97127 97128 97129
(g) Any of the foregoing items and services which:	97130
(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;	97131 97132 97133
(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment.	97134 97135 97136 97137 97138
Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in	97139 97140

section 3701.01 of the Revised Code, any nurse licensed under 97141
Chapter 4723. of the Revised Code, any employee of an ambulatory 97142
health facility, any employee of a home health agency, any 97143
employee of an adult care facility as defined in section ~~3722.01~~ 97144
5119.70 of the Revised Code, any employee of a nursing home, 97145
residential care facility, or home for the aging, as defined in 97146
section 3721.01 of the Revised Code, any senior service provider, 97147
any peace officer, coroner, clergyman, any employee of a community 97148
mental health facility, and any person engaged in social work or 97149
counseling having reasonable cause to believe that an adult is 97150
being abused, neglected, or exploited, or is in a condition which 97151
is the result of abuse, neglect, or exploitation shall immediately 97152
report such belief to the county department of job and family 97153
services. This section does not apply to employees of any hospital 97154
or public hospital as defined in section 5122.01 of the Revised 97155
Code. 97156

(B) Any person having reasonable cause to believe that an 97157
adult has suffered abuse, neglect, or exploitation may report, or 97158
cause reports to be made of such belief to the department. 97159

(C) The reports made under this section shall be made orally 97160
or in writing except that oral reports shall be followed by a 97161
written report if a written report is requested by the department. 97162
Written reports shall include: 97163

(1) The name, address, and approximate age of the adult who 97164
is the subject of the report; 97165

(2) The name and address of the individual responsible for 97166
the adult's care, if any individual is, and if the individual is 97167
known; 97168

(3) The nature and extent of the alleged abuse, neglect, or 97169
exploitation of the adult; 97170

(4) The basis of the reporter's belief that the adult has 97171

been abused, neglected, or exploited. 97172

(D) Any person with reasonable cause to believe that an adult 97173
is suffering abuse, neglect, or exploitation who makes a report 97174
pursuant to this section or who testifies in any administrative or 97175
judicial proceeding arising from such a report, or any employee of 97176
the state or any of its subdivisions who is discharging 97177
responsibilities under section 5101.62 of the Revised Code shall 97178
be immune from civil or criminal liability on account of such 97179
investigation, report, or testimony, except liability for perjury, 97180
unless the person has acted in bad faith or with malicious 97181
purpose. 97182

(E) No employer or any other person with the authority to do 97183
so shall discharge, demote, transfer, prepare a negative work 97184
performance evaluation, or reduce benefits, pay, or work 97185
privileges, or take any other action detrimental to an employee or 97186
in any way retaliate against an employee as a result of the 97187
employee's having filed a report under this section. 97188

(F) Neither the written or oral report provided for in this 97189
section nor the investigatory report provided for in section 97190
5101.62 of the Revised Code shall be considered a public record as 97191
defined in section 149.43 of the Revised Code. Information 97192
contained in the report shall upon request be made available to 97193
the adult who is the subject of the report, to agencies authorized 97194
by the department to receive information contained in the report, 97195
and to legal counsel for the adult. 97196

Sec. 5101.98. (A) There is hereby created in the state 97197
treasury the military injury relief fund, which shall consist of 97198
money contributed to it under section 5747.113 of the Revised 97199
Code, of incentive grants authorized by the "Jobs for Veterans 97200
Act," 116 Stat. 2033 (2002), and of contributions made directly to 97201
it. Any person or entity may contribute directly to the fund in 97202

addition to or independently of the income tax refund contribution 97203
system established in section 5747.113 of the Revised Code. 97204

(B) Upon application, the director of job and family services 97205
shall grant money in the fund to individuals injured while in 97206
active service as a member of the armed forces of the United 97207
States while serving under operation Iraqi freedom, operation new 97208
dawn, or operation enduring freedom and to individuals diagnosed 97209
with post-traumatic stress disorder while serving, or after having 97210
served, in operation Iraqi freedom, operation new dawn, or 97211
operation enduring freedom. 97212

(C) An individual who receives a grant under this section is 97213
precluded from receiving additional grants under this section 97214
during the same state fiscal year but is not precluded from being 97215
considered for or receiving other assistance offered by the 97216
department of job and family services. 97217

(D) The director shall adopt rules under Chapter 119. of the 97218
Revised Code establishing: 97219

(1) Forms and procedures by which individuals may apply for a 97220
grant under this section; 97221

(2) Criteria for reviewing, evaluating, and approving or 97222
denying grant applications; 97223

(3) Criteria for determining the amount of grants awarded 97224
under this section; 97225

(4) Definitions and standards applicable to determining 97226
whether an individual meets the requirements established in 97227
division (B) of this section; 97228

(5) The process for appealing eligibility determinations; and 97229

(6) Any other rules necessary to administer the grant program 97230
established in this section. 97231

(E) An eligibility determination, a grant approval, or a 97232

grant denial made under this section may not be appealed under 97233
Chapter 119., section 5101.35, or any other provision of the 97234
Revised Code. 97235

Sec. 5104.01. As used in this chapter: 97236

(A) "Administrator" means the person responsible for the 97237
daily operation of a center or type A home. The administrator and 97238
the owner may be the same person. 97239

(B) "Approved child day camp" means a child day camp approved 97240
pursuant to section 5104.22 of the Revised Code. 97241

(C) "Authorized provider" means a person authorized by a 97242
county director of job and family services to operate a certified 97243
type B family day-care home. 97244

(D) "Border state child care provider" means a child care 97245
provider that is located in a state bordering Ohio and that is 97246
licensed, certified, or otherwise approved by that state to 97247
provide child care. 97248

(E) "Career pathways model" means an alternative pathway to 97249
meeting the requirements for a child care staff member or 97250
administrator that uses one framework to integrate the pathways of 97251
formal education, training, experience, and specialized 97252
credentials, and certifications, and that allows the member or 97253
administrator to achieve a designation as an early childhood 97254
professional level one, two, three, four, five, or six. 97255

(F) "Caretaker parent" means the father or mother of a child 97256
whose presence in the home is needed as the caretaker of the 97257
child, a person who has legal custody of a child and whose 97258
presence in the home is needed as the caretaker of the child, a 97259
guardian of a child whose presence in the home is needed as the 97260
caretaker of the child, and any other person who stands in loco 97261
parentis with respect to the child and whose presence in the home 97262

is needed as the caretaker of the child. 97263

~~(F)~~(G) "Certified type B family day-care home" and "certified 97264
type B home" mean a type B family day-care home that is certified 97265
by the director of the county department of job and family 97266
services pursuant to section 5104.11 of the Revised Code to 97267
receive public funds for providing child care pursuant to this 97268
chapter and any rules adopted under it. 97269

~~(G)~~(H) "Chartered nonpublic school" means a school that meets 97270
standards for nonpublic schools prescribed by the state board of 97271
education for nonpublic schools pursuant to section 3301.07 of the 97272
Revised Code. 97273

~~(H)~~(I) "Child" includes an infant, toddler, preschool child, 97274
or school child. 97275

~~(I)~~(J) "Child care block grant act" means the "Child Care and 97276
Development Block Grant Act of 1990," established in section 5082 97277
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 97278
1388-236 (1990), 42 U.S.C. 9858, as amended. 97279

~~(J)~~(K) "Child day camp" means a program in which only school 97280
children attend or participate, that operates for no more than 97281
seven hours per day, that operates only during one or more public 97282
school district's regular vacation periods or for no more than 97283
fifteen weeks during the summer, and that operates outdoor 97284
activities for each child who attends or participates in the 97285
program for a minimum of fifty per cent of each day that children 97286
attend or participate in the program, except for any day when 97287
hazardous weather conditions prevent the program from operating 97288
outdoor activities for a minimum of fifty per cent of that day. 97289
For purposes of this division, the maximum seven hours of 97290
operation time does not include transportation time from a child's 97291
home to a child day camp and from a child day camp to a child's 97292
home. 97293

~~(K)~~(L) "Child care" means administering to the needs of 97294
infants, toddlers, preschool children, and school children outside 97295
of school hours by persons other than their parents or guardians, 97296
custodians, or relatives by blood, marriage, or adoption for any 97297
part of the twenty-four-hour day in a place or residence other 97298
than a child's own home. 97299

~~(L)~~(M) "Child day-care center" and "center" mean any place in 97300
which child care or publicly funded child care is provided for 97301
thirteen or more children at one time or any place that is not the 97302
permanent residence of the licensee or administrator in which 97303
child care or publicly funded child care is provided for seven to 97304
twelve children at one time. In counting children for the purposes 97305
of this division, any children under six years of age who are 97306
related to a licensee, administrator, or employee and who are on 97307
the premises of the center shall be counted. "Child day-care 97308
center" and "center" do not include any of the following: 97309

(1) A place located in and operated by a hospital, as defined 97310
in section 3727.01 of the Revised Code, in which the needs of 97311
children are administered to, if all the children whose needs are 97312
being administered to are monitored under the on-site supervision 97313
of a physician licensed under Chapter 4731. of the Revised Code or 97314
a registered nurse licensed under Chapter 4723. of the Revised 97315
Code, and the services are provided only for children who, in the 97316
opinion of the child's parent, guardian, or custodian, are 97317
exhibiting symptoms of a communicable disease or other illness or 97318
are injured; 97319

(2) A child day camp; 97320

(3) A place that provides child care, but not publicly funded 97321
child care, if all of the following apply: 97322

(a) An organized religious body provides the child care; 97323

(b) A parent, custodian, or guardian of at least one child 97324

receiving child care is on the premises and readily accessible at all times; 97325
97326

(c) The child care is not provided for more than thirty days a year; 97327
97328

(d) The child care is provided only for preschool and school children. 97329
97330

~~(M)~~(N) "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care. 97331
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~~(N)~~(O) "Child care resource and referral services" means all of the following services: 97335
97336

(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data; 97337
97338
97339

(2) Provision of individualized consumer education to families seeking child care; 97340
97341

(3) Provision of timely referrals of available child care providers to families seeking child care; 97342
97343

(4) Recruitment of child care providers; 97344

(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community; 97345
97346
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(6) Collection and analysis of data on the supply of and demand for child care in the community; 97349
97350

(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs; 97351
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97353

(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;

(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;

(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child care centers and parent cooperative type A family day-care homes.

~~(O)~~(P) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

~~(P)~~(O) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child care or publicly funded child care for children on a temporary, irregular basis.

~~(O)~~(R) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

~~(R)~~(S) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this

chapter. 97384

~~(S)~~(T) "Federal poverty line" means the official poverty 97385
guideline as revised annually in accordance with section 673(2) of 97386
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 97387
U.S.C. 9902, as amended, for a family size equal to the size of 97388
the family of the person whose income is being determined. 97389

~~(T)~~(U) "Head start program" means a comprehensive child 97390
development program that receives funds distributed under the 97391
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 97392
amended, and is licensed as a child day-care center. 97393

~~(U)~~(V) "Income" means gross income, as defined in section 97394
5107.10 of the Revised Code, less any amounts required by federal 97395
statutes or regulations to be disregarded. 97396

~~(V)~~(W) "Indicator checklist" means an inspection tool, used 97397
in conjunction with an instrument-based program monitoring 97398
information system, that contains selected licensing requirements 97399
that are statistically reliable indicators or predictors of a 97400
child day-care center or type A family day-care home's compliance 97401
with licensing requirements. 97402

~~(W)~~(X) "Infant" means a child who is less than eighteen 97403
months of age. 97404

~~(X)~~(Y) "In-home aide" means a person who does not reside with 97405
the child but provides care in the child's home and is certified 97406
by a county director of job and family services pursuant to 97407
section 5104.12 of the Revised Code to provide publicly funded 97408
child care to a child in a child's own home pursuant to this 97409
chapter and any rules adopted under it. 97410

~~(Y)~~(Z) "Instrument-based program monitoring information 97411
system" means a method to assess compliance with licensing 97412
requirements for child day-care centers and type A family day-care 97413
homes in which each licensing requirement is assigned a weight 97414

indicative of the relative importance of the requirement to the 97415
health, growth, and safety of the children that is used to develop 97416
an indicator checklist. 97417

~~(Z)~~(AA) "License capacity" means the maximum number in each 97418
age category of children who may be cared for in a child day-care 97419
center or type A family day-care home at one time as determined by 97420
the director of job and family services considering building 97421
occupancy limits established by the department of commerce, ~~number~~ 97422
~~of available child-care staff members~~, amount of available indoor 97423
floor space and outdoor play space, and amount of available play 97424
equipment, materials, and supplies. For the purposes of a 97425
provisional license issued under this chapter, the director shall 97426
also consider the number of available child-care staff members 97427
when determining "license capacity" for the provisional license. 97428

~~(AA)~~(BB) "Licensed preschool program" or "licensed school 97429
child program" means a preschool program or school child program, 97430
as defined in section 3301.52 of the Revised Code, that is 97431
licensed by the department of education pursuant to sections 97432
3301.52 to 3301.59 of the Revised Code. 97433

~~(BB)~~(CC) "Licensee" means the owner of a child day-care 97434
center or type A family day-care home that is licensed pursuant to 97435
this chapter and who is responsible for ensuring its compliance 97436
with this chapter and rules adopted pursuant to this chapter. 97437

~~(CC)~~(DD) "Operate a child day camp" means to operate, 97438
establish, manage, conduct, or maintain a child day camp. 97439

~~(DD)~~(EE) "Owner" includes a person, as defined in section 97440
1.59 of the Revised Code, or government entity. 97441

~~(EE)~~(FF) "Parent cooperative child day-care center," "parent 97442
cooperative center," "parent cooperative type A family day-care 97443
home," and "parent cooperative type A home" mean a corporation or 97444
association organized for providing educational services to the 97445

children of members of the corporation or association, without 97446
gain to the corporation or association as an entity, in which the 97447
services of the corporation or association are provided only to 97448
children of the members of the corporation or association, 97449
ownership and control of the corporation or association rests 97450
solely with the members of the corporation or association, and at 97451
least one parent-member of the corporation or association is on 97452
the premises of the center or type A home during its hours of 97453
operation. 97454

~~(FF)~~(GG) "Part-time child day-care center," "part-time 97455
center," "part-time type A family day-care home," and "part-time 97456
type A home" mean a center or type A home that provides child care 97457
or publicly funded child care for no more than four hours a day 97458
for any child. 97459

~~(GG)~~(HH) "Place of worship" means a building where activities 97460
of an organized religious group are conducted and includes the 97461
grounds and any other buildings on the grounds used for such 97462
activities. 97463

~~(HH)~~(II) "Preschool child" means a child who is three years 97464
old or older but is not a school child. 97465

~~(II)~~(JJ) "Protective child care" means publicly funded child 97466
care for the direct care and protection of a child to whom either 97467
of the following applies: 97468

(1) A case plan prepared and maintained for the child 97469
pursuant to section 2151.412 of the Revised Code indicates a need 97470
for protective care and the child resides with a parent, 97471
stepparent, guardian, or another person who stands in loco 97472
parentis as defined in rules adopted under section 5104.38 of the 97473
Revised Code; 97474

(2) The child and the child's caretaker either temporarily 97475
reside in a facility providing emergency shelter for homeless 97476

families or are determined by the county department of job and 97477
family services to be homeless, and are otherwise ineligible for 97478
publicly funded child care. 97479

~~(JJ)~~(KK) "Publicly funded child care" means administering to 97480
the needs of infants, toddlers, preschool children, and school 97481
children under age thirteen during any part of the 97482
twenty-four-hour day by persons other than their caretaker parents 97483
for remuneration wholly or in part with federal or state funds, 97484
including funds available under the child care block grant act, 97485
Title IV-A, and Title XX, distributed by the department of job and 97486
family services. 97487

~~(KK)~~(LL) "Religious activities" means any of the following: 97488
worship or other religious services; religious instruction; Sunday 97489
school classes or other religious classes conducted during or 97490
prior to worship or other religious services; youth or adult 97491
fellowship activities; choir or other musical group practices or 97492
programs; meals; festivals; or meetings conducted by an organized 97493
religious group. 97494

~~(LL)~~(MM) "School child" means a child who is enrolled in or 97495
is eligible to be enrolled in a grade of kindergarten or above but 97496
is less than fifteen years old. 97497

~~(MM)~~(NN) "School child day-care center," "school child 97498
center," "school child type A family day-care home," and "school 97499
child type A family home" mean a center or type A home that 97500
provides child care for school children only and that does either 97501
or both of the following: 97502

(1) Operates only during that part of the day that 97503
immediately precedes or follows the public school day of the 97504
school district in which the center or type A home is located; 97505

(2) Operates only when the public schools in the school 97506
district in which the center or type A home is located are not 97507

open for instruction with pupils in attendance. 97508

~~(NN)~~(OO) "Serious risk noncompliance" means a licensure or 97509
certification rule violation that leads to a great risk of harm 97510
to, or death of, a child, and is observable, not inferable. 97511

(PP) "State median income" means the state median income 97512
calculated by the department of development pursuant to division 97513
(A)(1)(g) of section 5709.61 of the Revised Code. 97514

~~(OO)~~(OO) "Title IV-A" means Title IV-A of the "Social 97515
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 97516

~~(PP)~~(RR) "Title XX" means Title XX of the "Social Security 97517
Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 97518

~~(OO)~~(SS) "Toddler" means a child who is at least eighteen 97519
months of age but less than three years of age. 97520

~~(RR)~~(TT) "Type A family day-care home" and "type A home" mean 97521
a permanent residence of the administrator in which child care or 97522
publicly funded child care is provided for seven to twelve 97523
children at one time or a permanent residence of the administrator 97524
in which child care is provided for four to twelve children at one 97525
time if four or more children at one time are under two years of 97526
age. In counting children for the purposes of this division, any 97527
children under six years of age who are related to a licensee, 97528
administrator, or employee and who are on the premises of the type 97529
A home shall be counted. "Type A family day-care home" and "type A 97530
home" do not include any child day camp. 97531

~~(SS)~~(UU) "Type B family day-care home" and "type B home" mean 97532
a permanent residence of the provider in which child care is 97533
provided for one to six children at one time and in which no more 97534
than three children are under two years of age at one time. In 97535
counting children for the purposes of this division, any children 97536
under six years of age who are related to the provider and who are 97537
on the premises of the type B home shall be counted. "Type B 97538

family day-care home" and "type B home" do not include any child 97539
day camp. 97540

Sec. 5104.011. (A) The director of job and family services 97541
shall adopt rules pursuant to Chapter 119. of the Revised Code 97542
governing the operation of child day-care centers, including, but 97543
not limited to, parent cooperative centers, part-time centers, 97544
drop-in centers, and school child centers, which rules shall 97545
reflect the various forms of child care and the needs of children 97546
receiving child care or publicly funded child care and shall 97547
include specific rules for school child care centers that are 97548
developed in consultation with the department of education. The 97549
rules shall not require an existing school facility that is in 97550
compliance with applicable building codes to undergo an additional 97551
building code inspection or to have structural modifications. The 97552
rules shall include the following: 97553

(1) Submission of a site plan and descriptive plan of 97554
operation to demonstrate how the center proposes to meet the 97555
requirements of this chapter and rules adopted pursuant to this 97556
chapter for the initial license application; 97557

(2) Standards for ensuring that the physical surroundings of 97558
the center are safe and sanitary including, but not limited to, 97559
the physical environment, the physical plant, and the equipment of 97560
the center; 97561

(3) Standards for the supervision, care, and discipline of 97562
children receiving child care or publicly funded child care in the 97563
center; 97564

(4) Standards for a program of activities, and for play 97565
equipment, materials, and supplies, to enhance the development of 97566
each child; however, any educational curricula, philosophies, and 97567
methodologies that are developmentally appropriate and that 97568
enhance the social, emotional, intellectual, and physical 97569

development of each child shall be permissible. As used in this 97570
division, "program" does not include instruction in religious or 97571
moral doctrines, beliefs, or values that is conducted at child 97572
day-care centers owned and operated by churches and does include 97573
methods of disciplining children at child day-care centers. 97574

(5) Admissions policies and procedures, health care policies 97575
and procedures, including, but not limited to, procedures for the 97576
isolation of children with communicable diseases, first aid and 97577
emergency procedures, procedures for discipline and supervision of 97578
children, standards for the provision of nutritious meals and 97579
snacks, and procedures for screening children and employees, 97580
~~including, but not limited to,~~ that may include any necessary 97581
physical examinations and immunizations; 97582

(6) Methods for encouraging parental participation in the 97583
center and methods for ensuring that the rights of children, 97584
parents, and employees are protected and that responsibilities of 97585
parents and employees are met; 97586

(7) Procedures for ensuring the safety and adequate 97587
supervision of children traveling off the premises of the center 97588
while under the care of a center employee; 97589

(8) Procedures for record keeping, organization, and 97590
administration; 97591

(9) Procedures for issuing, ~~renewing,~~ denying, and revoking a 97592
license that are not otherwise provided for in Chapter 119. of the 97593
Revised Code; 97594

(10) Inspection procedures; 97595

(11) Procedures and standards for setting initial ~~and renewal~~ 97596
license application fees; 97597

(12) Procedures for receiving, recording, and responding to 97598
complaints about centers; 97599

(13) Procedures for enforcing section 5104.04 of the Revised Code; 97600
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(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter; 97602
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(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention. Training requirements for child day-care centers adopted under this division shall be consistent with divisions (B)(6) and (C)(1) of this section. 97607
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~~(16) Procedures to be used by licensees for checking the references of potential employees of centers and procedures to be used by the director for checking the references of applicants for licenses to operate centers;~~ 97613
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~~(17)~~ Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the center; 97617
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~~(18)~~(17) A procedure for reporting of injuries of children that occur at the center; 97621
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~~(19)~~(18) Any other procedures and standards necessary to carry out this chapter. 97623
97624

(B)(1) The child day-care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards. The minimum of 97625
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thirty-five square feet of usable indoor floor space shall not
include hallways, kitchens, storage areas, or any other areas that
are not available for the care of children, as determined by the
director, in meeting the space requirement of this division, and
bathrooms shall be counted in determining square footage only if
they are used exclusively by children enrolled in the center,
except that the exclusion of hallways, kitchens, storage areas,
bathrooms not used exclusively by children enrolled in the center,
and any other areas not available for the care of children from
the minimum of thirty-five square feet of usable indoor floor
space shall not apply to:

(a) Centers licensed prior to or on September 1, 1986, that
continue under licensure after that date;

(b) Centers licensed prior to or on September 1, 1986, that
are issued a new license after that date solely due to a change of
ownership of the center.

(2) The child day-care center shall have on the site a safe
outdoor play space which is enclosed by a fence or otherwise
protected from traffic or other hazards. The play space shall
contain not less than sixty square feet per child using such space
at any one time, and shall provide an opportunity for supervised
outdoor play each day in suitable weather. The director may exempt
a center from the requirement of this division, if an outdoor play
space is not available and if all of the following are met:

(a) The center provides an indoor recreation area that has
not less than sixty square feet per child using the space at any
one time, that has a minimum of one thousand four hundred forty
square feet of space, and that is separate from the indoor space
required under division (B)(1) of this section.

(b) The director has determined that there is regularly
available and scheduled for use a conveniently accessible and safe

park, playground, or similar outdoor play area for play or recreation. 97662
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(c) The children are closely supervised during play and while traveling to and from the area. 97664
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The director also shall exempt from the requirement of this division a child day-care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section 5104.04 of the Revised Code and rules adopted pursuant to that section that the park, playground, or similar area, as well as access to and from the area, is unsafe for the children. 97666
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(3) The child day-care center shall have at least two responsible adults available on the premises at all times when seven or more children are in the center. The center shall organize the children in the center in small groups, shall provide child-care staff to give continuity of care and supervision to the children on a day-by-day basis, and shall ensure that no child is left alone or unsupervised. Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size, by age category of children, are as follows: 97678
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	Maximum Number of		
	Children Per	Maximum	
Age Category	Child-Care	Group	
of Children	Staff Member	Size	
(a) Infants:			97688
(i) Less than twelve			97689 97690 97691 97692 97693

months old	5:1, or		97694
	12:2 if two		97695
	child-care		97696
	staff members		97697
	are in the room	12	97698
(ii) At least twelve			97699
months old, but			97700
less than eighteen			97701
months old	6:1	12	97702
(b) Toddlers:			97703
(i) At least eighteen			97704
months old, but			97705
less than thirty			97706
months old	7:1	14	97707
(ii) At least thirty months			97708
old, but less than			97709
three years old	8:1	16	97710
(c) Preschool			97711
children:			97712
(i) Three years old	12:1	24	97713
(ii) Four years old and			97714
five years old who			97715
are not school			97716
children	14:1	28	97717
(d) School children:			97718
(i) A child who is			97719
enrolled in or is			97720
eligible to be			97721
enrolled in a grade			97722
of kindergarten			97723
or above, but			97724
is less than			97725
eleven years old	18:1	36	97726

(ii) Eleven through fourteen 97727
years old 20:1 40 97728

Except as otherwise provided in division (E) of this section, 97729
the maximum number of children per child-care staff member and 97730
maximum group size requirements of the younger age group shall 97731
apply when age groups are combined. 97732

(4)(a) The child day-care center administrator shall show the 97733
director both of the following: 97734

(i) Evidence of at least high school graduation or 97735
certification of high school equivalency by the state board of 97736
education or the appropriate agency of another state; 97737

(ii) Evidence of having completed at least two years of 97738
training in an accredited college, university, or technical 97739
college, including courses in child development or early childhood 97740
education, ~~or~~ at least two years of experience in supervising and 97741
giving daily care to children attending an organized group 97742
program, or the equivalent based on a designation as an "early 97743
childhood professional level three" under the career pathways 97744
model of the quality-rating program established under section 97745
5104.30 of the Revised Code. 97746

(b) In addition to the requirements of division (B)(4)(a) of 97747
this section and except as provided in division (B)(4)(c) of this 97748
section, any administrator employed or designated ~~on or after~~ 97749
September 1, 1986, as such prior to the effective date of this 97750
section, as amended, shall show evidence of, ~~and any administrator~~ 97751
employed or designated prior to September 1, 1986, shall show 97752
evidence at least one of the following within six years after ~~such~~ 97753
the date of, ~~at least one of the following employment or~~ 97754
designation: 97755

(i) Two years of experience working as a child-care staff 97756
member in a center and at least four courses in child development 97757

or early childhood education from an accredited college, 97758
university, or technical college, except that a person who has two 97759
years of experience working as a child-care staff member in a 97760
particular center and who has been promoted to or designated as 97761
administrator of that center shall have one year from the time the 97762
person was promoted to or designated as administrator to complete 97763
the required four courses; 97764

(ii) Two years of training, including at least four courses 97765
in child development or early childhood education from an 97766
accredited college, university, or technical college; 97767

(iii) A child development associate credential issued by the 97768
national child development associate credentialing commission; 97769

(iv) An associate or higher degree in child development or 97770
early childhood education from an accredited college, technical 97771
college, or university, or a license designated for teaching in an 97772
associate teaching position in a preschool setting issued by the 97773
state board of education. 97774

(c) For the purposes of division (B)(4)(b) of this section, 97775
any administrator employed or designated as such prior to the 97776
effective date of this section, as amended, may also show evidence 97777
of an administrator's credential as approved by the department of 97778
job and family services in lieu of, or in addition to, the 97779
evidence required under division (B)(4)(b) of this section. The 97780
evidence of an administrator's credential must be shown to the 97781
director not later than one year after the date of employment or 97782
designation. 97783

(d) In addition to the requirements of division (B)(4)(a) of 97784
this section, any administrator employed or designated as such on 97785
or after the effective date of this section, as amended, shall 97786
show evidence of at least one of the following not later than one 97787
year after the date of employment or designation: 97788

(i) Two years of experience working as a child-care staff member in a center and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses; 97789
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(ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college; 97798
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(iii) A child development associate credential issued by the national child development associate credentialing commission; 97801
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(iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education; 97803
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(v) An administrator's credential as approved by the department of job and family services. 97808
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(5) All child-care staff members of a child day-care center shall be at least eighteen years of age, and shall furnish the director evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state or evidence of completion of a training program approved by the department of job and family services or state board of education, except as follows: 97810
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(a) A child-care staff member may be less than eighteen years of age if the staff member is either of the following: 97818
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(i) A graduate of a two-year vocational child-care training program approved by the state board of education; 97820
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(ii) A student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter. 97822
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(b) A child-care staff member shall be exempt from the educational requirements of this division if the staff member: 97831
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(i) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center; ~~or~~ 97833
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(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter; 97837
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(iii) Is receiving or has completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code or has graduated from a nonchartered, nonpublic school in Ohio. 97846
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(6) Every child care staff member of a child day-care center 97850

annually shall complete fifteen hours of inservice training in 97851
child development or early childhood education, child abuse 97852
recognition and prevention, first aid, and in prevention, 97853
recognition, and management of communicable diseases, until a 97854
total of forty-five hours of training has been completed, unless 97855
the staff member furnishes one of the following to the director: 97856

(a) Evidence of an associate or higher degree in child 97857
development or early childhood education from an accredited 97858
college, university, or technical college; 97859

(b) A license designated for teaching in an associate 97860
teaching position in a preschool setting issued by the state board 97861
of education; 97862

(c) Evidence of a child development associate credential; 97863

(d) Evidence of a preprimary credential from the American 97864
Montessori society or the association Montessori internationale. 97865
For the purposes of division (B)(6) of this section, "hour" means 97866
sixty minutes. 97867

~~(7) The administrator of each child day care center shall 97868
prepare at least once annually and for each group of children at 97869
the center a roster of names and telephone numbers of parents, 97870
custodians, or guardians of each group of children attending the 97871
center and upon request shall furnish the roster for each group to 97872
the parents, custodians, or guardians of the children in that 97873
group. The administrator may prepare a roster of names and 97874
telephone numbers of all parents, custodians, or guardians of 97875
children attending the center and upon request shall furnish the 97876
roster to the parents, custodians, or guardians of the children 97877
who attend the center. The administrator shall not include in any 97878
roster the name or telephone number of any parent, custodian, or 97879
guardian who requests the administrator not to include the 97880
parent's, custodian's, or guardian's name or number and shall not 97881~~

~~furnish any roster to any person other than a parent, custodian,
or guardian of a child who attends the center.~~ 97882
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(C)(1) Each child day-care center shall have on the center 97884
premises and readily available at all times at least one 97885
child-care staff member who has completed a course in first aid 97886
~~and, one staff member who has completed a course~~ in prevention, 97887
recognition, and management of communicable diseases which is 97888
approved by the state department of health, and a staff member who 97889
has completed a course in child abuse recognition and prevention 97890
training which is approved by the department of job and family 97891
services. 97892

(2) The administrator of each child day-care center shall 97893
maintain enrollment, health, and attendance records for all 97894
children attending the center and health and employment records 97895
for all center employees. The records shall be confidential, 97896
~~except as otherwise provided in division (B)(7) of this section~~ 97897
~~and~~ except that they shall be disclosed by the administrator to 97898
the director upon request for the purpose of administering and 97899
enforcing this chapter and rules adopted pursuant to this chapter. 97900
Neither the center nor the licensee, administrator, or employees 97901
of the center shall be civilly or criminally liable in damages or 97902
otherwise for records disclosed to the director by the 97903
administrator pursuant to this division. It shall be a defense to 97904
any civil or criminal charge based upon records disclosed by the 97905
administrator to the director that the records were disclosed 97906
pursuant to this division. 97907

(3)(a) Any parent who is the residential parent and legal 97908
custodian of a child enrolled in a child day-care center and any 97909
custodian or guardian of such a child shall be permitted unlimited 97910
access to the center during its hours of operation for the 97911
purposes of contacting their children, evaluating the care 97912
provided by the center, evaluating the premises of the center, or 97913

for other purposes approved by the director. A parent of a child 97914
enrolled in a child day-care center who is not the child's 97915
residential parent shall be permitted unlimited access to the 97916
center during its hours of operation for those purposes under the 97917
same terms and conditions under which the residential parent of 97918
that child is permitted access to the center for those purposes. 97919
However, the access of the parent who is not the residential 97920
parent is subject to any agreement between the parents and, to the 97921
extent described in division (C)(3)(b) of this section, is subject 97922
to any terms and conditions limiting the right of access of the 97923
parent who is not the residential parent, as described in division 97924
(I) of section 3109.051 of the Revised Code, that are contained in 97925
a parenting time order or decree issued under that section, 97926
section 3109.12 of the Revised Code, or any other provision of the 97927
Revised Code. 97928

(b) If a parent who is the residential parent of a child has 97929
presented the administrator or the administrator's designee with a 97930
copy of a parenting time order that limits the terms and 97931
conditions under which the parent who is not the residential 97932
parent is to have access to the center, as described in division 97933
(I) of section 3109.051 of the Revised Code, the parent who is not 97934
the residential parent shall be provided access to the center only 97935
to the extent authorized in the order. If the residential parent 97936
has presented such an order, the parent who is not the residential 97937
parent shall be permitted access to the center only in accordance 97938
with the most recent order that has been presented to the 97939
administrator or the administrator's designee by the residential 97940
parent or the parent who is not the residential parent. 97941

(c) Upon entering the premises pursuant to division (C)(3)(a) 97942
or (b) of this section, the parent who is the residential parent 97943
and legal custodian, the parent who is not the residential parent, 97944
or the custodian or guardian shall notify the administrator or the 97945

administrator's designee of the parent's, custodian's, or 97946
guardian's presence. 97947

(D) The director of job and family services, in addition to 97948
the rules adopted under division (A) of this section, shall adopt 97949
rules establishing minimum requirements for child day-care 97950
centers. The rules shall include, but not be limited to, the 97951
requirements set forth in divisions (B) and (C) of this section. 97952
Except as provided in section 5104.07 of the Revised Code, the 97953
rules shall not change the square footage requirements of division 97954
(B)(1) or (2) of this section; the maximum number of children per 97955
child-care staff member and maximum group size requirements of 97956
division (B)(3) of this section; the educational and experience 97957
requirements of division (B)(4) of this section; the age, 97958
educational, and experience requirements of division (B)(5) of 97959
this section; the number and type of inservice training hours 97960
required under division (B)(6) of this section; ~~or the requirement~~ 97961
~~for at least annual preparation of a roster for each group of~~ 97962
~~children of names and telephone numbers of parents, custodians, or~~ 97963
~~guardians of each group of children attending the center that must~~ 97964
~~be furnished upon request to any parent, custodian, or guardian of~~ 97965
~~any child in that group required under division (B)(7) of this~~ 97966
~~section;~~ however, the rules shall provide procedures for 97967
determining compliance with those requirements. 97968

(E)(1) When age groups are combined, the maximum number of 97969
children per child-care staff member shall be determined by the 97970
age of the youngest child in the group, except that when no more 97971
than one child thirty months of age or older receives services in 97972
a group in which all the other children are in the next older age 97973
group, the maximum number of children per child-care staff member 97974
and maximum group size requirements of the older age group 97975
established under division (B)(3) of this section shall apply. 97976

(2) The maximum number of toddlers or preschool children per 97977

child-care staff member in a room where children are napping shall 97978
be twice the maximum number of children per child-care staff 97979
member established under division (B)(3) of this section if all 97980
the following criteria are met: 97981

(a) At least one child-care staff member is present in the 97982
room. 97983

(b) Sufficient child-care staff members are on the child 97984
day-care center premises to meet the maximum number of children 97985
per child-care staff member requirements established under 97986
division (B)(3) of this section. 97987

(c) Naptime preparations are complete and all napping 97988
children are resting or sleeping on cots. 97989

(d) The maximum number established under division (E)(2) of 97990
this section is in effect for no more than ~~one and one-half~~ two 97991
hours during a twenty-four-hour day. 97992

(F) The director of job and family services shall adopt rules 97993
pursuant to Chapter 119. of the Revised Code governing the 97994
operation of type A family day-care homes, including, but not 97995
limited to, parent cooperative type A homes, part-time type A 97996
homes, drop-in type A homes, and school child type A homes, which 97997
shall reflect the various forms of child care and the needs of 97998
children receiving child care. The rules shall include the 97999
following: 98000

(1) Submission of a site plan and descriptive plan of 98001
operation to demonstrate how the type A home proposes to meet the 98002
requirements of this chapter and rules adopted pursuant to this 98003
chapter for the initial license application; 98004

(2) Standards for ensuring that the physical surroundings of 98005
the type A home are safe and sanitary, including, but not limited 98006
to, the physical environment, the physical plant, and the 98007
equipment of the type A home; 98008

- (3) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the type A home; 98009
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- (4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible; 98012
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- (5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations; 98018
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- (6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met; 98026
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- (7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee; 98030
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- (8) Procedures for record keeping, organization, and administration; 98033
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- (9) Procedures for issuing, ~~renewing~~, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code; 98035
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- (10) Inspection procedures; 98038

(11) Procedures and standards for setting initial and renewal license application fees;	98039 98040
(12) Procedures for receiving, recording, and responding to complaints about type A homes;	98041 98042
(13) Procedures for enforcing section 5104.04 of the Revised Code;	98043 98044
(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant <u>to</u> this chapter;	98045 98046 98047 98048 98049 98050
(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;	98051 98052 98053 98054
(16) Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;	98055 98056 98057 98058
(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the type A home;	98059 98060 98061 98062
(18) <u>(17)</u> Standards for the maximum number of children per child-care staff member;	98063 98064
(19) <u>(18)</u> Requirements for the amount of usable indoor floor space for each child;	98065 98066
(20) <u>(19)</u> Requirements for safe outdoor play space;	98067
(21) <u>(20)</u> Qualifications and training requirements for	98068

administrators and for child-care staff members;	98069
(22) (21) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;	98070 98071 98072
(23) (22) Standards for the preparation and distribution of a roster of parents, custodians, and guardians;	98073 98074
(24) (23) Any other procedures and standards necessary to carry out this chapter.	98075 98076
(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of type B family day-care homes.	98077 98078 98079
(1) The rules shall include all of the following:	98080
(a) Procedures, standards, and other necessary provisions for granting limited certification to type B family day-care homes that are operated by the following adult providers:	98081 98082 98083
(i) Persons who provide child care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the provider or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the provider;	98084 98085 98086 98087 98088
(ii) Persons who provide child care for eligible children all of whom are the children of the same caretaker parent;	98089 98090
(b) Procedures for the director to ensure, that type B homes that receive a limited certification provide child care to children in a safe and sanitary manner;	98091 98092 98093
(c) Requirements for the type B home to notify parents with children in the type B home that the type B home is also certified as a foster home under section 5103.03 of the Revised Code.	98094 98095 98096
With regard to providers who apply for limited certification, a provider shall be granted a provisional limited certification on	98097 98098

signing a declaration under oath attesting that the provider meets 98099
the standards for limited certification. Such provisional limited 98100
certifications shall remain in effect for no more than sixty 98101
calendar days and shall entitle the provider to offer publicly 98102
funded child care during the provisional period. Except as 98103
otherwise provided in division (G)(1) of this section, section 98104
5104.013 or 5104.09 of the Revised Code, or division (A)(2) of 98105
section 5104.11 of the Revised Code, prior to the expiration of 98106
the provisional limited certificate, a county department of job 98107
and family services shall inspect the home and shall grant limited 98108
certification to the provider if the provider meets the 98109
requirements of this division. Limited certificates remain valid 98110
for two years unless earlier revoked. Except as otherwise provided 98111
in division (G)(1) of this section, providers operating under 98112
limited certification shall be inspected annually. 98113

If a provider is a person described in division (G)(1)(a)(i) 98114
of this section or a person described in division (G)(1)(a)(ii) of 98115
this section who is a friend of the caretaker parent, the provider 98116
and the caretaker parent may verify in writing to the county 98117
department of job and family services that minimum health and 98118
safety requirements are being met in the home. Except as otherwise 98119
provided in section 5104.013 or 5104.09 or in division (A)(2) of 98120
section 5104.11 of the Revised Code, if such verification is 98121
provided, the county shall waive any inspection required by this 98122
chapter and grant limited certification to the provider. 98123

(2) The rules shall provide for safeguarding the health, 98124
safety, and welfare of children receiving child care or publicly 98125
funded child care in a certified type B home and shall include the 98126
following: 98127

(a) Standards for ensuring that the type B home and the 98128
physical surroundings of the type B home are safe and sanitary, 98129
including, but not limited to, physical environment, physical 98130

plant, and equipment;	98131
(b) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the home;	98132 98133 98134
(c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;	98135 98136 98137 98138 98139 98140
(d) Admission policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, but not limited to, any necessary physical examinations and immunizations;	98141 98142 98143 98144 98145 98146
(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;	98147 98148 98149 98150
(f) Standards for the safe transport of children when under the care of authorized providers;	98151 98152
(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	98153 98154
(h) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to certification to ensure that the home is safe and sanitary;	98155 98156 98157
(i) Procedures for record keeping and evaluation;	98158
(j) Procedures for receiving, recording, and responding to complaints;	98159 98160

(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the type B home;	98161 98162 98163 98164
(l) Requirements for the amount of usable indoor floor space for each child;	98165 98166
(m) Requirements for safe outdoor play space;	98167
(n) Qualification and training requirements for authorized providers;	98168 98169
(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;	98170 98171 98172
(p) Requirements for the type B home to notify parents with children in the type B home that the type B home is also certified as a foster home under section 5103.03 of the Revised Code;	98173 98174 98175
(q) Any other procedures and standards necessary to carry out this chapter.	98176 98177
(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary provisions for granting limited certification to in-home aides who provide child care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child care in their own home and shall include the	98178 98179 98180 98181 98182 98183 98184 98185 98186 98187 98188 98189 98190 98191

following:	98192
(1) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;	98193 98194 98195 98196
(2) Standards for the supervision, care, and discipline of children receiving publicly funded child care in their own home;	98197 98198
(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;	98199 98200 98201 98202 98203 98204
(4) Health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including, but not limited to, any necessary physical examinations and immunizations;	98205 98206 98207 98208 98209 98210
(5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;	98211 98212 98213 98214
(6) Standards for the safe transport of children when under the care of in-home aides;	98215 98216
(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	98217 98218
(8) Procedures for inspection of homes of children receiving publicly funded child care in their own homes;	98219 98220
(9) Procedures for record keeping and evaluation;	98221

(10) Procedures for receiving, recording, and responding to complaints;	98222
	98223
(11) Qualifications and training requirements for in-home aides;	98224
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(12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child care in the child's own home;	98226
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(13) Any other procedures and standards necessary to carry out this chapter.	98230
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(I) To the extent that any rules adopted for the purposes of this section require a health care professional to perform a physical examination, the rules shall include as a health care professional a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife.	98232
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(J)(1) The director of job and family services shall do all of the following:	98237
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(a) Provide or make available in either paper or electronic form to each licensee notice of proposed rules governing the licensure of child day-care centers and type A homes;	98239
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	98241
(b) Give public notice of hearings regarding the rules to each licensee at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code;	98242
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	98244
(c) At least thirty days before the effective date of a rule, provide, in either paper or electronic form, a copy of the adopted rule to each licensee.	98245
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	98247
(2) The director shall do all of the following:	98248
(a) Send to each county director of job and family services a notice of proposed rules governing the certification of type B family homes and in-home aides that includes an internet web site	98249
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	98251

address where the proposed rules can be viewed; 98252

(b) Give public notice of hearings regarding the proposed 98253
rules not less than thirty days in advance; 98254

(c) Provide to each county director of job and family 98255
services an electronic copy of each adopted rule at least 98256
forty-five days prior to the rule's effective date. 98257

(3) The county director of job and family services shall 98258
provide or make available in either paper or electronic form to 98259
each authorized provider and in-home aide copies of proposed rules 98260
and shall give public notice of hearings regarding the rules to 98261
each authorized provider and in-home aide at least thirty days 98262
prior to the date of the public hearing, in accordance with 98263
section 119.03 of the Revised Code. At least thirty days before 98264
the effective date of a rule, the county director of job and 98265
family services shall provide, in either paper or electronic form, 98266
copies of the adopted rule to each authorized provider and in-home 98267
aide. 98268

(4) Additional copies of proposed and adopted rules shall be 98269
made available by the director of job and family services to the 98270
public on request at no charge. 98271

(5) The director of job and family services ~~shall recommend~~ 98272
~~standards~~ may adopt rules pursuant to Chapter 119. of the Revised 98273
Code for imposing sanctions on persons and entities that are 98274
licensed or certified under this chapter ~~and that violate any~~ 98275
~~provision of this chapter.~~ Sanctions may be imposed only for an 98276
action or omission that constitutes a serious risk noncompliance. 98277
The ~~standards~~ sanctions imposed shall be based on the scope and 98278
severity of the violations. ~~The director shall provide copies of~~ 98279
~~the recommendations to the governor, the speaker and minority~~ 98280
~~leader of the house of representatives, and the president and~~ 98281
~~minority leader of the senate and, on request, shall make copies~~ 98282

~~available to the public~~ 98283

The director shall make a dispute resolution process 98284
available for the implementation of sanctions. The process may 98285
include an opportunity for appeal pursuant to Chapter 119. of the 98286
Revised Code. 98287

(6) The director of job and family services shall adopt rules 98288
pursuant to Chapter 119. of the Revised Code that establish 98289
standards for the training of individuals whom any county 98290
department of job and family services employs, with whom any 98291
county department of job and family services contracts, or with 98292
whom the director of job and family services contracts, to inspect 98293
or investigate type B family day-care homes pursuant to section 98294
5104.11 of the Revised Code. The department shall provide training 98295
in accordance with those standards for individuals in the 98296
categories described in this division. 98297

(K) The director of job and family services shall review all 98298
rules adopted pursuant to this chapter at least once every seven 98299
years. 98300

(L) Notwithstanding any provision of the Revised Code, the 98301
director of job and family services shall not regulate in any way 98302
under this chapter or rules adopted pursuant to this chapter, 98303
instruction in religious or moral doctrines, beliefs, or values. 98304

Sec. 5104.012. (A)(1) At the times specified in this 98305
division, the administrator of a child day-care center or a type A 98306
family day-care home shall request the superintendent of the 98307
bureau of criminal identification and investigation to conduct a 98308
criminal records check with respect to any applicant who has 98309
applied to the center or type A home for employment as a person 98310
responsible for the care, custody, or control of a child. 98311

The administrator shall request a criminal records check 98312

pursuant to this division at the time of the applicant's initial 98313
application for employment and every four years thereafter ~~at the~~ 98314
~~time of a license renewal~~. When the administrator requests 98315
pursuant to this division a criminal records check for an 98316
applicant at the time of the applicant's initial application for 98317
employment, the administrator shall request that the 98318
superintendent obtain information from the federal bureau of 98319
investigation as a part of the criminal records check for the 98320
applicant, including fingerprint-based checks of national crime 98321
information databases as described in 42 U.S.C. 671, for the 98322
person subject to the criminal records check. In all other cases 98323
in which the administrator requests a criminal records check for 98324
an applicant pursuant to this division, the administrator may 98325
request that the superintendent include information from the 98326
federal bureau of investigation in the criminal records check, 98327
including fingerprint-based checks of national crime information 98328
databases as described in 42 U.S.C. 671. 98329

(2) A person required by division (A)(1) of this section to 98330
request a criminal records check shall provide to each applicant a 98331
copy of the form prescribed pursuant to division (C)(1) of section 98332
109.572 of the Revised Code, provide to each applicant a standard 98333
impression sheet to obtain fingerprint impressions prescribed 98334
pursuant to division (C)(2) of section 109.572 of the Revised 98335
Code, obtain the completed form and impression sheet from each 98336
applicant, and forward the completed form and impression sheet to 98337
the superintendent of the bureau of criminal identification and 98338
investigation at the time the person requests a criminal records 98339
check pursuant to division (A)(1) of this section. On and after 98340
~~the effective date of this amendment~~ August 14, 2008, the 98341
administrator of a child day-care center or a type A family 98342
day-care home shall review the results of the criminal records 98343
check before the applicant has sole responsibility for the care, 98344
custody, or control of any child. 98345

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted under division (E) of this section, no child day-care center or type A family day-care home shall employ or contract with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)(9) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the center or home shall release the applicant from employment.

(C)(1) Each child day-care center and type A family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of

section 109.572 of the Revised Code for each criminal records 98378
check conducted in accordance with that section upon the request 98379
pursuant to division (A)(1) of this section of the administrator 98380
or provider of the center or home. 98381

(2) A child day-care center and type A family day-care home 98382
may charge an applicant a fee for the costs it incurs in obtaining 98383
a criminal records check under this section. A fee charged under 98384
this division shall not exceed the amount of fees the center or 98385
home pays under division (C)(1) of this section. If a fee is 98386
charged under this division, the center or home shall notify the 98387
applicant at the time of the applicant's initial application for 98388
employment of the amount of the fee and that, unless the fee is 98389
paid, the center or type A home will not consider the applicant 98390
for employment. 98391

(D) The report of any criminal records check conducted by the 98392
bureau of criminal identification and investigation in accordance 98393
with section 109.572 of the Revised Code and pursuant to a request 98394
under division (A)(1) of this section is not a public record for 98395
the purposes of section 149.43 of the Revised Code and shall not 98396
be made available to any person other than the applicant who is 98397
the subject of the criminal records check or the applicant's 98398
representative; the center or type A home requesting the criminal 98399
records check or its representative; the department of job and 98400
family services or a county department of job and family services; 98401
and any court, hearing officer, or other necessary individual 98402
involved in a case dealing with the denial of employment to the 98403
applicant. 98404

(E) The director of job and family services shall adopt rules 98405
pursuant to Chapter 119. of the Revised Code to implement this 98406
section, including rules specifying circumstances under which a 98407
center or home may hire a person who has been convicted of an 98408
offense listed in division (B)(1) of this section but who meets 98409

standards in regard to rehabilitation set by the department. 98410

(F) Any person required by division (A)(1) of this section to 98411
request a criminal records check shall inform each person, at the 98412
time of the person's initial application for employment, that the 98413
person is required to provide a set of impressions of the person's 98414
fingerprints and that a criminal records check is required to be 98415
conducted and satisfactorily completed in accordance with section 98416
109.572 of the Revised Code if the person comes under final 98417
consideration for appointment or employment as a precondition to 98418
employment for that position. 98419

(G) As used in this section: 98420

(1) "Applicant" means a person who is under final 98421
consideration for appointment to or employment in a position with 98422
a child day-care center or a type A family day-care home as a 98423
person responsible for the care, custody, or control of a child; 98424
an in-home aide certified pursuant to section 5104.12 of the 98425
Revised Code; or any person who would serve in any position with a 98426
child day-care center or a type A family day-care home as a person 98427
responsible for the care, custody, or control of a child pursuant 98428
to a contract with another entity. 98429

(2) "Criminal records check" has the same meaning as in 98430
section 109.572 of the Revised Code. 98431

Sec. 5104.013. (A)(1) At the times specified in division 98432
(A)(3) of this section, the director of job and family services, 98433
as part of the process of licensure of child day-care centers and 98434
type A family day-care homes, shall request the superintendent of 98435
the bureau of criminal identification and investigation to conduct 98436
a criminal records check with respect to the following persons: 98437

(a) Any owner, licensee, or administrator of a child day-care 98438
center; 98439

(b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home. 98440
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(2) At the times specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person eighteen years of age or older who resides in a certified type B family day-care home. 98443
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(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every four years thereafter ~~at the time of a license renewal~~. The director of a county department of job and family services shall request a criminal records check pursuant to division (A)(2) of this section at the time of the initial application for certification and every four years thereafter at the time of a certification renewal. When the director of job and family services or the director of a county department of job and family services requests pursuant to division (A)(1) or (2) of this section a criminal records check for a person at the time of the person's initial application for licensure or certification, the director shall request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as a part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check. In all other cases in which the director of job and family services or 98452
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the director of a county department of job and family services 98472
requests a criminal records check for an applicant pursuant to 98473
division (A)(1) or (2) of this section, the director may request 98474
that the superintendent include information from the federal 98475
bureau of investigation in the criminal records check, including 98476
fingerprint-based checks of national crime information databases 98477
as described in 42 U.S.C. 671. 98478

(4) The director of job and family services shall review the 98479
results of a criminal records check subsequent to a request made 98480
pursuant to divisions (A)(1) and (3) of this section prior to 98481
approval of a license. The director of a county department of job 98482
and family services shall review the results of a criminal records 98483
check subsequent to a request made pursuant to divisions (A)(2) 98484
and (3) of this section prior to approval of certification. 98485

(B) The director of job and family services or the director 98486
of a county department of job and family services shall provide to 98487
each person for whom a criminal records check is required under 98488
this section a copy of the form prescribed pursuant to division 98489
(C)(1) of section 109.572 of the Revised Code and a standard 98490
impression sheet to obtain fingerprint impressions prescribed 98491
pursuant to division (C)(2) of that section, obtain the completed 98492
form and impression sheet from that person, and forward the 98493
completed form and impression sheet to the superintendent of the 98494
bureau of criminal identification and investigation. 98495

(C) A person who receives pursuant to division (B) of this 98496
section a copy of the form and standard impression sheet described 98497
in that division and who is requested to complete the form and 98498
provide a set of fingerprint impressions shall complete the form 98499
or provide all the information necessary to complete the form and 98500
shall provide the impression sheet with the impressions of the 98501
person's fingerprints. If the person, upon request, fails to 98502
provide the information necessary to complete the form or fails to 98503

provide impressions of the person's fingerprints, the director may 98504
consider the failure as a reason to deny licensure or 98505
certification. 98506

(D) Except as provided in rules adopted under division (G) of 98507
this section, the director of job and family services shall not 98508
grant a license to a child day-care center or type A family 98509
day-care home and a county director of job and family services 98510
shall not certify a type B family day-care home if a person for 98511
whom a criminal records check was required in connection with the 98512
center or home previously has been convicted of or pleaded guilty 98513
to any of the violations described in division (A)(9) of section 98514
109.572 of the Revised Code. 98515

(E) Each child day-care center, type A family day-care home, 98516
and type B family day-care home shall pay to the bureau of 98517
criminal identification and investigation the fee prescribed 98518
pursuant to division (C)(3) of section 109.572 of the Revised Code 98519
for each criminal records check conducted in accordance with that 98520
section upon a request made pursuant to division (A) of this 98521
section. 98522

(F) The report of any criminal records check conducted by the 98523
bureau of criminal identification and investigation in accordance 98524
with section 109.572 of the Revised Code and pursuant to a request 98525
made under division (A) of this section is not a public record for 98526
the purposes of section 149.43 of the Revised Code and shall not 98527
be made available to any person other than the person who is the 98528
subject of the criminal records check or the person's 98529
representative, the director of job and family services, the 98530
director of a county department of job and family services, the 98531
center, type A home, or type B home involved, and any court, 98532
hearing officer, or other necessary individual involved in a case 98533
dealing with a denial of licensure or certification related to the 98534
criminal records check. 98535

(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying exceptions to the prohibition in division (D) of this section for persons who have been convicted of an offense listed in that division but who meet standards in regard to rehabilitation set by the department.

(H) As used in this section, "criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.03. (A) Any person, firm, organization, institution, or agency desiring to establish a child day-care center or type A family day-care home shall apply for a license to the director of job and family services on such form as the director prescribes. The director shall provide at no charge to each applicant for licensure a copy of the child care license requirements in ~~Chapter 5104. of the Revised Code~~ this chapter and a copy of the rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter. ~~The director shall mail application forms for renewal of license at least one hundred twenty days prior to the date of expiration of the license, and the application for renewal shall be filed with the director at least sixty days before the date of expiration. Fees~~ copies may be provided in paper or electronic form.

Fees shall be set by the director pursuant to section 5104.011 of the Revised Code and shall be paid at the time of application for ~~or renewal~~ of a license to operate a center or type A home. Fees collected under this section shall be paid into the state treasury to the credit of the general revenue fund.

(B) Upon filing of the application for a license, the director shall investigate and inspect the center or type A home to determine the license capacity for each age category of children of the center or type A home and to determine whether the

center or type A home complies with ~~Chapter 5104. of the Revised~~ 98567
~~Code this chapter~~ and rules adopted pursuant to ~~Chapter 5104. of~~ 98568
~~the Revised Code this chapter~~. When, after investigation and 98569
inspection, the director is satisfied that ~~Chapter 5104. of the~~ 98570
~~Revised Code this chapter~~ and rules adopted pursuant to ~~Chapter~~ 98571
~~5104. of the Revised Code it~~ are complied with, subject to 98572
division (G) of this section, a provisional license shall be 98573
issued as soon as practicable in such form and manner as 98574
prescribed by the director. The provisional license shall be valid 98575
for ~~six~~ twelve months from the date of issuance unless revoked. 98576

(C) The director shall investigate and inspect the center or 98577
type A home at least once during operation under the provisional 98578
license. If after the investigation and inspection the director 98579
determines that the requirements of ~~Chapter 5104. of the Revised~~ 98580
~~Code this chapter~~ and rules adopted pursuant to ~~Chapter 5104. of~~ 98581
~~the Revised Code this chapter~~ are met, subject to division (G) of 98582
this section, the director shall issue a license to ~~be effective~~ 98583
~~for two years from the date of issuance of the provisional license~~ 98584
~~the center or home.~~ 98585

(D) ~~Upon the filing of an application for renewal of a~~ 98586
~~license by the center or type A home, the director shall~~ 98587
~~investigate and inspect the center or type A home. If the director~~ 98588
~~determines that the requirements of Chapter 5104. and rules~~ 98589
~~adopted pursuant to Chapter 5104. of the Revised Code are met,~~ 98590
~~subject to division (G) of this section, the director shall renew~~ 98591
~~the license to be effective for two years from the expiration date~~ 98592
~~of the previous license.~~ 98593

~~(E)~~ The license or provisional license shall state the name 98594
of the licensee, the name of the administrator, the address of the 98595
center or type A home, and the license capacity for each age 98596
category of children. ~~After July 1, 1987, the The license or~~ 98597
provisional license ~~or license~~ shall include thereon, in 98598

accordance with section 5104.011 of the Revised Code, the 98599
toll-free telephone number to be used by persons suspecting that 98600
the center or type A home has violated a provision of ~~Chapter~~ 98601
~~5104.~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of~~ 98602
~~the Revised Code~~ this chapter. A license or provisional license is 98603
valid only for the licensee, administrator, address, and license 98604
capacity for each age category of children designated on the 98605
license. The license capacity specified on the license or 98606
provisional license is the maximum number of children in each age 98607
category that may be cared for in the center or type A home at one 98608
time. 98609

The center or type A home licensee shall notify the director 98610
when the administrator of the center or home changes. The director 98611
shall amend the current license or provisional license to reflect 98612
a change in an administrator, if the administrator meets the 98613
requirements of Chapter 5104. of the Revised Code and rules 98614
adopted pursuant to Chapter 5104. of the Revised Code, or a change 98615
in license capacity for any age category of children as determined 98616
by the director of job and family services. 98617

~~(F)~~(E) If the director revokes a the license ~~or refuses to~~ 98618
~~renew a license to~~ of a center or a type A home, the director 98619
shall not issue a another license to the owner of the center or 98620
type A home ~~within two~~ until five years have elapsed from the date 98621
~~of the revocation of a license or refusal to renew a license~~ is 98622
revoked, except that the director may issue another license before 98623
five years have elapsed if the owner's license was revoked solely 98624
because the owner changed locations. ~~If~~ 98625

If the director denies an application for a license, the 98626
director shall not accept another application from the applicant 98627
until five years have elapsed from the date the application is 98628
denied. 98629

(F) ~~If~~ during the application for licensure ~~or renewal of~~ 98630

licensure process the director determines that the license of the 98631
owner has been revoked ~~or renewal of licensure has been denied,~~ 98632
the investigation of the center or type A home shall cease, ~~and~~ 98633
~~shall.~~ This action does not constitute denial of the application 98634
and may not be appealed under division (G) of this section. All 98635

(G) All actions of the director with respect to licensing 98636
centers or type A homes, ~~renewing a license,~~ refusal to license ~~or~~ 98637
~~renew a license,~~ and revocation of a license shall be in 98638
accordance with Chapter 119. of the Revised Code. Any applicant 98639
who is denied a license or any owner whose license ~~is not renewed~~ 98640
~~or~~ is revoked may appeal in accordance with section 119.12 of the 98641
Revised Code. 98642

~~(G)~~(H) In no case shall the director issue a license or 98643
provisional license ~~or license, or renew a license,~~ under this 98644
section for a type A home or center if the director, based on 98645
documentation provided by the appropriate county department of job 98646
and family services, determines that the applicant previously had 98647
been certified as a type B family day-care home, that the county 98648
department revoked that certification, that the revocation was 98649
based on the applicant's refusal or inability to comply with the 98650
criteria for certification, and that the refusal or inability 98651
resulted in a risk to the health or safety of children. 98652

Sec. 5104.04. (A) The department of job and family services 98653
shall establish procedures to be followed in investigating, 98654
inspecting, and licensing child day-care centers and type A family 98655
day-care homes. 98656

(B)(1)(a) The department shall, at least once during every 98657
twelve-month period of operation of a center or type A home, 98658
inspect the center or type A home. The department shall inspect a 98659
part-time center or part-time type A home at least once during 98660
every twelve-month period of operation. The department shall 98661

provide a written inspection report to the licensee within a 98662
reasonable time after each inspection. The licensee shall display 98663
all written reports of inspections conducted during the current 98664
licensing period in a conspicuous place in the center or type A 98665
home. 98666

Inspections may be unannounced. No person, firm, 98667
organization, institution, or agency shall interfere with the 98668
inspection of a center or type A home by any state or local 98669
official engaged in performing duties required of the state or 98670
local official by ~~Chapter 5104. of the Revised Code~~ this chapter 98671
or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ 98672
this chapter, including inspecting the center or type A home, 98673
reviewing records, or interviewing licensees, employees, children, 98674
or parents. 98675

(b) Upon receipt of any complaint that a center or type A 98676
home is out of compliance with the requirements of ~~Chapter 5104.~~ 98677
~~of the Revised Code~~ this chapter or rules adopted pursuant to 98678
~~Chapter 5104. of the Revised Code~~ this chapter, the department 98679
shall investigate the center or home, and both of the following 98680
apply: 98681

(i) If the complaint alleges that a child suffered physical 98682
harm while receiving child care at the center or home or that the 98683
noncompliance alleged in the complaint involved, resulted in, or 98684
poses a substantial risk of physical harm to a child receiving 98685
child care at the center or home, the department shall inspect the 98686
center or home. 98687

(ii) If division (B)(1)(b)(i) of this section does not apply 98688
regarding the complaint, the department may inspect the center or 98689
home. 98690

(c) Division (B)(1)(b) of this section does not limit, 98691
restrict, or negate any duty of the department to inspect a center 98692

or type A home that otherwise is imposed under this section, or 98693
any authority of the department to inspect a center or type A home 98694
that otherwise is granted under this section when the department 98695
believes the inspection is necessary and it is permitted under the 98696
grant. 98697

(2) If the department implements an instrument-based program 98698
monitoring information system, it may use an indicator checklist 98699
to comply with division (B)(1) of this section. 98700

(3) The department shall contract with a third party by the 98701
first day of October in each even-numbered year to collect 98702
information concerning the amounts charged by the center or home 98703
for providing child care services for use in establishing 98704
reimbursement ceilings and payment pursuant to section 5104.30 of 98705
the Revised Code. The third party shall compile the information 98706
and report the results of the survey to the department not later 98707
than the first day of December in each even-numbered year. 98708

~~(C) In the event a licensed center or type A home is 98709
determined to be out of compliance with the requirements of 98710
Chapter 5104. of the Revised Code or rules adopted pursuant to 98711
Chapter 5104. of the Revised Code, the department shall notify the 98712
licensee of the center or type A home in writing regarding the 98713
nature of the violation, what must be done to correct the 98714
violation, and by what date the correction must be made. If the 98715
correction is not made by the date established by the department, 98716
the department may commence action under Chapter 119. of the 98717
Revised Code to revoke the license. The department's commencement 98718
of an action to revoke the license is sufficient notice that the 98719
correction has not been made, and no other notice regarding the 98720
correction is required. 98721~~

~~(D) The department may deny an application or revoke a 98722
license, or refuse to renew a license of a center or type A home, 98723
if the applicant knowingly makes a false statement on the 98724~~

application, the center or home does not comply with the 98725
requirements of ~~Chapter 5104.~~ this chapter or rules adopted 98726
pursuant to ~~Chapter 5104.~~ of the Revised Code this chapter, or the 98727
applicant or owner has pleaded guilty to or been convicted of an 98728
offense described in section 5104.09 of the Revised Code. 98729

~~(E)~~(D) If the department finds, after notice and hearing 98730
pursuant to Chapter 119. of the Revised Code, that any applicant, 98731
person, firm, organization, institution, or agency applying for 98732
licensure or licensed under section 5104.03 of the Revised Code is 98733
in violation of any provision of ~~Chapter 5104.~~ of the Revised Code 98734
this chapter or rules adopted pursuant to ~~Chapter 5104.~~ of the 98735
~~Revised Code~~ this chapter, the department may issue an order of 98736
denial to the applicant or an order of revocation to the center or 98737
type A home revoking the license previously issued by the 98738
department. Upon the issuance of any such an order ~~of revocation~~, 98739
the person whose application is denied or whose license is revoked 98740
may appeal in accordance with section 119.12 of the Revised Code. 98741

~~(F)~~(E) The surrender of a center or type A home license to 98742
the department or the withdrawal of an application for licensure 98743
by the owner or administrator of the center or type A home shall 98744
not prohibit the department from instituting any of the actions 98745
set forth in this section. 98746

~~(G)~~(F) Whenever the department receives a complaint, is 98747
advised, or otherwise has any reason to believe that a center or 98748
type A home is providing child care without a license issued ~~or~~ 98749
~~renewed~~ pursuant to section 5104.03 and is not exempt from 98750
licensing pursuant to section 5104.02 of the Revised Code, the 98751
department shall investigate the center or type A home and may 98752
inspect the areas children have access to or areas necessary for 98753
the care of children in the center or type A home during suspected 98754
hours of operation to determine whether the center or type A home 98755
is subject to the requirements of ~~Chapter 5104.~~ this chapter or 98756

rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this 98757
chapter. 98758

~~(H)~~(G) The department, upon determining that the center or 98759
type A home is operating without a license, shall notify the 98760
attorney general, the prosecuting attorney of the county in which 98761
the center or type A home is located, or the city attorney, 98762
village solicitor, or other chief legal officer of the municipal 98763
corporation in which the center or type A home is located, that 98764
the center or type A home is operating without a license. Upon 98765
receipt of the notification, the attorney general, prosecuting 98766
attorney, city attorney, village solicitor, or other chief legal 98767
officer of a municipal corporation shall file a complaint in the 98768
court of common pleas of the county in which the center or type A 98769
home is located requesting that the court grant an order enjoining 98770
the owner from operating the center or type A home in violation of 98771
section 5104.02 of the Revised Code. The court shall grant such 98772
injunctive relief upon a showing that the respondent named in the 98773
complaint is operating a center or type A home and is doing so 98774
without a license. 98775

~~(I)~~(H) The department shall prepare an annual report on 98776
inspections conducted under this section. The report shall include 98777
the number of inspections conducted, the number and types of 98778
violations found, and the steps taken to address the violations. 98779
The department shall file the report with the governor, the 98780
president and minority leader of the senate, and the speaker and 98781
minority leader of the house of representatives on or before the 98782
first day of January of each year, beginning in 1999. 98783

Sec. 5104.05. (A) The director of job and family services 98784
shall issue a license or provisional license ~~or license or renew a~~ 98785
~~license~~ for the operation of a child day-care center, if the 98786
director finds, after investigation of the applicant and 98787

inspection of the center, that other requirements of ~~Chapter 5104.~~ 98788
~~of the Revised Code~~ this chapter, rules promulgated pursuant to 98789
~~Chapter 5104. of the Revised Code~~ this chapter, and the following 98790
requirements are met: 98791

(1) The buildings in which the center is housed, subsequent 98792
to any major modification, have been approved by the department of 98793
commerce or a certified municipal, township, or county building 98794
department for the purpose of operating a child day-care center. 98795
Any structure used for the operation of a center shall be 98796
constructed, equipped, repaired, altered, and maintained in 98797
accordance with applicable provisions of Chapters 3781. and 3791. 98798
of the Revised Code and with regulations adopted by the board of 98799
building standards under Chapter 3781. of the Revised Code and 98800
this division for the safety and sanitation of structures erected 98801
for this purpose. 98802

(2) The state fire marshal or the fire chief or fire 98803
prevention officer of the municipal corporation or township in 98804
which the center is located has inspected the center annually 98805
within the preceding license period and has found the center to be 98806
in compliance with rules promulgated by the fire marshal pursuant 98807
to section 3737.83 of the Revised Code regarding fire prevention 98808
and fire safety in a child day-care center. 98809

(3) The center has received a food service operation license 98810
under Chapter 3717. of the Revised Code if meals are to be served 98811
to children other than children of the licensee or administrator, 98812
whether or not a consideration is received for the meals. 98813

(B) The director of job and family services shall issue a 98814
license or provisional license ~~or license or renew a license~~ for 98815
the operation of a type A family day-care home, if the director 98816
finds, after investigation of the applicant and inspection of the 98817
type A home, that other requirements of ~~Chapter 5104. of the~~ 98818
~~Revised Code~~ this chapter, rules promulgated pursuant to ~~Chapter~~ 98819

~~5104. of the Revised Code~~ this chapter, and the following 98820
requirements are met: 98821

(1) The state fire marshal or the fire chief or fire 98822
prevention officer of the municipal corporation or township in 98823
which the type A family day-care home is located has inspected the 98824
type A home annually within the preceding license period and has 98825
found the type A home to be in compliance with rules promulgated 98826
by the fire marshal pursuant to section 3737.83 of the Revised 98827
Code regarding fire prevention and fire safety in a type A home. 98828

(2) The type A home is in compliance with rules set by the 98829
director of job and family services in cooperation with the 98830
director of health pursuant to section 3701.80 of the Revised Code 98831
regarding meal preparation and meal service in the home. The 98832
director of job and family services, in accordance with procedures 98833
recommended by the director of health, shall inspect each type A 98834
home to determine compliance with those rules. 98835

(3) The type A home is in compliance with rules promulgated 98836
by the director of job and family services in cooperation with the 98837
board of building standards regarding safety and sanitation 98838
pursuant to section 3781.10 of the Revised Code. 98839

Sec. 5104.13. ~~No later than July 1, 1998, and at reasonable~~ 98840
~~intervals thereafter, the~~ The department of job and family 98841
services shall ~~publish~~ prepare a guide describing the state 98842
statutes and rules governing the certification of type B family 98843
day-care homes. The department ~~shall distribute~~ may publish the 98844
guide ~~to county departments of job and family services in~~ 98845
~~sufficient number that a copy is available to each~~ electronically 98846
or otherwise and shall do so in a manner that the guide is 98847
accessible to the public, including type B home ~~provider~~ 98848
providers. 98849

Sec. 5104.30. (A) The department of job and family services 98850
is hereby designated as the state agency responsible for 98851
administration and coordination of federal and state funding for 98852
publicly funded child care in this state. Publicly funded child 98853
care shall be provided to the following: 98854

(1) Recipients of transitional child care as provided under 98855
section 5104.34 of the Revised Code; 98856

(2) Participants in the Ohio works first program established 98857
under Chapter 5107. of the Revised Code; 98858

(3) Individuals who would be participating in the Ohio works 98859
first program if not for a sanction under section 5107.16 of the 98860
Revised Code and who continue to participate in a work activity, 98861
developmental activity, or alternative work activity pursuant to 98862
an assignment under section 5107.42 of the Revised Code; 98863

(4) A family receiving publicly funded child care on October 98864
1, 1997, until the family's income reaches one hundred fifty per 98865
cent of the federal poverty line; 98866

(5) Subject to available funds, other individuals determined 98867
eligible in accordance with rules adopted under section 5104.38 of 98868
the Revised Code. 98869

The department shall apply to the United States department of 98870
health and human services for authority to operate a coordinated 98871
program for publicly funded child care, if the director of job and 98872
family services determines that the application is necessary. For 98873
purposes of this section, the department of job and family 98874
services may enter into agreements with other state agencies that 98875
are involved in regulation or funding of child care. The 98876
department shall consider the special needs of migrant workers 98877
when it administers and coordinates publicly funded child care and 98878
shall develop appropriate procedures for accommodating the needs 98879

of migrant workers for publicly funded child care. 98880

(B) The department of job and family services shall 98881
distribute state and federal funds for publicly funded child care, 98882
including appropriations of state funds for publicly funded child 98883
care and appropriations of federal funds available under the child 98884
care block grant act, Title IV-A, and Title XX. The department may 98885
use any state funds appropriated for publicly funded child care as 98886
the state share required to match any federal funds appropriated 98887
for publicly funded child care. 98888

(C) In the use of federal funds available under the child 98889
care block grant act, all of the following apply: 98890

(1) The department may use the federal funds to hire staff to 98891
prepare any rules required under this chapter and to administer 98892
and coordinate federal and state funding for publicly funded child 98893
care. 98894

(2) Not more than five per cent of the aggregate amount of 98895
the federal funds received for a fiscal year may be expended for 98896
administrative costs. 98897

(3) The department shall allocate and use at least four per 98898
cent of the federal funds for the following: 98899

(a) Activities designed to provide comprehensive consumer 98900
education to parents and the public; 98901

(b) Activities that increase parental choice; 98902

(c) Activities, including child care resource and referral 98903
services, designed to improve the quality, and increase the 98904
supply, of child care; 98905

(d) Establishing a voluntary child day-care center 98906
quality-rating program in which participation in the program may 98907
allow a child day-care center to be eligible for grants, technical 98908
assistance, training, or other assistance and become eligible for 98909

unrestricted monetary awards for maintaining a quality rating. 98910

(4) The department shall ensure that the federal funds will 98911
be used only to supplement, and will not be used to supplant, 98912
federal, state, and local funds available on the effective date of 98913
the child care block grant act for publicly funded child care and 98914
related programs. If authorized by rules adopted by the department 98915
pursuant to section 5104.42 of the Revised Code, county 98916
departments of job and family services may purchase child care 98917
from funds obtained through any other means. 98918

(D) The department shall encourage the development of 98919
suitable child care throughout the state, especially in areas with 98920
high concentrations of recipients of public assistance and 98921
families with low incomes. The department shall encourage the 98922
development of suitable child care designed to accommodate the 98923
special needs of migrant workers. On request, the department, 98924
through its employees or contracts with state or community child 98925
care resource and referral service organizations, shall provide 98926
consultation to groups and individuals interested in developing 98927
child care. The department of job and family services may enter 98928
into interagency agreements with the department of education, the 98929
board of regents, the department of development, and other state 98930
agencies and entities whenever the cooperative efforts of the 98931
other state agencies and entities are necessary for the department 98932
of job and family services to fulfill its duties and 98933
responsibilities under this chapter. 98934

The department shall develop and maintain a registry of 98935
persons providing child care. The director shall adopt rules 98936
pursuant to Chapter 119. of the Revised Code establishing 98937
procedures and requirements for the registry's administration. 98938

(E)(1) The director shall adopt rules in accordance with 98939
Chapter 119. of the Revised Code establishing both of the 98940
following: 98941

(a) Reimbursement ceilings for providers of publicly funded child care not later than the first day of July in each odd-numbered year;	98942 98943 98944
(b) A procedure for reimbursing and paying providers of publicly funded child care.	98945 98946
(2) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director shall do all of the following:	98947 98948 98949
(a) Use the information obtained under division (B)(3) of section 5104.04 of the Revised Code;	98950 98951
(b) Establish an enhanced reimbursement ceiling for providers who provide child care for caretaker parents who work nontraditional hours;	98952 98953 98954
(c) For a type B family day-care home provider that has received limited certification pursuant to rules adopted under division (G)(1) of section 5104.011 of the Revised Code, establish a reimbursement ceiling that is the following:	98955 98956 98957 98958
(i) If the provider is a person described in division (G)(1)(a)(i) of section 5104.011 of the Revised Code, seventy-five per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department of job and family services pursuant to section 5104.11 of the Revised Code;	98959 98960 98961 98962 98963 98964
(ii) If the provider is a person described in division (G)(1)(a)(ii) of section 5104.011 of the Revised Code, sixty per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department pursuant to section 5104.11 of the Revised Code.	98965 98966 98967 98968 98969
<u>(d) With regard to the voluntary child day-care center quality-rating program established pursuant to division (C)(3)(d)</u>	98970 98971

<u>of this section, do both of the following:</u>	98972
<u>(i) Establish enhanced reimbursement ceilings for child day-care centers that participate in the program and maintain quality ratings under the program;</u>	98973
<u>(ii) Weigh any reduction in reimbursement ceilings more heavily against child day-care centers that do not participate in the program or do not maintain quality ratings under the program.</u>	98974
(3) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director may establish different reimbursement ceilings based on any of the following:	98975
(a) Geographic location of the provider;	98976
(b) Type of care provided;	98977
(c) Age of the child served;	98978
(d) Special needs of the child served;	98979
(e) Whether the expanded hours of service are provided;	98980
(f) Whether weekend service is provided;	98981
(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;	98982
(h) Any other factors the director considers appropriate.	98983
(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the voluntary child day-care center quality-rating program described in division (C)(3)(d) of this section.	98984
Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp,	98985
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licensed preschool program, licensed school child program, or 99000
border state child care provider and the ~~county~~ department of job 99001
and family services. ~~A county department of job and family~~ 99002
~~services may enter into a contract with a provider for publicly~~ 99003
~~funded child care for a specified period of time or upon a~~ 99004
~~continuous basis for an unspecified period of time.~~ All contracts 99005
for publicly funded child care shall be contingent upon the 99006
availability of state and federal funds. The department ~~of job and~~ 99007
~~family services~~ shall prescribe a standard form to be used for all 99008
contracts for the purchase of publicly funded child care, 99009
regardless of the source of public funds used to purchase the 99010
child care. To the extent permitted by federal law and 99011
notwithstanding any other provision of the Revised Code that 99012
regulates state ~~or county~~ contracts or contracts involving the 99013
expenditure of state, ~~county,~~ or federal funds, all contracts for 99014
publicly funded child care shall be entered into in accordance 99015
with the provisions of this chapter and are exempt from any other 99016
provision of the Revised Code that regulates state ~~or county~~ 99017
contracts or contracts involving the expenditure of state, ~~county,~~ 99018
or federal funds. 99019

(B) Each contract for publicly funded child care shall 99020
specify at least the following: 99021

(1) That the provider of publicly funded child care agrees to 99022
be paid for rendering services at the ~~lowest~~ lower of the rate 99023
customarily charged by the provider for children enrolled for 99024
child care, or the reimbursement ceiling or rate of payment 99025
established pursuant to section 5104.30 of the Revised Code, ~~or a~~ 99026
~~rate the county department negotiates with the provider;~~ 99027

(2) That, if a provider provides child care to an individual 99028
potentially eligible for publicly funded child care who is 99029
subsequently determined to be eligible, the ~~county~~ department 99030
agrees to pay for all child care provided between the date the 99031

county department of job and family services receives the 99032
individual's completed application and the date the individual's 99033
eligibility is determined; 99034

(3) Whether the county department of job and family services, 99035
the provider, or a child care resource and referral service 99036
organization will make eligibility determinations, whether the 99037
provider or a child care resource and referral service 99038
organization will be required to collect information to be used by 99039
the county department to make eligibility determinations, and the 99040
time period within which the provider or child care resource and 99041
referral service organization is required to complete required 99042
eligibility determinations or to transmit to the county department 99043
any information collected for the purpose of making eligibility 99044
determinations; 99045

(4) That the provider, other than a border state child care 99046
provider, shall continue to be licensed, approved, or certified 99047
pursuant to this chapter and shall comply with all standards and 99048
other requirements in this chapter and in rules adopted pursuant 99049
to this chapter for maintaining the provider's license, approval, 99050
or certification; 99051

(5) That, in the case of a border state child care provider, 99052
the provider shall continue to be licensed, certified, or 99053
otherwise approved by the state in which the provider is located 99054
and shall comply with all standards and other requirements 99055
established by that state for maintaining the provider's license, 99056
certificate, or other approval; 99057

(6) Whether the provider will be paid by the ~~county~~ 99058
~~department of job and family services,~~ the state department of job 99059
and family services, or in some other manner as prescribed by 99060
rules adopted under section 5104.42 of the Revised Code; 99061

(7) That the contract is subject to the availability of state 99062

and federal funds. 99063

(C) Unless specifically prohibited by federal law or by rules 99064
adopted under section 5104.42 of the Revised Code, the county 99065
department of job and family services shall give individuals 99066
eligible for publicly funded child care the option of obtaining 99067
certificates ~~for payment~~ that the individual may use to purchase 99068
services from any provider qualified to provide publicly funded 99069
child care under section 5104.31 of the Revised Code. Providers of 99070
publicly funded child care may present these certificates for 99071
payment ~~for reimbursement~~ in accordance with rules that the 99072
director of job and family services shall adopt. Only providers 99073
may receive ~~reimbursement~~ payment for certificates ~~for payment~~. 99074
The value of the certificate ~~for payment~~ shall be based on the 99075
~~lowest~~ lower of the rate customarily charged by the provider, ~~the~~ 99076
~~reimbursement ceiling~~ or the rate of payment established pursuant 99077
to section 5104.30 of the Revised Code, ~~or a rate the county~~ 99078
~~department negotiates with the provider~~. The county department may 99079
provide the certificates ~~for payment~~ to the individuals or may 99080
contract with child care providers or child care resource and 99081
referral service organizations that make determinations of 99082
eligibility for publicly funded child care pursuant to contracts 99083
entered into under section 5104.34 of the Revised Code for the 99084
providers or resource and referral service organizations to 99085
provide the certificates ~~for payment~~ to individuals whom they 99086
determine are eligible for publicly funded child care. 99087

For each six-month period a provider of publicly funded child 99088
care provides publicly funded child ~~day-care~~ care to the child of 99089
an individual given certificates ~~for payment~~, the individual shall 99090
provide the provider certificates for days the provider would have 99091
provided publicly funded child care to the child had the child 99092
been present. The maximum number of days providers shall be 99093
provided certificates shall not exceed ten days in a six-month 99094

period during which publicly funded child care is provided to the 99095
child regardless of the number of providers that provide publicly 99096
funded child care to the child during that period. 99097

Sec. 5104.34. (A)(1) Each county department of job and family 99098
services shall implement procedures for making determinations of 99099
eligibility for publicly funded child care. Under those 99100
procedures, the eligibility determination for each applicant shall 99101
be made no later than thirty calendar days from the date the 99102
county department receives a completed application for publicly 99103
funded child care. Each applicant shall be notified promptly of 99104
the results of the eligibility determination. An applicant 99105
aggrieved by a decision or delay in making an eligibility 99106
determination may appeal the decision or delay to the department 99107
of job and family services in accordance with section 5101.35 of 99108
the Revised Code. The due process rights of applicants shall be 99109
protected. 99110

To the extent permitted by federal law, the county department 99111
may make all determinations of eligibility for publicly funded 99112
child care, may contract with child care providers or child care 99113
resource and referral service organizations for the providers or 99114
resource and referral service organizations to make all or any 99115
part of the determinations, and may contract with child care 99116
providers or child care resource and referral service 99117
organizations for the providers or resource and referral service 99118
organizations to collect specified information for use by the 99119
county department in making determinations. If a county department 99120
contracts with a child care provider or a child care resource and 99121
referral service organization for eligibility determinations or 99122
for the collection of information, the contract shall require the 99123
provider or resource and referral service organization to make 99124
each eligibility determination no later than thirty calendar days 99125
from the date the provider or resource and referral organization 99126

receives a completed application that is the basis of the 99127
determination and to collect and transmit all necessary 99128
information to the county department within a period of time that 99129
enables the county department to make each eligibility 99130
determination no later than thirty days after the filing of the 99131
application that is the basis of the determination. 99132

The county department may station employees of the department 99133
in various locations throughout the county to collect information 99134
relevant to applications for publicly funded child care and to 99135
make eligibility determinations. The county department, child care 99136
provider, and child care resource and referral service 99137
organization shall make each determination of eligibility for 99138
publicly funded child care no later than thirty days after the 99139
filing of the application that is the basis of the determination, 99140
shall make each determination in accordance with any relevant 99141
rules adopted pursuant to section 5104.38 of the Revised Code, and 99142
shall notify promptly each applicant for publicly funded child 99143
care of the results of the determination of the applicant's 99144
eligibility. 99145

The director of job and family services shall adopt rules in 99146
accordance with Chapter 119. of the Revised Code for monitoring 99147
the eligibility determination process. In accordance with those 99148
rules, the state department shall monitor eligibility 99149
determinations made by county departments of job and family 99150
services and shall direct any entity that is not in compliance 99151
with this division or any rule adopted under this division to 99152
implement corrective action specified by the department. 99153

(2) All eligibility determinations for publicly funded child 99154
care shall be made in accordance with rules adopted pursuant to 99155
division (A) of section 5104.38 of the Revised Code and, if a 99156
county department of job and family services specifies, pursuant 99157
to rules adopted under division (B) of that section, a maximum 99158

amount of income a family may have to be eligible for publicly 99159
funded child care, the income maximum specified by the county 99160
department. Publicly funded child care may be provided only to 99161
eligible infants, toddlers, preschool children, and school 99162
children under age thirteen. For an applicant to be eligible for 99163
publicly funded child care, the caretaker parent must be employed 99164
or participating in a program of education or training for an 99165
amount of time reasonably related to the time that the parent's 99166
children are receiving publicly funded child care. This 99167
restriction does not apply to families whose children are eligible 99168
for protective child care. 99169

Subject to available funds, a county department of job and 99170
family services shall allow a family to receive publicly funded 99171
child care unless the family's income exceeds the maximum income 99172
eligibility limit. Initial and continued eligibility for publicly 99173
funded child care is subject to available funds unless the family 99174
is receiving child care pursuant to division (A)(1), (2), (3), or 99175
(4) of section 5104.30 of the Revised Code. If the county 99176
department must limit eligibility due to lack of available funds, 99177
it shall give first priority for publicly funded child care to an 99178
assistance group whose income is not more than the maximum income 99179
eligibility limit that received transitional child care in the 99180
previous month but is no longer eligible because the twelve-month 99181
period has expired. Such an assistance group shall continue to 99182
receive priority for publicly funded child care until its income 99183
exceeds the maximum income eligibility limit. 99184

(3) An assistance group that ceases to participate in the 99185
Ohio works first program established under Chapter 5107. of the 99186
Revised Code is eligible for transitional child care at any time 99187
during the immediately following twelve-month period that both of 99188
the following apply: 99189

(a) The assistance group requires child care due to 99190

employment; 99191

(b) The assistance group's income is not more than one 99192
hundred fifty per cent of the federal poverty line. 99193

An assistance group ineligible to participate in the Ohio 99194
works first program pursuant to section 5101.83 or section 5107.16 99195
of the Revised Code is not eligible for transitional child care. 99196

(B) To the extent permitted by federal law, a county 99197
department of job and family services may require a caretaker 99198
parent determined to be eligible for publicly funded child care to 99199
pay a fee according to the schedule of fees established in rules 99200
adopted under section 5104.38 of the Revised Code. Each county 99201
department shall make protective child care services available to 99202
children without regard to the income or assets of the caretaker 99203
parent of the child. 99204

(C) A caretaker parent receiving publicly funded child care 99205
shall report to the entity that determined eligibility any changes 99206
in status with respect to employment or participation in a program 99207
of education or training not later than ten calendar days after 99208
the change occurs. 99209

(D) If a county department of job and family services 99210
determines that available resources are not sufficient to provide 99211
publicly funded child care to all eligible families who request 99212
it, the county department may establish a waiting list. A county 99213
department may establish separate waiting lists within the waiting 99214
list based on income. When resources become available to provide 99215
publicly funded child care to families on the waiting list, a 99216
county department that establishes a waiting list shall assess the 99217
needs of the next family scheduled to receive publicly funded 99218
child care. If the assessment demonstrates that the family 99219
continues to need and is eligible for publicly funded child care, 99220
the county department shall offer it to the family. If the county 99221

department determines that the family is no longer eligible or no longer needs publicly funded child care, the county department shall remove the family from the waiting list.

(E) A caretaker parent shall not receive publicly funded child care from more than one child care provider during any period unless the caretaker parent obtains approval from the county department of job and family services based on good cause.

(F) As used in this section, "maximum income eligibility limit" means the amount of income specified in rules adopted under division (A) of section 5104.38 of the Revised Code or, if a county department of job and family services specifies a higher amount pursuant to rules adopted under division (B) of that section, the amount the county department specifies.

Sec. 5104.341. (A) Except as provided in division (B) of this section, both of the following apply:

(1) An eligibility determination made under section 5104.34 of the Revised Code for publicly funded child care is valid for one year;

(2) The county department of job and family services shall adjust the appropriate level of a fee charged under division (B) of section 5104.34 of the Revised Code if a caretaker parent reports changes in income, family size, or both.

(B) Division (A) of this section does not apply ~~in either of the following circumstances:~~

~~(1) The publicly funded child care is provided under division (B)(4) of section 5104.35 of the Revised Code;~~

~~(2) The if the recipient of the publicly funded child care ceases to be eligible for publicly funded child care.~~

Sec. 5104.35. (A) ~~The~~ Each county department of job and

family services shall do all of the following: 99251

(1) Accept any gift, grant, or other funds from either public 99252
or private sources offered unconditionally or under conditions 99253
which are, in the judgment of the department, proper and 99254
consistent with this chapter and deposit the funds in the county 99255
public assistance fund established by section 5101.161 of the 99256
Revised Code; 99257

(2) Recruit individuals and groups interested in 99258
certification as in-home aides or in developing and operating 99259
suitable licensed child day-care centers, type A family day-care 99260
homes, or certified type B family day-care homes, especially in 99261
areas with high concentrations of recipients of public assistance, 99262
and for that purpose provide consultation to interested 99263
individuals and groups on request; 99264

(3) Inform clients of the availability of child care 99265
services; 99266

~~(4) Pay to a child day care center, type A family day care 99267
home, certified type B family day care home, in home aide, 99268
approved child day camp, licensed preschool program, licensed 99269
school child program, or border state child care provider for 99270
child care services, the amount provided for in division (B) of 99271
section 5104.32 of the Revised Code. If part of the cost of care 99272
of a child is paid by the child's parent or any other person, the 99273
amount paid shall be subtracted from the amount the provider is 99274
paid. 99275~~

~~(5) In accordance with rules adopted pursuant to section 99276
5104.39 of the Revised Code, provide monthly reports to the 99277
director of job and family services and the director of budget and 99278
management regarding expenditures for the purchase of publicly 99279
funded child care. 99280~~

(B) The A county department of job and family services may ~~de~~ 99281

~~any of the following:~~ 99282

~~(1) To, to the extent permitted by federal law, use public child care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child care;~~ 99283
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~~(2) In accordance with rules adopted by the director of job and family services, request a waiver of the reimbursement ceiling established pursuant to section 5104.30 of the Revised Code for the purpose of paying a higher rate for publicly funded child care based upon the special needs of a child;~~ 99287
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~~(3) To the extent permitted by federal law, use state and federal funds to pay deposits and other advance payments that a provider of child care customarily charges all children who receive child care from that provider;~~ 99292
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~~(4) To the extent permitted by federal law, pay for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrollment or attendance in an education or training program or activity, if the employment or education or training program or activity is expected to begin within the thirty day period.~~ 99296
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Sec. 5104.37. ~~The department of job and family services and a county department of job and family services~~ may withhold any money due, and recover through any appropriate method any money erroneously paid, under this chapter if evidence exists of less than full compliance with this chapter and any rules adopted under it. 99303
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Sec. 5104.38. In addition to any other rules adopted under this chapter, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code 99309
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governing financial and administrative requirements for publicly 99312
funded child care and establishing all of the following: 99313

(A) Procedures and criteria to be used in making 99314
determinations of eligibility for publicly funded child care that 99315
give priority to children of families with lower incomes and 99316
procedures and criteria for eligibility for publicly funded 99317
protective child care. The rules shall specify the maximum amount 99318
of income a family may have for initial and continued eligibility. 99319
The maximum amount shall not exceed two hundred per cent of the 99320
federal poverty line. The rules may specify exceptions to the 99321
eligibility requirements in the case of a family that previously 99322
received publicly funded child care and is seeking to have the 99323
child care reinstated after the family's eligibility was 99324
terminated. 99325

(B) Procedures under which a county department of job and 99326
family services may, if the department, under division (A) of this 99327
section, specifies a maximum amount of income a family may have 99328
for eligibility for publicly funded child care that is less than 99329
the maximum amount specified in that division, specify a maximum 99330
amount of income a family residing in the county the county 99331
department serves may have for initial and continued eligibility 99332
for publicly funded child care that is higher than the amount 99333
specified by the department but does not exceed the maximum amount 99334
specified in division (A) of this section; 99335

(C) A schedule of fees requiring all eligible caretaker 99336
parents to pay a fee for publicly funded child care according to 99337
income and family size, which shall be uniform for all types of 99338
publicly funded child care, except as authorized by rule, and, to 99339
the extent permitted by federal law, shall permit the use of state 99340
and federal funds to pay the customary deposits and other advance 99341
payments that a provider charges all children who receive child 99342
care from that provider. The schedule of fees may not provide for 99343

a caretaker parent to pay a fee that exceeds ten per cent of the parent's family income. 99344
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(D) A formula ~~based upon a percentage of the county's total expenditures for publicly funded child care~~ for determining the ~~maximum~~ amount of state and federal funds appropriated for publicly funded child care that may be allocated to a county department ~~may~~ to use for administrative purposes; 99346
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(E) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child care; 99351
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(F) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child care; 99354
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(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child care; 99359
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(H) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act; 99361
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(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans; 99363
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(J) A definition of "person who stands in loco parentis" for the purposes of division ~~(II)(1)~~ (JJ)(1) of section 5104.01 of the Revised Code; 99365
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(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department; 99368
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(L) If the director establishes a different reimbursement 99373

ceiling under division (E)(3)(d) of section 5104.30 of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served; 99374
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(M) To the extent permitted by federal law, procedures for paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrolling in or attending an education or training program or activity, if the employment or the education or training program or activity is expected to begin within the thirty-day period; 99378
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(N) Procedures for a county department of job and family services to follow in determining whether there is good cause to permit an eligible caretaker parent to receive publicly funded child care from more than one child care provider. 99386
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(O) Any other rules necessary to carry out sections 5104.30 to ~~5104.39~~ 5104.43 of the Revised Code. 99390
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Sec. 5104.39. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a procedure for monitoring the expenditures ~~of county departments of job and family services~~ for publicly funded child care to ensure that expenditures do not exceed the available federal and state funds for publicly funded child care. The department of job and family services, with the assistance of the office of budget and management and the child care advisory council created pursuant to section 5104.08 of the Revised Code, shall monitor the anticipated future expenditures ~~of county departments~~ for publicly funded child care and shall compare those anticipated future expenditures to available federal and state funds for publicly funded child care. Whenever the department 99392
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determines that the anticipated future expenditures ~~of the county~~ 99405
~~departments will exceed the available federal and state funds for~~ 99406
publicly funded child care ~~and the department reimburses the~~ 99407
~~county departments in accordance with rules adopted under section~~ 99408
5104.42 of the Revised Code will exceed the available federal and 99409
state funds, the department shall promptly notify the county 99410
departments of job and family services and, before the available 99411
state and federal funds are used, the director shall issue and 99412
implement an administrative order that shall specify both of the 99413
following: 99414

(1) Priorities for expending the remaining available federal 99415
and state funds for publicly funded child care; 99416

(2) Instructions and procedures to be used by the county 99417
departments regarding eligibility determinations. 99418

(B) The order may do any or all of the following: 99419

(1) Suspend enrollment of all new participants in any program 99420
of publicly funded child care; 99421

(2) Limit enrollment of new participants to those with 99422
incomes at or below a specified percentage of the federal poverty 99423
line; 99424

(3) Disenroll existing participants with income above a 99425
specified percentage of the federal poverty line; 99426

(4) Change the schedule of fees paid by eligible caretaker 99427
parents that has been established pursuant to section 5104.38 of 99428
the Revised Code; 99429

(5) Change the rate of payment for providers of publicly 99430
funded child care that has been established pursuant to section 99431
5104.30 of the Revised Code. 99432

(C) Each county department shall comply with the order no 99433
later than thirty days after it is issued. ~~If the department fails~~ 99434

~~to notify the county departments and to implement the reallocation 99435
priorities specified in the order before the available federal and 99436
state funds for publicly funded child care are used, the state 99437
department shall provide sufficient funds to the county 99438
departments for publicly funded child care to enable each county 99439
department to pay for all publicly funded child care that was 99440
provided by providers pursuant to contract prior to the date that 99441
the county department received notice under this section and the 99442
state department implemented in that county the priorities. 99443~~

(D) If after issuing an order under this section to suspend 99444
or limit enrollment of new participants or disenroll existing 99445
participants the department determines that available state and 99446
federal funds for publicly funded child care exceed the 99447
anticipated future expenditures ~~of the county departments for~~ 99448
publicly funded child care, the director may issue and implement 99449
another administrative order increasing income eligibility levels 99450
to a specified percentage of the federal poverty line. The order 99451
shall include instructions and procedures to be used by the county 99452
departments. Each county department shall comply with the order 99453
not later than thirty days after it is issued. 99454

(E) The department of job and family services shall do all of 99455
the following: 99456

(1) Conduct a quarterly evaluation of the program of publicly 99457
funded child care that is operated pursuant to sections 5104.30 to 99458
~~5104.39~~ 5104.43 of the Revised Code; 99459

(2) Prepare reports based upon the evaluations that specify 99460
for each county the number of participants and amount of 99461
expenditures; 99462

(3) Provide copies of the reports to both houses of the 99463
general assembly and, on request, to interested parties. 99464

Sec. 5104.42. ~~(A) The director of job and family services shall adopt rules pursuant to section 111.15 of the Revised Code establishing a payment procedure for publicly funded child care. The rules may provide that the department of job and family services will reimburse county departments of job and family services for payments made to providers of publicly funded child care, make direct payments to providers, or establish another system for the payment of publicly funded child care.~~ 99465
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~~Alternately, the (B) The director, by rule adopted in accordance with section 111.15 of the Revised Code, may establish a methodology for allocating among the county departments the state and federal funds appropriated for all publicly funded child care services. If the department chooses to allocate funds for publicly funded child care, it may provide the funds to each county department, up to the limit of the county's allocation, by advancing the funds or reimbursing county care expenditures. The rules adopted under this section may prescribe procedures for making the advances or reimbursements. The rules may establish a method under which the department may determine which county expenditures for child care services are allowable for use of and federal funds.~~ 99473
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~~The rules may establish procedures that a county department shall follow when the county department determines that its anticipated future expenditures for publicly funded child care services will exceed the amount of state and federal funds allocated by the state department. The procedures may include suspending or limiting enrollment of new participants.~~ 99486
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Sec. 5104.43. Each county department of job and family services shall deposit all funds received from any source for child care services into the public assistance fund established under section 5101.161 of the Revised Code. ~~All expenditures by a~~ 99492
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~~county department for publicly funded child care shall be made~~ 99496
~~from the public assistance fund.~~ 99497

Sec. 5104.99. (A) Whoever violates section 5104.02 of the 99498
Revised Code shall be punished as follows: 99499

(1) For each offense, the offender shall be fined not less 99500
than one hundred dollars nor more than five hundred dollars 99501
multiplied by the number of children receiving child care at the 99502
child day-care center or type A family day-care home that either 99503
exceeds the number of children to which a type B family day-care 99504
home may provide child care or, if the offender is a licensed type 99505
A family day-care home that is operating as a child day-care 99506
center without being licensed as a center, exceeds the license 99507
capacity of the type A home. 99508

(2) In addition to the fine specified in division (A)(1) of 99509
this section, all of the following apply: 99510

(a) Except as provided in divisions (A)(2)(b), (c), and (d) 99511
of this section, the court shall order the offender to reduce the 99512
number of children to which it provides child care to a number 99513
that does not exceed either the number of children to which a type 99514
B family day-care home may provide child care or, if the offender 99515
is a licensed type A family day-care home that is operating as a 99516
child day-care center without being licensed as a center, the 99517
license capacity of the type A home. 99518

(b) If the offender previously has been convicted of or 99519
pleaded guilty to one violation of section 5104.02 of the Revised 99520
Code, the court shall order the offender to cease the provision of 99521
child care to any person until it obtains a child day-care center 99522
license or a type A family day-care home license, as appropriate, 99523
under section 5104.03 of the Revised Code. 99524

(c) If the offender previously has been convicted of or 99525

pleaded guilty to two violations of section 5104.02 of the Revised Code, the offender is guilty of a misdemeanor of the first degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a misdemeanor of the first degree under section 2929.28 of the Revised Code.

(d) If the offender previously has been convicted of or pleaded guilty to three or more violations of section 5104.02 of the Revised Code, the offender is guilty of a felony of the fifth degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a felony of the fifth degree under section 2929.18 of the Revised Code.

(B) Whoever violates division (B) of section 5104.09 of the Revised Code is guilty of a misdemeanor of the first degree. If the offender is a licensee of a center or type A home, the conviction shall constitute grounds for denial, or revocation, ~~or refusal to renew~~ of an application for licensure pursuant to section 5104.04 of the Revised Code. If the offender is a person eighteen years of age or older residing in a center or type A home or is an employee of a center or a type A home and if the licensee had knowledge of, and acquiesced in, the commission of the

offense, the conviction shall constitute grounds for denial, or 99558
revocation, ~~or refusal to renew~~ of an application for licensure 99559
pursuant to section 5104.04 of the Revised Code. 99560

(C) Whoever violates division (C) of section 5104.09 of the 99561
Revised Code is guilty of a misdemeanor of the third degree. 99562

Sec. 5111.012. The (A) Except as provided in division (B) of 99563
this section, the county department of job and family services of 99564
each county shall establish the eligibility for medical assistance 99565
of persons living in the county, and shall notify the department 99566
of job and family services in the manner prescribed by the 99567
department. The county shall be reimbursed for administrative 99568
expenditures in accordance with sections 5101.16, 5101.161, and 99569
5701.01 of the Revised Code. Expenditures for medical assistance 99570
shall be made from funds appropriated to the department of job and 99571
family services for public assistance subsidies. The program shall 99572
conform to the requirements of the "Social Security Act," 49 Stat. 99573
620 (1935), 42 U.S.C.A. 301, as amended. 99574

(B) If the department of job and family services elects to 99575
enter into agreements with county departments of job and family 99576
services pursuant to division (B) of section 5101.47 of the 99577
Revised Code, a county department of job and family services shall 99578
establish eligibility for medical assistance only if authorized to 99579
do so under such an agreement. 99580

Sec. 5111.013. (A) The provision of medical assistance to 99581
pregnant women and young children who are eligible for medical 99582
assistance under division (A)(3) of section 5111.01 of the Revised 99583
Code, but who are not otherwise eligible for medical assistance 99584
under that section, shall be known as the healthy start program. 99585

(B) The department of job and family services shall do all of 99586
the following with regard to the application procedures for the 99587

healthy start program: 99588

(1) Establish a short application form for the program that 99589
requires the applicant to provide no more information than is 99590
necessary for making determinations of eligibility for the healthy 99591
start program, except that the form may require applicants to 99592
provide their social security numbers. The form shall include a 99593
statement, which must be signed by the applicant, indicating that 99594
she does not choose at the time of making application for the 99595
program to apply for assistance provided under any other program 99596
administered by the department and that she understands that she 99597
is permitted at any other time to apply at the county department 99598
of job and family services of the county in which she resides for 99599
any other assistance administered by the department. 99600

(2) To the extent permitted by federal law, do one or both of 99601
the following: 99602

(a) Distribute the application form for the program to each 99603
public or private entity that serves as a women, infants, and 99604
children clinic or as a child and family health clinic and to each 99605
administrative body for such clinics and train employees of each 99606
such agency or entity to provide applicants assistance in 99607
completing the form; 99608

(b) In cooperation with the department of health, develop 99609
arrangements under which employees of county departments of job 99610
and family services are stationed at public or private agencies or 99611
entities selected by the department of job and family services 99612
that serve as women, infants, and children clinics; child and 99613
family health clinics; or administrative bodies for such clinics 99614
for the purpose both of assisting applicants for the program in 99615
completing the application form and of making determinations at 99616
that location of eligibility for the program. 99617

(3) Establish performance standards by which a county 99618

department of job and family services' level of enrollment of 99619
persons potentially eligible for the program can be measured, and 99620
establish acceptable levels of enrollment for each county 99621
department. 99622

(4) Direct any county department of job and family services 99623
whose rate of enrollment of potentially eligible enrollees in the 99624
program is below acceptable levels established under division 99625
(B)(3) of this section to implement corrective action. Corrective 99626
action may include but is not limited to any one or more of the 99627
following to the extent permitted by federal law: 99628

(a) Establishing formal referral and outreach methods with 99629
local health departments and local entities receiving funding 99630
through the bureau of maternal and child health; 99631

(b) Designating a specialized intake unit within the county 99632
department for healthy start applicants; 99633

(c) Establishing abbreviated timeliness requirements to 99634
shorten the time between receipt of an application and the 99635
scheduling of an initial application interview; 99636

(d) Establishing a system for telephone scheduling of intake 99637
interviews for applicants; 99638

(e) Establishing procedures to minimize the time an applicant 99639
must spend in completing the application and eligibility 99640
determination process, including permitting applicants to complete 99641
the process at times other than the regular business hours of the 99642
county department and at locations other than the offices of the 99643
county department. 99644

(C) To the extent permitted by federal law, local funds, 99645
whether from public or private sources, expended by a county 99646
department for administration of the healthy start program shall 99647
be considered to have been expended by the state for the purpose 99648
of determining the extent to which the state has complied with any 99649

federal requirement that the state provide funds to match federal 99650
funds for medical assistance, except that this division shall not 99651
affect the amount of funds the county is entitled to receive under 99652
section 5101.16, 5101.161, or 5111.012 of the Revised Code. 99653

~~(D) The director of job and family services shall do one or 99654
both of the following: 99655~~

~~(1) To the extent that federal funds are provided for such 99656
assistance, adopt a plan for granting presumptive eligibility for 99657
pregnant women applying for healthy start; 99658~~

~~(2) To the extent permitted by federal medicaid regulations, 99659
adopt a plan for making same day determinations of eligibility for 99660
pregnant women applying for healthy start. 99661~~

~~(E) A county department of job and family services that 99662
maintains offices at more than one location shall accept 99663
applications for the healthy start program at all of those 99664
locations. 99665~~

~~(F)~~(E) The director of job and family services shall adopt 99666
rules in accordance with section 111.15 of the Revised Code as 99667
necessary to implement this section. 99668

Sec. 5111.0112. (A) The director of job and family services 99669
shall institute a cost-sharing program under the medicaid program. 99670
In instituting the cost-sharing program, the director shall comply 99671
with federal law. ~~In the case of an individual participating in 99672
the children's buy in program established under sections 5101.5211 99673
to 5101.5216 of the Revised Code, the cost sharing program shall 99674
be consistent with sections 5101.5213 and 5101.5214 of the Revised 99675
Code if the children's buy in program is a component of the 99676
medicaid program.~~ The cost-sharing program shall establish a 99677
copayment requirement for at least dental services, vision 99678
services, nonemergency emergency department services, and 99679

prescription drugs, other than generic drugs. The cost-sharing program shall establish requirements regarding premiums, enrollment fees, deductions, and similar charges. The director shall adopt rules under section 5111.02 of the Revised Code governing the cost-sharing program.

(B) The cost-sharing program shall, to the extent permitted by federal law, provide for all of the following with regard to any providers participating in the medicaid program:

(1) No provider shall refuse to provide a service to a medicaid recipient who is unable to pay a required copayment for the service.

(2) Division (B)(1) of this section shall not be considered to do either of the following with regard to a medicaid recipient who is unable to pay a required copayment:

(a) Relieve the medicaid recipient from the obligation to pay a copayment;

(b) Prohibit the provider from attempting to collect an unpaid copayment.

(3) Except as provided in division (C) of this section, no provider shall waive a medicaid recipient's obligation to pay the provider a copayment.

(4) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any copayment on behalf of a medicaid recipient.

(5) If it is the routine business practice of the provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the cost-sharing program as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an

outstanding debt. If the provider intends to refuse service to a 99710
medicaid recipient who owes the provider an outstanding debt, the 99711
provider shall notify the individual of the provider's intent to 99712
refuse services. 99713

(C) In the case of a provider that is a hospital, the 99714
cost-sharing program shall permit the hospital to take action to 99715
collect a copayment by providing, at the time services are 99716
rendered to a medicaid recipient, notice that a copayment may be 99717
owed. If the hospital provides the notice and chooses not to take 99718
any further action to pursue collection of the copayment, the 99719
prohibition against waiving copayments specified in division 99720
(B)(3) of this section does not apply. 99721

(D) The department of job and family services may work with a 99722
state agency that is administering, pursuant to a contract entered 99723
into under section 5111.91 of the Revised Code, one or more 99724
components of the medicaid program or one or more aspects of a 99725
component as necessary for the state agency to apply the 99726
cost-sharing program to the components or aspects of the medicaid 99727
program that the state agency administers. 99728

Sec. 5111.0122. As used in this section, "maintenance of 99729
effort requirement" means the requirement established by section 99730
1902(qq) of the "Social Security Act," 124 Stat. 275 (2010), 42 99731
U.S.C. 1396a(qq), as amended, regarding medicaid eligibility 99732
standards, methodologies, and procedures. 99733

Except to the extent, if any, otherwise authorized by the 99734
United States secretary of health and human services, the 99735
department of job and family services shall comply with the 99736
maintenance of effort requirement while the requirement is in 99737
effect. 99738

Sec. 5111.0123. (A) Subject to division (B) of this section, 99739

the director of job and family services shall adopt rules under 99740
sections 5111.011 and 5111.85 of the Revised Code to reduce the 99741
complexity of the eligibility determination processes for the 99742
medicaid program caused by the different income and resource 99743
standards for the numerous medicaid eligibility categories. 99744

(B) In implementing division (A) of this section, both of the 99745
following apply: 99746

(1) Before implementing a revision to an eligibility 99747
determination process, the director shall obtain, to the extent 99748
necessary, the approval of the United States secretary of health 99749
and human services in the form of a federal medicaid waiver, 99750
medicaid state plan amendment, or demonstration grant. 99751

(2) The director shall comply with section 5111.0122 of the 99752
Revised Code. 99753

Sec. 5111.0124. (A) As used in this section: 99754

"Children's hospital" has the same meaning as in section 99755
2151.86 of the Revised Code. 99756

"Federally-qualified health center" has the same meaning as 99757
in 42 U.S.C. 1396d(1)(2)(B). 99758

"Presumptive eligibility for pregnant women option" means the 99759
option available under 42 U.S.C. 1396r-1 to make ambulatory 99760
prenatal care available to pregnant women under the medicaid 99761
program during presumptive eligibility periods. 99762

"Qualified provider" has the same meaning as in 42 U.S.C. 99763
1396r-1(b)(2). 99764

(B) The director of job and family services shall submit a 99765
state medicaid plan amendment to the United States secretary of 99766
health and human services to implement the presumptive eligibility 99767
for pregnant women option. Not later than ninety days after the 99768

effective date of this section, the director shall have in place 99769
all systems that are necessary to enable a children's hospital and 99770
federally qualified health center to serve as a qualified provider 99771
for purposes of the presumptive eligibility for pregnant women 99772
option if the hospital or center is eligible to be a qualified 99773
provider under 42 U.S.C. 1396r-1(b)(2) and requests to serve as a 99774
qualified provider. After the director determines that the systems 99775
are functioning properly, the director shall permit any other 99776
provider to serve as a qualified provider for purposes of the 99777
presumptive eligibility for pregnant women option if the provider 99778
is eligible to be a qualified provider under 42 U.S.C. 99779
1396r-1(b)(2) and requests to serve as a qualified provider. 99780

Sec. 5111.0125. (A) As used in this section: 99781

"Children's hospital" has the same meaning as in section 99782
2151.86 of the Revised Code. 99783

"Federally-qualified health center" has the same meaning as 99784
in 42 U.S.C. 1396d(1)(2)(B). 99785

"Presumptive eligibility for children option" means the 99786
option available under 42 U.S.C. 1396r-1a to make medical 99787
assistance with respect to health care items and services 99788
available to children under the medicaid program during 99789
presumptive eligibility periods. 99790

"Qualified entity" has the same meaning as in 42 U.S.C. 99791
1396r-1a(b)(3). 99792

(B) The director of job and family services shall retain the 99793
presumptive eligibility for children option in the state medicaid 99794
plan. Not later than ninety days after the effective date of this 99795
section, the director shall have in place all systems that are 99796
necessary to enable a children's hospital and federally qualified 99797
health center to serve as a qualified entity for purposes of the 99798

presumptive eligibility for children option if the hospital or 99799
center is eligible to be a qualified entity under 42 U.S.C. 99800
1396r-1a(b)(3) and requests to serve as a qualified entity. After 99801
the director determines that the systems are functioning properly, 99802
the director shall permit any other entity to serve as a qualified 99803
entity for purposes of the presumptive eligibility for children 99804
option if the entity is eligible to be a qualified entity under 42 99805
U.S.C. 1396r-1a(b)(3) and requests to serve as a qualified entity. 99806

Sec. 5111.021. Under the medicaid program: 99807

(A) ~~Except as otherwise permitted by federal statute or~~ 99808
~~regulation and at the department's discretion, reimbursement by~~ 99809
~~the~~ The department of job and family services ~~to~~ shall not 99810
reimburse a medical provider for any medical ~~service~~ assistance 99811
rendered under the program ~~shall not exceed~~ an amount that exceeds 99812
the following: 99813

(1) If the provider is a hospital, nursing facility, or 99814
intermediate care facility for the mentally retarded, the limits 99815
established under Subpart C of 42 C.F.R. Part 447; 99816

(2) If the provider is other than a provider described in 99817
division (A)(1) of this section, the authorized reimbursement 99818
~~level~~ limits for the same service under the medicare program 99819
established under Title XVIII of the "Social Security Act," 79 99820
Stat. 286 (1965), 42 U.S.C. 1395, as amended. 99821

(B) Reimbursement for freestanding medical laboratory charges 99822
shall not exceed the customary and usual fee for laboratory 99823
profiles. 99824

(C) The department may deduct from payments for services 99825
rendered by a medicaid provider under the medicaid program any 99826
amounts the provider owes the state as the result of incorrect 99827
medicaid payments the department has made to the provider. 99828

(D) The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.

(E) The number of days of inpatient hospital care for which reimbursement is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.

(F) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. 5111.023. (A) As used in this section:

(1) "Community mental health agency or facility" means a community mental health agency or facility that has ~~a quality assurance program accredited by the joint commission on accreditation of healthcare organizations or is its community mental health services~~ certified by the department of mental health under section 5119.611 of the Revised Code or by the

department of job and family services. 99860

(2) "Mental health professional" means a person qualified to 99861
work with mentally ill persons under the standards established by 99862
the director of mental health pursuant to section 5119.611 of the 99863
Revised Code. 99864

(B) The state medicaid plan ~~shall~~ may include provision of 99865
the following mental health services when provided by community 99866
mental health agencies or facilities: 99867

(1) Outpatient mental health services, including, but not 99868
limited to, preventive, diagnostic, therapeutic, rehabilitative, 99869
and palliative interventions rendered to individuals in an 99870
individual or group setting by a mental health professional in 99871
accordance with a plan of treatment appropriately established, 99872
monitored, and reviewed; 99873

(2) Partial-hospitalization mental health services rendered 99874
by persons directly supervised by a mental health professional; 99875

(3) Unscheduled, emergency mental health services of a kind 99876
ordinarily provided to persons in crisis when rendered by persons 99877
supervised by a mental health professional; 99878

(4) Subject to receipt of federal approval, assertive 99879
community treatment and intensive home-based mental health 99880
services. 99881

(C) ~~The comprehensive annual plan shall certify the 99882
availability of sufficient unencumbered community mental health 99883
state subsidy and local funds to match federal medicaid 99884
reimbursement funds earned by community mental health facilities.~~ 99885

~~(D)~~ The department of job and family services shall enter 99886
into a separate contract with the department of mental health 99887
under section 5111.91 of the Revised Code with regard to the 99888
component of the medicaid program provided for by this section. 99889

~~(E) Not later than July 21, 2006, the department of job and family services shall request federal approval to provide assertive community treatment and intensive home based mental health services under medicaid pursuant to this section.~~

~~(F) On receipt of federal approval sought under division (E) of this section, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for assertive community treatment and intensive home based mental health services provided under medicaid pursuant to this section. The director shall consult with the department of mental health in adopting the rules.~~

Sec. 5111.025. (A) In rules adopted under section 5111.02 of the Revised Code, the director of job and family services shall modify the manner or establish a new manner in which the following are paid under medicaid:

(1) Community mental health agencies or facilities for providing community mental health services included in the state medicaid plan pursuant to section 5111.023 of the Revised Code;

(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services included in the medicaid program pursuant to rules adopted under section 5111.02 of the Revised Code.

(B) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section 5111.02 or 5119.61 of the Revised Code that are in effect on June 26, 2003, and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules.

Sec. 5111.0212. As necessary to comply with section

1902(a)(13)(A) of the "Social Security Act," 111 Stat. 507 (1997), 99920
42 U.S.C. 1396a(a)(13)(A), as amended, and any other federal law 99921
that requires public notice of proposed changes to reimbursement 99922
rates for medical assistance provided under the medicaid program, 99923
the director of job and family services shall give public notice 99924
in the register of Ohio of any change to a method or standard used 99925
to determine the medicaid reimbursement rate for medical 99926
assistance. 99927

Sec. 5111.0213. (A) As used in this section: 99928

(1) "Aide services" means all of the following: 99929

(a) Home health aide services available under the home health 99930
services benefit pursuant to 42 C.F.R. 440.70(b)(2); 99931

(b) Home care attendant services available under a home and 99932
community-based services medicaid waiver component; 99933

(c) Personal care aide services available under a home and 99934
community-based services medicaid waiver component. 99935

(2) "Home and community-based services medicaid waiver 99936
component" has the same meaning as in section 5111.85 of the 99937
Revised Code. 99938

(3) "Nursing services" means all of the following: 99939

(a) Nursing services available under the home health services 99940
benefit pursuant to 42 C.F.R. 440.70(b)(1); 99941

(b) Private duty nursing services as defined in 42 C.F.R. 99942
440.80; 99943

(c) Nursing services available under a home and 99944
community-based services medicaid waiver component. 99945

(B) The department of job and family services shall do both 99946
of the following: 99947

(1) Effective not later than October 1, 2011, reduce the 99948
medicaid program's first-hour-unit price for aide services and 99949
nursing services in a manner that reflects, at a minimum, labor 99950
market data that shows the medicaid and non-medicaid reimbursement 99951
rates for such services or similar services; 99952

(2) Not sooner than July 1, 2012, adjust the medicaid 99953
reimbursement rates for aide services and nursing services in a 99954
manner that reflects, at a minimum, labor market data, education 99955
and licensure status, home health agency and non-agency provider 99956
status, and length of service visit. 99957

(C) The department shall strive to have the adjustment made 99958
under division (B)(2) of this section go into effect on July 1, 99959
2012. The reduction made under division (B)(1) of this section 99960
shall remain in effect until the adjustment made under division 99961
(B)(2) of this section goes into effect. 99962

(D) The director of job and family services shall adopt rules 99963
under sections 5111.02 and 5111.85 of the Revised Code as 99964
necessary to implement this section. 99965

Sec. 5111.0214. The department of job and family services 99966
shall not knowingly make a medicaid payment for a 99967
provider-preventable condition for which federal financial 99968
participation is prohibited by regulations adopted under section 99969
2702 of the "Patient Protection and Affordable Care Act," 124 99970
Stat. 318 (2010), 42 U.S.C. 1396b-1. The director of job and 99971
family services shall adopt rules under section 5111.02 of the 99972
Revised Code as necessary to implement this section. 99973

Sec. 5111.0215. (A) The department of job and family services 99974
may establish a program under which it provides incentive 99975
payments, as authorized by the "Health Information Technology for 99976
Economic and Clinical Health Act," 123 Stat. 489 (2009), 42 U.S.C. 99977

1396b(a)(3)(F) and 1396b(t), as amended, to encourage the adoption 99978
and use of electronic health record technology by medicaid 99979
providers who are identified under that federal law as eligible 99980
professionals. 99981

(B) After the department has made a determination regarding 99982
the amount of a medicaid provider's electronic health record 99983
incentive payment or the denial of an incentive payment, the 99984
department shall notify the provider. The provider may request 99985
that the department reconsider its determination. 99986

A request for reconsideration shall be submitted in writing 99987
to the department not later than fifteen days after the provider 99988
receives notification of the determination. The request shall be 99989
accompanied by written materials setting forth the basis for, and 99990
supporting, the reconsideration request. 99991

On receipt of a timely request, the department shall 99992
reconsider the determination. On the basis of the written 99993
materials accompanying the request, the department may uphold, 99994
reverse, or modify its original determination. The department 99995
shall mail to the provider by certified mail a written notice of 99996
the reconsideration decision. 99997

In accordance with Chapter 2505. of the Revised Code, the 99998
medicaid provider may appeal the reconsideration decision by 99999
filing a notice of appeal with the court of common pleas of 100000
Franklin county. The notice shall identify the decision being 100001
appealed and the specific grounds for the appeal. The notice of 100002
appeal shall be filed not later than fifteen days after the 100003
department mails its notice of the reconsideration decision. A 100004
copy of the notice of appeal shall be filed with the department 100005
not later than three days after the notice is filed with the 100006
court. 100007

(C) The director of job and family services may adopt rules 100008

in accordance with Chapter 119. of the Revised Code as necessary 100009
to implement this section. 100010

Sec. 5111.031. (A) As used in this section: 100011

(1) "Independent provider" has the same meaning as in section 100012
5111.034 of the Revised Code. 100013

(2) "Intermediate care facility for the mentally retarded" 100014
and "nursing facility" have the same meanings as in section 100015
5111.20 of the Revised Code. 100016

(3) "Noninstitutional medicaid provider" means any person or 100017
entity with a medicaid provider agreement other than a hospital, 100018
nursing facility, or intermediate care facility for the mentally 100019
retarded. 100020

(4) "Owner" means any person having at least five per cent 100021
ownership in a noninstitutional medicaid provider. 100022

(B) Notwithstanding any provision of this chapter to the 100023
contrary, the department of job and family services shall take 100024
action under this section against a noninstitutional medicaid 100025
provider or its owner, officer, authorized agent, associate, 100026
manager, or employee. 100027

(C) Except as provided in division (D) of this section and in 100028
rules adopted by the department under division (H) of this 100029
section, on receiving notice and a copy of an indictment that is 100030
issued on or after ~~the effective date of this section~~ September 100031
29, 2007, and charges a noninstitutional medicaid provider or its 100032
owner, officer, authorized agent, associate, manager, or employee 100033
with committing an offense specified in division (E) of this 100034
section, the department shall suspend the provider agreement held 100035
by the noninstitutional medicaid provider. Subject to division (D) 100036
of this section, the department shall also terminate medicaid 100037
reimbursement to the provider for services rendered. 100038

The suspension shall continue in effect until the proceedings 100039
in the criminal case are completed through ~~conviction~~, dismissal 100040
of the indictment, or through conviction, entry of a guilty plea, 100041
or finding of not guilty. If the department commences a process to 100042
terminate the suspended provider agreement, the suspension shall 100043
also continue in effect until the termination process is 100044
concluded. ~~Pursuant~~ 100045

Pursuant to section 5111.06 of the Revised Code, the 100046
department is not required to take action under this division by 100047
issuing an order pursuant to an adjudication conducted in 100048
accordance with Chapter 119. of the Revised Code. 100049

When subject to a suspension under this division, a provider, 100050
owner, officer, authorized agent, associate, manager, or employee 100051
shall not own or provide services to any other medicaid provider 100052
or risk contractor or arrange for, render, or order services for 100053
medicaid recipients during the period of suspension. During the 100054
period of suspension, the provider, owner, officer, authorized 100055
agent, associate, manager, or employee shall not receive 100056
reimbursement in the form of direct payments from the department 100057
or indirect payments of medicaid funds in the form of salary, 100058
shared fees, contracts, kickbacks, or rebates from or through any 100059
participating provider or risk contractor. 100060

(D)(1) The department shall not suspend a provider agreement 100061
or terminate medicaid reimbursement under division (C) of this 100062
section if the provider or owner can demonstrate through the 100063
submission of written evidence that the provider or owner did not 100064
directly or indirectly sanction the action of its authorized 100065
agent, associate, manager, or employee that resulted in the 100066
indictment. 100067

(2) The termination of medicaid reimbursement applies only to 100068
payments for medicaid services rendered subsequent to the date on 100069
which the notice required under division (F) of this section is 100070

sent. Claims for reimbursement for medicaid services rendered by 100071
the provider prior to the issuance of the notice may be subject to 100072
prepayment review procedures whereby the department reviews claims 100073
to determine whether they are supported by sufficient 100074
documentation, are in compliance with state and federal statutes 100075
and rules, and are otherwise complete. 100076

(E)(1) In the case of a noninstitutional medicaid provider 100077
that is not an independent provider, the suspension of a provider 100078
agreement under division (C) of this section applies when an 100079
indictment charges a person with committing an act that would be a 100080
felony or misdemeanor under the laws of this state and the act 100081
relates to or results from either of the following: 100082

(a) Furnishing or billing for medical care, services, or 100083
supplies under the medicaid program; 100084

(b) Participating in the performance of management or 100085
administrative services relating to furnishing medical care, 100086
services, or supplies under the medicaid program. 100087

(2) In the case of a noninstitutional medicaid provider that 100088
is an independent provider, the suspension of a provider agreement 100089
under division (C) of this section applies when an indictment 100090
charges a person with committing an act that would constitute one 100091
of the offenses specified in division (D) of section 5111.034 of 100092
the Revised Code. 100093

(F) Not later than five days after suspending a provider 100094
agreement under division (C) of this section, the department shall 100095
send notice of the suspension to the affected provider or owner. 100096
In providing the notice, the department shall do all of the 100097
following: 100098

(1) Describe the indictment that was the cause of the 100099
suspension, without necessarily disclosing specific information 100100
concerning any ongoing civil or criminal investigation; 100101

(2) State that the suspension will continue in effect until the proceedings in the criminal case are completed through ~~conviction~~, dismissal of the indictment, or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded;

(3) Inform the provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for a reconsideration pursuant to division (G) of this section.

(G)(1) A Pursuant to the procedure specified in division (G)(2) of this section, a noninstitutional medicaid provider or owner subject to a suspension under this section may request a reconsideration. The request shall be made not later than thirty days after receipt of the notice provided under division (F) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues:

(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of the indictment;

(b) Whether any offense charged in the indictment resulted from an offense specified in division (E) of this section;

(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(3) The department shall review the information and documents

submitted in a request for reconsideration. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.

(H) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

Sec. 5111.035. (A) As used in this section:

(1) "Creditable allegation of fraud" has the same meaning as in 42 C.F.R. 455.2, except that for purposes of this section any reference in that regulation to the "state" or the "state medicaid agency" means the department of job and family services.

(2) "Provider" has the same meaning as in section 5111.032 of the Revised Code.

(3) "Owner" has the same meaning as in section 5111.031 of the Revised Code.

(B)(1) Except as provided in division (C) of this section and in rules adopted by the department of job and family services under division (J) of this section, on determining there is a credible allegation of fraud for which an investigation is pending under the medicaid program against a provider, the department shall suspend the provider agreement held by the provider. Subject to division (C) of this section, the department shall also terminate medicaid reimbursement to the provider for services rendered.

(2)(a) The suspension shall continue in effect until either

of the following is the case: 100163

(i) The department or a prosecuting authority determines that 100164
there is insufficient evidence of fraud by the provider; 100165

(ii) The proceedings in any related criminal case are 100166
completed through dismissal of the indictment or through 100167
conviction, entry of a guilty plea, or finding of not guilty. 100168

(b) If the department commences a process to terminate the 100169
suspended provider agreement, the suspension shall also continue 100170
in effect until the termination process is concluded. 100171

(3) Pursuant to section 5111.06 of the Revised Code, the 100172
department is not required to take action under division (B)(1) of 100173
this section by issuing an order pursuant to an adjudication in 100174
accordance with Chapter 119. of the Revised Code. 100175

(4) When subject to a suspension under this section, a 100176
provider, owner, officer, authorized agent, associate, manager, or 100177
employee shall not own or provide services to any other medicaid 100178
provider or risk contractor or arrange for, render, or order 100179
services to any other medicaid provider or risk contractor or 100180
arrange for, render, or order services for medicaid recipients 100181
during the period of suspension. During the period of suspension, 100182
the provider, owner, officer, authorized agent, associate, 100183
manager, or employee shall not receive reimbursement in the form 100184
of direct payments from the department or indirect payments of 100185
medicaid funds in the form of salary, shared fees, contracts, 100186
kickbacks, or rebates from or through any participating provider 100187
or risk contractor. 100188

(C) The department shall not suspend a provider agreement or 100189
terminate medicaid reimbursement under division (B) of this 100190
section if the provider or owner can demonstrate through the 100191
submission of written evidence that the provider or owner did not 100192
directly or indirectly sanction the action of its authorized 100193

agent, associate, manager, or employee that resulted in the 100194
creditable allegation of fraud. 100195

(D) The termination of medicaid reimbursement under division 100196
(B) of this section applies only to payments for medicaid services 100197
rendered subsequent to the date on which the notice required by 100198
division (E) of this section is sent. Claims for reimbursement of 100199
medicaid services rendered by the provider prior to the issuance 100200
of the notice may be subject to prepayment review procedures 100201
whereby the department reviews claims to determine whether they 100202
are supported by sufficient documentation, are in compliance with 100203
state and federal statutes and rules, and are otherwise complete. 100204

(E) After suspending a provider agreement under division (B) 100205
of this section, the department shall, as specified in 42 C.F.R. 100206
455.23(b), send notice of the suspension to the affected provider 100207
or owner in accordance with the following timeframes: 100208

(1) Not later than five days after the suspension, unless a 100209
law enforcement agency makes a written request to temporarily 100210
delay the notice; 100211

(2) If a law enforcement agency makes a written request to 100212
temporarily delay the notice, not later than thirty days after the 100213
suspension occurs subject to the conditions specified in division 100214
(F) of this section. 100215

(F) A written request for a temporary delay described in 100216
division (E)(2) of this section may be renewed in writing by a law 100217
enforcement agency not more than two times except that under no 100218
circumstances shall the notice be issued more than ninety days 100219
after the suspension occurs. 100220

(G) The notice required by division (E) of this section shall 100221
do all of the following: 100222

(1) State that payments are being suspended in accordance 100223
with this section and 42 C.F.R. 455.23; 100224

(2) Set forth the general allegations related to the nature of the conduct leading to the suspension, except that it is not necessary to disclose any specific information concerning an ongoing investigation; 100225
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(3) State that the suspension continues to be in effect until either of the following is the case: 100229
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(a) The department or a prosecuting authority determines that there is insufficient evidence of fraud by the provider; 100231
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(b) The proceedings in any related criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded. 100233
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(4) Specify, if applicable, the type or types of medicaid claims or business units of the provider that are affected by the suspension; 100238
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(5) Inform the provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for reconsideration of the suspension in accordance with division (H) of this section. 100241
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(H)(1) Pursuant to the procedure specified in division (H)(2) of this section, a provider or owner subject to a suspension under this section may request a reconsideration of the suspension. The request shall be made not later than thirty days after receipt of a notice required by division (E) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code. 100245
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(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues: 100252
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(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of an indictment in a related criminal case. 100256
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(b) If there has been an indictment in a related criminal case, whether any offense charged in the indictment resulted from an offense specified in division (E) of section 5111.031 of the Revised Code. 100259
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(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the suspension under this section or an indictment in a related criminal case. 100263
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(I) The department shall review the information and documents submitted in a request made under division (H) of this section for reconsideration of a suspension. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration. 100268
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(J) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department would not suspend a provider agreement pursuant to this section. 100277
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Sec. 5111.051. The director of job and family services may submit a medicaid state plan amendment or request for a federal waiver to the United States secretary of health and human services as necessary to implement, at the director's discretion, a system under which payments for medical assistance provided under the medicaid program are made to an organization on behalf of the 100281
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providers of the medical assistance. The system may not provide 100287
for an organization to receive an amount that exceeds, in 100288
aggregate, the amount the department would have paid directly to 100289
the providers if not for this section. 100290

Sec. 5111.052. (A) As used in this section, "electronic 100291
claims submission process" means any of the following: 100292

(1) Electronic interchange of data; 100293

(2) Direct entry of data through an internet-based mechanism 100294
implemented by the department of job and family services; 100295

(3) Any other process for the electronic submission of claims 100296
that is specified in rules adopted under this section. 100297

(B) Not later than January 1, 2013, and except as provided in 100298
division (C) of this section, each provider of services to 100299
medicaid recipients shall do both of the following: 100300

(1) Use only an electronic claims submission process to 100301
submit to the department of job and family services claims for 100302
medicaid reimbursement for services provided to medicaid 100303
recipients; 100304

(2) Arrange to receive medicaid reimbursement from the 100305
department by means of electronic funds transfer. 100306

(C) Division (B) of this section does not apply to any of the 100307
following: 100308

(1) A nursing facility, as defined in section 5111.20 of the 100309
Revised Code; 100310

(2) An intermediate care facility for the mentally retarded, 100311
as defined in section 5111.20 of the Revised Code; 100312

(3) A medicaid managed care organization under contract with 100313
the department pursuant to section 5111.17 of the Revised Code; 100314

(4) Any other provider or type of provider designated in 100315
rules adopted under this section. 100316

(D) The department shall not process a medicaid claim 100317
submitted on or after January 1, 2013, unless the claim is 100318
submitted through an electronic claims submission process in 100319
accordance with this section. 100320

(E) The director of job and family services may adopt rules 100321
in accordance with Chapter 119. of the Revised Code as the 100322
director considers necessary to implement this section. 100323

Sec. 5111.053. (A) As used in this section, "group practice" 100324
has the same meaning as in section 4731.65 of the Revised Code. 100325

(B) The department of job and family services shall establish 100326
a process by which a physician assistant may enter into a medicaid 100327
provider agreement. 100328

(C) Subject to division (D) of this section, a claim for 100329
reimbursement for a service provided by a physician assistant to a 100330
medicaid recipient may be submitted by either of the following: 100331

(1) The physician assistant who provided the service or 100332
another person the physician assistant designates to submit the 100333
claim on the physician assistant's behalf; 100334

(2) The physician, group practice, clinic, or other health 100335
care facility that employs or contracts with the physician 100336
assistant. 100337

(D) A claim for reimbursement may be submitted as described 100338
in division (C)(1) of this section only if the physician assistant 100339
has a valid medicaid provider agreement. When submitting the 100340
claim, the physician assistant or designated person shall use only 100341
the medicaid provider number the department has assigned to the 100342
physician assistant. 100343

Sec. 5111.06. (A)(1) As used in this section and in sections 100344
5111.061 and ~~5111.062~~ 5111.063 of the Revised Code: 100345

(a) "Provider" means any person, institution, or entity that 100346
furnishes medicaid services under a provider agreement with the 100347
department of job and family services pursuant to Title XIX of the 100348
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 100349
amended. 100350

(b) "Party" has the same meaning as in division (G) of 100351
section 119.01 of the Revised Code. 100352

(c) "Adjudication" has the same meaning as in division (D) of 100353
section 119.01 of the Revised Code. 100354

(2) This section does not apply to any action taken by the 100355
department of job and family services under sections 5111.35 to 100356
5111.62 of the Revised Code. 100357

(B) Except as provided in division (D) of this section and 100358
section 5111.914 of the Revised Code, the department shall do 100359
either of the following by issuing an order pursuant to an 100360
adjudication conducted in accordance with Chapter 119. of the 100361
Revised Code: 100362

(1) Enter into or refuse to enter into a provider agreement 100363
with a provider, or suspend, terminate, renew, or refuse to renew 100364
an existing provider agreement with a provider; 100365

(2) Take any action based upon a final fiscal audit of a 100366
provider. 100367

(C) Any party who is adversely affected by the issuance of an 100368
adjudication order under division (B) of this section may appeal 100369
to the court of common pleas of Franklin county in accordance with 100370
section 119.12 of the Revised Code. 100371

(D) The department is not required to comply with division 100372
(B)(1) of this section whenever any of the following occur: 100373

(1) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain a certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the license, permit, certificate, or certification has been denied, revoked, not renewed, suspended, or otherwise limited.

(2) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the provider has not obtained the license, permit, certificate, or certification.

(3) The provider agreement is denied, terminated, or not renewed due to the termination, refusal to renew, or denial of a license, permit, certificate, or certification by an official, board, commission, department, division, bureau, or other agency of this state other than the department of job and family services, notwithstanding the fact that the provider may hold a license, permit, certificate, or certification from an official, board, commission, department, division, bureau, or other agency of another state.

(4) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (F) of section 5111.03 of the Revised Code.

(5) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," or from another state's medicaid program and, in either case, the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program in this state.

(6) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program.

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(7) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.

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(8) The Pursuant to either section 5111.031 or 5111.035 of the Revised Code, the provider agreement is suspended pursuant to section 5111.031 of the Revised Code and payments to the provider are suspended pending indictment of the provider.

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(9) The provider agreement is denied, terminated, or not renewed because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of one of the offenses that caused the provider agreement to be suspended pursuant to section 5111.031 of the Revised Code.

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(10) The provider agreement is converted under section 5111.028 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited.

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(11) The provider agreement is terminated or an application for re-enrollment is denied because the provider has failed to apply for re-enrollment within the time or in the manner specified for re-enrollment pursuant to section 5111.028 of the Revised Code.

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(12) The provider agreement is suspended or terminated, or an application for enrollment or re-enrollment is denied, for any reason authorized or required by one or more of the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450.

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(13) The provider agreement is terminated or not renewed because the provider has not billed or otherwise submitted a

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medicaid claim to the department for two years or longer. 100437

~~(13)~~(14) The provider agreement is denied, terminated, or not 100438
renewed because the provider fails to provide to the department 100439
the national provider identifier assigned the provider by the 100440
national provider system pursuant to 45 C.F.R. 162.408. 100441

In the case of a provider described in division (D)~~(12)~~(13) 100442
or ~~(13)~~(14) of this section, the department may take its proposed 100443
action against a provider agreement by sending a notice explaining 100444
the proposed action to the provider. The notice shall be sent to 100445
the provider's address on record with the department. The notice 100446
may be sent by regular mail. 100447

(E) The department may withhold payments for services 100448
rendered by a medicaid provider under the medicaid program during 100449
the pendency of proceedings initiated under division (B)(1) of 100450
this section. If the proceedings are initiated under division 100451
(B)(2) of this section, the department may withhold payments only 100452
to the extent that they equal amounts determined in a final fiscal 100453
audit as being due the state. This division does not apply if the 100454
department fails to comply with section 119.07 of the Revised 100455
Code, requests a continuance of the hearing, or does not issue a 100456
decision within thirty days after the hearing is completed. This 100457
division does not apply to nursing facilities and intermediate 100458
care facilities for the mentally retarded as defined in section 100459
5111.20 of the Revised Code. 100460

Sec. 5111.063. For the purpose of raising funds necessary to 100461
pay the expenses of implementing the provider screening 100462
requirements of subpart E of 42 C.F.R. Part 455, the department of 100463
job and family services shall charge an application fee to a 100464
provider seeking to enter into or renew a medicaid provider 100465
agreement, unless the provider is exempt from paying the 100466
application fee under 42 C.F.R. 455.460(a). The application fees 100467

shall be deposited into the health care services administration 100468
fund created under section 5111.94 of the Revised Code. 100469

The director of job and family services shall adopt rules in 100470
accordance with Chapter 119. of the Revised Code as necessary to 100471
implement this section, including a rule establishing the amount 100472
of the application fee that is charged under this section. The 100473
amount of the application fee shall not be set at an amount that 100474
is more than necessary to pay for the expenses of implementing the 100475
provider screening requirements. 100476

Sec. 5111.085. As used in this section, "federal upper 100477
reimbursement limit" means the limit established pursuant to 100478
section 1927(e) of the "Social Security Act," 104 Stat. 1388-151 100479
(1990), 42 U.S.C. 1396r-8(e), as amended. 100480

The medicaid payment for a drug that is subject to a federal 100481
upper reimbursement limit shall not exceed, in the aggregate, the 100482
federal upper reimbursement limit for the drug. The director of 100483
job and family services shall adopt rules under section 5111.02 of 100484
the Revised Code as necessary to implement this section. 100485

Sec. 5111.113. (A) As used in this section: 100486

(1) "Adult care facility" has the same meaning as in section 100487
~~3722.01~~ 5119.70 of the Revised Code. 100488

(2) "Commissioner" means a person appointed by a probate 100489
court under division (B) of section 2113.03 of the Revised Code to 100490
act as a commissioner. 100491

(3) "Home" has the same meaning as in section 3721.10 of the 100492
Revised Code. 100493

(4) "Personal needs allowance account" means an account or 100494
petty cash fund that holds the money of a resident of an adult 100495
care facility or home and that the facility or home manages for 100496

the resident. 100497

(B) Except as provided in divisions (C) and (D) of this 100498
section, the owner or operator of an adult care facility or home 100499
shall transfer to the department of job and family services the 100500
money in the personal needs allowance account of a resident of the 100501
facility or home who was a recipient of the medical assistance 100502
program no earlier than sixty days but not later than ninety days 100503
after the resident dies. The adult care facility or home shall 100504
transfer the money even though the owner or operator of the 100505
facility or home has not been issued letters testamentary or 100506
letters of administration concerning the resident's estate. 100507

(C) If funeral or burial expenses for a resident of an adult 100508
care facility or home who has died have not been paid and the only 100509
resource the resident had that could be used to pay for the 100510
expenses is the money in the resident's personal needs allowance 100511
account, or all other resources of the resident are inadequate to 100512
pay the full cost of the expenses, the money in the resident's 100513
personal needs allowance account shall be used to pay for the 100514
expenses rather than being transferred to the department of job 100515
and family services pursuant to division (B) of this section. 100516

(D) If, not later than sixty days after a resident of an 100517
adult care facility or home dies, letters testamentary or letters 100518
of administration are issued, or an application for release from 100519
administration is filed under section 2113.03 of the Revised Code, 100520
concerning the resident's estate, the owner or operator of the 100521
facility or home shall transfer the money in the resident's 100522
personal needs allowance account to the administrator, executor, 100523
commissioner, or person who filed the application for release from 100524
administration. 100525

(E) The transfer or use of money in a resident's personal 100526
needs allowance account in accordance with division (B), (C), or 100527
(D) of this section discharges and releases the adult care 100528

facility or home, and the owner or operator of the facility or 100529
home, from any claim for the money from any source. 100530

(F) If, sixty-one or more days after a resident of an adult 100531
care facility or home dies, letters testamentary or letters of 100532
administration are issued, or an application for release from 100533
administration under section 2113.03 of the Revised Code is filed, 100534
concerning the resident's estate, the department of job and family 100535
services shall transfer the funds to the administrator, executor, 100536
commissioner, or person who filed the application, unless the 100537
department is entitled to recover the money under the medicaid 100538
estate recovery program instituted under section 5111.11 of the 100539
Revised Code. 100540

Sec. 5111.13. (A) As used in this section, "cost-effective" 100541
and "group health plan" have the same meanings as in section 1906 100542
of the "Social Security Act," ~~49~~ 104 Stat. ~~620 (1935)~~ 1388-161 100543
(1990), 42 U.S.C.A. ~~1396e~~, as amended, and any regulations adopted 100544
under that section. 100545

(B) ~~The department of job and family services, pursuant to~~ 100546
~~guidelines issued by~~ may submit a medicaid state plan amendment to 100547
the United States secretary of health and human services, ~~shall~~ 100548
~~identify cases in which enrollment of an individual otherwise~~ 100549
~~eligible for medical assistance under this chapter in a group~~ 100550
~~health plan in which the individual is eligible to enroll and~~ 100551
~~payment of the individual's premiums, deductibles, coinsurance,~~ 100552
~~and other cost-sharing expenses is cost effective.~~ 100553

~~The department shall require, as a condition of eligibility~~ 100554
~~for medical assistance, individuals identified under this~~ 100555
~~division, or in the case of a child, the child's parent, to apply~~ 100556
~~for enrollment in the group health plan, except that the failure~~ 100557
~~of a parent to enroll self or the parent's child in a group health~~ 100558
~~plan does not affect the child's eligibility under the medical~~ 100559

~~assistance program.~~ 100560

~~The department shall pay enrollee premiums and deductibles, 100561
coinsurance, and other cost sharing obligations for services and 100562
items otherwise covered under the medical assistance program. The 100563
department shall treat coverage under the group health plan in the 100564
same manner as any other third party liability under the program. 100565
If not all members of a family are eligible for medical assistance 100566
and enrollment of the eligible members in a group health plan is 100567
not possible without also enrolling the members who are ineligible 100568
for medical assistance, the department shall pay the premiums for 100569
the ineligible members if the payments are cost effective. The 100570
department shall not pay deductibles, coinsurance, or other 100571
cost sharing obligations of enrolled members who are not eligible 100572
for medical assistance. 100573~~

~~The department may make payments under this section to 100574
employers, insurers, or other entities. The department may make 100575
the payments without entering into a contract with employers, 100576
insurers, or other entities. 100577~~

~~(C) To the extent permitted by federal law and regulations, 100578
the department of job and family services shall coordinate the 100579
medical assistance program with group health plans in such a 100580
manner that the medical assistance program serves as a supplement 100581
to the group health plans. In its coordination efforts, the 100582
department shall consider cost effectiveness and quality of care. 100583
The department may enter into agreements with group health plans 100584
as necessary to implement this division for the purpose of 100585
implementing a program pursuant to section 1906 of the "Social 100586
Security Act," 104 Stat. 1388-161 (1990), 42 U.S.C. 1396e, as 100587
amended, for the enrollment of medicaid-eligible individuals in 100588
group health plans when the department determines that enrollment 100589
is cost-effective. 100590~~

~~(D)(C) The director of job and family services shall may 100591~~

adopt rules in accordance with Chapter 119. of the Revised Code as 100592
necessary to implement this section. 100593

Sec. 5111.14. The director of job and family services may 100594
submit to the United States secretary of health and human services 100595
an amendment to the medicaid state plan in order to implement 100596
within the medicaid program a system under which medicaid 100597
recipients with chronic conditions are provided with coordinated 100598
care through health homes, as authorized by section 1945 of the 100599
"Social Security Act," 124 Stat. 319 (2010), 42 U.S.C. 1396w-4. 100600

The director may adopt rules under section 5111.02 of the 100601
Revised Code to implement this section. 100602

Sec. 5111.14 5111.141. The department of job and family 100603
services may require county departments of job and family services 100604
to provide case management of nonemergency transportation services 100605
provided under the medical assistance program. County departments 100606
shall provide the case management if required by the department in 100607
accordance with rules adopted by the director of job and family 100608
services. 100609

The department shall determine, for the purposes of claiming 100610
federal reimbursement under the medical assistance program, 100611
whether it will claim expenditures for nonemergency transportation 100612
services as administrative or program expenditures. 100613

Sec. 5111.151. (A)(1) This section applies only to either of 100614
the following: 100615

(a) Initial eligibility determinations for ~~all cases~~ 100616
~~involving medicaid provided pursuant to this chapter, qualified~~ 100617
~~medicare beneficiaries, specified low income medicare~~ 100618
~~beneficiaries, qualifying individuals 1, qualifying individuals 2,~~ 100619
~~and medical assistance for covered families and children the~~ 100620

medicaid program made by the department of job and family services 100621
pursuant to section 5101.47 of the Revised Code or by a county 100622
department of job and family services pursuant to section 5111.012 100623
of the Revised Code; 100624

(b) An appeal from a determination described in division 100625
(A)(1)(a) of this section pursuant to section 5101.35 of the 100626
Revised Code. 100627

(2)(a) Except as provided in division (A)(2)(b) of this 100628
section, this section shall not be used by a court to determine 100629
the effect of a trust on an individual's initial eligibility for 100630
the medicaid program. 100631

(b) The prohibition in division (A)(2)(a) of this section 100632
does not apply to an appeal described in division (A)(1)(b) of 100633
this section. 100634

(B) As used in this section: 100635

(1) "Trust" means any arrangement in which a grantor 100636
transfers real or personal property to a trust with the intention 100637
that it be held, managed, or administered by at least one trustee 100638
for the benefit of the grantor or beneficiaries. "Trust" includes 100639
any legal instrument or device similar to a trust. 100640

(2) "Legal instrument or device similar to a trust" includes, 100641
but is not limited to, escrow accounts, investment accounts, 100642
partnerships, contracts, and other similar arrangements that are 100643
not called trusts under state law but are similar to a trust and 100644
to which all of the following apply: 100645

(a) The property in the trust is held, managed, retained, or 100646
administered by a trustee. 100647

(b) The trustee has an equitable, legal, or fiduciary duty to 100648
hold, manage, retain, or administer the property for the benefit 100649
of the beneficiary. 100650

(c) The trustee holds identifiable property for the beneficiary.	100651 100652
(3) "Grantor" is a person who creates a trust, including all of the following:	100653 100654
(a) An individual;	100655
(b) An individual's spouse;	100656
(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;	100657 100658 100659
(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.	100660 100661 100662
(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.	100663 100664
(5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries.	100665 100666
(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.	100667 100668 100669
(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.	100670 100671
(8) "Recipient" is an individual who receives medicaid or the individual's spouse.	100672 100673
(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:	100674 100675 100676
(a) A trust that provides that the trust can be terminated only by a court;	100677 100678
(b) A trust that terminates on the happening of an event, but	100679

only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.

(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.

(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.

(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.

(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.

(C)(1) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted by the department of job and family services governing trusts. The county department of job and family services may determine that the trust or portion of the trust ~~is one of the~~ following:

~~(1) A countable (a) Is a resource available to the applicant or recipient;~~

~~(2) Countable (b) Contains income available to the applicant or recipient;~~

~~(3) A countable resource and countable income (c) Constitutes both items described in divisions (C)(1)(a) and (b) of this section;~~

~~(4) Not a countable resource or countable income (d) Is~~ 100710
~~neither an item described in division (C)(1)(a) nor (C)(1)(b) of~~ 100711
~~this section.~~ 100712

(2) Except as provided in division (F) of this section, a 100713
trust or portion of a trust that is a resource available to the 100714
applicant or recipient or contains income available to the 100715
applicant or recipient shall be counted for purposes of 100716
determining medicaid eligibility. 100717

(D)(1) A trust or legal instrument or device similar to a 100718
trust shall be considered a medicaid qualifying trust if all of 100719
the following apply: 100720

(a) The trust was established on or prior to August 10, 1993. 100721

(b) The trust was not established by a will. 100722

(c) The trust was established by an applicant or recipient. 100723

(d) The applicant or recipient is or may become the 100724
beneficiary of all or part of the trust. 100725

(e) Payment from the trust is determined by one or more 100726
trustees who are permitted to exercise any discretion with respect 100727
to the distribution to the applicant or recipient. 100728

(2) If a trust meets the requirement of division (D)(1) of 100729
this section, the amount of the trust that is considered by the 100730
county department of job and family services ~~as an available to be~~ 100731
a resource available to the applicant or recipient shall be the 100732
maximum amount of payments permitted under the terms of the trust 100733
to be distributed to the applicant or recipient, assuming the full 100734
exercise of discretion by the trustee or trustees. The maximum 100735
amount shall include only amounts that are permitted to be 100736
distributed but are not distributed from either the income or 100737
principal of the trust. 100738

(3) Amounts that are actually distributed from a medicaid 100739

qualifying trust to a beneficiary for any purpose shall be treated 100740
in accordance with rules adopted by the department of job and 100741
family services governing income. 100742

(4) Availability of a medicaid qualifying trust shall be 100743
considered without regard to any of the following: 100744

(a) Whether or not the trust is irrevocable or was 100745
established for purposes other than to enable a grantor to qualify 100746
for medicaid, medical assistance for covered families and 100747
children, or as a qualified medicare beneficiary, specified 100748
low-income medicare beneficiary, qualifying individual-1, or 100749
qualifying individual-2; 100750

(b) Whether or not the trustee actually exercises discretion. 100751

(5) If any real or personal property is transferred to a 100752
medicaid qualifying trust that is not distributable to the 100753
applicant or recipient, the transfer shall be considered an 100754
improper disposition of assets and shall be subject to section 100755
5111.0116 of the Revised Code and rules to implement that section 100756
adopted under section 5111.011 of the Revised Code. 100757

(6) The baseline date for the look-back period for 100758
disposition of assets involving a medicaid qualifying trust shall 100759
be the date on which the applicant or recipient is both 100760
institutionalized and first applies for medicaid. 100761

(E)(1) A trust or legal instrument or device similar to a 100762
trust shall be considered a self-settled trust if all of the 100763
following apply: 100764

(a) The trust was established on or after August 11, 1993. 100765

(b) The trust was not established by a will. 100766

(c) The trust was established by an applicant or recipient, 100767
spouse of an applicant or recipient, or a person, including a 100768
court or administrative body, with legal authority to act in place 100769

of or on behalf of an applicant, recipient, or spouse, or acting 100770
at the direction or on request of an applicant, recipient, or 100771
spouse. 100772

(2) A trust that meets the requirements of division (E)(1) of 100773
this section and is a revocable trust shall be treated by the 100774
county department of job and family services as follows: 100775

(a) The corpus of the trust shall be considered a resource 100776
available to the applicant or recipient. 100777

(b) Payments from the trust to or for the benefit of the 100778
applicant or recipient shall be considered unearned income of the 100779
applicant or recipient. 100780

(c) Any other payments from the trust shall be considered an 100781
improper disposition of assets and shall be subject to section 100782
5111.0116 of the Revised Code and rules to implement that section 100783
adopted under section 5111.011 of the Revised Code. 100784

(3) A trust that meets the requirements of division (E)(1) of 100785
this section and is an irrevocable trust shall be treated by the 100786
county department of job and family services as follows: 100787

(a) If there are any circumstances under which payment from 100788
the trust could be made to or for the benefit of the applicant or 100789
recipient, including a payment that can be made only in the 100790
future, the portion from which payments could be made shall be 100791
considered a resource available to the applicant or recipient. The 100792
county department of job and family services shall not take into 100793
account when payments can be made. 100794

(b) Any payment that is actually made to or for the benefit 100795
of the applicant or recipient from either the corpus or income 100796
shall be considered unearned income. 100797

(c) If a payment is made to someone other than to the 100798
applicant or recipient and the payment is not for the benefit of 100799

the applicant or recipient, the payment shall be considered an 100800
improper disposition of assets and shall be subject to section 100801
5111.0116 of the Revised Code and rules to implement that section 100802
adopted under section 5111.011 of the Revised Code. 100803

(d) The date of the disposition shall be the later of the 100804
date of establishment of the trust or the date of the occurrence 100805
of the event. 100806

(e) When determining the value of the disposed asset under 100807
this provision, the value of the trust shall be its value on the 100808
date payment to the applicant or recipient was foreclosed. 100809

(f) Any income earned or other resources added subsequent to 100810
the foreclosure date shall be added to the total value of the 100811
trust. 100812

(g) Any payments to or for the benefit of the applicant or 100813
recipient after the foreclosure date but prior to the application 100814
date shall be subtracted from the total value. Any other payments 100815
shall not be subtracted from the value. 100816

(h) Any addition of assets after the foreclosure date shall 100817
be considered a separate disposition. 100818

(4) If a trust is funded with assets of another person or 100819
persons in addition to assets of the applicant or recipient, the 100820
applicable provisions of this section and rules adopted by the 100821
department of job and family services governing trusts shall apply 100822
only to the portion of the trust attributable to the applicant or 100823
recipient. 100824

(5) The availability of a self-settled trust shall be 100825
considered without regard to any of the following: 100826

(a) The purpose for which the trust is established; 100827

(b) Whether the trustees have exercised or may exercise 100828
discretion under the trust; 100829

(c) Any restrictions on when or whether distributions may be made from the trust; 100830
100831

(d) Any restrictions on the use of distributions from the trust. 100832
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(6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid. 100834
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(F) The principal or income from any of the following shall ~~be exempt from being counted as~~ not be a resource ~~by a county department of job and family services available to the applicant or recipient:~~ 100838
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(1)(a) A special needs trust that meets all of the following requirements: 100842
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(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals. 100844
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(ii) The applicant or recipient is disabled as defined in rules adopted by the department of job and family services. 100847
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(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court. 100849
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(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the applicant or recipient. 100852
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(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this 100856
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section shall continue after the disabled applicant or recipient 100860
becomes sixty-five years of age if the applicant or recipient 100861
continues to be disabled as defined in rules adopted by the 100862
department of job and family services. Except for income earned by 100863
the trust, the grantor shall not add to or otherwise augment the 100864
trust after the applicant or recipient attains sixty-five years of 100865
age. An addition or augmentation of the trust by the applicant or 100866
recipient with the applicant's own assets after the applicant or 100867
recipient attains sixty-five years of age shall be treated as an 100868
improper disposition of assets. 100869

(c) Cash distributions to the applicant or recipient shall be 100870
counted as unearned income. All other distributions from the trust 100871
shall be treated as provided in rules adopted by the department of 100872
job and family services governing in-kind income. 100873

(d) Transfers of assets to a special needs trust shall not be 100874
treated as an improper transfer of resources. ~~Assets~~ An Asset held 100875
prior to the transfer to the trust shall be considered as 100876
~~countable assets or countable~~ a resource available to the 100877
applicant or recipient, income available to the applicant or 100878
recipient, or ~~countable assets~~ both a resource and income 100879
available to the individual. 100880

(2)(a) A qualifying income trust that meets all of the 100881
following requirements: 100882

(i) The trust is composed only of pension, social security, 100883
and other income to the applicant or recipient, including 100884
accumulated interest in the trust. 100885

(ii) The income is received by the individual and the right 100886
to receive the income is not assigned or transferred to the trust. 100887

(iii) The trust requires that on the death of the applicant 100888
or recipient the state will receive all amounts remaining in the 100889
trust up to an amount equal to the total amount of medicaid paid 100890

on behalf of the applicant or recipient. 100891

(b) No resources shall be used to establish or augment the trust. 100892
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(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust shall not be considered a qualifying income trust by the county department of job and family services. 100894
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(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medicaid. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or recipient's eligibility for medicaid. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient. 100898
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(e) All income placed in a qualifying income trust shall be combined with any ~~countable~~ income available to the individual that is not placed in the trust to arrive at a base income figure to be used for spend down calculations. 100905
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(f) The base income figure shall be used for post-eligibility deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations. 100909
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(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted by the department of job and family services shall be considered the applicant's or recipient's spend down liability. 100916
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(3)(a) A pooled trust that meets all of the following requirements: 100922
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(i) The trust contains the assets of the applicant or recipient ~~of any~~ under sixty-five years of age who is disabled as defined in rules adopted by the department of job and family services. 100924
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(ii) The trust is established and managed by a nonprofit association. 100928
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(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts. 100930
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(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled. 100933
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(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the beneficiary. 100937
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(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income. 100942
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(c) Transfers of assets to a pooled trust shall not be treated as an improper disposition of assets. ~~Assets~~ An asset held prior to the transfer to the trust shall be considered as ~~countable assets, countable~~ a resource available to the applicant or recipient, income available to the applicant or recipient, or ~~countable assets~~ both a resource and income available to the applicant or recipient. 100946
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(4) A supplemental services trust that meets the requirements 100953
of section 5815.28 of the Revised Code and to which all of the 100954
following apply: 100955

(a) A person may establish a supplemental services trust 100956
pursuant to section 5815.28 of the Revised Code only for another 100957
person who is eligible to receive services through one of the 100958
following agencies: 100959

(i) The department of developmental disabilities; 100960

(ii) A county board of developmental disabilities; 100961

(iii) The department of mental health; 100962

(iv) A board of alcohol, drug addiction, and mental health 100963
services. 100964

(b) A county department of job and family services shall not 100965
determine eligibility for another agency's program. An applicant 100966
or recipient shall do one of the following: 100967

(i) Provide documentation from one of the agencies listed in 100968
division (F)(4)(a) of this section that establishes that the 100969
applicant or recipient was determined to be eligible for services 100970
from the agency at the time of the creation of the trust; 100971

(ii) Provide an order from a court of competent jurisdiction 100972
that states that the applicant or recipient was eligible for 100973
services from one of the agencies listed in division (F)(4)(a) of 100974
this section at the time of the creation of the trust. 100975

(c) At the time the trust is created, the trust principal 100976
does not exceed the maximum amount permitted. The maximum amount 100977
permitted in calendar year 2006 is two hundred twenty-two thousand 100978
dollars. Each year thereafter, the maximum amount permitted is the 100979
prior year's amount plus two thousand dollars. 100980

(d) A county department of job and family services shall 100981
review the trust to determine whether it complies with the 100982

provisions of section 5815.28 of the Revised Code. 100983

(e) Payments from supplemental services trusts shall be 100984
exempt as long as the payments are for supplemental services as 100985
defined in rules adopted by the department of job and family 100986
services. All supplemental services shall be purchased by the 100987
trustee and shall not be purchased through direct cash payments to 100988
the beneficiary. 100989

(f) If a trust is represented as a supplemental services 100990
trust and a county department of job and family services 100991
determines that the trust does not meet the requirements provided 100992
in division (F)(4) of this section and section 5815.28 of the 100993
Revised Code, the county department of job and family services 100994
shall not consider it an exempt trust. 100995

(G)(1) A trust or legal instrument or device similar to a 100996
trust shall be considered a trust established by an individual for 100997
the benefit of the applicant or recipient if all of the following 100998
apply: 100999

(a) The trust is created by a person other than the applicant 101000
or recipient. 101001

(b) The trust names the applicant or recipient as a 101002
beneficiary. 101003

(c) The trust is funded with assets or property in which the 101004
applicant or recipient has never held an ownership interest prior 101005
to the establishment of the trust. 101006

(2) Any portion of a trust that meets the requirements of 101007
division (G)(1) of this section shall be ~~an available~~ a resource 101008
available to the applicant or recipient only if the trust permits 101009
the trustee to expend principal, corpus, or assets of the trust 101010
for the applicant's or recipient's medical care, care, comfort, 101011
maintenance, health, welfare, general well being, or any 101012
combination of these purposes. 101013

(3) A trust that meets the requirements of division (G)(1) of this section shall be considered ~~an available~~ a resource available to the applicant or recipient even if the trust contains any of the following types of provisions:

(a) A provision that prohibits the trustee from making payments that would supplant or replace medicaid or other public assistance;

(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medicaid or other public assistance;

(c) A provision that attempts to prevent the trust or its corpus or principal from being ~~counted as an available~~ a resource available to the applicant or recipient.

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as ~~an available~~ a resource available to the applicant or recipient if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient. Terms of a trust that grant discretion to

limit the use of a portion of the trust shall not qualify as a 101045
clear statement requiring the trustee to use a portion of the 101046
trust for a particular purpose. 101047

(c) If a trust contains a clear statement limiting the 101048
trustee to making fixed periodic payments, the trust shall not be 101049
counted as ~~an available~~ a resource available to the applicant or 101050
recipient and payments shall be treated in accordance with rules 101051
adopted by the department of job and family services governing 101052
income. Terms of a trust that grant discretion to limit payments 101053
shall not qualify as a clear statement requiring the trustee to 101054
make fixed periodic payments. 101055

(d) If a trust contains a clear statement that requires the 101056
trustee to terminate the trust if it is counted as ~~an available~~ a 101057
resource available to the applicant or recipient, the trust shall 101058
not be counted as ~~an available resource~~ such. Terms of a trust 101059
that grant discretion to terminate the trust do not qualify as a 101060
clear statement requiring the trustee to terminate the trust. 101061

(e) If a person obtains a judgment from a court of competent 101062
jurisdiction that expressly prevents the trustee from using part 101063
or all of the trust for the medical care, care, comfort, 101064
maintenance, welfare, or general well being of the applicant or 101065
recipient, the trust or that portion of the trust subject to the 101066
court order shall not be counted as a resource available to the 101067
applicant or recipient. 101068

(f) If a trust is specifically exempt from being counted as 101069
~~an available~~ a resource available to the applicant or recipient by 101070
a provision of the Revised Code, rules, or federal law, the trust 101071
shall not be counted as ~~a resource~~ such. 101072

(g) If an applicant or recipient presents a final judgment 101073
from a court demonstrating that the applicant or recipient was 101074
unsuccessful in a civil action against the trustee to compel 101075

payments from the trust, the trust shall not be counted as ~~an~~ 101076
~~available~~ a resource available to the applicant or recipient. 101077

(h) If an applicant or recipient presents a final judgment 101078
from a court demonstrating that in a civil action against the 101079
trustee the applicant or recipient was only able to compel limited 101080
or periodic payments, the trust shall not be counted as ~~an~~ 101081
~~available~~ a resource available to the applicant or recipient and 101082
payments shall be treated in accordance with rules adopted by the 101083
department of job and family services governing income. 101084

(i) If an applicant or recipient provides written 101085
documentation showing that the cost of a civil action brought to 101086
compel payments from the trust would be cost prohibitive, the 101087
trust shall not be counted as ~~an available~~ a resource available to 101088
the applicant or recipient. 101089

(5) Any actual payments to the applicant or recipient from a 101090
trust that meet the requirements of division (G)(1) of this 101091
section, including trusts that are not counted as ~~an available~~ a 101092
resource available to the applicant or recipient, shall be treated 101093
as provided in rules adopted by the department of job and family 101094
services governing income. Payments to any person other than the 101095
applicant or recipient shall not be considered income to the 101096
applicant or recipient. Payments from the trust to a person other 101097
than the applicant or recipient shall not be considered an 101098
improper disposition of assets. 101099

Sec. 5111.16. (A) As part of the medicaid program, the 101100
department of job and family services shall establish a care 101101
management system. The department shall submit, if necessary, 101102
applications to the United States department of health and human 101103
services for waivers of federal medicaid requirements that would 101104
otherwise be violated in the implementation of the system. 101105

(B) The department shall implement the care management system 101106

in some or all counties and shall designate the medicaid 101107
recipients who are required or permitted to participate in the 101108
system. In the department's implementation of the system and 101109
designation of participants, all of the following apply: 101110

(1) In the case of individuals who receive medicaid on the 101111
basis of being included in the category identified by the 101112
department as covered families and children, the department shall 101113
implement the care management system in all counties. All 101114
individuals included in the category shall be designated for 101115
participation, except for individuals included in one or more of 101116
the medicaid recipient groups specified in 42 C.F.R. 438.50(d). 101117
The department shall ensure that all participants are enrolled in 101118
health insuring corporations under contract with the department 101119
pursuant to section 5111.17 of the Revised Code. 101120

(2) In the case of individuals who receive medicaid on the 101121
basis of being aged, blind, or disabled, as specified in division 101122
(A)(2) of section 5111.01 of the Revised Code, the department 101123
shall implement the care management system in all counties. ~~All~~ 101124
Except as provided in division (C) of this section, all 101125
individuals included in the category shall be designated for 101126
participation, ~~except for the individuals specified in divisions~~ 101127
~~(B)(2)(a) to (c) of this section.~~ The department shall ensure that 101128
all participants are enrolled in health insuring corporations 101129
under contract with the department pursuant to section 5111.17 of 101130
the Revised Code. 101131

~~In~~ (3) Alcohol, drug addiction, and mental health services 101132
covered by medicaid shall not be included in any component of the 101133
care management system when the nonfederal share of the cost of 101134
those services is provided by a board of alcohol, drug addiction, 101135
and mental health services or a state agency other than the 101136
department of job and family services, but the recipients of those 101137
services may otherwise be designated for participation in the 101138

system. 101139

(C)(1) In designating participants who receive medicaid on 101140
the basis of being aged, blind, or disabled, the department shall 101141
not include any of the following, except as provided under 101142
division (C)(2) of this section: 101143

(a) Individuals who are under twenty-one years of age; 101144

(b) Individuals who are institutionalized; 101145

(c) Individuals who become eligible for medicaid by spending 101146
down their income or resources to a level that meets the medicaid 101147
program's financial eligibility requirements; 101148

(d) Individuals who are dually eligible under the medicaid 101149
program and the medicare program established under Title XVIII of 101150
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as 101151
amended; 101152

(e) Individuals to the extent that they are receiving 101153
medicaid services through a medicaid waiver component, as defined 101154
in section 5111.85 of the Revised Code. 101155

~~(3) Alcohol, drug addiction, and mental health services~~ 101156
~~covered by medicaid shall not be included in any component of the~~ 101157
~~care management system when the nonfederal share of the cost of~~ 101158
~~those services is provided by a board of alcohol, drug addiction,~~ 101159
~~and mental health services or a state agency other than the~~ 101160
~~department of job and family services, but the recipients of those~~ 101161
~~services may otherwise be designated for participation in the~~ 101162
~~system.~~ 101163

(C)(2) If any necessary waiver of federal medicaid 101164
requirements is granted, the department may designate any of the 101165
following individuals who receive medicaid on the basis of being 101166
aged, blind, or disabled as individuals who are permitted or 101167
required to participate in the care management system: 101168

<u>(a) Individuals who are under twenty-one years of age;</u>	101169
<u>(b) Individuals who reside in a nursing facility, as defined in section 5111.20 of the Revised Code;</u>	101170 101171
<u>(c) Individuals who, as an alternative to receiving nursing facility services, are participating in a home and community-based services medicaid waiver component, as defined in section 5111.85 of the Revised Code;</u>	101172 101173 101174 101175
<u>(d) Individuals who are dually eligible under the medicaid program and the medicare program.</u>	101176 101177
<u>(D)</u> Subject to division (B) of this section, the department may do both of the following under the care management system:	101178 101179
(1) Require or permit participants in the system to obtain health care services from providers designated by the department;	101180 101181
(2) Require or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code.	101182 101183 101184 101185
(D) <u>(E)</u> (1) The department shall prepare an annual report on the care management system. The report shall address the department's ability to implement the system, including all of the following components:	101186 101187 101188 101189
(a) The required designation of participants included in the category identified by the department as covered families and children;	101190 101191 101192
(b) The required designation of participants included in the aged, blind, or disabled category of medicaid recipients;	101193 101194
(c) The use of any programs for enhanced care management.	101195
(2) The department shall submit each annual report to the general assembly. The first report shall be submitted not later than October 1, 2007.	101196 101197 101198

~~(E)~~(F) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

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Sec. 5111.161. (A) As used in this section:

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(1) "Children's care network" means all of the following:

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(a) A children's hospital;

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(b) A group of children's hospitals;

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(c) A group of pediatric physicians affiliated with a children's hospital or group of children's hospitals.

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(2) "Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

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(B) This section applies if the department of job and family services includes in the care management system, pursuant to section 5111.16 of the Revised Code, individuals under twenty-one years of age included in the category of individuals who receive medicaid on the basis of being in the category of aged, blind, or disabled medicaid recipients, as specified in division (A)(2) of section 5111.01 of the Revised Code.

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(C) In order to meet the complex medical and behavioral needs of disabled children through new approaches to care coordination, and for the purpose of developing a system for the provision of care management services to the individuals specified in division (B) of this section, the department shall do both of the following:

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(1) Enter into a contract with a children's care network to serve as a pediatric accountable care organization in accordance with division (D) of this section;

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(2) Require that a managed care organization under contract with the department pursuant to section 5111.17 of the Revised

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Code enter into a subcontract with a children's care network to 101228
provide the care coordination services and to provide care 101229
management services if the network provides notification to the 101230
department in accordance with division (E) of this section. The 101231
organization shall ensure that contracts entered into are 101232
sufficient to provide the services in all counties served by the 101233
organization. 101234

(D) On determining that a children's care network seeking a 101235
contract to serve as a pediatric accountable care organization 101236
meets the criteria established in rules adopted under this 101237
section, the department shall contract directly with the 101238
children's care network to serve in that capacity. The 101239
department's determination of whether to enter into a contract 101240
with the children's care network shall be based on evidence or 101241
other documentation submitted by the children's care network, as 101242
required by the department in rules adopted under this section. 101243

A children's care network that is denied a contract may seek 101244
another contract to serve as a pediatric accountable care 101245
organization, but not earlier than six months after the most 101246
recent contract denial. 101247

(E) A children's care network seeking a subcontract with a 101248
managed care organization shall notify the department of its 101249
intention to provide the care coordination services or to provide 101250
care management services. The children's care network shall 101251
include in the notification an identification of the counties in 101252
which the network seeks to provide services. The children's care 101253
network may not identify any county as a county in which the 101254
network seeks to provide the services if the network is not 101255
located in that county. 101256

(F) The department shall adopt rules as necessary to 101257
implement this section. The rules shall be adopted in accordance 101258
with Chapter 119. of the Revised Code. In adopting the rules, the 101259

department shall specify the following: 101260

(1) The minimum criteria that a children's care network must meet to qualify for a contract with the department to serve as a pediatric accountable care organization, including criteria that incorporates the minimum criteria established by federal law regarding pediatric accountable care organizations; 101261
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(2) The evidence or other documentation that a children's care network must submit to the department when seeking a contract to serve as an accountable care organization. 101266
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(G) If the department does not adopt rules under division (F) of this section on or before July 1, 2012, the department shall specify that one of the following applies until the department adopts those rules: 101269
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(1) Each managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code shall subcontract with a children's care network to provide care coordination services for the individuals specified in division (B) of this section if the network provides notification to the department in accordance with division (E) of this section. The managed care organization shall pay the children's care network for providing the care coordination services an amount equal to the average cost to the managed care organization for providing case management services, plus an amount equal to the statewide average administrative percentage paid to managed care organizations as a component of their capitation payment that is associated with that service. 101273
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(2) Each managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code shall subcontract with a children's care network to provide care management services for the individuals specified in division (B) of this section if the network provides notification to the 101286
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department in accordance with division (E) of this section. 101291

Sec. 5111.17. (A) The department of job and family services 101292
may enter into contracts with managed care organizations, 101293
including health insuring corporations, under which the 101294
organizations are authorized to provide, or arrange for the 101295
provision of, health care services to medical assistance 101296
recipients who are required or permitted to obtain health care 101297
services through managed care organizations as part of the care 101298
management system established under section 5111.16 of the Revised 101299
Code. 101300

(B) The department or its actuary shall base the hospital 101301
inpatient capital payment portion of the payment made to managed 101302
care organizations on data for services provided to all recipients 101303
enrolled in managed care organizations with which the department 101304
contracts, as reported by hospitals on relevant cost reports 101305
submitted pursuant to rules adopted under this section. 101306

(C) The director of job and family services may adopt rules 101307
in accordance with Chapter 119. of the Revised Code to implement 101308
this section. 101309

~~(C)~~(D) The department of job and family services shall allow 101310
a managed care ~~plans~~ organization to use providers to render care 101311
upon completion of the managed care ~~plan's~~ organization's 101312
credentialing process. 101313

Sec. 5111.172. (A) When contracting under section 5111.17 of 101314
the Revised Code with a managed care organization that is a health 101315
insuring corporation, the department of job and family services 101316
~~may~~ shall require the health insuring corporation to provide 101317
coverage of prescription drugs for medicaid recipients enrolled in 101318
the health insuring corporation. In providing the required 101319
coverage, the health insuring corporation may, subject to the 101320

department's approval and the limitations specified in division 101321
(B) of this section, use strategies for the management of drug 101322
utilization. 101323

(B) The department shall not permit a health insuring 101324
corporation to impose a prior authorization requirement in the 101325
case of a drug to which all of the following apply: 101326

(1) The drug is an antidepressant or antipsychotic. 101327

(2) The drug is administered or dispensed in a standard 101328
tablet or capsule form, except that in the case of an 101329
antipsychotic, the drug also may be administered or dispensed in a 101330
long-acting injectable form. 101331

(3) The drug is prescribed by either of the following: 101332

(a) A physician whom the health insuring corporation, 101333
pursuant to division (C) of section 5111.17 of the Revised Code, 101334
has credentialed to provide care as a psychiatrist; 101335

(b) A physician practicing at a community mental health 101336
agency certified by the department of mental health under section 101337
5119.611 of the Revised Code. 101338

(4) The drug is prescribed for a use that is indicated on the 101339
drug's labeling, as approved by the federal food and drug 101340
administration. 101341

(C) As used in this division, "controlled substance" has the 101342
same meaning as in section 3719.01 of the Revised Code. 101343

~~If~~ The department shall permit a health insuring corporation 101344
~~is required under this section to provide coverage of prescription~~ 101345
~~drugs, the department shall permit the health insuring corporation~~ 101346
to develop and implement a pharmacy utilization management program 101347
under which prior authorization through the program is established 101348
as a condition of obtaining a controlled substance pursuant to a 101349
prescription. The program may include processes for requiring 101350

medicaid recipients at high risk for fraud or abuse involving 101351
controlled substances to have their prescriptions for controlled 101352
substances filled by a pharmacy, medical provider, or health care 101353
facility designated by the program. 101354

Sec. 5111.1711. (A) The department of job and family services 101355
shall establish a managed care performance payment program. Under 101356
the program, the department may provide payments to managed care 101357
organizations under contract with the department pursuant to 101358
section 5111.17 of the Revised Code that meet performance 101359
standards established by the department. 101360

In establishing performance standards, the department shall 101361
use the most recent healthcare effectiveness data and information 101362
set and quality measurement tool established by the national 101363
committee for quality assurance. 101364

The standards that must be met to receive the payments may be 101365
specified in the contract the department enters into with a 101366
managed care organization. 101367

If a managed care organization meets the performance 101368
standards established by the department, the department shall make 101369
one or more performance payments to the organization. The number 101370
of payments and the schedule for making the payments shall be 101371
established by the department. The payments shall be discontinued 101372
if the department determines that the organization no longer meets 101373
the performance standards. The department shall not make or 101374
discontinue payments based on any performance standard that has 101375
been in effect as part of the organization's contract for less 101376
than six months. 101377

(B) For purposes of the program, the department shall 101378
establish an amount that is to be withheld each time a premium 101379
payment is made to a managed care organization. The amount shall 101380
be established as a percentage of each premium payment. The 101381

percentage shall be the same for all managed care organizations 101382
under contract with the department. The sum of all withholdings 101383
under this division shall not exceed one per cent of the total of 101384
all premium payments made to all managed care organizations under 101385
contract with the department. 101386

Each managed care organization shall agree to the withholding 101387
as a condition of receiving or maintaining its medicaid provider 101388
agreement with the department. 101389

When the amount is established and each time the amount is 101390
modified thereafter, the department shall certify the amount to 101391
the director of budget and management and begin withholding the 101392
amount from each premium the department pays to a managed care 101393
organization. 101394

(C) There is hereby created in the state treasury the managed 101395
care performance payment fund. The fund shall consist of amounts 101396
transferred to it by the director of budget and management for the 101397
purpose of the program. All investment earnings of the fund shall 101398
be credited to the fund. Amounts in the fund shall be used solely 101399
to make performance payments to managed care organizations in 101400
accordance with this section. 101401

(D) The department may adopt rules as necessary to implement 101402
this section. The rules shall be adopted in accordance with 101403
Chapter 119. of the Revised Code. 101404

Sec. 5111.20. As used in sections 5111.20 to ~~5111.34~~ 5111.33 101405
of the Revised Code: 101406

(A) "Allowable costs" are those costs determined by the 101407
department of job and family services to be reasonable and do not 101408
include fines paid under sections 5111.35 to 5111.61 and section 101409
5111.99 of the Revised Code. 101410

(B) "Ancillary and support costs" means all reasonable costs 101411

incurred by a nursing facility other than direct care costs or 101412
capital costs. "Ancillary and support costs" includes, but is not 101413
limited to, costs of activities, social services, pharmacy 101414
consultants, habilitation supervisors, qualified mental 101415
retardation professionals, program directors, medical and 101416
habilitation records, program supplies, incontinence supplies, 101417
food, enterals, dietary supplies and personnel, laundry, 101418
housekeeping, security, administration, medical equipment, 101419
utilities, liability insurance, bookkeeping, purchasing 101420
department, human resources, communications, travel, dues, license 101421
fees, subscriptions, home office costs not otherwise allocated, 101422
legal services, accounting services, minor equipment, wheelchairs, 101423
resident transportation, maintenance and repairs, help-wanted 101424
advertising, informational advertising, start-up costs, 101425
organizational expenses, other interest, property insurance, 101426
employee training and staff development, employee benefits, 101427
payroll taxes, and workers' compensation premiums or costs for 101428
self-insurance claims and related costs as specified in rules 101429
adopted by the director of job and family services under section 101430
5111.02 of the Revised Code, for personnel listed in this 101431
division. "Ancillary and support costs" also means the cost of 101432
equipment, including vehicles, acquired by operating lease 101433
executed before December 1, 1992, if the costs are reported as 101434
administrative and general costs on the facility's cost report for 101435
the cost reporting period ending December 31, 1992. 101436

(C) "Capital costs" means costs of ownership and, in the case 101437
of an intermediate care facility for the mentally retarded, costs 101438
of nonextensive renovation. 101439

(1) "Cost of ownership" means the actual expense incurred for 101440
all of the following: 101441

(a) Depreciation and interest on any capital assets that cost 101442
five hundred dollars or more per item, including the following: 101443

(i) Buildings;	101444
(ii) Building improvements that are not approved as nonextensive renovations under section 5111.251 of the Revised Code;	101445 101446 101447
(iii) Except as provided in division (B) of this section, equipment;	101448 101449
(iv) In the case of an intermediate care facility for the mentally retarded, extensive renovations;	101450 101451
(v) Transportation equipment.	101452
(b) Amortization and interest on land improvements and leasehold improvements;	101453 101454
(c) Amortization of financing costs;	101455
(d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment.	101456 101457
The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.	101458 101459 101460
(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.	101461 101462 101463 101464
(D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	101465 101466
(E) "Case-mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.	101467 101468 101469 101470 101471
(F)(1) "Date of licensure," for a facility originally	101472

licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time.

(2) The definition of "date of licensure" in this section applies in determinations of the medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded but does not apply in determinations of the franchise permit fee for a nursing facility or intermediate care facility for the mentally retarded.

(G) "Desk-reviewed" means that costs as reported on a cost

report submitted under section 5111.26 of the Revised Code have 101505
been subjected to a desk review under division (A) of section 101506
5111.27 of the Revised Code and preliminarily determined to be 101507
allowable costs. 101508

(H) "Direct care costs" means all of the following: 101509

(1)(a) Costs for registered nurses, licensed practical 101510
nurses, and nurse aides employed by the facility; 101511

(b) Costs for direct care staff, administrative nursing 101512
staff, medical directors, respiratory therapists, and except as 101513
provided in division (H)(2) of this section, other persons holding 101514
degrees qualifying them to provide therapy; 101515

(c) Costs of purchased nursing services; 101516

(d) Costs of quality assurance; 101517

(e) Costs of training and staff development, employee 101518
benefits, payroll taxes, and workers' compensation premiums or 101519
costs for self-insurance claims and related costs as specified in 101520
rules adopted by the director of job and family services in 101521
accordance with Chapter 119. of the Revised Code, for personnel 101522
listed in divisions (H)(1)(a), (b), and (d) of this section; 101523

(f) Costs of consulting and management fees related to direct 101524
care; 101525

(g) Allocated direct care home office costs. 101526

(2) In addition to the costs specified in division (H)(1) of 101527
this section, for nursing facilities only, direct care costs 101528
include costs of habilitation staff (other than habilitation 101529
supervisors), medical supplies, oxygen, over-the-counter pharmacy 101530
products, physical therapists, physical therapy assistants, 101531
occupational therapists, occupational therapy assistants, speech 101532
therapists, audiologists, habilitation supplies, and universal 101533
precautions supplies. 101534

(3) In addition to the costs specified in division (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:

(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified mental retardation professionals, program directors, social services staff, activities staff, off-site day programming, psychologists and psychology assistants, and social workers and counselors;

(b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in division (H)(3)(a) of this section.

(4) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5111.02 of the Revised Code.

(I) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(J) "Franchise permit fee" means the following:

(1) In the context of nursing facilities, the fee imposed by sections 3721.50 to 3721.58 of the Revised Code;

(2) In the context of intermediate care facilities for the mentally retarded, the fee imposed by sections 5112.30 to 5112.39 of the Revised Code.

(K) "Indirect care costs" means all reasonable costs incurred by an intermediate care facility for the mentally retarded other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of

habilitation supplies, pharmacy consultants, medical and 101565
habilitation records, program supplies, incontinence supplies, 101566
food, enterals, dietary supplies and personnel, laundry, 101567
housekeeping, security, administration, liability insurance, 101568
bookkeeping, purchasing department, human resources, 101569
communications, travel, dues, license fees, subscriptions, home 101570
office costs not otherwise allocated, legal services, accounting 101571
services, minor equipment, maintenance and repairs, help-wanted 101572
advertising, informational advertising, start-up costs, 101573
organizational expenses, other interest, property insurance, 101574
employee training and staff development, employee benefits, 101575
payroll taxes, and workers' compensation premiums or costs for 101576
self-insurance claims and related costs as specified in rules 101577
adopted under section 5111.02 of the Revised Code, for personnel 101578
listed in this division. Notwithstanding division (C)(1) of this 101579
section, "indirect care costs" also means the cost of equipment, 101580
including vehicles, acquired by operating lease executed before 101581
December 1, 1992, if the costs are reported as administrative and 101582
general costs on the facility's cost report for the cost reporting 101583
period ending December 31, 1992. 101584

(L) "Inpatient days" means all days during which a resident, 101585
regardless of payment source, occupies a bed in a nursing facility 101586
or intermediate care facility for the mentally retarded that is 101587
included in the facility's certified capacity under Title XIX. 101588
Therapeutic or hospital leave days for which payment is made under 101589
section 5111.33 of the Revised Code are considered inpatient days 101590
proportionate to the percentage of the facility's per resident per 101591
day rate paid for those days. 101592

(M) "Intermediate care facility for the mentally retarded" 101593
means an intermediate care facility for the mentally retarded 101594
certified as in compliance with applicable standards for the 101595
medicaid program by the director of health in accordance with 101596

Title XIX. 101597

(N) "Maintenance and repair expenses" means, except as 101598
provided in division (BB)(2) of this section, expenditures that 101599
are necessary and proper to maintain an asset in a normally 101600
efficient working condition and that do not extend the useful life 101601
of the asset two years or more. "Maintenance and repair expenses" 101602
includes but is not limited to the cost of ordinary repairs such 101603
as painting and wallpapering. 101604

(O) "Medicaid days" means all days during which a resident 101605
who is a ~~Medicaid~~ medicaid recipient eligible for nursing facility 101606
services occupies a bed in a nursing facility that is included in 101607
the nursing facility's certified capacity under Title XIX. 101608
Therapeutic or hospital leave days for which payment is made under 101609
section 5111.33 of the Revised Code are considered ~~Medicaid~~ 101610
medicaid days proportionate to the percentage of the nursing 101611
facility's per resident per day rate paid for those days. 101612

(P) "Nursing facility" means a facility, or a distinct part 101613
of a facility, that is certified as a nursing facility by the 101614
director of health in accordance with Title XIX and is not an 101615
intermediate care facility for the mentally retarded. "Nursing 101616
facility" includes a facility, or a distinct part of a facility, 101617
that is certified as a nursing facility by the director of health 101618
in accordance with Title XIX and is certified as a skilled nursing 101619
facility by the director in accordance with Title XVIII. 101620

(Q) "Operator" means the person or government entity 101621
responsible for the daily operating and management decisions for a 101622
nursing facility or intermediate care facility for the mentally 101623
retarded. 101624

(R) "Other protected costs" means costs incurred by an 101625
intermediate care facility for the mentally retarded for medical 101626
supplies; real estate, franchise, and property taxes; natural gas, 101627

fuel oil, water, electricity, sewage, and refuse and hazardous 101628
medical waste collection; allocated other protected home office 101629
costs; and any additional costs defined as other protected costs 101630
in rules adopted under section 5111.02 of the Revised Code. 101631

(S)(1) "Owner" means any person or government entity that has 101632
at least five per cent ownership or interest, either directly, 101633
indirectly, or in any combination, in any of the following 101634
regarding a nursing facility or intermediate care facility for the 101635
mentally retarded: 101636

(a) The land on which the facility is located; 101637

(b) The structure in which the facility is located; 101638

(c) Any mortgage, contract for deed, or other obligation 101639
secured in whole or in part by the land or structure on or in 101640
which the facility is located; 101641

(d) Any lease or sublease of the land or structure on or in 101642
which the facility is located. 101643

(2) "Owner" does not mean a holder of a debenture or bond 101644
related to the nursing facility or intermediate care facility for 101645
the mentally retarded and purchased at public issue or a regulated 101646
lender that has made a loan related to the facility unless the 101647
holder or lender operates the facility directly or through a 101648
subsidiary. 101649

(T) "Patient" includes "resident." 101650

(U) Except as provided in divisions (U)(1) and (2) of this 101651
section, "per diem" means a nursing facility's or intermediate 101652
care facility for the mentally retarded's actual, allowable costs 101653
in a given cost center in a cost reporting period, divided by the 101654
facility's inpatient days for that cost reporting period. 101655

(1) When calculating indirect care costs for the purpose of 101656
establishing rates under section 5111.241 of the Revised Code, 101657

"per diem" means an intermediate care facility for the mentally retarded's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent.

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(2) When calculating capital costs for the purpose of establishing rates under section 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

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(V) "Provider" means an operator with a provider agreement.

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(W) "Provider agreement" means a contract between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medicaid program.

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(X) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.

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(Y) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

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(Z) "Related party" means an individual or organization that,

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to a significant extent, has common ownership with, is associated 101689
or affiliated with, has control of, or is controlled by, the 101690
provider. 101691

(1) An individual who is a relative of an owner is a related 101692
party. 101693

(2) Common ownership exists when an individual or individuals 101694
possess significant ownership or equity in both the provider and 101695
the other organization. Significant ownership or equity exists 101696
when an individual or individuals possess five per cent ownership 101697
or equity in both the provider and a supplier. Significant 101698
ownership or equity is presumed to exist when an individual or 101699
individuals possess ten per cent ownership or equity in both the 101700
provider and another organization from which the provider 101701
purchases or leases real property. 101702

(3) Control exists when an individual or organization has the 101703
power, directly or indirectly, to significantly influence or 101704
direct the actions or policies of an organization. 101705

(4) An individual or organization that supplies goods or 101706
services to a provider shall not be considered a related party if 101707
all of the following conditions are met: 101708

(a) The supplier is a separate bona fide organization. 101709

(b) A substantial part of the supplier's business activity of 101710
the type carried on with the provider is transacted with others 101711
than the provider and there is an open, competitive market for the 101712
types of goods or services the supplier furnishes. 101713

(c) The types of goods or services are commonly obtained by 101714
other nursing facilities or intermediate care facilities for the 101715
mentally retarded from outside organizations and are not a basic 101716
element of patient care ordinarily furnished directly to patients 101717
by the facilities. 101718

(d) The charge to the provider is in line with the charge for 101719
the goods or services in the open market and no more than the 101720
charge made under comparable circumstances to others by the 101721
supplier. 101722

(AA) "Relative of owner" means an individual who is related 101723
to an owner of a nursing facility or intermediate care facility 101724
for the mentally retarded by one of the following relationships: 101725

(1) Spouse; 101726

(2) Natural parent, child, or sibling; 101727

(3) Adopted parent, child, or sibling; 101728

(4) Stepparent, stepchild, stepbrother, or stepsister; 101729

(5) Father-in-law, mother-in-law, son-in-law, 101730
daughter-in-law, brother-in-law, or sister-in-law; 101731

(6) Grandparent or grandchild; 101732

(7) Foster caregiver, foster child, foster brother, or foster 101733
sister. 101734

(BB) "Renovation" and "extensive renovation" mean: 101735

(1) Any betterment, improvement, or restoration of an 101736
intermediate care facility for the mentally retarded started 101737
before July 1, 1993, that meets the definition of a renovation or 101738
extensive renovation established in rules adopted by the director 101739
of job and family services in effect on December 22, 1992. 101740

(2) In the case of betterments, improvements, and 101741
restorations of intermediate care facilities for the mentally 101742
retarded started on or after July 1, 1993: 101743

(a) "Renovation" means the betterment, improvement, or 101744
restoration of an intermediate care facility for the mentally 101745
retarded beyond its current functional capacity through a 101746
structural change that costs at least five hundred dollars per 101747

bed. A renovation may include betterment, improvement, 101748
restoration, or replacement of assets that are affixed to the 101749
building and have a useful life of at least five years. A 101750
renovation may include costs that otherwise would be considered 101751
maintenance and repair expenses if they are an integral part of 101752
the structural change that makes up the renovation project. 101753
"Renovation" does not mean construction of additional space for 101754
beds that will be added to a facility's licensed or certified 101755
capacity. 101756

(b) "Extensive renovation" means a renovation that costs more 101757
than sixty-five per cent and no more than eighty-five per cent of 101758
the cost of constructing a new bed and that extends the useful 101759
life of the assets for at least ten years. 101760

For the purposes of division (BB)(2) of this section, the 101761
cost of constructing a new bed shall be considered to be forty 101762
thousand dollars, adjusted for the estimated rate of inflation 101763
from January 1, 1993, to the end of the calendar year during which 101764
the renovation is completed, using the consumer price index for 101765
shelter costs for all urban consumers for the north central 101766
region, as published by the United States bureau of labor 101767
statistics. 101768

The department of job and family services may treat a 101769
renovation that costs more than eighty-five per cent of the cost 101770
of constructing new beds as an extensive renovation if the 101771
department determines that the renovation is more prudent than 101772
construction of new beds. 101773

(CC) "Title XIX" means Title XIX of the "Social Security 101774
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 101775

(DD) "Title XVIII" means Title XVIII of the "Social Security 101776
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 101777

Sec. 5111.21. (A) In order to be eligible for medicaid 101778
payments, the operator of a nursing facility or intermediate care 101779
facility for the mentally retarded shall do all of the following: 101780

(1) Enter into a provider agreement with the department as 101781
provided in section 5111.22, 5111.671, or 5111.672 of the Revised 101782
Code; 101783

(2) Apply for and maintain a valid license to operate if so 101784
required by law; 101785

(3) Subject to division (B) of this section, comply with all 101786
applicable state and federal laws and rules. 101787

(B) A state rule that requires the operator of an 101788
intermediate care facility for the mentally retarded to have 101789
received approval of a plan for the proposed facility pursuant to 101790
section 5123.042 of the Revised Code as a condition of the 101791
operator being eligible for medicaid payments for the facility 101792
does not apply if, under former section 5123.193 of the Revised 101793
Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly 101794
or section 5123.197 of the Revised Code, a residential facility 101795
license was obtained or modified for the facility without 101796
obtaining approval of such a plan. 101797

(C)(1) Except as provided in division (C)(2) of this section, 101798
the operator of a nursing facility that elects to obtain and 101799
maintain eligibility for payments under the medicaid program shall 101800
qualify all of the facility's medicaid-certified beds in the 101801
medicare program established by Title XVIII. The director of job 101802
and family services may adopt rules under section 5111.02 of the 101803
Revised Code to establish the time frame in which a nursing 101804
facility must comply with this requirement. 101805

(2) The department of veterans services is not required to 101806
qualify all of the medicaid-certified beds in a nursing facility 101807

the agency maintains and operates under section 5907.01 of the Revised Code in the medicare program.

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Sec. 5111.211. (A) Except as provided in division (C) of this section, the department of developmental disabilities is responsible for the nonfederal share of claims submitted for services that are covered by the medicaid program and provided to an eligible medicaid recipient by an intermediate care facility for the mentally retarded if all of the following are the case:

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(1) The services are provided on or after July 1, 2003;

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(2) The facility receives initial certification by the director of health as an intermediate care facility for the mentally retarded on or after June 1, 2003;

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(3) The facility, or a portion of the facility, is licensed by the director of developmental disabilities as a residential facility under section 5123.19 of the Revised Code;

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(4) There is a valid provider agreement for the facility.

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(B) Each month, the department of job and family services shall invoice the department of developmental disabilities by interagency transfer voucher for the claims for which the department of developmental disabilities is responsible pursuant to this section.

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(C) Division (A) of this section does not apply to claims submitted for an intermediate care facility for the mentally retarded if, under former section 5123.193 of the Revised Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly or section 5123.197 of the Revised Code, a residential facility license was obtained or modified for the facility without obtaining approval of a plan for the proposed residential facility pursuant to section 5123.042 of the Revised Code.

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Sec. 5111.222. (A) Except as otherwise provided by sections 101837
5111.20 to 5111.33 of the Revised Code and by division (B) of this 101838
section, the payments that the department of job and family 101839
services shall agree to make to the provider of a nursing facility 101840
pursuant to a provider agreement shall equal the sum of all of the 101841
following: 101842

(1) The rate for direct care costs determined for the nursing 101843
facility under section 5111.231 of the Revised Code; 101844

(2) The rate for ancillary and support costs determined for 101845
the nursing facility's ancillary and support cost peer group under 101846
section 5111.24 of the Revised Code; 101847

(3) The rate for tax costs determined for the nursing 101848
facility under section 5111.242 of the Revised Code; 101849

~~(4) The rate for franchise permit fees determined for the 101850
nursing facility under section 5111.243 of the Revised Code; 101851~~

~~(5) The quality incentive payment, if any, paid to the 101852
nursing facility under section 5111.244 of the Revised Code; 101853~~

~~(6)~~(5) The ~~median~~ rate for capital costs determined for the 101854
~~nursing facilities in the~~ nursing facility's capital costs peer 101855
group ~~as determined~~ under section 5111.25 of the Revised Code. 101856

(B) The department shall adjust the rates otherwise 101857
determined under ~~divisions~~ division (A)~~(1), (2), (3), and (6)~~ of 101858
this section as directed by the general assembly through the 101859
enactment of law governing medicaid payments to providers of 101860
nursing facilities, including any law that ~~does either of the~~ 101861
~~following:~~ 101862

~~(1) Establishes~~ establishes factors by which the rates are to 101863
be adjusted; 101864

~~(2) Establishes a methodology for phasing in the rates 101865
determined for fiscal year 2006 under uncodified law the general 101866~~

~~assembly enacts to rates determined for subsequent fiscal years~~ 101867
~~under sections 5111.20 to 5111.33 of the Revised Code.~~ 101868

Sec. 5111.224. (A) Except as otherwise provided by sections 101869
5111.20 to 5111.33 of the Revised Code and by division (B) of this 101870
section, the payments that the department of job and family 101871
services shall agree to make to the provider of an intermediate 101872
care facility for the mentally retarded pursuant to a provider 101873
agreement shall equal the sum of all of the following: 101874

(1) The rate for direct care costs determined for the 101875
facility under section 5111.23 of the Revised Code; 101876

(2) The rate for other protected costs determined for the 101877
facility under section 5111.235 of the Revised Code; 101878

(3) The rate for indirect care costs determined for the 101879
facility under section 5111.241 of the Revised Code; 101880

(4) The rate for capital costs determined for the facility 101881
under section 5111.251 of the Revised Code. 101882

(B) The department shall adjust the total rate otherwise 101883
determined under division (A) of this section as directed by the 101884
general assembly through the enactment of law governing medicaid 101885
payments to providers of intermediate care facilities for the 101886
mentally retarded. 101887

Sec. 5111.225. (A) As used in this section: 101888

"Dual eligible individual" has the same meaning as in section 101889
1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 101890
42 U.S.C. 1396n(h)(2)(B). 101891

"Medicaid maximum allowable amount" means one hundred per 101892
cent of a nursing facility's per diem rate for a medicaid day. 101893

(B) The department of job and family services shall pay the 101894
provider of a nursing facility the lesser of the following for 101895

nursing facility services the nursing facility provides on or 101896
after January 1, 2012, to a dual eligible individual who is 101897
eligible for nursing facility services under the medicaid program 101898
and post-hospital extended care services under Part A of Title 101899
XVIII: 101900

(1) The coinsurance amount for the services as provided under 101901
Part A of Title XVIII; 101902

(2) The medicaid maximum allowable amount for the services, 101903
less the amount paid under Part A of Title XVIII for the services. 101904

Sec. 5111.23. (A) The department of job and family services 101905
shall pay a provider for each of the provider's eligible 101906
intermediate care facilities for the mentally retarded a per 101907
resident per day rate for direct care costs established 101908
prospectively for each facility. The department shall establish 101909
each facility's rate for direct care costs quarterly. 101910

(B) Each facility's rate for direct care costs shall be based 101911
on the facility's cost per case-mix unit, subject to the maximum 101912
costs per case-mix unit established under division (B)(2) of this 101913
section, from the calendar year preceding the fiscal year in which 101914
the rate is paid. To determine the rate, the department shall do 101915
all of the following: 101916

(1) Determine each facility's cost per case-mix unit for the 101917
calendar year preceding the fiscal year in which the rate will be 101918
paid by dividing the facility's desk-reviewed, actual, allowable, 101919
per diem direct care costs for that year by its average case-mix 101920
score determined under section 5111.232 of the Revised Code for 101921
the same calendar year. 101922

(2)(a) Set the maximum cost per case-mix unit for each peer 101923
group of intermediate care facilities for the mentally retarded 101924
with more than eight beds specified in rules adopted under 101925

division ~~(E)~~(F) of this section at a percentage above the cost per 101926
case-mix unit of the facility in the group that has the group's 101927
median medicaid inpatient day for the calendar year preceding the 101928
fiscal year in which the rate will be paid, as calculated under 101929
division (B)(1) of this section, that is no less than the 101930
percentage calculated under division ~~(D)~~(E)(2) of this section. 101931

(b) Set the maximum cost per case-mix unit for each peer 101932
group of intermediate care facilities for the mentally retarded 101933
with eight or fewer beds specified in rules adopted under division 101934
~~(E)~~(F) of this section at a percentage above the cost per case-mix 101935
unit of the facility in the group that has the group's median 101936
medicaid inpatient day for the calendar year preceding the fiscal 101937
year in which the rate will be paid, as calculated under division 101938
(B)(1) of this section, that is no less than the percentage 101939
calculated under division ~~(D)~~(E)(3) of this section. 101940

(c) In calculating the maximum cost per case-mix unit under 101941
divisions (B)(2)(a) ~~to~~ and (b) of this section for each peer 101942
group, the department shall exclude from its calculations the cost 101943
per case-mix unit of any facility in the group that participated 101944
in the medicaid program under the same operator for less than 101945
twelve months during the calendar year preceding the fiscal year 101946
in which the rate will be paid. 101947

(3) Estimate the rate of inflation for the eighteen-month 101948
period beginning on the first day of July of the calendar year 101949
preceding the fiscal year in which the rate will be paid and 101950
ending on the thirty-first day of December of the fiscal year in 101951
which the rate will be paid, using the ~~employment cost index for~~ 101952
~~total compensation, health services component, published by the~~ 101953
~~United States bureau of labor statistics~~ specified in division (C) 101954
of this section. If the estimated inflation rate for the 101955
eighteen-month period is different from the actual inflation rate 101956
for that period, as measured using the same index, the difference 101957

shall be added to or subtracted from the inflation rate estimated 101958
under division (B)(3) of this section for the following fiscal 101959
year. 101960

(4) The department shall not recalculate a maximum cost per 101961
case-mix unit under division (B)(2) of this section or a 101962
percentage under division ~~(D)~~(E) of this section based on 101963
additional information that it receives after the maximum costs 101964
per case-mix unit or percentages are set. The department shall 101965
recalculate a maximum cost per case-mix units or percentage only 101966
if it made an error in computing the maximum cost per case-mix 101967
unit or percentage based on information available at the time of 101968
the original calculation. 101969

(C) The department shall use the following index for the 101970
purpose of division (B)(3) of this section: 101971

(1) The employment cost index for total compensation, health 101972
services component, published by the United States bureau of labor 101973
statistics; 101974

(2) If the United States bureau of labor statistics ceases to 101975
publish the index specified in division (C)(1) of this section, 101976
the index that is subsequently published by the bureau and covers 101977
nursing facilities' staff costs. 101978

(D) Each facility's rate for direct care costs shall be 101979
determined as follows for each calendar quarter within a fiscal 101980
year: 101981

(1) Multiply the lesser of the following by the facility's 101982
average case-mix score determined under section 5111.232 of the 101983
Revised Code for the calendar quarter that preceded the 101984
immediately preceding calendar quarter: 101985

(a) The facility's cost per case-mix unit for the calendar 101986
year preceding the fiscal year in which the rate will be paid, as 101987
determined under division (B)(1) of this section; 101988

(b) The maximum cost per case-mix unit established for the 101989
fiscal year in which the rate will be paid for the facility's peer 101990
group under division (B)(2) of this section; 101991

(2) Adjust the product determined under division ~~(C)~~(D)(1) of 101992
this section by the inflation rate estimated under division (B)(3) 101993
of this section. 101994

~~(D)~~(E)(1) The department shall calculate the percentage above 101995
the median cost per case-mix unit determined under division (B)(1) 101996
of this section for the facility that has the median medicaid 101997
inpatient day for calendar year 1992 for all intermediate care 101998
facilities for the mentally retarded with more than eight beds 101999
that would result in payment of all desk-reviewed, actual, 102000
allowable direct care costs for eighty and one-half per cent of 102001
the medicaid inpatient days for such facilities for calendar year 102002
1992. 102003

(2) The department shall calculate the percentage above the 102004
median cost per case-mix unit determined under division (B)(1) of 102005
this section for the facility that has the median medicaid 102006
inpatient day for calendar year 1992 for all intermediate care 102007
facilities for the mentally retarded with eight or fewer beds that 102008
would result in payment of all desk-reviewed, actual, allowable 102009
direct care costs for eighty and one-half per cent of the medicaid 102010
inpatient days for such facilities for calendar year 1992. 102011

~~(E)~~(F) The director of job and family services shall adopt 102012
rules under section 5111.02 of the Revised Code that specify peer 102013
groups of intermediate care facilities for the mentally retarded 102014
with more than eight beds and intermediate care facilities for the 102015
mentally retarded with eight or fewer beds, based on findings of 102016
significant per diem direct care cost differences due to geography 102017
and facility bed-size. The rules also may specify peer groups 102018
based on findings of significant per diem direct care cost 102019
differences due to other factors which may include case-mix. 102020

~~(F)~~(G) The department, in accordance with division (D) of section 5111.232 of the Revised Code and rules adopted under division ~~(E)~~(F) of that section, may assign case-mix scores or costs per case-mix unit if a provider fails to submit assessment data necessary to calculate an intermediate care facility for the mentally retarded's case-mix score in accordance with that section.

Sec. 5111.231. (A) As used in this section, ~~"applicable:~~

(1) "Applicable calendar year" means the following:

~~(1)~~(a) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's cost per case-mix unit, calendar year 2003;

~~(2)~~(b) For the purpose of the department's ~~subsequent determinations under division (D) of this section of each peer group's cost per case-mix unit~~ rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' cost per case-mix unit using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such costs.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for direct care costs determined semiannually by multiplying the cost per case-mix unit determined under division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section 5111.232 of the Revised Code.

(C) For the purpose of determining nursing facilities' rate for direct care costs, the department shall establish three peer

groups. 102051

Each nursing facility located in any of the following 102052
counties shall be placed in peer group one: Brown, Butler, 102053
Clermont, Clinton, Hamilton, and Warren. 102054

Each nursing facility located in any of the following 102055
counties shall be placed in peer group two: Ashtabula, Champaign, 102056
Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, 102057
Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, 102058
Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, 102059
Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, 102060
and Wood. 102061

Each nursing facility located in any of the following 102062
counties shall be placed in peer group three: Adams, Allen, 102063
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 102064
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 102065
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 102066
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 102067
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 102068
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 102069
Washington, Wayne, Williams, and Wyandot. 102070

(D)(1) ~~At least once every ten years, the~~ The department 102071
shall determine a cost per case-mix unit for each peer group 102072
established under division (C) of this section. ~~A~~ The department 102073
is not required to conduct a rebasing more than once every ten 102074
years. Except as necessary to implement the amendments made by 102075
this act to this section, the cost per case-mix unit determined 102076
under this division for a peer group shall be used for subsequent 102077
years until the department ~~redetermines it~~ conducts a rebasing. To 102078
determine a peer group's cost per case-mix unit, the department 102079
shall do all of the following: 102080

(a) Determine the cost per case-mix unit for each nursing 102081

facility in the peer group for the applicable calendar year by 102082
dividing each facility's desk-reviewed, actual, allowable, per 102083
diem direct care costs for the applicable calendar year by the 102084
facility's annual average case-mix score determined under section 102085
5111.232 of the Revised Code for the applicable calendar year;~~i~~ 102086

(b) Subject to division (D)(2) of this section, identify 102087
which nursing facility in the peer group is at the twenty-fifth 102088
percentile of the cost per case-mix units determined under 102089
division (D)(1)(a) of this section;~~i~~ 102090

~~(c) Calculate the amount that is seven per cent above the 102091
cost per case mix unit determined under division (D)(1)(a) of this 102092
section for the nursing facility identified under division 102093
(D)(1)(b) of this section. 102094~~

~~(d) Multiply the amount calculated under division (D)(1)(c) 102095
of this section by Using the index specified in division (D)(3) of 102096
this section, multiply the rate of inflation for the 102097
eighteen-month period beginning on the first day of July of the 102098
applicable calendar year and ending the last day of December of 102099
the calendar year immediately following the applicable calendar 102100
year ~~using the following:~~ 102101~~

~~(i) In the case of the initial calculation made under 102102
division (D)(1)(d) of this section, the employment cost index for 102103
total compensation, health services component, published by the 102104
United States bureau of labor statistics, as the index existed on 102105
July 1, 2005; 102106~~

~~(ii) In the case of subsequent calculations made under 102107
division (D)(1)(d) of this section and except as provided in 102108
division (D)(1)(d)(iii) of this section, the employment cost index 102109
for total compensation, nursing and residential care facilities 102110
occupational group, published by the United States bureau of labor 102111
statistics; 102112~~

~~(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)(d)(ii) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs by the cost per case-mix unit determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section;~~

(d) Until the first rebasing occurs, add one dollar and eighty-eight cents to the amount calculated under division (D)(1)(c) of this section.

(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose cost per case-mix unit is more than one standard deviation from the mean cost per case-mix unit for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The following index shall be used for the purpose of the calculation made under division (D)(1)(c) of this section:

(a) Until the first rebasing occurs, the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics, as the index existed on July 1, 2005;

(b) Effective with the first rebasing and except as provided in division (D)(3)(c) of this section, the employment cost index for total compensation, nursing and residential care facilities occupational group, published by the United States bureau of labor statistics;

(c) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(3)(b) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs.

(4) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination.

Sec. 5111.235. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for other protected costs established prospectively each fiscal year for each facility. The rate for each facility shall be the facility's desk-reviewed, actual, allowable, per diem other protected costs from the calendar year preceding the fiscal year in which the rate will be paid, all adjusted for the estimated inflation rate for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of that fiscal year. The department shall estimate inflation using the ~~consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics~~ specified in division (B) of this section. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, the difference shall be added to or subtracted from the inflation rate estimated for the following year.

(B) The department shall use the following index for the purpose of division (A) of this section: 102175
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(1) The consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics; 102177
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(2) If the United States bureau of labor statistics ceases to publish the index specified in division (B)(1) of this section, the index that is subsequently published by the bureau and covers nonprescription drugs and medical supplies. 102180
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Sec. 5111.24. (A) As used in this section, ~~"applicable:~~ 102184

(1) "Applicable calendar year" means the following: 102185

~~(1)(a)~~ (a) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's rate for ancillary and support costs, calendar year 2003; 102186
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~~(2)(b)~~ (b) For the purpose of the department's ~~subsequent determinations under division (D) of this section of each peer group's rate for ancillary and support costs~~ rebasings, the calendar year the department selects. 102190
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(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' rate for ancillary and support costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates. 102194
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(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for ancillary and support costs determined for the nursing facility's peer group under division (D) of this section. 102199
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(C) For the purpose of determining nursing facilities' rate 102204

for ancillary and support costs, the department shall establish 102205
six peer groups. 102206

Each nursing facility located in any of the following 102207
counties shall be placed in peer group one or two: Brown, Butler, 102208
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 102209
located in any of those counties that has fewer than one hundred 102210
beds shall be placed in peer group one. Each nursing facility 102211
located in any of those counties that has one hundred or more beds 102212
shall be placed in peer group two. 102213

Each nursing facility located in any of the following 102214
counties shall be placed in peer group three or four: Ashtabula, 102215
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 102216
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 102217
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 102218
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 102219
Union, and Wood. Each nursing facility located in any of those 102220
counties that has fewer than one hundred beds shall be placed in 102221
peer group three. Each nursing facility located in any of those 102222
counties that has one hundred or more beds shall be placed in peer 102223
group four. 102224

Each nursing facility located in any of the following 102225
counties shall be placed in peer group five or six: Adams, Allen, 102226
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 102227
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 102228
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 102229
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 102230
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 102231
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 102232
Washington, Wayne, Williams, and Wyandot. Each nursing facility 102233
located in any of those counties that has fewer than one hundred 102234
beds shall be placed in peer group five. Each nursing facility 102235
located in any of those counties that has one hundred or more beds 102236

shall be placed in peer group six. 102237

(D)(1) ~~At least once every ten years, the~~ The department 102238
shall determine the rate for ancillary and support costs for each 102239
peer group established under division (C) of this section. The 102240
department is not required to conduct a rebasing more than once 102241
every ten years. Except as necessary to implement the amendments 102242
made by this act to this section, the rate for ancillary and 102243
support costs determined under this division for a peer group 102244
shall be used for subsequent years until the department 102245
~~redetermines it~~ conducts a rebasing. To determine a peer group's 102246
rate for ancillary and support costs, the department shall do all 102247
of the following: 102248

(a) ~~Determine~~ Subject to division (D)(2) of this section, 102249
determine the rate for ancillary and support costs for each 102250
nursing facility in the peer group for the applicable calendar 102251
year by using the greater of the nursing facility's actual 102252
inpatient days for the applicable calendar year or the inpatient 102253
days the nursing facility would have had for the applicable 102254
calendar year if its occupancy rate had been ninety per cent. ~~For~~ 102255
~~the purpose of determining a nursing facility's occupancy rate~~ 102256
~~under division (D)(1)(a) of this section, the department shall~~ 102257
~~include any beds that the nursing facility removes from its~~ 102258
~~medicaid certified capacity unless the nursing facility also~~ 102259
~~removes the beds from its licensed bed capacity.;~~ 102260

(b) Subject to division (D)~~(2)~~(3) of this section, identify 102261
which nursing facility in the peer group is at the twenty-fifth 102262
percentile of the rate for ancillary and support costs for the 102263
applicable calendar year determined under division (D)(1)(a) of 102264
this section-; 102265

(c) ~~Calculate the amount that is three per cent above the~~ 102266
~~rate for ancillary and support costs determined under division~~ 102267
~~(D)(1)(a) of this section for the nursing facility identified~~ 102268

~~under division (D)(1)(b) of this section.~~ 102269

~~(d) Multiply the amount calculated rate for ancillary and support costs determined under division (D)(1)(~~e~~)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the following:~~ 102270

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~~(i) In the case of the initial calculation made under division (D)(1)(d) of this section Until the first rebasing occurs, the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics, as that index existed on July 1, 2005;~~ 102278

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~~(ii) In the case of subsequent calculations made under division (D)(1)(d) of this section Effective with the first rebasing and except as provided in division (D)(1)(~~d~~)(c)(iii) of this section, the consumer price index for all items for all urban consumers for the midwest region, published by the United States bureau of labor statistics;~~ 102284

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~~(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)(~~d~~)(c)(ii) of this section, the index the bureau subsequently publishes that covers urban consumers' prices for items for the region that includes this state.~~ 102290

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~~(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.~~ 102295

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(3) In making the identification under division (D)(1)(b) of 102300
this section, the department shall exclude both of the following: 102301

(a) Nursing facilities that participated in the medicaid 102302
program under the same provider for less than twelve months in the 102303
applicable calendar year; 102304

(b) Nursing facilities whose ancillary and support costs are 102305
more than one standard deviation from the mean desk-reviewed, 102306
actual, allowable, per diem ancillary and support cost for all 102307
nursing facilities in the nursing facility's peer group for the 102308
applicable calendar year. 102309

~~(3)~~(4) The department shall not redetermine a peer group's 102310
rate for ancillary and support costs under this division based on 102311
additional information that it receives after the rate is 102312
determined. The department shall redetermine a peer group's rate 102313
for ancillary and support costs only if ~~it~~ the department made an 102314
error in determining the rate based on information available to 102315
the department at the time of the original determination. 102316

Sec. 5111.241. (A) The department of job and family services 102317
shall pay a provider for each of the provider's eligible 102318
intermediate care facilities for the mentally retarded a per 102319
resident per day rate for indirect care costs established 102320
prospectively each fiscal year for each facility. The rate for 102321
each intermediate care facility for the mentally retarded shall be 102322
the sum of the following, but shall not exceed the maximum rate 102323
established for the facility's peer group under division (B) of 102324
this section: 102325

(1) The facility's desk-reviewed, actual, allowable, per diem 102326
indirect care costs from the calendar year preceding the fiscal 102327
year in which the rate will be paid, adjusted for the inflation 102328
rate estimated under division (C)(1) of this section; 102329

(2) An efficiency incentive in the following amount:	102330
(a) For fiscal years ending in even-numbered calendar years:	102331
(i) In the case of intermediate care facilities for the mentally retarded with more than eight beds, seven and one-tenth per cent of the maximum rate established for the facility's peer group under division (B) of this section;	102332 102333 102334 102335
(ii) In the case of intermediate care facilities for the mentally retarded with eight or fewer beds, seven per cent of the maximum rate established for the facility's peer group under division (B) of this section;	102336 102337 102338 102339
(b) For fiscal years ending in odd-numbered calendar years, the amount calculated for the preceding fiscal year under division (A)(2)(a) of this section.	102340 102341 102342
(B)(1) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (D) of this section shall be determined as follows:	102343 102344 102345 102346
(a) For fiscal years ending in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is no less than twelve and four-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds in the group, excluding facilities in the group whose indirect care costs for that period are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds, for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section.	102347 102348 102349 102350 102351 102352 102353 102354 102355 102356 102357 102358 102359
(b) For fiscal years ending in odd-numbered calendar years,	102360

the maximum rate for each peer group is the group's maximum rate 102361
for the previous fiscal year, adjusted for the inflation rate 102362
estimated under division (C)(2) of this section. 102363

(2) The maximum rate for indirect care costs for each peer 102364
group of intermediate care facilities for the mentally retarded 102365
with eight or fewer beds specified in rules adopted under division 102366
(D) of this section shall be determined as follows: 102367

(a) For fiscal years ending in even-numbered calendar years, 102368
the maximum rate for each peer group shall be the rate that is no 102369
less than ten and three-tenths per cent above the median 102370
desk-reviewed, actual, allowable, per diem indirect care cost for 102371
all intermediate care facilities for the mentally retarded with 102372
eight or fewer beds in the group, excluding facilities in the 102373
group whose indirect care costs are more than three standard 102374
deviations from the mean desk-reviewed, actual, allowable, per 102375
diem indirect care cost for all intermediate care facilities for 102376
the mentally retarded with eight or fewer beds, for the calendar 102377
year preceding the fiscal year in which the rate will be paid, 102378
adjusted by the inflation rate estimated under division (C)(1) of 102379
this section. 102380

(b) For fiscal years that end in odd-numbered calendar years, 102381
the maximum rate for each peer group is the group's maximum rate 102382
for the previous fiscal year, adjusted for the inflation rate 102383
estimated under division (C)(2) of this section. 102384

(3) The department shall not recalculate a maximum rate for 102385
indirect care costs under division (B)(1) or (2) of this section 102386
based on additional information that it receives after the maximum 102387
rate is set. The department shall recalculate the maximum rate for 102388
indirect care costs only if it made an error in computing the 102389
maximum rate based on the information available at the time of the 102390
original calculation. 102391

(C)(1) When adjusting rates for inflation under divisions (A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the. To estimate the rate of inflation, the department shall use the following:

(a) The consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics;

(b) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(1)(a) of this section, a comparable index that the bureau publishes and the department determines is appropriate.

(2) When adjusting rates for inflation under divisions (B)(1)(b) and (B)(2)(b) of this section, the department shall estimate the rate of inflation for the twelve-month period beginning on the first day of January of the fiscal year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the. To estimate the rate of inflation, the department shall use the following:

(a) The consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics;

(b) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(2)(a) of this section, a comparable index that the bureau publishes and the department determines is appropriate.

(3) If an inflation rate estimated under division (C)(1) or

(2) of this section is different from the actual inflation rate 102423
for the relevant time period, as measured using the same index, 102424
the difference shall be added to or subtracted from the inflation 102425
rate estimated pursuant to this division for the following fiscal 102426
year. 102427

(D) The director of job and family services shall adopt rules 102428
under section 5111.02 of the Revised Code that specify peer groups 102429
of intermediate care facilities for the mentally retarded with 102430
more than eight beds, and peer groups of intermediate care 102431
facilities for the mentally retarded with eight or fewer beds, 102432
based on findings of significant per diem indirect care cost 102433
differences due to geography and facility bed-size. The rules also 102434
may specify peer groups based on findings of significant per diem 102435
indirect care cost differences due to other factors, including 102436
case-mix. 102437

Sec. 5111.244. (A) As used in this section, "deficiency" and 102438
"standard survey" have the same meanings as in section 5111.35 of 102439
the Revised Code. 102440

(B) ~~Each fiscal year~~ Subject to division (D) of this section, 102441
the department of job and family services shall pay the provider 102442
of each nursing facility a quality incentive payment. The amount 102443
of a quality incentive payment paid to a provider ~~for a fiscal~~ 102444
~~year~~ shall be based on the number of points the provider's nursing 102445
facility is awarded ~~under division (C) of this section~~ for that 102446
~~fiscal year~~ meeting accountability measures. The amount of a 102447
quality incentive payment paid to a provider of a nursing facility 102448
that is awarded no points may be zero. ~~The mean payment for fiscal~~ 102449
~~year 2007, weighted by medicaid days, shall be three dollars per~~ 102450
~~medicaid day. The department shall adjust the mean payment for~~ 102451
~~subsequent fiscal years by the same adjustment factors the~~ 102452
~~department uses to adjust, pursuant to division (B) of section~~ 102453

~~5111.222 of the Revised Code, nursing facilities' rates otherwise
determined under divisions (A)(1), (2), (3), and (6) of that
section.~~

(C)(1) Except as provided by ~~division~~ divisions (C)(2) and
(D) of this section, the department shall ~~annually~~ award each
nursing facility participating in the medicaid program one point
for each of the following accountability measures the facility
meets:

(a) The facility had no health deficiencies on the facility's
most recent standard survey.

(b) The facility had no health deficiencies with a scope and
severity level greater than E, as determined under nursing
facility certification standards established under Title XIX, on
the facility's most recent standard survey.

(c) The facility's resident satisfaction is above the
statewide average.

(d) The facility's family satisfaction is above the statewide
average.

(e) The number of hours the facility employs nurses is above
the statewide average.

(f) The facility's employee retention rate is above the
average for the facility's peer group established in division (C)
of section 5111.231 of the Revised Code.

(g) The facility's occupancy rate is above the statewide
average.

(h) The facility's medicaid utilization rate is above the
statewide average.

(i) The facility's case-mix score is above the statewide
average.

(2) The department shall award points pursuant to division

(C)(1)(c) or (d) of this section to a nursing facility only for a 102484
fiscal year immediately following a calendar year for which if a 102485
survey of resident or family satisfaction has been was conducted 102486
under section 173.47 of the Revised Code for the nursing facility 102487
in calendar year 2010. 102488

(D) The department shall cease to award points to nursing 102489
facilities under division (C) of this section on the earlier of 102490
the effective date of the rules adopted under division (E) of this 102491
section establishing new accountability measures and July 1, 2012. 102492
If the effective date of the rules establishing the new 102493
accountability measures is after July 1, 2012, the department 102494
shall not award any points, and therefore not pay quality 102495
incentive payments, for the period beginning July 1, 2012, and 102496
ending on the effective date of the rules. Once the rules are in 102497
effect, the department shall award each nursing facility 102498
participating in the medicaid program points in accordance with 102499
the new accountability measures established in the rules. 102500

(E) The director of job and family services shall adopt rules 102501
under section 5111.02 of the Revised Code as necessary to 102502
implement this section. The rules shall include, including rules 102503
governing the methodology for converting points awarded under this 102504
section into quality incentive payments and rules establishing the 102505
system for awarding points under division (C) of this section. The 102506
director shall strive to have in effect not later than July 1, 102507
2012, rules establishing new accountability measures for the 102508
purpose of division (D) of this section. In adopting those rules, 102509
the director shall collaborate with persons interested in the 102510
issue of medicaid coverage of nursing facility services. The new 102511
accountability measures shall include measures relating to the 102512
quality of care that nursing facilities provide their residents 102513
and the residents' quality of life. 102514

Sec. 5111.25. (A) As used in this section, ~~"applicable:~~ 102515

(1) "Applicable calendar year" means the following: 102516

~~(1)(a)~~ (a) For the purpose of the department of job and family 102517
services' initial determination under division (D) of this section 102518
of each peer group's ~~median~~ rate for capital costs, calendar year 102519
2003; 102520

~~(2)(b)~~ (b) For the purpose of the department's ~~subsequent~~ 102521
~~determinations under division (D) of this section of each peer~~ 102522
~~group's median rate for capital costs~~ rebasings, the calendar year 102523
the department selects. 102524

(2) "Rebasing" means a redetermination under division (D) of 102525
this section of each peer groups' rate for capital costs using 102526
information from cost reports for an applicable calendar year that 102527
is later than the applicable calendar year used for the previous 102528
determination of such rates. 102529

(B) The department of job and family services shall pay a 102530
provider for each of the provider's eligible nursing facilities a 102531
per resident per day rate for capital costs. ~~A nursing facility's~~ 102532
~~rate for capital costs shall be the median rate for capital costs~~ 102533
~~for the nursing facilities in~~ determined for the nursing 102534
facility's peer group ~~as determined~~ under division (D) of this 102535
section. 102536

(C) For the purpose of determining nursing facilities' rate 102537
for capital costs, the department shall establish six peer groups. 102538

Each nursing facility located in any of the following 102539
counties shall be placed in peer group one or two: Brown, Butler, 102540
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 102541
located in any of those counties that has fewer than one hundred 102542
beds shall be placed in peer group one. Each nursing facility 102543
located in any of those counties that has one hundred or more beds 102544

shall be placed in peer group two. 102545

Each nursing facility located in any of the following 102546
counties shall be placed in peer group three or four: Ashtabula, 102547
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 102548
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 102549
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 102550
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 102551
Union, and Wood. Each nursing facility located in any of those 102552
counties that has fewer than one hundred beds shall be placed in 102553
peer group three. Each nursing facility located in any of those 102554
counties that has one hundred or more beds shall be placed in peer 102555
group four. 102556

Each nursing facility located in any of the following 102557
counties shall be placed in peer group five or six: Adams, Allen, 102558
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 102559
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 102560
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 102561
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 102562
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 102563
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 102564
Washington, Wayne, Williams, and Wyandot. Each nursing facility 102565
located in any of those counties that has fewer than one hundred 102566
beds shall be placed in peer group five. Each nursing facility 102567
located in any of those counties that has one hundred or more beds 102568
shall be placed in peer group six. 102569

(D)(1) ~~At least once every ten years, the~~ The department 102570
shall determine the ~~median~~ rate for capital costs for each peer 102571
group established under division (C) of this section. The ~~median~~ 102572
department is not required to conduct a rebasing more than once 102573
every ten years. Except as necessary to implement the amendments 102574
made by this act to this section, the rate for capital costs 102575
determined under this division for a peer group shall be used for 102576

subsequent years until the department ~~redetermines it~~ conducts a 102577
rebasings. ~~To determine a~~ A peer group's median rate for capital 102578
costs shall be the rate for capital costs determined for the 102579
nursing facility in the peer group that is at the twenty-fifth 102580
percentile of the rate for capital costs for the applicable 102581
calendar year. In identifying that nursing facility, the 102582
department shall do both of the following: 102583

(a) Subject to division (D)(2) of this section, use the 102584
greater of each nursing facility's actual inpatient days for the 102585
applicable calendar year or the inpatient days the nursing 102586
facility would have had for the applicable calendar year if its 102587
occupancy rate had been one hundred per cent-; 102588

(b) Exclude both of the following: 102589

(i) Nursing facilities that participated in the medicaid 102590
program under the same provider for less than twelve months in the 102591
applicable calendar year; 102592

(ii) Nursing facilities whose capital costs are more than one 102593
standard deviation from the mean desk-reviewed, actual, allowable, 102594
per diem capital cost for all nursing facilities in the nursing 102595
facility's peer group for the applicable calendar year. 102596

(2) For the purpose of determining a nursing facility's 102597
occupancy rate under division (D)(1)(a) of this section, the 102598
department shall include any beds that the nursing facility 102599
removes from its medicaid-certified capacity after June 30, 2005, 102600
unless the nursing facility also removes the beds from its 102601
licensed bed capacity. 102602

(3) The department shall not redetermine a peer group's rate 102603
for capital costs under this division based on additional 102604
information that it receives after the rate is determined. The 102605
department shall redetermine a peer group's rate for capital costs 102606
only if the department made an error in determining the rate based 102607

on information available to the department at the time of the 102608
original determination. 102609

(E) Buildings shall be depreciated using the straight line 102610
method over forty years or over a different period approved by the 102611
department. Components and equipment shall be depreciated using 102612
the straight-line method over a period designated in rules adopted 102613
under section 5111.02 of the Revised Code, consistent with the 102614
guidelines of the American hospital association, or over a 102615
different period approved by the department. Any rules authorized 102616
by this division that specify useful lives of buildings, 102617
components, or equipment apply only to assets acquired on or after 102618
July 1, 1993. Depreciation for costs paid or reimbursed by any 102619
government agency shall not be included in capital costs unless 102620
that part of the payment under sections 5111.20 to 5111.33 of the 102621
Revised Code is used to reimburse the government agency. 102622

(F) The capital cost basis of nursing facility assets shall 102623
be determined in the following manner: 102624

(1) Except as provided in division (F)(3) of this section, 102625
for purposes of calculating the rates to be paid for facilities 102626
with dates of licensure on or before June 30, 1993, the capital 102627
cost basis of each asset shall be equal to the desk-reviewed, 102628
actual, allowable, capital cost basis that is listed on the 102629
facility's cost report for the calendar year preceding the fiscal 102630
year during which the rate will be paid. 102631

(2) For facilities with dates of licensure after June 30, 102632
1993, the capital cost basis shall be determined in accordance 102633
with the principles of the medicare program established under 102634
Title XVIII, except as otherwise provided in sections 5111.20 to 102635
5111.33 of the Revised Code. 102636

(3) Except as provided in division (F)(4) of this section, if 102637
a provider transfers an interest in a facility to another provider 102638

after June 30, 1993, there shall be no increase in the capital 102639
cost basis of the asset if the providers are related parties or 102640
the provider to which the interest is transferred authorizes the 102641
provider that transferred the interest to continue to operate the 102642
facility under a lease, management agreement, or other 102643
arrangement. If the previous sentence does not prohibit the 102644
adjustment of the capital cost basis under this division, the 102645
basis of the asset shall be adjusted by ~~the lesser of the~~ 102646
~~following:~~ 102647

~~(a) One half of the change in construction costs during the 102648
time that the transferor held the asset, as calculated by the 102649
department of job and family services using the "Dodge building 102650
cost indexes, northeastern and north central states," published by 102651
Marshall and Swift;~~ 102652

~~(b) One half one-half of the change in the consumer price 102653
index for all items for all urban consumers, as published by the 102654
United States bureau of labor statistics, during the time that the 102655
transferor held the asset.~~ 102656

(4) If a provider transfers an interest in a facility to 102657
another provider who is a related party, the capital cost basis of 102658
the asset shall be adjusted as specified in division (F)(3) of 102659
this section if all of the following conditions are met: 102660

(a) The related party is a relative of owner; 102661

(b) Except as provided in division (F)(4)(c)(ii) of this 102662
section, the provider making the transfer retains no ownership 102663
interest in the facility; 102664

(c) The department of job and family services determines that 102665
the transfer is an arm's length transaction pursuant to rules 102666
adopted under section 5111.02 of the Revised Code. The rules shall 102667
provide that a transfer is an arm's length transaction if all of 102668
the following apply: 102669

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable cost of ownership was determined most recently under division (G)(9) of this section.

(G) As used in this division:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to division (B) of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (B) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by ~~the lesser of the following amounts:~~

~~(a) One half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.~~

(3) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable capital

costs shall include the annual lease expense if there was a 102732
substantial commitment of money for construction of the facility 102733
after December 22, 1992, and before July 1, 1993. If there was not 102734
a substantial commitment of money after December 22, 1992, and 102735
before July 1, 1993, actual, allowable capital costs shall include 102736
the lesser of the annual lease expense or the sum of the 102737
following: 102738

(a) The annual depreciation expense that would be calculated 102739
at the inception of the lease using the lessor's entire historical 102740
capital asset cost basis; 102741

(b) The greater of the lessor's actual annual amortization of 102742
financing costs and interest expense at the inception of the lease 102743
or the imputed interest expense calculated at the inception of the 102744
lease using seventy per cent of the lessor's historical capital 102745
asset cost basis. 102746

(4) Subject to division (B) of this section, for a lease of a 102747
facility with a date of licensure on or after May 27, 1992, that 102748
was not initially operated under a lease and has been in existence 102749
for ten years, actual, allowable capital costs shall include the 102750
lesser of the annual lease expense or the annual depreciation 102751
expense and imputed interest expense that would be calculated at 102752
the inception of the lease using the entire historical capital 102753
asset cost basis of the lessor, ~~adjusted by the lesser of the~~ 102754
~~following:~~ 102755

~~(a) One half of the change in construction costs during the 102756
time the lessor held each asset until the beginning of the lease,~~ 102757
~~as calculated by the department using the "Dodge building cost 102758
indexes, northeastern and north central states," published by 102759
Marshall and Swift;~~ 102760

~~(b) One half one-half of the change in the consumer price 102761
index for all items for all urban consumers, as published by the 102762~~

United States bureau of labor statistics, during the time the 102763
lessor held each asset until the beginning of the lease. 102764

(5) Subject to division (B) of this section, for a new lease 102765
of a facility that was operated under a lease on May 27, 1992, 102766
actual, allowable capital costs shall include the lesser of the 102767
annual new lease expense or the annual old lease payment. If the 102768
old lease was in effect for ten years or longer, the old lease 102769
payment from the beginning of the old lease shall be adjusted by 102770
~~the lesser of the following:~~ 102771

~~(a) One half of the change in construction costs from the 102772
beginning of the old lease to the beginning of the new lease, as 102773
calculated by the department using the "Dodge building cost 102774
indexes, northeastern and north central states," published by 102775
Marshall and Swift;~~ 102776

~~(b) One half one-half of the change in the consumer price 102777
index for all items for all urban consumers, as published by the 102778
United States bureau of labor statistics, from the beginning of 102779
the old lease to the beginning of the new lease. 102780~~

(6) Subject to division (B) of this section, for a new lease 102781
of a facility that was not in existence or that was in existence 102782
but not operated under a lease on May 27, 1992, actual, allowable 102783
capital costs shall include the lesser of annual new lease expense 102784
or the annual amount calculated for the old lease under division 102785
(G)(2), (3), (4), or (6) of this section, as applicable. If the 102786
old lease was in effect for ten years or longer, the lessor's 102787
historical capital asset cost basis shall be ~~adjusted by the 102788
lesser of the following,~~ for purposes of calculating the annual 102789
amount under division (G)(2), (3), (4), or (6) of this section. 102790

~~(a) One half of the change in construction costs from the 102791
beginning of the old lease to the beginning of the new lease, as 102792
calculated by the department using the "Dodge building cost 102793~~

~~indexes, northeastern and north central states," published by~~ 102794
~~Marshall and Swift;~~ 102795

~~(b) One-half, adjusted by one-half~~ of the change in the 102796
consumer price index for all items for all urban consumers, as 102797
published by the United States bureau of labor statistics, from 102798
the beginning of the old lease to the beginning of the new lease. 102799

In the case of a lease under division (G)(3) of this section 102800
of a facility for which a substantial commitment of money was made 102801
after December 22, 1992, and before July 1, 1993, the old lease 102802
payment shall be adjusted for the purpose of determining the 102803
annual amount. 102804

(7) For any revision of a lease described in division (G)(1), 102805
(2), (3), (4), (5), or (6) of this section, or for any subsequent 102806
lease of a facility operated under such a lease, other than 102807
execution of a new lease, the portion of actual, allowable capital 102808
costs attributable to the lease shall be the same as before the 102809
revision or subsequent lease. 102810

(8) Except as provided in division (G)(9) of this section, if 102811
a provider leases an interest in a facility to another provider 102812
who is a related party or previously operated the facility, the 102813
related party's or previous operator's actual, allowable capital 102814
costs shall include the lesser of the annual lease expense or the 102815
reasonable cost to the lessor. 102816

(9) If a provider leases an interest in a facility to another 102817
provider who is a related party, regardless of the date of the 102818
lease, the related party's actual, allowable capital costs shall 102819
include the annual lease expense, subject to the limitations 102820
specified in divisions (G)(1) to (7) of this section, if all of 102821
the following conditions are met: 102822

(a) The related party is a relative of owner; 102823

(b) If the lessor retains an ownership interest, it is, 102824

except as provided in division (G)(9)(c)(ii) of this section, in 102825
only the real property and any improvements on the real property; 102826

(c) The department of job and family services determines that 102827
the lease is an arm's length transaction pursuant to rules adopted 102828
under section 5111.02 of the Revised Code. The rules shall provide 102829
that a lease is an arm's length transaction if all of the 102830
following apply: 102831

(i) Once the lease goes into effect, the lessor has no direct 102832
or indirect interest in the lessee or, except as provided in 102833
division (G)(9)(b) of this section, the facility itself, including 102834
interest as an owner, officer, director, employee, independent 102835
contractor, or consultant, but excluding interest as a lessor. 102836

(ii) The lessor does not reacquire an interest in the 102837
facility except through the exercise of a lessor's rights in the 102838
event of a default. If the lessor reacquires an interest in the 102839
facility in this manner, the department shall treat the facility 102840
as if the lease never occurred when the department calculates its 102841
reimbursement rates for capital costs. 102842

(iii) The lease satisfies any other criteria specified in the 102843
rules. 102844

(d) Except in the case of hardship caused by a catastrophic 102845
event, as determined by the department, or in the case of a lessor 102846
who is at least sixty-five years of age, not less than twenty 102847
years have elapsed since, for the same facility, the capital cost 102848
basis was adjusted most recently under division (F)(4) of this 102849
section or actual, allowable capital costs were determined most 102850
recently under division (G)(9) of this section. 102851

(10) This division does not apply to leases of specific items 102852
of equipment. 102853

Sec. 5111.251. (A) The department of job and family services 102854

shall pay a provider for each of the provider's eligible 102855
intermediate care facilities for the mentally retarded for its 102856
reasonable capital costs, a per resident per day rate established 102857
prospectively each fiscal year for each intermediate care facility 102858
for the mentally retarded. Except as otherwise provided in 102859
sections 5111.20 to 5111.33 of the Revised Code, the rate shall be 102860
based on the facility's capital costs for the calendar year 102861
preceding the fiscal year in which the rate will be paid. The rate 102862
shall equal the sum of the following: 102863

(1) The facility's desk-reviewed, actual, allowable, per diem 102864
cost of ownership for the preceding cost reporting period, limited 102865
as provided in divisions (C) and (F) of this section; 102866

(2) Any efficiency incentive determined under division (B) of 102867
this section; 102868

(3) Any amounts for renovations determined under division (D) 102869
of this section; 102870

(4) Any amounts for return on equity determined under 102871
division ~~(I)~~(H) of this section. 102872

Buildings shall be depreciated using the straight line method 102873
over forty years or over a different period approved by the 102874
department. Components and equipment shall be depreciated using 102875
the straight line method over a period designated by the director 102876
of job and family services in rules adopted under section 5111.02 102877
of the Revised Code, consistent with the guidelines of the 102878
American hospital association, or over a different period approved 102879
by the department of job and family services. Any rules authorized 102880
by this division that specify useful lives of buildings, 102881
components, or equipment apply only to assets acquired on or after 102882
July 1, 1993. Depreciation for costs paid or reimbursed by any 102883
government agency shall not be included in costs of ownership or 102884
renovation unless that part of the payment under sections 5111.20 102885

to 5111.33 of the Revised Code is used to reimburse the government 102886
agency. 102887

(B) The department of job and family services shall pay to a 102888
provider for each of the provider's eligible intermediate care 102889
facilities for the mentally retarded an efficiency incentive equal 102890
to fifty per cent of the difference between any desk-reviewed, 102891
actual, allowable cost of ownership and the applicable limit on 102892
cost of ownership payments under division (C) of this section. For 102893
purposes of computing the efficiency incentive, depreciation for 102894
costs paid or reimbursed by any government agency shall be 102895
considered as a cost of ownership, and the applicable limit under 102896
division (C) of this section shall apply both to facilities with 102897
more than eight beds and facilities with eight or fewer beds. The 102898
efficiency incentive paid to a provider for a facility with eight 102899
or fewer beds shall not exceed three dollars per patient day, 102900
adjusted annually for the inflation rate for the twelve-month 102901
period beginning on the first day of July of the calendar year 102902
preceding the calendar year that precedes the fiscal year for 102903
which the efficiency incentive is determined and ending on the 102904
thirtieth day of the following June, using the consumer price 102905
index for shelter costs for all urban consumers for the north 102906
central region, as published by the United States bureau of labor 102907
statistics. 102908

(C) Cost of ownership payments for intermediate care 102909
facilities for the mentally retarded with more than eight beds 102910
shall not exceed the following limits: 102911

(1) For facilities with dates of licensure prior to January 102912
1, 1958, not exceeding two dollars and fifty cents per patient 102913
day; 102914

(2) For facilities with dates of licensure after December 31, 102915
1957, but prior to January 1, 1968, not exceeding: 102916

(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;	102917 102918 102919
(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.	102920 102921 102922
(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:	102923 102924
(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;	102925 102926 102927
(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;	102928 102929 102930 102931
(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	102932 102933 102934
(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:	102935 102936
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	102937 102938 102939
(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;	102940 102941 102942 102943
(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per	102944 102945 102946

bed;	102947
(d) Two dollars and fifty cents per patient day if the cost	102948
of construction was three thousand five hundred dollars or less	102949
per bed.	102950
(5) For facilities with dates of licensure after December 31,	102951
1978, but prior to January 1, 1980, not exceeding:	102952
(a) Six dollars per patient day if the cost of construction	102953
was seven thousand six hundred twenty-five dollars or more per	102954
bed;	102955
(b) Five dollars and fifty cents per patient day if the cost	102956
of construction was less than seven thousand six hundred	102957
twenty-five dollars per bed but exceeds six thousand eight hundred	102958
dollars per bed;	102959
(c) Four dollars and fifty cents per patient day if the cost	102960
of construction was six thousand eight hundred dollars or less per	102961
bed but exceeds five thousand one hundred fifty dollars per bed;	102962
(d) Three dollars and fifty cents per patient day if the cost	102963
of construction was five thousand one hundred fifty dollars or	102964
less but exceeds three thousand five hundred dollars per bed;	102965
(e) Two dollars and fifty cents per patient day if the cost	102966
of construction was three thousand five hundred dollars or less	102967
per bed.	102968
(6) For facilities with dates of licensure after December 31,	102969
1979, but prior to January 1, 1981, not exceeding:	102970
(a) Twelve dollars per patient day if the beds were	102971
originally licensed as residential facility beds by the department	102972
of developmental disabilities;	102973
(b) Six dollars per patient day if the beds were originally	102974
licensed as nursing home beds by the department of health.	102975
(7) For facilities with dates of licensure after December 31,	102976

1980, but prior to January 1, 1982, not exceeding:	102977
(a) Twelve dollars per patient day if the beds were	102978
originally licensed as residential facility beds by the department	102979
of developmental disabilities;	102980
(b) Six dollars and forty-five cents per patient day if the	102981
beds were originally licensed as nursing home beds by the	102982
department of health.	102983
(8) For facilities with dates of licensure after December 31,	102984
1981, but prior to January 1, 1983, not exceeding:	102985
(a) Twelve dollars per patient day if the beds were	102986
originally licensed as residential facility beds by the department	102987
of developmental disabilities;	102988
(b) Six dollars and seventy-nine cents per patient day if the	102989
beds were originally licensed as nursing home beds by the	102990
department of health.	102991
(9) For facilities with dates of licensure after December 31,	102992
1982, but prior to January 1, 1984, not exceeding:	102993
(a) Twelve dollars per patient day if the beds were	102994
originally licensed as residential facility beds by the department	102995
of developmental disabilities;	102996
(b) Seven dollars and nine cents per patient day if the beds	102997
were originally licensed as nursing home beds by the department of	102998
health.	102999
(10) For facilities with dates of licensure after December	103000
31, 1983, but prior to January 1, 1985, not exceeding:	103001
(a) Twelve dollars and twenty-four cents per patient day if	103002
the beds were originally licensed as residential facility beds by	103003
the department of developmental disabilities;	103004
(b) Seven dollars and twenty-three cents per patient day if	103005
the beds were originally licensed as nursing home beds by the	103006

department of health.	103007
(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:	103008 103009
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	103010 103011 103012
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	103013 103014 103015
(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:	103016 103017
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	103018 103019 103020
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	103021 103022 103023
(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:	103024 103025
(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	103026 103027 103028
(b) Seven dollars and sixty-seven cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	103029 103030 103031
(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents per patient day;	103032 103033 103034
(15) For facilities with dates of licensure after December 31, 1988, but prior to January 1, 1990, not exceeding thirteen	103035 103036

dollars and forty-six cents per patient day;	103037
(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;	103038 103039 103040
(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;	103041 103042 103043
(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;	103044 103045 103046
(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.	103047 103048 103049
(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made renovations ends before the	103050 103051 103052 103053 103054 103055 103056 103057 103058 103059 103060 103061 103062 103063 103064 103065 103066 103067

depreciation expense for the renovation costs has been fully 103068
reported, the former lessee shall not report the undepreciated 103069
balance as an expense. 103070

For a nonextensive renovation to qualify for payment under 103071
this division, both of the following conditions must be met: 103072

(1) At least five years have elapsed since the date of 103073
licensure or date of an extensive renovation of the portion of the 103074
facility that is proposed to be renovated, except that this 103075
condition does not apply if the renovation is necessary to meet 103076
the requirements of federal, state, or local statutes, ordinances, 103077
rules, or policies. 103078

(2) The provider has obtained prior approval from the 103079
department of job and family services. The provider shall submit a 103080
plan that describes in detail the changes in capital assets to be 103081
accomplished by means of the renovation and the timetable for 103082
completing the project. The time for completion of the project 103083
shall be no more than eighteen months after the renovation begins. 103084
The director of job and family services shall adopt rules under 103085
section 5111.02 of the Revised Code that specify criteria and 103086
procedures for prior approval of renovation projects. No provider 103087
shall separate a project with the intent to evade the 103088
characterization of the project as a renovation or as an extensive 103089
renovation. No provider shall increase the scope of a project 103090
after it is approved by the department of job and family services 103091
unless the increase in scope is approved by the department. 103092

(E) The amounts specified in divisions (C) and (D) of this 103093
section shall be adjusted beginning July 1, 1993, for the 103094
estimated inflation for the twelve-month period beginning on the 103095
first day of July of the calendar year preceding the calendar year 103096
that precedes the fiscal year for which rate will be paid and 103097
ending on the thirtieth day of the following June, using the 103098
consumer price index for shelter costs for all urban consumers for 103099

the north central region, as published by the United States bureau of labor statistics. 103100
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(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the providers of the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen-dollar and thirty-cent amount shall be increased by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, during the period beginning June 30, 1990, and ending July 1, 1993, and by the change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter. 103102
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(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services gives prior approval for construction of the facility. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section. 103118
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(3) Notwithstanding divisions (D) and (F)(1) and (2) of this section, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for an intermediate care facility for the mentally 103128
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retarded with eight or fewer beds shall not exceed the sum of the 103132
limitations specified in divisions (C) and (D) of this section. 103133

(G) Notwithstanding any provision of this section or section 103134
5111.241 of the Revised Code, the director of job and family 103135
services may adopt rules under section 5111.02 of the Revised Code 103136
that provide for a calculation of a combined maximum payment limit 103137
for indirect care costs and cost of ownership for intermediate 103138
care facilities for the mentally retarded with eight or fewer 103139
beds. 103140

~~(H) After the date on which a transaction of sale is closed, 103141
the provider shall refund to the department the amount of excess 103142
depreciation paid to the provider for the facility by the 103143
department for each year the provider has operated the facility 103144
under a provider agreement and prorated according to the number of 103145
medicaid patient days for which the provider has received payment 103146
for the facility. For the purposes of this division, "depreciation 103147
paid to the provider for the facility" means the amount paid to 103148
the provider for the intermediate care facility for the mentally 103149
retarded for cost of ownership pursuant to this section less any 103150
amount paid for interest costs. For the purposes of this division, 103151
"excess depreciation" is the intermediate care facility for the 103152
mentally retarded's depreciated basis, which is the provider's 103153
cost less accumulated depreciation, subtracted from the purchase 103154
price but not exceeding the amount of depreciation paid to the 103155
provider for the facility. 103156~~

~~(I) The department of job and family services shall pay a 103157
provider for each of the provider's eligible proprietary 103158
intermediate care facilities for the mentally retarded a return on 103159
the facility's net equity computed at the rate of one and one-half 103160
times the average of interest rates on special issues of public 103161
debt obligations issued to the federal hospital insurance trust 103162
fund for the cost reporting period. No facility's return on net 103163~~

equity paid under this division shall exceed one dollar per 103164
patient day. 103165

In calculating the rate for return on net equity, the 103166
department shall use the greater of the facility's inpatient days 103167
during the applicable cost reporting period or the number of 103168
inpatient days the facility would have had during that period if 103169
its occupancy rate had been ninety-five per cent. 103170

~~(J)~~(I)(1) Except as provided in division ~~(J)~~(I)(2) of this 103171
section, if a provider leases or transfers an interest in a 103172
facility to another provider who is a related party, the related 103173
party's allowable cost of ownership shall include the lesser of 103174
the following: 103175

(a) The annual lease expense or actual cost of ownership, 103176
whichever is applicable; 103177

(b) The reasonable cost to the lessor or provider making the 103178
transfer. 103179

(2) If a provider leases or transfers an interest in a 103180
facility to another provider who is a related party, regardless of 103181
the date of the lease or transfer, the related party's allowable 103182
cost of ownership shall include the annual lease expense or actual 103183
cost of ownership, whichever is applicable, subject to the 103184
limitations specified in divisions (B) to ~~(I)~~(H) of this section, 103185
if all of the following conditions are met: 103186

(a) The related party is a relative of owner; 103187

(b) In the case of a lease, if the lessor retains any 103188
ownership interest, it is, except as provided in division 103189
~~(J)~~(I)(2)(d)(ii) of this section, in only the real property and 103190
any improvements on the real property; 103191

(c) In the case of a transfer, the provider making the 103192
transfer retains, except as provided in division ~~(J)~~(I)(2)(d)(iv) 103193

of this section, no ownership interest in the facility; 103194

(d) The department of job and family services determines that 103195
the lease or transfer is an arm's length transaction pursuant to 103196
rules adopted under section 5111.02 of the Revised Code. The rules 103197
shall provide that a lease or transfer is an arm's length 103198
transaction if all of the following, as applicable, apply: 103199

(i) In the case of a lease, once the lease goes into effect, 103200
the lessor has no direct or indirect interest in the lessee or, 103201
except as provided in division ~~(J)~~(I)(2)(b) of this section, the 103202
facility itself, including interest as an owner, officer, 103203
director, employee, independent contractor, or consultant, but 103204
excluding interest as a lessor. 103205

(ii) In the case of a lease, the lessor does not reacquire an 103206
interest in the facility except through the exercise of a lessor's 103207
rights in the event of a default. If the lessor reacquires an 103208
interest in the facility in this manner, the department shall 103209
treat the facility as if the lease never occurred when the 103210
department calculates its reimbursement rates for capital costs. 103211

(iii) In the case of a transfer, once the transfer goes into 103212
effect, the provider that made the transfer has no direct or 103213
indirect interest in the provider that acquires the facility or 103214
the facility itself, including interest as an owner, officer, 103215
director, employee, independent contractor, or consultant, but 103216
excluding interest as a creditor. 103217

(iv) In the case of a transfer, the provider that made the 103218
transfer does not reacquire an interest in the facility except 103219
through the exercise of a creditor's rights in the event of a 103220
default. If the provider reacquires an interest in the facility in 103221
this manner, the department shall treat the facility as if the 103222
transfer never occurred when the department calculates its 103223
reimbursement rates for capital costs. 103224

(v) The lease or transfer satisfies any other criteria 103225
specified in the rules. 103226

(e) Except in the case of hardship caused by a catastrophic 103227
event, as determined by the department, or in the case of a lessor 103228
or provider making the transfer who is at least sixty-five years 103229
of age, not less than twenty years have elapsed since, for the 103230
same facility, allowable cost of ownership was determined most 103231
recently under this division. 103232

Sec. 5111.254. (A) The department of job and family services 103233
shall establish initial rates for a nursing facility with a first 103234
date of licensure that is on or after July 1, 2006, including a 103235
facility that replaces one or more existing facilities, or for a 103236
nursing facility with a first date of licensure before that date 103237
that was initially certified for the medicaid program on or after 103238
that date, in the following manner: 103239

(1) The rate for direct care costs shall be the product of 103240
the cost per case-mix unit determined under division (D) of 103241
section 5111.231 of the Revised Code for the facility's peer group 103242
and the nursing facility's case-mix score. For the purpose of 103243
division (A)(1) of this section, the nursing facility's case-mix 103244
score shall be the following: 103245

(a) Unless the nursing facility replaces an existing nursing 103246
facility that participated in the medicaid program immediately 103247
before the replacement nursing facility begins participating in 103248
the medicaid program, the median annual average case-mix score for 103249
the nursing facility's peer group; 103250

(b) If the nursing facility replaces an existing nursing 103251
facility that participated in the medicaid program immediately 103252
before the replacement nursing facility begins participating in 103253
the medicaid program, the semiannual case-mix score most recently 103254
determined under section 5111.232 of the Revised Code for the 103255

replaced nursing facility as adjusted, if necessary, to reflect 103256
any difference in the number of beds in the replaced and 103257
replacement nursing facilities. 103258

(2) The rate for ancillary and support costs shall be the 103259
rate for the facility's peer group determined under division (D) 103260
of section 5111.24 of the Revised Code. 103261

(3) The rate for capital costs shall be the ~~median~~ rate for 103262
the facility's peer group determined under division (D) of section 103263
5111.25 of the Revised Code. 103264

(4) The rate for tax costs as defined in section 5111.242 of 103265
the Revised Code shall be the median rate for tax costs for the 103266
facility's peer group in which the facility is placed under 103267
division (C) of section 5111.24 of the Revised Code. 103268

(5) The quality incentive payment, if any, shall be the mean 103269
payment ~~specified in division (B) of~~ made to nursing facilities 103270
under section 5111.244 of the Revised Code. 103271

(B) Subject to division (C) of this section, the department 103272
shall adjust the rates established under division (A) of this 103273
section effective the first day of July, to reflect new rate 103274
calculations for all nursing facilities under sections 5111.20 to 103275
5111.33 of the Revised Code. 103276

(C) If a rate for direct care costs is determined under this 103277
section for a nursing facility using the median annual average 103278
case-mix score for the nursing facility's peer group, the rate 103279
shall be redetermined to reflect the replacement nursing 103280
facility's actual semiannual case-mix score determined under 103281
section 5111.232 of the Revised Code after the nursing facility 103282
submits its first two quarterly assessment data that qualify for 103283
use in calculating a case-mix score in accordance with rules 103284
authorized by division (E) of section 5111.232 of the Revised 103285
Code. If the nursing facility's quarterly submissions do not 103286

qualify for use in calculating a case-mix score, the department 103287
shall continue to use the median annual average case-mix score for 103288
the nursing facility's peer group in lieu of the nursing 103289
facility's semiannual case-mix score until the nursing facility 103290
submits two consecutive quarterly assessment data that qualify for 103291
use in calculating a case-mix score. 103292

Sec. 5111.258. (A) Notwithstanding sections 5111.20 to 103293
5111.33 of the Revised Code (except section 5111.259 of the 103294
Revised Code), the director of job and family services shall adopt 103295
rules under section 5111.02 of the Revised Code that establish a 103296
methodology for calculating the prospective rates that will be 103297
paid each fiscal year to a provider for each of the provider's 103298
eligible nursing facilities and intermediate care facilities for 103299
the mentally retarded, and discrete units of the provider's 103300
nursing facilities or intermediate care facilities for the 103301
mentally retarded, that serve residents who have diagnoses or 103302
special care needs that require direct care resources that are not 103303
measured adequately by the applicable assessment instrument 103304
specified in rules authorized by section 5111.232 of the Revised 103305
Code, or who have diagnoses or special care needs specified in the 103306
rules as otherwise qualifying for consideration under this 103307
section. The facilities and units of facilities whose rates are 103308
established under this division may include, but shall not be 103309
limited to, any of the following: 103310

(1) In the case of nursing facilities, facilities and units 103311
of facilities that serve medically fragile pediatric residents, 103312
residents who are dependent on ventilators, or residents who have 103313
severe traumatic brain injury, end-stage Alzheimer's disease, or 103314
end-stage acquired immunodeficiency syndrome; 103315

(2) In the case of intermediate care facilities for the 103316
mentally retarded, facilities and units of facilities that serve 103317

residents who have complex medical conditions or severe behavioral 103318
problems. 103319

The department shall use the methodology established under 103320
this division to pay for services rendered by such facilities and 103321
units after June 30, 1993. 103322

The rules authorized by this division shall specify the 103323
criteria and procedures the department will apply when designating 103324
facilities and units that qualify for calculation of rates under 103325
this division. The criteria shall include consideration of whether 103326
all of the allowable costs of the facility or unit would be paid 103327
by rates established under sections 5111.20 to 5111.33 of the 103328
Revised Code, and shall establish a minimum bed size for a 103329
facility or unit to qualify to have its rates established under 103330
this division. The criteria shall not be designed to require that 103331
residents be served only in facilities located in large cities. 103332
The methodology established by the rules shall consider the 103333
historical costs of providing care to the residents of the 103334
facilities or units. 103335

The rules may require that a facility designated under this 103336
division or containing a unit designated under this division 103337
receive authorization from the department to admit or retain a 103338
resident to the facility or unit and shall specify the criteria 103339
and procedures the department will apply when granting that 103340
authorization. 103341

Notwithstanding any other provision of sections 5111.20 to 103342
5111.33 of the Revised Code (except section 5111.259 of the 103343
Revised Code), the costs incurred by facilities or units whose 103344
rates are established under this division shall not be considered 103345
in establishing payment rates for other facilities or units. 103346

(B) The director may adopt rules under section 5111.02 of the 103347
Revised Code under which the department, notwithstanding any other 103348

provision of sections 5111.20 to 5111.33 of the Revised Code 103349
(except section 5111.259 of the Revised Code), may adjust the 103350
rates determined under sections 5111.20 to 5111.33 of the Revised 103351
Code for a facility that serves a resident who has a diagnosis or 103352
special care need that, in the rules authorized by division (A) of 103353
this section, would qualify a facility or unit of a facility to 103354
have its rate determined under that division, but who is not in 103355
such a unit. The rules may require that a facility that qualifies 103356
for a rate adjustment under this division receive authorization 103357
from the department to admit or retain a resident who qualifies 103358
the facility for the rate adjustment and shall specify the 103359
criteria and procedures the department will apply when granting 103360
that authorization. 103361

Sec. 5111.259. The director of job and family services may 103362
submit a request to the United States secretary of health and 103363
human services for approval to establish a centers of excellence 103364
component of the medicaid program. The purpose of the centers of 103365
excellence component is to increase the efficiency and quality of 103366
nursing facility services provided to medicaid recipients with 103367
complex nursing facility service needs. If federal approval for 103368
the centers of excellence component is granted, the director may 103369
adopt rules under section 5111.02 of the Revised Code governing 103370
the component, including rules that establish a method of 103371
determining the medicaid reimbursement rates for nursing 103372
facilities providing nursing facility services to medicaid 103373
recipients participating in the component. The rules may specify 103374
the extent to which, if any, of the provisions of section 5111.258 103375
of the Revised Code are to apply to the centers of excellence 103376
component. If such rules are adopted, the nursing facilities that 103377
provide nursing facility services to medicaid recipients 103378
participating in the centers of excellence component shall be paid 103379
for those services in accordance with the method established in 103380

the rules notwithstanding anything to the contrary in sections 103381
5111.20 to 5111.33 of the Revised Code. 103382

Sec. 5111.261. (A) Except as provided in division (B) of this 103383
section and not later than three years after a provider files a 103384
cost report with the department of job and family services under 103385
section 5111.26 of the Revised Code, the provider may amend the 103386
cost report if the provider discovers a material error in the cost 103387
report or additional information to be included in the cost 103388
report. The department shall review the amended cost report for 103389
accuracy and notify the provider of its determination. 103390

(B) A provider may not amend a cost report if the department 103391
has notified the provider that an audit of the cost report or a 103392
cost report of the provider for a subsequent cost reporting period 103393
is to be conducted under section 5111.27 of the Revised Code. The 103394
provider may, however, provide the department information that 103395
affects the costs included in the cost report. Such information 103396
may not be provided after the adjudication of the final settlement 103397
of the cost report. 103398

Sec. ~~5111.261~~ 5111.263. Except as otherwise provided in 103399
section 5111.264 of the Revised Code, the department of job and 103400
family services, in determining whether an intermediate care 103401
facility for the mentally retarded's direct care costs and 103402
indirect care costs are allowable, shall place no limit on 103403
specific categories of reasonable costs other than compensation of 103404
owners, compensation of relatives of owners, and compensation of 103405
administrators. 103406

Compensation cost limits for owners and relatives of owners 103407
shall be based on compensation costs for individuals who hold 103408
comparable positions but who are not owners or relatives of 103409
owners, as reported on facility cost reports. As used in this 103410

section, "comparable position" means the position that is held by 103411
the owner or the owner's relative, if that position is listed 103412
separately on the cost report form, or if the position is not 103413
listed separately, the group of positions that is listed on the 103414
cost report form and that includes the position held by the owner 103415
or the owner's relative. In the case of an owner or owner's 103416
relative who serves the facility in a capacity such as corporate 103417
officer, proprietor, or partner for which no comparable position 103418
or group of positions is listed on the cost report form, the 103419
compensation cost limit shall be based on civil service 103420
equivalents and shall be specified in rules adopted under section 103421
5111.02 of the Revised Code. 103422

Compensation cost limits for administrators shall be based on 103423
compensation costs for administrators who are not owners or 103424
relatives of owners, as reported on facility cost reports. 103425
Compensation cost limits for administrators of four or more 103426
intermediate care facilities for the mentally retarded shall be 103427
the same as the limits for administrators of intermediate care 103428
facilities for the mentally retarded with one hundred fifty or 103429
more beds. 103430

Sec. 5111.27. (A) The department of job and family services 103431
shall conduct a desk review of each cost report it receives under 103432
section 5111.26 of the Revised Code. Based on the desk review, the 103433
department shall make a preliminary determination of whether the 103434
reported costs are allowable costs. The department shall notify 103435
each provider of whether any of the reported costs are 103436
preliminarily determined not to be allowable, the rate calculation 103437
under sections 5111.20 to 5111.33 of the Revised Code that results 103438
from that determination, and the reasons for the determination and 103439
resulting rate. The department shall allow the provider to verify 103440
the calculation and submit additional information. 103441

(B) The department may conduct an audit, as defined by rule 103442
adopted under section 5111.02 of the Revised Code, of any cost 103443
report ~~and shall notify the provider of its findings.~~ 103444

~~Audits shall be conducted by auditors under contract with or 103445
employed by the department.~~ The decision whether to conduct an 103446
audit and the scope of the audit, which may be a desk or field 103447
audit, ~~shall~~ may be determined based on prior performance of the 103448
provider ~~and may be based on,~~ a risk analysis, or other evidence 103449
that gives the department reason to believe that the provider has 103450
reported costs improperly. A desk or field audit may be performed 103451
annually, but is required whenever a provider does not pass the 103452
risk analysis tolerance factors. An audit shall be conducted by 103453
auditors under contract with or employed by the department. The 103454
department shall notify a provider of the findings of an audit by 103455
issuing an audit report. The department shall issue the audit 103456
report no later than three years after the cost report is filed, 103457
or upon the completion of a desk or field audit on the report or a 103458
report for a subsequent cost reporting period, whichever is 103459
earlier. ~~During the time within which the department may issue an 103460
audit report, the provider may amend the cost report upon 103461
discovery of a material error or material additional information.~~ 103462
~~The department shall review the amended cost report for accuracy 103463
and notify the provider of its determination.~~ 103464

The department may establish a contract for the auditing of 103465
facilities by outside firms. Each contract entered into by bidding 103466
shall be effective for one to two years. The department shall 103467
establish an audit manual and program which shall require that all 103468
field audits, conducted either pursuant to a contract or by 103469
department employees: 103470

(1) Comply with the applicable rules prescribed pursuant to 103471
Titles XVIII and XIX; 103472

(2) Consider generally accepted auditing standards prescribed 103473

by the American institute of certified public accountants; 103474

(3) Include a written summary as to whether the costs 103475
included in the report examined during the audit are allowable and 103476
are presented ~~fairly~~ in accordance with ~~generally accepted~~ 103477
~~accounting principles and department rules~~ state and federal laws 103478
and regulations, and whether, in all material respects, allowable 103479
costs are documented, reasonable, and related to patient care; 103480

(4) Are conducted by accounting firms or auditors who, during 103481
the period of the auditors' professional engagement or employment 103482
and during the period covered by the cost reports, do not have nor 103483
are committed to acquire any direct or indirect financial interest 103484
in the ownership, financing, or operation of a nursing facility or 103485
intermediate care facility for the mentally retarded in this 103486
state; 103487

(5) Are conducted by accounting firms or auditors who, as a 103488
condition of the contract or employment, shall not audit any 103489
facility that has been a client of the firm or auditor; 103490

(6) Are conducted by auditors who are otherwise independent 103491
as determined by the standards of independence ~~established by~~ 103492
~~included in the American institute of certified public accountants~~ 103493
government auditing standards produced by the United States 103494
government accountability office; 103495

(7) Are completed within the time period specified by the 103496
department; 103497

(8) Provide to the provider complete written interpretations 103498
that explain in detail the application of all relevant contract 103499
provisions, regulations, auditing standards, rate formulae, and 103500
departmental policies, with explanations and examples, that are 103501
sufficient to permit the provider to calculate with reasonable 103502
certainty those costs that are allowable and the rate to which the 103503
provider's facility is entitled. 103504

For the purposes of division (B)(4) of this section, 103505
employment of a member of an auditor's family by a nursing 103506
facility or intermediate care facility for the mentally retarded 103507
that the auditor does not review does not constitute a direct or 103508
indirect financial interest in the ownership, financing, or 103509
operation of the facility. 103510

(C) The department, pursuant to rules adopted under section 103511
5111.02 of the Revised Code, may conduct an exception review of 103512
assessment data submitted under section 5111.232 of the Revised 103513
Code. The department may conduct an exception review based on the 103514
findings of a certification survey conducted by the department of 103515
health, a risk analysis, or prior performance of the provider. 103516

Exception reviews shall be conducted at the facility by 103517
appropriate health professionals under contract with or employed 103518
by the department of job and family services. The professionals 103519
may review resident assessment forms and supporting documentation, 103520
conduct interviews, and observe residents to identify any patterns 103521
or trends of inaccurate assessments and resulting inaccurate 103522
case-mix scores. 103523

The rules shall establish an exception review program that 103524
requires that exception reviews do all of the following: 103525

(1) Comply with Titles XVIII and XIX; 103526

(2) Provide a written summary that states whether the 103527
resident assessment forms have been completed accurately; 103528

(3) Are conducted by health professionals who, during the 103529
period of their professional engagement or employment with the 103530
department, neither have nor are committed to acquire any direct 103531
or indirect financial interest in the ownership, financing, or 103532
operation of a nursing facility or intermediate care facility for 103533
the mentally retarded in this state; 103534

(4) Are conducted by health professionals who, as a condition 103535

of their engagement or employment with the department, shall not 103536
review any provider that has been a client of the professional. 103537

For the purposes of division (C)(3) of this section, 103538
employment of a member of a health professional's family by a 103539
nursing facility or intermediate care facility for the mentally 103540
retarded that the professional does not review does not constitute 103541
a direct or indirect financial interest in the ownership, 103542
financing, or operation of the facility. 103543

If an exception review is conducted before the effective date 103544
of the rate that is based on the case-mix data subject to the 103545
review and the review results in findings that exceed tolerance 103546
levels specified in the rules adopted under this division, the 103547
department, in accordance with those rules, may use the findings 103548
to recalculate individual resident case-mix scores, quarterly 103549
average facility case-mix scores, and annual average facility 103550
case-mix scores. The department may use the recalculated quarterly 103551
and annual facility average case-mix scores to calculate the 103552
facility's rate for direct care costs for the appropriate calendar 103553
quarter or quarters. 103554

(D) The department shall prepare a written summary of any 103555
audit disallowance or exception review finding that is made after 103556
the effective date of the rate that is based on the cost or 103557
case-mix data. Where the provider is pursuing judicial or 103558
administrative remedies in good faith regarding the disallowance 103559
or finding, the department shall not withhold from the provider's 103560
current payments any amounts the department claims to be due from 103561
the provider pursuant to section 5111.28 of the Revised Code. 103562

(E) The department shall not reduce rates calculated under 103563
sections 5111.20 to 5111.33 of the Revised Code on the basis that 103564
the provider charges a lower rate to any resident who is not 103565
eligible for the medicaid program. 103566

(F) The department shall adjust the rates calculated under sections 5111.20 to 5111.33 of the Revised Code to account for reasonable additional costs that must be incurred by intermediate care facilities for the mentally retarded to comply with requirements of federal or state statutes, rules, or policies enacted or amended after January 1, 1992, or with orders issued by state or local fire authorities.

Sec. 5111.28. (A) If a provider properly amends its cost report under section ~~5111.27~~ 5111.261 of the Revised Code and the amended report shows that the provider received a lower rate under the original cost report than it was entitled to receive, the department of job and family services shall adjust the provider's rate prospectively to reflect the corrected information. The department shall pay the adjusted rate beginning two months after the first day of the month after the provider files the amended cost report. If the department finds, from an exception review of resident assessment information conducted after the effective date of the rate for direct care costs that is based on the assessment information, that inaccurate assessment information resulted in the provider receiving a lower rate than it was entitled to receive, the department prospectively shall adjust the provider's rate accordingly and shall make payments using the adjusted rate for the remainder of the calendar quarter for which the assessment information is used to determine the rate, beginning one month after the first day of the month after the exception review is completed.

(B) If the provider properly amends its cost report under section ~~5111.27~~ 5111.261 of the Revised Code, the department makes a finding based on an audit under ~~that~~ section 5111.27 of the Revised Code, or the department makes a finding based on an exception review of resident assessment information conducted under ~~that~~ section 5111.27 of the Revised Code after the effective

date of the rate for direct care costs that is based on the 103599
assessment information, any of which results in a determination 103600
that the provider has received a higher rate than it was entitled 103601
to receive, the department shall recalculate the provider's rate 103602
using the revised information. The department shall apply the 103603
recalculated rate to the periods when the provider received the 103604
incorrect rate to determine the amount of the overpayment. The 103605
provider shall refund the amount of the overpayment. 103606

In addition to requiring a refund under this division, the 103607
department may charge the provider interest at the applicable rate 103608
specified in this division from the time the overpayment was made. 103609

(1) If the overpayment resulted from costs reported for 103610
calendar year 1993, the interest shall be no greater than one and 103611
one-half times the average bank prime rate. 103612

(2) If the overpayment resulted from costs reported for 103613
subsequent calendar years: 103614

(a) The interest shall be no greater than two times the 103615
average bank prime rate if the overpayment was equal to or less 103616
than one per cent of the total medicaid payments to the provider 103617
for the fiscal year for which the incorrect information was used 103618
to establish a rate. 103619

(b) The interest shall be no greater than two and one-half 103620
times the current average bank prime rate if the overpayment was 103621
greater than one per cent of the total medicaid payments to the 103622
provider for the fiscal year for which the incorrect information 103623
was used to establish a rate. 103624

(C) The department also may impose the following penalties: 103625

(1) If a provider does not furnish invoices or other 103626
documentation that the department requests during an audit within 103627
sixty days after the request, no more than the greater of one 103628
thousand dollars per audit or twenty-five per cent of the 103629

cumulative amount by which the costs for which documentation was 103630
not furnished increased the total medicaid payments to the 103631
provider during the fiscal year for which the costs were used to 103632
establish a rate; 103633

(2) If an exiting operator or owner fails to provide notice 103634
of a facility closure, voluntary termination, or voluntary 103635
withdrawal of participation in the medicaid program as required by 103636
section 5111.66 of the Revised Code, or an exiting operator or 103637
owner and entering operator fail to provide notice of a change of 103638
operator as required by section 5111.67 of the Revised Code, no 103639
more than the current average bank prime rate plus four per cent 103640
of the last two monthly payments. 103641

(D) If the provider continues to participate in the medicaid 103642
program, the department shall deduct any amount that the provider 103643
is required to refund under this section, and the amount of any 103644
interest charged or penalty imposed under this section, from the 103645
next available payment from the department to the provider. The 103646
department and the provider may enter into an agreement under 103647
which the amount, together with interest, is deducted in 103648
installments from payments from the department to the provider. 103649

(E) The department shall transmit refunds and penalties to 103650
the treasurer of state for deposit in the general revenue fund. 103651

(F) For the purpose of this section, the department shall 103652
determine the average bank prime rate using statistical release 103653
H.15, "selected interest rates," a weekly publication of the 103654
federal reserve board, or any successor publication. If 103655
statistical release H.15, or its successor, ceases to contain the 103656
bank prime rate information or ceases to be published, the 103657
department shall request a written statement of the average bank 103658
prime rate from the federal reserve bank of Cleveland or the 103659
federal reserve board. 103660

~~Sec. 5111.33. Reimbursement to a provider under sections 5111.20 to 5111.32 of the Revised Code shall include payments to the provider, at a rate equal to the percentage of the per resident per day rates that the (A) The department of job and family services has established for the provider's nursing facility or intermediate care facility for the mentally retarded~~ 103661
may make payments to a provider under sections 5111.20 to 5111.33 103662
of the Revised Code ~~for the fiscal year for which the cost of services is reimbursed,~~ to reserve a bed for a recipient during a 103663
temporary absence under conditions prescribed by the department, 103664
to include hospitalization for an acute condition, visits with 103665
relatives and friends, and participation in therapeutic programs 103666
outside the facility, when the resident's plan of care provides 103667
for such absence and federal participation in the payments is 103668
available. ~~The~~ 103669
103670

~~(B) The maximum period during for which payments may be made to reserve a bed shall not exceed the maximum period specified under federal regulations, and shall not be more than following:~~ 103671
103672

(1) For calendar year 2011 and in the case of a bed in a nursing facility, thirty days ~~during any calendar year for hospital stays, visits with relatives and friends, and participation in therapeutic programs;~~ 103673
103674
103675

(2) For calendar year 2012 and each calendar year thereafter 103676
and in the case of a bed in a nursing facility, fifteen days; 103677

(3) For any calendar year and in the case of a bed in an intermediate care facility for the mentally retarded, the number of days specified in rules adopted under section 5111.02 of the Revised Code. Recipients ~~who have been identified by the department as requiring the level of care of an intermediate care facility for the mentally retarded shall not be subject to a maximum period during which payments may be made to reserve a bed~~ 103678
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~~if prior authorization of the department is obtained for hospital stays, visits with relatives and friends, and participation in therapeutic programs. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code establishing conditions under which prior authorization may be obtained.~~

(C) The department shall establish the per diem rates to be paid to providers for reserving beds under this section. In establishing the per diem rates, the department shall do the following:

(1) In the case of a payment to reserve a bed in a nursing facility for a day during calendar year 2011, set the per diem rate at an amount not exceeding fifty per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day;

(2) In the case of a payment to reserve a bed in a nursing facility for a day during calendar year 2012 and each calendar year thereafter, set the per diem rate at an amount not exceeding twenty-five per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day;

(3) In the case of a payment to reserve a bed in an intermediate care facility for the mentally retarded for a day during any calendar year, set the per diem rate at an amount equal to a percentage specified in rules adopted under section 5111.02 of the Revised Code of the per diem rate the provider would be paid if the recipient were not absent from the facility that day.

Sec. 5111.35. As used in this section "a resident's rights" means the rights of a nursing facility resident under sections 3721.10 to 3721.17 of the Revised Code and subsection (c) of section 1819 or 1919 of the "Social Security Act," 49 Stat. 620

(1935), 42 U.S.C.A. 301, as amended, and regulations issued under those subsections.

As used in sections 5111.35 to 5111.62 of the Revised Code:

(A) "Certification requirements" means the requirements for nursing facilities established under sections 1819 and 1919 of the "Social Security Act."

(B) "Compliance" means substantially meeting all applicable certification requirements.

(C) "Contracting agency" means a state agency that has entered into a contract with the department of job and family services under section 5111.38 of the Revised Code.

(D)(1) "Deficiency" means a finding cited by the department of health during a survey, on the basis of one or more actions, practices, situations, or incidents occurring at a nursing facility, that constitutes a severity level three finding, severity level four finding, scope level three finding, or scope level four finding. Whenever the finding is a repeat finding, "deficiency" also includes any finding that is a severity level two and scope level one finding, a severity level two and scope level two finding, or a severity level one and scope level two finding.

(2) "Cluster of deficiencies" means deficiencies that result from noncompliance with two or more certification requirements and are causing or resulting from the same action, practice, situation, or incident.

(E) "Emergency" means either of the following:

(1) A deficiency or cluster of deficiencies that creates a condition of immediate jeopardy;

(2) An unexpected situation or sudden occurrence of a serious or urgent nature that creates a substantial likelihood that one or

more residents of a nursing facility may be seriously harmed if 103753
allowed to remain in the facility, including the following: 103754

(a) A flood or other natural disaster, civil disaster, or 103755
similar event; 103756

(b) A labor strike that suddenly causes the number of staff 103757
members in a nursing facility to be below that necessary for 103758
resident care. 103759

(F) "Finding" means a finding of noncompliance with 103760
certification requirements determined by the department of health 103761
under section 5111.41 of the Revised Code. 103762

(G) "Immediate jeopardy" means that one or more residents of 103763
a nursing facility are in imminent danger of serious physical or 103764
life-threatening harm. 103765

(H) "Medicaid eligible resident" means a person who is a 103766
resident of a nursing facility, or is applying for admission to a 103767
nursing facility, and is eligible to receive financial assistance 103768
under the medical assistance program for the care the person 103769
receives in such a facility. 103770

(I) "Noncompliance" means failure to substantially meet all 103771
applicable certification requirements. 103772

(J) "Nursing facility" has the same meaning as in section 103773
5111.20 of the Revised Code. 103774

(K) "Provider" means a person, institution, or entity that 103775
furnishes nursing facility services under a medical assistance 103776
program provider agreement. 103777

(L) "Provider agreement" means a contract between the 103778
department of job and family services and a provider for the 103779
provision of nursing facility services under the medicaid program. 103780

(M) "Repeat finding" or "repeat deficiency" means a finding 103781
or deficiency cited pursuant to a survey, to which both of the 103782

following apply: 103783

(1) The finding or deficiency involves noncompliance with the 103784
same certification requirement, and the same kind of actions, 103785
practices, situations, or incidents caused by or resulting from 103786
the noncompliance, as were cited in the immediately preceding 103787
standard survey or another survey conducted subsequent to the 103788
immediately preceding standard survey of the facility. For 103789
purposes of this division, actions, practices, situations, or 103790
incidents may be of the same kind even though they involve 103791
different residents, staff, or parts of the facility. 103792

(2) The finding or deficiency is cited subsequent to a 103793
determination by the department of health that the finding or 103794
deficiency cited on the immediately preceding standard survey, or 103795
another survey conducted subsequent to the immediately preceding 103796
standard survey, had been corrected. 103797

~~(M)~~(N)(1) "Scope level one finding" means a finding of 103798
noncompliance by a nursing facility in which the actions, 103799
situations, practices, or incidents causing or resulting from the 103800
noncompliance affect one or a very limited number of facility 103801
residents and involve one or a very limited number of facility 103802
staff members. 103803

(2) "Scope level two finding" means a finding of 103804
noncompliance by a nursing facility in which the actions, 103805
situations, practices, or incidents causing or resulting from the 103806
noncompliance affect more than a limited number of facility 103807
residents or involve more than a limited number of facility staff 103808
members, but the number or percentage of facility residents 103809
affected or staff members involved and the number or frequency of 103810
the actions, situations, practices, or incidents in short 103811
succession does not establish any reasonable degree of 103812
predictability of similar actions, situations, practices, or 103813
incidents occurring in the future. 103814

(3) "Scope level three finding" means a finding of noncompliance by a nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect more than a limited number of facility residents or involve more than a limited number of facility staff members, and the number or percentage of facility residents affected or staff members involved or the number or frequency of the actions, situations, practices, or incidents in short succession establishes a reasonable degree of predictability of similar actions, situations, practices, or incidents occurring in the future.

(4) "Scope level four finding" means a finding of noncompliance by a nursing facility causing or resulting from actions, situations, practices, or incidents that involve a sufficient number or percentage of facility residents or staff members or occur with sufficient regularity over time that the noncompliance can be considered systemic or pervasive in the facility.

~~(N)~~(O)(1) "Severity level one finding" means a finding of noncompliance by a nursing facility that has not caused and, if continued, is unlikely to cause physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(2) "Severity level two finding" means a finding of noncompliance by a nursing facility that, if continued over time, will cause, or is likely to cause, physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(3) "Severity level three finding" means a finding of noncompliance by a nursing facility that has caused physical harm

to a facility resident, mental or emotional harm to a resident, or 103847
a violation of a resident's rights that results in physical, 103848
mental, or emotional harm to the resident. 103849

(4) "Severity level four finding" means a finding of 103850
noncompliance by a nursing facility that has caused 103851
life-threatening harm to a facility resident or caused a 103852
resident's death. 103853

~~(O)~~(P) "State agency" has the same meaning as in section 1.60 103854
of the Revised Code. 103855

~~(P)~~(Q) "Substandard care" means care furnished in a facility 103856
in which the department of health has cited a deficiency or 103857
deficiencies that constitute one of the following: 103858

(1) A severity level four finding, regardless of scope; 103859

(2) A severity level three and scope level four finding, in 103860
the quality of care provided to residents; 103861

(3) A severity level three and scope level three finding, in 103862
the quality of care provided to residents. 103863

~~(Q)~~(R)(1) "Survey" means a survey of a nursing facility 103864
conducted under section 5111.39 of the Revised Code. 103865

(2) "Standard survey" means a survey conducted by the 103866
department of health under division (A) of section 5111.39 of the 103867
Revised Code and includes an extended survey. 103868

(3) "Follow-up survey" means a survey conducted by the 103869
department of health to determine whether a nursing facility has 103870
substantially corrected deficiencies cited in a previous survey. 103871

Sec. 5111.52. (A) As used in this section: 103872

~~(1) "Provider agreement" means a contract between the 103873
department of job and family services and a nursing facility for 103874
the provision of nursing facility services under the medical 103875~~

~~assistance program.~~ 103876

~~(2) "Terminating", "terminating"~~ includes not renewing. 103877

(B) A nursing facility's participation in the medical 103878
assistance program shall be terminated under sections 5111.35 to 103879
5111.62 of the Revised Code as follows: 103880

(1) If the department of job and family services is 103881
terminating the facility's participation, it shall issue an order 103882
terminating the facility's provider agreement. 103883

(2) If the department of health, acting as a contracting 103884
agency, is terminating the facility's participation, it shall 103885
issue an order terminating certification of the facility's 103886
compliance with certification requirements. When the department of 103887
health terminates certification, the department of job and family 103888
services shall terminate the facility's provider agreement. The 103889
department of job and family services is not required to provide 103890
an adjudication hearing when it terminates a provider agreement 103891
following termination of certification by the department of 103892
health. 103893

(3) If a state agency other than the department of health, 103894
acting as a contracting agency, is terminating the facility's 103895
participation, it shall notify the department of job and family 103896
services, and the department of job and family services shall 103897
issue an order terminating the facility's provider agreement. The 103898
contracting agency shall conduct any administrative proceedings 103899
concerning the order. 103900

(C) If the following conditions are met, the department of 103901
job and family services may make medical assistance payments to a 103902
nursing facility for a period not exceeding thirty days after the 103903
effective date of termination under sections 5111.35 to 5111.62 of 103904
the Revised Code of the facility's participation in the medical 103905
assistance program: 103906

(1) The payments are for medicaid eligible residents admitted to the facility prior to the effective date of the termination;

(2) The provider is making reasonable efforts to transfer medicaid eligible residents to other care settings.

The period during which payments may be made under this division begins on the later of the effective date of the termination or, if the facility has appealed a termination order, the date of issuance of the adjudication order upholding termination.

Sec. 5111.65. As used in sections 5111.65 to 5111.689 of the Revised Code:

(A) "Affiliated operator" means an operator affiliated with either of the following:

(1) The exiting operator for whom the affiliated operator is to assume liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;

(2) The entering operator involved in the change of operator with the exiting operator specified in division (A)(1) of this section.

(B) "Change of operator" means an entering operator becoming the operator of a nursing facility or intermediate care facility for the mentally retarded in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred; 103936
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(c) A lease of the facility to the entering operator or the exiting operator's termination of the exiting operator's lease; 103941
103942

(d) If the exiting operator is a partnership, dissolution of the partnership; 103943
103944

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply: 103945
103946

(i) The change in composition does not cause the partnership's dissolution under state law. 103947
103948

(ii) The partners agree that the change in composition does not constitute a change in operator. 103949
103950

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation. 103951
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(2) The following, alone, do not constitute a change of operator: 103955
103956

(a) A contract for an entity to manage a nursing facility or intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions; 103957
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(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator; 103961
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(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(C) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.

(D) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or intermediate care facility for the mentally retarded resides in the facility.

(E) "Effective date of an involuntary termination" means the date the department of job and family services terminates an operator's provider agreement for a nursing facility or intermediate care facility for the mentally retarded or the last day that such a provider agreement is in effect when the department refuses to renew it.

(F) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients.

~~(F)~~(G) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid patients other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.

~~(G)~~(H) "Entering operator" means the person or government entity that will become the operator of a nursing facility or intermediate care facility for the mentally retarded when a change of operator occurs or following an involuntary termination.

~~(H)~~(I) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a change of operator;	103996 103997 103998
(2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure;	103999 104000 104001
(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination;	104002 104003 104004
(4) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation;	104005 104006
<u>(5) An operator of a nursing facility or intermediate care facility for the mentally retarded that has undergone an involuntary termination.</u>	104007 104008 104009
(I) (J)(1) <u>"Facility Subject to division (J)(2) of this section, "facility closure" means discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility or intermediate care facility for the mentally retarded that results in the relocation of all of the facility's residents. A facility closure occurs regardless of any of the following:</u>	104010 104011 104012 104013 104014 104015 104016
(a) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility;	104017 104018 104019
(b) The facility's residents relocating to another of the operator's facilities;	104020 104021
(c) Any action the department of health takes regarding the facility's certification under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may result in the transfer of part of the facility's survey findings	104022 104023 104024 104025

to another of the operator's facilities; 104026

(d) Any action the department of health takes regarding the 104027
facility's license under Chapter 3721. of the Revised Code; 104028

(e) Any action the department of developmental disabilities 104029
takes regarding the facility's license under section 5123.19 of 104030
the Revised Code. 104031

(2) A facility closure does not occur if ~~all~~ either of the 104032
following applies: 104033

(a) All of the facility's residents are relocated due to an 104034
emergency evacuation and one or more of the residents return to a 104035
medicaid-certified bed in the facility not later than thirty days 104036
after the evacuation occurs; 104037

(b) The building, or part of the building, that houses the 104038
facility converts to a different use, any necessary license or 104039
other approval needed for that use is obtained, and one or more of 104040
the facility's residents remain in the facility to receive 104041
services under the new use. 104042

~~(J)~~(K) "Fiscal year," "franchise permit fee," "intermediate 104043
care facility for the mentally retarded," "nursing facility," 104044
"operator," "owner," and "provider agreement" have the same 104045
meanings as in section 5111.20 of the Revised Code. 104046

~~(K)~~(L) "Involuntary termination" means the department of job 104047
and family services' termination of, or refusal to renew, an 104048
operator's provider agreement for a nursing facility or 104049
intermediate care facility for the mentally retarded when such 104050
action is not taken at the operator's request. 104051

(M) "Voluntary termination" means an operator's voluntary 104052
election to terminate the participation of an intermediate care 104053
facility for the mentally retarded in the medicaid program but to 104054
continue to provide service of the type provided by a residential 104055

facility as defined in section 5123.19 of the Revised Code. 104056

~~(I)~~(N) "Voluntary withdrawal of participation" means an 104057
operator's voluntary election to terminate the participation of a 104058
nursing facility in the medicaid program but to continue to 104059
provide service of the type provided by a nursing facility. 104060

Sec. 5111.66. An exiting operator or owner of a nursing 104061
facility or intermediate care facility for the mentally retarded 104062
participating in the medicaid program shall provide the department 104063
of job and family services written notice of a facility closure, 104064
voluntary termination, or voluntary withdrawal of participation 104065
not less than ninety days before the effective date of the 104066
facility closure, voluntary termination, or voluntary withdrawal 104067
of participation. The written notice shall be provided to the 104068
department in accordance with the method specified in rules 104069
adopted under section 5111.689 of the Revised Code. 104070

The written notice shall include all of the following: 104071

(A) The name of the exiting operator and, if any, the exiting 104072
operator's authorized agent; 104073

(B) The name of the nursing facility or intermediate care 104074
facility for the mentally retarded that is the subject of the 104075
written notice; 104076

(C) The exiting operator's medicaid provider agreement number 104077
for the facility that is the subject of the written notice; 104078

(D) The effective date of the facility closure, voluntary 104079
termination, or voluntary withdrawal of participation; 104080

(E) The signature of the exiting operator's or owner's 104081
representative. 104082

Sec. 5111.67. (A) An exiting operator or owner and entering 104083
operator shall provide the department of job and family services 104084

written notice of a change of operator if the nursing facility or 104085
intermediate care facility for the mentally retarded participates 104086
in the medicaid program and the entering operator seeks to 104087
continue the facility's participation. The written notice shall be 104088
provided to the department in accordance with the method specified 104089
in rules adopted under section 5111.689 of the Revised Code. The 104090
written notice shall be provided to the department not later than 104091
forty-five days before the effective date of the change of 104092
operator if the change of operator does not entail the relocation 104093
of residents. The written notice shall be provided to the 104094
department not later than ninety days before the effective date of 104095
the change of operator if the change of operator entails the 104096
relocation of residents. ~~The~~ 104097

The written notice shall include all of the following: 104098

(1) The name of the exiting operator and, if any, the exiting 104099
operator's authorized agent; 104100

(2) The name of the nursing facility or intermediate care 104101
facility for the mentally retarded that is the subject of the 104102
change of operator; 104103

(3) The exiting operator's ~~medicaid provider agreement~~ 104104
seven-digit medicaid legacy number and ten-digit national provider 104105
identifier number for the facility that is the subject of the 104106
change of operator; 104107

(4) The name of the entering operator; 104108

(5) The effective date of the change of operator; 104109

(6) The manner in which the entering operator becomes the 104110
facility's operator, including through sale, lease, merger, or 104111
other action; 104112

(7) If the manner in which the entering operator becomes the 104113
facility's operator involves more than one step, a description of 104114

each step;	104115
(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator;	104116 104117 104118
(9) <u>The names and addresses of the persons to whom the department should send initial correspondence regarding the change of operator;</u>	104119 104120 104121
(10) <u>If the nursing facility also participates in the medicare program, notification of whether the entering operator intends to accept assignment of the exiting operator's medicare provider agreement;</u>	104122 104123 104124 104125
(11) The signature of the exiting operator's or owner's representative.	104126 104127
(B) The entering operator shall include a completed application for a provider agreement with the written notice to the department. The entering operator shall attach to the application the following:	104128 104129 104130 104131
(1) If the written notice is provided to the department before the date the exiting operator or owner and entering operator complete the transaction for the change of operator, all the proposed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator;	104132 104133 104134 104135 104136 104137
(2) If the written notice is provided to the department on or after the date the exiting operator or owner and entering operator complete the transaction for the change of operator, copies of all the executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator. <u>An exiting operator or owner and entering operator immediately shall provide the department written notice of any changes to information included</u>	104138 104139 104140 104141 104142 104143 104144 104145

in a written notice of a change of operator that occur after that 104146
notice is provided to the department. The notice of the changes 104147
shall be provided to the department in accordance with the method 104148
specified in rules adopted under section 5111.689 of the Revised 104149
Code. 104150

Sec. 5111.671. The department of job and family services may 104151
enter into a provider agreement with an entering operator that 104152
goes into effect at 12:01 a.m. on the effective date of the change 104153
of operator if all of the following requirements are met: 104154

(A) The department receives a properly completed written 104155
notice required by section 5111.67 of the Revised Code on or 104156
before the date required by that section. 104157

(B) ~~The entering operator furnishes to the department copies~~ 104158
~~of all the fully executed leases, management agreements, merger~~ 104159
~~agreements and supporting documents, and sales contracts and~~ 104160
~~supporting documents relating to the change of operator not later~~ 104161
~~than ten days after the effective date of the change of operator~~ 104162
receives both of the following in accordance with the method 104163
specified in rules adopted under section 5111.689 of the Revised 104164
Code and not later than ten days after the effective date of the 104165
change of operator: 104166

(1) From the entering operator, a completed application for a 104167
provider agreement and all other forms and documents specified in 104168
rules adopted under section 5111.689 of the Revised Code; 104169

(2) From the exiting operator or owner, all forms and 104170
documents specified in rules adopted under section 5111.689 of the 104171
Revised Code. 104172

(C) The entering operator is eligible for medicaid payments 104173
as provided in section 5111.21 of the Revised Code. 104174

Sec. 5111.672. (A) The department of job and family services 104175

may enter into a provider agreement with an entering operator that 104176
goes into effect at 12:01 a.m. on the date determined under 104177
division (B) of this section if all of the following are the case: 104178

(1) The department receives a properly completed written 104179
notice required by section 5111.67 of the Revised Code after the 104180
time required by that section. 104181

(2) ~~The entering operator furnishes to the department copies~~ 104182
~~of all the fully executed leases, management agreements, merger~~ 104183
~~agreements and supporting documents, and sales contracts and~~ 104184
~~supporting documents relating to the change of operator~~ receives 104185
both of the following in accordance with the method specified in 104186
rules adopted under section 5111.689 of the Revised Code and more 104187
than ten days after the effective date of the change of operator: 104188

(a) From the entering operator, a completed application for a 104189
provider agreement and all other forms and documents specified in 104190
rules adopted under section 5111.689 of the Revised Code; 104191

(b) From the exiting operator or owner, all forms and 104192
documents specified in rules adopted under section 5111.689 of the 104193
Revised Code. 104194

~~(3) The requirement of division (A)(1) of this section is met~~ 104195
~~after the time required by section 5111.67 of the Revised Code,~~ 104196
~~the requirement of division (A)(2) of this section is met more~~ 104197
~~than ten days after the effective date of the change of operator,~~ 104198
~~or both.~~ 104199

~~(4)~~ The entering operator is eligible for medicaid payments 104200
as provided in section 5111.21 of the Revised Code. 104201

(B) The department shall determine the date a provider 104202
agreement entered into under this section is to go into effect as 104203
follows: 104204

(1) The effective date shall give the department sufficient 104205

time to process the change of operator, assure no duplicate 104206
payments are made, and make the withholding required by section 104207
5111.681 of the Revised Code, ~~and withhold the final payment to~~ 104208
~~the exiting operator until one hundred eighty days after either of~~ 104209
~~the following:~~ 104210

~~(a) The date that the exiting operator submits to the 104211
department a properly completed cost report under section 5111.682 104212
of the Revised Code;~~ 104213

~~(b) The date that the department waives the cost report 104214
requirement of section 5111.682 of the Revised Code.~~ 104215

(2) The effective date shall be not earlier than the later of 104216
the effective date of the change of operator or the date that the 104217
exiting operator or owner and entering operator comply with 104218
section 5111.67 of the Revised Code and division (A)(2) of this 104219
section. 104220

(3) The effective date shall be not later than the following 104221
after the later of the dates specified in division (B)(2) of this 104222
section: 104223

(a) Forty-five days if the change of operator does not entail 104224
the relocation of residents; 104225

(b) Ninety days if the change of operator entails the 104226
relocation of residents. 104227

Sec. 5111.68. (A) On receipt of a written notice under 104228
section 5111.66 of the Revised Code of a facility closure, 104229
voluntary termination, or voluntary withdrawal of participation 104230
~~or, on receipt of~~ a written notice under section 5111.67 of the 104231
Revised Code of a change of operator, or on the effective date of 104232
an involuntary termination, the department of job and family 104233
services shall estimate the amount of any overpayments made under 104234
the medicaid program to the exiting operator, including 104235

overpayments the exiting operator disputes, and other actual and 104236
potential debts the exiting operator owes or may owe to the 104237
department and United States centers for medicare and medicaid 104238
services under the medicaid program, including a franchise permit 104239
fee. 104240

(B) In estimating the exiting operator's other actual and 104241
potential debts to the department and the United States centers 104242
for medicare and medicaid services under the medicaid program, the 104243
department shall use a debt estimation methodology the director of 104244
job and family services shall establish in rules adopted under 104245
section 5111.689 of the Revised Code. The methodology shall 104246
provide for estimating all of the following that the department 104247
determines are applicable: 104248

(1) Refunds due the department under section 5111.27 of the 104249
Revised Code; 104250

(2) Interest owed to the department and United States centers 104251
for medicare and medicaid services; 104252

(3) Final civil monetary and other penalties for which all 104253
right of appeal has been exhausted; 104254

(4) Money owed the department and United States centers for 104255
medicare and medicaid services from any outstanding final fiscal 104256
audit, including a final fiscal audit for the last fiscal year or 104257
portion thereof in which the exiting operator participated in the 104258
medicaid program; 104259

(5) Other amounts the department determines are applicable. 104260

(C) The department shall provide the exiting operator written 104261
notice of the department's estimate under division (A) of this 104262
section not later than thirty days after the department receives 104263
the notice under section 5111.66 of the Revised Code of the 104264
facility closure, voluntary termination, or voluntary withdrawal 104265

of participation ~~or~~; the department receives the notice under 104266
section 5111.67 of the Revised Code of the change of operator; or 104267
the effective date of the involuntary termination. The 104268
department's written notice shall include the basis for the 104269
estimate. 104270

Sec. 5111.681. (A) Except as provided in divisions (B) ~~and~~, 104271
(C), and (D) of this section, the department of job and family 104272
services may withhold from payment due an exiting operator under 104273
the medicaid program the total amount specified in the notice 104274
provided under division (C) of section 5111.68 of the Revised Code 104275
that the exiting operator owes or may owe to the department and 104276
United States centers for medicare and medicaid services under the 104277
medicaid program. 104278

(B) In the case of a change of operator and subject to 104279
division ~~(D)~~(E) of this section, the following shall apply 104280
regarding a withholding under division (A) of this section if the 104281
exiting operator or entering operator or an affiliated operator 104282
executes a successor liability agreement meeting the requirements 104283
of division ~~(E)~~(F) of this section: 104284

(1) If the exiting operator, entering operator, or affiliated 104285
operator assumes liability for the total, actual amount of debt 104286
the exiting operator owes the department and the United States 104287
centers for medicare and medicaid services under the medicaid 104288
program as determined under section 5111.685 of the Revised Code, 104289
the department shall not make the withholding. 104290

(2) If the exiting operator, entering operator, or affiliated 104291
operator assumes liability for only the portion of the amount 104292
specified in division (B)(1) of this section that represents the 104293
franchise permit fee the exiting operator owes, the department 104294
shall withhold not more than the difference between the total 104295
amount specified in the notice provided under division (C) of 104296

section 5111.68 of the Revised Code and the amount for which the 104297
exiting operator, entering operator, or affiliated operator 104298
assumes liability. 104299

(C) In the case of a voluntary termination, voluntary 104300
withdrawal of participation, or facility closure and subject to 104301
division ~~(D)~~(E) of this section, the following shall apply 104302
regarding a withholding under division (A) of this section if the 104303
exiting operator or an affiliated operator executes a successor 104304
liability agreement meeting the requirements of division ~~(E)~~(F) of 104305
this section: 104306

(1) If the exiting operator or affiliated operator assumes 104307
liability for the total, actual amount of debt the exiting 104308
operator owes the department and the United States centers for 104309
medicare and medicaid services under the medicaid program as 104310
determined under section 5111.685 of the Revised Code, the 104311
department shall not make the withholding. 104312

(2) If the exiting operator or affiliated operator assumes 104313
liability for only the portion of the amount specified in division 104314
(C)(1) of this section that represents the franchise permit fee 104315
the exiting operator owes, the department shall withhold not more 104316
than the difference between the total amount specified in the 104317
notice provided under division (C) of section 5111.68 of the 104318
Revised Code and the amount for which the exiting operator or 104319
affiliated operator assumes liability. 104320

(D) In the case of an involuntary termination and subject to 104321
division (E) of this section, the following shall apply regarding 104322
a withholding under division (A) of this section if the exiting 104323
operator, the entering operator, or an affiliated operator 104324
executes a successor liability agreement meeting the requirements 104325
of division (F) of this section and the department approves the 104326
successor liability agreement: 104327

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5111.685 of the Revised Code, the department shall not make the withholding. 104328
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(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (D)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5111.68 of the Revised Code and the amount for which the exiting operator, entering operator, or affiliated operator assumes liability. 104334
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(E) For an exiting operator or affiliated operator to be eligible to enter into a successor liability agreement under division (B) ~~or~~, (C), or (D) of this section, both of the following must apply: 104343
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(1) The exiting operator or affiliated operator must have one or more valid provider agreements, other than the provider agreement for the nursing facility or intermediate care facility for the mentally retarded that is the subject of the involuntary termination, voluntary termination, voluntary withdrawal of participation, facility closure, or change of operator; 104347
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(2) During the twelve-month period preceding either the effective date of the involuntary termination or the month in which the department receives the notice of the voluntary termination, voluntary withdrawal of participation, or facility closure under section 5111.66 of the Revised Code or the notice of the change of operator under section 5111.67 of the Revised Code, the average monthly medicaid payment made to the exiting operator 104353
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or affiliated operator pursuant to the exiting operator's or 104360
affiliated operator's one or more provider agreements, other than 104361
the provider agreement for the nursing facility or intermediate 104362
care facility for the mentally retarded that is the subject of the 104363
involuntary termination, voluntary termination, voluntary 104364
withdrawal of participation, facility closure, or change of 104365
operator, must equal at least ninety per cent of the sum of the 104366
following: 104367

(a) The average monthly medicaid payment made to the exiting 104368
operator pursuant to the exiting operator's provider agreement for 104369
the nursing facility or intermediate care facility for the 104370
mentally retarded that is the subject of the involuntary 104371
termination, voluntary termination, voluntary withdrawal of 104372
participation, facility closure, or change of operator; 104373

(b) Whichever of the following apply: 104374

(i) If the exiting operator or affiliated operator has 104375
assumed liability under one or more other successor liability 104376
agreements, the total amount for which the exiting operator or 104377
affiliated operator has assumed liability under the other 104378
successor liability agreements; 104379

(ii) If the exiting operator or affiliated operator has not 104380
assumed liability under any other successor liability agreements, 104381
zero. 104382

~~(E)~~(F) A successor liability agreement executed under this 104383
section must comply with all of the following: 104384

(1) It must provide for the operator who executes the 104385
successor liability agreement to assume liability for either of 104386
the following as specified in the agreement: 104387

(a) The total, actual amount of debt the exiting operator 104388
owes the department and the United States centers for medicare and 104389
medicaid services under the medicaid program as determined under 104390

section 5111.685 of the Revised Code; 104391

(b) The portion of the amount specified in division 104392
~~(E)~~(F)(1)(a) of this section that represents the franchise permit 104393
fee the exiting operator owes. 104394

(2) It may not require the operator who executes the 104395
successor liability agreement to furnish a surety bond. 104396

(3) It must provide that the department, after determining 104397
under section 5111.685 of the Revised Code the actual amount of 104398
debt the exiting operator owes the department and United States 104399
centers for medicare and medicaid services under the medicaid 104400
program, may deduct the lesser of the following from medicaid 104401
payments made to the operator who executes the successor liability 104402
agreement: 104403

(a) The total, actual amount of debt the exiting operator 104404
owes the department and the United States centers for medicare and 104405
medicaid services under the medicaid program as determined under 104406
section 5111.685 of the Revised Code; 104407

(b) The amount for which the operator who executes the 104408
successor liability agreement assumes liability under the 104409
agreement. 104410

(4) It must provide that the deductions authorized by 104411
division ~~(E)~~(F)(3) of this section are to be made for a number of 104412
months, not to exceed six, agreed to by the operator who executes 104413
the successor liability agreement and the department or, if the 104414
operator who executes the successor liability agreement and 104415
department cannot agree on a number of months that is less than 104416
six, a greater number of months determined by the attorney general 104417
pursuant to a claims collection process authorized by statute of 104418
this state. 104419

(5) It must provide that, if the attorney general determines 104420
the number of months for which the deductions authorized by 104421

division ~~(E)~~(F)(3) of this section are to be made, the operator 104422
who executes the successor liability agreement shall pay, in 104423
addition to the amount collected pursuant to the attorney 104424
general's claims collection process, the part of the amount so 104425
collected that, if not for division ~~(G)~~(H) of this section, would 104426
be required by section 109.081 of the Revised Code to be paid into 104427
the attorney general claims fund. 104428

~~(F)~~(G) Execution of a successor liability agreement does not 104429
waive an exiting operator's right to contest the amount specified 104430
in the notice the department provides the exiting operator under 104431
division (C) of section 5111.68 of the Revised Code. 104432

~~(G)~~(H) Notwithstanding section 109.081 of the Revised Code, 104433
the entire amount that the attorney general, whether by employees 104434
or agents of the attorney general or by special counsel appointed 104435
pursuant to section 109.08 of the Revised Code, collects under a 104436
successor liability agreement, other than the additional amount 104437
the operator who executes the agreement is required by division 104438
~~(E)~~(F)(5) of this section to pay, shall be paid to the department 104439
of job and family services for deposit into the appropriate fund. 104440
The additional amount that the operator is required to pay shall 104441
be paid into the state treasury to the credit of the attorney 104442
general claims fund created under section 109.081 of the Revised 104443
Code. 104444

Sec. 5111.687. The department of job and family services, at 104445
its sole discretion, may release the amount withheld under 104446
division (A) of section 5111.681 of the Revised Code if the 104447
exiting operator submits to the department written notice of a 104448
postponement of a change of operator, facility closure, voluntary 104449
termination, or voluntary withdrawal of participation and the 104450
transactions leading to the change of operator, facility closure, 104451
voluntary termination, or voluntary withdrawal of participation 104452

are postponed for at least thirty days but less than ninety days 104453
after the date originally proposed for the change of operator, 104454
facility closure, voluntary termination, or voluntary withdrawal 104455
of participation as reported in the written notice required by 104456
section 5111.66 or 5111.67 of the Revised Code. The department 104457
shall release the amount withheld if the exiting operator submits 104458
to the department written notice of a cancellation or postponement 104459
of a change of operator, facility closure, voluntary termination, 104460
or voluntary withdrawal of participation and the transactions 104461
leading to the change of operator, facility closure, voluntary 104462
termination, or voluntary withdrawal of participation are canceled 104463
or postponed for more than ninety days after the date originally 104464
proposed for the change of operator, facility closure, voluntary 104465
termination, or voluntary withdrawal of participation as reported 104466
in the written notice required by section 5111.66 or 5111.67 of 104467
the Revised Code. A written notice shall be provided to the 104468
department in accordance with the method specified in rules 104469
adopted under section 5111.689 of the Revised Code. 104470

After the department receives a written notice regarding a 104471
cancellation or postponement of a facility closure, voluntary 104472
termination, or voluntary withdrawal of participation, the exiting 104473
operator or owner shall provide new written notice to the 104474
department under section 5111.66 of the Revised Code regarding any 104475
transactions leading to a facility closure, voluntary termination, 104476
or voluntary withdrawal of participation at a future time. After 104477
the department receives a written notice regarding a cancellation 104478
or postponement of a change of operator, the exiting operator or 104479
owner and entering operator shall provide new written notice to 104480
the department under section 5111.67 of the Revised Code regarding 104481
any transactions leading to a change of operator at a future time. 104482

Sec. 5111.689. The director of job and family services shall 104483

adopt rules under section 5111.02 of the Revised Code to implement 104484
sections 5111.65 to 5111.689 of the Revised Code, including rules 104485
applicable to an exiting operator that provides written 104486
notification under section 5111.66 of the Revised Code of a 104487
voluntary withdrawal of participation. Rules adopted under this 104488
section shall comply with section 1919(c)(2)(F) of the "Social 104489
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), 104490
regarding restrictions on transfers or discharges of nursing 104491
facility residents in the case of a voluntary withdrawal of 104492
participation. The rules may prescribe a medicaid reimbursement 104493
methodology and other procedures that are applicable after the 104494
effective date of a voluntary withdrawal of participation that 104495
differ from the reimbursement methodology and other procedures 104496
that would otherwise apply. The rules shall specify all of the 104497
following: 104498

(A) The method by which written notices to the department 104499
required by sections 5111.65 to 5111.689 of the Revised Code are 104500
to be provided; 104501

(B) The forms and documents that are to be provided to the 104502
department under sections 5111.671 and 5111.672 of the Revised 104503
Code, which shall include, in the case of such forms and documents 104504
provided by entering operators, all the fully executed leases, 104505
management agreements, merger agreements and supporting documents, 104506
and fully executed sales contracts and any other supporting 104507
documents culminating in the change of operator; 104508

(C) The method by which the forms and documents identified in 104509
division (B) of this section are to be provided to the department. 104510

Sec. 5111.85. (A) As used in this section and sections 104511
5111.851 to 5111.856 of the Revised Code: 104512

"Home and community-based services medicaid waiver component" 104513
means a medicaid waiver component under which home and 104514

community-based services are provided as an alternative to 104515
hospital, nursing facility, or intermediate care facility for the 104516
mentally retarded services. 104517

"Hospital" has the same meaning as in section 3727.01 of the 104518
Revised Code. 104519

"Intermediate care facility for the mentally retarded" has 104520
the same meaning as in section 5111.20 of the Revised Code. 104521

"Medicaid waiver component" means a component of the medicaid 104522
program authorized by a waiver granted by the United States 104523
department of health and human services under section 1115 or 1915 104524
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 104525
1315 or 1396n. "Medicaid waiver component" does not include a care 104526
management system established under section 5111.16 of the Revised 104527
Code. 104528

"Nursing facility" has the same meaning as in section 5111.20 104529
of the Revised Code. 104530

(B) The director of job and family services may adopt rules 104531
under Chapter 119. of the Revised Code governing medicaid waiver 104532
components that establish all of the following: 104533

(1) Eligibility requirements for the medicaid waiver 104534
components; 104535

(2) The type, amount, duration, and scope of services the 104536
medicaid waiver components provide; 104537

(3) The conditions under which the medicaid waiver components 104538
cover services; 104539

(4) The amount the medicaid waiver components pay for 104540
services or the method by which the amount is determined; 104541

(5) The manner in which the medicaid waiver components pay 104542
for services; 104543

(6) Safeguards for the health and welfare of medicaid 104544

recipients receiving services under a medicaid waiver component;	104545
(7) Procedures for both of the following ;	104546
(a) Identifying individuals who meet all of the following requirements:	104547
(i) Are <u>prioritizing and approving for enrollment individuals who are</u> eligible for a home and community-based services medicaid waiver component and on a waiting list for the component;	104548
(ii) Are receiving inpatient hospital services or residing in an intermediate care facility for the mentally retarded or nursing facility (as appropriate for the component);	104549
(iii) Choose <u>choose</u> to be enrolled in the component.	104550
(b) Approving the enrollment of individuals identified under the procedures established under division (B)(7)(a) of this section into the home and community based services medicaid waiver component. <u>i</u>	104551
(8) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.	104552
(9) Other policies necessary for the efficient administration of the medicaid waiver components.	104553
(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.	104554
(D) Any <u>The following apply to</u> procedures established under division (B)(7) of this section:	104555
<u>(1) Any such procedures established for the medicaid-funded</u>	104556

component of the PASSPORT program shall be consistent with section 104575
173.401 of the Revised Code. Any 104576

(2) Any such procedures established for the Ohio home care 104577
program shall be consistent with section 5111.862 of the Revised 104578
Code. 104579

(3) Any such procedures established for the unified long-term 104580
services and support medicaid waiver program shall be consistent 104581
with section 5111.865 of the Revised Code. 104582

(4) Any such procedures established ~~under division (B)(7) of~~ 104583
~~this section~~ for the medicaid-funded component of the assisted 104584
living program shall be consistent with section 5111.894 of the 104585
Revised Code. 104586

Sec. 5111.861. (A) As used in this section: 104587

"Medicaid waiver component" has the same meaning as in 104588
section 5111.85 of the Revised Code. 104589

"Unified long-term services and support medicaid waiver 104590
component" means the medicaid waiver component authorized by 104591
section 5111.864 of the Revised Code. 104592

(B) Subject to division (C) of this section, there is hereby 104593
created the Ohio home care program. The program shall provide home 104594
and community-based services. The department of job and family 104595
services shall administer the program. 104596

(C) If the unified long-term services and support medicaid 104597
waiver component is created, the departments of aging and job and 104598
family services shall work together to determine whether the Ohio 104599
home care program should continue to operate as a separate 104600
medicaid waiver component or be terminated. If the departments 104601
determine that the Ohio home care program should be terminated, 104602
the program shall cease to exist on a date the departments shall 104603
specify. 104604

Sec. 5111.862. (A) As used in this section: 104605

"Nursing facility" has the same meaning as in section 5111.20 104606
of the Revised Code. 104607

"Ohio home care program" means the medicaid waiver component 104608
created under section 5111.861 of the Revised Code. 104609

(B) Subject to division (C) of section 5111.861 of the 104610
Revised Code, the department of job and family services shall 104611
establish a home first component of the Ohio home care program 104612
under which eligible individuals may be enrolled in the Ohio home 104613
care program in accordance with this section. An individual is 104614
eligible for the Ohio home care program's home first component if 104615
both of the following apply: 104616

(1) The individual has been determined to be eligible for the 104617
Ohio home care program. 104618

(2) At least one of the following applies: 104619

(a) The individual has been admitted to a nursing facility. 104620

(b) A physician has determined and documented in writing that 104621
the individual has a medical condition that, unless the individual 104622
is enrolled in home and community-based services such as the Ohio 104623
home care program, will require the individual to be admitted to a 104624
nursing facility within thirty days of the physician's 104625
determination. 104626

(c) The individual has been hospitalized and a physician has 104627
determined and documented in writing that, unless the individual 104628
is enrolled in home and community-based services such as the Ohio 104629
home care program, the individual is to be transported directly 104630
from the hospital to a nursing facility and admitted. 104631

(C) Each month, each county department of job and family 104632
services shall identify individuals residing in the county that 104633
the county department serves who are eligible for the home first 104634

component of the Ohio home care program. When a county department 104635
identifies such an individual, the county department shall 104636
determine whether the Ohio home care program is appropriate for 104637
the individual and whether the individual would rather participate 104638
in the Ohio home care program than continue or begin to reside in 104639
a nursing facility. If the county department determines that the 104640
Ohio home care program is appropriate for the individual and the 104641
individual would rather participate in the Ohio home care program 104642
than continue or begin to reside in a nursing facility, the county 104643
department shall so notify the state department of job and family 104644
services. On receipt of the notice from the county department, the 104645
state department shall approve the individual's enrollment in the 104646
Ohio home care program regardless of the waiting list for the Ohio 104647
home care program, unless the enrollment would cause the Ohio home 104648
care program to exceed any limit on the number of individuals who 104649
may be enrolled in the program as set by the United States 104650
secretary of health and human services in the waiver authorizing 104651
the Ohio home care program. 104652

Sec. 5111.863. (A) As used in this section: 104653

"Medicaid waiver component" has the same meaning as in 104654
section 5111.85 of the Revised Code. 104655

"Unified long-term services and support medicaid waiver 104656
component" means the medicaid waiver component authorized by 104657
section 5111.864 of the Revised Code. 104658

(B) Subject to division (C) of this section, there is hereby 104659
created the Ohio transitions II aging carve-out program. The 104660
program shall provide home and community-based services. The 104661
department of job and family services shall administer the 104662
program. 104663

(C) If the unified long-term services and support medicaid 104664
waiver component is created, the departments of aging and job and 104665

family services shall work together to determine whether the Ohio transitions II aging carve-out program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the Ohio transitions II aging carve-out program should be terminated, the program shall cease to exist on a date the departments shall specify. 104666
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Sec. 5111.864. (A) As used in this section: 104672

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. 104673
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"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 104675
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(B) The director of job and family services shall submit a request to the United States secretary of health and human services pursuant to section 1915n of the "Social Security Act," 95 Stat. 809 (1981), 42 U.S.C. 1396n, as amended, to obtain approval to create a unified long-term services and support medicaid waiver component to provide home and community-based services to eligible individuals of any age who require the level of care provided by nursing facilities. The director of job and family services shall work with the director of aging in seeking approval of the unified long-term services and support medicaid waiver component and, if the approval is obtained, in creating and implementing the component. 104677
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If the request to create the unified long-term services and support medicaid waiver component is approved, the director of job and family services, working with the director of aging, shall adopt rules under section 5111.85 of the Revised Code to implement the component. The rules may authorize the director of aging to adopt rules in accordance with Chapter 119. of the Revised Code governing aspects of the unified long-term services and support medicaid waiver component. 104689
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<u>Sec. 5111.865. (A) As used in this section:</u>	104697
<u>"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.</u>	104698 104699
<u>"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.</u>	104700 104701
<u>"Unified long-term services and support medicaid waiver program" or "program" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.</u>	104702 104703 104704
<u>(B) If the United States secretary of health and human services approves the request submitted under section 5111.864 of the Revised Code to create the unified long-term services and support medicaid waiver program, the department of job and family services shall establish a home first component of the program under which eligible individuals may be enrolled in the program in accordance with this section. An individual is eligible for the program's home first component if both of the following apply:</u>	104705 104706 104707 104708 104709 104710 104711 104712
<u>(1) The individual has been determined to be eligible for the program.</u>	104713 104714
<u>(2) At least one of the following applies:</u>	104715
<u>(a) The individual has been admitted to a nursing facility.</u>	104716
<u>(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.</u>	104717 104718 104719 104720 104721
<u>(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the program, the individual is to be transported directly from the hospital to a nursing facility and admitted;</u>	104722 104723 104724 104725 104726

(d) Both of the following apply: 104727

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code. 104728
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(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual should be admitted to a nursing facility. 104734
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(e) If individuals residing in a residential care facility are eligible for the program, the individual resided in a residential care facility for at least six months immediately before applying for the program and is at risk of imminent admission to a nursing facility because the costs of residing in the residential care facility have depleted the individual's resources such that the individual is unable to continue to afford the cost of residing in the residential care facility. 104739
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(C) Each month, each county department of job and family services and each area agency on aging shall identify individuals residing in the county or area that the county department or agency serves who are eligible for the home first component of the unified long-term services and support medicaid waiver program. When a county department or agency identifies such an individual, the county department or agency shall determine whether the program is appropriate for the individual and whether the individual would rather participate in the program than continue or begin to reside in a nursing facility. If the county department or agency determines that the program is appropriate for the individual and the individual would rather participate in the 104747
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program than continue or begin to reside in a nursing facility, 104759
the county department or agency shall so notify the state 104760
department of job and family services. On receipt of the notice 104761
from the county department or agency, the state department shall 104762
approve the individual's enrollment in the program regardless of 104763
the waiting list for the program, unless the enrollment would 104764
cause the program to exceed any limit on the number of individuals 104765
who may be enrolled in the program as set by the United States 104766
secretary of health and human services in the waiver authorizing 104767
the program. 104768

Sec. 5111.871. The department of job and family services 104769
shall enter into a contract with the department of developmental 104770
disabilities under section 5111.91 of the Revised Code with regard 104771
to one or more of the medicaid waiver components ~~of the medicaid~~ 104772
~~program~~ established by the department of job and family services 104773
under ~~one or more of the medicaid waivers sought~~ under section 104774
5111.87 of the Revised Code. Subject, if needed, to the approval 104775
of the United States secretary of health and human services, the 104776
contract shall include the medicaid waiver component known as the 104777
transitions developmental disabilities waiver. The contract shall 104778
provide for the department of developmental disabilities to 104779
administer the components in accordance with the terms of the 104780
waivers. The contract shall include a schedule for the department 104781
of developmental disabilities to begin administering the 104782
transitions developmental disabilities waiver. The directors of 104783
job and family services and developmental disabilities shall adopt 104784
rules in accordance with Chapter 119. of the Revised Code 104785
governing the components. 104786

If the department of developmental disabilities or the 104787
department of job and family services denies an individual's 104788
application for home and community-based services provided under 104789
any of these medicaid components, the department that denied the 104790

services shall give timely notice to the individual that the individual may request a hearing under section 5101.35 of the Revised Code.

The departments of developmental disabilities and job and family services may approve, reduce, deny, or terminate a service included in the individualized service plan developed for a medicaid recipient eligible for home and community-based services provided under any of these medicaid components. The departments shall consider the recommendations a county board of developmental disabilities makes under division (A)(1)(c) of section 5126.055 of the Revised Code. If either department approves, reduces, denies, or terminates a service, that department shall give timely notice to the medicaid recipient that the recipient may request a hearing under section 5101.35 of the Revised Code.

If supported living, as defined in section 5126.01 of the Revised Code, is to be provided as a service under any of these components, any person or government entity with a current, valid medicaid provider agreement and a current, valid certificate under section 5123.161 of the Revised Code may provide the service.

If a service is to be provided under any of these components by a residential facility, as defined in section 5123.19 of the Revised Code, any person or government entity with a current, valid medicaid provider agreement and a current, valid license under section 5123.19 of the Revised Code may provide the service.

Sec. 5111.872. ~~When~~ (A) Subject to division (B) of this section, when the department of developmental disabilities allocates enrollment numbers to a county board of developmental disabilities for home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under any of the medicaid waiver components ~~of the medicaid program~~ that the department administers under section

5111.871 of the Revised Code, the department shall consider all of 104822
the following: 104823

~~(A)(1)~~ The number of individuals with mental retardation or 104824
other developmental disability who are on a waiting list the 104825
county board establishes under ~~division (C)~~ of section 5126.042 of 104826
the Revised Code for those services and are given priority on the 104827
waiting list ~~pursuant to division (D) or (E) of that section;~~ 104828

~~(B)(2)~~ The implementation component required by division 104829
(A)(3) of section 5126.054 of the Revised Code of the county 104830
board's plan approved under section 5123.046 of the Revised Code; 104831

~~(C)(3)~~ Anything else the department considers necessary to 104832
enable county boards to provide those services to individuals in 104833
accordance with the priority requirements ~~of divisions (D) and (E)~~ 104834
~~of~~ for waiting lists established under section 5126.042 of the 104835
Revised Code for those services. 104836

(B) Division (A) of this section applies to home and 104837
community-based services provided under the medicaid waiver 104838
component known as the transitions developmental disabilities 104839
waiver only to the extent, if any, provided by the contract 104840
required by section 5111.871 of the Revised Code regarding the 104841
waiver. 104842

Sec. 5111.873. ~~(A) Not later than the effective date of the 104843
first of any medicaid waivers the United States secretary of 104844
health and human services grants pursuant to a request made under 104845
section 5111.87 of the Revised Code Subject to division (D) of 104846
this section, the director of job and family services shall adopt 104847
rules in accordance with Chapter 119. of the Revised Code 104848
establishing ~~statewide fee schedules~~ the amount of reimbursement 104849
or the methods by which amounts of reimbursement are to be 104850
determined for home and community-based services specified in 104851
division (B)(1) of section 5111.87 of the Revised Code and 104852~~

provided under the components of the medicaid program that the 104853
department of developmental disabilities administers under section 104854
5111.871 of the Revised Code. ~~The~~ With respect to these rules 104855
~~shall provide for,~~ all of the following apply: 104856

(1) The rules shall establish procedures for the department 104857
of developmental disabilities to follow in arranging for the 104858
initial and ongoing collection of cost information from a 104859
comprehensive, statistically valid sample of persons and 104860
government entities providing the services at the time the 104861
information is obtained~~+~~. 104862

(2) The rules shall establish procedures for the collection 104863
of consumer-specific information through an assessment instrument 104864
the department of developmental disabilities shall provide to the 104865
department of job and family services~~+~~. 104866

(3) With the information collected pursuant to divisions 104867
(A)(1) and (2) of this section, an analysis of that information, 104868
and other information the director determines relevant, ~~methods~~ 104869
~~and~~ the rules shall establish reimbursement standards ~~for~~ 104870
~~calculating the fee schedules~~ that do all of the following: 104871

(a) Assure that ~~the fees are~~ reimbursement is consistent with 104872
efficiency, economy, and quality of care; 104873

(b) Consider the intensity of consumer resource need; 104874

(c) Recognize variations in different geographic areas 104875
regarding the resources necessary to assure the health and welfare 104876
of consumers; 104877

(d) Recognize variations in environmental supports available 104878
to consumers. 104879

(B) As part of the process of adopting rules under this 104880
section, the director shall consult with the director of 104881
developmental disabilities, representatives of county boards of 104882

developmental disabilities, persons who provide the home and 104883
community-based services, and other persons and government 104884
entities the director identifies. 104885

(C) The directors of job and family services and 104886
developmental disabilities shall review the rules adopted under 104887
this section at times they determine are necessary to ensure that 104888
the ~~methods and amount of reimbursement or the methods by which~~ 104889
~~the amounts of reimbursement are to be determined continue to meet~~ 104890
~~the reimbursement~~ standards established ~~by the rules for~~ 104891
~~calculating the fee schedules continue to do everything that under~~ 104892
division (A)(3) of this section ~~requires.~~ 104893

(D) This section applies to home and community-based services 104894
provided under the medicaid waiver component known as the 104895
transitions developmental disabilities waiver only to the extent, 104896
if any, provided by the contract required by section 5111.871 of 104897
the Revised Code regarding the waiver. 104898

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 104899
of the Revised Code: 104900

"Home and community-based services" has the same meaning as 104901
in section 5123.01 of the Revised Code. 104902

"ICF/MR services" means intermediate care facility for the 104903
mentally retarded services covered by the medicaid program that an 104904
intermediate care facility for the mentally retarded provides to a 104905
resident of the facility who is a medicaid recipient eligible for 104906
medicaid-covered intermediate care facility for the mentally 104907
retarded services. 104908

"Intermediate care facility for the mentally retarded" means 104909
an intermediate care facility for the mentally retarded that is 104910
certified as in compliance with applicable standards for the 104911
medicaid program by the director of health in accordance with 104912

Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, and licensed as a residential facility under section 5123.19 of the Revised Code.

"Residential facility" has the same meaning as in section 5123.19 of the Revised Code.

(B) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 and 5111.878 of the Revised Code, the operator of an intermediate care facility for the mentally retarded may convert some or all of the beds in the facility from providing ICF/MR services to providing home and community-based services if all of the following requirements are met:

(1) The operator provides the directors of health, job and family services, and developmental disabilities at least ninety days' notice of the operator's intent to ~~relinquish the facility's certification as an intermediate care facility for the mentally retarded and to begin providing home and community based services~~ make the conversion.

(2) The operator complies with the requirements of sections 5111.65 to 5111.689 of the Revised Code regarding a voluntary termination as defined in section 5111.65 of the Revised Code if those requirements are applicable.

(3) ~~The~~ If the operator intends to convert all of the facility's beds, the operator notifies each of the facility's residents that the facility is to cease providing ICF/MR services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services by transferring to another facility that is an intermediate care facility for the mentally retarded willing and able to accept the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services 104944
instead of ICF/MR services from any provider of home and 104945
community-based services that is willing and able to provide the 104946
services to the resident if the resident is eligible for the 104947
services and a slot for the services is available to the resident. 104948

(4) If the operator intends to convert some but not all of 104949
the facility's beds, the operator notifies each of the facility's 104950
residents that the facility is to convert some of its beds from 104951
providing ICF/MR services to providing home and community-based 104952
services and inform each resident that the resident may do either 104953
of the following: 104954

(a) Continue to receive ICF/MR services from any provider of 104955
ICF/MR services that is willing and able to provide the services 104956
to the resident if the resident continues to qualify for ICF/MR 104957
services; 104958

(b) Begin to receive home and community-based services 104959
instead of ICF/MR services from any provider of home and 104960
community-based services that is willing and able to provide the 104961
services to the resident if the resident is eligible for the 104962
services and a slot for the services is available to the resident. 104963

(5) The operator meets the requirements for providing home 104964
and community-based services, including the following: 104965

(a) Such requirements applicable to a residential facility if 104966
the operator maintains the facility's license as a residential 104967
facility; 104968

(b) Such requirements applicable to a facility that is not 104969
licensed as a residential facility if the operator surrenders the 104970
facility's residential facility license under section 5123.19 of 104971
the Revised Code. 104972

~~(5)~~(6) The ~~director~~ directors of developmental disabilities 104973
approves and job and family services approve the conversion. 104974

(C) A decision by the directors to approve or refuse to 104975
approve a proposed conversion of beds is final. In making a 104976
decision, the directors shall consider all of the following: 104977

(1) The fiscal impact on the facility if some but not all of 104978
the beds are converted; 104979

(2) The fiscal impact on the medical assistance program; 104980

(3) The availability of home and community-based services. 104981

(D) The notice provided to the directors under division 104982
(B)(1) of this section shall specify whether some or all of the 104983
facility's beds are to be converted. If some but not all of the 104984
beds are to be converted, the notice shall specify how many of the 104985
facility's beds are to be converted and how many of the beds are 104986
to continue to provide ICF/MR services. The notice to the director 104987
of developmental disabilities under division (B)(1) of this 104988
section shall specify whether the operator wishes to surrender the 104989
facility's license as a residential facility under section 5123.19 104990
of the Revised Code. 104991

~~(D)~~(E)(1) If the ~~director~~ directors of developmental 104992
disabilities approves and job and family services approve a 104993
conversion under division (B)(C) of this section, the director of 104994
health shall terminate do the following: 104995

(a) Terminate the certification of the intermediate care 104996
facility for the mentally retarded if the notice specifies that 104997
all of the facility's beds are to be converted; 104998

(b) Reduce the facility's certified capacity by the number of 104999
beds being converted if the notice specifies that some but not all 105000
of the beds are to be converted. The 105001

(2) The director of health shall notify the director of job 105002
and family services of the termination or reduction. On receipt of 105003
the director of health's notice, the director of job and family 105004

services shall ~~terminate~~ do the following: 105005

(a) Terminate the operator's medicaid provider agreement that 105006
authorizes the operator to provide ICF/MR services at the facility 105007
if the facility's certification was terminated; 105008

(b) Amend the operator's medicaid provider agreement to 105009
reflect the facility's reduced certified capacity if the 105010
facility's certified capacity is reduced. The 105011

(3) In the case of action taken under division (E)(2)(a) of 105012
this section, the operator is not entitled to notice or a hearing 105013
under Chapter 119. of the Revised Code before the director of job 105014
and family services terminates the medicaid provider agreement. 105015

Sec. 5111.877. The director of job and family services may 105016
seek approval from the United States secretary of health and human 105017
services for not more than a total of ~~one~~ two hundred slots for 105018
home and community-based services for the purposes of sections 105019
5111.874, 5111.875, and 5111.876 of the Revised Code. 105020

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8811 of 105021
the Revised Code: 105022

(1) "Adult" means an individual at least eighteen years of 105023
age. 105024

(2) "Authorized representative" means the following: 105025

(a) In the case of a consumer who is a minor, the consumer's 105026
parent, custodian, or guardian; 105027

(b) In the case of a consumer who is an adult, an individual 105028
selected by the consumer pursuant to section 5111.8810 of the 105029
Revised Code to act on the consumer's behalf for purposes 105030
regarding home care attendant services. 105031

(3) "Authorizing health care professional" means a health 105032
care professional who, pursuant to section 5111.887 of the Revised 105033

Code, authorizes a home care attendant to assist a consumer with self-administration of medication, nursing tasks, or both. 105034
105035

(4) "Consumer" means an individual to whom all of the following apply: 105036
105037

(a) The individual is enrolled in a participating medicaid waiver component. 105038
105039

(b) The individual has a medically determinable physical impairment to which both of the following apply: 105040
105041

(i) It is expected to last for a continuous period of not less than twelve months. 105042
105043

(ii) It causes the individual to require assistance with activities of daily living, self-care, and mobility, including either assistance with self-administration of medication or the performance of nursing tasks, or both. 105044
105045
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(c) In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of selecting, directing the actions of, and dismissing a home care attendant. 105048
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(d) In the case of an individual who is a minor, the individual has an authorized representative who is capable of selecting, directing the actions of, and dismissing a home care attendant. 105052
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105055

(5) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code. 105056
105057

(6) "Custodian" has the same meaning as in section 2151.011 of the Revised Code. 105058
105059

(7) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach. 105060
105061

(8) "Guardian" has the same meaning as in section 2111.01 of the Revised Code. 105062
105063

(9) "Health care professional" means a physician or registered nurse.	105064 105065
(10) "Home care attendant" means an individual holding a valid medicaid provider agreement in accordance with section 5111.881 of the Revised Code that authorizes the individual to provide home care attendant services to consumers.	105066 105067 105068 105069
(11) "Home care attendant services" means all of the following as provided by a home care attendant:	105070 105071
(a) Personal care aide services;	105072
(b) Assistance with the self-administration of medication;	105073
(c) Assistance with nursing tasks.	105074
(12) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum.	105075 105076
(13) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.	105077 105078
(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.	105079 105080
(15) "Minor" means an individual under eighteen years of age.	105081
(16) "Participating medicaid waiver component" means both of the following:	105082 105083
(a) The medicaid waiver component known as Ohio home care that the department of job and family services administers <u>program created under section 5111.861 of the Revised Code;</u>	105084 105085 105086
(b) The medicaid waiver component known as Ohio transitions II aging carve-out that the department of job and family services administers <u>program created under section 5111.863 of the Revised Code.</u>	105087 105088 105089 105090
(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or	105091 105092

osteopathic medicine and surgery. 105093

(18) "Practice of nursing as a registered nurse," "practice 105094
of nursing as a licensed practical nurse," and "registered nurse" 105095
have the same meanings as in section 4723.01 of the Revised Code. 105096
"Registered nurse" includes an advanced practice nurse, as defined 105097
in section 4723.01 of the Revised Code. 105098

(19) "Schedule II," "schedule III," "schedule IV," and 105099
"schedule V" have the same meanings as in section 3719.01 of the 105100
Revised Code. 105101

(B) The director of job and family services may submit 105102
requests to the United States secretary of health and human 105103
services to amend the federal medicaid waivers authorizing the 105104
participating medicaid waiver components to have those components 105105
cover home care attendant services in accordance with sections 105106
5111.88 to 5111.8810 and rules adopted under section 5111.8811 of 105107
the Revised Code. Notwithstanding sections 5111.881 to 5111.8811 105108
of the Revised Code, those sections shall be implemented regarding 105109
a participating medicaid waiver component only if the secretary 105110
approves a waiver amendment for the component. 105111

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.894 of 105112
the Revised Code: 105113

"Area agency on aging" has the same meaning as in section 105114
173.14 of the Revised Code. 105115

"Assisted living program" means the program created under 105116
this section. 105117

"Assisted living services" means the following home and 105118
community-based services: personal care, homemaker, chore, 105119
attendant care, companion, medication oversight, and therapeutic 105120
social and recreational programming. 105121

"Assisted living waiver" means the federal medicaid waiver 105122

granted by the United States secretary of health and human 105123
services that authorizes the medicaid-funded component of the 105124
assisted living program. 105125

"County or district home" means a county or district home 105126
operated under Chapter 5155. of the Revised Code. 105127

"Long-term care consultation program" means the program the 105128
department of aging is required to develop under section 173.42 of 105129
the Revised Code. 105130

"Long-term care consultation program administrator" or 105131
"administrator" means the department of aging or, if the 105132
department contracts with an area agency on aging or other entity 105133
to administer the long-term care consultation program for a 105134
particular area, that agency or entity. 105135

"Medicaid waiver component" has the same meaning as in 105136
section 5111.85 of the Revised Code. 105137

"Nursing facility" has the same meaning as in section 5111.20 105138
of the Revised Code. 105139

"Residential care facility" has the same meaning as in 105140
section 3721.01 of the Revised Code. 105141

~~"State administrative agency" means the department of job and 105142
family services if the department of job and family services 105143
administers the assisted living program or the department of aging 105144
if the department of aging administers the assisted living 105145
program.~~ 105146

"Unified long-term services and support medicaid waiver 105147
component" means the medicaid waiver component authorized by 105148
section 5111.864 of the Revised Code. 105149

(B) There is hereby created the assisted living program. The 105150
program shall provide assisted living services to individuals who 105151
meet the program's applicable eligibility requirements ~~established~~ 105152

~~under section 5111.891 of the Revised Code. The Subject to 105153
division (C) of this section, the program may not serve more 105154
individuals than the number that is set by the United States 105155
secretary of health and human services when the medicaid waiver 105156
authorizing the program is approved shall have a medicaid-funded 105157
component and a state-funded component. 105158~~

(C)(1) Unless the medicaid-funded component of the assisted 105159
living program is terminated under division (C)(2) of this 105160
section, all of the following apply: 105161

(a) The department of aging shall administer the 105162
medicaid-funded component through a contract entered into with the 105163
department of job and family services under section 5111.91 of the 105164
Revised Code. 105165

(b) The contract shall include an estimate of the 105166
medicaid-funded component's costs. The program 105167

(c) The medicaid-funded component shall be operated as a 105168
separate medicaid waiver component until the United States 105169
secretary approves the consolidated federal medicaid waiver sought 105170
under section 5111.861 of the Revised Code. The program shall be 105171
part of the consolidated federal medicaid waiver sought under that 105172
section if the United States secretary approves the waiver. 105173

~~If the director of budget and management approves the 105174
contract, the department of job and family services shall enter 105175
into a contract with the department of aging under section 5111.91 105176
of the Revised Code that provides for the department of aging to 105177
administer the assisted living program. The contract shall include 105178
an estimate of the program's costs. 105179~~

The (d) The medicaid-funded component may not serve more 105180
individuals than is set by the United States secretary of health 105181
and human services in the assisted living waiver. 105182

(e) The director of job and family services may adopt rules 105183

under section 5111.85 of the Revised Code regarding the ~~assisted~~ 105184
~~living program~~ medicaid-funded component. The 105185

(f) The director of aging may adopt rules under Chapter 119. 105186
of the Revised Code regarding the ~~program~~ medicaid-funded 105187
component that the rules adopted by the director of job and family 105188
services under division (C)(1)(e) of this section authorize the 105189
director of aging to adopt. 105190

(2) If the unified long-term services and support medicaid 105191
waiver component is created, the departments of aging and job and 105192
family services shall work together to determine whether the 105193
medicaid-funded component of the assisted living program should 105194
continue to operate as a separate medicaid waiver component or be 105195
terminated. If the departments determine that the medicaid-funded 105196
component of the assisted living program should be terminated, the 105197
medicaid-funded component shall cease to exist on a date the 105198
departments shall specify. 105199

(D) The department of aging shall administer the state-funded 105200
component of the assisted living program. The state-funded 105201
component shall not be administered as part of the medicaid 105202
program. 105203

An individual who is eligible for the state-funded component 105204
may participate in the component for not more than three months. 105205

The director of aging shall adopt rules in accordance with 105206
section 111.15 of the Revised Code to implement the state-funded 105207
component. 105208

Sec. 5111.891. To be eligible for the medicaid-funded 105209
component of the assisted living program, an individual must meet 105210
all of the following requirements: 105211

(A) Need an intermediate level of care as determined under 105212
rule 5101:3-3-06 of the Administrative Code; 105213

(B) At the time the individual applies for the assisted living program, be one of the following:	105214
	105215
(1) A nursing facility resident who is seeking to move to a residential care facility and would remain in a nursing facility for long-term care if not for the assisted living program;	105216
	105217
	105218
(2) A participant of any of the following medicaid waiver components who would move to a nursing facility if not for the assisted living program:	105219
	105220
	105221
(a) The PASSPORT program created under section 173.40 of the Revised Code;	105222
	105223
(b) The choices program created under section 173.403 of the Revised Code;	105224
	105225
(c) A medicaid waiver component that the department of job and family services administers.	105226
	105227
(3) A resident of a residential care facility who has resided in a residential care facility for at least six months immediately before the date the individual applies for the assisted living program.	105228
	105229
	105230
	105231
(C) At the time the individual receives <u>While receiving</u> assisted living services under the assisted living program <u>medicaid-funded component</u> , reside in a residential care facility that is authorized by a valid medicaid provider agreement to participate in the assisted living program component , including both of the following:	105232
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	105237
(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;	105238
	105239
	105240
	105241
	105242
(2) A county or district home licensed as a residential care	105243

facility. 105244

~~(D)~~(C) Meet all other eligibility requirements for the 105245
~~assisted living program~~ medicaid-funded component established in 105246
rules adopted ~~under~~ pursuant to division (C) of section 5111.85 105247
5111.89 of the Revised Code. 105248

Sec. 5111.892. To be eligible for the state-funded component 105249
of the assisted living program, an individual must meet all of the 105250
following requirements: 105251

(A) The individual must need an intermediate level of care as 105252
determined under rule 5101:3-3-06 of the Administrative Code; 105253

(B) The individual must have an application for the 105254
medicaid-funded component of the assisted living program (or, if 105255
the medicaid-funded component is terminated under division (C)(2) 105256
of section 5111.89 of the Revised Code, the unified long-term 105257
services and support medicaid waiver component) pending and the 105258
department or the department's designee must have determined that 105259
the individual meets the nonfinancial eligibility requirements of 105260
the medicaid-funded component (or, if the medicaid-funded 105261
component is terminated under division (C)(2) of section 5111.89 105262
of the Revised Code, the unified long-term services and support 105263
medicaid waiver component) and not have reason to doubt that the 105264
individual meets the financial eligibility requirements of the 105265
medicaid-funded component (or, if the medicaid-funded component is 105266
terminated under division (C)(2) of section 5111.89 of the Revised 105267
Code, the unified long-term services and support medicaid waiver 105268
component). 105269

(C) While receiving assisted living services under 105270
state-funded component, the individual must reside in a 105271
residential care facility that is authorized by a valid provider 105272
agreement to participate in the component, including both of the 105273
following: 105274

(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility; 105275
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(2) A county or district home licensed as a residential care facility. 105280
105281

(D) The individual must meet all other eligibility requirements for the state-funded component established in rules adopted under division (D) of section 5111.89 of the Revised Code. 105282
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Sec. ~~5111.892~~ 5111.893. A residential care facility providing services covered by the assisted living program to an individual enrolled in the program shall have staff on-site twenty-four hours each day who are able to do all of the following: 105285
105286
105287
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105289

(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence; 105290
105291
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(B) Provide supervision services for those individuals; 105293

(C) Help keep the individuals safe and secure. 105294

Sec. 5111.894. (A) ~~The state administrative agency~~ Subject to division (C)(2) of section 5111.89 of the Revised Code, the department of aging shall establish a home first component of the assisted living program under which eligible individuals may be enrolled in the medicaid-funded component of the assisted living program in accordance with this section. An individual is eligible for the assisted living program's home first component if ~~all~~ both of the following apply: 105295
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105302

(1) The individual ~~is~~ has been determined to be eligible for 105303

the medicaid-funded component of the assisted living program. 105304

~~(2) The individual is on the unified waiting list established~~ 105305
~~under section 173.404 of the Revised Code.~~ 105306

~~(3)~~ At least one of the following applies: 105307

(a) The individual has been admitted to a nursing facility. 105308

(b) A physician has determined and documented in writing that 105309
the individual has a medical condition that, unless the individual 105310
is enrolled in home and community-based services such as the 105311
assisted living program, will require the individual to be 105312
admitted to a nursing facility within thirty days of the 105313
physician's determination. 105314

(c) The individual has been hospitalized and a physician has 105315
determined and documented in writing that, unless the individual 105316
is enrolled in home and community-based services such as the 105317
assisted living program, the individual is to be transported 105318
directly from the hospital to a nursing facility and admitted. 105319

(d) Both of the following apply: 105320

(i) The individual is the subject of a report made under 105321
section 5101.61 of the Revised Code regarding abuse, neglect, or 105322
exploitation or such a report referred to a county department of 105323
job and family services under section 5126.31 of the Revised Code 105324
or has made a request to a county department for protective 105325
services as defined in section 5101.60 of the Revised Code. 105326

(ii) A county department of job and family services and an 105327
area agency on aging have jointly documented in writing that, 105328
unless the individual is enrolled in home and community-based 105329
services such as the assisted living program, the individual 105330
should be admitted to a nursing facility. 105331

(e) The individual resided in a residential care facility for 105332
at least six months immediately before applying for the 105333

medicaid-funded component of the assisted living program and is at 105334
risk of imminent admission to a nursing facility because the costs 105335
of residing in the residential care facility have depleted the 105336
individual's resources such that the individual is unable to 105337
continue to afford the cost of residing in the residential care 105338
facility. 105339

(B) Each month, each area agency on aging shall identify 105340
individuals residing in the area that the area agency on aging 105341
serves who are eligible for the home first component of the 105342
assisted living program. When an area agency on aging identifies 105343
such an individual and determines that there is a vacancy in a 105344
residential care facility participating in the medicaid-funded 105345
component of the assisted living program that is acceptable to the 105346
individual, the agency shall notify the long-term care 105347
consultation program administrator serving the area in which the 105348
individual resides. The administrator shall determine whether the 105349
assisted living program is appropriate for the individual and 105350
whether the individual would rather participate in the assisted 105351
living program than continue or begin to reside in a nursing 105352
facility. If the administrator determines that the assisted living 105353
program is appropriate for the individual and the individual would 105354
rather participate in the assisted living program than continue or 105355
begin to reside in a nursing facility, the administrator shall so 105356
notify the ~~state administrative agency~~ department of aging. On 105357
receipt of the notice from the administrator, the ~~state~~ 105358
~~administrative agency~~ department shall approve the individual's 105359
enrollment in the medicaid-funded component of the assisted living 105360
program regardless of the unified waiting list established under 105361
section 173.404 of the Revised Code, unless the enrollment would 105362
cause the ~~assisted living program~~ component to exceed any limit on 105363
the number of individuals who may participate in the ~~program~~ 105364
component as set by the United States secretary of health and 105365
human services ~~when the medicaid waiver authorizing in the program~~ 105366

~~is approved~~ assisted living waiver. 105367

~~(C) Each quarter, the state administrative agency shall 105368
certify to the director of budget and management the estimated 105369
increase in costs of the assisted living program resulting from 105370
enrollment of individuals in the assisted living program pursuant 105371
to this section. 105372~~

Sec. 5111.911. Any contract the department of job and family 105373
services enters into with the department of mental health or 105374
department of alcohol and drug addiction services under section 105375
5111.91 of the Revised Code is subject to the approval of the 105376
director of budget and management and shall require or specify all 105377
of the following: 105378

(A) In the case of a contract with the department of mental 105379
health, that section 5111.912 of the Revised Code be complied 105380
with; 105381

(B) In the case of a contract with the department of alcohol 105382
and drug addiction services, that section 5111.913 of the Revised 105383
Code be complied with; 105384

(C) How providers will be paid for providing the services; 105385

(D) The department of mental health's or department of 105386
alcohol and drug addiction services' responsibilities ~~for~~ 105387
~~reimbursing with regard to~~ providers, including program oversight 105388
and quality assurance. 105389

Sec. 5111.912. If the department of job and family services 105390
enters into a contract with the department of mental health under 105391
section 5111.91 of the Revised Code, the department of ~~mental~~ 105392
~~health and boards of alcohol, drug addiction, and mental health~~ 105393
job and family services shall pay the nonfederal share of any 105394
medicaid payment to a provider for services under the component, 105395
or aspect of the component, the department of mental health 105396

administers. If necessary, the director of job and family services shall submit a state medicaid plan amendment to the United States secretary of health and human services regarding the department of job and family services' duty under this section.

Sec. 5111.913. If the department of job and family services enters into a contract with the department of alcohol and drug addiction services under section 5111.91 of the Revised Code, ~~the department of alcohol and drug addiction services and~~ boards of alcohol, drug addiction, and mental health services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of alcohol and drug addiction services administers. A board shall use funds allocated to the board under section 3793.04 of the Revised Code to pay the nonfederal share.

Sec. 5111.94. (A) As used in this section, "vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

(B) There is hereby created in the state treasury the health care services administration fund. Except as provided in division (C) of this section, all the following shall be deposited into the fund:

(1) Amounts deposited into the fund pursuant to sections 5111.92 and 5111.93 of the Revised Code;

(2) The amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers pursuant to a tort action under the department's right of recovery under section 5101.58 of the Revised Code that exceeds the state share of all money the department, in fiscal year 2002, recovers pursuant to a tort action under that right of recovery;

(3) Subject to division (D) of this section, the amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits;

(4) Amounts from assessments on hospitals under section 5112.06 of the Revised Code and intergovernmental transfers by governmental hospitals under section 5112.07 of the Revised Code that are deposited into the fund in accordance with the law;

(5) Amounts that the department of education pays to the department of job and family services, if any, pursuant to an interagency agreement entered into under section 5111.713 of the Revised Code;

(6) The application fees charged to providers under section 5111.063 of the Revised Code.

(C) No funds shall be deposited into the health care services administration fund in violation of federal statutes or regulations.

(D) In determining under division (B)(3) of this section the amount of money the department, in a fiscal year, recovers through audits of medicaid providers, the amount recovered in the form of vendor offset shall be excluded.

(E) The director of job and family services shall use funds available in the health care services administration fund to pay for costs associated with the administration of the medicaid program.

Sec. 5111.941. ~~(A)~~ The medicaid revenue and collections fund is hereby created in the state treasury. Except as otherwise provided by statute or as authorized by the controlling board,

~~both of the following shall be credited to the fund:~~ 105457

~~(1) The the nonfederal share of all medicaid-related revenues, collections, and recoveries:~~ 105458
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~~(2) The monthly premiums charged under the children's buy-in program pursuant to section 5101.5213 of the Revised Code shall be credited to the fund.~~ 105460
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105462

~~(B) The department of job and family services shall use money credited to the medicaid revenue and collections fund to pay for medicaid services and contracts and the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.~~ 105463
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Sec. 5111.944. (A) As used in this section: 105468

"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B). 105469
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"Dual eligible integrated care demonstration project" means the demonstration project authorized by section 5111.981 of the Revised Code. 105472
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"Medicare program" means the program created under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 105475
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(B) There is created in the state treasury the integrated care delivery systems fund. If the terms of the federal approval for the dual eligible integrated care demonstration project provide for the state to receive a portion of the amounts that the demonstration project saves the medicare program, such amounts shall be deposited into the fund. The department of job and family services shall use the money in the fund to further develop integrated delivery systems and improved care coordination for 105478
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dual eligible individuals. 105486

Sec. 5111.945. There is created in the state treasury the 105487
health care special activities fund. The department of job and 105488
family services shall deposit all funds it receives pursuant to 105489
the administration of the medicaid program into the fund, other 105490
than any such funds that are required by law to be deposited into 105491
another fund. The department shall use the money in the fund to 105492
pay for expenses related to the services provided under, and the 105493
administration of, the medicaid program. 105494

Sec. 5111.97. (A) As used in this section ~~and in section~~ 105495
~~5111.971 of the Revised Code,~~ "nursing facility" has the same 105496
meaning as in section 5111.20 of the Revised Code. 105497

(B) To the extent funds are available, the director of job 105498
and family services may establish the Ohio access success project 105499
to help medicaid recipients make the transition from residing in a 105500
nursing facility to residing in a community setting. The ~~program~~ 105501
project may be established as a separate ~~non-medicaid~~ nonmedicaid 105502
program or integrated into a new or existing program of 105503
medicaid-funded home and community-based services authorized by a 105504
waiver approved by the United States department of health and 105505
human services. The director shall permit any recipient of 105506
medicaid-funded nursing facility services to apply for 105507
participation in the ~~program~~ project, but may limit the number of 105508
~~program~~ project participants. ~~If an application is received before~~ 105509
~~the applicant has been a recipient of medicaid-funded nursing~~ 105510
~~facility services for six months, the~~ 105511

The director shall ensure that an assessment of an applicant 105512
is conducted as soon as practicable to determine whether the 105513
applicant is eligible for participation in the ~~program~~ project. To 105514
the maximum extent possible, the assessment and eligibility 105515

determination shall be completed not later than the date that 105516
occurs six months after the applicant became a recipient of 105517
medicaid-funded nursing facility services. 105518

(C) To be eligible for benefits under the project, a medicaid 105519
recipient must satisfy all of the following requirements: 105520

(1) ~~Be~~ The medicaid recipient must be a recipient of 105521
medicaid-funded nursing facility services, at the time of applying 105522
for the project benefits. 105523

~~(2) Need the level of care provided by nursing facilities;~~ 105524

~~(3) For participation in a non-medicaid~~ If the project is 105525
established as a nonmedicaid program, ~~receive services~~ the 105526
medicaid recipient must be able to remain in the community ~~with a~~ 105527
as a result of receiving project benefits and the projected cost 105528
of the benefits to the project does not exceeding exceed eighty 105529
per cent of the average monthly medicaid cost of a medicaid 105530
recipient in a nursing facility. 105531

~~(4) For participation in a program established as part of.~~ 105532

(3) If the project is integrated into a medicaid-funded home 105533
and community-based services waiver program, the medicaid 105534
recipient must meet waiver enrollment criteria. 105535

(D) If the director establishes the Ohio access success 105536
project, the benefits provided under the project may include 105537
payment of all of the following: 105538

(1) The first month's rent in a community setting; 105539

(2) Rental deposits; 105540

(3) Utility deposits; 105541

(4) Moving expenses; 105542

(5) Other expenses not covered by the medicaid program that 105543
facilitate a medicaid recipient's move from a nursing facility to 105544

a community setting. 105545

(E) If the project is established as a ~~non-medicaid~~ 105546
nonmedicaid program, no participant may receive more than two 105547
thousand dollars worth of benefits under the project. 105548

(F) The director may submit a request to the United States 105549
secretary of health and human services pursuant to section 1915 of 105550
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, 105551
as amended, to create a medicaid home and community-based services 105552
waiver program to serve individuals who meet the criteria for 105553
participation in the Ohio access success project. The director may 105554
adopt rules under Chapter 119. of the Revised Code for the 105555
administration and operation of the ~~program~~ project. 105556

Sec. 5111.981. (A) As used in this section: 105557

"Dual eligible individual" has the same meaning as in section 105558
1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 105559
42 U.S.C. 1396n(h)(2)(B). 105560

"Medicare program" means the program created under Title 105561
XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 105562
1395, as amended. 105563

(B) Subject to division (C) of this section, the director of 105564
job and family services may implement a demonstration project to 105565
test and evaluate the integration of the care that dual eligible 105566
individuals receive under the medicare and medicaid programs. No 105567
provision of Title LI of the Revised Code applies to the 105568
demonstration project if that provision implements or incorporates 105569
a provision of federal law governing the medicaid program and that 105570
provision of federal law does not apply to the demonstration 105571
project. 105572

(C) Before implementing the demonstration project under 105573
division (B) of this section, the director shall obtain the 105574

approval of the United States secretary of health and human 105575
services in the form of a federal medicaid waiver, medicaid state 105576
plan amendment, or demonstration grant. The director is required 105577
to seek the federal approval only if the director seeks to 105578
implement the demonstration project. The director shall implement 105579
the demonstration project in accordance with the terms of the 105580
federal approval, including the terms regarding the duration of 105581
the demonstration project. 105582

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the 105583
Revised Code: 105584

(A) "Franchise permit fee rate" means the following: 105585

(1) ~~Until August 1, 2009, eleven dollars and ninety eight~~ 105586
~~cents;~~ 105587

~~(2) For the period beginning August 1, 2009, and ending June~~ 105588
~~30, 2010, fourteen dollars and seventy five cents;~~ 105589

~~(3) For fiscal year 2011 2012, thirteen seventeen dollars and~~ 105590
~~fifty-five ninety-nine cents;~~ 105591

~~(4)(2) For fiscal year 2012 2013 and each fiscal year~~ 105592
~~thereafter, the rate used for the immediately preceding fiscal~~ 105593
~~year as adjusted in accordance with the composite inflation factor~~ 105594
~~established in rules adopted under section 5112.39 of the Revised~~ 105595
~~Code eighteen dollars and thirty-two cents.~~ 105596

(B) "Indirect guarantee percentage" means the percentage 105597
specified in section 1903(w)(4)(C)(ii) of the "Social Security 105598
Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii), as 105599
amended, that is to be used in determining whether a class of 105600
providers is indirectly held harmless for any portion of the costs 105601
of a broad-based health-care-related tax. If the indirect 105602
guarantee percentage changes during a fiscal year, the indirect 105603
guarantee percentage is the following: 105604

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change; 105605
105606

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage. 105607
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(C) "Intermediate care facility for the mentally retarded" 105609
has the same meaning as in section 5111.20 of the Revised Code, 105610
except that, until August 1, 2009, it does not include any such 105611
facility operated by the department of developmental disabilities. 105612

~~(C)~~(D) "Medicaid" has the same meaning as in section 5111.01 105613
of the Revised Code. 105614

Sec. 5112.31. The department of job and family services shall 105615
do all of the following: 105616

(A) Subject to ~~division~~ divisions (B) and (C) of this section 105617
and for the purposes specified in sections 5112.37 and 5112.371 of 105618
the Revised Code, assess for each fiscal year each intermediate 105619
care facility for the mentally retarded a franchise permit fee 105620
equal to the franchise permit fee rate multiplied by the product 105621
of the following: 105622

(1) The number of beds certified under Title XIX of the 105623
"Social Security Act" on the first day of May of the calendar year 105624
in which the assessment is determined pursuant to division (A) of 105625
section 5112.33 of the Revised Code; 105626

(2) ~~The following number of days:~~ 105627

~~(a) For fiscal year 2010, the following:~~ 105628

~~(i) For the part of fiscal year 2010 during which the franchise permit fee rate is eleven dollars and ninety eight cents, the number of days during fiscal year 2010 during which the franchise permit fee rate is that amount;~~ 105629
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105631
105632

~~(ii) For the part of fiscal year 2010 during which the~~ 105633

~~franchise permit fee rate is fourteen dollars and seventy five
cents, the number of days during fiscal year 2010 during which the
franchise permit fee is that amount;~~

~~(iii) For fiscal year 2011 and each fiscal year thereafter,
the number of days in the fiscal year.~~

(B) If the total amount of the franchise permit fee assessed
under division (A) of this section for a fiscal year exceeds ~~five~~
~~and one half per cent~~ the indirect guarantee percentage of the
actual net patient revenue for all intermediate care facilities
for the mentally retarded for that fiscal year, do both of the
following:

(1) Recalculate the assessments under division (A) of this
section using a per bed per day rate equal to ~~five and one half~~
~~per cent~~ the indirect guarantee percentage of actual net patient
revenue for all intermediate care facilities for the mentally
retarded for that fiscal year;

(2) Refund the difference between the amount of the franchise
permit fee assessed for that fiscal year under division (A) of
this section and the amount recalculated under division (B)(1) of
this section as a credit against the assessments imposed under
division (A) of this section for the subsequent fiscal year.

(C) If the United States secretary of health and human
services determines that the franchise permit fee established by
sections 5112.30 to 5112.39 of the Revised Code would be an
impermissible health care-related tax under section 1903(w) of the
"Social Security Act," 42 U.S.C.A. 1396b(w), as amended, take all
necessary actions to cease implementation of those sections in
accordance with rules adopted under section 5112.39 of the Revised
Code.

Sec. 5112.37. There is hereby created in the state treasury

the home and community-based services for the mentally retarded 105664
and developmentally disabled fund. ~~Eighty-four~~ Eighty-one and ~~two~~ 105665
~~tenths~~ seventy-seven hundredths per cent of all installment 105666
payments and penalties paid by an intermediate care facility for 105667
the mentally retarded under sections 5112.33 and 5112.34 of the 105668
Revised Code for state fiscal year ~~2010~~ 2012 shall be deposited 105669
into the fund. ~~Seventy-nine~~ Eighty-two and ~~twelve hundredths~~ two 105670
tenths per cent of all installment payments and penalties paid by 105671
an intermediate care facility for the mentally retarded under 105672
sections 5112.33 and 5112.34 of the Revised Code for state fiscal 105673
year ~~2011~~ 2013 and thereafter shall be deposited into the fund. 105674
The department of job and family services shall distribute the 105675
money in the fund in accordance with rules adopted under section 105676
5112.39 of the Revised Code. The departments of job and family 105677
services and developmental disabilities shall use the money for 105678
the medicaid program established under Chapter 5111. of the 105679
Revised Code and home and community-based services to mentally 105680
retarded and developmentally disabled persons. 105681

Sec. 5112.371. There is hereby created in the state treasury 105682
the department of developmental disabilities operating and 105683
services fund. ~~Fifteen and eight tenths per cent of all~~ All 105684
installment payments and penalties paid by an intermediate care 105685
facility for the mentally retarded under sections 5112.33 and 105686
5112.34 of the Revised Code ~~for state fiscal year 2010~~ that are 105687
not deposited into the home and community-based services for the 105688
mentally retarded and developmentally disabled fund shall be 105689
deposited into the department of developmental disabilities 105690
operating and services fund. ~~Twenty and eighty eight hundredths~~ 105691
~~per cent of all installment payments and penalties paid by an~~ 105692
~~intermediate care facility for the mentally retarded under~~ 105693
~~sections 5112.33 and 5112.34 of the Revised Code for state fiscal~~ 105694
~~year 2011 and thereafter shall be deposited into the fund.~~ The 105695

money in the fund shall be used for the expenses of the programs 105696
that the department of ~~mental retardation and~~ developmental 105697
disabilities administers and the department's administrative 105698
expenses. 105699

Sec. 5112.39. The director of job and family services shall 105700
adopt rules in accordance with Chapter 119. of the Revised Code to 105701
do all of the following: 105702

~~(A) Establish a composite inflation factor for the purpose of~~ 105703
~~division (A)(4) of section 5112.30 of the Revised Code;~~ 105704

~~(B)~~ Prescribe the actions the department will take to cease 105705
implementation of sections 5112.30 to 5112.39 of the Revised Code 105706
if the United States secretary of health and human services 105707
determines that the franchise permit fee imposed under section 105708
5112.31 of the Revised Code is an impermissible health 105709
care-related tax under section 1903(w) of the "Social Security 105710
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396b(w), as amended; 105711

~~(C)~~(B) Establish the method of distributing the money in the 105712
home and community-based services for the mentally retarded and 105713
developmentally disabled fund created by section 5112.37 of the 105714
Revised Code; 105715

~~(D)~~(C) Establish any other requirements or procedures the 105716
director considers necessary to implement sections 5112.30 to 105717
5112.39 of the Revised Code. 105718

Sec. 5112.40. As used in sections 5112.40 to 5112.48 of the 105719
Revised Code: 105720

(A) "Applicable assessment percentage" means the percentage 105721
specified in rules adopted under section 5112.46 of the Revised 105722
Code that is used in calculating a hospital's assessment under 105723
section 5112.41 of the Revised Code. 105724

(B) "Assessment program year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year.

~~(B)~~(C) "Cost reporting period" means the period of time used by a hospital in reporting costs for purposes of the medicare program.

~~(C)~~(D) "Federal fiscal year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year.

~~(D)~~(E)(1) Except as provided in division ~~(D)~~(E)(2) of this section, "hospital" means a hospital to which any of the following applies:

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital and provides inpatient hospital services, as defined in 42 C.F.R. 440.10.

(b) The hospital is recognized under the medicare program as a cancer hospital and is exempt from the medicare prospective payment system.

(c) The hospital is a psychiatric hospital licensed under section 5119.20 of the Revised Code.

(2) "Hospital" does not include either of the following:

(a) A federal hospital;

(b) A hospital that does not charge any of its patients for its services.

~~(E)~~(F) "Hospital care assurance program" means the program established under sections 5112.01 to 5112.21 of the Revised Code.

~~(F)~~(G) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(G)~~(H) "Medicare" means the program established under Title 105754
XVIII of the Social Security Act. 105755

~~(H)~~(I) "State fiscal year" means the twelve-month period 105756
beginning the first day of July of a calendar year and ending the 105757
last day of June of the following calendar year. 105758

~~(I)~~(J)(1) Except as provided in divisions ~~(I)~~(J)(2) and (3) 105759
of this section, "total facility costs" means the total costs to a 105760
hospital for all care provided to all patients, including the 105761
direct, indirect, and overhead costs to the hospital of all 105762
services, supplies, equipment, and capital related to the care of 105763
patients, regardless of whether patients are enrolled in a health 105764
insuring corporation. 105765

(2) "Total facility costs" excludes all of the following of a 105766
hospital's costs as shown on the cost-reporting data used for 105767
purposes of determining the hospital's assessment under section 105768
5112.41 of the Revised Code: 105769

(a) Skilled nursing services provided in distinct-part 105770
nursing facility units; 105771

(b) Home health services; 105772

(c) Hospice services; 105773

(d) Ambulance services; 105774

(e) Renting durable medical equipment; 105775

(f) Selling durable medical equipment. 105776

(3) "Total facility costs" excludes any costs excluded from a 105777
hospital's total facility costs pursuant to rules, if any, adopted 105778
under division ~~(B)~~(1) of section 5112.46 of the Revised Code. 105779

Sec. 5112.41. (A) For the purposes specified in section 105780
5112.45 of the Revised Code and subject to section 5112.48 of the 105781
Revised Code, there is hereby imposed an assessment on all 105782

hospitals each assessment program year. The amount of a hospital's 105783
assessment for an assessment program year shall equal, ~~except as~~ 105784
~~provided in division (D) of this section,~~ the applicable 105785
assessment percentage specified in division (B) of this section of 105786
the hospital's total facility costs for the period of time 105787
specified in division ~~(C)~~(B) of this section. The amount of a 105788
hospital's total facility costs shall be derived from 105789
cost-reporting data for the hospital submitted to the department 105790
of job and family services for purposes of the hospital care 105791
assurance program. If a hospital has not submitted that 105792
cost-reporting data to the department, the amount of a hospital's 105793
total facility costs shall be derived from other financial 105794
statements that the hospital shall provide to the department as 105795
directed by the department. The cost-reporting data or financial 105796
statements used to determine a hospital's assessment is subject to 105797
the same type of adjustments made to the cost-reporting data under 105798
the hospital care assurance program. 105799

(B) ~~The percentage specified in this division is the~~ 105800
~~following:~~ 105801

~~(1) For the first assessment program year beginning after the~~ 105802
~~effective date of this section, one and fifty two hundredths per~~ 105803
~~cent:~~ 105804

~~(2) Subject to division (D) of this section, for the second~~ 105805
~~assessment program year after the effective date of this section~~ 105806
~~and each successive assessment program year, one and sixty one~~ 105807
~~hundredths per cent.~~ 105808

~~(C)~~ The period of time specified in this division is the 105809
hospital's cost reporting period that ends in the state fiscal 105810
year that ends in the federal fiscal year that precedes the 105811
federal fiscal year that precedes the assessment program year for 105812
which the assessment is imposed. 105813

~~(D) The department of job and family services shall apply to the United States secretary of health and human services for a waiver under 42 U.S.C. 1396b(w)(3)(E) to establish, for the second assessment program year after the effective date of this section and each successive assessment program year, a tiered assessment on hospitals' total facility costs instead of applying the percentage specified in division (B)(2) of this section. If the United States secretary denies the waiver, the department shall apply the percentage specified in division (B)(2) of this section for the second assessment program year after the effective date of this section and each successive assessment program year.~~

~~(E)~~(C) The assessment imposed by this section on a hospital is in addition to the assessment imposed by section 5112.06 of the Revised Code.

Sec. 5112.46. (A) The director of job and family services ~~may~~ shall adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code as necessary to implement sections 5112.40 to 5112.48 of the Revised Code, including rules that specify the percentage of hospitals' total facility costs to be used in calculating hospitals' assessments under section 5112.41 of the Revised Code.

(B) The rules adopted under this section may ~~provide~~ do the following:

(1) Provide that a hospital's total facility costs for the purpose of the assessment under section 5112.41 of the Revised Code exclude any of the following:

~~(1)~~(a) A hospital's costs associated with providing care to recipients of any of the following:

~~(a)~~(i) The medicaid program;

~~(b)~~(ii) The medicare program;

~~(e)(iii)~~ The disability financial assistance program 105844
established under Chapter 5115. of the Revised Code; 105845

~~(d)(iv)~~ The program for medically handicapped children 105846
established under section 3701.023 of the Revised Code; 105847

~~(e)(v)~~ Services provided under the maternal and child health 105848
services block grant established under Title V of the Social 105849
Security Act. 105850

~~(2)(b)~~ Any other category of hospital costs the director 105851
deems appropriate under federal law and regulations governing the 105852
medicaid program. 105853

(2) Subject to division (C) of this section, provide for the 105854
percentage of hospitals' total facility costs used in calculating 105855
hospitals' assessments to vary for different hospitals; 105856

(3) To reduce hospitals' cash flow difficulties, establish a 105857
schedule for hospitals to pay their assessments that is different 105858
from the schedule established under section 5112.43 of the Revised 105859
Code. 105860

(C) Before adopting rules authorized by division (B)(2) of 105861
this section that establish varied percentages to be used in 105862
calculating hospitals' assessments, the director shall obtain a 105863
waiver from the United States secretary of health and human 105864
services under section 1903(w)(3)(E) of the "Social Security Act," 105865
105 Stat. 1796 (1991), 42 U.S.C. 1396b(w)(3)(E), as amended, if 105866
the varied percentages would cause the assessments to not be 105867
imposed uniformly. 105868

Sec. 5112.99. (A) The director of job and family services 105869
shall impose a penalty for each day that a hospital fails to 105870
report the information required under section 5112.04 of the 105871
Revised Code on or before the dates specified in that section. The 105872
amount of the penalty shall be established by the director in 105873

rules adopted under section 5112.03 of the Revised Code. 105874

(B) In addition to any other remedy available to the 105875
department of job and family services under law to collect unpaid 105876
assessments and transfers under sections 5112.01 to 5112.21 of the 105877
Revised Code, the director shall impose a penalty of ten per cent 105878
of the amount due on any hospital that fails to pay assessments or 105879
make intergovernmental transfers by the dates required by rules 105880
adopted under section 5112.03 of the Revised Code. 105881

(C) In addition to any other remedy available to the 105882
department of job and family services under law to collect unpaid 105883
assessments imposed under section 5112.41 of the Revised Code, the 105884
director shall impose a penalty of ten per cent of the amount due 105885
on any hospital that fails to pay the assessment by the date it is 105886
due. 105887

(D) The director shall waive the penalties provided for in 105888
~~divisions (A) and (B)~~ of this section for good cause shown by the 105889
hospital. 105890

~~(D)~~(E) All penalties imposed under this section shall be 105891
deposited into the health care administration fund created by 105892
section 5111.94 of the Revised Code. 105893

Sec. 5112.991. The department of job and family services may 105894
offset the amount of a hospital's unpaid penalty imposed under 105895
section 5112.99 of the Revised Code from one or more payments due 105896
the hospital under the medicaid program. The total amount that may 105897
be offset from one or more payments shall not exceed the amount of 105898
the unpaid penalty. 105899

Sec. 5119.01. The director of mental health is the chief 105900
executive and administrative officer of the department of mental 105901
health. The director may establish procedures for the governance 105902
of the department, conduct of its employees and officers, 105903

performance of its business, and custody, use, and preservation of departmental records, papers, books, documents, and property. Whenever the Revised Code imposes a duty upon or requires an action of the department or any of its institutions, the director shall perform the action or duty in the name of the department, except that the medical director appointed pursuant to section 5119.07 of the Revised Code shall be responsible for decisions relating to medical diagnosis, treatment, rehabilitation, quality assurance, and the clinical aspects of the following: licensure of hospitals and residential facilities, research, community mental health plans, and delivery of mental health services.

The director shall:

(A) Adopt rules for the proper execution of the powers and duties of the department with respect to the institutions under its control, and require the performance of additional duties by the officers of the institutions as necessary to fully meet the requirements, intents, and purposes of this chapter. In case of an apparent conflict between the powers conferred upon any managing officer and those conferred by such sections upon the department, the presumption shall be conclusive in favor of the department.

(B) Adopt rules for the nonpartisan management of the institutions under the department's control. An officer or employee of the department or any officer or employee of any institution under its control who, by solicitation or otherwise, exerts influence directly or indirectly to induce any other officer or employee of the department or any of its institutions to adopt the exerting officer's or employee's political views or to favor any particular person, issue, or candidate for office shall be removed from the exerting officer's or employee's office or position, by the department in case of an officer or employee, and by the governor in case of the director.

(C) Appoint such employees, including the medical director,

as are necessary for the efficient conduct of the department, and 105936
prescribe their titles and duties; 105937

(D) Prescribe the forms of affidavits, applications, medical 105938
certificates, orders of hospitalization and release, and all other 105939
forms, reports, and records that are required in the 105940
hospitalization or admission and release of all persons to the 105941
institutions under the control of the department, or are otherwise 105942
required under this chapter or Chapter 5122. of the Revised Code; 105943

(E) Contract with hospitals licensed by the department under 105944
section 5119.20 of the Revised Code for the care and treatment of 105945
mentally ill patients, or with persons, organizations, or agencies 105946
for the custody, evaluation, supervision, care, or treatment of 105947
mentally ill persons receiving services elsewhere than within the 105948
enclosure of a hospital operated under section 5119.02 of the 105949
Revised Code; 105950

(F) Exercise the powers and perform the duties relating to 105951
community mental health facilities and services that are assigned 105952
to the director under this chapter and Chapter 340. of the Revised 105953
Code; 105954

(G) Develop and implement clinical evaluation and monitoring 105955
of services that are operated by the department; 105956

(H) ~~At the director's discretion, adopt rules establishing 105957
standards for the adequacy of services provided by community 105958
mental health facilities, and certify the compliance of such 105959
facilities with the standards for the purpose of authorizing their 105960
participation in the health care plans of health insuring 105961
corporations under Chapter 1751. and sickness and accident 105962
insurance policies issued under Chapter 3923. of the Revised Code. 105963
The director shall cease to certify such compliance two years 105964
after June 6, 2001. The director shall rescind the rules after the 105965
date the director ceases to certify such compliance. 105966~~

~~(I)~~ Adopt rules establishing standards for the performance of evaluations by a forensic center or other psychiatric program or facility of the mental condition of defendants ordered by the court under section 2919.271, or 2945.371 of the Revised Code, and for the treatment of defendants who have been found incompetent to stand trial and ordered by the court under section 2945.38, 2945.39, 2945.401, or 2945.402 of the Revised Code to receive treatment in facilities;

~~(J)~~(I) On behalf of the department, have the authority and responsibility for entering into contracts and other agreements;

~~(K)~~(J) Prepare and publish regularly a state mental health plan that describes the department's philosophy, current activities, and long-term and short-term goals and activities;

~~(L)~~(K) Adopt rules in accordance with Chapter 119. of the Revised Code specifying the supplemental services that may be provided through a trust authorized by section 5815.28 of the Revised Code;

~~(M)~~(L) Adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the maintenance and distribution to a beneficiary of assets of a trust authorized by section 5815.28 of the Revised Code.

Sec. 5119.012. The department of mental health has all the authority necessary to carry out its powers and duties under this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code.

Sec. 5119.013. Pursuant to the director of mental health's authority under division (I) of section 5119.01 of the Revised Code, the director may contract with agencies, institutions, and other entities both public and private, as necessary for the department of mental health to carry out its duties under this

chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code. Chapter 125. of the Revised Code does not apply to contracts the director enters into under this section for services provided to individuals with mental illness by agencies, institutions, and other entities not owned or operated by the department of mental health.

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Sec. 5119.02. (A) The department of mental health shall maintain, operate, manage, and govern state institutions for the care and treatment of mentally ill persons.

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(B) The department of mental health may designate all institutions under its jurisdiction by appropriate respective names, regardless of present statutory designation.

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(C) Subject to section 5139.08 and pursuant to Chapter 5122. of the Revised Code and on the agreement of the departments of mental health and youth services, the department of mental health may receive from the department of youth services for psychiatric observation, diagnosis, or treatment any person eighteen years of age or older in the custody of the department of youth services. The departments shall enter into a written agreement specifying the procedures necessary to implement this division.

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(D) The department of mental health shall ~~provide and~~ designate hospitals, facilities, and community mental health agencies for the custody, care, and special treatment of, and authorize payment for such custody, care, and special treatment provided to, persons who are charged with a crime and who are found incompetent to stand trial or not guilty by reason of insanity.

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(E) The department of mental health may do all of the following:

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(1) Require reports from the managing officer of any

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institution under the department's jurisdiction, relating to the 106027
admission, examination, comprehensive evaluation, diagnosis, 106028
release, or discharge of any patient; 106029

(2) Visit each institution regularly to review its operations 106030
and to investigate complaints made by any patient or by any person 106031
on behalf of a patient, provided these duties may be performed by 106032
a person designated by the director. 106033

(F) The department of mental health shall divide the state 106034
into districts for the purpose of designating the institution in 106035
which mentally ill persons are hospitalized, and may change the 106036
districts. 106037

(G) In addition to the powers expressly conferred, the 106038
department of mental health shall have all powers and authority 106039
necessary for the full and efficient exercise of the executive, 106040
administrative, and fiscal supervision over the state institutions 106041
described in this section. 106042

(H) The department of mental health may provide for the 106043
custody, supervision, control, treatment, and training of mentally 106044
ill persons hospitalized elsewhere than within the enclosure of a 106045
hospital, if the department so determines with respect to any 106046
individual or group of individuals. In all such cases, the 106047
department shall ensure adequate and proper supervision for the 106048
protection of such persons and of the public. 106049

Sec. 5119.06. ~~(A)~~ The department of mental health shall: 106050

~~(1) Establish and~~ (A) To the extent the department has 106051
available resources and in consultation with boards of alcohol, 106052
drug addiction, and mental health services, support a ~~program at~~ 106053
~~the state level to promote a~~ community support system in 106054
accordance with section 340.03 of the Revised Code ~~to be available~~ 106055
~~for every alcohol, drug addiction, and mental health service~~ 106056

~~district~~ on a district or multi-district basis. The department 106057
shall define the essential elements of a community support system, 106058
shall assist in identifying resources, ~~and coordinating the~~ 106059
~~planning, evaluation, and delivery of services to facilitate the~~ 106060
~~access of mentally ill people to public services at federal,~~ 106061
~~state, and local levels, and shall operate~~ may prioritize support 106062
for one or more of the elements. 106063

~~(B) Operate~~ inpatient and other mental health services 106064
~~pursuant to the approved community mental health plan.~~ 106065

~~(2)~~; 106066

(C) Provide training, consultation, and technical assistance 106067
regarding mental health programs and services and appropriate 106068
prevention and mental health promotion activities, including those 106069
that are culturally sensitive, to employees of the department, 106070
community mental health agencies and boards, and other agencies 106071
providing mental health services; 106072

~~(3) Promote~~ (D) To the extent the department has available 106073
resources, promote and support a full range of mental health 106074
services that are available and accessible to all residents of 106075
this state, especially for severely mentally disabled children, 106076
adolescents, and adults, and other special target populations, 106077
including racial and ethnic minorities, as determined by the 106078
department. ~~;~~ 106079

~~(4)~~(E) Design and set criteria for the determination of 106080
severe mental disability; 106081

~~(5)~~(F) Establish standards for evaluation of mental health 106082
programs; 106083

~~(6)~~(G) Promote, direct, conduct, and coordinate scientific 106084
research, taking ethnic and racial differences into consideration, 106085
concerning the causes and prevention of mental illness, methods of 106086
providing effective services and treatment, and means of enhancing 106087

the mental health of all residents of this state; 106088

~~(7)~~(H) Foster the establishment and availability of 106089
vocational rehabilitation services and the creation of employment 106090
opportunities for consumers of mental health services, including 106091
members of racial and ethnic minorities; 106092

~~(8)~~(I) Establish a program to protect and promote the rights 106093
of persons receiving mental health services, including the 106094
issuance of guidelines on informed consent and other rights; 106095

~~(9)~~(J) Establish, in consultation with board of alcohol, drug 106096
addiction, and mental health services representatives and after 106097
consideration of the recommendations of the medical director, 106098
guidelines for the development of community mental health plans 106099
and the review and approval or disapproval of such plans submitted 106100
pursuant to section 340.03 of the Revised Code; 106101

~~(10)~~(K) Promote the involvement of persons who are receiving 106102
or have received mental health services, including families and 106103
other persons having a close relationship to a person receiving 106104
mental health services, in the planning, evaluation, delivery, and 106105
operation of mental health services; 106106

~~(11)~~(L) Notify and consult with the relevant constituencies 106107
that may be affected by rules, standards, and guidelines issued by 106108
the department of mental health. These constituencies shall 106109
include consumers of mental health services and their families, 106110
and may include public and private providers, employee 106111
organizations, and others when appropriate. Whenever the 106112
department proposes the adoption, amendment, or rescission of 106113
rules under Chapter 119. of the Revised Code, the notification and 106114
consultation required by this division shall occur prior to the 106115
commencement of proceedings under Chapter 119. The department 106116
shall adopt rules under Chapter 119. of the Revised Code that 106117
establish procedures for the notification and consultation 106118

required by this division. 106119

~~(12)(M)~~ In cooperation with board of alcohol, drug addiction, 106120
and mental health services representatives, provide training 106121
regarding the provision of community-based mental health services 106122
to those department employees who are utilized in state-operated, 106123
community-based mental health services; 106124

~~(13)(N)~~ Provide consultation to the department of 106125
rehabilitation and correction concerning the delivery of mental 106126
health services in state correctional institutions+. 106127

~~(B) The department of mental health may negotiate and enter 106128
into agreements with other agencies and institutions, both public 106129
and private, for the joint performance of its duties. 106130~~

Sec. 5119.16. As used in this section, "free clinic" has the 106131
same meaning as in section 2305.2341 of the Revised Code. 106132

(A) ~~The Subject to section 125.024 of the Revised Code, the 106133
department of mental health may provide certain goods and services 106134
for the department of mental health, the department of 106135
developmental disabilities, the department of rehabilitation and 106136
correction, the department of youth services, and other state, 106137
county, or municipal agencies requesting such goods and services 106138
when the department of mental health determines that it is in the 106139
public interest, and considers it advisable, to provide these 106140
goods and services. The Subject to section 125.024 of the Revised 106141
Code, the department of mental health also may provide goods and 106142
services to agencies operated by the United States government and 106143
to public or private nonprofit agencies, other than free clinics, 106144
that are funded in whole or in part by the state if the public or 106145
private nonprofit agencies are designated for participation in 106146
this program by the director of mental health for community mental 106147
health agencies, the director of developmental disabilities for 106148
community mental retardation and developmental disabilities 106149~~

agencies, the director of rehabilitation and correction for 106150
community rehabilitation and correction agencies, or the director 106151
of youth services for community youth services agencies. 106152

Designated community agencies shall receive goods and 106153
services ~~through the department of mental health as described in~~ 106154
division (A) of this section only in those cases where the 106155
designating state agency certifies that providing such goods and 106156
services to the agency will conserve public resources to the 106157
benefit of the public and where the provision of such goods and 106158
services is considered feasible by the department of mental 106159
health. 106160

(B) The department of mental health may permit free clinics 106161
to purchase certain goods and services to the extent the purchases 106162
fall within the exemption to the Robinson-Patman Act, 15 U.S.C. 13 106163
et seq., applicable to nonprofit institutions, in 15 U.S.C. 13c, 106164
as amended. 106165

(C) The goods and services that may be provided ~~by the~~ 106166
~~department of mental health~~ under divisions (A) and (B) of this 106167
section may include: 106168

(1) Procurement, storage, processing, and distribution of 106169
food and professional consultation on food operations; 106170

(2) Procurement, storage, and distribution of medical and 106171
laboratory supplies, dental supplies, medical records, forms, 106172
optical supplies, and sundries, subject to section 5120.135 of the 106173
Revised Code; 106174

(3) Procurement, storage, repackaging, distribution, and 106175
dispensing of drugs, the provision of professional pharmacy 106176
consultation, and drug information services; 106177

(4) Other goods and services. 106178

(D) ~~The~~ Subject to section 125.024 of the Revised Code, the 106179

department of mental health may provide the goods and services 106180
designated in division (C) of this section to its institutions and 106181
to state-operated community-based mental health services. 106182

(E) After consultation with and advice from the director of 106183
developmental disabilities, the director of rehabilitation and 106184
correction, and the director of youth services, the department of 106185
mental health may, subject to section 125.024 of the Revised Code, 106186
provide the goods and services designated in division (C) of this 106187
section to the department of developmental disabilities, the 106188
department of rehabilitation and correction, and the department of 106189
youth services. 106190

(F) The cost of administration of this section shall be 106191
determined by the department of mental health and paid by the 106192
agencies or free clinics receiving the goods and services to the 106193
department for deposit in the state treasury to the credit of the 106194
mental health fund, which is hereby created. The fund shall be 106195
used to pay the cost of administration of this section ~~to the~~ 106196
~~department.~~ 106197

(G) Whenever a state agency fails to make a payment for goods 106198
and services provided under this section within thirty-one days 106199
after the date the payment was due, the office of budget and 106200
management may transfer moneys from the state agency to the 106201
department of mental health. The amount transferred shall not 106202
exceed the amount of overdue payments. Prior to making a transfer 106203
under this division, the office of budget and management shall 106204
apply any credits the state agency has accumulated in payments for 106205
goods and services provided under this section. 106206

(H) ~~Purchases~~ Except as specified in section 125.024 of the 106207
Revised Code, purchases of goods and services under this section 106208
are not subject to section 307.86 of the Revised Code. 106209

Sec. 5119.18. There is hereby created in the state treasury 106210

the department of mental health trust fund. Not later than the 106211
first day of September of each year, the director of mental health 106212
shall certify to the director of budget and management the amount 106213
of all of the unexpended, unencumbered balances of general revenue 106214
fund appropriations made to the department of mental health for 106215
the previous fiscal year, excluding funds appropriated for rental 106216
payments to the Ohio public facilities commission. On receipt of 106217
the certification, the director of budget and management shall 106218
transfer cash to the trust fund in an amount up to, but not 106219
exceeding, the total of the amounts certified by the director of 106220
mental health. 106221

In addition, the trust fund shall receive all amounts, 106222
subject to any provisions in bond documents, received from the 106223
sale or lease of lands and facilities by the department. 106224

All moneys in the trust fund shall be used by the department 106225
of mental health ~~for mental health purposes specified in division~~ 106226
~~(A) of section 5119.06 of the Revised Code to pay for expenditures~~ 106227
~~the department incurs in performing any of its duties under this~~ 106228
~~chapter.~~ The use of moneys in the trust fund pursuant to this 106229
section does not represent an ongoing commitment to the 106230
continuation of the trust fund or to the use of moneys in the 106231
trust fund. 106232

Sec. 5119.22. (A)(1) As used in this section and sections 106233
5119.221 and 5119.222 of the Revised Code: 106234

(a) "Community mental health agency" means a community mental 106235
health agency as defined in division (H) of section 5122.01 of the 106236
Revised Code, ~~or, until two years after the effective date of this~~ 106237
~~amendment, a community mental health facility certified by the~~ 106238
~~department of mental health pursuant to division (H) of section~~ 106239
~~5119.01 of the Revised Code.~~ 106240

(b) "Community mental health services" means any of the 106241

services listed in section 340.09 of the Revised Code. 106242

(c) "Personal care services" means services including, but 106243
not limited to, the following: 106244

(i) Assisting residents with activities of daily living; 106245

(ii) Assisting residents with self-administration of 106246
medication in accordance with rules adopted under this section; 106247

(iii) Preparing special diets, other than complex therapeutic 106248
diets, for residents pursuant to the instructions of a physician 106249
or a licensed dietitian, in accordance with rules adopted under 106250
this section. 106251

"Personal care services" does not include "skilled nursing 106252
care" as defined in section 3721.01 of the Revised Code. A 106253
facility need not provide more than one of the services listed in 106254
division (A)(1)(c) of this section to be considered to be 106255
providing personal care services. 106256

(d) "Residential facility" means a publicly or privately 106257
operated home or facility that provides one of the following: 106258

(i) Room and board, personal care services, and community 106259
mental health services to one or more persons with mental illness 106260
or persons with severe mental disabilities who are referred by or 106261
are receiving community mental health services from a community 106262
mental health agency, hospital, or practitioner; 106263

(ii) Room and board and personal care services to one or two 106264
persons with mental illness or persons with severe mental 106265
disabilities who are referred by or are receiving community mental 106266
health services from a community mental health agency, hospital, 106267
or practitioner; 106268

(iii) Room and board to five or more persons with mental 106269
illness or persons with severe mental disabilities who are 106270
referred by or are receiving community mental health services from 106271

a community mental health agency, hospital, or practitioner. 106272

The following are not residential facilities: the residence 106273
of a relative or guardian of a mentally ill individual, a hospital 106274
subject to licensure under section 5119.20 of the Revised Code, a 106275
residential facility as defined in section 5123.19 of the Revised 106276
Code, a facility providing care for a child in the custody of a 106277
public children services agency or a private agency certified 106278
under section 5103.03 of the Revised Code, a foster care facility 106279
subject to section 5103.03 of the Revised Code, an adult care 106280
facility subject to licensure under ~~Chapter 3722.~~ sections 5119.70 106281
to 5119.88 of the Revised Code, and a nursing home, residential 106282
care facility, or home for the aging subject to licensure under 106283
section 3721.02 of the Revised Code. 106284

(2) Nothing in division (A)(1)(d) of this section shall be 106285
construed to permit personal care services to be imposed on a 106286
resident who is capable of performing the activity in question 106287
without assistance. 106288

(3) Except in the case of a residential facility described in 106289
division (A)(1)(d)(i) of this section, members of the staff of a 106290
residential facility shall not administer medication to residents, 106291
all medication taken by residents of a residential facility shall 106292
be self-administered, and no person shall be admitted to or 106293
retained by a residential facility unless the person is capable of 106294
taking the person's own medication and biologicals, as determined 106295
in writing by the person's personal physician. Members of the 106296
staff of a residential facility may do any of the following: 106297

(a) Remind a resident when to take medication and watch to 106298
ensure that the resident follows the directions on the container; 106299

(b) Assist a resident in the self-administration of 106300
medication by taking the medication from the locked area where it 106301
is stored, in accordance with rules adopted pursuant to this 106302

section, and handing it to the resident. If the resident is 106303
physically unable to open the container, a staff member may open 106304
the container for the resident. 106305

(c) Assist a physically impaired but mentally alert resident, 106306
such as a resident with arthritis, cerebral palsy, or Parkinson's 106307
disease, in removing oral or topical medication from containers 106308
and in consuming or applying the medication, upon request by or 106309
with the consent of the resident. If a resident is physically 106310
unable to place a dose of medicine to the resident's mouth without 106311
spilling it, a staff member may place the dose in a container and 106312
place the container to the mouth of the resident. 106313

(B) Every person operating or desiring to operate a 106314
residential facility shall apply for licensure of the facility to 106315
the department of mental health and shall send a copy of the 106316
application to the board of alcohol, drug addiction, and mental 106317
health services whose service district includes the county in 106318
which the person operates or desires to operate a residential 106319
facility. The board shall review such applications and recommend 106320
approval or disapproval to the department. Each recommendation 106321
shall be consistent with the board's community mental health plan. 106322

(C) The department of mental health shall inspect and license 106323
the operation of residential facilities. The department shall 106324
consider the past record of the facility and the applicant or 106325
licensee in arriving at its licensure decision. The department may 106326
issue full, probationary, and interim licenses. A full license 106327
shall expire two years after the date of issuance, a probationary 106328
license shall expire in a shorter period of time as prescribed by 106329
rule adopted by the director of mental health pursuant to Chapter 106330
119. of the Revised Code, and an interim license shall expire 106331
ninety days after the date of issuance. The department may refuse 106332
to issue or renew and may revoke a license if it finds the 106333
facility is not in compliance with rules adopted by the department 106334

pursuant to division (G) of this section or if any facility 106335
operated by the applicant or licensee has had repeated violations 106336
of statutes or rules during the period of previous licenses. 106337
Proceedings initiated to deny applications for full or 106338
probationary licenses or to revoke such licenses are governed by 106339
Chapter 119. of the Revised Code. 106340

(D) The department may issue an interim license to operate a 106341
residential facility if both of the following conditions are met: 106342

(1) The department determines that the closing of or the need 106343
to remove residents from another residential facility has created 106344
an emergency situation requiring immediate removal of residents 106345
and an insufficient number of licensed beds are available. 106346

(2) The residential facility applying for an interim license 106347
meets standards established for interim licenses in rules adopted 106348
by the director under Chapter 119. of the Revised Code. 106349

An interim license shall be valid for ninety days and may be 106350
renewed by the director no more than twice. Proceedings initiated 106351
to deny applications for or to revoke interim licenses under this 106352
division are not subject to Chapter 119. of the Revised Code. 106353

(E) The department of mental health may conduct an inspection 106354
of a residential facility: 106355

(1) Prior to the issuance of a license to a prospective 106356
operator; 106357

(2) Prior to the renewal of any operator's license; 106358

(3) To determine whether a facility has completed a plan of 106359
correction required pursuant to this division and corrected 106360
deficiencies to the satisfaction of the department and in 106361
compliance with this section and rules adopted pursuant to it; 106362

(4) Upon complaint by any individual or agency; 106363

(5) At any time the director considers an inspection to be 106364

necessary in order to determine whether a residential facility is 106365
in compliance with this section and rules adopted pursuant to this 106366
section. 106367

In conducting inspections the department may conduct an 106368
on-site examination and evaluation of the residential facility, 106369
its personnel, activities, and services. The department shall have 106370
access to examine all records, accounts, and any other documents 106371
relating to the operation of the residential facility, and shall 106372
have access to the facility in order to conduct interviews with 106373
the operator, staff, and residents. Following each inspection and 106374
review, the department shall complete a report listing any 106375
deficiencies, and including, when appropriate, a time table within 106376
which the operator shall correct the deficiencies. The department 106377
may require the operator to submit a plan of correction describing 106378
how the deficiencies will be corrected. 106379

(F) No person shall do any of the following: 106380

(1) Operate a residential facility unless the facility holds 106381
a valid license; 106382

(2) Violate any of the conditions of licensure after having 106383
been granted a license; 106384

(3) Interfere with a state or local official's inspection or 106385
investigation of a residential facility; 106386

(4) Violate any of the provisions of this section or any 106387
rules adopted pursuant to this section. 106388

(G) The director shall adopt and may amend and rescind rules 106389
pursuant to Chapter 119. of the Revised Code, prescribing minimum 106390
standards for the health, safety, adequacy, and cultural 106391
specificity and sensitivity of treatment of and services for 106392
persons in residential facilities; establishing procedures for the 106393
issuance, renewal or revocation of the licenses of such 106394
facilities; establishing the maximum number of residents of a 106395

facility; establishing the rights of residents and procedures to 106396
protect such rights; and requiring an affiliation agreement 106397
approved by the board between a residential facility and a mental 106398
health agency. Such affiliation agreement must be consistent with 106399
the residential portion of the community mental health plan 106400
submitted pursuant to section 340.03 of the Revised Code. 106401

(H) The department may investigate any facility that has been 106402
reported to the department or that the department has reasonable 106403
cause to believe is operating as a residential facility without a 106404
valid license. 106405

(I) The department may withhold the source of any complaint 106406
reported as a violation of this act when the department determines 106407
that disclosure could be detrimental to the department's purposes 106408
or could jeopardize the investigation. The department may disclose 106409
the source of any complaint if the complainant agrees in writing 106410
to such disclosure and shall disclose the source upon order by a 106411
court of competent jurisdiction. 106412

(J) The director of mental health may petition the court of 106413
common pleas of the county in which a residential facility is 106414
located for an order enjoining any person from operating a 106415
residential facility without a license or from operating a 106416
licensed facility when, in the director's judgment, there is a 106417
real and present danger to the health or safety of any of the 106418
occupants of the facility. The court shall have jurisdiction to 106419
grant such injunctive relief upon a showing that the respondent 106420
named in the petition is operating a facility without a license or 106421
there is a real and present danger to the health or safety of any 106422
residents of the facility. 106423

(K) Whoever violates division (F) of this section or any rule 106424
adopted under this section is liable for a civil penalty of one 106425
hundred dollars for the first offense; for each subsequent 106426
offense, such violator is liable for a civil penalty of five 106427

hundred dollars. If the violator does not pay, the attorney 106428
general, upon the request of the director of mental health, shall 106429
bring a civil action to collect the penalty. Fines collected 106430
pursuant to this section shall be deposited into the state 106431
treasury to the credit of the mental health sale of goods and 106432
services fund. 106433

Sec. 5119.222. No rule adopted under section 5119.22 of the 106434
Revised Code regarding documentation that residential facilities 106435
must submit to the department of mental health or a board of 106436
alcohol, drug addiction, and mental health services shall be more 106437
stringent than a comparable documentation submission requirement 106438
that applies to residential facilities and is established by a 106439
federal regulation promulgated by the United States department of 106440
health and human services. 106441

Sec. 5119.61. Any provision in this chapter that refers to a 106442
board of alcohol, drug addiction, and mental health services also 106443
refers to the community mental health board in an alcohol, drug 106444
addiction, and mental health service district that has a community 106445
mental health board. 106446

The director of mental health with respect to all facilities 106447
and programs established and operated under Chapter 340. of the 106448
Revised Code for mentally ill and emotionally disturbed persons, 106449
shall do all of the following: 106450

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 106451
that may be necessary to carry out the purposes of Chapter 340. 106452
and sections 5119.61 to 5119.63 of the Revised Code. 106453

(1) The rules shall include all of the following: 106454

(a) Rules governing a community mental health agency's 106455
services under section 340.091 of the Revised Code to an 106456
individual referred to the agency under division (C)(2) of section 106457

~~173.35~~ 5119.69 of the Revised Code; 106458

(b) For the purpose of division (A)~~(16)~~(15) of section 340.03 106459
of the Revised Code, rules governing the duties of mental health 106460
agencies and boards of alcohol, drug addiction, and mental health 106461
services under section ~~3722.18~~ 5119.88 of the Revised Code 106462
regarding referrals of individuals with mental illness or severe 106463
mental disability to adult care facilities and effective 106464
arrangements for ongoing mental health services for the 106465
individuals. The rules shall do at least the following: 106466

(i) Provide for agencies and boards to participate fully in 106467
the procedures owners and managers of adult care facilities must 106468
follow under division (A) of section ~~3722.18~~ 5119.88 of the 106469
Revised Code; 106470

(ii) Specify the manner in which boards are accountable for 106471
ensuring that ongoing mental health services are effectively 106472
arranged for individuals with mental illness or severe mental 106473
disability who are referred by the board or mental health agency 106474
under contract with the board to an adult care facility. 106475

(c) Rules governing a board of alcohol, drug addiction, and 106476
mental health services when making a report to the director of 106477
mental health under section ~~3722.17~~ 5119.87 of the Revised Code 106478
regarding the quality of care and services provided by an adult 106479
care facility to a person with mental illness or a severe mental 106480
disability. 106481

(2) Rules may be adopted to govern the method of paying a 106482
community mental health facility, as defined in section 5111.023 106483
of the Revised Code, for providing services listed in division (B) 106484
of that section. Such rules must be consistent with the contract 106485
entered into between the departments of job and family services 106486
and mental health under section 5111.91 of the Revised Code and 106487
include requirements ensuring appropriate service utilization. 106488

(B) Review and evaluate, and, taking into account the 106489
findings and recommendations of the board of alcohol, drug 106490
addiction, and mental health services of the district served by 106491
the program and the requirements and priorities of the state 106492
mental health plan, including the needs of residents of the 106493
district now residing in state mental institutions, ~~approve and~~ 106494
~~allocate funds to support community programs,~~ and make 106495
recommendations for needed improvements to boards of alcohol, drug 106496
addiction, and mental health services; 106497

(C) ~~Withhold state and federal funds for any program, in~~ 106498
~~whole or in part, from a board of alcohol, drug addiction, and~~ 106499
~~mental health services in the event of failure of that program to~~ 106500
~~comply with Chapter 340. or section 5119.61, 5119.611, 5119.612,~~ 106501
~~or 5119.62 of the Revised Code or rules of the department of~~ 106502
~~mental health. The director shall identify the areas of~~ 106503
~~noncompliance and the action necessary to achieve compliance. The~~ 106504
~~director shall offer technical assistance to the board to achieve~~ 106505
~~compliance. The director shall give the board a reasonable time~~ 106506
~~within which to comply or to present its position that it is in~~ 106507
~~compliance. Before withholding funds, a hearing shall be conducted~~ 106508
~~to determine if there are continuing violations and that either~~ 106509
~~assistance is rejected or the board is unable to achieve~~ 106510
~~compliance. Subsequent to the hearing process, if it is determined~~ 106511
~~that compliance has not been achieved, the director may allocate~~ 106512
~~all or part of the withheld funds to a public or private agency to~~ 106513
~~provide the services not in compliance until the time that there~~ 106514
~~is compliance. The director shall establish rules pursuant to~~ 106515
~~Chapter 119. of the Revised Code to implement this division.~~ 106516

(D) ~~Withhold state or federal funds from a board of alcohol,~~ 106517
~~drug addiction, and mental health services that denies available~~ 106518
~~service on the basis of religion, race, color, creed, sex,~~ 106519
~~national origin, age, disability as defined in section 4112.01 of~~ 106520

~~the Revised Code, developmental disability, or the inability to~~ 106521
~~pay;~~ 106522

~~(E)~~ Provide consultative services to community mental health 106523
agencies with the knowledge and cooperation of the board of 106524
alcohol, drug addiction, and mental health services; 106525

~~(F)~~ Provide (D) At the director's discretion, provide to 106526
boards of alcohol, drug addiction, and mental health services 106527
state or federal funds, in addition to those allocated under 106528
section 5119.62 of the Revised Code, for special programs or 106529
projects the director considers necessary but for which local 106530
funds are not available; 106531

~~(G)~~(E) Establish criteria by which a board of alcohol, drug 106532
addiction, and mental health services reviews and evaluates the 106533
quality, effectiveness, and efficiency of services provided 106534
through its community mental health plan. The criteria shall 106535
include requirements ensuring appropriate service utilization. The 106536
department shall assess a board's evaluation of services and the 106537
compliance of each board with this section, Chapter 340. or 106538
section 5119.62 of the Revised Code, and other state or federal 106539
law and regulations. The department, in cooperation with the 106540
board, periodically shall review and evaluate the quality, 106541
effectiveness, and efficiency of services provided through each 106542
board. The department shall collect information that is necessary 106543
to perform these functions. 106544

~~(H)~~ Develop (F) To the extent the director determines 106545
necessary and after consulting with boards of alcohol, drug 106546
addiction, and mental health services, develop and operate, or 106547
contract for the operation of, a community mental health 106548
information system or systems. 106549

Boards of alcohol, drug abuse, and mental health services 106550
shall submit information requested by the department in the form 106551

and manner prescribed by the department. Information collected by 106552
the department shall include, but not be limited to, all of the 106553
following: 106554

(1) Information regarding units of services provided in whole 106555
or in part under contract with a board, including diagnosis and 106556
special needs, demographic information, the number of units of 106557
service provided, past treatment, financial status, and service 106558
dates in accordance with rules adopted by the department in 106559
accordance with Chapter 119. of the Revised Code; 106560

(2) Financial information other than price or price-related 106561
data regarding expenditures of boards and community mental health 106562
agencies, including units of service provided, budgeted and actual 106563
expenses by type, and sources of funds. 106564

Boards shall submit the information specified in division 106565
~~(H)~~(F)(1) of this section no less frequently than annually for 106566
each client, and each time the client's case is opened or closed. 106567
The department shall not collect any personal information from the 106568
boards except as required or permitted by state or federal law for 106569
purposes related to payment, health care operations, program and 106570
service evaluation, reporting activities, research, system 106571
administration, and oversight. 106572

~~(I)~~(G) Review each board's community mental health plan 106573
submitted pursuant to section 340.03 of the Revised Code and 106574
approve or disapprove it in whole or in part. Periodically, in 106575
consultation with representatives of boards and after considering 106576
the recommendations of the medical director, the director shall 106577
issue criteria for determining when a plan is complete, criteria 106578
for plan approval or disapproval, and provisions for conditional 106579
approval. The factors that the director considers may include, but 106580
are not limited to, the following: 106581

(1) The mental health needs of all persons residing within 106582

the board's service district, especially severely mentally disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;

(3) The adequacy of the board's accounting for the expenditure of funds.

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.

If the approval of a plan remains in dispute ~~thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire~~, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. ~~Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire, the~~ The director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

Sec. 5119.611. (A) A community mental health agency that seeks certification of its community mental health services shall submit an application to the director of mental health. On receipt

of the application, the director may visit and shall evaluate the 106614
agency to determine whether its services satisfy the standards 106615
established by rules adopted under division (C) of this section. 106616
The director shall make the evaluation, and, if the director 106617
visits the agency, shall make the visit, in cooperation with the 106618
board of alcohol, drug addiction, and mental health services with 106619
which the agency seeks to contract under division (A)~~(8)~~(7)(a) of 106620
section 340.03 of the Revised Code. 106621

~~If (B)(1) Subject to division (B)(2) of this section, the~~ 106622
director shall determine whether the services of an applicant's 106623
community mental health agency satisfy the standards for 106624
certification of the services. 106625

If the director determines that a community mental health 106626
agency's services satisfy the standards for certification and the 106627
agency has paid the fee required under division ~~(B)~~(D) of this 106628
section, the director shall certify the services. 106629

~~If (2) If an applicant submits to the director evidence of~~ 106630
holding national accreditation from the joint commission, the 106631
council on accreditation of rehabilitation facilities, or the 106632
council on accreditation, the director shall accept that 106633
accreditation as evidence of the applicant satisfying the 106634
standards for certification of the community mental health 106635
agency's services. The director shall certify or recertify the 106636
agency's services without any further evaluation of the services. 106637

(C) If the director determines that a community mental health 106638
agency's services do not satisfy the standards for certification, 106639
the director shall identify the areas of noncompliance, specify 106640
what action is necessary to satisfy the standards, and offer 106641
technical assistance to the board of alcohol, drug addiction, and 106642
mental health services so that the board may assist the agency in 106643
satisfying the standards. The director shall give the agency a 106644
reasonable time within which to demonstrate that its services 106645

satisfy the standards or to bring the services into compliance 106646
with the standards. If the director concludes that the services 106647
continue to fail to satisfy the standards, the director may 106648
request that the board reallocate the funds for the community 106649
mental health services the agency was to provide to another 106650
community mental health agency whose community mental health 106651
services satisfy the standards. If the board does not reallocate 106652
those funds in a reasonable period of time, the director may 106653
withhold state and federal funds for the community mental health 106654
services and allocate those funds directly to a community mental 106655
health agency whose community mental health services satisfy the 106656
standards. 106657

~~(B)~~(D) Each community mental health agency seeking 106658
certification of its community mental health services under this 106659
section shall pay a fee for the certification ~~review~~ required by 106660
this section. Fees shall be paid into the sale of goods and 106661
services fund created pursuant to section 5119.161 of the Revised 106662
Code. 106663

~~(C)~~(E) The director shall adopt rules in accordance with 106664
Chapter 119. of the Revised Code to implement this section. The 106665
rules shall do all of the following: 106666

(1) Establish certification standards for community mental 106667
health services, including assertive community treatment and 106668
intensive home-based mental health services, that are consistent 106669
with nationally recognized applicable standards and facilitate 106670
participation in federal assistance programs. The rules shall 106671
include as certification standards only requirements that improve 106672
the quality of services or the health and safety of clients of 106673
community mental health services. The standards shall address at a 106674
minimum all of the following: 106675

(a) Reporting major unusual incidents to the director; 106676

(b) Procedures for applicants for and clients of community mental health services to file grievances and complaints;	106677
(c) Seclusion;	106678
(d) Restraint;	106679
(e) Development of written policies addressing the rights of clients, including all of the following:	106681
(i) The right to a copy of the written policies addressing client rights;	106682
(ii) The right at all times to be treated with consideration and respect for the client's privacy and dignity;	106683
(iii) The right to have access to the client's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's treatment plan for clear treatment reasons;	106684
(iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client of the client's rights, including the client's rights under Chapter 5122. of the Revised Code if the client is committed to the agency or board.	106685
(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;	106686
(3) Establish the process for certification of community mental health services;	106687
(4) Set the amount of certification review fees based on a portion of the cost of performing the review;	106688
(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.	106689
<u>Sec. 5119.612. No rule adopted under section 5119.611 of the</u>	106690
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Revised Code regarding documentation that community mental health agencies must submit to the department of mental health or a board of alcohol, drug addiction, and mental health services shall be more stringent than a comparable documentation submission requirement that applies to community mental health agencies and is established by a federal regulation promulgated by the United States department of health and human services.

Sec. ~~5119.612~~ 5119.613. The director of mental health shall require that each board of alcohol, drug addiction, and mental health services ensure that each community mental health agency with which it contracts under division (A)~~(8)~~(7)(a) of section 340.03 of the Revised Code to provide community mental health services establish grievance procedures consistent with rules adopted under section 5119.611 of the Revised Code that are available to all applicants for and clients of the community mental health services.

Sec. ~~5119.613~~ 5119.614. For purposes of ~~Chapter 3722-~~ sections 5119.70 to 5119.88 of the Revised Code, the director of mental health shall approve a standardized form to be used in all areas of this state by adult care facilities and boards of alcohol, drug addiction, and mental health services when entering into mental health resident program participation agreements. As part of approving the form, the director shall specify the requirements that adult care facilities must meet in order to be authorized to admit residents who are receiving or are eligible for publicly funded mental health services.

Sec. 5119.62. (A) ~~Upon approving the plan submitted pursuant to section 340.03 of the Revised Code, the director~~ The department of mental health shall ~~authorize the payment of funds~~ establish a methodology for allocating to a board boards of alcohol, drug

addiction, and mental health services ~~from~~ the funds appropriated 106736
~~for such purpose~~ by the general assembly to the department for the 106737
purpose of local mental health systems of care. The ~~director~~ 106738
department shall release all or part of such establish the 106739
methodology after notifying and consulting with relevant 106740
constituencies as required by division (L) of section 5119.06 of 106741
the Revised Code. The methodology may provide for the funds to be 106742
allocated to boards on a district or multi-district basis. Subject 106743
to sections 5119.622 and 5119.623 of the Revised Code, the 106744
department shall allocate the funds as is to the boards in a 106745
manner consistent with the methodology, this section, other state 106746
and federal laws, rules, and regulations, ~~and the approved plan.~~ 106747

(B)(1) ~~The director, in consultation with relevant~~ 106748
~~constituencies as required by division (A)(11) of section 5119.06~~ 106749
~~of the Revised Code, shall establish a formula for allocating to~~ 106750
~~boards of alcohol, drug addiction, and mental health services~~ 106751
~~appropriations from the general revenue fund for the purpose of~~ 106752
~~local management of mental health services as this purpose is~~ 106753
~~identified in appropriations to the department of mental health in~~ 106754
~~appropriation acts. The formula shall include as a factor the~~ 106755
~~number of severely mentally disabled persons residing in each~~ 106756
~~alcohol, drug addiction, and mental health service district and~~ 106757
~~may include other factors, including, but not limited to, the~~ 106758
~~historical utilization of public hospitals by persons in each~~ 106759
~~service district. The appropriations shall be allocated to each~~ 106760
~~board in accordance with the formula but shall be distributed only~~ 106761
~~to those boards that elect the option provided under division~~ 106762
~~(B)(3)(a) of this section.~~ 106763

(2) ~~The director shall allocate each fiscal year to boards of~~ 106764
~~alcohol, drug addiction, and mental health services for services~~ 106765
~~to severely mentally disabled persons a percentage of the~~ 106766
~~appropriations to the department from the general revenue fund for~~ 106767

~~the purposes of hospital personal services, hospital maintenance, and hospital equipment as those purposes are identified in appropriations to the department in appropriation acts. After excluding funds for providing services to persons committed to the department pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, 2945.402, or 5139.08 of the Revised Code, the percentage of those appropriations so allocated each year shall equal ten per cent in fiscal year 1990, twenty per cent in fiscal year 1991, forty per cent in fiscal year 1992, sixty per cent in fiscal year 1993, eighty per cent in fiscal year 1994, and one hundred per cent in fiscal year 1995 and thereafter. The amounts so allocated shall be transferred from the appropriations for the purposes of hospital personal services, hospital maintenance, and hospital equipment and credited to appropriations for the purpose of local management of mental health services. Appropriations for the purpose of local management of mental health services may be used by the department and by the boards. The department may allocate to boards a portion of the funds appropriated by the general assembly to the department for the operation of state hospital services. If the department allocates the funds, the department shall do all of the following:~~

(1) In consultation with the boards:

(a) Annually determine the unit costs of providing state hospital services; and

(b) Establish the methodology for allocating the funds to the boards.

(2) Determine the type of unit costs of providing state hospital services to be included as a factor in the methodology and include that unit cost as a factor in the methodology;

(3) Subject to sections 5119.622 and 5119.623 of the Revised Code, allocate the funds to the boards in a manner consistent with

the methodology, this section, other state and federal laws, 106799
rules, and regulations. 106800

~~(3) No(c)~~ Not later than the first day of April of each year, 106801
the department ~~of mental health~~ shall notify each board ~~of~~ 106802
~~alcohol, drug addiction, and mental health services~~ of the 106803
department's estimate of the amount of ~~general revenue~~ funds to be 106804
allocated to the board under ~~division (D)~~ of this section during 106805
the fiscal year beginning on the next July first. ~~No~~ If the 106806
department makes an allocation under division (B) of this section, 106807
the department shall also notify each board of the unit costs of 106808
providing state hospital services for the upcoming fiscal year as 106809
determined under that division. Not later than the first day of 106810
May of each year, each board shall notify the ~~director~~ department 106811
as to which of the following options it has elected for ~~that~~ the 106812
upcoming fiscal year: 106813

~~(a)(1)~~ The board elects to accept distribution of the amount 106814
allocated to it under ~~division (B)(1)~~ of this section. ~~Any board~~ 106815
~~that makes such an election shall agree to make payments into the~~ 106816
~~risk fund established in division (E) of this section, to make any~~ 106817
~~payments for utilization of state hospitals that are required~~ 106818
~~under division (E)(3) of this section, to use the funds~~ 106819
~~distributed to it within the limitations set forth in division~~ 106820
~~(B)(2) of this section, and to provide the department with a~~ 106821
~~statement of projected utilization of state hospitals and other~~ 106822
~~state-operated services by residents of its service district~~ 106823
~~during the fiscal year.~~ 106824

~~The department shall retain and expend the funds projected to~~ 106825
~~be utilized for state hospitals and other state-operated services~~ 106826
section. Funds distributed to each board shall be used to 106827
supplement and not to supplant other state, local, or federal 106828
funds that are being used to support community-based programs for 106829
severely mentally disabled children, adolescents, and adults, 106830

unless the funds have been specifically designated for the 106831
initiation of programs in accordance with the community mental 106832
health plan developed and submitted under section 340.03 and 106833
approved under section 5119.61 of the Revised Code. 106834
Notwithstanding section 131.33 of the Revised Code, any board may 106835
expend unexpended funds distributed to the board from 106836
appropriations for the purpose of local management of mental 106837
health services in the fiscal year following the fiscal year ~~in~~ 106838
for which the appropriations are made, in accordance with the 106839
approved community mental health plan. 106840

~~(b) The (2) Subject to division (D) of this section, the~~ 106841
board elects not to accept the amount allocated to it under 106842
~~division (B)(1) of this section, authorizes the department to~~ 106843
determine the use of its allocation, and agrees to provide the 106844
department with a statement of projected utilization of state 106845
hospitals and other state-operated services by residents of its 106846
service district during the fiscal year. 106847

~~(4) Beginning with the notification required to be made by~~ 106848
~~May 1, 1995, under division (B)(3) of this section, no (D) No~~ 106849
board of alcohol, drug addiction, and mental health services shall 106850
elect the option in division ~~(B)(3)(b)(C)(2)~~ of this section 106851
unless ~~one~~ all of the following ~~applies~~ apply: 106852

~~(a) The (1) Either the~~ total general revenue funds estimated 106853
by the department to be allocated to the board under this section 106854
for the next fiscal year ~~is~~ are reduced by a substantial amount, 106855
as defined in guidelines adopted by the director of mental health 106856
under division ~~(B)(4)(E)~~ of this section, in comparison to the 106857
amount allocated for the current fiscal year, for reasons not 106858
related to performance. 106859

~~(b) The amount of estimated general revenue funds to be~~ 106860
~~allocated to the board is not reduced by a substantial amount but~~ 106861
or the board has experienced other circumstances specified in the 106862

~~guidelines adopted by the director under division (B)(4) of this section.~~ 106863
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~~The director shall consult with boards of alcohol, drug addiction, and mental health services and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of general revenue funds for the purpose of electing the option under division (B)(3)(b) of this section, and what other circumstances qualify a board to elect that option.~~ 106865
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~~Beginning with the notification required to be made by May 1, 1995, under division (B)(3) of this section, no board shall notify the director that it elects the option under division (B)(3)(b) of this section unless it has conducted~~ (2) The board provides the department written confirmation that the board has received input about the impact that the board's election will have on the mental health system in the board's district from all of the following: 106872
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(a) Individuals who receive mental health services and such individuals' families; 106879
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(b) Boards of county commissioners; 106881

(c) Judges of juvenile and probate courts; 106882

(d) County sheriffs, jail administrators, and other local law enforcement officials. 106883
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(3) Not later than seven days before notifying the department of its election and after providing the department the written confirmation required by division (D)(2) of this section, the board conducts a public hearing on the issue no later than seven days before making the notification. 106885
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~~(C) Boards of alcohol, drug addiction, and mental health services and community mental health agencies~~ (E) For the purpose of division (D)(1) of this section, the director of mental health 106890
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shall consult with the boards and other relevant constituencies to 106893
develop guidelines for determining what constitutes a substantial 106894
reduction of funds and what other circumstances qualify a board to 106895
elect the option in division (C)(2) of this section. 106896

~~(F) No board shall not use state funds for the purpose of~~ 106897
~~influencing employees with respect to unionization. As used in~~ 106898
~~this division, "influencing" means discouraging employees from~~ 106899
~~seeking collective bargaining representation or encouraging~~ 106900
~~employees to decertify a recognized collective bargaining agent.~~ 106901

~~(D) The director shall develop, and review at least annually,~~ 106902
~~a methodology, including the formula developed under division~~ 106903
~~(B)(1) of this section, for distributing and allocating funds to~~ 106904
~~boards. The methodology shall be consistent with state and federal~~ 106905
~~law and regulations. A portion of the funds shall be distributed~~ 106906
~~based on the ratio of the population of the district served by the~~ 106907
~~board to the total population of the state as determined from the~~ 106908
~~federal census or the most recent estimates produced by the United~~ 106909
~~States census bureau's federal state cooperative program for~~ 106910
~~population program series P-26 or the population estimates and~~ 106911
~~projections program series P-25, whichever is most recent.~~ 106912

~~(E)(1) There is hereby created in the state treasury the~~ 106913
~~department of mental health risk fund, which shall receive~~ 106914
~~payments from boards that have elected the option provided in~~ 106915
~~division (B)(3)(a) of this section. All investment earnings of the~~ 106916
~~fund shall be credited to the fund. Moneys in the fund shall be~~ 106917
~~used for the following purposes:~~ 106918

~~(a) To assist boards that elect the option provided in~~ 106919
~~division (B)(3)(a) of this section and that serve service~~ 106920
~~districts in which the costs of utilization of state hospitals by~~ 106921
~~residents in a fiscal year exceed the amount allocated to the~~ 106922
~~district under the formula developed under division (B)(1) of this~~ 106923
~~section. The department shall define such costs by unit and~~ 106924

~~establish them annually after consultation with representatives of
such boards.~~ 106925
106926

~~(b) To make payments to boards that elect the option provided
in division (B)(3)(a) of this section and that experience
conditions of financial hardship, as determined by the director.~~ 106927
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~~The director of mental health, in consultation with
representatives of the boards, shall develop guidelines for the
use of moneys in the risk fund.~~ 106930
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~~(2) On or before the first day of April of each year, the
department shall specify the percentage of the amount of money
allocated under division (B)(1) of this section for distribution
to boards subject to division (E) of this section that each such
board is to transmit to the director of mental health for deposit
in the risk fund for the following fiscal year. On or before the
first day of August of each year, each such board shall transmit
to the director for deposit to the credit of the risk fund the
amount obtained by multiplying that percentage by the amount
allocated for distribution to such boards.~~ 106933
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~~(3) Whenever the costs of utilization of state hospitals by
residents in a district served by a board subject to division (E)
of this section exceed the amount allocated to the district under
the formula, responsibility for payment of the excess costs shall
be borne by the board of that district and the risk fund as
follows:~~ 106943
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~~(a) The board and the risk fund each are responsible for
payment of one half of any costs that exceed one hundred per cent
of the amount allocated under the formula but do not exceed one
hundred five per cent of that amount.~~ 106949
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~~(b) The board is responsible for payment of one fourth, and
the risk fund responsible for three fourths, of any costs that
exceed one hundred five per cent of the amount allocated under the~~ 106953
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~~formula but do not exceed one hundred ten per cent of that amount.~~ 106956

~~(c) The risk fund is responsible for payment of any costs 106957
that exceed one hundred ten per cent of the amount allocated under 106958
the formula but do not exceed one hundred fifteen per cent of that 106959
amount.~~ 106960

~~(d) The board is responsible for payment of all costs that 106961
exceed one hundred fifteen per cent of the amount allocated under 106962
the formula.~~ 106963

~~(F)(G) The department shall charge against the allocation 106964
made to a board under division (B)(1) of this section, if any, any 106965
unreimbursed costs for services provided by the department. ~~This 106966
requirement is not affected by any election a board makes under 106967
division (B)(3) of this section.~~ 106968~~

(H) A board's use of funds allocated under this section is 106969
subject to audit by county, state, and federal authorities. 106970

Sec. 5119.621. (A) As used in this section, "administrative 106971
function" means a function related to one or more of the 106972
following: 106973

(1) Continuous quality improvement; 106974

(2) Utilization review; 106975

(3) Resource development; 106976

(4) Fiscal administration; 106977

(5) General administration; 106978

(6) Any other function related to administration that is 106979
required by Chapter 340. of the Revised Code. 106980

(B) Each board of alcohol, drug addiction, and mental health 106981
services shall submit an annual report to the department of mental 106982
health specifying how the board used ~~state and federal~~ funds 106983
allocated to the board, ~~according to the formula the director of~~ 106984

mental health establishes under section 5119.62 of the Revised Code, for administrative functions in the year preceding the report's submission. The director of mental health shall establish the date by which the report must be submitted each year.

Sec. 5119.622. The director of mental health, in whole or in part, may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under section 5119.62 of the Revised Code if the board fails to comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.621 of the Revised Code or rules of the department of mental health regarding a community mental health service. The director shall identify the areas of noncompliance and the action necessary to achieve compliance. The director shall offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or to present its position that it is in compliance. Before withholding funds, a hearing shall be conducted to determine if there are continuing violations and that either assistance is rejected or the board is unable to achieve compliance. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to a public or private agency to provide the community mental health service for which the board is not in compliance until the time that there is compliance. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5119.623. The director of mental health may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under section 5119.62 of the Revised Code if the board denies available service on the basis of religion, race, color, creed, sex, national origin, age,

disability as defined in section 4112.01 of the Revised Code, or 107016
developmental disability. 107017

Sec. ~~173.35~~ 5119.69. (A) ~~As used in this section, "PASSPORT~~ 107018
~~administrative agency" means an entity under contract with the~~ 107019
~~department of aging to provide administrative services regarding~~ 107020
~~the PASSPORT program created under section 173.40 of the Revised~~ 107021
~~Code.~~ 107022

~~(B)~~ The department of ~~aging~~ mental health shall ~~administer~~ 107023
implement the residential state supplement program under which the 107024
state supplements the supplemental security income payments 107025
received by aged, blind, or disabled adults under Title XVI of the 107026
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as 107027
amended. Residential state supplement payments shall be used for 107028
the provision of accommodations, supervision, and personal care 107029
services to supplemental security income recipients who the 107030
department determines are at risk of needing institutional care. 107031

(B) In implementing the program, the department may designate 107032
one or more entities to be responsible for providing 107033
administrative services regarding the program. The department may 107034
designate an entity to be a residential state supplement 107035
administrative agency under this division either by entering into 107036
a contract with the entity to serve in that capacity or by 107037
otherwise delegating to the entity the responsibility to serve in 107038
that capacity. 107039

(C) For an individual to be eligible for residential state 107040
supplement payments, all of the following must be the case: 107041

(1) Except as provided by division (G) of this section, the 107042
individual must reside in one of the following: 107043

(a) An adult foster home certified under section ~~173.36~~ 107044
5119.692 of the Revised Code; 107045

(b) A home or facility, other than a nursing home or nursing home unit of a home for the aging, licensed by the department of health under Chapter 3721. ~~or 3722.~~ of the Revised Code ~~and certified in accordance with standards established by the director of aging under division (D)(2) of this section~~ or the department of mental health under sections 5119.70 to 5119.88 of the Revised Code;

(c) A residential facility as defined in division (A)(1)(d)(ii) of section 5119.22 of the Revised Code licensed by the department of mental health ~~and certified in accordance with standards established by the director of aging under division (D)(2) of this section;~~

(d) An apartment or room used to provide community mental health housing services certified by the department of mental health under section 5119.611 of the Revised Code and approved by a board of alcohol, drug addiction, and mental health services under division (A)~~(14)~~(13) of section 340.03 of the Revised Code ~~and certified in accordance with standards established by the director of aging under division (D)(2) of this section.~~

(2) ~~Effective July 1, 2000, a PASSPORT~~ A residential state supplement administrative agency must have determined that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. If the individual is eligible for supplemental security income payments or social security disability insurance benefits because of a mental disability, the ~~PASSPORT~~ residential state supplement administrative agency shall refer the individual to a community mental health agency for the community mental health agency to issue in accordance with section 340.091 of the Revised Code a recommendation on whether the ~~PASSPORT~~ residential state supplement administrative agency should determine that the environment in which the individual will be living while receiving

the payments is appropriate for the individual's needs. ~~Division~~ 107078
~~(C)(2) of this section does not apply to an individual receiving~~ 107079
~~residential state supplement payments on June 30, 2000, until the~~ 107080
~~individual's first eligibility redetermination after that date.~~ 107081

(3) The individual satisfies all eligibility requirements 107082
established by rules adopted under division (D) of this section. 107083

~~(D)(1)~~ The directors of ~~aging~~ mental health and job and 107084
family services shall adopt rules in accordance with section 107085
111.15 of the Revised Code as necessary to implement the 107086
residential state supplement program. 107087

To the extent permitted by Title XVI of the "Social Security 107088
Act," and any other provision of federal law, the director of job 107089
and family services ~~shall~~ may adopt rules establishing standards 107090
for adjusting the eligibility requirements concerning the level of 107091
impairment a person must have so that the amount appropriated for 107092
the program by the general assembly is adequate for the number of 107093
eligible individuals. The rules shall not limit the eligibility of 107094
disabled persons solely on a basis classifying disabilities as 107095
physical or mental. The director of job and family services also 107096
~~shall~~ may adopt rules that establish eligibility standards for 107097
aged, blind, or disabled individuals who reside in one of the 107098
homes or facilities specified in division (C)(1) of this section 107099
but who, because of their income, do not receive supplemental 107100
security income payments. The rules may provide that these 107101
individuals may include individuals who receive other types of 107102
benefits, including, social security disability insurance benefits 107103
provided under Title II of the "Social Security Act," 49 Stat. 620 107104
(1935), 42 U.S.C.A. 401, as amended. Notwithstanding division 107105
~~(B)(A)~~ of this section, such payments may be made if funds are 107106
available for them. 107107

The director of ~~aging~~ ~~shall~~ mental health may adopt rules 107108
establishing the method to be used to determine the amount an 107109

eligible individual will receive under the program. The amount the 107110
general assembly appropriates for the program ~~shall~~ may be a 107111
factor included in the method that ~~department~~ director 107112
establishes. 107113

~~(2) The director of aging shall adopt rules in accordance 107114
with Chapter 119. of the Revised Code establishing standards for 107115
certification of living facilities described in division (C)(1) of 107116
this section. 107117~~

~~The directors of aging and mental health shall enter into an 107118
agreement to certify facilities that apply for certification and 107119
meet the standards established by the director of aging under this 107120
division. 107121~~

(E) The county department of job and family services of the 107122
county in which an applicant for the residential state supplement 107123
program resides shall determine whether the applicant meets income 107124
and resource requirements for the program. 107125

(F) The department of ~~aging~~ mental health shall maintain a 107126
waiting list of any individuals eligible for payments under this 107127
section but not receiving them because moneys appropriated to the 107128
department for the purposes of this section are insufficient to 107129
make payments to all eligible individuals. An individual may apply 107130
to be placed on the waiting list even though the individual does 107131
not reside in one of the homes or facilities specified in division 107132
(C)(1) of this section at the time of application. The director of 107133
~~aging~~ mental health, by rules adopted in accordance with Chapter 107134
119. of the Revised Code, ~~shall~~ may specify procedures and 107135
requirements for placing an individual on the waiting list and 107136
priorities for the order in which individuals placed on the 107137
waiting list are to begin to receive residential state supplement 107138
payments. The rules specifying priorities may give priority to 107139
individuals placed on the waiting list on or after July 1, 2006, 107140
who receive supplemental security income benefits under Title XVI 107141

of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 107142
1381, as amended. The rules shall not affect the place on the 107143
waiting list of any person who was on the list on July 1, 2006. 107144
The rules specifying priorities may also set additional priorities 107145
based on living arrangement, such as whether an individual resides 107146
in a facility listed in division (C)(1) of this section or has 107147
been admitted to a nursing facility. 107148

(G) An individual in a licensed or certified living 107149
arrangement receiving state supplementation on November 15, 1990, 107150
under former section 5101.531 of the Revised Code shall not become 107151
ineligible for payments under this section solely by reason of the 107152
individual's living arrangement as long as the individual remains 107153
in the living arrangement in which the individual resided on 107154
November 15, 1990. 107155

(H) The department of ~~aging~~ mental health shall notify each 107156
person denied approval for payments under this section of the 107157
person's right to a hearing. On request, the hearing shall be 107158
provided ~~by the department of job and family services~~ in 107159
accordance with ~~section 5101.35~~ Chapter 119. of the Revised Code. 107160

Sec. ~~173.351~~ 5119.691. (A) As used in this section: 107161

~~"Area agency on aging" has the same meaning as in section~~ 107162
~~173.14 of the Revised Code.~~ 107163

"Long-term care consultation program" means the program the 107164
department of aging is required to develop under section 173.42 of 107165
the Revised Code. 107166

"Long-term care consultation program administrator" or 107167
"administrator" means the department of aging or, if the 107168
department contracts with an area agency on aging or other entity 107169
to administer the long-term care consultation program for a 107170
particular area, that agency or entity. 107171

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Residential state supplement administrative agency" means an entity designated as such by the department of mental health under section 5119.69 of the Revised Code.

"Residential state supplement program" means the program administered pursuant to section ~~173.35~~ 5119.69 of the Revised Code.

(B) ~~Each month, each area agency on aging~~ On a periodic schedule determined by the department of mental health, each residential state supplement administrative agency shall determine whether individuals who reside in the area that the ~~area agency on aging~~ area a residential state supplement administrative agency on aging serves and are on a waiting list for the residential state supplement program have been admitted to a nursing facility. If ~~an area~~ a residential state supplement administrative agency on aging determines that such an individual has been admitted to a nursing facility, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the residential state supplement program is appropriate for the individual and whether the individual would rather participate in the program than continue residing in the nursing facility. If the administrator determines that the residential state supplement program is appropriate for the individual and the individual would rather participate in the program than continue residing in the nursing facility, the administrator shall so notify the department of ~~aging~~ mental health. On receipt of the notice from the administrator, the department of ~~aging~~ mental health shall approve the individual's enrollment in the residential state supplement program in accordance with the priorities specified in rules adopted under division (F) of section ~~173.35~~ 5119.69 of the Revised Code. Each quarter, the

department of ~~aging~~ mental health shall certify to the director of 107204
budget and management the estimated increase in costs of the 107205
residential state supplement program resulting from enrollment of 107206
individuals in the program pursuant to this section. 107207

~~(C) Not later than the last day of each calendar year, the 107208
director of aging shall submit to the general assembly a report 107209
regarding the number of individuals enrolled in the residential 107210
state supplement program pursuant to this section and the costs 107211
incurred and savings achieved as a result of the enrollments. 107212~~

Sec. ~~173.36~~ 5119.692. As used in this section, "adult foster 107213
home" means a residence, other than a ~~residence certified or 107214
residential facility licensed by the department of mental health 107215
under section 5119.22 of the Revised Code, in which accommodations 107216
and personal care services, as defined in section ~~3722.04~~ 5119.70 107217
of the Revised Code, are provided to one or two adults who are 107218
unrelated to the owners of the residence. 107219~~

The department of ~~aging~~ mental health shall adopt rules in 107220
accordance with Chapter 119. of the Revised Code establishing 107221
standards for the certification of adult foster homes. The 107222
department or its designee shall certify adult foster homes that 107223
apply for certification and meet the standards established by the 107224
department. 107225

Sec. 5119.693. (A) As used in this section: 107226

(1) "Adult resident" means an individual residing in an adult 107227
foster home certified by the department of mental health. 107228

(2) "Applicant" means a person who is under final 107229
consideration for employment with an adult foster home in a 107230
full-time, part-time, or temporary position that involves 107231
providing direct care to an adult resident. "Applicant" does not 107232
include a person who provides direct care as a volunteer without 107233

receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses. 107234
107235

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 107236
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(B)(1) Except as provided in division (I) of this section, the owner or administrator of an adult foster home shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the owner or administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the owner or administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check. 107238
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(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following: 107258
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(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant; 107260
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(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation. 107266
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(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section. 107269
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(C)(1) Except as provided in rules adopted by the department of mental health in accordance with division (F) of this section and subject to division (C)(2) of this section, no adult foster home shall employ a person in a position that involves providing direct care to an adult resident if the person has been convicted of or pleaded guilty to any of the following: 107274
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(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code. 107280
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(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section. 107289
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(2)(a) An adult foster home may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided 107293
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that the foster home shall request a criminal records check 107297
regarding the individual in accordance with division (B)(1) of 107298
this section not later than five business days after the 107299
individual begins conditional employment. In the circumstances 107300
described in division (I)(2) of this section, an adult foster home 107301
may employ conditionally an applicant who has been referred to the 107302
adult foster home by an employment service that supplies 107303
full-time, part-time, or temporary staff for positions involving 107304
the direct care of adult residents and for whom, pursuant to that 107305
division, a criminal records check is not required under division 107306
(B) of this section. 107307

(b) An adult foster home that employs an individual 107308
conditionally under authority of division (C)(2)(a) of this 107309
section shall terminate the individual's employment if the results 107310
of the criminal records check requested under division (B) of this 107311
section or described in division (I)(2) of this section, other 107312
than the results of any request for information from the federal 107313
bureau of investigation, are not obtained within the period ending 107314
thirty days after the date the request is made. Regardless of when 107315
the results of the criminal records check are obtained, if the 107316
results indicate that the individual has been convicted of or 107317
pleaded guilty to any of the offenses listed or described in 107318
division (C)(1) of this section, the foster home shall terminate 107319
the individual's employment unless the foster home chooses to 107320
employ the individual pursuant to division (F) of this section. 107321
Termination of employment under this division shall be considered 107322
just cause for discharge for purposes of division (D)(2) of 107323
section 4141.29 of the Revised Code if the individual makes any 107324
attempt to deceive the foster home about the individual's criminal 107325
record. 107326

(D)(1) Each adult foster home shall pay to the bureau of 107327
criminal identification and investigation the fee prescribed 107328

pursuant to division (C)(3) of section 109.572 of the Revised Code 107329
for each criminal records check conducted pursuant to a request 107330
made under division (B) of this section. 107331

(2) An adult foster home may charge an applicant a fee not 107332
exceeding the amount the foster home pays under division (D)(1) of 107333
this section. An adult foster home may collect a fee only if it 107334
notifies the person at the time of initial application for 107335
employment of the amount of the fee and that, unless the fee is 107336
paid, the person will not be considered for employment. 107337

(E) The report of any criminal records check conducted 107338
pursuant to a request made under this section is not a public 107339
record for the purposes of section 149.43 of the Revised Code and 107340
shall not be made available to any person other than the 107341
following: 107342

(1) The individual who is the subject of the criminal records 107343
check or the individual's representative; 107344

(2) The owner or administrator of the foster home requesting 107345
the criminal records check or the owner's or administrator's 107346
representative; 107347

(3) The administrator of any other facility, agency, or 107348
program that provides direct care to adult residents that is owned 107349
or operated by the same entity that owns or operates the adult 107350
foster home; 107351

(4) A court, hearing officer, or other necessary individual 107352
involved in a case dealing with a denial of employment of the 107353
applicant or dealing with employment or unemployment benefits of 107354
the applicant; 107355

(5) Any person to whom the report is provided pursuant to, 107356
and in accordance with, division (I)(1) or (2) of this section. 107357

(F) The department of mental health may adopt rules in 107358

accordance with Chapter 119. of the Revised Code to implement this 107359
section. The rules may specify circumstances under which an adult 107360
foster home may employ a person who has been convicted of or 107361
pleaded guilty to an offense listed or described in division 107362
(C)(1) of this section but meets personal character standards set 107363
by the department. 107364

(G) The owner or administrator of an adult foster home shall 107365
inform each individual, at the time of initial application for a 107366
position that involves providing direct care to an adult resident, 107367
that the individual is required to provide a set of fingerprint 107368
impressions and that a criminal records check is required to be 107369
conducted if the individual comes under final consideration for 107370
employment. 107371

(H) In a tort or other civil action for damages that is 107372
brought as the result of an injury, death, or loss to person or 107373
property caused by an individual who an adult foster home employs 107374
in a position that involves providing direct care to adult 107375
residents, all of the following shall apply: 107376

(1) If the foster home employed the individual in good faith 107377
and reasonable reliance on the report of a criminal records check 107378
requested under this section, the foster home shall not be found 107379
negligent solely because of its reliance on the report, even if 107380
the information in the report is determined later to have been 107381
incomplete or inaccurate; 107382

(2) If the foster home employed the individual in good faith 107383
on a conditional basis pursuant to division (C)(2) of this 107384
section, the foster home shall not be found negligent solely 107385
because it employed the individual prior to receiving the report 107386
of a criminal records check requested under this section; 107387

(3) If the foster home in good faith employed the individual 107388
according to the personal character standards established in rules 107389

adopted under division (F) of this section, the foster home shall 107390
not be found negligent solely because the individual prior to 107391
being employed had been convicted of or pleaded guilty to an 107392
offense listed or described in division (C)(1) of this section. 107393

(I)(1) The owner or administrator of an adult foster home is 107394
not required to request that the superintendent of the bureau of 107395
criminal identification and investigation conduct a criminal 107396
records check of an applicant if the applicant has been referred 107397
to the foster home by an employment service that supplies 107398
full-time, part-time, or temporary staff for positions involving 107399
the direct care of adult residents and both of the following 107400
apply: 107401

(a) The owner or administrator receives from the employment 107402
service or the applicant a report of the results of a criminal 107403
records check regarding the applicant that has been conducted by 107404
the superintendent within the one-year period immediately 107405
preceding the applicant's referral; 107406

(b) The report of the criminal records check demonstrates 107407
that the person has not been convicted of or pleaded guilty to an 107408
offense listed or described in division (C)(1) of this section, or 107409
the report demonstrates that the person has been convicted of or 107410
pleaded guilty to one or more of those offenses, but the adult 107411
foster home chooses to employ the individual pursuant to division 107412
(F) of this section. 107413

(2) The owner or administrator of an adult foster home is not 107414
required to request that the superintendent of the bureau of 107415
criminal identification and investigation conduct a criminal 107416
records check of an applicant and may employ the applicant 107417
conditionally as described in this division, if the applicant has 107418
been referred to the foster home by an employment service that 107419
supplies full-time, part-time, or temporary staff for positions 107420
involving the direct care of adult residents and if the owner or 107421

administrator receives from the employment service or the 107422
applicant a letter from the employment service that is on the 107423
letterhead of the employment service, dated, and signed by a 107424
supervisor or another designated official of the employment 107425
service and that states that the employment service has requested 107426
the superintendent to conduct a criminal records check regarding 107427
the applicant, that the requested criminal records check will 107428
include a determination of whether the applicant has been 107429
convicted of or pleaded guilty to any offense listed or described 107430
in division (C)(1) of this section, that, as of the date set forth 107431
on the letter, the employment service had not received the results 107432
of the criminal records check, and that, when the employment 107433
service receives the results of the criminal records check, it 107434
promptly will send a copy of the results to the adult care foster 107435
home. If an adult foster home employs an applicant conditionally 107436
in accordance with this division, the employment service, upon its 107437
receipt of the results of the criminal records check, promptly 107438
shall send a copy of the results to the adult foster home, and 107439
division (C)(2)(b) of this section applies regarding the 107440
conditional employment. 107441

Sec. ~~3722.01~~ 5119.70. (A) As used in ~~this chapter~~ sections 107442
5119.70 to 5119.88: 107443

(1) "Owner" means the person who owns the business of and who 107444
ultimately controls the operation of an adult care facility and to 107445
whom the manager, if different from the owner, is responsible. 107446

(2) "Manager" means the person responsible for the daily 107447
operation of an adult care facility. The manager and the owner of 107448
a facility may be the same person. 107449

(3) "Adult" means an individual eighteen years of age or 107450
older. 107451

(4) "Unrelated" means that an adult resident is not related 107452

to the owner or manager of an adult care facility or to the 107453
owner's or manager's spouse as a parent, grandparent, child, 107454
stepchild, grandchild, brother, sister, niece, nephew, aunt, or 107455
uncle, or as the child of an aunt or uncle. 107456

(5) "Skilled nursing care" means skilled nursing care as 107457
defined in section 3721.01 of the Revised Code. 107458

(6)(a) "Personal care services" means services including, but 107459
not limited to, the following: 107460

(i) Assistance with activities of daily living; 107461

(ii) Assistance with self-administration of medication, in 107462
accordance with rules adopted ~~by the public health council~~ 107463
~~pursuant to this chapter~~ under section 5119.79 of the Revised 107464
Code; 107465

(iii) Preparation of special diets, other than complex 107466
therapeutic diets, for residents pursuant to the instructions of a 107467
physician or a licensed dietitian, in accordance with rules 107468
adopted ~~by the public health council pursuant to this chapter~~ 107469
under section 5119.79 of the Revised Code. 107470

(b) "Personal care services" does not include "skilled 107471
nursing care" as defined in section 3721.01 of the Revised Code. A 107472
facility need not provide more than one of the services listed in 107473
division (A)(6)(a) of this section for the facility to be 107474
considered to be providing personal care services. 107475

(7) "Adult family home" means a residence or facility that 107476
provides accommodations and supervision to three to five unrelated 107477
adults, at least three of whom require personal care services. 107478

(8) "Adult group home" means a residence or facility that 107479
provides accommodations and supervision to six to sixteen 107480
unrelated adults, at least three of whom require personal care 107481
services. 107482

(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom require personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include:

(a) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(b) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code;

(c) An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;

(d) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;

(e) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

(f) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;

(g) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;

(h) Any facility that receives funding for operating costs 107514
from the department of development under any program established 107515
to provide emergency shelter housing or transitional housing for 107516
the homeless; 107517

(i) A terminal care facility for the homeless that has 107518
entered into an agreement with a hospice care program under 107519
section 3712.07 of the Revised Code; 107520

(j) A facility approved by the veterans administration under 107521
section 104(a) of the "Veterans Health Care Amendments of 1983," 107522
97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively 107523
for the placement and care of veterans. 107524

(10) ~~"Residents' rights advocate" means:~~ 107525

~~(a) An employee or representative of any state or local 107526
government entity that has a responsibility for residents of adult 107527
care facilities and has registered with the department of health 107528
under section 3701.07 of the Revised Code; 107529~~

~~(b) An employee or representative, other than a manager or 107530
employee of an adult care facility or nursing home, of any private 107531
nonprofit corporation or association that qualifies for tax exempt 107532
status under section 501(a) of the "Internal Revenue Code of 107533
1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has 107534
registered with the department of health under section 3701.07 of 107535
the Revised Code, and whose purposes include educating and 107536
counseling residents, assisting residents in resolving problems 107537
and complaints concerning their care and treatment, and assisting 107538
them in securing adequate services. 107539~~

~~(11)~~ "Sponsor" means an adult relative, friend, or guardian 107540
of a resident of an adult care facility who has an interest in or 107541
responsibility for the resident's welfare. 107542

~~(12)~~(11) "Ombudsperson" means a "representative of the office 107543
of the state long-term care ombudsperson program" as defined in 107544

section 173.14 of the Revised Code. 107545

~~(13)~~(12) "Mental health agency" means a community mental 107546
health agency, as defined in division (H) of section 5119.22 107547
5122.01 of the Revised Code, under contract with an ADAMHS board 107548
pursuant to division (A)~~(8)~~(7)(a) of section 340.03 of the Revised 107549
Code. 107550

~~(14)~~(13) "ADAMHS board" means a board of alcohol, drug 107551
addiction, and mental health services; 107552

~~(15)~~(14) "Mental health resident program participation 107553
agreement" means a written agreement between an adult care 107554
facility and the ADAMHS board serving the alcohol, drug addiction, 107555
and mental health service district in which the facility is 107556
located, under which the facility is authorized to admit residents 107557
who are receiving or are eligible for publicly funded mental 107558
health services. 107559

~~(16)~~(15) "PASSPORT RSS administrative agency" means an entity 107560
~~under contract with the department of aging to provide that~~ 107561
provides administrative services regarding the PASSPORT 107562
residential state supplement program ~~created under section 173.40~~ 107563
~~of the Revised Code on behalf of the department of mental health,~~ 107564
either by having entered into a contract with the department to 107565
serve in that capacity or by having the department otherwise 107566
delegate to it the responsibility to serve in that capacity. 107567

(B) For purposes of ~~this chapter~~ sections 5119.70 to 5119.88 107568
of the Revised Code, personal care services or skilled nursing 107569
care shall be considered to be provided by a facility if they are 107570
provided by a person employed by or associated with the facility 107571
or by another person pursuant to an agreement to which neither the 107572
resident who receives the services nor the resident's sponsor is a 107573
party. 107574

(C) Nothing in division (A)(6) of this section shall be 107575

construed to permit personal care services to be imposed upon a 107576
resident who is capable of performing the activity in question 107577
without assistance. 107578

Sec. ~~3722.011~~ 5119.701. (A) All medication taken by residents 107579
of an adult care facility shall be self-administered, except that 107580
medication may be administered to a resident as part of the 107581
skilled nursing care provided in accordance with division (B) of 107582
section ~~3722.16~~ 5119.86 of the Revised Code. No person shall be 107583
admitted to or retained by an adult care facility unless the 107584
person is capable of self-administering the person's medication, 107585
as determined in writing by a physician, except that a person may 107586
be admitted to or retained by such a facility if the person's 107587
medication is administered as part of the skilled nursing care 107588
provided in accordance with division (B) of section ~~3722.16~~ 107589
5119.86 of the Revised Code. 107590

(B) Members of the staff of an adult care facility shall not 107591
administer medication to residents but may do any of the 107592
following: 107593

Remind a resident when to take medication and watch to ensure 107594
that the resident follows the directions on the container; 107595

Assist a resident in the self-administration of medication by 107596
taking the medication from the locked area where it is stored, in 107597
accordance with rules adopted ~~by the public health council~~ 107598
~~pursuant to this chapter~~ under section 5119.79 of the Revised 107599
Code, and handing it to the resident. If the resident is 107600
physically unable to open the container, a staff member may open 107601
the container for the resident. 107602

Assist a physically impaired but mentally alert resident, 107603
such as a resident with arthritis, cerebral palsy, or Parkinson's 107604
disease, in removing oral or topical medication from containers 107605
and in consuming or applying the medication, upon request by or 107606

with the consent of the resident. If a resident is physically 107607
unable to place a dose of medicine to the resident's mouth without 107608
spilling it, a staff member may place the dose in a container and 107609
place the container to the mouth of the resident. 107610

Sec. ~~3722.02~~ 5119.71. A person seeking a license to operate 107611
an adult care facility shall submit to the director of mental 107612
health an application on a form prescribed by the director and the 107613
following: 107614

(A) In the case of an adult group home seeking licensure as 107615
an adult care facility, evidence that the home has been inspected 107616
and approved by a local certified building department or by the 107617
division of labor in the department of commerce as meeting the 107618
applicable requirements of sections 3781.06 to 3781.18 and 3791.04 107619
of the Revised Code and any rules adopted under those sections and 107620
evidence that the home has been inspected by the state fire 107621
marshal or fire prevention officer of a municipal, township, or 107622
other legally constituted fire department approved by the state 107623
fire marshal and found to be in compliance with rules adopted 107624
under section 3737.83 of the Revised Code regarding fire 107625
prevention and safety in adult group homes; 107626

(B) Valid approvals of the facility's water and sewage 107627
systems issued by the responsible governmental entity, if 107628
applicable; 107629

(C) A statement of ownership containing the following 107630
information: 107631

(1) If the owner is an individual, the owner's name, address, 107632
telephone number, business address, business telephone number, and 107633
occupation. If the owner is an association, corporation, or 107634
partnership, the business activity, address, and telephone number 107635
of the entity and the name of every person who has an ownership 107636
interest of five per cent or more in the entity. 107637

(2) If the owner does not own the building or if the owner owns only part of the building in which the facility is housed, the name of each person who has an ownership interest of five per cent or more in the building;

(3) The address of any adult care facility and any facility described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 of the Revised Code in which the owner has an ownership interest of five per cent or more;

(4) The identity of the manager of the adult care facility, if different from the owner;

(5) The name and address of any adult care facility and any facility described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 of the Revised Code with which either the owner or manager has been affiliated through ownership or employment in the five years prior to the date of the application;

(6) The names and addresses of three persons not employed by or associated in business with the owner who will provide information about the character, reputation, and competence of the owner and the manager and the financial responsibility of the owner;

(7) Information about any arrest of the owner or manager for, or adjudication or conviction of, a criminal offense related to the provision of care in an adult care facility or any facility described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 of the Revised Code or the ability to operate a facility;

(8) Any other information the director may require regarding the owner's ability to operate the facility.

(D) If the facility is an adult group home, a balance sheet showing the assets and liabilities of the owner and a statement projecting revenues and expenses for the first twelve months of the facility's operation;

(E) A statement containing the following information 107669
regarding admissions to the facility: 107670

(1) The intended bed capacity of the facility; 107671

(2) If the facility will admit persons referred by or 107672
receiving services from an ADAMHS board or a mental health agency, 107673
the total number of beds anticipated to be occupied as a result of 107674
those admissions. 107675

(F) A nonrefundable license application fee in an amount 107676
established in rules adopted ~~by the public health council pursuant~~ 107677
~~to this chapter~~ under section 5119.79 of the Revised Code. 107678

Sec. ~~3722.021~~ 5119.711. In determining the number of 107679
residents in a facility for the purpose of licensure ~~under this~~ 107680
~~chapter as an adult care facility~~, the director of mental health 107681
shall consider all the individuals for whom the facility provides 107682
accommodations as one group unless either of the following is the 107683
case: 107684

(A) In addition to being an adult care facility, the facility 107685
is a nursing home licensed under Chapter 3721. of the Revised 107686
Code, a residential facility licensed under that chapter, or both. 107687
In that case, all the individuals in the part or unit licensed as 107688
a nursing home, residential care facility, or both, shall be 107689
considered as one group and all the individuals in the part or 107690
unit licensed as an adult care facility shall be considered as 107691
another group. 107692

(B) The facility maintains, in addition to an adult care 107693
facility, a separate and discrete part or unit that provides 107694
accommodations to individuals who do not receive supervision or 107695
personal care services from the adult care facility, in which case 107696
the individuals in the separate and discrete part or unit shall 107697
not be considered in determining the number of residents in the 107698

adult care facility if the separate and discrete part or unit is 107699
in compliance with the Ohio basic building code established by the 107700
board of building standards under Chapters 3781. and 3791. of the 107701
Revised Code and the adult care facility, to the extent of its 107702
authority, permits the director, on request, to inspect the 107703
separate and discrete part or unit and speak with the individuals 107704
residing there, if they consent, to determine whether the separate 107705
and discrete part or unit meets the requirements of this division. 107706

Sec. ~~3722.022~~ 5119.712. A person may not apply for a license 107707
to operate an adult care facility if the person is or has been the 107708
owner or manager of an adult care facility for which a license to 107709
operate was revoked or for which renewal of a license was refused 107710
for any reason other than nonpayment of the license renewal fee, 107711
unless both of the following conditions are met: 107712

(A) A period of not less than two years has elapsed since the 107713
date the director of mental health issued the order revoking or 107714
refusing to renew the facility's license. 107715

(B) The director's revocation or refusal to renew the license 107716
was not based on an act or omission at the facility that violated 107717
a resident's right to be free from abuse, neglect, or 107718
exploitation. 107719

Sec. ~~3722.03~~ 5119.72. (A) Any person may operate an adult 107720
family home licensed as an adult care facility as a permitted use 107721
in any residential district or zone, including any single-family 107722
residential district or zone of any political subdivision. Such 107723
adult family homes may be required to comply with area, height, 107724
yard, and architectural compatibility requirements that are 107725
uniformly imposed upon all single-family residences within the 107726
district or zone. 107727

(B) Any person may operate an adult group home licensed as an 107728

adult care facility as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned-unit development districts as defined in section 519.021 of the Revised Code may exclude adult group homes from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate adult group homes in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation.

(C) This section does not affect any right of a political subdivision to permit a person to operate an adult group home licensed under this chapter in a single-family residential district or zone under conditions established by the political subdivision.

(D)(1) Notwithstanding divisions (A) and (B) of this section and except as otherwise provided in division (D)(2) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of adult family homes and adult group homes required to be licensed as adult care facilities.

(2) Nothing in division (D)(1) of this section authorizes a political subdivision to prevent or limit the continued existence and operation of adult family homes and adult group homes existing

and operating on the effective date of this section and required 107760
to be licensed as adult care facilities. A political subdivision 107761
may consider the existence of such homes for the purpose of 107762
limiting the excessive concentration of adult family homes or 107763
adult group homes required to be licensed as adult care facilities 107764
that are not existing and operating on the effective date of this 107765
section. 107766

Sec. ~~3722.04~~ 5119.73. (A) The director of mental health shall 107767
inspect, license, and regulate adult care facilities. Except as 107768
otherwise provided in division (D) of this section, the director 107769
shall issue a license to an adult care facility that meets the 107770
requirements of section ~~3722.02~~ 5119.71 of the Revised Code and 107771
that the director determines to be in substantial compliance with 107772
the rules adopted ~~by the public health council~~ pursuant to ~~this~~ 107773
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code. The 107774
director shall consider the past record of the owner and manager 107775
and any individuals who are principal participants in an entity 107776
that is the owner or manager in operating facilities providing 107777
care to adults. The director may, in accordance with Chapter 119. 107778
of the Revised Code, deny a license if the past record indicates 107779
that the owner or manager is not suitable to own or manage an 107780
adult care facility. 107781

The license shall contain the name and address of the 107782
facility for which it was issued, the date of expiration of the 107783
license, and the maximum number of residents that may be 107784
accommodated by the facility. A license for an adult care facility 107785
shall be valid for a period of two years after the date of 107786
issuance. No single facility may be licensed to operate as more 107787
than one adult care facility. 107788

(B) The director shall renew a license for a two-year period 107789
if the facility continues to be in compliance with the 107790

requirements of this chapter and in substantial compliance with 107791
the rules adopted ~~under this chapter~~ pursuant to sections 5119.70 107792
to 5119.88 of the Revised Code. The owner shall submit a 107793
nonrefundable license renewal application fee in an amount 107794
established in rules adopted ~~by the public health council pursuant~~ 107795
~~to this chapter~~ under section 5119.79 of the Revised Code. Before 107796
the license of an adult group home is renewed, if any alterations 107797
have been made to the buildings, a certificate of occupancy for 107798
the facility shall have been issued by the division of labor in 107799
the department of commerce or a local certified building 107800
department. The facility shall have water and sewage system 107801
approvals, if required by law, and, in the case of an adult group 107802
home, documentation of continued compliance with the rules adopted 107803
by the state fire marshal under division (F) of section 3737.83 of 107804
the Revised Code. 107805

(C)(1) During each licensure period, the director shall make 107806
at least one unannounced inspection of an adult care facility in 107807
addition to inspecting the facility to determine whether a license 107808
should be issued or renewed, and may make additional unannounced 107809
inspections as the director considers necessary. Other inspections 107810
may be made at any time that the director considers appropriate. 107811
Inspections may be conducted as desk audits or on-site 107812
inspections. 107813

The director shall take all reasonable actions to avoid 107814
giving notice of an inspection by the manner in which the 107815
inspection is scheduled or performed. 107816

If an inspection is conducted to investigate an alleged 107817
violation of the requirements of ~~this chapter~~ sections 5119.70 to 107818
5119.88 of the Revised Code in a facility with residents referred 107819
by or receiving services from a mental health agency or ADAMHS 107820
board or a facility with residents receiving assistance under the 107821
residential state supplement program administered by the 107822

department of ~~aging~~ mental health pursuant to section ~~173.35~~ 107823
5119.69 of the Revised Code, the director ~~shall~~ may coordinate the 107824
inspection with the appropriate mental health agency, ADAMHS 107825
board, or ~~PASSPORT~~ residential state supplement administrative 107826
agency designated under section 5119.69 of the Revised Code. ~~As~~ 107827
~~the director considers appropriate, the~~ The director ~~shall~~ may 107828
conduct the inspection jointly with the mental health agency, 107829
ADAMHS board, or ~~PASSPORT~~ residential state supplement 107830
administrative agency. 107831

Not later than sixty days after the date of an inspection of 107832
a facility, the director shall send a report of the inspection to 107833
the regional long-term care ombudsperson in whose region 107834
representing the program in the area in which the facility is 107835
located. 107836

(2) The state fire marshal or fire prevention officer of a 107837
municipal, township, or other legally constituted fire department 107838
approved by the state fire marshal shall inspect an adult group 107839
home seeking a license or renewal ~~under this chapter~~ as an adult 107840
care facility prior to issuance of a license or renewal, at least 107841
once annually thereafter, and at any other time at the request of 107842
the director, to determine compliance with the rules adopted under 107843
division (F) of section 3737.83 of the Revised Code. 107844

(D) The director may waive any of the licensing requirements 107845
established by rule ~~adopted by the public health council~~ pursuant 107846
to ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code 107847
upon written request of the facility. The director may grant a 107848
waiver if the director determines that the strict application of 107849
the licensing requirement would cause undue hardship to the 107850
facility and that granting the waiver would not jeopardize the 107851
health or safety of any resident. The director may provide a 107852
facility with an informal hearing concerning the denial of a 107853
waiver request, but the facility shall not be entitled to a 107854

hearing under Chapter 119. of the Revised Code unless the director 107855
takes an action that requires a hearing to be held under section 107856
~~3722.05~~ 5119.74 of the Revised Code. 107857

(E)(1) Not later than thirty days after each of the 107858
following, the owner of an adult care facility shall submit an 107859
inspection fee of twenty dollars for each bed for which the 107860
facility is licensed: 107861

(a) Issuance or renewal of a license; 107862

(b) The unannounced inspection required by division (C)(1) of 107863
this section that is in addition to the inspection conducted to 107864
determine whether a license should be issued or renewed; 107865

(c) If, during an inspection conducted in addition to the two 107866
inspections required by division (C)(1) of this section, the 107867
facility was found to be in violation of ~~this chapter~~ sections
5119.70 to 5119.88 of the Revised Code or the rules adopted under 107868
~~it~~ those sections, receipt by the facility of the report of that 107869
investigation. 107870
107871

(2) The director may revoke the license of any adult care 107872
facility that fails to submit the fee within the thirty-day 107873
period. 107874

(3) All inspection fees received by the director, all civil 107875
penalties assessed under section ~~3722.08~~ 5119.77 of the Revised 107876
Code, all fines imposed under section ~~3722.99~~ 5119.99 of the 107877
Revised Code, and all license application and renewal application 107878
fees received under division (F) of section ~~3722.02~~ 5119.71 of the 107879
Revised Code or under division (B) of this section ~~shall be~~
~~deposited into the general operations fund created in section~~
~~3701.83 of the Revised Code and~~ shall be used only to pay the 107880
costs of administering and enforcing the requirements of ~~this~~
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code and rules 107881
adopted under ~~it~~ those sections. 107882
107883
107884
107885

(F)(1) An owner shall inform the director in writing of any 107886
changes in the information contained in the statement of ownership 107887
made pursuant to division (C) of section ~~3722.02~~ 5119.71 of the 107888
Revised Code or in the identity of the manager, not later than ten 107889
days after the change occurs. 107890

(2) An owner who sells or transfers an adult care facility 107891
shall be responsible and liable for the following: 107892

(a) Any civil penalties imposed against the facility under 107893
section ~~3722.08~~ 5119.77 of the Revised Code for violations that 107894
occur before the date of transfer of ownership or during any 107895
period in which the seller or the seller's agent operates the 107896
facility; 107897

(b) Any outstanding liability to the state, unless the buyer 107898
or transferee has agreed, as a condition of the sale or transfer, 107899
to accept the outstanding liabilities and to guarantee their 107900
payment, except that if the buyer or transferee fails to meet 107901
these obligations the seller or transferor shall remain 107902
responsible for the outstanding liability. 107903

(G) The director shall annually publish a list of licensed 107904
adult care facilities, facilities for which licenses have been 107905
revoked, facilities for which license renewal has been refused, 107906
any facilities under an order suspending admissions pursuant to 107907
section ~~3722.07~~ 5119.76 of the Revised Code, and any facilities 107908
that have been assessed a civil penalty pursuant to section 107909
~~3722.08~~ 5119.77 of the Revised Code. The director shall furnish 107910
information concerning the status of licensure of any facility to 107911
any person upon request. The director shall annually send a copy 107912
of the list to the department of job and family services, ~~to the~~ 107913
~~department of mental health,~~ and to the department of aging. 107914

Sec. ~~3722.041~~ 5119.731. (A) Sections 3781.06 to 3781.18 and 107915
3791.04 of the Revised Code do not apply to an adult family home 107916

for which application is made to the director of mental health for 107917
licensure as an adult care facility ~~under this chapter~~. Adult 107918
family homes shall not be required to submit evidence to the 107919
director ~~of health~~ that the home has been inspected by a local 107920
certified building department or the division of labor in the 107921
department of commerce or by the state fire marshal or a fire 107922
prevention officer under section ~~3722.02~~ 5119.71 of the Revised 107923
Code, but shall be inspected by the director ~~of health~~ to 107924
determine compliance with this section. An inspection made under 107925
this section may be made at the same time as an inspection made 107926
under section ~~3722.04~~ 5119.73 of the Revised Code. 107927

(B) The director shall not license or renew the license of an 107928
adult family home unless it meets the fire protection standards 107929
established by rules adopted ~~by the public health council pursuant~~ 107930
~~to this chapter~~ under section 5119.79 of the Revised Code. 107931

Sec. ~~3722.05~~ 5119.74. If an adult care facility fails to 107932
comply with any requirement of ~~this chapter~~ sections 5119.70 to 107933
5119.88 of the Revised Code or with any rule adopted ~~pursuant to~~ 107934
~~this chapter~~ under those sections, the director of mental health 107935
may do any one or all of the following: 107936

(A) In accordance with Chapter 119. of the Revised Code, 107937
deny, revoke, or refuse to renew the license of the facility; 107938

(B) Give the facility an opportunity to correct the 107939
violation, in accordance with section ~~3722.06~~ 5119.75 of the 107940
Revised Code; 107941

(C) Issue an order suspending the admission of residents to 107942
the facility, in accordance with section ~~3722.07~~ 5119.76 of the 107943
Revised Code; 107944

(D) Impose a civil penalty in accordance with section ~~3722.08~~ 107945
5119.77 of the Revised Code; 107946

(E) Petition the court of common pleas for injunctive relief 107947
in accordance with section ~~3722.09~~ 5119.78 of the Revised Code. 107948

Sec. ~~3722.06~~ 5119.75. Except as otherwise provided in 107949
sections ~~3722.07~~ 5119.76 to ~~3722.09~~ 5119.78 of the Revised Code 107950
and except in cases of violations that jeopardize the health and 107951
safety of any of the residents, if the director of mental health 107952
determines that a licensed adult care facility is in violation of 107953
~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of 107954
rules adopted ~~pursuant to this chapter~~ under those sections, the 107955
director shall give the facility an opportunity to correct the 107956
violation. The director shall notify the facility of the violation 107957
and specify a reasonable time for making the corrections. Notice 107958
of the violation shall be in writing and shall include a citation 107959
to the statute or rule violated. The director shall state the 107960
action that the director will take if the corrections are not made 107961
within the specified period of time. 107962

The facility shall submit to the director a plan of 107963
correction stating the actions that will be taken to correct the 107964
violation. The director shall conduct an inspection to determine 107965
whether the facility has corrected the violation in accordance 107966
with the plan of correction. 107967

If the director determines that the facility has failed to 107968
correct the violation in accordance with the plan of correction, 107969
the director may impose a penalty under section ~~3722.08~~ 5119.77 of 107970
the Revised Code. If the director determines that the license of 107971
the facility should be revoked or should not be renewed because 107972
the facility has failed to correct the violation within the time 107973
specified or because the violation jeopardizes the health or 107974
safety of any of the residents, the director shall revoke or 107975
refuse to renew the license in accordance with Chapter 119. of the 107976
Revised Code. 107977

~~Sec. 3722.07~~ 5119.76. (A) If the director of mental health 107978
determines that an adult care facility is in violation of ~~this~~ 107979
~~chapter sections 5119.70 to 5119.88 of the Revised Code~~ or of 107980
rules adopted ~~pursuant to it~~ under those sections, the director 107981
may immediately issue an order suspending the admission of 107982
residents to the facility. This order shall be effective 107983
immediately without prior hearing, and no resident shall be 107984
admitted to the facility until termination of the order. The 107985
director shall send a copy of the order to each organization known 107986
by the director to have placed residents in the facility and upon 107987
termination of the order shall send written notice of the 107988
termination to each of these organizations. Upon inquiry by any 107989
person about the licensure status of the facility, the director 107990
shall disclose the existence of an order of suspension. If the 107991
director discloses the existence of such an order to any person 107992
pursuant to this division, ~~he~~ the director shall also notify that 107993
person, and any other person upon inquiry, of any subsequent 107994
termination of the order of suspension. The facility shall post 107995
the notice provided for in division (B) of this section 107996
prominently and shall inform any person who inquires about 107997
residence or placement in the facility of the order. 107998

(B) The director shall give written notice of the order of 107999
suspension to the facility by certified mail, return receipt 108000
requested, or shall provide for delivery of the notice in person. 108001
If requested by the facility in a letter mailed or delivered not 108002
later than two working days after it has received the notice, the 108003
director shall hold a conference with representatives of the 108004
facility concerning the suspension. The conference shall be held 108005
not later than seven days after the director receives the request. 108006

The notice sent by the director shall contain all of the 108007
following: 108008

(1) A description of the violation;	108009
(2) A citation to the statute or rule violated;	108010
(3) A description of the corrections required for termination of the order of suspension;	108011 108012
(4) Procedures for the facility to follow to request a conference on the order of suspension.	108013 108014
(C) At the conference the director shall discuss with the representatives of the facility the violation cited in the notice provided for in division (B) of this section and shall advise the representatives in regard to correcting the violations. Not later than five days after the conference, the director shall issue another order either upholding or terminating the suspension. If the director issues an order upholding the suspension, the facility may request an adjudication hearing pursuant to Chapter 119. of the Revised Code, but the notice and hearing under that chapter shall be provided after the order is issued, and the suspension shall remain in effect during the hearing process unless terminated by the director or until ninety days have elapsed after a timely request for an adjudication hearing is received by the director, whichever is sooner.	108015 108016 108017 108018 108019 108020 108021 108022 108023 108024 108025 108026 108027 108028
Sec. 3722.08 <u>5119.77</u>. (A) If the director of <u>mental</u> health determines that an adult care facility is in violation of this chapter <u>sections 5119.70 to 5119.88 of the Revised Code</u> or rules adopted under it <u>those sections</u> , the director may impose a civil penalty on the owner of the facility, pursuant to rules adopted by the public health council under this chapter <u>sections 5119.79 and</u> <u>5119.80 of the Revised Code</u> . The director shall determine the classification and amount of the penalty by considering the following factors:	108029 108030 108031 108032 108033 108034 108035 108036 108037
(1) The gravity of the violation, the severity of the actual	108038

or potential harm, and the extent to which the provisions of this chapter or rules adopted under it were violated;

(2) Actions taken by the owner or manager to correct the violation;

(3) The number, if any, of previous violations by the adult care facility.

(B) The director shall give written notice of the order imposing a civil penalty to the adult care facility by certified mail, return receipt requested, or shall provide for delivery of the notice in person. The notice shall specify the classification of the violation as determined by rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.80 of the Revised Code, the amount of the penalty and the rate of interest, the action that is required to be taken to correct the violation, the time within which it is to be corrected as specified in division (C) of this section, and the procedures for the facility to follow to request a conference on the order imposing a civil penalty. If the facility requests a conference in a letter mailed or delivered not later than two working days after it has received the notice, the director shall hold a conference with representatives of the facility concerning the civil penalty. The conference shall be held not later than seven days after the director receives the request. The conference shall be conducted as prescribed in division (C) of section ~~3722.07~~ 5119.76 of the Revised Code. If the director issues an order upholding the civil penalty, the facility may request an adjudication hearing pursuant to Chapter 119. of the Revised Code, but the order of the director shall be in effect during proceedings instituted pursuant to that chapter until a final adjudication is made.

(C) The director shall order that the condition or practice constituting a class I violation be abated or eliminated within twenty-four hours or any longer period that the director considers

reasonable. The notice for a class II or a class III violation 108071
shall specify a time within which the violation is required to be 108072
corrected. 108073

(D) If the facility does not request a conference or if, 108074
after a conference, it fails to take action to correct a violation 108075
in the time prescribed by the director, the director shall issue 108076
an order upholding the penalty, plus interest at the rate 108077
specified in section 1343.03 of the Revised Code for each day 108078
beyond the date set for payment of the penalty. The director may 108079
waive the interest payment for the period prior to the conference 108080
if the director concludes that the conference was necessitated by 108081
a legitimate dispute. 108082

(E) The director may cancel or reduce the penalty for a class 108083
I violation if the facility corrects the violation within the time 108084
specified in the notice, except that the director shall impose the 108085
penalty even though the facility has corrected the violation if a 108086
resident suffers physical harm because of the violation or the 108087
facility has been cited previously for the same violation. The 108088
director may cancel the penalty for a class II or class III 108089
violation if the facility corrects the violation within the time 108090
specified in the notice and the facility has not been cited 108091
previously for the same violation. Each day of a violation of any 108092
class, after the date the director sets for abatement or 108093
elimination, constitutes a separate and additional violation. 108094

(F) If an adult care facility fails to pay a penalty imposed 108095
under this section, the director may commence a civil action to 108096
collect the penalty. The license of an adult care facility that 108097
has failed to pay a penalty imposed under this section shall not 108098
be renewed until the penalty has been paid. 108099

(G) If a penalty is imposed under this section, a fine shall 108100
not be imposed under section ~~3722.99~~ 5119.99 of the Revised Code 108101
for the same violation. 108102

Sec. ~~3722.09~~ 5119.78. (A) If the director of mental health 108103
determines that the operation of an adult care facility 108104
jeopardizes the health or safety of any of the residents of the 108105
facility or if the director determines that an adult care facility 108106
is operating without a license, the director may petition the 108107
court of common pleas in the county in which the facility is 108108
located for appropriate injunctive relief against the facility. If 108109
injunctive relief is granted against a facility for operating 108110
without a license and the facility continues to operate without a 108111
license, the director shall refer the case to the attorney general 108112
for further action. 108113

(B) The court petitioned under division (A) of this section 108114
shall grant injunctive relief upon a showing that the operation of 108115
the facility jeopardizes the health or safety of any of the 108116
residents of the facility or that the facility is operating 108117
without a license. When the court grants injunctive relief in the 108118
case of a facility operating without a license, the court shall 108119
issue, at a minimum, an order enjoining the facility from 108120
admitting new residents to the facility and an order requiring the 108121
facility to assist ~~resident rights advocates~~ with the safe and 108122
orderly relocation of the facility's residents. 108123

Sec. ~~3722.10~~ 5119.79. (A) The ~~public health council shall~~ 108124
~~have the exclusive authority to adopt, and the council department~~ 108125
~~of mental health shall adopt,~~ rules governing the licensing and 108126
operation of adult care facilities. The rules shall be adopted in 108127
accordance with Chapter 119. of the Revised Code ~~and shall.~~ 108128
Subject to any provision of sections 5119.70 to 5119.88 of the 108129
Revised Code for which rules are required to be adopted, the rules 108130
may specify ~~all~~ any of the following: 108131

(1) Procedures for the issuance, renewal, and revocation of 108132
licenses, for the granting and denial of waivers, and for the 108133

issuance and termination of orders of suspension of admission 108134
pursuant to section ~~3722.07~~ 5119.76 of the Revised Code; 108135

(2) The qualifications required for owners, managers, and 108136
employees of adult care facilities, including character, training, 108137
education, experience, and financial resources and the number of 108138
staff members required in a facility; 108139

(3) Adequate space, equipment, safety, and sanitation 108140
standards for the premises of adult care facilities, and fire 108141
protection standards for adult family homes as required by section 108142
~~3722.041~~ 5119.731 of the Revised Code; 108143

(4) The personal, social, dietary, and recreational services 108144
to be provided to each resident of adult care facilities; 108145

(5) Rights of residents of adult care facilities, in addition 108146
to the rights enumerated under section ~~3722.12~~ 5119.81 of the 108147
Revised Code, and procedures to protect and enforce the rights of 108148
these residents; 108149

(6) Provisions for keeping records of residents and for 108150
maintaining the confidentiality of the records as required by 108151
division (B) of section ~~3722.12~~ 5119.81 of the Revised Code. The 108152
provisions for maintaining the confidentiality of records shall, 108153
at the minimum, meet the requirements for maintaining the 108154
confidentiality of records under Title XIX of the "Social Security 108155
Act," 49 Stat. 620, 42 U.S.C. 301, as amended, and regulations 108156
promulgated thereunder. 108157

(7) Measures to be taken by adult care facilities relative to 108158
residents' medication, including policies and procedures 108159
concerning medication, storage of medication in a locked area, and 108160
disposal of medication and assistance with self-administration of 108161
medication, if the facility provides assistance; 108162

(8) Requirements for initial and periodic health assessments 108163
of prospective and current adult care facility residents by 108164

physicians or other health professionals to ensure that they do 108165
not require a level of care beyond that which is provided by the 108166
adult care facility, including assessment of their capacity to 108167
self-administer the medications prescribed for them; 108168

(9) Requirements relating to preparation of special diets; 108169

(10) The amount of the fees for new and renewal license 108170
applications made pursuant to sections ~~3722.02~~ 5119.71 and ~~3722.04~~ 108171
5119.73 of the Revised Code; 108172

(11) Measures to be taken by any employee of the state or any 108173
political subdivision of the state authorized by this chapter to 108174
enter an adult care facility to inspect the facility or for any 108175
other purpose, to ensure that the employee respects the privacy 108176
and dignity of residents of the facility, cooperates with 108177
residents of the facility and behaves in a congenial manner toward 108178
them, and protects the rights of residents; 108179

(12) How an owner or manager of an adult care facility is to 108180
comply with section ~~3722.18~~ 5119.88 of the Revised Code. ~~At a~~ 108181
~~minimum, the~~ The rules ~~shall~~ may establish the procedures an owner 108182
or manager is to follow under division (A) of section ~~3722.18~~ 108183
5119.88 of the Revised Code regarding referrals to the facility of 108184
prospective residents with mental illness or severe mental 108185
disability and effective arrangements for ongoing mental health 108186
services for such prospective residents. The procedures may 108187
provide for any of the following: 108188

(a) That the owner or manager and the ADAMHS board serving 108189
the alcohol, drug addiction, and mental health service district in 108190
which the facility is located sign a mental health resident 108191
program participation agreement, as developed by the director of 108192
mental health under section ~~5119.613~~ 5119.614 of the Revised Code; 108193

(b) That the owner or manager comply with the requirements of 108194
its mental health resident program participation agreement; 108195

(c) That the owner or manager and the mental health agencies and ADAMHS boards that refer such prospective residents to the facility develop and sign a mental health plan for ongoing mental health services for each such prospective resident;

(d) Any other process established by the ~~public health council in consultation with the director of health and~~ director of mental health regarding referrals and effective arrangements for ongoing mental health services for prospective residents with mental illness.

(13) Any other rules necessary for the administration and enforcement of ~~this chapter sections 5119.70 to 5119.88 of the Revised Code.~~

~~(B) After consulting with relevant constituencies, the director of mental health shall prepare and submit to the director of health recommendations for the content of rules to be adopted under division (A)(12) of this section.~~

~~(C)~~ The director of mental health shall advise adult care facilities regarding compliance with the requirements of ~~this chapter sections 5119.70 to 5119.88 of the Revised Code~~ and with the rules adopted pursuant to ~~this chapter those sections.~~

~~(D)~~(C) Any duty or responsibility imposed upon the director of mental health by this chapter may be carried out by ~~an employee of the department of health~~ persons designated by the director.

~~(E)~~(D) Employees of the department of mental health may enter, for the purposes of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as an adult care facility without a valid license.

Sec. ~~3722.11~~ 5119.80. The ~~public health council~~ department of

~~mental health shall, not later than twelve months after the~~ 108226
~~effective date of this section,~~ adopt rules under Chapter 119. of 108227
the Revised Code that set guidelines for classifying violations of 108228
~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or 108229
rules adopted under ~~it~~ those sections for the purpose of imposing 108230
civil penalties. The rules shall establish the following 108231
classifications: 108232

(A) Class I violations are conditions or occurrences that 108233
present an immediate and serious threat to the physical or 108234
emotional health, safety, or security of residents of an adult 108235
care facility. Whoever is determined to have committed a class I 108236
violation is subject to a civil penalty of not less than seven 108237
hundred dollars nor more than one thousand dollars for each 108238
violation. 108239

(B) Class II violations are conditions or occurrences, other 108240
than class I violations, that directly threaten the physical or 108241
emotional health, safety, or security of residents of an adult 108242
care facility. Whoever is determined to have committed a class II 108243
violation is subject to a civil penalty of not less than five 108244
hundred dollars nor more than seven hundred dollars for each 108245
violation. 108246

(C) Class III violations are conditions or occurrences, other 108247
than class I or class II violations, that indirectly or 108248
potentially threaten the physical or emotional health, safety, or 108249
security of residents of a facility. Whoever is determined to have 108250
committed a class III violation is subject to a civil penalty of 108251
not less than one hundred dollars nor more than five hundred 108252
dollars for each violation. 108253

Sec. ~~3722.12~~ 5119.81. (A) As used in this section: 108254

(1) "Abuse" means the unreasonable confinement or 108255
intimidation of a resident, or the infliction of injury or cruel 108256

punishment upon a resident, resulting in physical harm, pain, or 108257
mental anguish. 108258

(2) "Exploitation" means the unlawful or improper utilization 108259
of an adult resident or ~~his~~ the resident's resources for personal 108260
or monetary benefit, profit, or gain. 108261

(3) "Mechanical restraint" means any method of restricting a 108262
resident's freedom of movement, physical activity, or normal use 108263
of the resident's body, using an appliance or device manufactured 108264
for this purpose. 108265

(4) "Neglect" means failure to provide a resident with the 108266
goods or services necessary to prevent physical harm, mental 108267
anguish, or mental illness. 108268

~~(4)(5) "Physical restraint," includes, but is not limited to,~~ 108269
~~the locked door of a room or any article, device, or garment that~~ 108270
~~interferes with the free movement of the resident and that he is~~ 108271
~~unable to remove easily~~ also known as "manual restraint," means 108272
any method of physically restricting a resident's freedom of 108273
movement, physical activity, or normal use of the resident's body 108274
without the use of a mechanical restraint. 108275

(6) "Seclusion" means the involuntary confinement of a 108276
resident alone in a room in which the resident is physically 108277
prevented from leaving. 108278

(B) The rights of a resident of an adult care facility 108279
include all of the following: 108280

(1) The right to a safe, healthy, clean, and decent living 108281
environment; 108282

(2) The right to be treated at all times with courtesy and 108283
respect, and with full recognition of personal dignity and 108284
individuality; 108285

(3) The right to practice a religion of ~~his~~ the resident's 108286

choice or to abstain from the practice of religion;	108287
(4) The right to manage personal financial affairs;	108288
(5) The right to retain and use personal clothing;	108289
(6) The right to ownership and reasonable use of personal property so as to maintain personal dignity and individuality;	108290 108291
(7) The right to participate in activities within the facility and to use the common areas of the facility;	108292 108293
(8) The right to engage in or refrain from engaging in activities of his <u>the resident's</u> own choosing within reason;	108294 108295
(9) The right to private and unrestricted communications, including:	108296 108297
(a) The right to receive, send, and mail sealed, unopened correspondence;	108298 108299
(b) The right to reasonable access to a telephone for private communications;	108300 108301
(c) The right to private visits at any reasonable hour.	108302
(10) The right to initiate and maintain contact with the community, including the right to participate in the activities of community groups at his <u>the resident's</u> initiative or at the initiative of community groups;	108303 108304 108305 108306
(11) The right to state grievances to the owner or the manager of the facility, to any governmental agency, or to any other person without reprisal;	108307 108308 108309
(12) Prior to becoming a resident, the right to visit the facility alone or with his <u>the prospective resident's</u> sponsor;	108310 108311
(13) The right to retain the services of any health or social services practitioner at his <u>the resident's</u> own expense;	108312 108313
(14) The right to refuse medical treatment or services, or if the resident has been adjudicated incompetent pursuant to Chapter	108314 108315

2111. of the Revised Code and has not been restored to legal 108316
capacity, the right to have ~~his~~ the resident's legal guardian make 108317
decisions about medical treatment and services for ~~him~~ the 108318
resident; 108319

(15) The right to be free from abuse, neglect, or 108320
exploitation; 108321

(16) The right to be free from seclusion and mechanical and 108322
physical restraints; 108323

(17) The right not to be deprived of any legal rights solely 108324
by reason of residence in an adult care facility; 108325

(18) The right to examine records maintained by the adult 108326
care facility concerning ~~him~~ the resident, upon request; 108327

(19) The right to confidential treatment of ~~his~~ the 108328
resident's personal records, and the right to approve or refuse 108329
the release of these records to any individual outside the 108330
facility, except upon transfer to another adult care facility or a 108331
nursing home, residential care facility, home for the aging, 108332
hospital, or other health care facility or provider, and except as 108333
required by law or rule or as required by a third-party payment 108334
contract; 108335

(20) The right to be informed in writing of the rates charged 108336
by the facility as well as any additional charges, and to receive 108337
thirty days notice in writing of any change in the rates and 108338
charges; 108339

(21) The right to have any significant change in ~~his~~ the 108340
resident's health reported to ~~his~~ the resident's sponsor; 108341

(22) The right to share a room with a spouse if both are 108342
residents of the facility. 108343

(C) A sponsor, or the director of mental health, ~~the director~~ 108344
~~of aging, or a residents' rights advocate registered under section~~ 108345

~~3701.07~~ of the Revised Code may assert on behalf of a resident any 108346
of the rights enumerated under this section, section ~~3722.14~~ 108347
5119.83 of the Revised Code, or rules adopted ~~by the public health~~ 108348
~~council~~ pursuant to ~~this chapter~~ sections 5119.70 to 5119.88 of 108349
the Revised Code. Any attempted waiver of these rights is void. No 108350
adult care facility or person associated with an adult care 108351
facility shall deny a resident any of these rights. 108352

(D) Any resident whose rights under this section or section 108353
~~3722.13~~ 5119.82 or ~~3722.14~~ 5119.83 of the Revised Code are 108354
violated has a cause of action against any person or facility 108355
committing the violation. ~~The action may be commenced by the~~ 108356
~~resident or by his sponsor on his behalf.~~ The court may award 108357
actual and punitive damages for violation of the rights. The court 108358
may award to the prevailing party reasonable attorney's fees 108359
limited to the work reasonably performed. 108360

Sec. ~~3722.13~~ 5119.82. (A) Each adult care facility shall 108361
establish a written residents' rights policy containing the text 108362
of sections ~~3722.12~~ 5119.81 and ~~3722.14~~ 5119.83 of the Revised 108363
Code and rules adopted by the ~~public health council~~ pursuant to 108364
~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, a 108365
discussion of the rights and responsibilities of residents under 108366
~~that section~~ sections 5119.81 to 5119.83 of the Revised Code, and 108367
the text of any additional rule for residents promulgated by the 108368
facility. At the time of admission the manager shall give a copy 108369
of the residents' rights policy to the resident and the resident's 108370
sponsor, if any, and explain the contents of the policy to them. 108371
The facility shall establish procedures for facilitating the 108372
residents' exercise of their rights. 108373

(B) Each adult care facility shall post prominently within 108374
the facility a copy of the residents' rights listed in division 108375
(B) of section ~~3722.12~~ 5119.81 of the Revised Code and any 108376

additional residents' rights established by rules adopted by the 108377
~~public health council pursuant to this chapter sections 5119.70 to~~ 108378
5119.88 of the Revised Code, the addresses and telephone numbers 108379
of the state long-term care ombudsperson and the regional 108380
long-term care ombudsperson program for the area in which the 108381
facility is located, and the telephone number maintained by the 108382
department ~~of health~~ for accepting complaints. 108383

Sec. ~~3722.14~~ 5119.83. (A)(1) Except as provided in division 108384
(A)(2) of this section, an adult care facility may transfer or 108385
discharge a resident, in the absence of a request from the 108386
resident, only for the following reasons: 108387

(a) Charges for the resident's accommodations and services 108388
have not been paid within thirty days after the date on which they 108389
became due; 108390

(b) The mental, emotional, or physical condition of the 108391
resident requires a level of care that the facility is unable to 108392
provide; 108393

(c) The health, safety, or welfare of the resident or of 108394
another resident requires a transfer or discharge; 108395

(d) The facility's license has been revoked or renewal has 108396
been denied ~~pursuant to this chapter by the director of mental~~ 108397
health; 108398

(e) The owner closes the facility; 108399

(f) The resident is relocated as the result of a court's 108400
order issued under section ~~3722.09~~ 5119.78 of the Revised Code as 108401
part of the injunctive relief granted against a facility that is 108402
operating without a license; 108403

(g) The resident is receiving publicly funded mental health 108404
services and the facility's mental health resident program 108405
participation agreement is terminated by the facility or ADAMHS 108406

board. 108407

(2) An adult family home may transfer or discharge a resident 108408
if transfer or discharge is required for the health, safety, or 108409
welfare of an individual who resides in the home but is not a 108410
resident for whom supervision or personal services are provided. 108411

(B)(1) The facility shall give a resident thirty days' 108412
advance notice, in writing, of a proposed transfer or discharge, 108413
except that if the transfer or discharge is for a reason given in 108414
divisions (A)(1)(b) to (g) or (A)(2) of this section and an 108415
emergency exists, the notice need not be given thirty days in 108416
advance. The facility shall state in the written notice the 108417
reasons for the proposed transfer or discharge. If the resident is 108418
entitled to a hearing as specified in division (B)(2) of this 108419
section, the written notice shall outline the procedure for the 108420
resident to follow in requesting a hearing. 108421

(2) A resident may request a hearing if a proposed transfer 108422
or discharge is based on reason given in ~~division~~ divisions 108423
(A)(1)(a) to (c) or (A)(2) of this section. If the resident seeks 108424
a hearing, the resident shall submit a request to the director of 108425
mental health not later than ten days after receiving the written 108426
notice. The director shall hold the hearing not later than ten 108427
days after receiving the request. A representative of the director 108428
shall preside over the hearing and shall issue a written 108429
recommendation of action to be taken by the director not later 108430
than three days after the hearing. The director shall issue an 108431
order regarding the transfer or discharge not later than two days 108432
after receipt of the recommendation. The order may prohibit or 108433
place conditions on the discharge or transfer. In the case of a 108434
transfer, the order may require that the transfer be to an 108435
institution or facility specified by the director. The hearing is 108436
not subject to section 121.22 of the Revised Code. The ~~public~~ 108437
~~health council~~ department of mental health shall adopt rules 108438

governing any additional procedures necessary for conducting the hearing. 108439
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(C)(1) The owner of an adult care facility who is closing the facility shall inform the director ~~of health~~ in writing at least thirty days prior to the proposed date of closing. At the same time, the owner or manager shall inform each resident, the resident's guardian, the resident's sponsor, or any organization or agency acting on behalf of the resident, of the closing of the facility and the date of the closing. 108441
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(2) Immediately upon receiving notice that a facility is to be closed, the director shall monitor the transfer of residents to other facilities and ensure that residents' rights are protected. The director shall notify the ombudsperson in the region in which the facility is located of the closing. 108448
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(3) All charges shall be prorated as of the date on which the facility closes. If payments have been made in advance, the payments for services not rendered shall be refunded to the resident or the resident's guardian not later than seven days after the closing of the facility. 108453
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(4) Immediately upon the closing of a facility, the owner shall surrender the license to the director, and the license shall be canceled. 108458
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Sec. ~~3722.15~~ 5119.84. (A) The following may enter an adult care facility at any time: 108461
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(1) Employees designated by the director of mental health; 108463

(2) Employees designated by the director of aging; 108464

(3) Employees designated by the attorney general; 108465

(4) Employees designated by a county department of job and family services to implement sections 5101.60 to 5101.71 of the Revised Code; 108466
108467
108468

(5) Persons employed pursuant to division (M) of section 108469
173.01 of the Revised Code in the long-term care ombudsperson 108470
program; 108471

(6) ~~Employees of the department of mental health designated 108472
by the director of mental health; 108473~~

~~(7)~~ Employees of a mental health agency under any of the 108474
following circumstances: 108475

(a) When the agency has a client residing in the facility; 108476

(b) When the agency is acting as an agent of an ADAMHS board 108477
other than the board with which it is under contract; 108478

(c) When there is a mental health resident program 108479
participation agreement between the facility and the ADAMHS board 108480
with which the agency is under contract. 108481

~~(8)~~(7) Employees of an ADAMHS board under any of the 108482
following circumstances: 108483

(a) When authorized by section 340.05 of the Revised Code; 108484

(b) When a resident of the facility is receiving mental 108485
health services provided by that ADAMHS board or another ADAMHS 108486
board pursuant to division (A)~~(8)~~(7)(b) of section 340.03 of the 108487
Revised Code; 108488

(c) When a resident of the facility is receiving services 108489
from a mental health agency under contract with that ADAMHS board 108490
or another ADAMHS board; 108491

(d) When there is a mental health resident program 108492
participation agreement between the facility and that ADAMHS 108493
board. 108494

The employees specified in divisions (A)(1) to ~~(8)~~(7) of this 108495
section shall be afforded access to all records of the facility, 108496
including records pertaining to residents, and may copy the 108497
records. Neither these employees nor the director of mental health 108498

shall release, without consent, any information obtained from the 108499
records of an adult care facility that reasonably would tend to 108500
identify a specific resident of the facility, except as ordered by 108501
a court of competent jurisdiction or when the release is otherwise 108502
authorized by law. 108503

(B) The following persons may enter any adult care facility 108504
during reasonable hours: 108505

(1) ~~A resident's sponsor;~~ 108506

~~(2) Residents' rights advocates;~~ 108507

~~(3) A resident's attorney;~~ 108508

~~(4)~~(2) A minister, priest, rabbi, or other person ministering 108509
to a resident's religious needs; 108510

~~(5)~~(3) A physician or other person providing health care 108511
services to a resident; 108512

~~(6)~~(4) Employees authorized by county departments of job and 108513
family services and local boards of health or health departments 108514
to enter adult care facilities; 108515

~~(7)~~(5) A prospective resident ~~and prospective resident's~~ 108516
~~sponsor.~~ 108517

(C) The manager of an adult care facility may require a 108518
person seeking to enter the facility to present identification 108519
sufficient to identify the person as an authorized person under 108520
this section. 108521

Sec. ~~3722.151~~ 5119.85. (A) As used in this section: 108522

(1) "~~Adult care facility~~" ~~has the same meaning as in section~~ 108523
~~3722.01 of the Revised Code~~ resident" means an individual residing 108524
in an adult care facility licensed by the department of mental 108525
health. 108526

(2) "Applicant" means a person who is under final 108527

consideration for employment with an adult care facility in a 108528
full-time, part-time, or temporary position that involves 108529
providing direct care to an ~~elder~~ adult resident. "Applicant" does 108530
not include a person who provides direct care as a volunteer 108531
without receiving or expecting to receive any form of remuneration 108532
other than reimbursement for actual expenses. 108533

(3) "Criminal records check" ~~and "older adult" have~~ has the 108534
same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 108535

(B)(1) Except as provided in division (I) of this section, 108536
the chief administrator of an adult care facility shall request 108537
that the superintendent of the bureau of criminal identification 108538
and investigation conduct a criminal records check with respect to 108539
each applicant. If an applicant for whom a criminal records check 108540
request is required under this division does not present proof of 108541
having been a resident of this state for the five-year period 108542
immediately prior to the date the criminal records check is 108543
requested or provide evidence that within that five-year period 108544
the superintendent has requested information about the applicant 108545
from the federal bureau of investigation in a criminal records 108546
check, the chief administrator shall request that the 108547
superintendent obtain information from the federal bureau of 108548
investigation as part of the criminal records check of the 108549
applicant. Even if an applicant for whom a criminal records check 108550
request is required under this division presents proof of having 108551
been a resident of this state for the five-year period, the chief 108552
administrator may request that the superintendent include 108553
information from the federal bureau of investigation in the 108554
criminal records check. 108555

(2) A person required by division (B)(1) of this section to 108556
request a criminal records check shall do both of the following: 108557

(a) Provide to each applicant for whom a criminal records 108558
check request is required under that division a copy of the form 108559

prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the ~~public health council~~ department of mental health in accordance with division (F) of this section and subject to division (C)(2) of this section, no adult care facility shall employ a person in a position that involves providing direct care to an ~~elder~~ resident if the person has been convicted of or pleaded guilty to any of the following:

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

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

this section. 108591

(2)(a) An adult care facility may employ conditionally an 108592
applicant for whom a criminal records check request is required 108593
under division (B) of this section prior to obtaining the results 108594
of a criminal records check regarding the individual, provided 108595
that the facility shall request a criminal records check regarding 108596
the individual in accordance with division (B)(1) of this section 108597
not later than five business days after the individual begins 108598
conditional employment. In the circumstances described in division 108599
(I)(2) of this section, an adult care facility may employ 108600
conditionally an applicant who has been referred to the adult care 108601
facility by an employment service that supplies full-time, 108602
part-time, or temporary staff for positions involving the direct 108603
care of ~~elder adults~~ adult residents and for whom, pursuant to 108604
that division, a criminal records check is not required under 108605
division (B) of this section. 108606

(b) An adult care facility that employs an individual 108607
conditionally under authority of division (C)(2)(a) of this 108608
section shall terminate the individual's employment if the results 108609
of the criminal records check requested under division (B) of this 108610
section or described in division (I)(2) of this section, other 108611
than the results of any request for information from the federal 108612
bureau of investigation, are not obtained within the period ending 108613
thirty days after the date the request is made. Regardless of when 108614
the results of the criminal records check are obtained, if the 108615
results indicate that the individual has been convicted of or 108616
pleaded guilty to any of the offenses listed or described in 108617
division (C)(1) of this section, the facility shall terminate the 108618
individual's employment unless the facility chooses to employ the 108619
individual pursuant to division (F) of this section. Termination 108620
of employment under this division shall be considered just cause 108621
for discharge for purposes of division (D)(2) of section 4141.29 108622

of the Revised Code if the individual makes any attempt to deceive 108623
the facility about the individual's criminal record. 108624

(D)(1) Each adult care facility shall pay to the bureau of 108625
criminal identification and investigation the fee prescribed 108626
pursuant to division (C)(3) of section 109.572 of the Revised Code 108627
for each criminal records check conducted pursuant to a request 108628
made under division (B) of this section. 108629

(2) An adult care facility may charge an applicant a fee not 108630
exceeding the amount the facility pays under division (D)(1) of 108631
this section. A facility may collect a fee only if it notifies the 108632
person at the time of initial application for employment of the 108633
amount of the fee and that, unless the fee is paid, the person 108634
will not be considered for employment. 108635

(E) The report of any criminal records check conducted 108636
pursuant to a request made under this section is not a public 108637
record for the purposes of section 149.43 of the Revised Code and 108638
shall not be made available to any person other than the 108639
following: 108640

(1) The individual who is the subject of the criminal records 108641
check or the individual's representative; 108642

(2) The chief administrator of the facility requesting the 108643
criminal records check or the administrator's representative; 108644

(3) The administrator of any other facility, agency, or 108645
program that provides direct care to ~~elder adults~~ adult residents 108646
that is owned or operated by the same entity that owns or operates 108647
the adult care facility; 108648

(4) A court, hearing officer, or other necessary individual 108649
involved in a case dealing with a denial of employment of the 108650
applicant or dealing with employment or unemployment benefits of 108651
the applicant; 108652

(5) Any person to whom the report is provided pursuant to, 108653
and in accordance with, division (I)(1) or (2) of this section. 108654

(F) The ~~public health council shall~~ department may adopt 108655
rules in accordance with Chapter 119. of the Revised Code to 108656
implement this section. The rules ~~shall~~ may specify circumstances 108657
under which an adult care facility may employ a person who has 108658
been convicted of or pleaded guilty to an offense listed or 108659
described in division (C)(1) of this section but meets personal 108660
character standards set by the council. 108661

(G) The chief administrator of an adult care facility shall 108662
inform each individual, at the time of initial application for a 108663
position that involves providing direct care to an ~~elder~~ adult 108664
resident, that the individual is required to provide a set of 108665
fingerprint impressions and that a criminal records check is 108666
required to be conducted if the individual comes under final 108667
consideration for employment. 108668

(H) In a tort or other civil action for damages that is 108669
brought as the result of an injury, death, or loss to person or 108670
property caused by an individual who an adult care facility 108671
employs in a position that involves providing direct care to ~~elder~~ 108672
~~adults~~ adult residents, all of the following shall apply: 108673

(1) If the facility employed the individual in good faith and 108674
reasonable reliance on the report of a criminal records check 108675
requested under this section, the facility shall not be found 108676
negligent solely because of its reliance on the report, even if 108677
the information in the report is determined later to have been 108678
incomplete or inaccurate; 108679

(2) If the facility employed the individual in good faith on 108680
a conditional basis pursuant to division (C)(2) of this section, 108681
the facility shall not be found negligent solely because it 108682
employed the individual prior to receiving the report of a 108683

criminal records check requested under this section; 108684

(3) If the facility in good faith employed the individual 108685
according to the personal character standards established in rules 108686
adopted under division (F) of this section, the facility shall not 108687
be found negligent solely because the individual prior to being 108688
employed had been convicted of or pleaded guilty to an offense 108689
listed or described in division (C)(1) of this section. 108690

(I)(1) The chief administrator of an adult care facility is 108691
not required to request that the superintendent of the bureau of 108692
criminal identification and investigation conduct a criminal 108693
records check of an applicant if the applicant has been referred 108694
to the facility by an employment service that supplies full-time, 108695
part-time, or temporary staff for positions involving the direct 108696
care of ~~elder adults~~ adult residents and both of the following 108697
apply: 108698

(a) The chief administrator receives from the employment 108699
service or the applicant a report of the results of a criminal 108700
records check regarding the applicant that has been conducted by 108701
the superintendent within the one-year period immediately 108702
preceding the applicant's referral; 108703

(b) The report of the criminal records check demonstrates 108704
that the person has not been convicted of or pleaded guilty to an 108705
offense listed or described in division (C)(1) of this section, or 108706
the report demonstrates that the person has been convicted of or 108707
pleaded guilty to one or more of those offenses, but the adult 108708
care facility chooses to employ the individual pursuant to 108709
division (F) of this section. 108710

(2) The chief administrator of an adult care facility is not 108711
required to request that the superintendent of the bureau of 108712
criminal identification and investigation conduct a criminal 108713
records check of an applicant and may employ the applicant 108714

conditionally as described in this division, if the applicant has 108715
been referred to the facility by an employment service that 108716
supplies full-time, part-time, or temporary staff for positions 108717
involving the direct care of ~~elder adults~~ adult residents and if 108718
the chief administrator receives from the employment service or 108719
the applicant a letter from the employment service that is on the 108720
letterhead of the employment service, dated, and signed by a 108721
supervisor or another designated official of the employment 108722
service and that states that the employment service has requested 108723
the superintendent to conduct a criminal records check regarding 108724
the applicant, that the requested criminal records check will 108725
include a determination of whether the applicant has been 108726
convicted of or pleaded guilty to any offense listed or described 108727
in division (C)(1) of this section, that, as of the date set forth 108728
on the letter, the employment service had not received the results 108729
of the criminal records check, and that, when the employment 108730
service receives the results of the criminal records check, it 108731
promptly will send a copy of the results to the adult care 108732
facility. If an adult care facility employs an applicant 108733
conditionally in accordance with this division, the employment 108734
service, upon its receipt of the results of the criminal records 108735
check, promptly shall send a copy of the results to the adult care 108736
facility, and division (C)(2)(b) of this section applies regarding 108737
the conditional employment. 108738

Sec. ~~3722.16~~ 5119.86. (A) No person shall: 108739

(1) Operate an adult care facility unless the facility is 108740
validly licensed by the director of mental health under section 108741
~~3722.04~~ 5119.73 of the Revised Code; 108742

(2) Admit to an adult care facility more residents than the 108743
number authorized in the facility's license; 108744

(3) Admit a resident to an adult care facility after the 108745

director has issued an order pursuant to section ~~3722.07~~ 5119.76 108746
of the Revised Code suspending admissions to the facility. 108747
Violation of division (A)(3) of this section is cause for 108748
revocation of the facility's license. 108749

(4) Interfere with any authorized inspection of an adult care 108750
facility conducted pursuant to section ~~3722.02~~ 5119.71 or ~~3722.04~~ 108751
5119.73 of the Revised Code; 108752

(5) Admit to an adult care facility a resident requiring 108753
publicly funded mental health services, unless both of the 108754
following conditions are met: 108755

(a) The ADAMHS board serving the alcohol, drug addiction, and 108756
mental health service district in which the facility is located is 108757
notified; 108758

(b) The facility and ADAMHS board have entered into a mental 108759
health resident program participation agreement by using the 108760
standardized form approved by the director of mental health under 108761
section ~~5119.613~~ 5119.614 of the Revised Code. 108762

(6) Violate any of the provisions of ~~this chapter~~ sections 108763
5119.70 to 5119.88 of the Revised Code or any of the rules adopted 108764
pursuant to ~~it~~ those sections. 108765

(B) No adult care facility shall provide, or admit or retain 108766
any resident in need of, skilled nursing care unless all of the 108767
following conditions are met: 108768

(1) The care will be provided on a part-time, intermittent 108769
basis for not more than a total of one hundred twenty days in any 108770
twelve-month period. 108771

(2) The care will be provided by one or more of the 108772
following: 108773

(a) A home health agency certified under Title XVIII of the 108774
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 108775

amended; 108776

(b) A hospice care program licensed under Chapter 3712. of 108777
the Revised Code; 108778

(c) A nursing home licensed under Chapter 3721. of the 108779
Revised Code and owned and operated by the same person and located 108780
on the same site as the adult care facility; 108781

(d) A mental health agency or, pursuant to division 108782
(A)~~(8)~~(7)(b) of section 340.03 of the Revised Code, an ADAMHS 108783
board. 108784

(3) Each individual employed by, under contract with, or 108785
otherwise used by any of the entities specified in division (B)(2) 108786
of this section to perform the skilled nursing care is authorized 108787
under the laws of this state to perform the care by being 108788
appropriately licensed, as specified in rules adopted under 108789
division (G) of this section. 108790

(4) The staff of the one or more entities providing the 108791
skilled nursing care does not train the adult care facility staff 108792
to provide the skilled nursing care; 108793

(5) The individual to whom the skilled nursing care is 108794
provided is suffering from a short-term illness; 108795

(6) If the skilled nursing care is to be provided by the 108796
nursing staff of a nursing home, all of the following are the 108797
case: 108798

(a) The adult care facility evaluates the individual 108799
receiving the skilled nursing care at least once every seven days 108800
to determine whether the individual should be transferred to a 108801
nursing home; 108802

(b) The adult care facility meets at all times staffing 108803
requirements established by rules adopted under section ~~3722.10~~ 108804
5119.79 of the Revised Code; 108805

(c) The nursing home does not include the cost of providing skilled nursing care to the adult care facility residents in a cost report filed under section 5111.26 of the Revised Code; 108806
108807
108808

(d) The nursing home meets at all times the nursing home licensure staffing ratios established by rules adopted under section 3721.04 of the Revised Code; 108809
108810
108811

(e) The nursing home staff providing skilled nursing care to adult care facility residents are registered nurses or licensed practical nurses licensed under Chapter 4723. of the Revised Code and meet the personnel qualifications for nursing home staff established by rules adopted under section 3721.04 of the Revised Code; 108812
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108814
108815
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108817

(f) The skilled nursing care is provided in accordance with rules established for nursing homes under section 3721.04 of the Revised Code; 108818
108819
108820

(g) The nursing home meets the skilled nursing care needs of the adult care facility residents; 108821
108822

(h) Using the nursing home's nursing staff does not prevent the nursing home or adult care facility from meeting the needs of the nursing home and adult care facility residents in a quality and timely manner. 108823
108824
108825
108826

(7) No adult care facility staff shall provide skilled nursing care. 108827
108828

Notwithstanding section 3721.01 of the Revised Code, an adult care facility in which residents receive skilled nursing care as described in division (B) of this section is not a nursing home. 108829
108830
108831

(C) A home health agency or hospice care program that provides skilled nursing care pursuant to division (B) of this section may not be associated with the adult care facility unless the facility is part of a home for the aged as defined in section 108832
108833
108834
108835

5701.13 of the Revised Code or the adult care facility is owned 108836
and operated by the same person and located on the same site as a 108837
nursing home licensed under Chapter 3721. of the Revised Code that 108838
is associated with the home health agency or hospice care program. 108839
In addition, the following requirements shall be met: 108840

(1) The adult care facility shall evaluate the individual 108841
receiving the skilled nursing care not less than once every seven 108842
days to determine whether the individual should be transferred to 108843
a nursing home; 108844

(2) If the costs of providing the skilled nursing care are 108845
included in a cost report filed pursuant to section 5111.26 of the 108846
Revised Code by the nursing home that is part of the same home for 108847
the aged, the home health agency or hospice care program shall not 108848
seek reimbursement for the care under the medical assistance 108849
program established under Chapter 5111. of the Revised Code. 108850

(D) No person knowingly shall place or recommend placement of 108851
any person in an adult care facility that is operating without a 108852
license. 108853

(E) No employee of a unit of local or state government, 108854
ADAMHS board, mental health agency, or ~~PASSPORT~~ RSS administrative 108855
agency shall place or recommend placement of any person in an 108856
adult care facility if the employee knows any of the following: 108857

(1) That the facility cannot meet the needs of the potential 108858
resident; 108859

(2) That placement of the resident would cause the facility 108860
to exceed its licensed capacity; 108861

(3) That an enforcement action initiated by the director of 108862
mental health is pending and may result in the revocation of or 108863
refusal to renew the facility's license; 108864

(4) That the potential resident is receiving or is eligible 108865

for publicly funded mental health services and the facility has 108866
not entered into a mental health resident program participation 108867
agreement. 108868

(F) No person who has reason to believe that an adult care 108869
facility is operating without a license shall fail to report this 108870
information to the director of mental health. 108871

(G) In accordance with Chapter 119. of the Revised Code, the 108872
~~public health council~~ department of mental health shall adopt 108873
rules for purposes of division (B) of this section that do all of 108874
the following: 108875

(1) Define a short-term illness for purposes of division 108876
(B)(5) of this section; 108877

(2) Specify, consistent with rules pertaining to home health 108878
care adopted by the director of job and family services under the 108879
medical assistance program established under Chapter 5111. of the 108880
Revised Code and Title XIX of the "Social Security Act," 49 Stat. 108881
620 (1935), 42 U.S.C. 301, as amended, what constitutes a 108882
part-time, intermittent basis for purposes of division (B)(1) of 108883
this section; 108884

(3) Specify what constitutes being appropriately licensed for 108885
purposes of division (B)(3) of this section. 108886

Sec. ~~3722.17~~ 5119.87. (A) Any person who believes that an 108887
adult care facility is in violation of ~~this chapter~~ sections 108888
5119.70 to 5119.88 of the Revised Code or of any of the rules 108889
~~promulgated~~ adopted pursuant to ~~it~~ those sections may report the 108890
information to the director of mental health. The director shall 108891
investigate each report made under this section or section ~~3722.16~~ 108892
5119.86 of the Revised Code and shall inform the facility of the 108893
results of the investigation. When investigating a report made 108894
pursuant to section 340.05 of the Revised Code, the director shall 108895

consult with the ADAMHS board that made the report. The director 108896
shall keep a record of the investigation and the action taken as a 108897
result of the investigation. 108898

The director shall not reveal, without consent, the identity 108899
of a person who makes a report under this section or division (G) 108900
of section ~~3722.16~~ 5119.86 of the Revised Code, the identity of a 108901
specific resident or residents referred to in such a report, or 108902
any other information that could reasonably be expected to reveal 108903
the identity of the person making the report or the resident or 108904
residents referred to in the report, except that the director may 108905
provide this information to a government agency responsible for 108906
enforcing laws applying to adult care facilities. 108907

(B) Any person who believes that a resident's rights under 108908
sections ~~3722.12~~ 5119.81 to ~~3722.15~~ 5119.84 of the Revised Code 108909
have been violated may report the information to the state 108910
long-term care ombudsperson, the regional long-term care 108911
ombudsperson program for the area in which the facility is 108912
located, or the director of mental health. If the person believes 108913
that the resident has mental illness or severe mental disability 108914
and is suffering abuse or neglect, the person may report the 108915
information to the ADAMHS board serving the alcohol, drug 108916
addiction, and mental health service district in which the adult 108917
care facility is located or a mental health agency under contract 108918
with the board in addition to or instead of the ombudsperson, 108919
regional program, or director. 108920

(C) Any person who makes a report pursuant to division (A) or 108921
(B) of this section or division (G) of section ~~3722.16~~ 5119.86 of 108922
the Revised Code or any person who participates in an 108923
administrative or judicial proceeding resulting from such a report 108924
is immune from any civil liability or criminal liability, other 108925
than perjury, that might otherwise be incurred or imposed as a 108926
result of these actions, unless the person has acted in bad faith 108927

or with malicious purpose. 108928

Sec. ~~3722.18~~ 5119.88. Before an adult care facility admits a 108929
prospective resident who the owner or manager of the facility 108930
knows has been assessed as having a mental illness or severe 108931
mental disability, the owner or manager is subject to both of the 108932
following: 108933

(A) If the prospective resident is referred to the facility 108934
by a mental health agency or ADAMHS board, the owner or manager 108935
shall follow procedures established in rules adopted under 108936
division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code 108937
regarding referrals and effective arrangements for ongoing mental 108938
health services. 108939

(B) If the prospective resident is not referred to the 108940
facility by a mental health agency or ADAMHS board, the owner or 108941
manager shall offer to assist the prospective resident in 108942
obtaining appropriate mental health services and document the 108943
offer of assistance in accordance with rules adopted under 108944
division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code. 108945

Sec. 5119.99. (A) Whoever violates section 5119.21 of the 108946
Revised Code is guilty of a misdemeanor of the first degree. 108947

(B) Whoever violates division (A)(1) of section 5119.86 of 108948
the Revised Code shall be fined two thousand dollars for a first 108949
offense; for each subsequent offense, such person shall be fined 108950
five thousand dollars. 108951

(C) Whoever violates division (C) of section 5119.81 or 108952
division (A)(2), (3), (4), (5), or (6), (B), (C), (D), (E), or (F) 108953
of section 5119.86 of the Revised Code shall be fined five hundred 108954
dollars for a first offense; for each subsequent offense, such 108955
person shall be fined one thousand dollars. 108956

Sec. 5120.092. There is hereby created in the state treasury 108957
the adult and juvenile correctional facilities bond retirement 108958
fund. The fund shall receive proceeds derived from the sale of 108959
state adult or juvenile correctional facilities. Investment income 108960
with respect to moneys on deposit in the fund shall be retained by 108961
the fund. No investment of moneys in, or transfer of moneys from, 108962
the fund shall be made if the effect of the investment or transfer 108963
would be to adversely affect the exclusion from gross income of 108964
the interest payable on state bonds issued for state adult or 108965
juvenile correctional facilities that have been sold under 108966
authority of Section 753.10 of the act in which this section was 108967
enacted. To the extent necessary to maintain the exclusion from 108968
gross income of the interest payable on those bonds, moneys in the 108969
fund shall first be used to redeem or defease the outstanding 108970
portion of such bonds. To accomplish the redemption or defeasance, 108971
the director of budget and management, at the request of the Ohio 108972
building authority, may direct that moneys in the fund be 108973
transferred to the appropriate trustees under the applicable bond 108974
trust agreements. Upon receipt of both (i) one or more opinions of 108975
a nationally recognized bond counsel firm appointed by the Ohio 108976
building authority stating that the aforementioned bonds have been 108977
redeemed or defeased and that the transfer of such moneys will not 108978
adversely affect the exclusion from gross income of the interest 108979
payable on such bonds, and (ii) a certification by both the 108980
director of administrative services and the director of 108981
rehabilitation and correction stating either that all sales of 108982
state adult and juvenile correctional facilities contemplated by 108983
Section 753.10 of the act in which this section was enacted have 108984
been completed or that no further sales of any such facilities 108985
will be undertaken, the director of budget and management may 108986
direct that any moneys remaining in the fund after the redemption 108987
or defeasance of the aforementioned bonds shall be transferred to 108988

the general revenue fund. Upon completion of that transfer, the 108989
adult and juvenile correctional facilities bond retirement fund 108990
shall be abolished. 108991

Sec. 5120.105. (A) The department of administrative services 108992
shall provide for the construction of a halfway house facility in 108993
conformity with Chapter 153. of the Revised Code, except that 108994
construction services may be provided by the department of 108995
rehabilitation and correction. 108996

(B) The director of rehabilitation and correction may enter 108997
into an agreement with a halfway house organization for the 108998
management of a halfway house facility. The halfway house 108999
organization that occupies, will occupy, or is responsible for the 109000
management of a halfway house facility shall pay the costs of 109001
management of and general building services for the halfway house 109002
facility as provided in an agreement between the department of 109003
rehabilitation and correction and the halfway house organization. 109004

(C) No state funds, including state bond proceeds, shall be 109005
spent on the construction of a halfway house facility under 109006
sections 5120.102 to 5120.105 of the Revised Code, unless the 109007
general assembly has specifically authorized the spending of money 109008
on, or has made an appropriation to the department of 109009
rehabilitation and correction for, the construction of the halfway 109010
house facility or rental payments relating to the financing of the 109011
construction of that facility. An authorization to spend money or 109012
an appropriation for planning a halfway house facility does not 109013
constitute an authorization to spend money on, or an appropriation 109014
for, the construction of that facility. Capital funds for the 109015
construction of halfway house facilities under sections 5120.102 109016
to 5120.105 of the Revised Code shall be paid from the adult 109017
correctional building fund created ~~by the general assembly in the~~ 109018
~~eustody of the state treasurer in division (F) of section 154.24~~ 109019

of the Revised Code. 109020

Sec. 5120.135. (A) As used in this section, "laboratory 109021
services" includes the performance of medical laboratory analysis; 109022
professional laboratory and pathologist consultation; the 109023
procurement, storage, and distribution of laboratory supplies; and 109024
the performance of phlebotomy services. 109025

(B) The department of rehabilitation and correction ~~shall~~ may 109026
provide laboratory services to the departments of mental health, 109027
developmental disabilities, youth services, and rehabilitation and 109028
correction. The department of rehabilitation and correction may 109029
also provide laboratory services to other state, county, or 109030
municipal agencies and to private persons that request laboratory 109031
services if the department of rehabilitation and correction 109032
determines that the provision of laboratory services is in the 109033
public interest and considers it advisable to provide such 109034
services. The department of rehabilitation and correction may also 109035
provide laboratory services to agencies operated by the United 109036
States government and to public and private entities funded in 109037
whole or in part by the state if the director of rehabilitation 109038
and correction designates them as eligible to receive such 109039
services. 109040

The department of rehabilitation and correction shall provide 109041
laboratory services from a laboratory that complies with the 109042
standards for certification set by the United States department of 109043
health and human services under the "Clinical Laboratory 109044
Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. 109045
In addition, the laboratory shall maintain accreditation or 109046
certification with an appropriate accrediting or certifying 109047
organization as considered necessary by the recipients of its 109048
laboratory services and as authorized by the director of 109049
rehabilitation and correction. 109050

(C) The cost of administering this section shall be 109051
determined by the department of rehabilitation and correction and 109052
shall be paid by entities that receive laboratory services to the 109053
department for deposit in the state treasury to the credit of the 109054
laboratory services fund, which is hereby created. The fund shall 109055
be used to pay the costs the department incurs in administering 109056
this section. 109057

~~(D) If the department of rehabilitation and correction does 109058
not provide laboratory services under this section in a 109059
satisfactory manner to the department of developmental 109060
disabilities, youth services, or mental health, the director of 109061
developmental disabilities, youth services, or mental health shall 109062
attempt to resolve the matter of the unsatisfactory provision of 109063
services with the director of rehabilitation and correction. If, 109064
after this attempt, the provision of laboratory services continues 109065
to be unsatisfactory, the director of developmental disabilities, 109066
youth services, or mental health shall notify the director of 109067
rehabilitation and correction regarding the continued 109068
unsatisfactory provision of laboratory services. If, within thirty 109069
days after the director receives this notice, the department of 109070
rehabilitation and correction does not provide the specified 109071
laboratory services in a satisfactory manner, the director of 109072
developmental disabilities, youth services, or mental health shall 109073
notify the director of rehabilitation and correction of the 109074
notifying director's intent to cease obtaining laboratory services 109075
from the department of rehabilitation and correction. Following 109076
the end of a cancellation period of sixty days that begins on the 109077
date of the notice, the department that sent the notice may obtain 109078
laboratory services from a provider other than the department of 109079
rehabilitation and correction, if the department that sent the 109080
notice certifies to the department of administrative services that 109081
the requirements of this division have been met. 109082~~

~~(E)~~ Whenever a state agency fails to make a payment for laboratory services provided to it by the department of rehabilitation and correction under this section within thirty-one days after the date the payment was due, the office of budget and management may transfer moneys from that state agency to the department of rehabilitation and correction for deposit to the credit of the laboratory services fund. The amount transferred shall not exceed the amount of the overdue payments. Prior to making a transfer under this division, the office shall apply any credits the state agency has accumulated in payment for laboratory services provided under this section.

Sec. 5120.17. (A) As used in this section:

(1) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(2) "Mentally ill person subject to hospitalization" means a mentally ill person to whom any of the following applies because of the person's mental illness:

(a) The person represents a substantial risk of physical harm to the person as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm.

(b) The person represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness.

(c) The person represents a substantial and immediate risk of serious physical impairment or injury to the person as manifested by evidence that the person is unable to provide for and is not

providing for the person's basic physical needs because of the 109113
person's mental illness and that appropriate provision for those 109114
needs cannot be made immediately available in the correctional 109115
institution in which the inmate is currently housed. 109116

(d) The person would benefit from treatment in a hospital for 109117
the person's mental illness and is in need of treatment in a 109118
hospital as manifested by evidence of behavior that creates a 109119
grave and imminent risk to substantial rights of others or the 109120
person. 109121

(3) "Psychiatric hospital" means all or part of a facility 109122
that is operated and managed by the department of ~~rehabilitation~~ 109123
~~and correction, is designated as a psychiatric hospital~~ mental 109124
health to provide psychiatric hospitalization services in 109125
accordance with the requirements of this section pursuant to an 109126
agreement between the directors of rehabilitation and correction 109127
and mental health or, is licensed by the department of mental 109128
health pursuant to section 5119.20 of the Revised Code, as a 109129
psychiatric hospital and is ~~in substantial compliance with the~~ 109130
~~standards set by the joint commission on accreditation of~~ 109131
~~healthcare organizations~~ accredited by a healthcare accrediting 109132
organization approved by the department of mental health and the 109133
psychiatric hospital is any of the following: 109134

(a) Operated and managed by the department of rehabilitation 109135
and correction within a facility that is operated by the 109136
department of rehabilitation and correction; 109137

(b) Operated and managed by a contractor for the department 109138
of rehabilitation and correction within a facility that is 109139
operated by the department of rehabilitation and correction; 109140

(c) Operated and managed in the community by an entity that 109141
has contracted with the department of rehabilitation and 109142
correction to provide psychiatric hospitalization services in 109143

<u>accordance with the requirements of this section.</u>	109144
(4) "Inmate patient" means an inmate who is admitted to a psychiatric hospital.	109145 109146
(5) "Admitted" to a psychiatric hospital means being accepted for and staying at least one night at the psychiatric hospital.	109147 109148
(6) "Treatment plan" means a written statement of reasonable objectives and goals for an inmate patient that is based on the needs of the inmate patient and that is established by the treatment team, with the active participation of the inmate patient and with documentation of that participation. "Treatment plan" includes all of the following:	109149 109150 109151 109152 109153 109154
(a) The specific criteria to be used in evaluating progress toward achieving the objectives and goals;	109155 109156
(b) The services to be provided to the inmate patient during the inmate patient's hospitalization;	109157 109158
(c) The services to be provided to the inmate patient after discharge from the hospital, including, but not limited to, housing and mental health services provided at the state correctional institution to which the inmate patient returns after discharge or community mental health services.	109159 109160 109161 109162 109163
(7) "Mentally retarded person subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code.	109164 109165 109166
(8) "Emergency transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate presents an immediate danger to self or others and requires hospital-level care.	109167 109168 109169 109170
(9) "Uncontested transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate has the mental capacity to, and has waived, the hearing required by	109171 109172 109173

division (B) of this section. 109174

(10)(a) "Independent decision-maker" means a person who is 109175
employed or retained by the department of rehabilitation and 109176
correction and is appointed by the chief or chief clinical officer 109177
of mental health services as a hospitalization hearing officer to 109178
conduct due process hearings. 109179

(b) An independent decision-maker who presides over any 109180
hearing or issues any order pursuant to this section shall be a 109181
psychiatrist, psychologist, or attorney, shall not be specifically 109182
associated with the institution in which the inmate who is the 109183
subject of the hearing or order resides at the time of the hearing 109184
or order, and previously shall not have had any treatment 109185
relationship with nor have represented in any legal proceeding the 109186
inmate who is the subject of the order. 109187

(B)(1) Except as provided in division (C) of this section, if 109188
the warden of a state correctional institution or the warden's 109189
designee believes that an inmate should be transferred from the 109190
institution to a psychiatric hospital, the department shall hold a 109191
hearing to determine whether the inmate is a mentally ill person 109192
subject to hospitalization. The department shall conduct the 109193
hearing at the state correctional institution in which the inmate 109194
is confined, and the department shall provide qualified 109195
independent assistance to the inmate for the hearing. An 109196
independent decision-maker provided by the department shall 109197
preside at the hearing and determine whether the inmate is a 109198
mentally ill person subject to hospitalization. 109199

(2) Except as provided in division (C) of this section, prior 109200
to the hearing held pursuant to division (B)(1) of this section, 109201
the warden or the warden's designee shall give written notice to 109202
the inmate that the department is considering transferring the 109203
inmate to a psychiatric hospital, that it will hold a hearing on 109204
the proposed transfer at which the inmate may be present, that at 109205

the hearing the inmate has the rights described in division (B)(3) 109206
of this section, and that the department will provide qualified 109207
independent assistance to the inmate with respect to the hearing. 109208
The department shall not hold the hearing until the inmate has 109209
received written notice of the proposed transfer and has had 109210
sufficient time to consult with the person appointed by the 109211
department to provide assistance to the inmate and to prepare for 109212
a presentation at the hearing. 109213

(3) At the hearing held pursuant to division (B)(1) of this 109214
section, the department shall disclose to the inmate the evidence 109215
that it relies upon for the transfer and shall give the inmate an 109216
opportunity to be heard. Unless the independent decision-maker 109217
finds good cause for not permitting it, the inmate may present 109218
documentary evidence and the testimony of witnesses at the hearing 109219
and may confront and cross-examine witnesses called by the 109220
department. 109221

(4) If the independent decision-maker does not find clear and 109222
convincing evidence that the inmate is a mentally ill person 109223
subject to hospitalization, the department shall not transfer the 109224
inmate to a psychiatric hospital but shall continue to confine the 109225
inmate in the same state correctional institution or in another 109226
state correctional institution that the department considers 109227
appropriate. If the independent decision-maker finds clear and 109228
convincing evidence that the inmate is a mentally ill person 109229
subject to hospitalization, the decision-maker shall order that 109230
the inmate be transported to a psychiatric hospital for 109231
observation and treatment for a period of not longer than thirty 109232
days. After the hearing, the independent decision-maker shall 109233
submit to the department a written decision that states one of the 109234
findings described in division (B)(4) of this section, the 109235
evidence that the decision-maker relied on in reaching that 109236
conclusion, and, if the decision is that the inmate should be 109237

transferred, the reasons for the transfer. 109238

(C)(1) The department may transfer an inmate to a psychiatric 109239
hospital under an emergency transfer order if the chief clinical 109240
officer of mental health services of the department or that 109241
officer's designee and either a psychiatrist employed or retained 109242
by the department or, in the absence of a psychiatrist, a 109243
psychologist employed or retained by the department determines 109244
that the inmate is mentally ill, presents an immediate danger to 109245
self or others, and requires hospital-level care. 109246

(2) The department may transfer an inmate to a psychiatric 109247
hospital under an uncontested transfer order if both of the 109248
following apply: 109249

(a) A psychiatrist employed or retained by the department 109250
determines all of the following apply: 109251

(i) The inmate has a mental illness or is a mentally ill 109252
person subject to hospitalization. 109253

(ii) The inmate requires hospital care to address the mental 109254
illness. 109255

(iii) The inmate has the mental capacity to make a reasoned 109256
choice regarding the inmate's transfer to a hospital. 109257

(b) The inmate agrees to a transfer to a hospital. 109258

(3) The written notice and the hearing required under 109259
divisions (B)(1) and (2) of this section are not required for an 109260
emergency transfer or uncontested transfer under division (C)(1) 109261
or (2) of this section. 109262

(4) After an emergency transfer under division (C)(1) of this 109263
section, the department shall hold a hearing for continued 109264
hospitalization within five working days after admission of the 109265
transferred inmate to the psychiatric hospital. The department 109266
shall hold subsequent hearings pursuant to division (F) of this 109267

section at the same intervals as required for inmate patients who 109268
are transported to a psychiatric hospital under division (B)(4) of 109269
this section. 109270

(5) After an uncontested transfer under division (C)(2) of 109271
this section, the inmate may withdraw consent to the transfer in 109272
writing at any time. Upon the inmate's withdrawal of consent, the 109273
hospital shall discharge the inmate, or, within five working days, 109274
the department shall hold a hearing for continued hospitalization. 109275
The department shall hold subsequent hearings pursuant to division 109276
(F) of this section at the same time intervals as required for 109277
inmate patients who are transported to a psychiatric hospital 109278
under division (B)(4) of this section. 109279

(D)(1) If an independent decision-maker, pursuant to division 109280
(B)(4) of this section, orders an inmate transported to a 109281
psychiatric hospital or if an inmate is transferred pursuant to 109282
division (C)(1) or (2) of this section, the staff of the 109283
psychiatric hospital shall examine the inmate patient when 109284
admitted to the psychiatric hospital as soon as practicable after 109285
the inmate patient arrives at the hospital and no later than 109286
twenty-four hours after the time of arrival. The attending 109287
physician responsible for the inmate patient's care shall give the 109288
inmate patient all information necessary to enable the patient to 109289
give a fully informed, intelligent, and knowing consent to the 109290
treatment the inmate patient will receive in the hospital. The 109291
attending physician shall tell the inmate patient the expected 109292
physical and medical consequences of any proposed treatment and 109293
shall give the inmate patient the opportunity to consult with 109294
another psychiatrist at the hospital and with the inmate advisor. 109295

(2) No inmate patient who is transported or transferred 109296
pursuant to division (B)(4) or (C)(1) or (2) of this section to a 109297
psychiatric hospital ~~pursuant to division (B)(4) or (C)(1) or (2)~~ 109298
~~of this section and who is in the physical custody of~~ within a 109299

facility that is operated by the department of rehabilitation and 109300
correction shall be subjected to any of the following procedures: 109301

- (a) Convulsive therapy; 109302
- (b) Major aversive interventions; 109303
- (c) Any unusually hazardous treatment procedures; 109304
- (d) Psychosurgery. 109305
- (E) ~~The warden of the psychiatric hospital or the warden's~~ 109306
~~designee~~ department of rehabilitation and correction shall ensure 109307
that an inmate patient hospitalized pursuant to this section 109308
receives or has all of the following: 109309

- (1) Receives sufficient professional care within twenty days 109310
of admission to ensure that an evaluation of the inmate patient's 109311
current status, differential diagnosis, probable prognosis, and 109312
description of the current treatment plan have been formulated and 109313
are stated on the inmate patient's official chart; 109314
- (2) Has a written treatment plan consistent with the 109315
evaluation, diagnosis, prognosis, and goals of treatment; 109316
- (3) Receives treatment consistent with the treatment plan; 109317
- (4) Receives periodic reevaluations of the treatment plan by 109318
the professional staff at intervals not to exceed thirty days; 109319
- (5) Is provided with adequate medical treatment for physical 109320
disease or injury; 109321
- (6) Receives humane care and treatment, including, without 109322
being limited to, the following: 109323

- (a) Access to the facilities and personnel required by the 109324
treatment plan; 109325
- (b) A humane psychological and physical environment; 109326
- (c) The right to obtain current information concerning the 109327
treatment program, the expected outcomes of treatment, and the 109328

expectations for the inmate patient's participation in the 109329
treatment program in terms that the inmate patient reasonably can 109330
understand; 109331

(d) Opportunity for participation in programs designed to 109332
help the inmate patient acquire the skills needed to work toward 109333
discharge from the psychiatric hospital; 109334

(e) The right to be free from unnecessary or excessive 109335
medication and from unnecessary restraints or isolation; 109336

(f) All other rights afforded inmates in the custody of the 109337
department consistent with rules, policy, and procedure of the 109338
department. 109339

(F) The department shall hold a hearing for the continued 109340
hospitalization of an inmate patient who is transported or 109341
transferred to a psychiatric hospital pursuant to division (B)(4) 109342
or (C)(1) of this section prior to the expiration of the initial 109343
thirty-day period of hospitalization. The department shall hold 109344
any subsequent hearings, if necessary, not later than ninety days 109345
after the first thirty-day hearing and then not later than each 109346
one hundred and eighty days after the immediately prior hearing. 109347
An independent decision-maker shall conduct the hearings at the 109348
psychiatric hospital in which the inmate patient is confined. The 109349
inmate patient shall be afforded all of the rights set forth in 109350
this section for the hearing prior to transfer to the psychiatric 109351
hospital. The department may not waive a hearing for continued 109352
commitment. A hearing for continued commitment is mandatory for an 109353
inmate patient transported or transferred to a psychiatric 109354
hospital pursuant to division (B)(4) or (C)(1) of this section 109355
unless the inmate patient has the capacity to make a reasoned 109356
choice to execute a waiver and waives the hearing in writing. An 109357
inmate patient who is transferred to a psychiatric hospital 109358
pursuant to an uncontested transfer under division (C)(2) of this 109359
section and who has scheduled hearings after withdrawal of consent 109360

for hospitalization may waive any of the scheduled hearings if the inmate has the capacity to make a reasoned choice and executes a written waiver of the hearing.

If upon completion of the hearing the independent decision-maker does not find by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order the inmate patient's discharge from the psychiatric hospital. If the independent decision-maker finds by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order that the inmate patient remain at the psychiatric hospital for continued hospitalization until the next required hearing.

If at any time prior to the next required hearing for continued hospitalization, the medical director of the hospital or the attending physician determines that the treatment needs of the inmate patient could be met equally well in an available and appropriate less restrictive state correctional institution or unit, the medical director or attending physician may discharge the inmate to that facility.

(G) An inmate patient is entitled to the credits toward the reduction of the inmate patient's stated prison term pursuant to Chapters 2967. and 5120. of the Revised Code under the same terms and conditions as if the inmate patient were in any other institution of the department of rehabilitation and correction.

(H) The adult parole authority may place an inmate patient on parole or under post-release control directly from a psychiatric hospital.

(I) If an inmate patient who is a mentally ill person subject to hospitalization is to be released from a psychiatric hospital because of the expiration of the inmate patient's stated prison

term, the ~~warden of the psychiatric hospital~~ director of 109392
rehabilitation and correction or the director's designee, at least 109393
fourteen days before the expiration date, may file an affidavit 109394
under section 5122.11 or 5123.71 of the Revised Code with the 109395
probate court in the county where the psychiatric hospital is 109396
located or the probate court in the county where the inmate will 109397
reside, alleging that the inmate patient is a mentally ill person 109398
subject to hospitalization by court order or a mentally retarded 109399
person subject to institutionalization by court order, whichever 109400
is applicable. The proceedings in the probate court shall be 109401
conducted pursuant to Chapter 5122. or 5123. of the Revised Code 109402
except as modified by this division. 109403

Upon the request of the inmate patient, the probate court 109404
shall grant the inmate patient an initial hearing under section 109405
5122.141 of the Revised Code or a probable cause hearing under 109406
section 5123.75 of the Revised Code before the expiration of the 109407
stated prison term. After holding a full hearing, the probate 109408
court shall make a disposition authorized by section 5122.15 or 109409
5123.76 of the Revised Code before the date of the expiration of 109410
the stated prison term. No inmate patient shall be held in the 109411
custody of the department of rehabilitation and correction past 109412
the date of the expiration of the inmate patient's stated prison 109413
term. 109414

(J) The department of rehabilitation and correction shall set 109415
standards for treatment provided to inmate patients, ~~consistent~~ 109416
~~where applicable with the standards set by the joint commission on~~ 109417
~~accreditation of healthcare organizations.~~ 109418

(K) A certificate, application, record, or report that is 109419
made in compliance with this section and that directly or 109420
indirectly identifies an inmate or former inmate whose 109421
hospitalization has been sought under this section is 109422
confidential. No person shall disclose the contents of any 109423

certificate, application, record, or report of that nature or any 109424
other psychiatric or medical record or report regarding a mentally 109425
ill inmate unless one of the following applies: 109426

(1) The person identified, or the person's legal guardian, if 109427
any, consents to disclosure, and the chief clinical officer or 109428
designee of mental health services of the department of 109429
rehabilitation and correction determines that disclosure is in the 109430
best interests of the person. 109431

(2) Disclosure is required by a court order signed by a 109432
judge. 109433

(3) An inmate patient seeks access to the inmate patient's 109434
own psychiatric and medical records, unless access is specifically 109435
restricted in the treatment plan for clear treatment reasons. 109436

(4) Hospitals and other institutions and facilities within 109437
the department of rehabilitation and correction may exchange 109438
psychiatric records and other pertinent information with other 109439
hospitals, institutions, and facilities of the department, but the 109440
information that may be released about an inmate patient is 109441
limited to medication history, physical health status and history, 109442
summary of course of treatment in the hospital, summary of 109443
treatment needs, and a discharge summary, if any. 109444

(5) An inmate patient's family member who is involved in 109445
planning, providing, and monitoring services to the inmate patient 109446
may receive medication information, a summary of the inmate 109447
patient's diagnosis and prognosis, and a list of the services and 109448
personnel available to assist the inmate patient and family if the 109449
attending physician determines that disclosure would be in the 109450
best interest of the inmate patient. No disclosure shall be made 109451
under this division unless the inmate patient is notified of the 109452
possible disclosure, receives the information to be disclosed, and 109453
does not object to the disclosure. 109454

(6) The department of rehabilitation and correction may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with county sheriffs' offices, hospitals, institutions, and facilities of the department of mental health and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department of mental health has a current agreement for patient care or services to ensure continuity of care. Disclosure under this division is limited to records regarding a mentally ill inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any. No office, department, agency, or board shall disclose the records and other information unless one of the following applies:

(a) The mentally ill inmate is notified of the possible disclosure and consents to the disclosure.

(b) The mentally ill inmate is notified of the possible disclosure, an attempt to gain the consent of the inmate is made, and the office, department, agency, or board documents the attempt to gain consent, the inmate's objections, if any, and the reasons for disclosure in spite of the inmate's objections.

(7) Information may be disclosed to staff members designated by the director of rehabilitation and correction for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards.

The name of an inmate patient shall not be retained with the information obtained during the evaluations.

(L) The director of rehabilitation and correction may adopt rules setting forth guidelines for the procedures required under divisions (B), (C)(1), and (C)(2) of this section.

Sec. 5120.22. (A) The division of business administration 109485
shall examine the conditions of all buildings, grounds, and other 109486
property connected with the institutions under the control of the 109487
department of rehabilitation and correction, the methods of 109488
bookkeeping and storekeeping, and all matters relating to the 109489
management of such property. The division shall study and become 109490
familiar with the advantages and disadvantages of each as to 109491
location, freight rates, and efficiency of farm and equipment, for 109492
the purpose of aiding in the determination of the local and 109493
general requirements both for maintenance and improvements. 109494

(B) The division, with respect to the various types of 109495
state-owned housing under jurisdiction of the department, shall 109496
adopt, in accordance with section 111.15 of the Revised Code, 109497
rules governing maintenance of the housing and its usage by 109498
department personnel. The rules shall include a procedure for 109499
determining charges for rent and utilities, which the division 109500
shall assess against and collect from department personnel using 109501
the housing. All money collected for rent and utilities pursuant 109502
to the rules shall be deposited into the property receipts fund, 109503
which is hereby created in the state treasury. Money in the fund 109504
shall be used for any expenses necessary to provide housing of 109505
department employees, including but not limited to expenses for 109506
the acquisition, construction, operation, maintenance, repair, 109507
reconstruction, or demolition of land and buildings. 109508

(C) The division may enter into a lease or agreement with a 109509
state agency, political subdivision of the state, or private 109510
entity to use facilities or other property under the jurisdiction 109511
of the department that is not being utilized by the department. 109512
All money collected for leasing and services performed in 109513
accordance with the lease or agreement shall be deposited into the 109514
property receipts fund created under division (B) of this section. 109515
Money in the fund shall be used for any expenses resulting from 109516

the lease or agreement, including, but not limited to, expenses 109517
for services performed, construction, maintenance, repair, 109518
reconstruction, or demolition of the facilities or other property. 109519

Sec. 5120.28. (A) The department of rehabilitation and 109520
correction, subject to the approval of the office of budget and 109521
management, shall fix the prices at which all labor and services 109522
performed, all agricultural products produced, and all articles 109523
manufactured in correctional and penal institutions shall be 109524
furnished to the state, the political subdivisions of the state, 109525
and the public institutions of the state and the political 109526
subdivisions, and to private persons. The prices shall be uniform 109527
to all and not higher than the usual market price for like labor, 109528
products, services, and articles. 109529

(B) Any money received by the department of rehabilitation 109530
and correction for labor and services performed ~~and agricultural~~ 109531
~~products produced~~ shall be deposited into the institutional 109532
~~services and agricultural~~ fund created pursuant to division (A) of 109533
section 5120.29 of the Revised Code and shall be used and 109534
accounted for as provided in that section and division (B) of 109535
section 5145.03 of the Revised Code. 109536

(C) Any money received by the department of rehabilitation 109537
and correction for articles manufactured and agricultural products 109538
produced in penal and correctional institutions shall be deposited 109539
into the Ohio penal industries manufacturing fund created pursuant 109540
to division (B) of section 5120.29 of the Revised Code and shall 109541
be used and accounted for as provided in that section and division 109542
(B) of section 5145.03 of the Revised Code. 109543

Sec. 5120.29. (A) There is hereby created, in the state 109544
treasury, the institutional ~~services and agricultural~~ fund, which 109545
shall be used for the: 109546

(1) Purchase of material, supplies, and equipment and the erection and extension of buildings used in ~~service industries and agriculture~~ services provided between institutions of the department of rehabilitation and correction; 109547
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(2) ~~Purchase of lands and buildings necessary to carry on or extend the service industries and agriculture, upon the approval of the governor;~~ 109551
109552
109553

~~(3)~~ Payment of compensation to employees necessary to carry on ~~the service industries and agriculture~~ institutional services; 109554
109555

~~(4)~~(3) Payment of prisoners confined in state correctional institutions a portion of their earnings in accordance with rules adopted pursuant to section 5145.03 of the Revised Code. 109556
109557
109558

(B) There is hereby created, in the state treasury, the Ohio penal industries manufacturing fund, which shall be used for the: 109559
109560

(1) Purchase of material, supplies, and equipment and the erection and extension of buildings used in manufacturing industries and agriculture; 109561
109562
109563

(2) Purchase of lands and buildings necessary to carry on or extend the manufacturing industries and agriculture upon the approval of the governor; 109564
109565
109566

(3) Payment of compensation to employees necessary to carry on the manufacturing industries and agriculture; 109567
109568

(4) Payment of prisoners confined in state correctional institutions a portion of their earnings in accordance with rules adopted pursuant to section 5145.03 of the Revised Code. 109569
109570
109571

(C) The department of rehabilitation and correction shall, in accordance with rules adopted pursuant to section 5145.03 of the Revised Code and subject to any pledge made as provided in division (D) of this section, place to the credit of each prisoner ~~his~~ the prisoner's earnings and pay the earnings so credited to 109572
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the prisoner or ~~his~~ the prisoner's family. 109577

(D) Receipts credited to the funds created in divisions (A) 109578
and (B) of this section constitute available receipts as defined 109579
in section 152.09 of the Revised Code, and may be pledged to the 109580
payment of bond service charges on obligations issued by the Ohio 109581
building authority pursuant to Chapter 152. of the Revised Code to 109582
construct, reconstruct, or otherwise improve capital facilities 109583
useful to the department. The authority may, with the consent of 109584
the department, provide in the bond proceedings for a pledge of 109585
all or such portion of receipts credited to the funds as the 109586
authority determines. The authority may provide in the bond 109587
proceedings for the transfer of receipts credited to the funds to 109588
the appropriate bond service fund or bond service reserve fund as 109589
required to pay the bond service charges when due, and any such 109590
provision for the transfer of receipts shall be controlling 109591
notwithstanding any other provision of law pertaining to such 109592
receipts. 109593

All receipts received by the treasurer of state on account of 109594
the department and required by the applicable bond proceedings to 109595
be deposited, transferred, or credited to the bond service fund or 109596
bond service reserve fund established by such bond proceedings 109597
shall be transferred by the treasurer of state to such fund, 109598
whether or not such fund is in the custody of the treasurer of 109599
state, without necessity for further appropriation, upon receipt 109600
of notice from the Ohio building authority as prescribed in the 109601
bond proceedings. The authority may covenant in the bond 109602
proceedings that so long as any obligations are outstanding to 109603
which receipts credited to the fund are pledged, the state and the 109604
department shall neither reduce the prices charged pursuant to 109605
section 5120.28 of the Revised Code nor the level of manpower 109606
collectively devoted to the production of goods and services for 109607
which prices are set pursuant to section 5120.28 of the Revised 109608

Code, which covenant shall be controlling notwithstanding any 109609
other provision of law; provided, that no covenant shall require 109610
the general assembly to appropriate money derived from the levying 109611
of excises or taxes to purchase such goods and services or to pay 109612
rent or bond service charges. 109613

Sec. 5122.01. As used in this chapter and Chapter 5119. of 109614
the Revised Code: 109615

(A) "Mental illness" means a substantial disorder of thought, 109616
mood, perception, orientation, or memory that grossly impairs 109617
judgment, behavior, capacity to recognize reality, or ability to 109618
meet the ordinary demands of life. 109619

(B) "Mentally ill person subject to hospitalization by court 109620
order" means a mentally ill person who, because of the person's 109621
illness: 109622

(1) Represents a substantial risk of physical harm to self as 109623
manifested by evidence of threats of, or attempts at, suicide or 109624
serious self-inflicted bodily harm; 109625

(2) Represents a substantial risk of physical harm to others 109626
as manifested by evidence of recent homicidal or other violent 109627
behavior, evidence of recent threats that place another in 109628
reasonable fear of violent behavior and serious physical harm, or 109629
other evidence of present dangerousness; 109630

(3) Represents a substantial and immediate risk of serious 109631
physical impairment or injury to self as manifested by evidence 109632
that the person is unable to provide for and is not providing for 109633
the person's basic physical needs because of the person's mental 109634
illness and that appropriate provision for those needs cannot be 109635
made immediately available in the community; or 109636

(4) Would benefit from treatment in a hospital for the 109637
person's mental illness and is in need of such treatment as 109638

manifested by evidence of behavior that creates a grave and 109639
imminent risk to substantial rights of others or the person. 109640

(C)(1) "Patient" means, subject to division (C)(2) of this 109641
section, a person who is admitted either voluntarily or 109642
involuntarily to a hospital or other place under section 2945.39, 109643
2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a 109644
finding of not guilty by reason of insanity or incompetence to 109645
stand trial or under this chapter, who is under observation or 109646
receiving treatment in such place. 109647

(2) "Patient" does not include a person admitted to a 109648
hospital or other place under section 2945.39, 2945.40, 2945.401, 109649
or 2945.402 of the Revised Code to the extent that the reference 109650
in this chapter to patient, or the context in which the reference 109651
occurs, is in conflict with any provision of sections 2945.37 to 109652
2945.402 of the Revised Code. 109653

(D) "Licensed physician" means a person licensed under the 109654
laws of this state to practice medicine or a medical officer of 109655
the government of the United States while in this state in the 109656
performance of the person's official duties. 109657

(E) "Psychiatrist" means a licensed physician who has 109658
satisfactorily completed a residency training program in 109659
psychiatry, as approved by the residency review committee of the 109660
American medical association, the committee on post-graduate 109661
education of the American osteopathic association, or the American 109662
osteopathic board of neurology and psychiatry, or who on July 1, 109663
1989, has been recognized as a psychiatrist by the Ohio state 109664
medical association or the Ohio osteopathic association on the 109665
basis of formal training and five or more years of medical 109666
practice limited to psychiatry. 109667

(F) "Hospital" means a hospital or inpatient unit licensed by 109668
the department of mental health under section 5119.20 of the 109669

Revised Code, and any institution, hospital, or other place 109670
established, controlled, or supervised by the department under 109671
Chapter 5119. of the Revised Code. 109672

(G) "Public hospital" means a facility that is tax-supported 109673
and under the jurisdiction of the department of mental health. 109674

(H) "Community mental health agency" means ~~any an~~ agency, 109675
~~program, or facility with which a board of alcohol, drug~~ 109676
~~addiction, and mental health services contracts to provide the~~ 109677
that provides community mental health services listed in that are 109678
certified by the director of mental health under section 340.09 109679
5119.611 of the Revised Code. 109680

(I) "Licensed clinical psychologist" means a person who holds 109681
a current valid psychologist license issued under section 4732.12 109682
or 4732.15 of the Revised Code, and in addition, meets either of 109683
the following criteria: 109684

(1) Meets the educational requirements set forth in division 109685
(B) of section 4732.10 of the Revised Code and has a minimum of 109686
two years' full-time professional experience, or the equivalent as 109687
determined by rule of the state board of psychology, at least one 109688
year of which shall be a predoctoral internship, in clinical 109689
psychological work in a public or private hospital or clinic or in 109690
private practice, diagnosing and treating problems of mental 109691
illness or mental retardation under the supervision of a 109692
psychologist who is licensed or who holds a diploma issued by the 109693
American board of professional psychology, or whose qualifications 109694
are substantially similar to those required for licensure by the 109695
state board of psychology when the supervision has occurred prior 109696
to enactment of laws governing the practice of psychology; 109697

(2) Meets the educational requirements set forth in division 109698
(B) of section 4732.15 of the Revised Code and has a minimum of 109699
four years' full-time professional experience, or the equivalent 109700

as determined by rule of the state board of psychology, in 109701
clinical psychological work in a public or private hospital or 109702
clinic or in private practice, diagnosing and treating problems of 109703
mental illness or mental retardation under supervision, as set 109704
forth in division (I)(1) of this section. 109705

(J) "Health officer" means any public health physician; 109706
public health nurse; or other person authorized by or designated 109707
by a city health district; a general health district; or a board 109708
of alcohol, drug addiction, and mental health services to perform 109709
the duties of a health officer under this chapter. 109710

(K) "Chief clinical officer" means the medical director of a 109711
hospital, or a community mental health agency, or a board of 109712
alcohol, drug addiction, and mental health services, or, if there 109713
is no medical director, the licensed physician responsible for the 109714
treatment a hospital or community mental health agency provides. 109715
The chief clinical officer may delegate to the attending physician 109716
responsible for a patient's care the duties imposed on the chief 109717
clinical officer by this chapter. Within a community mental health 109718
agency, the chief clinical officer shall be designated by the 109719
governing body of the agency and shall be a licensed physician or 109720
licensed clinical psychologist who supervises diagnostic and 109721
treatment services. A licensed physician or licensed clinical 109722
psychologist designated by the chief clinical officer may perform 109723
the duties and accept the responsibilities of the chief clinical 109724
officer in the chief clinical officer's absence. 109725

(L) "Working day" or "court day" means Monday, Tuesday, 109726
Wednesday, Thursday, and Friday, except when such day is a 109727
holiday. 109728

(M) "Indigent" means unable without deprivation of 109729
satisfaction of basic needs to provide for the payment of an 109730
attorney and other necessary expenses of legal representation, 109731
including expert testimony. 109732

(N) "Respondent" means the person whose detention,	109733
commitment, hospitalization, continued hospitalization or	109734
commitment, or discharge is being sought in any proceeding under	109735
this chapter.	109736
(O) "Legal rights service" means the service established	109737
under section 5123.60 of the Revised Code.	109738
(P) "Independent expert evaluation" means an evaluation	109739
conducted by a licensed clinical psychologist, psychiatrist, or	109740
licensed physician who has been selected by the respondent or the	109741
respondent's counsel and who consents to conducting the	109742
evaluation.	109743
(Q) "Court" means the probate division of the court of common	109744
pleas.	109745
(R) "Expunge" means:	109746
(1) The removal and destruction of court files and records,	109747
originals and copies, and the deletion of all index references;	109748
(2) The reporting to the person of the nature and extent of	109749
any information about the person transmitted to any other person	109750
by the court;	109751
(3) Otherwise insuring that any examination of court files	109752
and records in question shall show no record whatever with respect	109753
to the person;	109754
(4) That all rights and privileges are restored, and that the	109755
person, the court, and any other person may properly reply that no	109756
such record exists, as to any matter expunged.	109757
(S) "Residence" means a person's physical presence in a	109758
county with intent to remain there, except that:	109759
(1) If a person is receiving a mental health service at a	109760
facility that includes nighttime sleeping accommodations,	109761
residence means that county in which the person maintained the	109762

person's primary place of residence at the time the person entered the facility; 109763
109764

(2) If a person is committed pursuant to section 2945.38, 109765
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 109766
residence means the county where the criminal charges were filed. 109767

When the residence of a person is disputed, the matter of 109768
residence shall be referred to the department of mental health for 109769
investigation and determination. Residence shall not be a basis 109770
for a board's denying services to any person present in the 109771
board's service district, and the board shall provide services for 109772
a person whose residence is in dispute while residence is being 109773
determined and for a person in an emergency situation. 109774

(T) "Admission" to a hospital or other place means that a 109775
patient is accepted for and stays at least one night at the 109776
hospital or other place. 109777

(U) "Prosecutor" means the prosecuting attorney, village 109778
solicitor, city director of law, or similar chief legal officer 109779
who prosecuted a criminal case in which a person was found not 109780
guilty by reason of insanity, who would have had the authority to 109781
prosecute a criminal case against a person if the person had not 109782
been found incompetent to stand trial, or who prosecuted a case in 109783
which a person was found guilty. 109784

(V) "Treatment plan" means a written statement of reasonable 109785
objectives and goals for an individual established by the 109786
treatment team, with specific criteria to evaluate progress 109787
towards achieving those objectives. The active participation of 109788
the patient in establishing the objectives and goals shall be 109789
documented. The treatment plan shall be based on patient needs and 109790
include services to be provided to the patient while the patient 109791
is hospitalized and after the patient is discharged. The treatment 109792
plan shall address services to be provided upon discharge, 109793

including but not limited to housing, financial, and vocational services. 109794
109795

(W) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 109796
109797

(X) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code. 109798
109799

Sec. 5122.15. (A) Full hearings shall be conducted in a manner consistent with this chapter and with due process of law. The hearings shall be conducted by a judge of the probate court or a referee designated by a judge of the probate court and may be conducted in or out of the county in which the respondent is held. Any referee designated under this division shall be an attorney. 109800
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(1) With the consent of the respondent, the following shall be made available to counsel for the respondent: 109806
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(a) All relevant documents, information, and evidence in the custody or control of the state or prosecutor; 109808
109809

(b) All relevant documents, information, and evidence in the custody or control of the hospital in which the respondent currently is held, or in which the respondent has been held pursuant to this chapter; 109810
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(c) All relevant documents, information, and evidence in the custody or control of any hospital, facility, or person not included in division (A)(1)(a) or (b) of this section. 109814
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(2) The respondent has the right to attend the hearing and to be represented by counsel of the respondent's choice. The right to attend the hearing may be waived only by the respondent or counsel for the respondent after consultation with the respondent. 109817
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(3) If the respondent is not represented by counsel, is absent from the hearing, and has not validly waived the right to counsel, the court shall appoint counsel immediately to represent 109821
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109823

the respondent at the hearing, reserving the right to tax costs of 109824
appointed counsel to the respondent, unless it is shown that the 109825
respondent is indigent. If the court appoints counsel, or if the 109826
court determines that the evidence relevant to the respondent's 109827
absence does not justify the absence, the court shall continue the 109828
case. 109829

(4) The respondent shall be informed that the respondent may 109830
retain counsel and have independent expert evaluation. If the 109831
respondent is unable to obtain an attorney, the respondent shall 109832
be represented by court-appointed counsel. If the respondent is 109833
indigent, court-appointed counsel and independent expert 109834
evaluation shall be provided as an expense under section 5122.43 109835
of the Revised Code. 109836

(5) The hearing shall be closed to the public, unless counsel 109837
for the respondent, with the permission of the respondent, 109838
requests that the hearing be open to the public. 109839

(6) If the hearing is closed to the public, the court, for 109840
good cause shown, may admit persons who have a legitimate interest 109841
in the proceedings. If the respondent, the respondent's counsel, 109842
the designee of the director or of the chief clinical officer 109843
objects to the admission of any person, the court shall hear the 109844
objection and any opposing argument and shall rule upon the 109845
admission of the person to the hearing. 109846

(7) The affiant under section 5122.11 of the Revised Code 109847
shall be subject to subpoena by either party. 109848

(8) The court shall examine the sufficiency of all documents 109849
filed and shall inform the respondent, if present, and the 109850
respondent's counsel of the nature and content of the documents 109851
and the reason for which the respondent is being detained, or for 109852
which the respondent's placement is being sought. 109853

(9) The court shall receive only reliable, competent, and 109854

material evidence. 109855

(10) Unless proceedings are initiated pursuant to section 109856
5120.17 or 5139.08 of the Revised Code or proceedings are 109857
initiated regarding a resident of the service district of a board 109858
of alcohol, drug addiction, and mental health services that elects 109859
under division ~~(B)(3)(b)~~ (C)(2) of section 5119.62 of the Revised 109860
Code not to accept the amount allocated to it under ~~division~~ 109861
~~(B)(1)~~ of that section, an attorney that the board designates 109862
shall present the case demonstrating that the respondent is a 109863
mentally ill person subject to hospitalization by court order. The 109864
attorney shall offer evidence of the diagnosis, prognosis, record 109865
of treatment, if any, and less restrictive treatment plans, if 109866
any. In proceedings pursuant to section 5120.17 or 5139.08 of the 109867
Revised Code and in proceedings in which the respondent is a 109868
resident of a service district of a board that elects under 109869
division ~~(B)(3)(b)~~ (C)(2) of section 5119.62 of the Revised Code 109870
not to accept the amount allocated to it under ~~division (B)(1)~~ of 109871
that section, the attorney general shall designate an attorney who 109872
shall present the case demonstrating that the respondent is a 109873
mentally ill person subject to hospitalization by court order. The 109874
attorney shall offer evidence of the diagnosis, prognosis, record 109875
of treatment, if any, and less restrictive treatment plans, if 109876
any. 109877

(11) The respondent or the respondent's counsel has the right 109878
to subpoena witnesses and documents and to examine and 109879
cross-examine witnesses. 109880

(12) The respondent has the right, but shall not be 109881
compelled, to testify, and shall be so advised by the court. 109882

(13) On motion of the respondent or the respondent's counsel 109883
for good cause shown, or on the court's own motion, the court may 109884
order a continuance of the hearing. 109885

(14) If the respondent is represented by counsel and the respondent's counsel requests a transcript and record, or if the respondent is not represented by counsel, the court shall make and maintain a full transcript and record of the proceeding. If the respondent is indigent and the transcript and record is made, a copy shall be provided to the respondent upon request and be treated as an expense under section 5122.43 of the Revised Code.

(15) To the extent not inconsistent with this chapter, the Rules of Civil Procedure are applicable.

(B) Unless, upon completion of the hearing the court finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, it shall order the respondent's discharge immediately.

(C) If, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, the court shall order the respondent for a period not to exceed ninety days to any of the following:

(1) A hospital operated by the department of mental health if the respondent is committed pursuant to section 5139.08 of the Revised Code;

(2) A nonpublic hospital;

(3) The veterans' administration or other agency of the United States government;

(4) A board of alcohol, drug addiction, and mental health services or agency the board designates;

(5) Receive private psychiatric or psychological care and treatment;

(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent.

(D) Any order made pursuant to division (C)(2), (3), (5), or 109916
(6) of this section shall be conditioned upon the receipt by the 109917
court of consent by the hospital, facility, agency, or person to 109918
accept the respondent. 109919

(E) In determining the place to which, or the person with 109920
whom, the respondent is to be committed, the court shall consider 109921
the diagnosis, prognosis, preferences of the respondent and the 109922
projected treatment plan for the respondent and shall order the 109923
implementation of the least restrictive alternative available and 109924
consistent with treatment goals. If the court determines that the 109925
least restrictive alternative available that is consistent with 109926
treatment goals is inpatient hospitalization, the court's order 109927
shall so state. 109928

(F) During such ninety-day period the hospital; facility; 109929
board of alcohol, drug addiction, and mental health services; 109930
agency the board designates; or person shall examine and treat the 109931
individual. If, at any time prior to the expiration of the 109932
ninety-day period, it is determined by the hospital, facility, 109933
board, agency, or person that the respondent's treatment needs 109934
could be equally well met in an available and appropriate less 109935
restrictive environment, both of the following apply: 109936

(1) The respondent shall be released from the care of the 109937
hospital, agency, facility, or person immediately and shall be 109938
referred to the court together with a report of the findings and 109939
recommendations of the hospital, agency, facility, or person; and 109940

(2) The hospital, agency, facility, or person shall notify 109941
the respondent's counsel or the attorney designated by a board of 109942
alcohol, drug addiction, and mental health services or, if the 109943
respondent was committed to a board or an agency designated by the 109944
board, it shall place the respondent in the least restrictive 109945
environment available consistent with treatment goals and notify 109946
the court and the respondent's counsel of the placement. 109947

The court shall dismiss the case or order placement in the least restrictive environment.

(G)(1) Except as provided in divisions (G)(2) and (3) of this section, any person who has been committed under this section, or for whom proceedings for hospitalization have been commenced pursuant to section 5122.11 of the Revised Code, may apply at any time for voluntary admission to the hospital, facility, agency that the board designates, or person to which the person was committed. Upon admission as a voluntary patient the chief clinical officer of the hospital, agency, or other facility, or the person immediately shall notify the court, the patient's counsel, and the attorney designated by the board, if the attorney has entered the proceedings, in writing of that fact, and, upon receipt of the notice, the court shall dismiss the case.

(2) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily commit the person pursuant to this section until after the final termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

(H) If, at the end of the first ninety-day period or any subsequent period of continued commitment, there has been no disposition of the case, either by discharge or voluntary admission, the hospital, facility, board, agency, or person shall discharge the patient immediately, unless at least ten days before the expiration of the period the attorney the board designates or the prosecutor files with the court an application for continued commitment. The application of the attorney or the prosecutor shall include a written report containing the diagnosis, prognosis, past treatment, a list of alternative treatment settings and plans, and identification of the treatment setting that is the least restrictive consistent with treatment needs. The

attorney the board designates or the prosecutor shall file the 109980
written report at least three days prior to the full hearing. A 109981
copy of the application and written report shall be provided to 109982
the respondent's counsel immediately. 109983

The court shall hold a full hearing on applications for 109984
continued commitment at the expiration of the first ninety-day 109985
period and at least every two years after the expiration of the 109986
first ninety-day period. 109987

Hearings following any application for continued commitment 109988
are mandatory and may not be waived. 109989

Upon request of a person who is involuntarily committed under 109990
this section, or the person's counsel, that is made more than one 109991
hundred eighty days after the person's last full hearing, 109992
mandatory or requested, the court shall hold a full hearing on the 109993
person's continued commitment. Upon the application of a person 109994
involuntarily committed under this section, supported by an 109995
affidavit of a psychiatrist or licensed clinical psychologist, 109996
alleging that the person no longer is a mentally ill person 109997
subject to hospitalization by court order, the court for good 109998
cause shown may hold a full hearing on the person's continued 109999
commitment prior to the expiration of one hundred eighty days 110000
after the person's last full hearing. Section 5122.12 of the 110001
Revised Code applies to all hearings on continued commitment. 110002

If the court, after a hearing for continued commitment finds 110003
by clear and convincing evidence that the respondent is a mentally 110004
ill person subject to hospitalization by court order, the court 110005
may order continued commitment at places specified in division (C) 110006
of this section. 110007

(I) Unless the admission is pursuant to section 5120.17 or 110008
5139.08 of the Revised Code, the chief clinical officer of the 110009
hospital or agency admitting a respondent pursuant to a judicial 110010

proceeding, within ten working days of the admission, shall make a report of the admission to the board of alcohol, drug addiction, and mental health services serving the respondent's county of residence.

(J) A referee appointed by the court may make all orders that a judge may make under this section and sections 5122.11 and 5122.141 of the Revised Code, except an order of contempt of court. The orders of a referee take effect immediately. Within fourteen days of the making of an order by a referee, a party may file written objections to the order with the court. The filed objections shall be considered a motion, shall be specific, and shall state their grounds with particularity. Within ten days of the filing of the objections, a judge of the court shall hold a hearing on the objections and may hear and consider any testimony or other evidence relating to the respondent's mental condition. At the conclusion of the hearing, the judge may ratify, rescind, or modify the referee's order.

(K) An order of the court under division (C), (H), or (J) of this section is a final order.

(L) Before a board, or an agency the board designates, may place an unconsenting respondent in an inpatient setting from a less restrictive placement, the board or agency shall do all of the following:

(1) Determine that the respondent is in immediate need of treatment in an inpatient setting because the respondent represents a substantial risk of physical harm to the respondent or others if allowed to remain in a less restrictive setting;

(2) On the day of placement in the inpatient setting or on the next court day, file with the court a motion for transfer to an inpatient setting or communicate to the court by telephone that the required motion has been mailed;

(3) Ensure that every reasonable and appropriate effort is made to take the respondent to the inpatient setting in the least conspicuous manner possible;

(4) Immediately notify the board's designated attorney and the respondent's attorney.

At the respondent's request, the court shall hold a hearing on the motion and make a determination pursuant to division (E) of this section within five days of the placement.

(M) Before a board, or an agency the board designates, may move a respondent from one residential placement to another, the board or agency shall consult with the respondent about the placement. If the respondent objects to the placement, the proposed placement and the need for it shall be reviewed by a qualified mental health professional who otherwise is not involved in the treatment of the respondent.

Sec. 5122.21. (A) The chief clinical officer shall as frequently as practicable, and at least once every thirty days, examine or cause to be examined every patient, and, whenever the chief clinical officer determines that the conditions justifying involuntary hospitalization or commitment no longer obtain, shall, ~~except as provided in division (C) of this section,~~ discharge the patient not under indictment or conviction for crime and immediately make a report of the discharge to the department of mental health. The chief clinical officer may discharge a patient who is under an indictment, a sentence of imprisonment, a community control sanction, or a post-release control sanction or on parole ten days after written notice of intent to discharge the patient has been given by personal service or certified mail, return receipt requested, to the court having criminal jurisdiction over the patient. Except when the patient was found not guilty by reason of insanity and the defendant's commitment is

pursuant to section 2945.40 of the Revised Code, the chief 110073
clinical officer has final authority to discharge a patient who is 110074
under an indictment, a sentence of imprisonment, a community 110075
control sanction, or a post-release control sanction or on parole. 110076

(B) After a finding pursuant to section 5122.15 of the 110077
Revised Code that a person is a mentally ill person subject to 110078
hospitalization by court order, the chief clinical officer of the 110079
hospital or agency to which the person is ordered or to which the 110080
person is transferred under section 5122.20 of the Revised Code, 110081
~~may, except as provided in division (C) of this section,~~ grant a 110082
discharge without the consent or authorization of any court. 110083

Upon discharge, the chief clinical officer shall notify the 110084
court that caused the judicial hospitalization of the discharge 110085
from the hospital. 110086

Sec. 5122.31. (A) All certificates, applications, records, 110087
and reports made for the purpose of this chapter and sections 110088
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 110089
Code, other than court journal entries or court docket entries, 110090
and directly or indirectly identifying a patient or former patient 110091
or person whose hospitalization has been sought under this 110092
chapter, shall be kept confidential and shall not be disclosed by 110093
any person except: 110094

(1) If the person identified, or the person's legal guardian, 110095
if any, or if the person is a minor, the person's parent or legal 110096
guardian, consents, and if the disclosure is in the best interests 110097
of the person, as may be determined by the court for judicial 110098
records and by the chief clinical officer for medical records; 110099

(2) When disclosure is provided for in this chapter or 110100
section 5123.60 of the Revised Code; 110101

(3) That hospitals, boards of alcohol, drug addiction, and 110102

mental health services, and community mental health agencies may 110103
release necessary medical information to insurers and other 110104
third-party payers, including government entities responsible for 110105
processing and authorizing payment, to obtain payment for goods 110106
and services furnished to the patient; 110107

(4) Pursuant to a court order signed by a judge; 110108

(5) That a patient shall be granted access to the patient's 110109
own psychiatric and medical records, unless access specifically is 110110
restricted in a patient's treatment plan for clear treatment 110111
reasons; 110112

(6) That hospitals and other institutions and facilities 110113
within the department of mental health may exchange psychiatric 110114
records and other pertinent information with other hospitals, 110115
institutions, and facilities of the department, and with community 110116
mental health agencies and boards of alcohol, drug addiction, and 110117
mental health services with which the department has a current 110118
agreement for patient care or services. Records and information 110119
that may be released pursuant to this division shall be limited to 110120
medication history, physical health status and history, financial 110121
status, summary of course of treatment in the hospital, summary of 110122
treatment needs, and a discharge summary, if any. 110123

(7) That hospitals within the department, other institutions 110124
and facilities within the department, hospitals licensed by the 110125
department under section 5119.20 of the Revised Code, and 110126
community mental health agencies may exchange psychiatric records 110127
and other pertinent information with payers and other providers of 110128
treatment and health services if the purpose of the exchange is to 110129
facilitate continuity of care for a patient; 110130

(8) That a patient's family member who is involved in the 110131
provision, planning, and monitoring of services to the patient may 110132
receive medication information, a summary of the patient's 110133

diagnosis and prognosis, and a list of the services and personnel 110134
available to assist the patient and the patient's family, if the 110135
patient's treating physician determines that the disclosure would 110136
be in the best interests of the patient. No such disclosure shall 110137
be made unless the patient is notified first and receives the 110138
information and does not object to the disclosure. 110139

(9) That community mental health agencies may exchange 110140
psychiatric records and certain other information with the board 110141
of alcohol, drug addiction, and mental health services and other 110142
agencies in order to provide services to a person involuntarily 110143
committed to a board. Release of records under this division shall 110144
be limited to medication history, physical health status and 110145
history, financial status, summary of course of treatment, summary 110146
of treatment needs, and discharge summary, if any. 110147

(10) That information may be disclosed to the executor or the 110148
administrator of an estate of a deceased patient when the 110149
information is necessary to administer the estate; 110150

(11) That records in the possession of the Ohio historical 110151
society may be released to the closest living relative of a 110152
deceased patient upon request of that relative; 110153

(12) That information may be disclosed to staff members of 110154
the appropriate board or to staff members designated by the 110155
director of mental health for the purpose of evaluating the 110156
quality, effectiveness, and efficiency of services and determining 110157
if the services meet minimum standards. Information obtained 110158
during such evaluations shall not be retained with the name of any 110159
patient. 110160

(13) That records pertaining to the patient's diagnosis, 110161
course of treatment, treatment needs, and prognosis shall be 110162
disclosed and released to the appropriate prosecuting attorney if 110163
the patient was committed pursuant to section 2945.38, 2945.39, 110164

2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

(14) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction. The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(15) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the patient's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), (7), and (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

<u>Sec. 5122.341. (A) As used in this section:</u>	110197
<u>(1) "Facility or agency" means, in the context of a person</u>	110198
<u>committed to the department of mental health under sections</u>	110199
<u>2945.37 to 2945.402 of the Revised Code, any entity in which the</u>	110200
<u>department of mental health places such a person.</u>	110201
<u>(2) "Person committed to the department" means a person</u>	110202
<u>committed to the department of mental health under sections</u>	110203
<u>2945.37 to 2945.402 of the Revised Code.</u>	110204
<u>(B) No member of a board of directors, or employee, of a</u>	110205
<u>facility or agency in which the department of mental health places</u>	110206
<u>a person committed to the department is liable for injury or</u>	110207
<u>damages caused by any action or inaction taken within the scope of</u>	110208
<u>the board member's official duties or employee's employment</u>	110209
<u>relating to the commitment of, and services provided to, the</u>	110210
<u>person committed to the department, unless the action or inaction</u>	110211
<u>constitutes willful or wanton misconduct. A board member's or</u>	110212
<u>employee's action or inaction does not constitute willful or</u>	110213
<u>wanton misconduct if the board member or employee acted in good</u>	110214
<u>faith and reasonably under the circumstances and with the</u>	110215
<u>knowledge reasonably attributable to the board member or employee.</u>	110216
<u>The immunity from liability conferred by this section is in</u>	110217
<u>addition to and not in limitation of any immunity conferred by any</u>	110218
<u>other section of the Revised Code or by judicial precedent.</u>	110219
<u>Sec. 5123.01. As used in this chapter:</u>	110220
<u>(A) "Chief medical officer" means the licensed physician</u>	110221
<u>appointed by the managing officer of an institution for the</u>	110222
<u>mentally retarded with the approval of the director of</u>	110223
<u>developmental disabilities to provide medical treatment for</u>	110224
<u>residents of the institution.</u>	110225
<u>(B) "Chief program director" means a person with special</u>	110226

training and experience in the diagnosis and management of the 110227
mentally retarded, certified according to division (C) of this 110228
section in at least one of the designated fields, and appointed by 110229
the managing officer of an institution for the mentally retarded 110230
with the approval of the director to provide habilitation and care 110231
for residents of the institution. 110232

(C) "Comprehensive evaluation" means a study, including a 110233
sequence of observations and examinations, of a person leading to 110234
conclusions and recommendations formulated jointly, with 110235
dissenting opinions if any, by a group of persons with special 110236
training and experience in the diagnosis and management of persons 110237
with mental retardation or a developmental disability, which group 110238
shall include individuals who are professionally qualified in the 110239
fields of medicine, psychology, and social work, together with 110240
such other specialists as the individual case may require. 110241

(D) "Education" means the process of formal training and 110242
instruction to facilitate the intellectual and emotional 110243
development of residents. 110244

(E) "Habilitation" means the process by which the staff of 110245
the institution assists the resident in acquiring and maintaining 110246
those life skills that enable the resident to cope more 110247
effectively with the demands of the resident's own person and of 110248
the resident's environment and in raising the level of the 110249
resident's physical, mental, social, and vocational efficiency. 110250
Habilitation includes but is not limited to programs of formal, 110251
structured education and training. 110252

(F) "Health officer" means any public health physician, 110253
public health nurse, or other person authorized or designated by a 110254
city or general health district. 110255

(G) "Home and community-based services" means medicaid-funded 110256
home and community-based services specified in division (B)(1) of 110257

section 5111.87 of the Revised Code provided under the medicaid 110258
waiver components the department of developmental disabilities 110259
administers pursuant to section 5111.871 of the Revised Code. 110260
However, home and community-based services provided under the 110261
medicaid waiver component known as the transitions developmental 110262
disabilities waiver are to be considered to be home and 110263
community-based services for the purposes of this chapter only to 110264
the extent, if any, provided by the contract required by section 110265
5111.871 of the Revised Code regarding the waiver. 110266

(H) "Indigent person" means a person who is unable, without 110267
substantial financial hardship, to provide for the payment of an 110268
attorney and for other necessary expenses of legal representation, 110269
including expert testimony. 110270

(I) "Institution" means a public or private facility, or a 110271
part of a public or private facility, that is licensed by the 110272
appropriate state department and is equipped to provide 110273
residential habilitation, care, and treatment for the mentally 110274
retarded. 110275

(J) "Licensed physician" means a person who holds a valid 110276
certificate issued under Chapter 4731. of the Revised Code 110277
authorizing the person to practice medicine and surgery or 110278
osteopathic medicine and surgery, or a medical officer of the 110279
government of the United States while in the performance of the 110280
officer's official duties. 110281

(K) "Managing officer" means a person who is appointed by the 110282
director of developmental disabilities to be in executive control 110283
of an institution for the mentally retarded under the jurisdiction 110284
of the department. 110285

(L) "Medicaid" has the same meaning as in section 5111.01 of 110286
the Revised Code. 110287

(M) "Medicaid case management services" means case management 110288

services provided to an individual with mental retardation or 110289
other developmental disability that the state medicaid plan 110290
requires. 110291

(N) "Mentally retarded person" means a person having 110292
significantly subaverage general intellectual functioning existing 110293
concurrently with deficiencies in adaptive behavior, manifested 110294
during the developmental period. 110295

(O) "Mentally retarded person subject to institutionalization 110296
by court order" means a person eighteen years of age or older who 110297
is at least moderately mentally retarded and in relation to whom, 110298
because of the person's retardation, either of the following 110299
conditions exist: 110300

(1) The person represents a very substantial risk of physical 110301
impairment or injury to self as manifested by evidence that the 110302
person is unable to provide for and is not providing for the 110303
person's most basic physical needs and that provision for those 110304
needs is not available in the community; 110305

(2) The person needs and is susceptible to significant 110306
habilitation in an institution. 110307

(P) "A person who is at least moderately mentally retarded" 110308
means a person who is found, following a comprehensive evaluation, 110309
to be impaired in adaptive behavior to a moderate degree and to be 110310
functioning at the moderate level of intellectual functioning in 110311
accordance with standard measurements as recorded in the most 110312
current revision of the manual of terminology and classification 110313
in mental retardation published by the American association on 110314
mental retardation. 110315

(Q) As used in this division, "substantial functional 110316
limitation," "developmental delay," and "established risk" have 110317
the meanings established pursuant to section 5123.011 of the 110318
Revised Code. 110319

"Developmental disability" means a severe, chronic disability 110320
that is characterized by all of the following: 110321

(1) It is attributable to a mental or physical impairment or 110322
a combination of mental and physical impairments, other than a 110323
mental or physical impairment solely caused by mental illness as 110324
defined in division (A) of section 5122.01 of the Revised Code. 110325

(2) It is manifested before age twenty-two. 110326

(3) It is likely to continue indefinitely. 110327

(4) It results in one of the following: 110328

(a) In the case of a person under three years of age, at 110329
least one developmental delay or an established risk; 110330

(b) In the case of a person at least three years of age but 110331
under six years of age, at least two developmental delays or an 110332
established risk; 110333

(c) In the case of a person six years of age or older, a 110334
substantial functional limitation in at least three of the 110335
following areas of major life activity, as appropriate for the 110336
person's age: self-care, receptive and expressive language, 110337
learning, mobility, self-direction, capacity for independent 110338
living, and, if the person is at least sixteen years of age, 110339
capacity for economic self-sufficiency. 110340

(5) It causes the person to need a combination and sequence 110341
of special, interdisciplinary, or other type of care, treatment, 110342
or provision of services for an extended period of time that is 110343
individually planned and coordinated for the person. 110344

(R) "Developmentally disabled person" means a person with a 110345
developmental disability. 110346

(S) "State institution" means an institution that is 110347
tax-supported and under the jurisdiction of the department. 110348

(T) "Residence" and "legal residence" have the same meaning 110349

as "legal settlement," which is acquired by residing in Ohio for a 110350
period of one year without receiving general assistance prior to 110351
July 17, 1995, under former Chapter 5113. of the Revised Code, 110352
financial assistance under Chapter 5115. of the Revised Code, or 110353
assistance from a private agency that maintains records of 110354
assistance given. A person having a legal settlement in the state 110355
shall be considered as having legal settlement in the assistance 110356
area in which the person resides. No adult person coming into this 110357
state and having a spouse or minor children residing in another 110358
state shall obtain a legal settlement in this state as long as the 110359
spouse or minor children are receiving public assistance, care, or 110360
support at the expense of the other state or its subdivisions. For 110361
the purpose of determining the legal settlement of a person who is 110362
living in a public or private institution or in a home subject to 110363
licensing by the department of job and family services, the 110364
department of mental health, or the department of developmental 110365
disabilities, the residence of the person shall be considered as 110366
though the person were residing in the county in which the person 110367
was living prior to the person's entrance into the institution or 110368
home. Settlement once acquired shall continue until a person has 110369
been continuously absent from Ohio for a period of one year or has 110370
acquired a legal residence in another state. A woman who marries a 110371
man with legal settlement in any county immediately acquires the 110372
settlement of her husband. The legal settlement of a minor is that 110373
of the parents, surviving parent, sole parent, parent who is 110374
designated the residential parent and legal custodian by a court, 110375
other adult having permanent custody awarded by a court, or 110376
guardian of the person of the minor, provided that: 110377

(1) A minor female who marries shall be considered to have 110378
the legal settlement of her husband and, in the case of death of 110379
her husband or divorce, she shall not thereby lose her legal 110380
settlement obtained by the marriage. 110381

(2) A minor male who marries, establishes a home, and who has resided in this state for one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given shall be considered to have obtained a legal settlement in this state.

(3) The legal settlement of a child under eighteen years of age who is in the care or custody of a public or private child caring agency shall not change if the legal settlement of the parent changes until after the child has been in the home of the parent for a period of one year.

No person, adult or minor, may establish a legal settlement in this state for the purpose of gaining admission to any state institution.

(U)(1) "Resident" means, subject to division (R)(2) of this section, a person who is admitted either voluntarily or involuntarily to an institution or other facility pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(V) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

(W) "Working day" and "court day" mean Monday, Tuesday, 110413
Wednesday, Thursday, and Friday, except when such day is a legal 110414
holiday. 110415

(X) "Prosecutor" means the prosecuting attorney, village 110416
solicitor, city director of law, or similar chief legal officer 110417
who prosecuted a criminal case in which a person was found not 110418
guilty by reason of insanity, who would have had the authority to 110419
prosecute a criminal case against a person if the person had not 110420
been found incompetent to stand trial, or who prosecuted a case in 110421
which a person was found guilty. 110422

(Y) "Court" means the probate division of the court of common 110423
pleas. 110424

(Z) "Supported living" ~~has~~ and "residential services" have 110425
the same ~~meaning~~ meanings as in section 5126.01 of the Revised 110426
Code. 110427

Sec. 5123.0413. The department of developmental disabilities, 110428
in consultation with the department of job and family services, 110429
office of budget and management, and county boards of 110430
developmental disabilities, shall adopt rules in accordance with 110431
Chapter 119. of the Revised Code to establish both of the 110432
following in the event a county property tax levy for services for 110433
individuals with mental retardation or other developmental 110434
disability fails: 110435

(A) A method of paying for home and community-based services; 110436

(B) A method of reducing the number of individuals a county 110437
board would otherwise be required by section 5126.0512 of the 110438
Revised Code to ensure are enrolled in a ~~medicaid waiver component~~ 110439
~~under which~~ home and community-based services ~~are provided.~~ 110440

Sec. 5123.0417. (A) The director of developmental 110441
disabilities shall establish one or more programs for individuals 110442

under ~~twenty-one~~ twenty-two years of age who have intensive 110443
behavioral needs, including such individuals with a primary 110444
diagnosis of autism spectrum disorder. The programs may include 110445
one or more medicaid waiver components that the director 110446
administers pursuant to section 5111.871 of the Revised Code. The 110447
programs may do one or more of the following: 110448

(1) Establish models that incorporate elements common to 110449
effective intervention programs and evidence-based practices in 110450
services for children with intensive behavioral needs; 110451

(2) Design a template for individualized education plans and 110452
individual service plans that provide consistent intervention 110453
programs and evidence-based practices for the care and treatment 110454
of children with intensive behavioral needs; 110455

(3) Disseminate best practice guidelines for use by families 110456
of children with intensive behavioral needs and professionals 110457
working with such families; 110458

(4) Develop a transition planning model for effectively 110459
mainstreaming school-age children with intensive behavioral needs 110460
to their public school district; 110461

(5) Contribute to the field of early and effective 110462
identification and intervention programs for children with 110463
intensive behavioral needs by providing financial support for 110464
scholarly research and publication of clinical findings. 110465

(B) The director of developmental disabilities shall 110466
collaborate with the director of job and family services and 110467
consult with the executive director of the Ohio center for autism 110468
and low incidence and university-based programs that specialize in 110469
services for individuals with developmental disabilities when 110470
establishing programs under this section. 110471

Sec. 5123.0418. (A) In addition to other authority granted 110472

the director of developmental disabilities for use of funds 110473
appropriated to the department of developmental disabilities, the 110474
director may use such funds for the following purposes: 110475

(1) All of the following to assist persons with mental 110476
retardation or a developmental disability remain in the community 110477
and avoid institutionalization: 110478

(a) Behavioral and short-term interventions; 110479

(b) Residential services; 110480

(c) Supported living. 110481

(2) Respite care services; 110482

(3) Staff training to help the following personnel serve 110483
persons with mental retardation or a developmental disability in 110484
the community: 110485

(a) Employees of, and personnel under contract with, county 110486
boards of developmental disabilities; 110487

(b) Employees of providers of supported living; 110488

(c) Employees of providers of residential services; 110489

(d) Other personnel the director identifies. 110490

(B) The director may establish priorities for using funds for 110491
the purposes specified in division (A) of this section. The 110492
director shall use the funds in a manner consistent with the 110493
appropriations that authorize the director to use the funds and 110494
all other state and federal laws governing the use of the funds. 110495

Sec. 5123.0419. (A) The director of developmental 110496
disabilities may establish an interagency workgroup on autism. The 110497
purpose of the workgroup shall be to improve the coordination of 110498
the state's efforts to address the service needs of individuals 110499
with autism spectrum disorders and the families of those 110500

individuals. In fulfilling this purpose, the director may enter 110501
into interagency agreements with the government entities 110502
represented by the members of the workgroup. The agreements may 110503
specify any or all of the following: 110504

(1) The roles and responsibilities of government entities 110505
that enter into the agreements; 110506

(2) Procedures regarding the receipt, transfer, and 110507
expenditure of funds necessary to achieve the goals of the 110508
workgroup; 110509

(3) The projects to be undertaken and activities to be 110510
performed by the government entities that enter into the 110511
agreements. 110512

(B) Money received from government entities represented by 110513
the members of the workgroup shall be deposited into the state 110514
treasury to the credit of the interagency workgroup on autism 110515
fund, which is hereby created in the state treasury. Money 110516
credited to the fund shall be used by the department of 110517
developmental disabilities solely to support the activities of the 110518
workgroup. 110519

Sec. 5123.051. (A) If the department of developmental 110520
disabilities determines pursuant to an audit conducted under 110521
section 5123.05 of the Revised Code ~~or a reconciliation conducted~~ 110522
~~under section 5123.18 of the Revised Code~~ that money is owed the 110523
state by a provider of a service or program, the department may 110524
enter into a payment agreement with the provider. The agreement 110525
shall include the following: 110526

(1) A schedule of installment payments whereby the money owed 110527
the state is to be paid in full within a period not to exceed one 110528
year; 110529

(2) A provision that the provider may pay the entire balance 110530

owed at any time during the term of the agreement; 110531

(3) A provision that if any installment is not paid in full 110532
within forty-five days after it is due, the entire balance owed is 110533
immediately due and payable; 110534

(4) Any other terms and conditions that are agreed to by the 110535
department and the provider. 110536

(B) The department may include a provision in a payment 110537
agreement that requires the provider to pay interest on the money 110538
owed the state. The department, in its discretion, shall determine 110539
whether to require the payment of interest and, if it so requires, 110540
the rate of interest. Neither the obligation to pay interest nor 110541
the rate of interest is subject to negotiation between the 110542
department and the provider. 110543

(C) If the provider fails to pay any installment in full 110544
within forty-five days after its due date, the department shall 110545
certify the entire balance owed to the attorney general for 110546
collection under section 131.02 of the Revised Code. The 110547
department may withhold funds from payments made to a provider 110548
under section 5123.18 of the Revised Code to satisfy a judgment 110549
secured by the attorney general. 110550

~~(D) The purchase of service fund is hereby created. Money 110551
credited to the fund shall be used solely for purposes of section 110552
5123.05 of the Revised Code. 110553~~

Sec. 5123.171. As used in this section, "respite care" means 110554
appropriate, short-term, temporary care provided to a mentally 110555
retarded or developmentally disabled person to sustain the family 110556
structure or to meet planned or emergency needs of the family. 110557

The department of developmental disabilities shall provide 110558
respite care services to persons with mental retardation or a 110559
developmental disability for the purpose of promoting 110560

self-sufficiency and normalization, preventing or reducing 110561
inappropriate institutional care, and furthering the unity of the 110562
family by enabling the family to meet the special needs of a 110563
mentally retarded or developmentally disabled person. 110564

In order to be eligible for respite care services under this 110565
section, the mentally retarded or developmentally disabled person 110566
must be in need of habilitation services as defined in section 110567
5126.01 of the Revised Code. 110568

Respite care may be provided in a facility licensed under 110569
section 5123.19 of the Revised Code or certified as an 110570
intermediate care facility for the mentally retarded under Title 110571
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 110572
301, as amended, or certified as a respite care home under section 110573
5126.05 of the Revised Code. 110574

The department shall develop a system for locating vacant 110575
beds that are available for respite care and for making 110576
information on vacant beds available to users of respite care 110577
services. Facilities certified as intermediate care facilities for 110578
the mentally retarded ~~and facilities holding contracts with the~~ 110579
~~department for the provision of residential services under section~~ 110580
~~5123.18 of the Revised Code~~ shall report vacant beds to the 110581
department but shall not be required to accept respite care 110582
clients. 110583

The director of developmental disabilities shall adopt, and 110584
may amend or rescind, rules in accordance with Chapter 119. of the 110585
Revised Code for both of the following: 110586

(A) Certification by county boards of developmental 110587
disabilities of respite care homes; 110588

(B) Provision of respite care services authorized by this 110589
section. Rules adopted under this division shall establish all of 110590
the following: 110591

(1) A formula for distributing funds appropriated for respite care services; 110592
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(2) Standards for supervision, training and quality control in the provision of respite care services; 110594
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(3) Eligibility criteria for emergency respite care services. 110596

Sec. 5123.18. (A) ~~As used in this section:~~ 110597

~~(1) "Contractor" means a person or government agency that enters into a contract with the department of developmental disabilities under this section.~~ 110598
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~~(2) "Government agency" means a state agency as defined in section 117.01 of the Revised Code or a similar agency of a political subdivision of the state.~~ 110601
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~~(3) "Residential services" means the services necessary for an individual with mental retardation or a developmental disability to live in the community, including room and board, clothing, transportation, personal care, habilitation, supervision, and any other services the department considers necessary for the individual to live in the community.~~ 110604
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~~(B)(1) The department of developmental disabilities may enter into a contract with a person or government agency to provide residential services to individuals with mental retardation or developmental disabilities in need of residential services. Contracts for residential services shall be of the following types:~~ 110610
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~~(a) Companion home contracts — contracts under which the contractor is an individual, the individual is the primary caregiver, and the individual owns or leases and resides in the home in which the services are provided.~~ 110616
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~~(b) Agency operated companion home contracts — contracts under which the contractor subcontracts, for purposes of~~ 110620
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~~coordinating the provision of residential services, with one or
more individuals who are primary caregivers and own or lease and
reside in the homes in which the services are provided.~~

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~~(c) Community home contracts — contracts for residential
services under which the contractor owns or operates a home that
is used solely to provide residential services.~~

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~~(d) Combined agency-operated companion home and community
home contracts.~~

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~~(2) A companion home contract shall cover not more than one
home. An agency-operated companion home contract or a community
home contract may cover more than one home.~~

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~~(C) Contracts shall be in writing and shall provide for
payment to be made to the contractor at the times agreed to by the
department and the contractor. Each contract shall specify the
period during which it is valid, the amount to be paid for
residential services, and the number of individuals for whom
payment will be made. Contracts may be renewed.~~

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~~(D) services. To be eligible to enter into a contract with
the department under this section, ~~the~~ a person or government
agency entity and the home in which the residential services are
provided must meet all applicable standards for licensing or
certification by the appropriate government agency entity. ~~In~~
addition, if the residential facility is operated as a nonprofit
entity, the members of the board of trustees or board of directors
of the facility must not have a financial interest in or receive
financial benefit from the facility, other than reimbursement for
actual expenses incurred in attending board meetings.~~

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~~(E)(1) The department shall determine the payment amount
assigned to an initial contract. To the extent that the department
determines sufficient funds are available, the payment amount
assigned to an initial contract shall be equal to the average~~

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~~amount assigned to contracts for other homes that are of the same 110653
type and size and serve individuals with similar needs, except 110654
that if an initial contract is the result of a change of 110655
contractor or ownership, the payment amount assigned to the 110656
contract shall be the lesser of the amount assigned to the 110657
previous contract or the contract's total adjusted predicted 110658
funding need calculated under division (I) of this section. 110659~~

~~(2) A renewed contract shall be assigned a payment amount in 110660
accordance with division (K) of this section. 110661~~

~~(3) When a contractor relocates a home to another site at 110662
which residential services are provided to the same individuals, 110663
the payment amount assigned to the contract for the new home shall 110664
be the payment amount assigned to the contract at the previous 110665
location. 110666~~

~~(F)(1) Annually, a contractor shall complete an assessment of 110667
each individual to whom the contractor provides residential 110668
services to predict the individual's need for routine direct 110669
services staff. The department shall establish by rule adopted in 110670
accordance with Chapter 119. of the Revised Code the assessment 110671
instrument to be used by contractors to make assessments. 110672
Assessments shall be submitted to the department not later than 110673
the thirty first day of January of each year. 110674~~

~~A contractor shall submit a revised assessment for an 110675
individual if there is a substantial, long term change in the 110676
nature of the individual's needs. A contractor shall submit 110677
revised assessments for all individuals receiving residential 110678
services if there is a change in the composition of the home's 110679
residents. 110680~~

~~(2) Annually, a contractor shall submit a cost report to the 110681
department specifying the costs incurred in providing residential 110682
services during the immediately preceding calendar year. Only 110683~~

~~costs actually incurred by a contractor shall be reported on a cost report. Cost reports shall be prepared according to a uniform chart of accounts approved by the department and shall be submitted on forms prescribed by the department.~~ 110684
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~~(3) The department shall not renew the contract held by a contractor who fails to submit the assessments or cost reports required under this division.~~ 110688
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~~(4) The department shall adopt rules as necessary regarding the submission of assessments and cost reports under this division. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~ 110691
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~~(G) Prior to renewing a contract entered into under this section, the department shall compute the contract's total predicted funding need and total adjusted predicted funding need. The department shall also compute the contract's unmet funding need if the payment amount assigned to the contract is less than the total adjusted predicted funding need. The results of these calculations shall be used to determine the payment amount assigned to the renewed contract.~~ 110695
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~~(H)(1) A contract's total predicted funding need is an amount equal to the sum of the predicted funding needs for the following cost categories:~~ 110703
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~~(a) Routine direct services staff;~~ 110706

~~(b) Dietary, program supplies, and specialized staff;~~ 110707

~~(c) Facility and general services;~~ 110708

~~(d) Administration.~~ 110709

~~(2) Based on the assessments submitted by the contractor, the department shall compute the contract's predicted funding need for the routine direct services staff cost category by multiplying the number of direct services staff predicted to be necessary for the~~ 110710
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~~home by the sum of the following:~~ 110714

~~(a) Entry level wages paid during the immediately preceding cost reporting period to comparable staff employed by the county board of developmental disabilities of the county in which the home is located;~~ 110715
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~~(b) Fringe benefits and payroll taxes as determined by the department using state civil service statistics from the same period as the cost reporting period.~~ 110719
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~~(3) The department shall establish by rule adopted in accordance with Chapter 119. of the Revised Code the method to be used to compute the predicted funding need for the dietary, program supplies, and specialized staff cost category; the facility and general services cost category; and the administration cost category. The rules shall not establish a maximum amount that may be attributed to the dietary, program supplies, and specialized staff cost category. The rules shall establish a process for determining the combined maximum amount that may be attributed to the facility and general services cost category and the administration cost category.~~ 110722
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~~(I)(1) A contract's total adjusted predicted funding need is the contract's total predicted funding need with adjustments made for the following:~~ 110733
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~~(a) Inflation, as provided under division (I)(2) of this section;~~ 110736
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~~(b) The predicted cost of complying with new requirements established under federal or state law that were not taken into consideration when the total predicted funding need was computed;~~ 110738
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~~(c) Changes in needs based on revised assessments submitted by the contractor.~~ 110741
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~~(2) In adjusting the total predicted funding need for~~ 110743

~~inflation, the department shall use either the consumer price index compound annual inflation rate calculated by the United States department of labor for all items or another index or measurement of inflation designated in rules that the department shall adopt in accordance with Chapter 119. of the Revised Code.~~

~~When a contract is being renewed for the first time, and the contract is to begin on the first day of July, the inflation adjustment applied to the contract's total predicted funding need shall be the estimated rate of inflation for the calendar year in which the contract is renewed. If the consumer price index is being used, the department shall base its estimate on the rate of inflation calculated for the three month period ending the thirty first day of March of that calendar year. If another index or measurement is being used, the department shall base its estimate on the most recent calculations of the rate of inflation available under the index or measurement. Each year thereafter, the inflation adjustment shall be estimated in the same manner, except that if the estimated rate of inflation for a year is different from the actual rate of inflation for that year, the difference shall be added to or subtracted from the rate of inflation estimated for the next succeeding year.~~

~~If a contract begins at any time other than July first, the inflation adjustment applied to the contract's total predicted funding need shall be determined by a method comparable to that used for contracts beginning July first. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the method to be used.~~

~~(J) A contract's unmet funding need is the difference between the payment amount assigned to the contract and the total adjusted predicted funding need, if the payment amount assigned is less than the total adjusted predicted funding need.~~

~~(K) The payment amount to be assigned to a contract being~~

~~renewed shall be determined by comparing the total adjusted
predicted funding need with the payment amount assigned to the
current contract.~~

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~~(1) If the payment amount assigned to the current contract
equals or exceeds the total adjusted predicted funding need, the
payment amount assigned to the renewed contract shall be the same
as that assigned to the current contract, unless a reduction is
made pursuant to division (L) of this section.~~

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~~(2) If the payment amount assigned to the current contract is
less than the total adjusted predicted funding need, the payment
amount assigned to the renewed contract shall be increased if the
department determines that funds are available for such increases.
The amount of a contract's increase shall be the same percentage
of the available funds that the contract's unmet funding need is
of the total of the unmet funding need for all contracts.~~

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~~(L) When renewing a contract provided for in division (B) of
this section other than a companion home contract, the department
may reduce the payment amount assigned to a renewed contract if
the sum of the contractor's allowable reported costs and the
maximum efficiency incentive is less than ninety one and one half
per cent of the amount received pursuant to this section during
the immediately preceding contract year.~~

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~~The department shall adopt rules in accordance with Chapter
119. of the Revised Code establishing a formula to be used in
computing the maximum efficiency incentive, which shall be at
least four per cent of the weighted average payment amount to be
made to all contractors during the contract year. The maximum
efficiency incentive shall be computed annually.~~

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~~(M) The department may increase the payment amount assigned
to a contract based on the contract's unmet funding need at times
other than when the contract is renewed. The department may~~

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~~develop policies for determining priorities in making such increases.~~ 110807
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~~(N)(1) In addition to the contracts provided for in division (B) of this section, the department may enter into the following contracts:~~ 110809
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~~(a) A contract to pay the cost of beginning operation of a new home that is to be funded under a companion home contract, agency operated companion home contract, community home contract, or combined agency operated companion home and community home contract.~~ 110812
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~~(b) A contract to pay the cost associated with increasing the number of individuals served by a home funded under a companion home contract, agency operated companion home contract, community home contract, or combined agency operated companion home and community home contract.~~ 110817
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~~(2) The department shall adopt rules as necessary regarding contracts entered into under this division. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~ 110822
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~~(O) Except for companion home contracts, the department shall conduct a reconciliation of the amount earned under a contract and the actual costs incurred by the contractor. An amount is considered to have been earned for delivering a service at the time the service is delivered. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting reconciliations.~~ 110825
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~~A reconciliation shall be based on the annual cost report submitted by the contractor. If a reconciliation reveals that a contractor owes money to the state, the amount owed shall be collected in accordance with section 5123.051 of the Revised Code.~~ 110832
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~~When conducting reconciliations, the department shall review all reported costs that may be affected by transactions required~~ 110836
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~~to be reported under division (B)(3) of section 5123.172 of the Revised Code. If the department determines that such transactions have increased the cost reported by a contractor, the department may disallow or adjust the cost allowable for payment. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for disallowances or adjustments.~~

~~(P) The department may audit the contracts it enters into under this section. Audits may be conducted by the department or an entity with which the department contracts to perform the audits. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting audits.~~

~~An audit may include the examination of a contractor's financial books and records, the costs incurred by a contractor in providing residential services, and any other relevant information specified by the department. An audit shall not be commenced more than four years after the expiration of the contract to be audited, except in cases where the department has reasonable cause to believe that a contractor has committed fraud.~~

~~If an audit reveals that a contractor owes money to the state, the amount owed, subject to an adjudication hearing under this division, shall be collected in accordance with section 5123.051 of the Revised Code. If an audit reveals that a reconciliation conducted under this section resulted in the contractor erroneously paying money to the state, the department shall refund the money to the contractor, or, in lieu of making a refund, the department may offset the erroneous payment against any money determined as a result of the audit to be owed by the contractor to the state. The department is not required to pay interest on any money refunded under this division.~~

~~In conducting audits or making determinations of amounts owed~~

~~by a contractor and amounts to be refunded or offset, the 110870
department shall not be bound by the results of reconciliations 110871
conducted under this section, except with regard to cases 110872
involving claims that have been certified pursuant to section 110873
5123.051 of the Revised Code to the attorney general for 110874
collection for which a full and final settlement has been reached 110875
or a final judgment has been made from which all rights of appeal 110876
have expired or been exhausted. 110877~~

~~Not later than ninety days after an audit's completion, the 110878
department shall provide the contractor a copy of a report of the 110879
audit. The report shall state the findings of the audit, including 110880
the amount of any money the contractor is determined to owe the 110881
state. 110882~~

~~(Q) The department shall adopt rules specifying the amount 110883
that will be allowed under a reconciliation or audit for the cost 110884
incurred by a contractor for compensation of owners, 110885
administrators, and other personnel. The rules shall be adopted in 110886
accordance with Chapter 119. of the Revised Code. 110887~~

~~(R) Each contractor shall, for at least seven years, maintain 110888
fiscal records related to payments received pursuant to this 110889
section. 110890~~

~~(S) The department may enter into shared funding agreements 110891
with other government agencies to fund contracts entered into 110892
under this section. The amount of each agency's share of the cost 110893
shall be determined through negotiations with the department. The 110894
department's share shall not exceed the amount it would have paid 110895
without entering into the shared funding agreement, nor shall it 110896
be reduced by any amounts contributed by the other parties to the 110897
agreement. 110898~~

~~(T) Except as provided in section 5123.194 of the Revised 110899
Code, an individual who receives residential services pursuant to 110900~~

~~divisions (A) through (U) of this section and the individual's
liable relatives or guardians shall pay support charges in
accordance with Chapter 5121. of the Revised Code.~~

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~~(U) The department may make reimbursements or payments for
any of the following pursuant to rules adopted under this
division:~~

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~~(1) Unanticipated, nonrecurring costs associated with the
health or habilitation of a person who resides in a home funded
under a contract provided for in division (B) of this section;~~

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~~(2) The cost of staff development training for contractors if
the director of developmental disabilities has given prior
approval for the training;~~

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~~(3) Fixed costs that the department, pursuant to the rules,
determines relate to the continued operation of a home funded
under a contract provided for in division (B) of this section when
a short term vacancy occurs and the contractor has diligently
attempted to fill the vacancy.~~

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~~The department shall adopt rules in accordance with Chapter
119. of the Revised Code establishing standards for use in
determining which costs it may make payment or reimbursements for
under this division.~~

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~~(V) In addition to the rules required or authorized to be
adopted under this section, the department may adopt any other
rules necessary to implement divisions (A) through (U) of this
section. The rules shall be adopted in accordance with Chapter
119. of the Revised Code.~~

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~~(W) The department may delegate to county boards of
developmental disabilities its authority under this section to
negotiate and enter into contracts or subcontracts for residential
services. In the event that it elects to delegate its authority,
the department shall adopt rules in accordance with Chapter 119.~~

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~~of the Revised Code for the boards' administration of the 110932
contracts or subcontracts. In administering the contracts or 110933
subcontracts, the boards shall be subject to all applicable 110934
provisions of Chapter 5126. of the Revised Code and shall not be 110935
subject to the provisions of divisions (A) to (V) of this section. 110936~~

~~Subject to the department's rules, a board may require the 110937
following to contribute to the cost of the residential services an 110938
individual receives pursuant to this division: the individual or 110939
the individual's estate, the individual's spouse, the individual's 110940
guardian, and, if the individual is under age eighteen, either or 110941
both of the individual's parents. Chapter 5121. of the Revised 110942
Code shall not apply to individuals or entities that are subject 110943
to making contributions under this division. In calculating 110944
contributions to be made under this division, a board, subject to 110945
the department's rules, may allow an amount to be kept for meeting 110946
the personal needs of the individual who receives residential 110947
services. 110948~~

Sec. 5123.19. (A) As used in this section and in sections 110949
5123.191, ~~5123.193,~~ 5123.194, 5123.196, 5123.197, 5123.198, and 110950
5123.20 of the Revised Code: 110951

(1)(a) "Residential facility" means a home or facility in 110952
which a mentally retarded or developmentally disabled person 110953
resides, except the home of a relative or legal guardian in which 110954
a mentally retarded or developmentally disabled person resides, a 110955
respite care home certified under section 5126.05 of the Revised 110956
Code, a county home or district home operated pursuant to Chapter 110957
5155. of the Revised Code, or a dwelling in which the only 110958
mentally retarded or developmentally disabled residents are in an 110959
independent living arrangement or are being provided supported 110960
living. 110961

(b) "Intermediate care facility for the mentally retarded" 110962

means a residential facility that is considered an intermediate 110963
care facility for the mentally retarded for the purposes of 110964
Chapter 5111. of the Revised Code. 110965

(2) "Political subdivision" means a municipal corporation, 110966
county, or township. 110967

(3) "Independent living arrangement" means an arrangement in 110968
which a mentally retarded or developmentally disabled person 110969
resides in an individualized setting chosen by the person or the 110970
person's guardian, which is not dedicated principally to the 110971
provision of residential services for mentally retarded or 110972
developmentally disabled persons, and for which no financial 110973
support is received for rendering such service from any 110974
governmental agency by a provider of residential services. 110975

(4) "Licensee" means the person or government agency that has 110976
applied for a license to operate a residential facility and to 110977
which the license was issued under this section. 110978

(5) "Related party" has the same meaning as in section 110979
5123.16 of the Revised Code except that "provider" as used in the 110980
definition of "related party" means a person or government entity 110981
that held or applied for a license to operate a residential 110982
facility, rather than a person or government entity certified to 110983
provide supported living. 110984

(B) Every person or government agency desiring to operate a 110985
residential facility shall apply for licensure of the facility to 110986
the director of developmental disabilities unless the residential 110987
facility is subject to section 3721.02, ~~3722.04~~ 5119.73, 5103.03, 110988
or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of 110989
the Revised Code, a nursing home that is certified as an 110990
intermediate care facility for the mentally retarded under Title 110991
XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 110992
1396, as amended, shall apply for licensure of the portion of the 110993

home that is certified as an intermediate care facility for the 110994
mentally retarded. 110995

(C) Subject to section 5123.196 of the Revised Code, the 110996
director of developmental disabilities shall license the operation 110997
of residential facilities. An initial license shall be issued for 110998
a period that does not exceed one year, unless the director denies 110999
the license under division (D) of this section. A license shall be 111000
renewed for a period that does not exceed three years, unless the 111001
director refuses to renew the license under division (D) of this 111002
section. The director, when issuing or renewing a license, shall 111003
specify the period for which the license is being issued or 111004
renewed. A license remains valid for the length of the licensing 111005
period specified by the director, unless the license is 111006
terminated, revoked, or voluntarily surrendered. 111007

(D) If it is determined that an applicant or licensee is not 111008
in compliance with a provision of this chapter that applies to 111009
residential facilities or the rules adopted under such a 111010
provision, the director may deny issuance of a license, refuse to 111011
renew a license, terminate a license, revoke a license, issue an 111012
order for the suspension of admissions to a facility, issue an 111013
order for the placement of a monitor at a facility, issue an order 111014
for the immediate removal of residents, or take any other action 111015
the director considers necessary consistent with the director's 111016
authority under this chapter regarding residential facilities. In 111017
the director's selection and administration of the sanction to be 111018
imposed, all of the following apply: 111019

(1) The director may deny, refuse to renew, or revoke a 111020
license, if the director determines that the applicant or licensee 111021
has demonstrated a pattern of serious noncompliance or that a 111022
violation creates a substantial risk to the health and safety of 111023
residents of a residential facility. 111024

(2) The director may terminate a license if more than twelve 111025

consecutive months have elapsed since the residential facility was 111026
last occupied by a resident or a notice required by division (K) 111027
of this section is not given. 111028

(3) The director may issue an order for the suspension of 111029
admissions to a facility for any violation that may result in 111030
sanctions under division (D)(1) of this section and for any other 111031
violation specified in rules adopted under division (H)(2) of this 111032
section. If the suspension of admissions is imposed for a 111033
violation that may result in sanctions under division (D)(1) of 111034
this section, the director may impose the suspension before 111035
providing an opportunity for an adjudication under Chapter 119. of 111036
the Revised Code. The director shall lift an order for the 111037
suspension of admissions when the director determines that the 111038
violation that formed the basis for the order has been corrected. 111039

(4) The director may order the placement of a monitor at a 111040
residential facility for any violation specified in rules adopted 111041
under division (H)(2) of this section. The director shall lift the 111042
order when the director determines that the violation that formed 111043
the basis for the order has been corrected. 111044

(5) If the director determines that two or more residential 111045
facilities owned or operated by the same person or government 111046
entity are not being operated in compliance with a provision of 111047
this chapter that applies to residential facilities or the rules 111048
adopted under such a provision, and the director's findings are 111049
based on the same or a substantially similar action, practice, 111050
circumstance, or incident that creates a substantial risk to the 111051
health and safety of the residents, the director shall conduct a 111052
survey as soon as practicable at each residential facility owned 111053
or operated by that person or government entity. The director may 111054
take any action authorized by this section with respect to any 111055
facility found to be operating in violation of a provision of this 111056
chapter that applies to residential facilities or the rules 111057

adopted under such a provision. 111058

(6) When the director initiates license revocation 111059
proceedings, no opportunity for submitting a plan of correction 111060
shall be given. The director shall notify the licensee by letter 111061
of the initiation of the proceedings. The letter shall list the 111062
deficiencies of the residential facility and inform the licensee 111063
that no plan of correction will be accepted. The director shall 111064
also send a copy of the letter to the county board of 111065
developmental disabilities. The county board shall send a copy of 111066
the letter to each of the following: 111067

(a) Each resident who receives services from the licensee; 111068

(b) The guardian of each resident who receives services from 111069
the licensee if the resident has a guardian; 111070

(c) The parent or guardian of each resident who receives 111071
services from the licensee if the resident is a minor. 111072

(7) Pursuant to rules which shall be adopted in accordance 111073
with Chapter 119. of the Revised Code, the director may order the 111074
immediate removal of residents from a residential facility 111075
whenever conditions at the facility present an immediate danger of 111076
physical or psychological harm to the residents. 111077

(8) In determining whether a residential facility is being 111078
operated in compliance with a provision of this chapter that 111079
applies to residential facilities or the rules adopted under such 111080
a provision, or whether conditions at a residential facility 111081
present an immediate danger of physical or psychological harm to 111082
the residents, the director may rely on information obtained by a 111083
county board of developmental disabilities or other governmental 111084
agencies. 111085

(9) In proceedings initiated to deny, refuse to renew, or 111086
revoke licenses, the director may deny, refuse to renew, or revoke 111087
a license regardless of whether some or all of the deficiencies 111088

that prompted the proceedings have been corrected at the time of 111089
the hearing. 111090

(E) The director shall establish a program under which public 111091
notification may be made when the director has initiated license 111092
revocation proceedings or has issued an order for the suspension 111093
of admissions, placement of a monitor, or removal of residents. 111094
The director shall adopt rules in accordance with Chapter 119. of 111095
the Revised Code to implement this division. The rules shall 111096
establish the procedures by which the public notification will be 111097
made and specify the circumstances for which the notification must 111098
be made. The rules shall require that public notification be made 111099
if the director has taken action against the facility in the 111100
eighteen-month period immediately preceding the director's latest 111101
action against the facility and the latest action is being taken 111102
for the same or a substantially similar violation of a provision 111103
of this chapter that applies to residential facilities or the 111104
rules adopted under such a provision. The rules shall specify a 111105
method for removing or amending the public notification if the 111106
director's action is found to have been unjustified or the 111107
violation at the residential facility has been corrected. 111108

(F)(1) Except as provided in division (F)(2) of this section, 111109
appeals from proceedings initiated to impose a sanction under 111110
division (D) of this section shall be conducted in accordance with 111111
Chapter 119. of the Revised Code. 111112

(2) Appeals from proceedings initiated to order the 111113
suspension of admissions to a facility shall be conducted in 111114
accordance with Chapter 119. of the Revised Code, unless the order 111115
was issued before providing an opportunity for an adjudication, in 111116
which case all of the following apply: 111117

(a) The licensee may request a hearing not later than ten 111118
days after receiving the notice specified in section 119.07 of the 111119
Revised Code. 111120

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application 111151
for a license to operate a residential facility is denied nor a 111152
related party of the person or government agency may apply for a 111153
license to operate a residential facility before the date that is 111154
one year after the date of the denial. Neither a licensee whose 111155
residential facility license is revoked nor a related party of the 111156
licensee may apply for a residential facility license before the 111157
date that is five years after the date of the revocation. 111158

(H) In accordance with Chapter 119. of the Revised Code, the 111159
director shall adopt and may amend and rescind rules for licensing 111160
and regulating the operation of residential facilities, including 111161
intermediate care facilities for the mentally retarded. The rules 111162
for intermediate care facilities for the mentally retarded may 111163
differ from those for other residential facilities. The rules 111164
shall establish and specify the following: 111165

(1) Procedures and criteria for issuing and renewing 111166
licenses, including procedures and criteria for determining the 111167
length of the licensing period that the director must specify for 111168
each license when it is issued or renewed; 111169

(2) Procedures and criteria for denying, refusing to renew, 111170
terminating, and revoking licenses and for ordering the suspension 111171
of admissions to a facility, placement of a monitor at a facility, 111172
and the immediate removal of residents from a facility; 111173

(3) Fees for issuing and renewing licenses, which shall be 111174
deposited into the program fee fund created under section 5123.033 111175
of the Revised Code; 111176

(4) Procedures for surveying residential facilities; 111177

(5) Requirements for the training of residential facility 111178
personnel; 111179

(6) Classifications for the various types of residential 111180
facilities; 111181

(7) Certification procedures for licensees and management	111182
contractors that the director determines are necessary to ensure	111183
that they have the skills and qualifications to properly operate	111184
or manage residential facilities;	111185
(8) The maximum number of persons who may be served in a	111186
particular type of residential facility;	111187
(9) Uniform procedures for admission of persons to and	111188
transfers and discharges of persons from residential facilities;	111189
(10) Other standards for the operation of residential	111190
facilities and the services provided at residential facilities;	111191
(11) Procedures for waiving any provision of any rule adopted	111192
under this section.	111193
(I) Before issuing a license, the director of the department	111194
or the director's designee shall conduct a survey of the	111195
residential facility for which application is made. The director	111196
or the director's designee shall conduct a survey of each licensed	111197
residential facility at least once during the period the license	111198
is valid and may conduct additional inspections as needed. A	111199
survey includes but is not limited to an on-site examination and	111200
evaluation of the residential facility, its personnel, and the	111201
services provided there.	111202
In conducting surveys, the director or the director's	111203
designee shall be given access to the residential facility; all	111204
records, accounts, and any other documents related to the	111205
operation of the facility; the licensee; the residents of the	111206
facility; and all persons acting on behalf of, under the control	111207
of, or in connection with the licensee. The licensee and all	111208
persons on behalf of, under the control of, or in connection with	111209
the licensee shall cooperate with the director or the director's	111210
designee in conducting the survey.	111211
Following each survey, unless the director initiates a	111212

license revocation proceeding, the director or the director's 111213
designee shall provide the licensee with a report listing any 111214
deficiencies, specifying a timetable within which the licensee 111215
shall submit a plan of correction describing how the deficiencies 111216
will be corrected, and, when appropriate, specifying a timetable 111217
within which the licensee must correct the deficiencies. After a 111218
plan of correction is submitted, the director or the director's 111219
designee shall approve or disapprove the plan. A copy of the 111220
report and any approved plan of correction shall be provided to 111221
any person who requests it. 111222

The director shall initiate disciplinary action against any 111223
department employee who notifies or causes the notification to any 111224
unauthorized person of an unannounced survey of a residential 111225
facility by an authorized representative of the department. 111226

(J) In addition to any other information which may be 111227
required of applicants for a license pursuant to this section, the 111228
director shall require each applicant to provide a copy of an 111229
approved plan for a proposed residential facility pursuant to 111230
section 5123.042 of the Revised Code. This division does not apply 111231
to renewal of a license or to an applicant for an initial or 111232
modified license who meets the requirements of section 5123.193 or 111233
5123.197 of the Revised Code. 111234

(K) A licensee shall notify the owner of the building in 111235
which the licensee's residential facility is located of any 111236
significant change in the identity of the licensee or management 111237
contractor before the effective date of the change if the licensee 111238
is not the owner of the building. 111239

Pursuant to rules which shall be adopted in accordance with 111240
Chapter 119. of the Revised Code, the director may require 111241
notification to the department of any significant change in the 111242
ownership of a residential facility or in the identity of the 111243
licensee or management contractor. If the director determines that 111244

a significant change of ownership is proposed, the director shall 111245
consider the proposed change to be an application for development 111246
by a new operator pursuant to section 5123.042 of the Revised Code 111247
and shall advise the applicant within sixty days of the 111248
notification that the current license shall continue in effect or 111249
a new license will be required pursuant to this section. If the 111250
director requires a new license, the director shall permit the 111251
facility to continue to operate under the current license until 111252
the new license is issued, unless the current license is revoked, 111253
refused to be renewed, or terminated in accordance with Chapter 111254
119. of the Revised Code. 111255

(L) A county board of developmental disabilities, the legal 111256
rights service, and any interested person may file complaints 111257
alleging violations of statute or department rule relating to 111258
residential facilities with the department. All complaints shall 111259
be in writing and shall state the facts constituting the basis of 111260
the allegation. The department shall not reveal the source of any 111261
complaint unless the complainant agrees in writing to waive the 111262
right to confidentiality or until so ordered by a court of 111263
competent jurisdiction. 111264

The department shall adopt rules in accordance with Chapter 111265
119. of the Revised Code establishing procedures for the receipt, 111266
referral, investigation, and disposition of complaints filed with 111267
the department under this division. 111268

(M) The department shall establish procedures for the 111269
notification of interested parties of the transfer or interim care 111270
of residents from residential facilities that are closing or are 111271
losing their license. 111272

(N) Before issuing a license under this section to a 111273
residential facility that will accommodate at any time more than 111274
one mentally retarded or developmentally disabled individual, the 111275
director shall, by first class mail, notify the following: 111276

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation; 111277
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(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees. 111280
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The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance. 111284
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Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license. 111288
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(0) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and 111301
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architectural compatibility requirements that are uniformly 111309
imposed upon all single-family residences within the district or 111310
zone. 111311

(P) Any person may operate a licensed residential facility 111312
that provides room and board, personal care, habilitation 111313
services, and supervision in a family setting for at least nine 111314
but not more than sixteen persons with mental retardation or a 111315
developmental disability as a permitted use in any multiple-family 111316
residential district or zone of any political subdivision, except 111317
that a political subdivision that has enacted a zoning ordinance 111318
or resolution establishing planned unit development districts may 111319
exclude these residential facilities from those districts, and a 111320
political subdivision that has enacted a zoning ordinance or 111321
resolution may regulate these residential facilities in 111322
multiple-family residential districts or zones as a conditionally 111323
permitted use or special exception, in either case, under 111324
reasonable and specific standards and conditions set out in the 111325
zoning ordinance or resolution to: 111326

(1) Require the architectural design and site layout of the 111327
residential facility and the location, nature, and height of any 111328
walls, screens, and fences to be compatible with adjoining land 111329
uses and the residential character of the neighborhood; 111330

(2) Require compliance with yard, parking, and sign 111331
regulation; 111332

(3) Limit excessive concentration of these residential 111333
facilities. 111334

(Q) This section does not prohibit a political subdivision 111335
from applying to residential facilities nondiscriminatory 111336
regulations requiring compliance with health, fire, and safety 111337
regulations and building standards and regulations. 111338

(R) Divisions (O) and (P) of this section are not applicable 111339

to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility

shall be permitted to serve the same number of persons being 111371
served by the facility on the effective date of the rules or the 111372
number of persons for which the facility is authorized pursuant to 111373
a current application for a certificate of need with a letter of 111374
support from the department of developmental disabilities and 111375
which is in the review process prior to April 4, 1986. 111376

(U) The director or the director's designee may enter at any 111377
time, for purposes of investigation, any home, facility, or other 111378
structure that has been reported to the director or that the 111379
director has reasonable cause to believe is being operated as a 111380
residential facility without a license issued under this section. 111381

The director may petition the court of common pleas of the 111382
county in which an unlicensed residential facility is located for 111383
an order enjoining the person or governmental agency operating the 111384
facility from continuing to operate without a license. The court 111385
may grant the injunction on a showing that the person or 111386
governmental agency named in the petition is operating a 111387
residential facility without a license. The court may grant the 111388
injunction, regardless of whether the residential facility meets 111389
the requirements for receiving a license under this section. 111390

Sec. 5123.191. (A) The court of common pleas or a judge 111391
thereof in the judge's county, or the probate court, may appoint a 111392
receiver to take possession of and operate a residential facility 111393
licensed by the department of developmental disabilities, in 111394
causes pending in such courts respectively, when conditions 111395
existing at the facility present a substantial risk of physical or 111396
mental harm to residents and no other remedies at law are adequate 111397
to protect the health, safety, and welfare of the residents. 111398
Conditions at the facility that may present such risk of harm 111399
include, but are not limited to, instances when any of the 111400
following occur: 111401

(1) The residential facility is in violation of state or federal law or regulations. 111402
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(2) The facility has had its license revoked or procedures for revocation have been initiated, or the facility is closing or intends to cease operations. 111404
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(3) Arrangements for relocating residents need to be made. 111407

(4) Insolvency of the operator, licensee, or landowner threatens the operation of the facility. 111408
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(5) The facility or operator has demonstrated a pattern and practice of repeated violations of state or federal laws or regulations. 111410
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(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility and the department of developmental disabilities of the filing. The court shall order the department to notify the legal rights service, facility owner, facility operator, county board of developmental disabilities, facility residents, and residents' parents and guardians of the filing of the petition. 111413
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The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action. Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of developmental disabilities and appropriate persons of this action. 111420
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(C) A residential facility for which a receiver has been named is deemed to be in compliance with section 5123.19 and Chapter 3721. of the Revised Code for the duration of the receivership. 111428
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(D) When the operating revenue of a residential facility in receivership is insufficient to meet its operating expenses, including the cost of bringing the facility into compliance with state or federal laws or regulations, the court may order the state to provide necessary funding, except as provided in division (K) of this section. The state shall provide such funding, subject to the approval of the controlling board. The court may also order the appropriate authorities to expedite all inspections necessary for the issuance of licenses or the certification of a facility, and order a facility to be closed if it determines that reasonable efforts cannot bring the facility into substantial compliance with the law.

(E) In establishing a receivership, the court shall set forth the powers and duties of the receiver. The court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver it has appointed and shall require regular and detailed reports. The receivership shall be reviewed at least every sixty days.

(F) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility.

(2) Circumstances no longer exist at the facility that present a substantial risk of physical or mental harm to residents, and there is no deficiency in the facility that is likely to create a future risk of harm.

Notwithstanding division (F)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of developmental disabilities.

(G) The department of developmental disabilities may, upon its own initiative or at the request of an owner, operator, or resident of a residential facility, or at the request of a resident's guardian or relative, a county board of developmental disabilities, or the legal rights service, petition the court to appoint a receiver to take possession of and operate a residential facility. When the department has been requested to file a petition by any of the parties listed above, it shall, within forty-eight hours of such request, either file such a petition or notify the requesting party of its decision not to file. If the department refuses to file, the requesting party may file a petition with the court requesting the appointment of a receiver to take possession of and operate a residential facility.

Petitions filed pursuant to this division shall include the following:

(1) A description of the specific conditions existing at the facility which present a substantial risk of physical or mental harm to residents;

(2) A statement of the absence of other adequate remedies at law;

(3) The number of individuals residing at the facility;

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the

facility as a pattern or practice; 111495

(5) The name and address of the person holding the license 111496
for the facility and the address of the department of 111497
developmental disabilities. 111498

The court may award to an operator appropriate costs and 111499
expenses, including reasonable attorney's fees, if it determines 111500
that a petitioner has initiated a proceeding in bad faith or 111501
merely for the purpose of harassing or embarrassing the operator. 111502

(H) Except for the department of developmental disabilities 111503
or a county board of developmental disabilities, no party or 111504
person interested in an action shall be appointed a receiver 111505
pursuant to this section. 111506

To assist the court in identifying persons qualified to be 111507
named as receivers, the director of developmental disabilities or 111508
the director's designee shall maintain a list of the names of such 111509
persons. The director shall, in accordance with Chapter 119. of 111510
the Revised Code, establish standards for evaluating persons 111511
desiring to be included on such a list. 111512

(I) Before a receiver enters upon the duties of that person, 111513
the receiver must be sworn to perform the duties of receiver 111514
faithfully, and, with surety approved by the court, judge, or 111515
clerk, execute a bond to such person, and in such sum as the court 111516
or judge directs, to the effect that such receiver will faithfully 111517
discharge the duties of receiver in the action, and obey the 111518
orders of the court therein. 111519

(J) Under the control of the appointing court, a receiver may 111520
bring and defend actions in the receiver's own name as receiver 111521
and take and keep possession of property. 111522

The court shall authorize the receiver to do the following: 111523

(1) Collect payment for all goods and services provided to 111524

the residents or others during the period of the receivership at 111525
the same rate as was charged by the licensee at the time the 111526
petition for receivership was filed, unless a different rate is 111527
set by the court; 111528

(2) Honor all leases, mortgages, and secured transactions 111529
governing all buildings, goods, and fixtures of which the receiver 111530
has taken possession and continues to use, subject to the 111531
following conditions: 111532

(a) In the case of a rental agreement, only to the extent of 111533
payments that are for the use of the property during the period of 111534
the receivership; 111535

(b) In the case of a purchase agreement only to the extent of 111536
payments that come due during the period of the receivership; 111537

~~(c) If the court determines that the cost of the lease, 111538
mortgage, or secured transaction was increased by a transaction 111539
required to be reported under division (B)(3) of section 5123.172 111540
of the Revised Code, only to the extent determined by the court to 111541
be the fair market value for use of the property during the period 111542
of the receivership. 111543~~

(3) If transfer of residents is necessary, provide for the 111544
orderly transfer of residents by doing the following: 111545

(a) Cooperating with all appropriate state and local agencies 111546
in carrying out the transfer of residents to alternative community 111547
placements; 111548

(b) Providing for the transportation of residents' belongings 111549
and records; 111550

(c) Helping to locate alternative placements and develop 111551
discharge plans; 111552

(d) Preparing residents for the trauma of discharge; 111553

(e) Permitting residents or guardians to participate in 111554

transfer or discharge planning except when an emergency exists and 111555
immediate transfer is necessary. 111556

(4) Make periodic reports on the status of the residential 111557
program to the appropriate state agency, county board of 111558
developmental disabilities, parents, guardians, and residents; 111559

(5) Compromise demands or claims; 111560

(6) Generally do such acts respecting the residential 111561
facility as the court authorizes. 111562

(K) Neither the receiver nor the department of developmental 111563
disabilities is liable for debts incurred by the owner or operator 111564
of a residential facility for which a receiver has been appointed. 111565

(L) The department of developmental disabilities may contract 111566
for the operation of a residential facility in receivership. The 111567
department shall establish the conditions of a contract. ~~A~~ 111568
~~condition may be the same as, similar to, or different from a~~ 111569
~~condition established by section 5123.18 of the Revised Code and~~ 111570
~~the rules adopted under that section for a contract entered into~~ 111571
~~under that section.~~ Notwithstanding any other provision of law, 111572
contracts that are necessary to carry out the powers and duties of 111573
the receiver need not be competitively bid. 111574

(M) The department of developmental disabilities, the 111575
department of job and family services, and the department of 111576
health shall provide technical assistance to any receiver 111577
appointed pursuant to this section. 111578

Sec. 5123.194. In the case of an individual who resides in a 111579
residential facility and is preparing to move into an independent 111580
living arrangement and the individual's liable relative, the 111581
department of developmental disabilities may waive the support 111582
collection requirements of sections 5121.04, and 5123.122, ~~and~~ 111583
~~5123.18~~ of the Revised Code for the purpose of allowing income or 111584

resources to be used to acquire items necessary for independent 111585
living. The department shall adopt rules in accordance with 111586
section 111.15 of the Revised Code to implement this section, 111587
including rules that establish the method the department shall use 111588
to determine when an individual is preparing to move into an 111589
independent living arrangement. 111590

Sec. 5123.352. There is hereby created in the state treasury 111591
the community developmental disabilities trust fund. The director 111592
of developmental disabilities, not later than sixty days after the 111593
end of each fiscal year, shall certify to the director of budget 111594
and management the amount of all the unexpended, unencumbered 111595
balances of general revenue fund appropriations made to the 111596
department of developmental disabilities for the fiscal year, 111597
excluding appropriations for rental payments to the Ohio public 111598
facilities commission, and the amount of any other funds held by 111599
the department in excess of amounts necessary to meet the 111600
department's operating costs and obligations pursuant to this 111601
chapter and Chapter 5126. of the Revised Code. On receipt of the 111602
certification, the director of budget and management shall 111603
transfer cash to the trust fund in an amount up to, but not 111604
exceeding, the total of the amounts certified by the director of 111605
developmental disabilities, except in cases in which the transfer 111606
will involve more than twenty million dollars. In such cases, the 111607
director of budget and management shall notify the controlling 111608
board and must receive the board's approval of the transfer prior 111609
to making the transfer. 111610

All moneys in the trust fund shall be ~~distributed~~ used for 111611
purposes specified in ~~accordance with~~ section ~~5126.19~~ 5123.0418 of 111612
the Revised Code. 111613

Sec. 5123.45. (A) The department of developmental 111614
disabilities shall establish a program under which the department 111615

issues certificates to the following: 111616

(1) MR/DD personnel, for purposes of meeting the requirement 111617
of division (C)(1) of section 5123.42 of the Revised Code to 111618
obtain a certificate or certificates to administer prescribed 111619
medications, perform health-related activities, and perform tube 111620
feedings; 111621

(2) Registered nurses, for purposes of meeting the 111622
requirement of division (B)(1) of section 5123.441 of the Revised 111623
Code to obtain a certificate or certificates to provide the MR/DD 111624
personnel training courses developed under section 5123.43 of the 111625
Revised Code. 111626

(B)(1) Except as provided in division (B)(2) of this section, 111627
to receive a certificate issued under this section, MR/DD 111628
personnel and registered nurses shall successfully complete the 111629
applicable training course or courses and meet all other 111630
applicable requirements established in rules adopted pursuant to 111631
this section. The department shall issue the appropriate 111632
certificate or certificates to MR/DD personnel and registered 111633
nurses who meet the requirements for the certificate or 111634
certificates. 111635

(2) The department shall include provisions in the program 111636
for issuing certificates to ~~the following:~~ 111637

~~(a) MR/DD personnel and registered nurses who, on March 31,~~ 111638
~~2003, are authorized to provide care to individuals with mental~~ 111639
~~retardation and developmental disabilities pursuant to section~~ 111640
~~5123.193 or sections 5126.351 to 5126.354 of the Revised Code were~~ 111641
~~required to be included in the certificate program pursuant to~~ 111642
~~division (B)(2) of this section as that division existed~~ 111643
~~immediately before the effective date of this amendment. A person~~ 111644
MR/DD personnel who receives receive a certificate under division 111645
(B)(2)~~(a)~~ of this section shall not administer insulin until ~~the~~ 111646

~~person has~~ they have been trained by a registered nurse who has 111647
received a certificate under this section that allows the 111648
registered nurse to provide training courses to MR/DD personnel in 111649
the administration of insulin. 111650

~~(b) Registered nurses who, on March 31, 2003, are authorized 111651
to train MR/DD personnel to provide care to individuals with 111652
mental retardation and developmental disabilities pursuant to 111653
section 5123.193 or sections 5126.351 to 5126.354 of the Revised 111654
Code. A registered nurse who receives a certificate under division 111655
(B)(2)(~~b~~) of this section shall not provide training courses to 111656
MR/DD personnel in the administration of insulin unless the 111657
registered nurse completes a course developed under section 111658
5123.44 of the Revised Code that enables the registered nurse to 111659
receive a certificate to provide training courses to MR/DD 111660
personnel in the administration of insulin. 111661~~

(C) Certificates issued to MR/DD personnel are valid for one 111662
year and may be renewed. Certificates issued to registered nurses 111663
are valid for two years and may be renewed. 111664

To be eligible for renewal, MR/DD personnel and registered 111665
nurses shall meet the applicable continued competency requirements 111666
and continuing education requirements specified in rules adopted 111667
under division (D) of this section. In the case of registered 111668
nurses, continuing nursing education completed in compliance with 111669
the license renewal requirements established under Chapter 4723. 111670
of the Revised Code may be counted toward meeting the continuing 111671
education requirements established in the rules adopted under 111672
division (D) of this section. 111673

(D) In accordance with section 5123.46 of the Revised Code, 111674
the department shall adopt rules that establish all of the 111675
following: 111676

(1) Requirements that MR/DD personnel and registered nurses 111677

must meet to be eligible to take a training course; 111678

(2) Standards that must be met to receive a certificate, 111679
including requirements pertaining to an applicant's criminal 111680
background; 111681

(3) Procedures to be followed in applying for a certificate 111682
and issuing a certificate; 111683

(4) Standards and procedures for renewing a certificate, 111684
including requirements for continuing education and, in the case 111685
of MR/DD personnel who administer prescribed medications, 111686
standards that require successful demonstration of proficiency in 111687
administering prescribed medications; 111688

(5) Standards and procedures for suspending or revoking a 111689
certificate; 111690

(6) Standards and procedures for suspending a certificate 111691
without a hearing pending the outcome of an investigation; 111692

(7) Any other standards or procedures the department 111693
considers necessary to administer the certification program. 111694

Sec. 5123.60. (A) A legal rights service is hereby created 111695
and established to protect and advocate the rights of mentally ill 111696
persons, mentally retarded persons, developmentally disabled 111697
persons, and other disabled persons who may be represented by the 111698
service pursuant to division (L) of this section; to receive and 111699
act upon complaints concerning institutional and hospital 111700
practices and conditions of institutions for mentally retarded or 111701
developmentally disabled persons and hospitals for the mentally 111702
ill; and to assure that all persons detained, hospitalized, 111703
discharged, or institutionalized, and all persons whose detention, 111704
hospitalization, discharge, or institutionalization is sought or 111705
has been sought under this chapter or Chapter 5122. of the Revised 111706
Code are fully informed of their rights and adequately represented 111707

by counsel in proceedings under this chapter or Chapter 5122. of 111708
the Revised Code and in any proceedings to secure the rights of 111709
those persons. Notwithstanding the definitions of "mentally 111710
retarded person" and "developmentally disabled person" in section 111711
5123.01 of the Revised Code, the legal rights service shall 111712
determine who is a mentally retarded or developmentally disabled 111713
person for purposes of this section and sections 5123.601 to 111714
5123.604 of the Revised Code. 111715

(B)(1) In regard to those persons detained, hospitalized, or 111716
institutionalized under Chapter 5122. of the Revised Code, the 111717
legal rights service shall undertake formal representation only of 111718
those persons who are involuntarily detained, hospitalized, or 111719
institutionalized pursuant to sections 5122.10 to 5122.15 of the 111720
Revised Code, and those voluntarily detained, hospitalized, or 111721
institutionalized who are minors, who have been adjudicated 111722
incompetent, who have been detained, hospitalized, or 111723
institutionalized in a public hospital, or who have requested 111724
representation by the legal rights service. 111725

(2) If a person referred to in division (A) of this section 111726
voluntarily requests in writing that the legal rights service 111727
terminate participation in the person's case, such involvement 111728
shall cease. 111729

(3) Persons described in divisions (A) and (B)(1) of this 111730
section who are represented by the legal rights service are 111731
clients of the legal rights service. 111732

(C) Any person voluntarily hospitalized or institutionalized 111733
in a public hospital under division (A) of section 5122.02 of the 111734
Revised Code, after being fully informed of the person's rights 111735
under division (A) of this section, may, by written request, waive 111736
assistance by the legal rights service if the waiver is knowingly 111737
and intelligently made, without duress or coercion. 111738

The waiver may be rescinded at any time by the voluntary 111739
patient or resident, or by the voluntary patient's or resident's 111740
legal guardian. 111741

(D)(1) The legal rights service commission is hereby created 111742
for the purposes of appointing an administrator of the legal 111743
rights service, advising the administrator, assisting the 111744
administrator in developing a budget, advising the administrator 111745
in establishing and annually reviewing a strategic plan, creating 111746
a procedure for filing and determination of grievances against the 111747
legal rights service, and establishing general policy guidelines, 111748
including guidelines for the commencement of litigation, for the 111749
legal rights service. The commission may adopt rules to carry 111750
these purposes into effect and may receive and act upon appeals of 111751
personnel decisions by the administrator. 111752

(2) The commission shall consist of seven members. One 111753
member, who shall serve as chairperson, shall be appointed by the 111754
chief justice of the supreme court, three members shall be 111755
appointed by the speaker of the house of representatives, and 111756
three members shall be appointed by the president of the senate. 111757
At least two members shall have experience in the field of 111758
developmental disabilities, and at least two members shall have 111759
experience in the field of mental health. No member shall be a 111760
provider or related to a provider of services to mentally 111761
retarded, developmentally disabled, or mentally ill persons. 111762

(3) Terms of office of the members of the commission shall be 111763
for three years, each term ending on the same day of the month of 111764
the year as did the term which it succeeds. Each member shall 111765
serve subsequent to the expiration of the member's term until a 111766
successor is appointed and qualifies, or until sixty days has 111767
elapsed, whichever occurs first. No member shall serve more than 111768
two consecutive terms. 111769

All vacancies in the membership of the commission shall be 111770

filled in the manner prescribed for regular appointments to the 111771
commission and shall be limited to the unexpired terms. 111772

(4) The commission shall meet at least four times each year. 111773
Members shall be reimbursed for their necessary and actual 111774
expenses incurred in the performance of their official duties. 111775

(5) The administrator of the legal rights service shall serve 111776
at the pleasure of the commission. 111777

The administrator shall be an attorney admitted to practice 111778
law in this state. The salary of the administrator shall be 111779
established in accordance with section 124.14 of the Revised Code. 111780

(E) The legal rights service shall be completely independent 111781
of the department of mental health and the department of 111782
developmental disabilities and, notwithstanding section 109.02 of 111783
the Revised Code, shall also be independent of the office of the 111784
attorney general. The administrator of the legal rights service, 111785
staff, and attorneys designated by the administrator to represent 111786
persons detained, hospitalized, or institutionalized under this 111787
chapter or Chapter 5122. of the Revised Code shall have ready 111788
access to the following: 111789

(1) During normal business hours and at other reasonable 111790
times, all records, except records of community residential 111791
facilities and records of contract agencies of county boards of 111792
developmental disabilities and boards of alcohol, drug addiction, 111793
and mental health services, relating to expenditures of state and 111794
federal funds or to the commitment, care, treatment, and 111795
habilitation of all persons represented by the legal rights 111796
service, including those who may be represented pursuant to 111797
division (L) of this section, or persons detained, hospitalized, 111798
institutionalized, or receiving services under this chapter or 111799
Chapter 340., 5119., 5122., or 5126. of the Revised Code that are 111800
records maintained by the following entities providing services 111801

for those persons: departments; institutions; hospitals; boards of 111802
alcohol, drug addiction, and mental health services; county boards 111803
of developmental disabilities; and any other entity providing 111804
services to persons who may be represented by the service pursuant 111805
to division (L) of this section; 111806

(2) Any records maintained in computerized data banks of the 111807
departments or boards or, in the case of persons who may be 111808
represented by the service pursuant to division (L) of this 111809
section, any other entity that provides services to those persons; 111810

(3) During their normal working hours, personnel of the 111811
departments, facilities, boards, agencies, institutions, 111812
hospitals, and other service-providing entities; 111813

(4) At any time, all persons detained, hospitalized, or 111814
institutionalized; persons receiving services under this chapter 111815
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 111816
persons who may be represented by the service pursuant to division 111817
(L) of this section. 111818

(5) Records of a community residential facility, a contract 111819
agency of a board of alcohol, drug addiction, and mental health 111820
services, or a contract agency of a county board of developmental 111821
disabilities with one of the following consents: 111822

(a) The consent of the person, including when the person is a 111823
minor or has been adjudicated incompetent; 111824

(b) The consent of the person's guardian of the person, if 111825
any, or the parent if the person is a minor; 111826

(c) No consent, if the person is unable to consent for any 111827
reason, and the guardian of the person, if any, or the parent of 111828
the minor, has refused to consent or has not responded to a 111829
request for consent and either of the following has occurred: 111830

(i) A complaint regarding the person has been received by the 111831

legal rights service; 111832

(ii) The legal rights service has determined that there is 111833
probable cause to believe that such person has been subjected to 111834
abuse or neglect. 111835

(F) The administrator of the legal rights service shall do 111836
the following: 111837

(1) Administer and organize the work of the legal rights 111838
service and establish administrative or geographic divisions as 111839
the administrator considers necessary, proper, and expedient; 111840

(2) Adopt and promulgate rules that are not in conflict with 111841
rules adopted by the commission and prescribe duties for the 111842
efficient conduct of the business and general administration of 111843
the legal rights service; 111844

(3) Appoint and discharge employees, and hire experts, 111845
consultants, advisors, or other professionally qualified persons 111846
as the administrator considers necessary to carry out the duties 111847
of the legal rights service; 111848

(4) Apply for and accept grants of funds, and accept 111849
charitable gifts and bequests; 111850

(5) Prepare and submit a budget to the general assembly for 111851
the operation of the legal rights service. At least thirty days 111852
prior to submitting the budget to the general assembly, the 111853
administrator shall provide a copy of the budget to the commission 111854
for review and comment. When submitting the budget to the general 111855
assembly, the administrator shall include a copy of any written 111856
comments returned by the commission to the administrator. 111857

(6) Enter into contracts and make expenditures necessary for 111858
the efficient operation of the legal rights service; 111859

(7) Annually prepare a report of activities and submit copies 111860
of the report to the governor, the chief justice of the supreme 111861

court, the president of the senate, the speaker of the house of 111862
representatives, the director of mental health, and the director 111863
of developmental disabilities, and make the report available to 111864
the public; 111865

(8) Upon request of the commission or of the chairperson of 111866
the commission, report to the commission on specific litigation 111867
issues or activities. 111868

(G)(1) The legal rights service may act directly or contract 111869
with other organizations or individuals for the provision of the 111870
services envisioned under this section. 111871

(2) Whenever possible, the administrator shall attempt to 111872
facilitate the resolution of complaints through administrative 111873
channels. Subject to division (G)(3) of this section, if attempts 111874
at administrative resolution prove unsatisfactory, the 111875
administrator may pursue any legal, administrative, and other 111876
appropriate remedies or approaches that may be necessary to 111877
accomplish the purposes of this section. 111878

(3) The administrator may not pursue a class action lawsuit 111879
under division (G)(2) of this section when attempts at 111880
administrative resolution of a complaint prove unsatisfactory 111881
under that division unless both of the following have first 111882
occurred: 111883

(a) At least four members of the commission, by their 111884
affirmative vote, have consented to the pursuit of the class 111885
action lawsuit; 111886

(b) At least five members of the commission are present at 111887
the meeting of the commission at which that consent is obtained. 111888

(4) The class represented in any class action lawsuit brought 111889
by the legal rights service shall include only persons who are 111890
mentally ill, mentally retarded, or developmentally disabled. 111891

(5) If compensation for the work of attorneys employed by the legal rights service or another agency or political subdivision of the state is awarded to the service in a class action lawsuit pursued by the service, the compensation shall be limited to the actual hourly rate of pay for that legal work.

(6) All records received or maintained by the legal rights service in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the legal rights service or, subject to any privilege, a guardian of the person or parent of the minor. Subject to division (G)(5) of this section, relationships between personnel and the agents of the legal rights service and its clients shall be fiduciary relationships, and all communications shall be privileged as if between attorney and client.

~~(5)~~(7) Any person who has been represented by the legal rights service or who has applied for and been denied representation and who files a grievance with the service concerning the representation or application may appeal the decision of the service on the grievance to the commission. The person may appeal notwithstanding any objections of the person's legal guardian. The commission may examine any records relevant to the appeal and shall maintain the confidentiality of any records that are required to be kept confidential.

(H) The legal rights service, on the order of the administrator, with the approval by an affirmative vote of at least four members of the commission, may compel by subpoena the appearance and sworn testimony of any person the administrator reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties. On the refusal of any person to produce or authenticate any requested documents, the

legal rights service may apply to the Franklin county court of 111924
common pleas to compel the production or authentication of 111925
requested documents. If the court finds that failure to produce or 111926
authenticate any requested documents was improper, the court may 111927
hold the person in contempt as in the case of disobedience of the 111928
requirements of a subpoena issued from the court, or a refusal to 111929
testify in the court. 111930

(I) The legal rights service may conduct public hearings. 111931

(J) The legal rights service may request from any 111932
governmental agency any cooperation, assistance, services, or data 111933
that will enable it to perform its duties. 111934

(K) In any malpractice action filed against the administrator 111935
of the legal rights service, a member of the staff of the legal 111936
rights service, or an attorney designated by the administrator to 111937
perform legal services under division (E) of this section, the 111938
state shall, when the administrator, member, or attorney has acted 111939
in good faith and in the scope of employment, indemnify the 111940
administrator, member, or attorney for any judgment awarded or 111941
amount negotiated in settlement, and for any court costs or legal 111942
fees incurred in defense of the claim. 111943

This division does not limit or waive, and shall not be 111944
construed to limit or waive, any defense that is available to the 111945
legal rights service, its administrator or employees, persons 111946
under a personal services contract with it, or persons designated 111947
under division (E) of this section, including, but not limited to, 111948
any defense available under section 9.86 of the Revised Code. 111949

(L) In addition to providing services to mentally ill, 111950
mentally retarded, or developmentally disabled persons, when a 111951
grant authorizing the provision of services to other individuals 111952
is accepted pursuant to division (F)(4) of this section, the legal 111953
rights service and its ombudsperson section may provide advocacy 111954

or ombudsperson services to those other individuals and exercise 111955
any other authority granted by this section or sections 5123.601 111956
to 5123.604 of the Revised Code on behalf of those individuals. 111957
Determinations of whether an individual is eligible for services 111958
under this division shall be made by the legal rights service. 111959

Sec. 5126.01. As used in this chapter: 111960

(A) As used in this division, "adult" means an individual who 111961
is eighteen years of age or over and not enrolled in a program or 111962
service under Chapter 3323. of the Revised Code and an individual 111963
sixteen or seventeen years of age who is eligible for adult 111964
services under rules adopted by the director of developmental 111965
disabilities pursuant to Chapter 119. of the Revised Code. 111966

(1) "Adult services" means services provided to an adult 111967
outside the home, except when they are provided within the home 111968
according to an individual's assessed needs and identified in an 111969
individual service plan, that support learning and assistance in 111970
the area of self-care, sensory and motor development, 111971
socialization, daily living skills, communication, community 111972
living, social skills, or vocational skills. 111973

(2) "Adult services" includes all of the following: 111974

(a) Adult day habilitation services; 111975

(b) Adult day care; 111976

(c) Prevocational services; 111977

(d) Sheltered employment; 111978

(e) Educational experiences and training obtained through 111979
entities and activities that are not expressly intended for 111980
individuals with mental retardation and developmental 111981
disabilities, including trade schools, vocational or technical 111982
schools, adult education, job exploration and sampling, unpaid 111983
work experience in the community, volunteer activities, and 111984

spectator sports;	111985
(f) Community employment services and supported employment services.	111986 111987
(B)(1) "Adult day habilitation services" means adult services that do the following:	111988 111989
(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;	111990 111991 111992 111993 111994 111995 111996 111997
(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.	111998 111999 112000 112001
(2) "Adult day habilitation services" includes all of the following:	112002 112003
(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;	112004 112005 112006 112007
(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;	112008 112009 112010 112011
(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights,	112012 112013 112014

acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;

(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;

(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;

(f) Transportation necessary to access adult day habilitation services;

(g) Habilitation management, as described in section 5126.14 of the Revised Code.

(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.

(C) "Appointing authority" means the following:

(1) In the case of a member of a county board of developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners;

(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge.

(D) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the

following:	112045
(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;	112046 112047 112048
(2) Supervised work experience through an employer paid to provide the supervised work experience;	112049 112050
(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;	112051 112052
(4) Ongoing supervision by an employer paid to provide the supervision.	112053 112054
(E) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.	112055 112056 112057 112058
"Developmental disability" means a severe, chronic disability that is characterized by all of the following:	112059 112060
(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code;	112061 112062 112063 112064
(2) It is manifested before age twenty-two;	112065
(3) It is likely to continue indefinitely;	112066
(4) It results in one of the following:	112067
(a) In the case of a person under age three, at least one developmental delay or an established risk;	112068 112069
(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;	112070 112071
(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of	112072 112073

major life activity, as appropriate for the person's age: 112074
self-care, receptive and expressive language, learning, mobility, 112075
self-direction, capacity for independent living, and, if the 112076
person is at least age sixteen, capacity for economic 112077
self-sufficiency. 112078

(5) It causes the person to need a combination and sequence 112079
of special, interdisciplinary, or other type of care, treatment, 112080
or provision of services for an extended period of time that is 112081
individually planned and coordinated for the person. 112082

(F) "Early childhood services" means a planned program of 112083
habilitation designed to meet the needs of individuals with mental 112084
retardation or other developmental disabilities who have not 112085
attained compulsory school age. 112086

(G)(1) "Environmental modifications" means the physical 112087
adaptations to an individual's home, specified in the individual's 112088
service plan, that are necessary to ensure the individual's 112089
health, safety, and welfare or that enable the individual to 112090
function with greater independence in the home, and without which 112091
the individual would require institutionalization. 112092

(2) "Environmental modifications" includes such adaptations 112093
as installation of ramps and grab-bars, widening of doorways, 112094
modification of bathroom facilities, and installation of 112095
specialized electric and plumbing systems necessary to accommodate 112096
the individual's medical equipment and supplies. 112097

(3) "Environmental modifications" does not include physical 112098
adaptations or improvements to the home that are of general 112099
utility or not of direct medical or remedial benefit to the 112100
individual, including such adaptations or improvements as 112101
carpeting, roof repair, and central air conditioning. 112102

(H) "Family support services" means the services provided 112103
under a family support services program operated under section 112104

5126.11 of the Revised Code. 112105

(I) "Habilitation" means the process by which the staff of 112106
the facility or agency assists an individual with mental 112107
retardation or other developmental disability in acquiring and 112108
maintaining those life skills that enable the individual to cope 112109
more effectively with the demands of the individual's own person 112110
and environment, and in raising the level of the individual's 112111
personal, physical, mental, social, and vocational efficiency. 112112
Habilitation includes, but is not limited to, programs of formal, 112113
structured education and training. 112114

(J) "Home and community-based services" means medicaid-funded 112115
home and community-based services specified in division (B)(1) of 112116
section 5111.87 of the Revised Code and provided under the 112117
medicaid waiver components the department of developmental 112118
disabilities administers pursuant to section 5111.871 of the 112119
Revised Code. However, home and community-based services provided 112120
under the medicaid waiver component known as the transitions 112121
developmental disabilities waiver are to be considered to be home 112122
and community-based services for the purposes of this chapter only 112123
to the extent, if any, provided by the contract required by 112124
section 5111.871 of the Revised Code regarding the waiver. 112125

(K) "Immediate family" means parents, grandparents, brothers, 112126
sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, 112127
fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and 112128
daughters-in-law. 112129

(L) "Medicaid" has the same meaning as in section 5111.01 of 112130
the Revised Code. 112131

(M) "Medicaid case management services" means case management 112132
services provided to an individual with mental retardation or 112133
other developmental disability that the state medicaid plan 112134
requires. 112135

(N) "Mental retardation" means a mental impairment manifested 112136
during the developmental period characterized by significantly 112137
subaverage general intellectual functioning existing concurrently 112138
with deficiencies in the effectiveness or degree with which an 112139
individual meets the standards of personal independence and social 112140
responsibility expected of the individual's age and cultural 112141
group. 112142

(O) "Residential services" means services to individuals with 112143
mental retardation or other developmental disabilities to provide 112144
housing, food, clothing, habilitation, staff support, and related 112145
support services necessary for the health, safety, and welfare of 112146
the individuals and the advancement of their quality of life. 112147
"Residential services" includes program management, as described 112148
in section 5126.14 of the Revised Code. 112149

(P) "Resources" means available capital and other assets, 112150
including moneys received from the federal, state, and local 112151
governments, private grants, and donations; appropriately 112152
qualified personnel; and appropriate capital facilities and 112153
equipment. 112154

(Q) "Senior probate judge" means the current probate judge of 112155
a county who has served as probate judge of that county longer 112156
than any of the other current probate judges of that county. If a 112157
county has only one probate judge, "senior probate judge" means 112158
that probate judge. 112159

(R) "Service and support administration" means the duties 112160
performed by a service and support administrator pursuant to 112161
section 5126.15 of the Revised Code. 112162

(S)(1) "Specialized medical, adaptive, and assistive 112163
equipment, supplies, and supports" means equipment, supplies, and 112164
supports that enable an individual to increase the ability to 112165
perform activities of daily living or to perceive, control, or 112166

communicate within the environment. 112167

(2) "Specialized medical, adaptive, and assistive equipment, 112168
supplies, and supports" includes the following: 112169

(a) Eating utensils, adaptive feeding dishes, plate guards, 112170
mylatex straps, hand splints, reaches, feeder seats, adjustable 112171
pointer sticks, interpreter services, telecommunication devices 112172
for the deaf, computerized communications boards, other 112173
communication devices, support animals, veterinary care for 112174
support animals, adaptive beds, supine boards, prone boards, 112175
wedges, sand bags, sidelayers, bolsters, adaptive electrical 112176
switches, hand-held shower heads, air conditioners, humidifiers, 112177
emergency response systems, folding shopping carts, vehicle lifts, 112178
vehicle hand controls, other adaptations of vehicles for 112179
accessibility, and repair of the equipment received. 112180

(b) Nondisposable items not covered by medicaid that are 112181
intended to assist an individual in activities of daily living or 112182
instrumental activities of daily living. 112183

(T) "Supportive home services" means a range of services to 112184
families of individuals with mental retardation or other 112185
developmental disabilities to develop and maintain increased 112186
acceptance and understanding of such persons, increased ability of 112187
family members to teach the person, better coordination between 112188
school and home, skills in performing specific therapeutic and 112189
management techniques, and ability to cope with specific 112190
situations. 112191

(U)(1) "Supported living" means services provided for as long 112192
as twenty-four hours a day to an individual with mental 112193
retardation or other developmental disability through any public 112194
or private resources, including moneys from the individual, that 112195
enhance the individual's reputation in community life and advance 112196
the individual's quality of life by doing the following: 112197

(a) Providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with mental retardation and developmental disabilities unless the individuals are related by blood or marriage;	112198 112199 112200 112201 112202
(b) Encouraging the individual's participation in the community;	112203 112204
(c) Promoting the individual's rights and autonomy;	112205
(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.	112206 112207 112208
(2) "Supported living" includes the provision of all of the following:	112209 112210
(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;	112211 112212 112213 112214
(b) A combination of lifelong or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;	112215 112216 112217 112218 112219
(c) Personal care services and homemaker services;	112220
(d) Household maintenance that does not include modifications to the physical structure of the residence;	112221 112222
(e) Respite care services;	112223
(f) Program management, as described in section 5126.14 of the Revised Code.	112224 112225
Sec. 5126.029. (A) Each county board of developmental	112226

disabilities shall hold an organizational meeting no later than 112227
the thirty-first day of January of each year and shall elect its 112228
officers, which shall include a president, vice-president, and 112229
recording secretary. After its annual organizational meeting, the 112230
board shall meet in such manner and at such times as prescribed by 112231
rules adopted by the board, but the board shall meet at least ~~ten~~ 112232
the following number of times annually in regularly scheduled 112233
sessions in accordance with section 121.22 of the Revised Code, 112234
not including in-service training sessions: 112235

(1) Unless division (A)(2) of this section applies to the 112236
board, ten; 112237

(2) If the board shares a superintendent or other 112238
administrative staff with one or more other boards of 112239
developmental disabilities, eight. A 112240

(B) A majority of the board constitutes a quorum. The board 112241
shall adopt rules for the conduct of its business and a record 112242
shall be kept of board proceedings, which shall be open for public 112243
inspection. 112244

Sec. 5126.04. (A) Each county board of developmental 112245
disabilities shall plan and set priorities based on available 112246
resources for the provision of facilities, programs, and other 112247
services to meet the needs of county residents who are individuals 112248
with mental retardation and other developmental disabilities, 112249
former residents of the county residing in state institutions or, 112250
before the effective date of this amendment, placed under purchase 112251
of service agreements under section 5123.18 of the Revised Code, 112252
and children subject to a determination made pursuant to section 112253
121.38 of the Revised Code. 112254

Each county board shall assess the facility and service needs 112255
of the individuals with mental retardation and other developmental 112256
disabilities who are residents of the county or former residents 112257

of the county residing in state institutions or, before the 112258
effective date of this amendment, placed under purchase of service 112259
agreements under section 5123.18 of the Revised Code. 112260

Each county board shall require individual habilitation or 112261
service plans for individuals with mental retardation and other 112262
developmental disabilities who are being served or who have been 112263
determined eligible for services and are awaiting the provision of 112264
services. Each board shall ensure that methods of having their 112265
service needs evaluated are available. 112266

(B)(1) If a foster child is in need of assessment for 112267
eligible services or is receiving services from a county board of 112268
developmental disabilities and that child is placed in a different 112269
county, the agency that placed the child, immediately upon 112270
placement, shall inform the county board in the new county all of 112271
the following: 112272

(a) That a foster child has been placed in that county; 112273

(b) The name and other identifying information of the foster 112274
child; 112275

(c) The name of the foster child's previous county of 112276
residence; 112277

(d) That the foster child was in need of assessment for 112278
eligible services or was receiving services from the county board 112279
of developmental disabilities in the previous county. 112280

(2) Upon receiving the notice described in division (B)(1) of 112281
this section or otherwise learning that the child was in need of 112282
assessment for eligible services or was receiving services from a 112283
county board of developmental disabilities in the previous county, 112284
the county board in the new county shall communicate with the 112285
county board of the previous county to determine how services for 112286
the foster child shall be provided in accordance with each board's 112287
plan and priorities as described in division (A) of this section. 112288

If the two county boards are unable to reach an agreement 112289
within ten days of the child's placement, the county board in the 112290
new county shall send notice to the Ohio department of 112291
developmental disabilities of the failure to agree. The department 112292
shall decide how services shall be provided for the foster child 112293
within ten days of receiving notice that the county boards could 112294
not reach an agreement. The department may decide that one, or 112295
both, of the county boards shall provide services. The services 112296
shall be provided in accordance with the board's plan and 112297
priorities as described in division (A) of this section. 112298

(C) The department of developmental disabilities may adopt 112299
rules in accordance with Chapter 119. of the Revised Code as 112300
necessary to implement this section. To the extent that rules 112301
adopted under this section apply to the identification and 112302
placement of children with disabilities under Chapter 3323. of the 112303
Revised Code, the rules shall be consistent with the standards and 112304
procedures established under sections 3323.03 to 3323.05 of the 112305
Revised Code. 112306

(D) The responsibility or authority of a county board to 112307
provide services under this chapter does not affect the 112308
responsibility of any other entity of state or local government to 112309
provide services to individuals with mental retardation and 112310
developmental disabilities. 112311

(E) On or before the first day of February prior to a school 112312
year, a county board of developmental disabilities may elect not 112313
to participate during that school year in the provision of or 112314
contracting for educational services for children ages six through 112315
twenty-one years of age, provided that on or before that date the 112316
board gives notice of this election to the superintendent of 112317
public instruction, each school district in the county, and the 112318
educational service center serving the county. If a board makes 112319
this election, it shall not have any responsibility for or 112320

authority to provide educational services that school year for 112321
children ages six through twenty-one years of age. If a board does 112322
not make an election for a school year in accordance with this 112323
division, the board shall be deemed to have elected to participate 112324
during that school year in the provision of or contracting for 112325
educational services for children ages six through twenty-one 112326
years of age. 112327

(F) If a county board of developmental disabilities elects to 112328
provide educational services during a school year to individuals 112329
six through twenty-one years of age who have multiple 112330
disabilities, the board may provide these services to individuals 112331
who are appropriately identified and determined eligible pursuant 112332
to Chapter 3323. of the Revised Code, and in accordance with 112333
applicable rules of the state board of education. The county board 112334
may also provide related services to individuals six through 112335
twenty-one years of age who have one or more disabling conditions, 112336
in accordance with section 3317.20 and Chapter 3323. of the 112337
Revised Code and applicable rules of the state board of education. 112338

Sec. 5126.042. (A) As used in this section: 112339

~~(1) "Emergency, emergency status"~~ means ~~any situation a~~ 112340
status that ~~creates for~~ an individual with mental retardation or 112341
developmental disabilities ~~a~~ has when the individual is at risk of 112342
substantial self-harm or substantial harm to others if action is 112343
not taken within thirty days. An "emergency status" may include a 112344
status resulting from one or more of the following situations: 112345

~~(a)~~(1) Loss of present residence for any reason, including 112346
legal action; 112347

~~(b)~~(2) Loss of present caretaker for any reason, including 112348
serious illness of the caretaker, change in the caretaker's 112349
status, or inability of the caretaker to perform effectively for 112350
the individual; 112351

~~(e)(3)~~ Abuse, neglect, or exploitation of the individual; 112352

~~(d)(4)~~ Health and safety conditions that pose a serious risk 112353
to the individual or others of immediate harm or death; 112354

~~(e)(5)~~ Change in the emotional or physical condition of the 112355
individual that necessitates substantial accommodation that cannot 112356
be reasonably provided by the individual's existing caretaker. 112357

~~(2)~~ "Service substitution list" means a service substitution 112358
list established by a county board of developmental disabilities 112359
before September 1, 2008, pursuant to division (B) of this section 112360
as this section existed on the day immediately before September 1, 112361
2008. 112362

(B) If a county board of developmental disabilities 112363
determines that available resources are not sufficient to meet the 112364
needs of all individuals who request non-medicaid programs ~~and or~~ 112365
~~services and may be offered the programs and services~~, it shall 112366
establish one or more waiting lists for the non-medicaid programs 112367
or services in accordance with its plan developed under section 112368
5126.04 of the Revised Code. The board may establish priorities 112369
for making placements on its waiting lists ~~according to an~~ 112370
~~individual's emergency status and shall establish priorities in~~ 112371
~~accordance with divisions (D) and (E) of~~ established under this 112372
~~section~~ division. Any such priorities shall be consistent with the 112373
board's plan and applicable law. 112374

~~The individuals who may be placed on a waiting list include~~ 112375
~~individuals with a need for services on an emergency basis and~~ 112376
~~individuals who have requested services for which resources are~~ 112377
~~not available.~~ 112378

~~An individual placed on a county board's service substitution~~ 112379
~~list before September 1, 2008, for the purpose of obtaining home~~ 112380
~~and community based services shall be deemed to have been placed~~ 112381
~~on the county board's waiting list for home and community based~~ 112382

~~services on the date the individual made a request to the county board that the individual receive home and community based services instead of the services the individual received at the time the request for home and community based services was made to the county board.~~

~~(C) A If a county board shall establish a separate waiting list for each of the following categories of services, and may establish separate waiting lists within the waiting lists:~~

~~(1) Early childhood services;~~

~~(2) Educational programs for preschool and school age children;~~

~~(3) Adult services;~~

~~(4) Service and support administration;~~

~~(5) Residential services and supported living;~~

~~(6) Transportation services;~~

~~(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;~~

~~(8) Family support services provided under section 5126.11 of the Revised Code determines that available resources are insufficient to meet the needs of all individuals who request home and community-based services, it shall establish a waiting list for the services. An individual's date of placement on the waiting list shall be the date a request is made to the board for the individual to receive the home and community-based services. The board shall provide for an individual who has an emergency status to receive priority status on the waiting list. The board shall also provide for an individual to whom any of the following apply to receive priority status on the waiting list in accordance with rules adopted under division (E) of this section:~~

<u>(1) The individual is receiving supported living, family support services, or adult services for which no federal financial participation is received under the medicaid program;</u>	112413
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	112415
<u>(2) The individual's primary caregiver is at least sixty years of age;</u>	112416
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<u>(3) The individual has intensive needs as determined in accordance with rules adopted under division (E) of this section.</u>	112418
	112419
(D) Except as provided in division (C) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:	112420
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	112424
(1) For the purpose of obtaining additional federal medicaid funds for home and community based services and medicaid case management services, do both of the following:	112425
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	112427
(a) Give an individual who is eligible for home and community based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community based services that include supported living, residential services, or family support services:	112428
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(i) Is twenty two years of age or older;	112434
(ii) Receives supported living or family support services.	112435
(b) Give an individual who is eligible for home and community based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community based services that include adult services:	112436
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(i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after	112441
	112442

~~enrollment in home and community based services;~~ 112443

~~(ii) Receives adult services from the county board.~~ 112444

~~(2) As federal medicaid funds become available pursuant to~~ 112445
~~division (D)(1) of this section, give an individual who is~~ 112446
~~eligible for home and community based services and meets any of~~ 112447
~~the following requirements priority for such services over any~~ 112448
~~other individual on a waiting list established under division (C)~~ 112449
~~of this section:~~ 112450

~~(a) Does not receive residential services or supported~~ 112451
~~living, either needs services in the individual's current living~~ 112452
~~arrangement or will need services in a new living arrangement, and~~ 112453
~~has a primary caregiver who is sixty years of age or older;~~ 112454

~~(b) Is less than twenty two years of age and has at least one~~ 112455
~~of the following service needs that are unusual in scope or~~ 112456
~~intensity:~~ 112457

~~(i) Severe behavior problems for which a behavior support~~ 112458
~~plan is needed;~~ 112459

~~(ii) An emotional disorder for which anti psychotic~~ 112460
~~medication is needed;~~ 112461

~~(iii) A medical condition that leaves the individual~~ 112462
~~dependent on life support medical technology;~~ 112463

~~(iv) A condition affecting multiple body systems for which a~~ 112464
~~combination of specialized medical, psychological, educational, or~~ 112465
~~habilitation services are needed;~~ 112466

~~(v) A condition the county board determines to be comparable~~ 112467
~~in severity to any condition described in divisions (D)(2)(b)(i)~~ 112468
~~to (iv) of this section and places the individual at significant~~ 112469
~~risk of institutionalization.~~ 112470

~~(c) Is twenty two years of age or older, does not receive~~ 112471
~~residential services or supported living, and is determined by the~~ 112472

~~county board to have intensive needs for home and community based services on an in home or out of home basis.~~ 112473
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~~(E) Except as provided in division (C) of this section and for a number of years and beginning on a date specified in rules adopted under division (K) of this section, a county board shall give an individual who is eligible for home and community based services, resides in a nursing facility, and chooses to move to another setting with the help of home and community based services, priority over any other individual on a waiting list established under division (C) of this section for home and community based services who does not meet these criteria.~~ 112475
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~~(F) If two or more individuals on a waiting list established under division (C) of this section for home and community-based services have priority for the services pursuant to division (D)(C)(1) or (2) or (E)(3) of this section, a county board may shall use criteria specified in rules adopted under division (K)(2)(E) of this section in determining the order in which the individuals with priority will be offered the services. Otherwise, the county board shall offer the home and community based services to such individuals in the order they are placed on the waiting list.~~ 112484
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~~(G) No individual may receive priority for services pursuant to division (D) or (E) of this section over an individual placed on a waiting list established under division (C) of this section on an emergency status services. An individual who has priority for home and community-based services because the individual has an emergency status has priority for the services over all other individuals on the waiting list who do not have emergency status.~~ 112494
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~~(H) Prior to establishing any waiting list under this section, a county board shall develop and implement a policy for waiting lists that complies with this section and rules adopted under division (K) of this section.~~ 112501
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~~Prior to placing an individual on a waiting list, the county board shall assess the service needs of the individual in accordance with all applicable state and federal laws. The county board shall place the individual on the appropriate waiting list and may place the individual on more than one waiting list. The county board shall notify the individual of the individual's placement and position on each waiting list on which the individual is placed.~~

~~At least annually, the county board shall reassess the service needs of each individual on a waiting list. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists.~~

~~When a program or service for which there is a waiting list becomes available, the county board shall reassess the service needs of the individual next scheduled on the waiting list to receive that program or service. If the reassessment demonstrates that the individual continues to need the program or service, the board shall offer the program or service to the individual. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists. The county board shall notify the~~

~~individual of the individual's placement and position on the
waiting list on which the individual is placed.~~ 112537
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~~(I) A child subject to a determination made pursuant to
section 121.38 of the Revised Code who requires the home and
community based services provided through a medicaid component
that the department of developmental disabilities administers
under section 5111.871 of the Revised Code shall receive services
through that medicaid component. For all other services, a child
subject to a determination made pursuant to section 121.38 of the
Revised Code shall be treated as an emergency by the county boards
and shall not be subject to a waiting list.~~ 112539
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~~(J) Not later than the fifteenth day of March of each
even numbered year, each county board shall prepare and submit to
the director of developmental disabilities its recommendations for
the funding of services for individuals with mental retardation
and developmental disabilities and its proposals for reducing the
waiting lists for services.~~ 112548
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~~(K)(1)(E)~~ The department of developmental disabilities shall 112554
adopt rules in accordance with Chapter 119. of the Revised Code 112555
governing waiting lists established under division (C) of this 112556
section. The rules shall include procedures to be followed to 112557
ensure that the due process rights of individuals placed on 112558
waiting lists are not violated. As 112559

~~(2) As part of the rules adopted under this division, the
department shall adopt rules establishing criteria a county board
may shall use under division ~~(F)~~(D) of this section in determining
the order in which individuals with priority for home and
community-based services pursuant to division (C)(1), (2), or (3)
of this section will be offered the services. ~~The rules shall also
specify conditions under which a county board, when there is no
individual with priority for home and community based services
pursuant to division (D)(1) or (2) or (E) of this section~~ 112560
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~~available and appropriate for the services, may offer the services to an individual on a waiting list for the services but not given such priority for the services.~~

~~(3) As part of the rules adopted under this division, the department shall adopt rules specifying both of the following for the priority category established under division (E) of this section:~~

~~(a) The number of years, which shall not exceed five, that the priority category will be in effect;~~

~~(b) The date that the priority category is to go into effect.~~

~~(L)(F)~~ The following shall take precedence over the applicable provisions of this section:

(1) Medicaid rules and regulations;

(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.

Sec. 5126.05. (A) Subject to the rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to this chapter, and subject to the rules established by the state board of education pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to Chapter 3323. of the Revised Code, the county board of developmental disabilities shall:

(1) Administer and operate facilities, programs, and services as provided by this chapter and Chapter 3323. of the Revised Code and establish policies for their administration and operation;

(2) Coordinate, monitor, and evaluate existing services and facilities available to individuals with mental retardation and

developmental disabilities;	112599
(3) Provide early childhood services, supportive home	112600
services, and adult services, according to the plan and priorities	112601
developed under section 5126.04 of the Revised Code;	112602
(4) Provide or contract for special education services	112603
pursuant to Chapters 3306.7 , 3317. and 3323. of the Revised Code	112604
and ensure that related services, as defined in section 3323.01 of	112605
the Revised Code, are available according to the plan and	112606
priorities developed under section 5126.04 of the Revised Code;	112607
(5) Adopt a budget, authorize expenditures for the purposes	112608
specified in this chapter and do so in accordance with section	112609
319.16 of the Revised Code, approve attendance of board members	112610
and employees at professional meetings and approve expenditures	112611
for attendance, and exercise such powers and duties as are	112612
prescribed by the director;	112613
(6) Submit annual reports of its work and expenditures,	112614
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to	112615
the director, the superintendent of public instruction, and the	112616
board of county commissioners at the close of the fiscal year and	112617
at such other times as may reasonably be requested;	112618
(7) Authorize all positions of employment, establish	112619
compensation, including but not limited to salary schedules and	112620
fringe benefits for all board employees, approve contracts of	112621
employment for management employees that are for a term of more	112622
than one year, employ legal counsel under section 309.10 of the	112623
Revised Code, and contract for employee benefits;	112624
(8) Provide service and support administration in accordance	112625
with section 5126.15 of the Revised Code;	112626
(9) Certify respite care homes pursuant to rules adopted	112627
under section 5123.171 of the Revised Code by the director of	112628
developmental disabilities.	112629

(B) To the extent that rules adopted under this section apply 112630
to the identification and placement of children with disabilities 112631
under Chapter 3323. of the Revised Code, they shall be consistent 112632
with the standards and procedures established under sections 112633
3323.03 to 3323.05 of the Revised Code. 112634

(C) Any county board may enter into contracts with other such 112635
boards and with public or private, nonprofit, or profit-making 112636
agencies or organizations of the same or another county, to 112637
provide the facilities, programs, and services authorized or 112638
required, upon such terms as may be agreeable, and in accordance 112639
with this chapter and Chapter 3323. of the Revised Code and rules 112640
adopted thereunder and in accordance with sections 307.86 and 112641
5126.071 of the Revised Code. 112642

(D) A county board may combine transportation for children 112643
and adults enrolled in programs and services offered under ~~section~~ 112644
~~5126.12~~ Chapter 5126. of the Revised Code with transportation for 112645
children enrolled in classes funded under section 3317.20 or units 112646
approved under section 3317.05 of the Revised Code. 112647

(E) A county board may purchase all necessary insurance 112648
policies, may purchase equipment and supplies through the 112649
department of administrative services or from other sources, and 112650
may enter into agreements with public agencies or nonprofit 112651
organizations for cooperative purchasing arrangements. 112652

(F) A county board may receive by gift, grant, devise, or 112653
bequest any moneys, lands, or property for the benefit of the 112654
purposes for which the board is established and hold, apply, and 112655
dispose of the moneys, lands, and property according to the terms 112656
of the gift, grant, devise, or bequest. All money received by 112657
gift, grant, bequest, or disposition of lands or property received 112658
by gift, grant, devise, or bequest shall be deposited in the 112659
county treasury to the credit of such board and shall be available 112660
for use by the board for purposes determined or stated by the 112661

donor or grantor, but may not be used for personal expenses of the board members. Any interest or earnings accruing from such gift, grant, devise, or bequest shall be treated in the same manner and subject to the same provisions as such gift, grant, devise, or bequest.

(G) The board of county commissioners shall levy taxes and make appropriations sufficient to enable the county board of developmental disabilities to perform its functions and duties, and may utilize any available local, state, and federal funds for such purpose.

Sec. 5126.054. (A) Each county board of developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following three components:

(1) An assessment component that includes all of the following:

(a) The number of individuals with mental retardation or other developmental disability residing in the county who need the level of care provided by an intermediate care facility for the mentally retarded, may seek home and community-based services, and are given priority on a waiting list established for the services pursuant to ~~division (D) of~~ section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services;

(b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(c) Any other applicable information or conditions that the department of developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised

Code. 112692

(2) A preliminary implementation component that specifies the 112693
number of individuals to be provided, during the first year that 112694
the plan is in effect, home and community-based services pursuant 112695
to the waiting list priority given to them under ~~divisions (D)(1)~~ 112696
~~and (2)~~ of section 5126.042 of the Revised Code and the types of 112697
home and community-based services the individuals are to receive; 112698

(3) A component that provides for the implementation of 112699
medicaid case management services and home and community-based 112700
services for individuals who begin to receive the services on or 112701
after the date the plan is approved under section 5123.046 of the 112702
Revised Code. A county board shall include all of the following in 112703
the component: 112704

(a) If the department of developmental disabilities or 112705
department of job and family services requires, an agreement to 112706
pay the nonfederal share of medicaid expenditures that the county 112707
board is required by sections 5126.059 and 5126.0510 of the 112708
Revised Code to pay; 112709

(b) How the services are to be phased in over the period the 112710
plan covers, including how the county board will serve individuals 112711
who have priority on a waiting list established under ~~division (C)~~ 112712
~~of section 5126.042 who are given priority status under division~~ 112713
~~(D)(1) of that section~~ of the Revised Code; 112714

(c) Any agreement or commitment regarding the county board's 112715
funding of home and community-based services that the county board 112716
has with the department at the time the county board develops the 112717
component; 112718

(d) Assurances adequate to the department that the county 112719
board will comply with all of the following requirements: 112720

(i) To provide the types of home and community-based services 112721
specified in the preliminary implementation component required by 112722

division (A)(2) of this section to at least the number of 112723
individuals specified in that component; 112724

(ii) To use any additional funds the county board receives 112725
for the services to improve the county board's resource 112726
capabilities for supporting such services available in the county 112727
at the time the component is developed and to expand the services 112728
to accommodate the unmet need for those services in the county; 112729

(iii) To employ or contract with a business manager or enter 112730
into an agreement with another county board of developmental 112731
disabilities that employs or contracts with a business manager to 112732
have the business manager serve both county boards. No 112733
superintendent of a county board may serve as the county board's 112734
business manager. 112735

(iv) To employ or contract with a medicaid services manager 112736
or enter into an agreement with another county board of 112737
developmental disabilities that employs or contracts with a 112738
medicaid services manager to have the medicaid services manager 112739
serve both county boards. No superintendent of a county board may 112740
serve as the county board's medicaid services manager. 112741

(e) Programmatic and financial accountability measures and 112742
projected outcomes expected from the implementation of the plan; 112743

(f) Any other applicable information or conditions that the 112744
department requires as a condition of approving the component 112745
under section 5123.046 of the Revised Code. 112746

(B) A county board whose plan developed under division (A) of 112747
this section is approved by the department under section 5123.046 112748
of the Revised Code shall update and renew the plan in accordance 112749
with a schedule the department shall develop. 112750

Sec. 5126.0510. (A) Except as otherwise provided in an 112751
agreement entered into under section 5123.048 of the Revised Code 112752

and subject to divisions (B), (C), and (D) of this section, a county board of developmental disabilities shall pay the nonfederal share of medicaid expenditures for the following home and community-based services provided to an individual with mental retardation or other developmental disability who the county board determines under section 5126.041 of the Revised Code is eligible for county board services:

(1) Home and community-based services provided by the county board to such an individual;

(2) Home and community-based services provided by a provider other than the county board to such an individual who is enrolled as of June 30, 2007, in the medicaid waiver component under which the services are provided;

(3) Home and community-based services provided by a provider other than the county board to such an individual who, pursuant to a request the county board makes, enrolls in the medicaid waiver component under which the services are provided after June 30, 2007;

(4) Home and community-based services provided by a provider other than the county board to such an individual for whom there is in effect an agreement entered into under division (E) of this section between the county board and director of developmental disabilities.

(B) In the case of medicaid expenditures for home and community-based services for which division (A)(2) of this section requires a county board to pay the nonfederal share, the following shall apply to such services provided during fiscal year 2008 under the individual options medicaid waiver component:

(1) The county board shall pay no less than the total amount the county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the

individual options medicaid waiver component; 112784

(2) The county board shall pay no more than the sum of the 112785
following: 112786

(a) The total amount the county board paid as the nonfederal 112787
share for home and community-based services provided in fiscal 112788
year 2007 under the individual options medicaid waiver component; 112789

(b) An amount equal to one per cent of the total amount the 112790
department of developmental disabilities and county board paid as 112791
the nonfederal share for home and community-based services 112792
provided in fiscal year 2007 under the individual options medicaid 112793
waiver component to individuals the county board determined under 112794
section 5126.041 of the Revised Code are eligible for county board 112795
services. 112796

(C) A county board is not required to pay the nonfederal 112797
share of home and community-based services provided after June 30, 112798
2008, that the county board is otherwise required by division 112799
(A)(2) of this section to pay if the department of developmental 112800
disabilities fails to comply with division (A) of section 112801
5123.0416 of the Revised Code. 112802

(D) A county board is not required to pay the nonfederal 112803
share of home and community-based services that the county board 112804
is otherwise required by division (A)(3) of this section to pay if 112805
both of the following apply: 112806

(1) The services are provided to an individual who enrolls in 112807
the medicaid waiver component under which the services are 112808
provided as the result of an order issued following a state 112809
hearing, administrative appeal, or appeal to a court of common 112810
pleas made under section 5101.35 of the Revised Code; 112811

(2) There are more individuals who are eligible for services 112812
from the county board enrolled in ~~the medicaid waiver component~~ 112813
home and community-based services than is required by section 112814

5126.0512 of the Revised Code. 112815

(E) A county board may enter into an agreement with the 112816
director of developmental disabilities under which the county 112817
board agrees to pay the nonfederal share of medicaid expenditures 112818
for one or more home and community-based services that the county 112819
board is not otherwise required by division (A)(1), (2), or (3) of 112820
this section to pay and that are provided to an individual the 112821
county board determines under section 5126.041 of the Revised Code 112822
is eligible for county board services. The agreement shall specify 112823
which home and community-based services the agreement covers. The 112824
county board shall pay the nonfederal share of medicaid 112825
expenditures for the home and community-based services that the 112826
agreement covers as long as the agreement is in effect. 112827

Sec. 5126.0511. (A) A county board of developmental 112828
disabilities may use the following funds to pay the nonfederal 112829
share of the medicaid expenditures that the county board is 112830
required by sections 5126.059 and 5126.0510 of the Revised Code to 112831
pay: 112832

(1) To the extent consistent with the levy that generated the 112833
taxes, the following taxes: 112834

(a) Taxes levied pursuant to division (L) of section 5705.19 112835
of the Revised Code and section 5705.222 of the Revised Code; 112836

(b) Taxes levied under section 5705.191 of the Revised Code 112837
that the board of county commissioners allocates to the county 112838
board. 112839

(2) Funds that the department of developmental disabilities 112840
distributes to the county board under ~~sections 5126.11 and section~~ 112841
5126.18 of the Revised Code and for purposes of the family support 112842
services program established under section 5126.11 of the Revised 112843
Code; 112844

(3) Earned federal revenue funds the county board receives 112845
for medicaid services the county board provides pursuant to the 112846
county board's valid medicaid provider agreement; 112847

(4) Funds that the department of developmental disabilities 112848
distributes to the county board as subsidy payments; 112849

(5) In the case of medicaid expenditures for home and 112850
community-based services, funds allocated to or otherwise made 112851
available for the county board under section 5123.0416 of the 112852
Revised Code to pay the nonfederal share of such medicaid 112853
expenditures. 112854

(B) Each year, each county board shall adopt a resolution 112855
specifying the amount of funds it will use in the next year to pay 112856
the nonfederal share of the medicaid expenditures that the county 112857
board is required by sections 5126.059 and 5126.0510 of the 112858
Revised Code to pay. The amount specified shall be adequate to 112859
assure that the services for which the medicaid expenditures are 112860
made will be available in the county in a manner that conforms to 112861
all applicable state and federal laws. A county board shall state 112862
in its resolution that the payment of the nonfederal share 112863
represents an ongoing financial commitment of the county board. A 112864
county board shall adopt the resolution in time for the county 112865
auditor to make the determination required by division (C) of this 112866
section. 112867

(C) Each year, a county auditor shall determine whether the 112868
amount of funds a county board specifies in the resolution it 112869
adopts under division (B) of this section will be available in the 112870
following year for the county board to pay the nonfederal share of 112871
the medicaid expenditures that the county board is required by 112872
sections 5126.059 and 5126.0510 of the Revised Code to pay. The 112873
county auditor shall make the determination not later than the 112874
last day of the year before the year in which the funds are to be 112875
used. 112876

~~Sec. 5126.0512. (A) As used in this section, "medicaid waiver component" means a medicaid waiver component as defined in section 5111.85 of the Revised Code under which home and community based services are provided.~~ 112877
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~~(B) Effective July 1, 2007, and except~~ Except as provided in 112881
rules adopted under section 5123.0413 of the Revised Code, each 112882
county board of developmental disabilities shall ensure, ~~for each~~ 112883
~~medicaid waiver component,~~ that the number of individuals eligible 112884
under section 5126.041 of the Revised Code for services from the 112885
county board who are enrolled in ~~a medicaid waiver component~~ home 112886
and community-based services is no less than the sum of the 112887
following: 112888

(1) The number of individuals eligible for services from the 112889
county board who are enrolled in ~~the medicaid waiver component~~ 112890
home and community-based services on June 30, 2007; 112891

(2) The number of ~~medicaid waiver component~~ home and 112892
community-based services slots the county board requested before 112893
July 1, 2007, that were assigned to the county board before that 112894
date but in which no individual was enrolled before that date. 112895

~~(C)~~(B) An individual enrolled in ~~a medicaid waiver component~~ 112896
home and community-based services after March 1, 2007, due to an 112897
emergency reserve capacity waiver assignment shall not be counted 112898
in determining the number of individuals a county board must 112899
ensure under division ~~(B)~~(A) of this section are enrolled in a 112900
~~medicaid waiver component~~ home and community-based services. 112901

~~(D)~~(C) An individual who is enrolled in ~~a medicaid waiver~~ 112902
~~component~~ home and community-based services to comply with the 112903
terms of the consent order filed March 5, 2007, in *Martin v.* 112904
Strickland, Case No. 89-CV-00362, in the United States district 112905
court for the southern district of Ohio, eastern division, shall 112906
be excluded in determining whether a county board has complied 112907

with division ~~(B)~~(A) of this section. 112908

~~(E)~~(D) A county board shall make as many requests for 112909
individuals to be enrolled in ~~a medicaid waiver component~~ home and 112910
community-based services as necessary for the county board to 112911
comply with division ~~(B)~~(A) of this section. 112912

Sec. 5126.08. (A) The director of developmental disabilities 112913
shall adopt rules in accordance with Chapter 119. of the Revised 112914
Code for all programs and services offered by a county board of 112915
developmental disabilities. Such rules shall include, but are not 112916
limited to, the following: 112917

(1) Determination of what constitutes a program or service; 112918

(2) Standards to be followed by a board in administering, 112919
providing, arranging, or operating programs and services; 112920

(3) Standards for determining the nature and degree of mental 112921
retardation, including mild mental retardation, or developmental 112922
disability; 112923

(4) Standards for determining eligibility for programs and 112924
services under ~~sections 5126.042 and~~ section 5126.15 of the 112925
Revised Code; 112926

(5) Procedures for obtaining consent for the arrangement of 112927
services under section 5126.31 of the Revised Code and for 112928
obtaining signatures on individual service plans under that 112929
section; 112930

(6) Specification of the service and support administration 112931
to be provided by a county board and standards for resolving 112932
grievances in connection with service and support administration; 112933

~~(7) Standards for the provision of environmental 112934
modifications, including standards that require adherence to all 112935
applicable state and local building codes; 112936~~

~~(8) Standards for the provision of specialized medical, adaptive, and assistive equipment, supplies, and supports.~~

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(B) The director shall be the final authority in determining the nature and degree of mental retardation or developmental disability.

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Sec. 5126.11. (A) As used in this section, "respite care" means appropriate, short-term, temporary care that is provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family.

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(B) Subject to rules adopted by the director of developmental disabilities, and subject to the availability of money from state and federal sources, the county board of developmental disabilities shall establish a family support services program. Under such a program, the board shall make payments to an individual with mental retardation or other developmental disability or the family of an individual with mental retardation or other developmental disability who desires to remain in and be supported in the family home. Payments shall be made for all or part of costs incurred or estimated to be incurred for services that would promote self-sufficiency and normalization, prevent or reduce inappropriate institutional care, and further the unity of the family by enabling the family to meet the special needs of the individual and to live as much like other families as possible. Payments may be made in the form of reimbursement for expenditures or in the form of vouchers to be used to purchase services.

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(C) Payment shall not be made under this section to an individual or the individual's family if the individual is living in a residential facility that is providing residential services under contract with the department of developmental disabilities or a county board.

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(D) Payments may be made for the following services:	112968
(1) Respite care, in or out of the home;	112969
(2) Counseling, supervision, training, and education of the individual, the individual's caregivers, and members of the individual's family that aid the family in providing proper care for the individual, provide for the special needs of the family, and assist in all aspects of the individual's daily living;	112970 112971 112972 112973 112974
(3) Special diets, purchase or lease of special equipment, or modifications of the home, if such diets, equipment, or modifications are necessary to improve or facilitate the care and living environment of the individual;	112975 112976 112977 112978
(4) Providing support necessary for the individual's continued skill development, including such services as development of interventions to cope with unique problems that may occur within the complexity of the family, enrollment of the individual in special summer programs, provision of appropriate leisure activities, and other social skills development activities;	112979 112980 112981 112982 112983 112984 112985
(5) Any other services that are consistent with the purposes specified in division (B) of this section and specified in the individual's service plan.	112986 112987 112988
(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and the individual must be in need of habilitation. Payments shall be adjusted for income in accordance with the payment schedule established in rules adopted under this section. Payments shall be made only after the county board has taken into account all other available assistance for which the individual or family is eligible.	112989 112990 112991 112992 112993 112994 112995 112996 112997
(F) Before incurring expenses for a service for which payment	112998

will be sought under a family support services program, the 112999
individual or family shall apply to the county board for a 113000
determination of eligibility and approval of the service. The 113001
service need not be provided in the county served by the county 113002
board. After being determined eligible and receiving approval for 113003
the service, the individual or family may incur expenses for the 113004
service or use the vouchers received from the county board for the 113005
purchase of the service. 113006

If the county board refuses to approve a service, an appeal 113007
may be made in accordance with rules adopted by the department 113008
under this section. 113009

(G) To be reimbursed for expenses incurred for approved 113010
services, the individual or family shall submit to the county 113011
board a statement of the expenses incurred accompanied by any 113012
evidence required by the board. To redeem vouchers used to 113013
purchase approved services, the entity that provided the service 113014
shall submit to the county board evidence that the service was 113015
provided and a statement of the charges. The county board shall 113016
make reimbursements and redeem vouchers no later than forty-five 113017
days after it receives the statements and evidence required by 113018
this division. 113019

(H) A county board shall consider the following objectives in 113020
carrying out a family support services program: 113021

(1) Enabling individuals to return to their families from an 113022
institution under the jurisdiction of the department of 113023
developmental disabilities; 113024

(2) Enabling individuals found to be subject to 113025
institutionalization by court order under section 5123.76 of the 113026
Revised Code to remain with their families with the aid of 113027
payments provided under this section; 113028

(3) Providing services to eligible children and adults 113029

currently residing in the community; 113030

(4) Providing services to individuals with developmental 113031
disabilities who are not receiving other services from the board. 113032

(I) The director shall adopt, and may amend and rescind, 113033
rules for the implementation of family support services programs 113034
by county boards. Such rules shall include the following: 113035

(1) A payment schedule adjusted for income; 113036

(2) ~~A formula for distributing to county boards the money~~ 113037
~~appropriated for family support services;~~ 113038

~~(3)~~ Standards for supervision, training, and quality control 113039
in the provision of respite care services; 113040

~~(4)~~(3) Eligibility standards and procedures for providing 113041
temporary emergency respite care; 113042

~~(5)~~(4) Procedures for hearing and deciding appeals made under 113043
division (F) of this section; 113044

~~(6)~~ Requirements to be followed by county boards regarding 113045
~~reports submitted under division (K) of this section.~~ 113046

Rules adopted under ~~divisions~~ division (I)(1) ~~and (2)~~ of this 113047
section shall be adopted in accordance with section 111.15 of the 113048
Revised Code. Rules adopted under divisions (I)~~(3)~~(2) to ~~(6)~~(4) of 113049
this section shall be adopted in accordance with Chapter 119. of 113050
the Revised Code. 113051

(J) All individuals certified by the superintendent of the 113052
county board as eligible for temporary emergency respite care in 113053
accordance with rules adopted under this section shall be 113054
considered eligible for temporary emergency respite care for not 113055
more than five days to permit the determination of eligibility for 113056
family support services. The requirements of divisions (E) and (F) 113057
of this section do not apply to temporary emergency respite care. 113058

(K) ~~The department of developmental disabilities shall~~ 113059

~~distribute to county boards money appropriated for family support services in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty first day of December, the thirty first day of March, and the thirtieth day of June. A county board shall use no more than seven per cent of the funds for administrative costs. Each county board shall submit reports to the department on payments made under this section. The reports shall be submitted at those times and in the manner specified in rules adopted under this section.~~

~~(L) The county board shall not be required to make payments for family support services at a level that exceeds available state and federal funds for such payments.~~

~~Sec. 5126.12. (A) As used in this section:~~

~~(1) "Approved school age class" means a class operated by a county board of developmental disabilities and funded by the department of education under section 3317.20 of the Revised Code.~~

~~(2) "Approved preschool unit" means a class or unit operated by a county board of developmental disabilities and approved under division (B) of section 3317.05 of the Revised Code.~~

~~(3) "Active treatment" means a continuous treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services, that is directed toward the acquisition of behaviors necessary for an individual with mental retardation or other developmental disability to function with as much self-determination and independence as possible and toward the prevention of deceleration, regression, or loss of current optimal functional status.~~

~~(4) "Eligible for active treatment" means that an individual~~

~~with mental retardation or other developmental disability resides 113090
in an intermediate care facility for the mentally retarded 113091
certified under Title XIX of the "Social Security Act," 79 Stat. 113092
286 (1965), 42 U.S.C. 1396, as amended; resides in a state 113093
institution operated by the department of developmental 113094
disabilities; or is enrolled in home and community based services. 113095~~

~~(5) "Traditional adult services" means vocational and 113096
nonvocational activities conducted within a sheltered workshop or 113097
adult activity center or supportive home services. 113098~~

~~(B) On or before the last day of each April, each county 113099
board of developmental disabilities shall certify to the director 113100
of developmental disabilities all of the following: 113101~~

~~(1) On or before the fifteenth day of October, the average 113102
daily membership for the first full week of programs and services 113103
during October receiving: 113104~~

~~(a) Early childhood services provided pursuant to section 113105
5126.05 of the Revised Code for children who are less than three 113106
years of age on the thirtieth day of September of the academic 113107
year; 113108~~

~~(b) Special education for children with disabilities in 113109
approved school age classes; 113110~~

~~(c) Adult services for persons sixteen years of age and older 113111
operated pursuant to section 5126.05 and division (B) of section 113112
5126.051 of the Revised Code. Separate counts shall be made for 113113
the following: 113114~~

~~(i) Persons enrolled in traditional adult services who are 113115
eligible for but not enrolled in active treatment; 113116~~

~~(ii) Persons enrolled in traditional adult services who are 113117
eligible for and enrolled in active treatment; 113118~~

~~(iii) Persons enrolled in traditional adult services but who 113119~~

are not eligible for active treatment; 113120

~~(iv) Persons participating in community employment services. 113121~~
~~To be counted as participating in community employment services, a 113122~~
~~person must have spent an average of no less than ten hours per 113123~~
~~week in that employment during the preceding six months. 113124~~

~~(d) Other programs in the county for individuals with mental 113125~~
~~retardation and developmental disabilities that have been approved 113126~~
~~for payment of subsidy by the department of developmental 113127~~
~~disabilities. 113128~~

~~The membership in each such program and service in the county 113129~~
~~shall be reported on forms prescribed by the department of 113130~~
~~developmental disabilities. 113131~~

~~The department of developmental disabilities shall adopt 113132~~
~~rules defining full time equivalent enrollees and for determining 113133~~
~~the average daily membership therefrom, except that certification 113134~~
~~of average daily membership in approved school age classes shall 113135~~
~~be in accordance with rules adopted by the state board of 113136~~
~~education. The average daily membership figure shall be determined 113137~~
~~by dividing the amount representing the sum of the number of 113138~~
~~enrollees in each program or service in the week for which the 113139~~
~~certification is made by the number of days the program or service 113140~~
~~was offered in that week. No enrollee may be counted in average 113141~~
~~daily membership for more than one program or service. 113142~~

~~(2) By the fifteenth day of December, the number of children 113143~~
~~enrolled in approved preschool units on the first day of December; 113144~~

~~(3) On or before the thirtieth day of April, an itemized 113145~~
~~report of all of the county board's income and operating 113146~~
~~expenditures for the immediately preceding calendar year. The 113147~~
~~certification shall be provided in an itemized report prepared and 113148~~
~~submitted in the a format specified by the department of 113149~~
~~developmental disabilities. 113150~~

~~(4) That each required certification and report is in accordance with rules established by the department of developmental disabilities and the state board of education for the operation and subsidization of the programs and services.~~

Sec. 5126.18. (A) As used in this section: 113155

(1) "Taxable value" means the taxable value of a county certified under division (B) of this section. 113156
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(2) "Per-mill yield" means the quotient obtained by dividing the taxable value of a county by one thousand. 113158
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(3) "Population" of a county means that shown by the federal census for a census year or, for a noncensus year, the population as estimated by the department of development. 113160
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(4) "Six-year moving average" means the average of the per-mill yields of a county for the most recent six years. 113163
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(5) "Yield per person" means the quotient obtained by dividing the six-year moving average of a county by the population of that county. 113165
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(6) "Tax equity payments" means payments to county boards of developmental disabilities under this section or a prior version of this section from money appropriated by the general assembly to the department of developmental disabilities for that purpose. 113168
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(7) "Eligible county" means a county determined under division (C) of this section to be eligible for tax equity payments for the two-year period for which that determination is made. 113172
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(8) "Threshold county" means the county with the lowest yield per person that is determined not to be eligible to receive tax equity payments. 113176
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(B) At the request of the director of developmental 113179

disabilities, the tax commissioner shall certify to the director 113180
the taxable value of property on each county's most recent tax 113181
list of real and public utility property. The director may request 113182
any other tax information necessary for the purposes of this 113183
section. 113184

(C) Beginning in 2011, on or before the thirty-first day of 113185
May of that year and of every second year thereafter, the director 113186
of developmental disabilities shall determine whether a county is 113187
eligible to receive tax equity payments for the ensuing two fiscal 113188
years as follows: 113189

(1) The director shall determine the six-year moving average, 113190
population, and yield per person of each county in the state, 113191
based on the most recent information available. 113192

(2) The director shall calculate a tax equity funding 113193
threshold by adding the population of the county with the lowest 113194
yield per person and the populations of individual counties in 113195
order from lowest yield per person to highest yield per person 113196
until the addition of the population of another county would 113197
increase the aggregate sum to over thirty per cent of the total 113198
state population. A county is eligible to receive tax equity 113199
payments for the two-year period if its population is included in 113200
the calculation of the threshold and the addition of its 113201
population does not increase such sum to over thirty per cent of 113202
the total state population. 113203

(D)(1) Except as provided in divisions (D)(2) and (3) of this 113204
section, beginning in fiscal year 2012 and for each fiscal year 113205
thereafter, the director shall make tax equity payments to each 113206
eligible county equal to the population of the county multiplied 113207
by the difference between the yield per person of the threshold 113208
county and the yield per person of the eligible county. For 113209
purposes of this division, the population and yield per person of 113210
a county equal the population and yield per person most recently 113211

determined for that county under division (C)(1) of this section. 113212
The payments shall be made in quarterly installments of equal 113213
amounts not later than the thirtieth day of September, the 113214
thirty-first day of December, the thirty-first day of March, and 113215
the thirtieth day of June of each fiscal year. 113216

(2) In fiscal year 2012, if the amount determined under 113217
division (D)(1) of this section for an eligible county is at least 113218
twenty thousand dollars greater than or twenty thousand dollars 113219
less than the amount of tax equity payments the county received in 113220
fiscal year 2011, the county's tax equity payments for fiscal 113221
years 2012 through 2014 shall equal the following: 113222

(a) For fiscal year 2012, one-fourth of the amount calculated 113223
for the eligible county under division (D)(1) of this section plus 113224
three-fourths of the amount of tax equity payments the county 113225
received in fiscal year 2011; 113226

(b) For fiscal year 2013, one-half of the amount calculated 113227
for the eligible county under division (D)(1) of this section plus 113228
one-half of the amount of tax equity payments the county received 113229
in fiscal year 2011; 113230

(c) For fiscal year 2014, three-fourths of the amount 113231
calculated for the eligible county under division (D)(1) of this 113232
section plus one-fourth of the amount of tax equity payments the 113233
county received in fiscal year 2011. 113234

(3) In any fiscal year, if the total amount of tax equity 113235
payments for all eligible counties as determined under divisions 113236
(D)(1) and (2) of this section is greater than the amount 113237
appropriated to the department of developmental disabilities for 113238
the purpose of making such payments in that fiscal year, the 113239
director shall reduce the payments to each eligible county board 113240
in equal proportion. If the total amount of tax equity payments as 113241
determined under that division is less than the amount 113242

appropriated to the department for that purpose, the director 113243
shall determine how to allocate the excess money after 113244
consultation with the Ohio association of county boards serving 113245
people with developmental disabilities. 113246

(4) Tax equity payments shall be paid only to an eligible 113247
county board of developmental disabilities and not to a regional 113248
council established under section 5126.13 of the Revised Code or 113249
any other entity. 113250

(E)(1) Except as provided in division (E)(2) of this section, 113251
a county board of developmental disabilities shall use tax equity 113252
payments solely to pay the nonfederal share of medicaid 113253
expenditures it is required to pay under sections 5126.059 and 113254
5126.0510 of the Revised Code. Tax equity payments shall not be 113255
used to pay any salary or other compensation to county board 113256
personnel. 113257

(2) Upon the written request of a county board, the director 113258
of developmental disabilities may authorize a county board to use 113259
tax equity payments for infrastructure improvements necessary to 113260
support medicaid waiver administration. 113261

(3) The director may audit any county board receiving tax 113262
equity payments to ensure appropriate use of the payments in 113263
accordance with this section. If the director determines that a 113264
county board is using payments inappropriately, the director shall 113265
notify the county board in writing of the determination. Within 113266
thirty days after receiving the director's notification, the 113267
county board shall submit a written plan of correction to the 113268
director. The director may accept or reject the plan. If the 113269
director rejects the plan, the director may require the county 113270
board to repay all or a portion of the amount of tax equity 113271
payments used inappropriately. The director shall distribute any 113272
tax equity payments returned under this division to other eligible 113273
county boards in accordance with a plan developed by the director 113274

after consultation with the Ohio association of county boards 113275
servicing people with developmental disabilities. 113276

Sec. 5126.24. (A) As used in this section: 113277

(1) "License" means an educator license issued by the state 113278
board of education under section 3319.22 of the Revised Code or a 113279
certificate issued by the department of developmental 113280
disabilities. 113281

(2) "Teacher" means a person employed by a county board of 113282
developmental disabilities in a position that requires a license. 113283

(3) "Nonteaching employee" means a person employed by a 113284
county board of developmental disabilities in a position that does 113285
not require a license. 113286

(4) "Years of service" includes all service described in 113287
division (A) of section 3317.13 of the Revised Code. 113288

(B) Subject to rules established by the director of 113289
developmental disabilities pursuant to Chapter 119. of the Revised 113290
Code, each county board of developmental disabilities shall 113291
annually adopt separate salary schedules for teachers and 113292
nonteaching employees. 113293

(C) The teachers' salary schedule shall provide for 113294
increments based on training and years of service. The board may 113295
establish its own service requirements provided no teacher 113296
receives less than the salary the teacher would be paid under 113297
section 3317.13 of the Revised Code if the teacher were employed 113298
by a school district board of education and provided full credit 113299
for a minimum of five years of actual teaching and military 113300
experience as defined in division (A) of such section is given to 113301
each teacher. 113302

Each teacher who has completed training that would qualify 113303
the teacher for a higher salary bracket pursuant to this section 113304

shall file by the fifteenth day of September with the fiscal officer of the board, satisfactory evidence of the completion of such additional training. The fiscal officer shall then immediately place the teacher, pursuant to this section, in the proper salary bracket in accordance with training and years of service. No teacher shall be paid less than the salary to which the teacher would be entitled under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education.

The superintendent of each county board, on or before the fifteenth day of October of each year, shall certify to the state board of education the name of each teacher employed, on an annual salary, in each special education program operated pursuant to section 3323.09 of the Revised Code during the first full school week of October. The superintendent further shall certify, for each teacher, the number of years of training completed at a recognized college, the degrees earned from a college recognized by the state board, the type of license held, the number of months employed by the board, the annual salary, and other information that the state board may request.

(D) The nonteaching employees' salary schedule established by the board shall be based on training, experience, and qualifications with initial salaries no less than salaries in effect on July 1, 1985. Each board shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the classifications of employees required to perform the duties specified in the salary schedule. All nonteaching employees shall be notified of the position classification to which they are assigned and the salary for the classification. The compensation of all nonteaching employees working for a particular board shall be uniform for like positions except as compensation would be

affected by salary increments based upon length of service. 113337

On the fifteenth day of October of each year the nonteaching 113338
employees' salary schedule and list of job classifications and 113339
salaries in effect on that date shall be filed by each board with 113340
the superintendent of public instruction. If such salary schedule 113341
and classification plan is not filed, the superintendent of public 113342
instruction shall order the board to file such schedule and list 113343
forthwith. If this condition is not corrected within ten days 113344
after receipt of the order from the superintendent, no money shall 113345
be distributed to the ~~district board~~ under Chapter ~~3306~~ or 3317. 113346
of the Revised Code until the superintendent has satisfactory 113347
evidence of the board's full compliance with such order. 113348

Sec. 5126.41. The county board of developmental disabilities 113349
shall identify residents of the county for whom supported living 113350
is to be provided. Identification of the residents shall be made 113351
in accordance with the priorities set under section 5126.04 of the 113352
Revised Code and the waiting ~~list~~ ~~policies developed~~ lists 113353
established under section 5126.042 of the Revised Code. The board 113354
shall assist the residents in identifying their individual service 113355
needs. 113356

To arrange supported living for an individual, the board 113357
shall assist the individual in developing an individual service 113358
plan. In developing the plan, the individual shall choose a 113359
residence that is appropriate according to local standards; the 113360
individuals, if any, with whom the individual will live in the 113361
residence; the services the individual needs to live in the 113362
individual's residence of choice; and the providers from which the 113363
services will be received. The choices available to an individual 113364
shall be based on available resources. 113365

The board shall obtain the consent of the individual or the 113366
individual's guardian and the signature of the individual or 113367

guardian on the individual service plan. The county board shall 113368
ensure that the individual receives from the provider the services 113369
contracted for under section 5126.45 of the Revised Code. 113370

An individual service plan for supported living shall be 113371
effective for a period of time agreed to by the county board and 113372
the individual. In determinating that period, the county board and 113373
the individual shall consider the nature of the services to be 113374
provided and the manner in which they are customarily provided. 113375

Sec. 5126.42. (A) A county board of developmental 113376
disabilities shall establish an advisory council composed of board 113377
members or employees of the board, providers, individuals 113378
receiving supported living, and advocates for individuals 113379
receiving supported living to provide on-going communication among 113380
all persons concerned with supported living. 113381

(B) The board shall develop procedures for the resolution of 113382
grievances between the board and providers or between the board 113383
and an entity with which it has a shared funding agreement. 113384

(C) The board shall develop and implement a provider 113385
selection system. Each system shall enable an individual to choose 113386
to continue receiving supported living from the same providers, to 113387
select additional providers, or to choose alternative providers. 113388
Annually, the board shall review its provider selection system to 113389
determine whether it has been implemented in a manner that allows 113390
individuals fair and equitable access to providers. 113391

In developing a provider selection system, the county board 113392
shall create a pool of providers for individuals to use in 113393
choosing their providers of supported living. The pool shall be 113394
created by placing in the pool all providers on record with the 113395
board or by placing in the pool all providers approved by the 113396
board through soliciting requests for proposals for supported 113397
living contracts. In either case, only providers that are 113398

certified by the director of developmental disabilities may be 113399
placed in the pool. 113400

If the board places all providers on record in the pool, the 113401
board shall review the pool at least annually to determine whether 113402
each provider has continued interest in being a provider and has 113403
maintained its certification by the department. At any time, an 113404
interested and certified provider may make a request to the board 113405
that it be added to the pool, and the board shall add the provider 113406
to the pool not later than seven days after receiving the request. 113407

If the board solicits requests for proposals for inclusion of 113408
providers in the pool, the board shall develop standards for 113409
selecting the providers to be included. Requests for proposals 113410
shall be solicited at least annually. When requests are solicited, 113411
the board shall cause legal notices to be published ~~at least~~ once 113412
each week for two consecutive weeks in a newspaper ~~with~~ of general 113413
circulation within the county or as provided in section 7.16 of 113414
the Revised Code. The board's formal request for proposals shall 113415
include a description of any applicable contract terms, the 113416
standards that are used to select providers for inclusion in the 113417
pool, and the process the board uses to resolve disputes arising 113418
from the selection process. The board shall accept requests from 113419
any entity interested in being a provider of supported living for 113420
individuals served by the board. Requests shall be approved or 113421
denied according to the standards developed by the board. 113422
Providers that previously have been placed in the pool are not 113423
required to resubmit a request for proposal to be included in the 113424
pool, unless the board's standards have been changed. 113425

In assisting an individual in choosing a provider, the county 113426
board shall provide the individual with uniform and consistent 113427
information pertaining to each provider in the pool. An individual 113428
may choose to receive supported living from a provider that is not 113429
included in the pool, if the provider is certified by the director 113430

of developmental disabilities. 113431

Sec. 5139.11. The department of youth services shall do all 113432
of the following: 113433

(A) Through a program of education, promotion, and 113434
organization, form groups of local citizens and assist these 113435
groups in conducting activities aimed at the prevention and 113436
control of juvenile delinquency, making use of local people and 113437
resources for the following purposes: 113438

(1) Combatting local conditions known to contribute to 113439
juvenile delinquency; 113440

(2) Developing recreational and other programs for youth 113441
work; 113442

(3) Providing adult sponsors for delinquent children cases; 113443

(4) Dealing with other related problems of the locality. 113444

(B) Advise local, state, and federal officials, public and 113445
private agencies, and lay groups on the needs for and possible 113446
methods of the reduction and prevention of juvenile delinquency 113447
and the treatment of delinquent children; 113448

(C) Consult with the schools and courts of this state on the 113449
development of programs for the reduction and prevention of 113450
delinquency and the treatment of delinquents; 113451

(D) Cooperate with other agencies whose services deal with 113452
the care and treatment of delinquent children to the end that 113453
delinquent children who are state wards may be assisted whenever 113454
possible to a successful adjustment outside of institutional care; 113455

(E) Cooperate with other agencies in surveying, developing, 113456
and utilizing the recreational resources of a community as a means 113457
of combatting the problem of juvenile delinquency and effectuating 113458
rehabilitation; 113459

(F) Hold district and state conferences from time to time in order to acquaint the public with current problems of juvenile delinquency and develop a sense of civic responsibility toward the prevention of juvenile delinquency;

(G) Assemble and distribute information relating to juvenile delinquency and report on studies relating to community conditions that affect the problem of juvenile delinquency;

(H) Assist any community within the state by conducting a comprehensive survey of the community's available public and private resources, and recommend methods of establishing a community program for combatting juvenile delinquency and crime, but no survey of that type shall be conducted unless local individuals and groups request it through their local authorities, and no request of that type shall be interpreted as binding the community to following the recommendations made as a result of the request;

(I) Evaluate the rehabilitation of children committed to the department and prepare and submit periodic reports to the committing court for the following purposes:

(1) Evaluating the effectiveness of institutional treatment;

(2) Making recommendations for judicial release under section 2152.22 of the Revised Code if appropriate and recommending conditions for judicial release;

(3) Reviewing the placement of children and recommending alternative placements where appropriate.

(J) Coordinate dates for hearings to be conducted under section 2152.22 of the Revised Code and assist in the transfer and release of children from institutionalization to the custody of the committing court;

(K)(1) Coordinate and assist juvenile justice systems by

doing the following:	113490
(a) Performing juvenile justice system planning in the state, including any planning that is required by any federal law;	113491 113492
(b) Collecting, analyzing, and correlating information and data concerning the juvenile justice system in the state;	113493 113494
(c) Cooperating with and providing technical assistance to state departments, administrative planning districts, metropolitan county criminal justice services agencies, criminal justice coordinating councils, and agencies, offices, and departments of the juvenile justice system in the state, and other appropriate organizations and persons;	113495 113496 113497 113498 113499 113500
(d) Encouraging and assisting agencies, offices, and departments of the juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the department;	113501 113502 113503 113504
(e) Administering within the state any juvenile justice acts and programs that the governor requires the department to administer;	113505 113506 113507
(f) Implementing the state comprehensive plans;	113508
(g) <u>Visiting and inspecting jails, detention facilities, correctional facilities, facilities that may hold juveniles involuntarily, or any other facility that may temporarily house juveniles on a voluntary or involuntary basis for the purpose of compliance pursuant to the "Juvenile Justice and Delinquency Prevention Act of 1974," 88 Stat. 1109, as amended;</u>	113509 113510 113511 113512 113513 113514
(h) Auditing grant activities of agencies, offices, organizations, and persons that are financed in whole or in part by funds granted through the department;	113515 113516 113517
(h) (i) Monitoring or evaluating the performance of juvenile justice system projects and programs in the state that are	113518 113519

financed in whole or in part by funds granted through the 113520
department; 113521

~~(i)~~(j) Applying for, allocating, disbursing, and accounting 113522
for grants that are made available pursuant to federal juvenile 113523
justice acts, or made available from other federal, state, or 113524
private sources, to improve the criminal and juvenile justice 113525
systems in the state. All money from federal juvenile justice act 113526
grants shall, if the terms under which the money is received 113527
require that the money be deposited into an interest bearing fund 113528
or account, be deposited in the state treasury to the credit of 113529
the federal juvenile justice program purposes fund, which is 113530
hereby created. All investment earnings shall be credited to the 113531
fund. 113532

~~(j)~~(k) Contracting with federal, state, and local agencies, 113533
foundations, corporations, businesses, and persons when necessary 113534
to carry out the duties of the department; 113535

~~(k)~~(l) Overseeing the activities of metropolitan county 113536
criminal justice services agencies, administrative planning 113537
districts, and juvenile justice coordinating councils in the 113538
state; 113539

~~(l)~~(m) Advising the general assembly and governor on 113540
legislation and other significant matters that pertain to the 113541
improvement and reform of the juvenile justice system in the 113542
state; 113543

~~(m)~~(n) Preparing and recommending legislation to the general 113544
assembly and governor for the improvement of the juvenile justice 113545
system in the state; 113546

~~(n)~~(o) Assisting, advising, and making any reports that are 113547
required by the governor, attorney general, or general assembly; 113548

~~(o)~~(p) Adopting rules pursuant to Chapter 119. of the Revised 113549
Code. 113550

(2) Division (K)(1) of this section does not limit the discretion or authority of the attorney general with respect to crime victim assistance and criminal and juvenile justice programs.

(3) Nothing in division (K)(1) of this section is intended to diminish or alter the status of the office of the attorney general as a criminal justice services agency.

(4) The governor may appoint any advisory committees to assist the department that the governor considers appropriate or that are required under any state or federal law.

Sec. 5139.43. (A) The department of youth services shall operate a felony delinquent care and custody program that shall be operated in accordance with the formula developed pursuant to section 5139.41 of the Revised Code, subject to the conditions specified in this section.

(B)(1) Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of section 5139.41 of the Revised Code in accordance with the applicable provisions of division (B)(2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall not be commingled with any other county funds except state subsidy

funds granted to the county pursuant to section 5139.34 of the Revised Code; shall not be used for any capital construction projects; upon an order of the juvenile court and subject to appropriation by the board of county commissioners, shall be disbursed to the juvenile court for use in accordance with the applicable provisions of division (B)(2) of this section; shall not revert to the county general fund at the end of any fiscal year; and shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year. The maximum balance carry-over at the end of each respective fiscal year in the felony delinquent care and custody fund in any county from funds allocated to the county pursuant to sections 5139.34 and 5139.41 of the Revised Code in the previous fiscal year shall not exceed an amount to be calculated as provided in the formula set forth in this division, unless that county has applied for and been granted an exemption by the director of youth services. Beginning June 30, 2008, the maximum balance carry-over at the end of each respective fiscal year shall be determined by the following formula: for fiscal year 2008, the maximum balance carry-over shall be one hundred per cent of the allocation for fiscal year 2007, to be applied in determining the fiscal year 2009 allocation; for fiscal year 2009, it shall be fifty per cent of the allocation for fiscal year 2008, to be applied in determining the fiscal year 2010 allocation; for fiscal year 2010, it shall be twenty-five per cent of the allocation for fiscal year 2009, to be applied in determining the fiscal year 2011 allocation; and for each fiscal year subsequent to fiscal year 2010, it shall be twenty-five per cent of the allocation for the immediately preceding fiscal year, to be applied in determining the allocation for the next immediate fiscal year. The department shall withhold from future payments to a county an amount equal to any moneys in the felony delinquent care and custody fund of the county that exceed the total maximum balance carry-over that

applies for that county for the fiscal year in which the payments 113615
are being made and shall reallocate the withheld amount. The 113616
department shall adopt rules for the withholding and reallocation 113617
of moneys disbursed under sections 5139.34 and 5139.41 of the 113618
Revised Code and for the criteria and process for a county to 113619
obtain an exemption from the withholding requirement. The moneys 113620
disbursed to the juvenile court pursuant to division (B) of 113621
section 5139.41 of the Revised Code and deposited pursuant to this 113622
division in the felony delinquent care and custody fund shall be 113623
in addition to, and shall not be used to reduce, any usual annual 113624
increase in county funding that the juvenile court is eligible to 113625
receive or the current level of county funding of the juvenile 113626
court and of any programs or services for delinquent children, 113627
unruly children, or juvenile traffic offenders. 113628

(2)(a) A county and the juvenile court that serves the county 113629
shall use the moneys in its felony delinquent care and custody 113630
fund in accordance with rules that the department of youth 113631
services adopts pursuant to division (D) of section 5139.04 of the 113632
Revised Code and as follows: 113633

(i) The moneys in the fund that represent state subsidy funds 113634
granted to the county pursuant to section 5139.34 of the Revised 113635
Code shall be used to aid in the support of prevention, early 113636
intervention, diversion, treatment, and rehabilitation programs 113637
that are provided for alleged or adjudicated unruly children or 113638
delinquent children or for children who are at risk of becoming 113639
unruly children or delinquent children. The county shall not use 113640
for capital improvements more than fifteen per cent of the moneys 113641
in the fund that represent the applicable annual grant of those 113642
state subsidy funds. 113643

(ii) The moneys in the fund that were disbursed to the 113644
juvenile court pursuant to division (B) of section 5139.41 of the 113645
Revised Code and deposited pursuant to division (B)(1) of this 113646

section in the fund shall be used to provide programs and services 113647
for the training, treatment, or rehabilitation of felony 113648
delinquents that are alternatives to their commitment to the 113649
department, including, but not limited to, community residential 113650
programs, day treatment centers, services within the home, and 113651
electronic monitoring, and shall be used in connection with 113652
training, treatment, rehabilitation, early intervention, or other 113653
programs or services for any delinquent child, unruly child, or 113654
juvenile traffic offender who is under the jurisdiction of the 113655
juvenile court. 113656

The fund also may be used for prevention, early intervention, 113657
diversion, treatment, and rehabilitation programs that are 113658
provided for alleged or adjudicated unruly children, delinquent 113659
children, or juvenile traffic offenders or for children who are at 113660
risk of becoming unruly children, delinquent children, or juvenile 113661
traffic offenders. Consistent with division (B)(1) of this 113662
section, a county and the juvenile court of a county shall not use 113663
any of those moneys for capital construction projects. 113664

(iii) Moneys in the fund shall not be used to support 113665
programs or services that do not comply with federal juvenile 113666
justice and delinquency prevention core requirements or to support 113667
programs or services that research has shown to be ineffective. 113668
Moneys in the fund shall be prioritized to research-supported, 113669
outcome-based programs and services. 113670

(iv) The county and the juvenile court that serves the county 113671
may use moneys in the fund to provide out-of-home placement of 113672
children only in detention centers, community rehabilitation 113673
centers, or community corrections facilities approved by the 113674
department pursuant to standards adopted by the department, 113675
licensed by an authorized state agency, or accredited by the 113676
American correctional association or another national organization 113677
recognized by the department. 113678

(b) Each juvenile court shall comply with division (B)(3)(d) 113679
of this section as implemented by the department. If a juvenile 113680
court fails to comply with division (B)(3)(d) of this section, the 113681
department shall not be required to make any disbursements in 113682
accordance with division (C) or (D) of section 5139.41 or division 113683
(C)(2) of section 5139.34 of the Revised Code. 113684

(3) In accordance with rules adopted by the department 113685
pursuant to division (D) of section 5139.04 of the Revised Code, 113686
each juvenile court and the county served by that juvenile court 113687
shall do all of the following that apply: 113688

(a) The juvenile court shall prepare an annual grant 113689
agreement and application for funding that satisfies the 113690
requirements of this section and section 5139.34 of the Revised 113691
Code and that pertains to the use, upon an order of the juvenile 113692
court and subject to appropriation by the board of county 113693
commissioners, of the moneys in its felony delinquent care and 113694
custody fund for specified programs, care, and services as 113695
described in division (B)(2)(a) of this section, shall submit that 113696
agreement and application to the county family and children first 113697
council, the regional family and children first council, or the 113698
local intersystem services to children cluster as described in 113699
sections 121.37 and 121.38 of the Revised Code, whichever is 113700
applicable, and shall file that agreement and application with the 113701
department for its approval. The annual grant agreement and 113702
application for funding shall include a method of ensuring equal 113703
access for minority youth to the programs, care, and services 113704
specified in it. 113705

The department may approve an annual grant agreement and 113706
application for funding only if the juvenile court involved has 113707
complied with the preparation, submission, and filing requirements 113708
described in division (B)(3)(a) of this section. If the juvenile 113709
court complies with those requirements and the department approves 113710

that agreement and application, the juvenile court and the county 113711
served by the juvenile court may expend the state subsidy funds 113712
granted to the county pursuant to section 5139.34 of the Revised 113713
Code only in accordance with division (B)(2)(a) of this section, 113714
the rules pertaining to state subsidy funds that the department 113715
adopts pursuant to division (D) of section 5139.04 of the Revised 113716
Code, and the approved agreement and application. 113717

(b) By the thirty-first day of August of each year, the 113718
juvenile court shall file with the department a report that 113719
contains all of the statistical and other information for each 113720
month of the prior state fiscal year. If the juvenile court fails 113721
to file the report required by division (B)(3)(b) of this section 113722
by the thirty-first day of August of any year, the department 113723
shall not disburse any payment of state subsidy funds to which the 113724
county otherwise is entitled pursuant to section 5139.34 of the 113725
Revised Code and shall not disburse pursuant to division (B) of 113726
section 5139.41 of the Revised Code the applicable allocation 113727
until the juvenile court fully complies with division (B)(3)(b) of 113728
this section. 113729

(c) If the department requires the juvenile court to prepare 113730
monthly statistical reports and to submit the reports on forms 113731
provided by the department, the juvenile court shall file those 113732
reports with the department on the forms so provided. If the 113733
juvenile court fails to prepare and submit those monthly 113734
statistical reports within the department's timelines, the 113735
department shall not disburse any payment of state subsidy funds 113736
to which the county otherwise is entitled pursuant to section 113737
5139.34 of the Revised Code and shall not disburse pursuant to 113738
division (B) of section 5139.41 of the Revised Code the applicable 113739
allocation until the juvenile court fully complies with division 113740
(B)(3)(c) of this section. If the juvenile court fails to prepare 113741
and submit those monthly statistical reports within one hundred 113742

eighty days of the date the department establishes for their 113743
submission, the department shall not disburse any payment of state 113744
subsidy funds to which the county otherwise is entitled pursuant 113745
to section 5139.34 of the Revised Code and shall not disburse 113746
pursuant to division (B) of section 5139.41 of the Revised Code 113747
the applicable allocation, and the state subsidy funds and the 113748
remainder of the applicable allocation shall revert to the 113749
department. If a juvenile court states in a monthly statistical 113750
report that the juvenile court adjudicated within a state fiscal 113751
year five hundred or more children to be delinquent children for 113752
committing acts that would be felonies if committed by adults and 113753
if the department determines that the data in the report may be 113754
inaccurate, the juvenile court shall have an independent auditor 113755
or other qualified entity certify the accuracy of the data on a 113756
date determined by the department. 113757

(d) If the department requires the juvenile court and the 113758
county to participate in a fiscal monitoring program or another 113759
monitoring program that is conducted by the department to ensure 113760
compliance by the juvenile court and the county with division (B) 113761
of this section, the juvenile court and the county shall 113762
participate in the program and fully comply with any guidelines 113763
for the performance of audits adopted by the department pursuant 113764
to that program and all requests made by the department pursuant 113765
to that program for information necessary to reconcile fiscal 113766
accounting. If an audit that is performed pursuant to a fiscal 113767
monitoring program or another monitoring program described in this 113768
division determines that the juvenile court or the county used 113769
moneys in the county's felony delinquent care and custody fund for 113770
expenses that are not authorized under division (B) of this 113771
section, within forty-five days after the department notifies the 113772
county of the unauthorized expenditures, the county either shall 113773
repay the amount of the unauthorized expenditures from the county 113774
general revenue fund to the state's general revenue fund or shall 113775

file a written appeal with the department. If an appeal is timely 113776
filed, the director of the department shall render a decision on 113777
the appeal and shall notify the appellant county or its juvenile 113778
court of that decision within forty-five days after the date that 113779
the appeal is filed. If the director denies an appeal, the 113780
county's fiscal agent shall repay the amount of the unauthorized 113781
expenditures from the county general revenue fund to the state's 113782
general revenue fund within thirty days after receiving the 113783
director's notification of the appeal decision. 113784

(C) The determination of which county a reduction of the care 113785
and custody allocation will be charged against for a particular 113786
youth shall be made as outlined below for all youths who do not 113787
qualify as public safety beds. The determination of which county a 113788
reduction of the care and custody allocation will be charged 113789
against shall be made as follows until each youth is released: 113790

(1) In the event of a commitment, the reduction shall be 113791
charged against the committing county. 113792

(2) In the event of a recommitment, the reduction shall be 113793
charged against the original committing county until the 113794
expiration of the minimum period of institutionalization under the 113795
original order of commitment or until the date on which the youth 113796
is admitted to the department of youth services pursuant to the 113797
order of recommitment, whichever is later. Reductions of the 113798
allocation shall be charged against the county that recommitted 113799
the youth after the minimum expiration date of the original 113800
commitment. 113801

(3) In the event of a revocation of a release on parole, the 113802
reduction shall be charged against the county that revokes the 113803
youth's parole. 113804

(D) A juvenile court is not precluded by its allocation 113805
amount for the care and custody of felony delinquents from 113806

committing a felony delinquent to the department of youth services 113807
for care and custody in an institution or a community corrections 113808
facility when the juvenile court determines that the commitment is 113809
appropriate. 113810

Sec. 5310.35. The board of county commissioners shall conduct 113811
the public hearing required by section 5310.33 of the Revised Code 113812
in accordance with this section. 113813

(A)(1) The board shall prepare a notice of the hearing that 113814
includes each of the following: 113815

(a) A statement that the board is considering abolishing land 113816
registration in the county, that abolition would require the 113817
deregistration of all registered land in the county, and that 113818
after abolition all land in the county would have to be dealt with 113819
as nonregistered land; 113820

(b) A statement that the board seeks evidence with regard to 113821
the matters listed in section 5310.34 of the Revised Code; 113822

(c) The date, time, and place of the hearing, which shall be 113823
not earlier than two nor later than three months after the 113824
resolution to consider the merits of abolishing land registration 113825
was adopted by the board; 113826

(d) A statement that any person affected by the proposed 113827
abolition of land registration may appear at the hearing and 113828
present evidence as provided in division (B) of this section. 113829

(2) The board shall serve the notice by both of the following 113830
means: 113831

(a) Ordinary mail, evidenced by a certificate of mailing, 113832
addressed to each person from whom a receipt or signature card, 113833
giving residence and post-office address, has been taken by the 113834
county recorder under section 5309.30 or 5309.50 of the Revised 113835
Code, and to each person who has filed an affidavit with the 113836

county recorder under section 5309.72 of the Revised Code. The 113837
county recorder, within one month after the adoption of a 113838
resolution to consider the merits of abolishing land registration 113839
in the county, shall provide the board with the names and 113840
respective addresses of the persons who are entitled to notice 113841
under this division. 113842

If a notice is returned with an endorsement showing failure 113843
of delivery, the board is under no further obligation to directly 113844
serve the notice upon the addressee. The board shall preserve the 113845
returned notice in the records pertaining to its consideration of 113846
the merits of abolishing land registration in the county. 113847

(b) Publication twice a week for two consecutive weeks in a 113848
newspaper of general circulation in the county or as provided in 113849
section 7.16 of the Revised Code. Publication of the notice shall 113850
be completed at least one month prior to the date set for the 113851
hearing. 113852

(B) At the date, time, and place specified in the notice, the 113853
board shall conduct a hearing, which may be adjourned from day to 113854
day until complete, at which any person affected by the proposed 113855
abolition of land registration may appear in person, by ~~his~~ 113856
attorney, or both, and present evidence, orally or in writing, 113857
with regard to the costs and benefits of maintaining land 113858
registration in the county. Any person who presents evidence may 113859
also present evidence refuting any evidence offered in opposition 113860
to ~~his~~ the person's evidence. 113861

The board shall cause a stenographic record to be made of the 113862
hearing. The president of the board, or a member ~~he~~ the president 113863
designates, shall preside at the hearing. 113864

Sec. 5501.44. (A) ~~The~~ Notwithstanding section 5735.27 of the 113865
Revised Code, the director of transportation, when ~~he deems~~ the 113866
director determines it in the interest of the welfare and safety 113867

of the citizens of Ohio, may enter into agreements with other 113868
states or subdivisions thereof or the United States relative to 113869
the cooperation in the repair, maintenance, or construction of a 113870
~~toll-free~~ bridge crossing a stream that forms a boundary line of 113871
this state, and may expend state highway funds for said purpose. 113872

(1) No such agreement shall be made that obligates this state 113873
to expend more than the cost of the construction of such portion 113874
of said bridge as is located within the state, and not more than 113875
fifty per cent of the cost of maintenance of any such bridge, and 113876
no such agreement shall be made that obligates the state in excess 113877
of three hundred thousand dollars in any one year for maintenance. 113878

(2) Notwithstanding division (A)(1) of this section, the 113879
director may expend funds for the design, construction, 113880
inspection, maintenance, repair, and replacement of bridge and 113881
bridge approaches for the bridge that were transferred from the 113882
Ohio bridge commission to the control of the state of Ohio, 113883
department of transportation, as provided in Section 4 of Amended 113884
Substitute House Bill No. 98 of the 114th general assembly. 113885
Following the replacement of that bridge, the director may expend 113886
funds for the design, construction, inspection, maintenance, 113887
repair, and replacement of bridge and bridge approaches. 113888

(3) Any such agreements shall be approved by the governor and 113889
attorney general of the state before they become effective. 113890

(4) Each agreement entered into shall designate 113891
responsibility for inspection, provide for annual inspection, and 113892
require that a report of each inspection be filed with the 113893
department of transportation. The director, with regard to all 113894
existing bridges or other bridges on a stream that forms a 113895
boundary line of this state, shall take all reasonable measures to 113896
obtain and to secure the filing of a copy of each inspection 113897
report for each bridge with the department of transportation. 113898

(5) The department, upon hearing that a ~~toll-free~~ bridge across the Ohio river is scheduled to be closed by a contiguous state, shall make all reasonable efforts to notify the Ohio residents likely to be adversely affected by that closing. The department also shall cooperate and communicate with contiguous states in trying to resolve bridge closing problems.

(B)(1) The director, when ~~he~~ the director considers it in the interest of the welfare and safety of the citizens of Ohio, may enter into agreements with other states, subdivisions thereof, metropolitan planning organizations, or the United States, relative to the design, construction, operation, maintenance, and repair of a regional traffic management system, and may expend state and federal highway funds for such purposes, notwithstanding any other provision of the Revised Code.

(2) No such agreement shall be made that obligates this state to expend more than the cost of construction of such portion of a regional traffic management system as is located within the state, and not more than a proportional amount, based upon the system presence in this state, for costs of design, operation, maintenance, and repair.

(3) Any such agreements shall be approved by the governor and attorney general of the state before they become effective.

(4) As used in division (B) of this section, "regional traffic management system" means an integrated, high-technology system to provide remote control center surveillance and monitoring of the regional freeways and main arterial routes in order to reduce and eliminate major backups and delays to motorists in the area.

Sec. 5501.73. (A) After selecting a solicited or unsolicited proposal for a public-private initiative, the department of transportation shall enter into a public-private agreement for a

transportation facility with the selected private entity or any 113930
configuration of private entities. An affected jurisdiction may be 113931
a party to a public-private agreement entered into by the 113932
department and a selected private entity or combination of private 113933
entities. 113934

(B) A public-private agreement under this section shall 113935
provide for all of the following: 113936

(1) Planning, acquisition, financing, development, design, 113937
construction, reconstruction, replacement, improvement, 113938
maintenance, management, repair, leasing, or operation of a 113939
transportation facility; 113940

(2) Term of the public-private agreement, ~~subject to division~~ 113941
~~(D) of this section;~~ 113942

(3) Type of property interest, if any, the private entity 113943
will have in the transportation facility; 113944

(4) A specific plan to ensure proper maintenance of the 113945
transportation facility throughout the term of the agreement and a 113946
return of the facility to the department, if applicable, in good 113947
condition and repair; 113948

(5) Whether user fees will be collected on the transportation 113949
facility and the basis by which such user fees shall be determined 113950
and modified; 113951

(6) Compliance with applicable federal, state, and local 113952
laws; 113953

(7) Grounds for termination of the public-private agreement 113954
by the department or operator; 113955

(8) Disposition of the facility upon completion of the 113956
agreement; 113957

(9) Procedures for amendment of the agreement. 113958

(C) A public-private agreement under this section may provide for any of the following:	113959 113960
(1) Review and approval by the department of the operator's plans for the development and operation of the transportation facility;	113961 113962 113963
(2) Inspection by the department of construction of or improvements to the transportation facility;	113964 113965
(3) Maintenance by the operator of a policy of liability insurance or self-insurance;	113966 113967
(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the department;	113968 113969 113970
(5) Filing by the operator, on a periodic basis, of traffic reports in a form acceptable to the department;	113971 113972
(6) Financing obligations of the operator and the department;	113973
(7) Apportionment of expenses between the operator and the department;	113974 113975
(8) Rights and duties of the operator, the department, and other state and local governmental entities with respect to use of the transportation facility;	113976 113977 113978
(9) Rights and remedies available in the event of default or delay;	113979 113980
(10) Terms and conditions of indemnification of the operator by the department;	113981 113982
(11) Assignment, subcontracting, or other delegation of responsibilities of the operator or the department under the agreement to third parties, including other private entities and other state agencies;	113983 113984 113985 113986
(12) Sale or lease to the operator of private property	113987

related to the transportation facility; 113988

(13) Traffic enforcement and other policing issues, including 113989
any reimbursement by the private entity for such services. 113990

~~(D) Any public-private agreement entered into under this 113991
section may be for a period not to exceed the then current 113992
two-year period for which appropriations have been made by the 113993
general assembly to the department; provided, that any agreement 113994
may be renewed for succeeding two-year periods when the general 113995
assembly enacts sufficient appropriations to the department for 113996
each successive biennium. Any such agreement may include, without 113997
limitation, any agreement by the department with respect to any 113998
costs of transportation facilities to be included prior to 113999
acquisition and construction of such transportation facilities. 114000
Any such agreement shall not constitute a debt or pledge of the 114001
faith and credit of the state, or of any political subdivision of 114002
the state, and the operator shall have no right to have taxes or 114003
excises levied by the general assembly, or the taxing authority of 114004
any political subdivision of the state, for payments under the 114005
agreement. Any such agreement shall contain a statement to that 114006
effect. 114007~~

~~(E) No public-private agreement entered into under this 114008
section shall be construed to transfer to a private entity the 114009
director's authority to appropriate property under Chapters 163., 114010
5501., and 5519. of the Revised Code. 114011~~

Sec. 5321.01. As used in this chapter: 114012

(A) "Tenant" means a person entitled under a rental agreement 114013
to the use and occupancy of residential premises to the exclusion 114014
of others. 114015

(B) "Landlord" means the owner, lessor, or sublessor of 114016
residential premises, the agent of the owner, lessor, or 114017

sublessor, or any person authorized by the owner, lessor, or 114018
sublessor to manage the premises or to receive rent from a tenant 114019
under a rental agreement. 114020

(C) "Residential premises" means a dwelling unit for 114021
residential use and occupancy and the structure of which it is a 114022
part, the facilities and appurtenances in it, and the grounds, 114023
areas, and facilities for the use of tenants generally or the use 114024
of which is promised the tenant. "Residential premises" includes a 114025
dwelling unit that is owned or operated by a college or 114026
university. "Residential premises" does not include any of the 114027
following: 114028

(1) Prisons, jails, workhouses, and other places of 114029
incarceration or correction, including, but not limited to, 114030
halfway houses or residential arrangements that are used or 114031
occupied as a requirement of a community control sanction, a 114032
post-release control sanction, or parole; 114033

(2) Hospitals and similar institutions with the primary 114034
purpose of providing medical services, and homes licensed pursuant 114035
to Chapter 3721. of the Revised Code; 114036

(3) Tourist homes, hotels, motels, recreational vehicle 114037
parks, recreation camps, combined park-camps, temporary 114038
park-camps, and other similar facilities where circumstances 114039
indicate a transient occupancy; 114040

(4) Elementary and secondary boarding schools, where the cost 114041
of room and board is included as part of the cost of tuition; 114042

(5) Orphanages and similar institutions; 114043

(6) Farm residences furnished in connection with the rental 114044
of land of a minimum of two acres for production of agricultural 114045
products by one or more of the occupants; 114046

(7) Dwelling units subject to sections 3733.41 to ~~3733.49~~ 114047

<u>3733.43</u> of the Revised Code;	114048
(8) Occupancy by an owner of a condominium unit;	114049
(9) Occupancy in a facility licensed as an SRO facility	114050
pursuant to Chapter 3731. of the Revised Code, if the facility is	114051
owned or operated by an organization that is exempt from taxation	114052
under section 501(c)(3) of the "Internal Revenue Code of 1986,"	114053
100 Stat. 2085, 26 U.S.C.A. 501, as amended, or by an entity or	114054
group of entities in which such an organization has a controlling	114055
interest, and if either of the following applies:	114056
(a) The occupancy is for a period of less than sixty days.	114057
(b) The occupancy is for participation in a program operated	114058
by the facility, or by a public entity or private charitable	114059
organization pursuant to a contract with the facility, to provide	114060
either of the following:	114061
(i) Services licensed, certified, registered, or approved by	114062
a governmental agency or private accrediting organization for the	114063
rehabilitation of mentally ill persons, developmentally disabled	114064
persons, adults or juveniles convicted of criminal offenses, or	114065
persons suffering from substance abuse;	114066
(ii) Shelter for juvenile runaways, victims of domestic	114067
violence, or homeless persons.	114068
(10) Emergency shelters operated by organizations exempt from	114069
federal income taxation under section 501(c)(3) of the "Internal	114070
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as	114071
amended, for persons whose circumstances indicate a transient	114072
occupancy, including homeless people, victims of domestic	114073
violence, and juvenile runaways.	114074
(D) "Rental agreement" means any agreement or lease, written	114075
or oral, which establishes or modifies the terms, conditions,	114076
rules, or any other provisions concerning the use and occupancy of	114077

residential premises by one of the parties. 114078

(E) "Security deposit" means any deposit of money or property 114079
to secure performance by the tenant under a rental agreement. 114080

(F) "Dwelling unit" means a structure or the part of a 114081
structure that is used as a home, residence, or sleeping place by 114082
one person who maintains a household or by two or more persons who 114083
maintain a common household. 114084

(G) "Controlled substance" has the same meaning as in section 114085
3719.01 of the Revised Code. 114086

(H) "Student tenant" means a person who occupies a dwelling 114087
unit owned or operated by the college or university at which the 114088
person is a student, and who has a rental agreement that is 114089
contingent upon the person's status as a student. 114090

(I) "Recreational vehicle park," "recreation camp," "combined 114091
park-camp," and "temporary park-camp" have the same meanings as in 114092
section 3729.01 of the Revised Code. 114093

(J) "Community control sanction" has the same meaning as in 114094
section 2929.01 of the Revised Code. 114095

(K) "Post-release control sanction" has the same meaning as 114096
in section 2967.01 of the Revised Code. 114097

(L) "School premises" has the same meaning as in section 114098
2925.01 of the Revised Code. 114099

(M) "Sexually oriented offense" and "child-victim oriented 114100
offense" have the same meanings as in section 2950.01 of the 114101
Revised Code. 114102

(N) "Preschool or child day-care center premises" has the ~~the~~ 114103
same meaning as in section 2950.034 of the Revised Code. 114104

Sec. 5502.52. (A) There is hereby created the statewide 114105
emergency alert program to aid in the identification and location 114106

of children who are under eighteen years of age, who are abducted, 114107
and whose abduction, as determined by a law enforcement agency, 114108
poses a credible threat of immediate danger of serious bodily harm 114109
or death to a child. The program shall be a coordinated effort 114110
among the governor's office, the department of public safety, the 114111
attorney general, law enforcement agencies, the state's public and 114112
commercial television and radio broadcasters, and others as deemed 114113
necessary by the governor. 114114

(B) The statewide emergency alert program shall not be 114115
implemented unless all of the following activation criteria are 114116
met: 114117

(1) The local investigating law enforcement agency confirms 114118
that an abduction has occurred. 114119

(2) An abducted child is under eighteen years of age. 114120

(3) The abduction poses a credible threat of immediate danger 114121
of serious bodily harm or death to a child. 114122

(4) A law enforcement agency determines that the child is not 114123
a runaway and has not been abducted as a result of a child custody 114124
dispute, unless the dispute poses a credible threat of immediate 114125
danger of serious bodily harm or death to the child. 114126

(5) There is sufficient descriptive information about the 114127
child, the abductor, and the circumstances surrounding the 114128
abduction to indicate that activation of the alert will help 114129
locate the child. 114130

(C) Nothing in division (B) of this section prevents the 114131
activation of a local or regional emergency alert program that may 114132
impose different criteria for the activation of a local or 114133
regional plan. 114134

(D) Any radio broadcast station, television broadcast 114135
station, or cable television system participating in the statewide 114136

emergency alert program or in any local or regional emergency 114137
alert program, and any director, officer, employee, or agent of 114138
any such station or system, shall not be liable to any person for 114139
damages for any loss allegedly caused by or resulting from the 114140
station's or system's broadcast or cablecast of, or failure to 114141
broadcast or cablecast, any information pursuant to the statewide 114142
emergency alert program or the local or regional emergency alert 114143
program. 114144

(E) No person shall knowingly make a false report that a 114145
child has been abducted and that leads to the implementation of 114146
the statewide emergency alert program created under this section 114147
or that leads to the implementation of a local or regional 114148
emergency alert program. Whoever violates this division is guilty 114149
of a felony of the fourth degree. 114150

(F) As used in this section: 114151

(1) "Abducted child" means a child for whom there is credible 114152
evidence to believe that the child has been abducted in violation 114153
of section 2905.01, 2905.02, 2905.03, or 2905.05 of the Revised 114154
Code. 114155

(2) "Cable television system" means a cable system, as 114156
defined in section 2913.04 of the Revised Code. 114157

(3) "Law enforcement agency" includes, but is not limited to, 114158
a county sheriff's office, the office of a village marshal, a 114159
police department of a municipal corporation, a police force of a 114160
regional transit authority, a police force of a metropolitan 114161
housing authority, the state highway patrol, a state university 114162
law enforcement agency, the office of a township police constable, 114163
and the police department of a township or joint ~~township~~ police 114164
district. 114165

Sec. 5502.522. (A) There is hereby created the statewide 114166

emergency alert program to aid in the identification and location 114167
of any individual who has a mental impairment or is sixty-five 114168
years of age or older, who is or is believed to be a temporary or 114169
permanent resident of this state, is at a location that cannot be 114170
determined by an individual familiar with the missing individual, 114171
and is incapable of returning to the missing individual's 114172
residence without assistance, and whose disappearance, as 114173
determined by a law enforcement agency, poses a credible threat of 114174
immediate danger of serious bodily harm or death to the missing 114175
individual. The program shall be a coordinated effort among the 114176
governor's office, the department of public safety, the attorney 114177
general, law enforcement agencies, the state's public and 114178
commercial television and radio broadcasters, and others as 114179
determined necessary by the governor. No name shall be given to 114180
the program created under this division that conflicts with any 114181
alert code standards that are required by federal law and that 114182
govern the naming of emergency alert programs. 114183

(B) The statewide emergency alert program shall not be 114184
implemented unless all of the following activation criteria are 114185
met: 114186

(1) The local investigating law enforcement agency confirms 114187
that the individual is missing. 114188

(2) The individual is sixty-five years of age or older or has 114189
a mental impairment. 114190

(3) The disappearance of the individual poses a credible 114191
threat of immediate danger of serious bodily harm or death to the 114192
individual. 114193

(4) There is sufficient descriptive information about the 114194
individual and the circumstances surrounding the individual's 114195
disappearance to indicate that activation of the alert will help 114196
locate the individual. 114197

(C) Nothing in division (B) of this section prevents the 114198
activation of a local or regional emergency alert program that may 114199
impose different criteria for the activation of a local or 114200
regional plan. 114201

(D) Any radio broadcast station, television broadcast 114202
station, or cable system participating in the statewide emergency 114203
alert program or in any local or regional emergency alert program, 114204
and any director, officer, employee, or agent of any station or 114205
system participating in either type of alert program, shall not be 114206
liable to any person for damages for any loss allegedly caused by 114207
or resulting from the station's or system's broadcast or cablecast 114208
of, or failure to broadcast or cablecast, any information pursuant 114209
to the statewide emergency alert program or the local or regional 114210
emergency alert program. 114211

(E) A local investigating law enforcement agency shall not be 114212
required to notify the statewide emergency alert program that the 114213
law enforcement agency has received information that meets the 114214
activation criteria set forth in division (B) of this section 114215
during the first twenty-four hours after the law enforcement 114216
agency receives the information. 114217

(F) Nothing in this section shall be construed to authorize 114218
the use of the federal emergency alert system unless otherwise 114219
authorized by federal law. 114220

(G) As used in this section: 114221

(1) "Cable system" has the same meaning as in section 2913.04 114222
of the Revised Code. 114223

(2) "Law enforcement agency" includes, but is not limited to, 114224
a county sheriff's office, the office of a village marshal, a 114225
police department of a municipal corporation, a police force of a 114226
regional transit authority, a police force of a metropolitan 114227
housing authority, the state highway patrol, a state university 114228

law enforcement agency, the office of a township police constable, 114229
and the police department of a township or joint ~~township~~ police 114230
district. 114231

(3) "Mental impairment" means a substantial disorder of 114232
thought, mood, perception, orientation, or memory that grossly 114233
impairs judgment, behavior, or ability to live independently or 114234
provide self-care as certified by a licensed physician, 114235
psychiatrist, or psychologist. 114236

Sec. 5502.61. As used in sections 5502.61 to 5502.66 of the 114237
Revised Code: 114238

(A) "Federal criminal justice acts" means any federal law 114239
that authorizes financial assistance and other forms of assistance 114240
to be given by the federal government to the states to be used for 114241
the improvement of the criminal and juvenile justice systems of 114242
the states. 114243

(B)(1) "Criminal justice system" includes all of the 114244
functions of the following: 114245

(a) The state highway patrol, county sheriff offices, 114246
municipal and township police departments, and all other law 114247
enforcement agencies; 114248

(b) The courts of appeals, courts of common pleas, municipal 114249
courts, county courts, and mayor's courts, when dealing with 114250
criminal cases; 114251

(c) The prosecuting attorneys, city directors of law, village 114252
solicitors, and other prosecuting authorities when prosecuting or 114253
otherwise handling criminal cases, and the county and joint county 114254
public defenders and other public defender agencies or offices; 114255

(d) The department of rehabilitation and correction, 114256
probation departments, county and municipal jails and workhouses, 114257
and any other department, agency, or facility that is concerned 114258

with the rehabilitation or correction of criminal offenders; 114259

(e) Any public or private agency whose purposes include the 114260
prevention of crime or the diversion, adjudication, detention, or 114261
rehabilitation of criminal offenders; 114262

(f) Any public or private agency, the purposes of which 114263
include assistance to crime victims or witnesses. 114264

(2) The inclusion of any public or private agency, the 114265
purposes of which include assistance to crime victims or 114266
witnesses, as part of the criminal justice system pursuant to 114267
division (B)(1) of this section does not limit, and shall not be 114268
construed as limiting, the discretion or authority of the attorney 114269
general with respect to crime victim assistance and criminal 114270
justice programs. 114271

(C) "Juvenile justice system" includes all of the functions 114272
of the juvenile courts, the department of youth services, any 114273
public or private agency whose purposes include the prevention of 114274
delinquency or the diversion, adjudication, detention, or 114275
rehabilitation of delinquent children, and any of the functions of 114276
the criminal justice system that are applicable to children. 114277

(D) "Comprehensive plan" means a document that coordinates, 114278
evaluates, and otherwise assists, on an annual or multi-year 114279
basis, any of the functions of the criminal and juvenile justice 114280
systems of the state or a specified area of the state, that 114281
conforms to the priorities of the state with respect to criminal 114282
and juvenile justice systems, and that conforms with the 114283
requirements of all federal criminal justice acts. These functions 114284
may include, but are not limited to, any of the following: 114285

(1) Crime and delinquency prevention; 114286

(2) Identification, detection, apprehension, and detention of 114287
persons charged with criminal offenses or delinquent acts; 114288

(3) Assistance to crime victims or witnesses, except that the comprehensive plan does not include the functions of the attorney general pursuant to sections 109.91 and 109.92 of the Revised Code;	114289 114290 114291 114292
(4) Adjudication or diversion of persons charged with criminal offenses or delinquent acts;	114293 114294
(5) Custodial treatment of criminal offenders, delinquent children, or both;	114295 114296
(6) Institutional and noninstitutional rehabilitation of criminal offenders, delinquent children, or both.	114297 114298
(E) "Metropolitan county criminal justice services agency" means an agency that is established pursuant to division (A) of section 5502.64 of the Revised Code.	114299 114300 114301
(F) "Administrative planning district" means a district that is established pursuant to division (A) or (B) of section 5502.66 of the Revised Code.	114302 114303 114304
(G) "Criminal justice coordinating council" means a criminal justice services agency that is established pursuant to division (D) of section 5502.66 of the Revised Code.	114305 114306 114307
(H) "Local elected official" means any person who is a member of a board of county commissioners or township trustees or of a city or village council, judge of the court of common pleas, a municipal court, or a county court, sheriff, county coroner, prosecuting attorney, city director of law, village solicitor, or mayor.	114308 114309 114310 114311 114312 114313
(I) "Juvenile justice coordinating council" means a juvenile justice services agency that is established pursuant to division (D) of section 5502.66 of the Revised Code.	114314 114315 114316
(J) "Mcgruff house program" means a program in which individuals or families volunteer to have their homes or other	114317 114318

buildings serve as places of temporary refuge for children and to 114319
display the mcgruff house symbol identifying the home or building 114320
as that type of place. 114321

(K) "Mcgruff house symbol" means the symbol that is 114322
characterized by the image of "mcgruff," the crime dog, and the 114323
slogan "take a bite out of crime," and that has been adopted by 114324
the national crime prevention council as the symbol of its 114325
national citizens' crime prevention campaign. 114326

(L) "Sponsoring agency" means any of the following: 114327

(1) The board of education of any city, local, or exempted 114328
village school district; 114329

(2) The governing board of any educational service center; 114330

(3) The governing authority of any chartered nonpublic 114331
school; 114332

(4) The police department of any municipal corporation, 114333
township, township police district, or joint ~~township~~ police 114334
district; 114335

(5) The office of any township constable or county sheriff. 114336

Sec. 5502.68. (A) There is hereby created in the state 114337
treasury the drug law enforcement fund. Ninety-seven per cent of 114338
three dollars and fifty cents out of each ten-dollar court cost 114339
imposed pursuant to section 2949.094 of the Revised Code shall be 114340
credited to the fund. Money in the fund shall be used only in 114341
accordance with this section to award grants to counties, 114342
municipal corporations, townships, township police districts, and 114343
joint ~~township~~ police districts to defray the expenses that a drug 114344
task force organized in the county, or in the county in which the 114345
municipal corporation, township, or district is located, incurs in 114346
performing its functions related to the enforcement of the state's 114347
drug laws and other state laws related to illegal drug activity. 114348

114349

The division of criminal justice services shall administer 114350
all money deposited into the drug law enforcement fund and, by 114351
rule adopted under Chapter 119. of the Revised Code, shall 114352
establish procedures for a county, municipal corporation, 114353
township, township police district, or joint ~~township~~ police 114354
district to apply for money from the fund to defray the expenses 114355
that a drug task force organized in the county, or in the county 114356
in which the municipal corporation, township, or district is 114357
located, incurs in performing its functions related to the 114358
enforcement of the state's drug laws and other state laws related 114359
to illegal drug activity, procedures and criteria for determining 114360
eligibility of applicants to be provided money from the fund, and 114361
procedures and criteria for determining the amount of money to be 114362
provided out of the fund to eligible applicants. 114363

(B) The procedures and criteria established under division 114364
(A) of this section for applying for money from the fund shall 114365
include, but shall not be limited to, a provision requiring a 114366
county, municipal corporation, township, township police district, 114367
or joint ~~township~~ police district that applies for money from the 114368
fund to specify in its application the amount of money desired 114369
from the fund, provided that the cumulative amount requested in 114370
all applications submitted for any single drug task force may not 114371
exceed more than two hundred fifty thousand dollars in any 114372
calendar year for that task force. 114373

(C) The procedures and criteria established under division 114374
(A) of this section for determining eligibility of applicants to 114375
be provided money from the fund and for determining the amount of 114376
money to be provided out of the fund to eligible applicants shall 114377
include, but not be limited to, all of the following: 114378

(1) Provisions requiring that, in order to be eligible to be 114379

provided money from the fund, a drug task force that applies for 114380
money from the fund must provide evidence that the drug task force 114381
will receive a local funding match of at least twenty-five per 114382
cent of the task force's projected operating costs in the period 114383
of time covered by the grant; 114384

(2) Provisions requiring that money from the fund be 114385
allocated and provided to drug task forces that apply for money 114386
from the fund in accordance with the following priorities: 114387

(a) Drug task forces that apply, that are in existence on the 114388
date of the application, and that are determined to be eligible 114389
applicants, and to which either of the following applies shall be 114390
given first priority to be provided money from the fund: 114391

(i) Drug task forces that received funding through the 114392
division of criminal justice services in calendar year 2007; 114393

(ii) Drug task forces in a county that has a population that 114394
exceeds seven hundred fifty thousand. 114395

(b) If any moneys remain in the fund after all drug task 114396
forces that apply, that are in existence on the date of the 114397
application, that are determined to be eligible applicants, and 114398
that satisfy the criteria set forth in division (C)(2)(a)(i) or 114399
(ii) of this section are provided money from the fund as described 114400
in division (C)(2)(a) of this section, the following categories of 114401
drug task forces that apply and that are determined to be eligible 114402
applicants shall be given priority to be provided money from the 114403
fund in the order in which they apply for money from the fund: 114404

(i) Drug task forces that are not in existence on the date of 114405
the application; 114406

(ii) Drug task forces that are in existence on the date of 114407
the application but that do not satisfy the criteria set forth in 114408
division (C)(2)(a)(i) or (ii) of this section. 114409

(D) The procedures and criteria established under division 114410
(A) of this section for determining the amount of money to be 114411
provided out of the fund to eligible applicants shall include, but 114412
shall not be limited to, a provision specifying that the 114413
cumulative amount provided to any single drug task force may not 114414
exceed more than two hundred fifty thousand dollars in any 114415
calendar year. 114416

(E) As used in this section, "drug task force" means a drug 114417
task force organized in any county by the sheriff of the county, 114418
the prosecuting attorney of the county, the chief of police of the 114419
organized police department of any municipal corporation or 114420
township in the county, and the chief of police of the police 114421
force of any township police district or joint ~~township~~ police 114422
district in the county to perform functions related to the 114423
enforcement of state drug laws and other state laws related to 114424
illegal drug activity. 114425

Sec. 5505.04. (A)(1) The general administration and 114426
management of the state highway patrol retirement system and the 114427
making effective of this chapter are hereby vested in the state 114428
highway patrol retirement board. The board may sue and be sued, 114429
plead and be impleaded, contract and be contracted with, and do 114430
all things necessary to carry out this chapter. 114431

The board shall consist of the following members: 114432

(a) The superintendent of the state highway patrol; 114433

(b) Two retirant members who reside in this state; 114434

(c) Five employee-members; 114435

(d) One member, known as the treasurer of state's investment 114436
designee, who shall be appointed by the treasurer of state for a 114437
term of four years and who shall have the following 114438
qualifications: 114439

- (i) The member is a resident of this state. 114440
- (ii) Within the three years immediately preceding the 114441
appointment, the member has not been employed by the public 114442
employees retirement system, police and fire pension fund, state 114443
teachers retirement system, school employees retirement system, or 114444
state highway patrol retirement system or by any person, 114445
partnership, or corporation that has provided to one of those 114446
retirement systems services of a financial or investment nature, 114447
including the management, analysis, supervision, or investment of 114448
assets. 114449
- (iii) The member has direct experience in the management, 114450
analysis, supervision, or investment of assets. 114451
- (iv) The member is not currently employed by the state or a 114452
political subdivision of the state. 114453
- (e) Two investment expert members, who shall be appointed to 114454
four-year terms. One investment expert member shall be appointed 114455
by the governor, and one investment expert member shall be jointly 114456
appointed by the speaker of the house of representatives and the 114457
president of the senate. Each investment expert member shall have 114458
the following qualifications: 114459
- (i) Each investment expert member shall be a resident of this 114460
state. 114461
- (ii) Within the three years immediately preceding the 114462
appointment, each investment expert member shall not have been 114463
employed by the public employees retirement system, police and 114464
fire pension fund, state teachers retirement system, school 114465
employees retirement system, or state highway patrol retirement 114466
system or by any person, partnership, or corporation that has 114467
provided to one of those retirement systems services of a 114468
financial or investment nature, including the management, 114469
analysis, supervision, or investment of assets. 114470

(iii) Each investment expert member shall have direct 114471
experience in the management, analysis, supervision, or investment 114472
of assets. 114473

(2) The board shall annually elect a chairperson and 114474
vice-chairperson from among its members. The vice-chairperson 114475
shall act as chairperson in the absence of the chairperson. A 114476
majority of the members of the board shall constitute a quorum and 114477
any action taken shall be approved by a majority of the members of 114478
the board. The board shall meet not less than once each year, upon 114479
sufficient notice to the members. All meetings of the board shall 114480
be open to the public except executive sessions as set forth in 114481
division (G) of section 121.22 of the Revised Code, and any 114482
portions of any sessions discussing medical records or the degree 114483
of disability of a member excluded from public inspection by this 114484
section. 114485

(3) Any investment expert member appointed to fill a vacancy 114486
occurring prior to the expiration of the term for which the 114487
member's predecessor was appointed holds office until the end of 114488
such term. The member continues in office subsequent to the 114489
expiration date of the member's term until the member's successor 114490
takes office, or until a period of sixty days has elapsed, 114491
whichever occurs first. 114492

(B) The attorney general shall prescribe procedures for the 114493
adoption of rules authorized under this chapter, consistent with 114494
the provision of section 111.15 of the Revised Code under which 114495
all rules shall be filed in order to be effective. Such procedures 114496
shall establish methods by which notice of proposed rules are 114497
given to interested parties and rules adopted by the board 114498
published and otherwise made available. When it files a rule with 114499
the joint committee on agency rule review pursuant to section 114500
111.15 of the Revised Code, the board shall submit to the Ohio 114501
retirement study council a copy of the full text of the rule, and 114502

if applicable, a copy of the rule summary and fiscal analysis 114503
required by division (B) of section 127.18 of the Revised Code. 114504

(C)(1) As used in this division, "personal history record" 114505
means information maintained by the board on an individual who is 114506
a member, former member, retirant, or beneficiary that includes 114507
the address, telephone number, social security number, record of 114508
contributions, correspondence with the system, and other 114509
information the board determines to be confidential. 114510

(2) The records of the board shall be open to public 114511
inspection, except for the following which shall be excluded: the 114512
member's, former member's, retirant's, or beneficiary's personal 114513
history record and the amount of a monthly allowance or benefit 114514
paid to a retirant, beneficiary, or survivor, except with the 114515
written authorization of the individual concerned. 114516

(D) All medical reports and recommendations are privileged 114517
except as follows: 114518

(1) Copies of such medical reports or recommendations shall 114519
be made available to the individual's personal physician, 114520
attorney, or authorized agent upon written release received from 114521
such individual or such individual's agent, or when necessary for 114522
the proper administration of the fund to the board-assigned 114523
physician. 114524

(2) Documentation required by section 2929.193 of the Revised 114525
Code shall be provided to a court holding a hearing under that 114526
section. 114527

(E) Notwithstanding the exceptions to public inspection in 114528
division (C)(2) of this section, the board may furnish the 114529
following information: 114530

(1) If a member, former member, or retirant is subject to an 114531
order issued under section 2907.15 of the Revised Code or an order 114532
issued under division (A) or (B) of section 2929.192 of the 114533

Revised Code or is convicted of or pleads guilty to a violation of 114534
section 2921.41 of the Revised Code, on written request of a 114535
prosecutor as defined in section 2935.01 of the Revised Code, the 114536
board shall furnish to the prosecutor the information requested 114537
from the individual's personal history record. 114538

(2) Pursuant to a court order issued under Chapters 3119., 114539
3121., and 3123. of the Revised Code, the board shall furnish to a 114540
court or child support enforcement agency the information required 114541
under those chapters. 114542

(3) At the written request of any nonprofit organization or 114543
association providing services to retirement system members, 114544
retirants, or beneficiaries, the board shall provide to the 114545
organization or association a list of the names and addresses of 114546
members, former members, retirants, or beneficiaries if the 114547
organization or association agrees to use such information solely 114548
in accordance with its stated purpose of providing services to 114549
such individuals and not for the benefit of other persons, 114550
organizations, or associations. The costs of compiling, copying, 114551
and mailing the list shall be paid by such entity. 114552

(4) Within fourteen days after receiving from the director of 114553
job and family services a list of the names and social security 114554
numbers of recipients of public assistance pursuant to section 114555
5101.181 of the Revised Code, the board shall inform the auditor 114556
of state of the name, current or most recent employer address, and 114557
social security number of each member whose name and social 114558
security number are the same as those of a person whose name or 114559
social security number was submitted by the director. The board 114560
and its employees, except for purposes of furnishing the auditor 114561
of state with information required by this section, shall preserve 114562
the confidentiality of recipients of public assistance in 114563
compliance with ~~division (A)~~ of section 5101.181 of the Revised 114564
Code. 114565

(5) The system shall comply with orders issued under section 114566
3105.87 of the Revised Code. 114567

On the written request of an alternate payee, as defined in 114568
section 3105.80 of the Revised Code, the system shall furnish to 114569
the alternate payee information on the amount and status of any 114570
amounts payable to the alternate payee under an order issued under 114571
section 3105.171 or 3105.65 of the Revised Code. 114572

(6) At the request of any person, the board shall make 114573
available to the person copies of all documents, including 114574
resumes, in the board's possession regarding filling a vacancy of 114575
an employee member or retirant member of the board. The person who 114576
made the request shall pay the cost of compiling, copying, and 114577
mailing the documents. The information described in this division 114578
is a public record. 114579

(7) The system shall provide the notice required by section 114580
5505.263 of the Revised Code to the prosecutor assigned to the 114581
case. 114582

(F) A statement that contains information obtained from the 114583
system's records that is certified and signed by an officer of the 114584
retirement system and to which the system's official seal is 114585
affixed, or copies of the system's records to which the signature 114586
and seal are attached, shall be received as true copies of the 114587
system's records in any court or before any officer of this state. 114588

Sec. 5505.22. The right of any individual to a pension, or to 114589
the return of accumulated contributions, payable as provided under 114590
this chapter, and all moneys and investments of the state highway 114591
patrol retirement system and income from moneys or investments are 114592
exempt from any state tax, except the tax imposed by section 114593
5747.02 of the Revised Code, and are exempt from any county, 114594
municipal, or other local tax, except income taxes imposed 114595
pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised 114596

Code, and, except as provided in sections 3105.171, 3105.65, 114597
3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 5505.26, 114598
5505.262, and 5505.263 of the Revised Code, shall not be subject 114599
to execution, garnishment, attachment, the operation of bankruptcy 114600
or insolvency laws, or any other process of law whatsoever, and 114601
shall be unassignable except as specifically provided in this 114602
chapter. 114603

Sec. 5525.04. No bidder shall be given a certificate of 114604
qualification unless the bidder's financial statement and the 114605
investigation made by the director of transportation show that the 114606
bidder possesses net current assets or working capital sufficient, 114607
in the judgment of the director, to render it probable that the 114608
bidder can satisfactorily execute the bidder's contracts and meet 114609
all contractual obligations. Any applicant desiring a certificate 114610
of qualification in an amount of ~~two~~ five million dollars or more 114611
shall submit on forms prescribed by the director a financial audit 114612
prepared and attested as correct by an independent certified 114613
public accountant. Any applicant desiring a certificate of 114614
qualification in an amount that is less than ~~two~~ five million 114615
dollars shall submit a financial review on forms prescribed by the 114616
director. The aggregate amount of work set forth in either type of 114617
certificate of qualification shall not exceed ten times the 114618
applicant's net current assets or working capital. At the time of 114619
bidding, a bidder's qualification is determined by the bidder's 114620
qualification amount minus all of the bidder's pending work. 114621

Applicants for qualification shall expressly authorize the 114622
director to obtain any information that the director considers 114623
pertinent, with respect to the financial worth, assets, and 114624
liabilities of the applicant, from banks or other financial 114625
institutions, surety companies, dealers in material, equipment, or 114626
supplies, or other persons having business transactions with the 114627
applicant. Applicants shall expressly authorize all such financial 114628

institutions or other persons to furnish any such information 114629
requested from them by the director. All information filed with or 114630
furnished to the director by applicants or other persons, in 114631
connection with the administration of sections 5525.02 to 5525.09 114632
of the Revised Code, shall be kept in confidence by the director 114633
and not revealed to any person, except upon proper order of a 114634
court. Failure to submit the required information or to expressly 114635
grant the director authority to obtain the required information 114636
shall result in the denial of a certificate of qualification. The 114637
director or the director's subordinates shall have access to the 114638
books of account and financial records of all applicants, unless 114639
the financial statement furnished by any applicant is prepared and 114640
attested as correct by a certified public accountant. 114641

If an applicant for either type of certificate of 114642
qualification is or has been an employer in this state the 114643
application shall be accompanied by satisfactory evidence that the 114644
applicant has complied with Chapter 4123. of the Revised Code. 114645

The director may require all qualified bidders to file 114646
financial statements at such intervals as the director prescribes. 114647
Sections 5525.02 to 5525.09 of the Revised Code shall be 114648
administered without reference to the residence of applicants, and 114649
the rules of the director shall apply equally to residents and 114650
nonresidents of this state. Sections 5525.02 to 5525.09 of the 114651
Revised Code, do not apply to the purchase of material, equipment, 114652
or supplies. 114653

Sec. 5540.03. (A) A transportation improvement district may: 114654

(1) Adopt bylaws for the regulation of its affairs and the 114655
conduct of its business; 114656

(2) Adopt an official seal; 114657

(3) Sue and be sued in its own name, plead and be impleaded, 114658

provided any actions against the district shall be brought in the 114659
court of common pleas of the county in which the principal office 114660
of the district is located, or in the court of common pleas of the 114661
county in which the cause of action arose, and all summonses, 114662
exceptions, and notices of every kind shall be served on the 114663
district by leaving a copy thereof at its principal office with 114664
the secretary-treasurer; 114665

(4) Purchase, construct, maintain, repair, sell, exchange, 114666
police, operate, or lease projects; 114667

(5) Issue either or both of the following for the purpose of 114668
providing funds to pay the costs of any project or part thereof: 114669

(a) Transportation improvement district revenue bonds; 114670

(b) Bonds pursuant to Section 13 of Article VIII, Ohio 114671
Constitution; 114672

(6) Maintain such funds as it considers necessary; 114673

(7) Direct its agents or employees, when properly identified 114674
in writing and after at least five days' written notice, to enter 114675
upon lands within its jurisdiction to make surveys and 114676
examinations preliminary to the location and construction of 114677
projects for the district, without liability of the district or 114678
its agents or employees except for actual damage done; 114679

(8) Make and enter into all contracts and agreements 114680
necessary or incidental to the performance of its functions and 114681
the execution of its powers under this chapter; 114682

(9) Employ or retain or contract for the services of 114683
consulting engineers, superintendents, managers, and such other 114684
engineers, construction and accounting experts, financial 114685
advisers, trustees, marketing, remarketing, and administrative 114686
agents, attorneys, and other employees, independent contractors, 114687
or agents as are necessary in its judgment and fix their 114688

compensation, provided all such expenses shall be payable solely 114689
from the proceeds of bonds or from revenues; 114690

(10) Receive and accept from the federal or any state or 114691
local government, including, but not limited to, any agency, 114692
entity, or instrumentality of any of the foregoing, loans and 114693
grants for or in aid of the construction, maintenance, or repair 114694
of any project, and receive and accept aid or contributions from 114695
any source or person of money, property, labor, or other things of 114696
value, to be held, used, and applied only for the purposes for 114697
which such loans, grants, and contributions are made. Nothing in 114698
division (A)(10) of this section shall be construed as imposing 114699
any liability on this state for any loan received by a 114700
transportation improvement district from a third party unless this 114701
state has entered into an agreement to accept such liability. 114702

(11) Acquire, hold, and dispose of property in the exercise 114703
of its powers and the performance of its duties under this 114704
chapter; 114705

(12) Establish and collect tolls or user charges for its 114706
projects; 114707

(13) Do all acts necessary and proper to carry out the powers 114708
expressly granted in this chapter. 114709

(B) Chapters 123., 124., 125., 153., and 4115., and sections 114710
9.331, ~~9.332, 9.333~~, to 9.336 and 307.86 of the Revised Code do 114711
not apply to contracts or projects of a transportation improvement 114712
district. 114713

Sec. 5540.031. (A) The board of trustees of a transportation 114714
improvement district may provide for the construction, 114715
reconstruction, improvement, alteration, or repair of any road, 114716
highway, public place, building, or other infrastructure and levy 114717
special assessments, if the board determines that the public 114718

improvement will benefit the area where it will be constructed, 114719
reconstructed, improved, altered, or repaired. However, if the 114720
improvement is proposed for territory in a political subdivision 114721
located outside the district's territory, the legislative 114722
authority of that political subdivision shall approve the 114723
undertaking of the improvement within the political subdivision. 114724

(B) If any improvements are made under this section, 114725
contracts for the improvement may provide that the improvement may 114726
be owned by the district or by the person or corporation supplying 114727
it to the district under a lease. 114728

(C) If the board of trustees of a district proposes an 114729
improvement described in division (A) of this section, the board 114730
shall conduct a hearing on the proposed improvement. The board 114731
shall indicate by metes and bounds the area in which the public 114732
improvement will be made and the area that will benefit from the 114733
improvement. 114734

(D) The board of trustees shall fix a day for a hearing on 114735
the proposed improvement. The secretary-treasurer of the board 114736
shall deliver, to each owner of a parcel of land or a lot that the 114737
board identifies as benefiting from the proposed improvement, a 114738
notice that sets forth the substance of the proposed improvement 114739
and the time and place of the hearing on it. At least fifteen days 114740
before the date set for the hearing, a copy of the notice shall be 114741
served upon the owner or left at ~~his~~ the owner's usual place of 114742
residence, or, if the owner is a corporation, upon an officer or 114743
agent of the corporation. On or before the day of the hearing, the 114744
person serving notice of the hearing shall make return thereon, 114745
under oath, of the time and manner of service, and shall file the 114746
notice with the secretary-treasurer of the board. 114747

At least fifteen days before the day set for the hearing on 114748
the proposed improvement, the secretary-treasurer shall give 114749
notice to each nonresident owner of a lot or parcel of land in the 114750

area to be benefited by the improvement, by publication once in a newspaper ~~published and~~ of general circulation in the one or more counties in which this area is located. The publication of the notice shall be verified by affidavit of the printer or other person having knowledge of the publication and shall be filed with the secretary-treasurer of the district on or before the date of the hearing.

(E) At the time and place specified in the notice for a hearing on the proposed improvement, the board of trustees of the district shall meet and hear any and all testimony provided by any of the parties affected by the proposed improvement and by any other persons competent to testify. The board or its representatives shall inspect, by an actual viewing, the area to be benefited by the proposed improvement. The board shall determine the necessity of the proposed improvement and may find that the proposed improvement will result in general as well as special benefits. The board may adjourn from time to time and to such places as it considers necessary.

(F)(1) The board may award contracts or enter into a lease agreement for the construction, reconstruction, improvement, alteration, or repair of any improvement described in division (A) of this section and may issue notes, bonds, revenue anticipatory instruments, or other obligations, as authorized by this chapter, to finance the improvements.

(2) All or a part of the costs and expenses of providing for the construction, reconstruction, improvement, alteration, or repair of any improvement described in division (F)(1) of this section may be paid from a fund into which may be paid special assessments levied under this section against the lots and parcels of land in the area to be benefited by the improvement, if the board finds that the improvement will result in general or special benefits to the benefited area. These special assessments shall be

levied not more than one time on the same lot or parcel of land. 114783
Such costs and expenses may also be paid from the treasury of the 114784
district or from other available sources in amounts the board 114785
finds appropriate. 114786

(3) The board shall levy special assessments at an amount not 114787
to exceed ten per cent of the assessable value of the lot or 114788
parcel of land being assessed. The board shall determine the 114789
assessable value of a lot or parcel of land in the following 114790
manner: the board shall first determine the fair market value of 114791
the lot or parcel being assessed in the calendar year in which the 114792
area to be benefited by the public improvement is first designated 114793
and then multiply this amount by the average rate of appreciation 114794
in value of the lot or parcel since that calendar year. The 114795
assessable value of the lot or parcel is the current fair market 114796
value of the lot or parcel minus the amount calculated in the 114797
manner described in the immediately preceding sentence. The board 114798
may adjust the assessable value of a lot or parcel of land to 114799
reflect a sale of the lot or parcel that indicates an appreciation 114800
in its value that exceeds its average rate of appreciation in 114801
value. 114802

(4) Special assessments levied by the board may be paid in 114803
full in a lump sum or may be paid and collected in equal 114804
semiannual installments, equal in number to twice the number of 114805
years for which the lease of the improvement is made or twice the 114806
number of years that the note, bond, instrument, or obligation 114807
that the assessments are pledged to pay requires. The assessments 114808
shall be paid and collected in the same manner and at the same 114809
time as real property taxes are paid and collected, and 114810
assessments in the amount of fifty dollars or less shall be paid 114811
in full, and not in installments, at the time the first or next 114812
installment would otherwise become due and payable. Complaints 114813
regarding assessments may be made to the county board of revision 114814

in the same manner as complaints relating to the valuation and 114815
assessment of real property. 114816

Credits against assessments shall be granted equal to the 114817
value of any construction, reconstruction, improvement, 114818
alteration, or repair that an owner of a parcel of land or lot 114819
makes to an improvement pursuant to an agreement between the owner 114820
and the district. 114821

(5) After the levy of a special assessment, the board, at any 114822
time during any year in which an installment of the assessment 114823
becomes due, may pay out of other available funds of the district, 114824
including any state or federal funds available to the district, 114825
the full amount of the price of the contract that the special 114826
assessments are pledged to pay for that year or any other portion 114827
of the remaining obligation. The board shall be the sole 114828
determiner of the definition, extent, and allocation of the 114829
benefit resulting from an improvement that the board authorizes 114830
under this section. 114831

(G)(1) The board shall certify to the appropriate county 114832
auditor the boundaries of the area that is benefited by any public 114833
improvement the board authorizes under this section and, when the 114834
board so requests, the auditor shall apportion the valuation of 114835
any lot or parcel of land lying partly within and partly outside 114836
the area so benefited. 114837

(2) The board by resolution shall assess against the lots and 114838
parcels of land located in the area that is benefited by a public 114839
improvement such portion of the costs of completing the public 114840
improvement as the board determines, for the period that may be 114841
necessary to pay the note, bond, instrument, or obligation issued 114842
to pay for the improvement and the proceedings in relation to it, 114843
and shall certify these costs to the appropriate county auditor. 114844

(3) Except for assessments that have been paid in full in a 114845

lump sum, the county auditor shall annually place upon the tax 114846
duplicate, for collection in semiannual installments, the two 114847
installments of the assessment for that year, which shall be paid 114848
and collected at the same time and in the same manner as real 114849
property taxes. The collected assessments shall be paid to the 114850
treasury of the district and the board of the district shall use 114851
the assessments for any purpose authorized by this chapter. 114852

Sec. 5540.05. The board of trustees of a district may acquire 114853
real property in fee simple in the name of the district in 114854
connection with, but in excess of that needed for, a project by 114855
any method other than appropriation and hold the property for such 114856
period of time as the board determines. All right, title, and 114857
interest of the district in the property may be sold at public 114858
auction or otherwise, as the board considers in the best interests 114859
of the district; but in no event shall the property be sold for 114860
less than two-thirds of its appraised value. Sale at public 114861
auction shall be undertaken only after the board advertises the 114862
sale in a newspaper of general circulation in the district for ~~at~~ 114863
~~least~~ two weeks or as provided in section 7.16 of the Revised 114864
Code, prior to the date set for the sale. 114865

Sec. 5543.10. (A) The county engineer, upon the order of the 114866
board of county commissioners or board of township trustees, shall 114867
construct sidewalks, curbs, or gutters of suitable materials, 114868
along or connecting the public highways, outside any municipal 114869
corporation, upon the petition of a majority of the abutting 114870
property owners. The expense of the construction of these 114871
improvements may be paid by the county or township, or by the 114872
county or township and abutting property owners in such proportion 114873
as determined by the board of county commissioners or board of 114874
township trustees. The board of county commissioners or board of 114875
township trustees may assess part or all of the cost of these 114876

improvements against the abutting property owners, in proportion 114877
to benefits accruing to their property. 114878

The board of county commissioners or board of township 114879
trustees, by unanimous vote, may order the construction, repair, 114880
or maintenance of sidewalks, curbs, and gutters along or 114881
connecting the public highways, outside a municipal corporation, 114882
without a petition for that construction, repair, or maintenance, 114883
and may assess none, all, or any part of the cost against abutting 114884
property owners, provided that notice is given by publication for 114885
three successive weeks in a newspaper of general circulation 114886
within the county or as provided in section 7.16 of the Revised 114887
Code, stating the intention of the board of county commissioners 114888
or board of township trustees to construct, repair, or maintain 114889
the specified improvements and fixing a date for a hearing on 114890
them. As part of a sidewalk improvement, the board may include the 114891
repair or reconstruction of a driveway within the sidewalk 114892
easement. As part of a curb improvement, the board may include 114893
construction or repair of a driveway apron. 114894

Notice to all abutting property owners shall be given by two 114895
publications in a newspaper of general circulation in the county 114896
or as provided in section 7.16 of the Revised Code, at least ten 114897
days prior to the date fixed in the notice for the making of 114898
assessments. The notice shall state the time and place when 114899
abutting property owners will be given an opportunity to be heard 114900
with reference to assessments. The board of county commissioners 114901
or board of township trustees shall determine whether assessments 114902
shall be paid in one or more installments. 114903

(B) The county engineer may trim or remove any and all trees, 114904
shrubs, and other vegetation growing in or encroaching onto the 114905
right-of-way of the easement of a public sidewalk along or 114906
connecting the public highways and maintained by the county, and 114907
the board of township trustees may trim or remove any and all 114908

trees, shrubs, and other vegetation growing in or encroaching onto 114909
the right-of-way of the easement of a public sidewalk along or 114910
connecting the public highways and maintained by the township, as 114911
is necessary in the engineer's or board's judgment to facilitate 114912
the right of the public to improvement and maintenance of, and 114913
uninterrupted travel on, public sidewalks in the county or 114914
township. 114915

Sec. 5549.21. The board of township trustees may purchase or 114916
lease such machinery and tools as are necessary for use in 114917
constructing, reconstructing, maintaining, and repairing roads and 114918
culverts within the township, and shall provide suitable places 114919
for housing and storing machinery and tools owned by the township. 114920
It may purchase such material and employ such labor as is 114921
necessary for carrying into effect this section, or it may 114922
authorize the purchase or employment of such material and labor by 114923
one of its number, or by the township highway superintendent, at a 114924
price to be fixed by the board. All payments on account of 114925
machinery, tools, material, and labor shall be made from the 114926
township road fund. Except as otherwise provided in sections 114927
505.08, 505.101, and 5513.01 of the Revised Code, all purchases of 114928
materials, machinery, and tools shall, if the amount involved 114929
exceeds ~~twenty-five~~ fifty thousand dollars, be made from the 114930
lowest responsible bidder after advertisement, as provided in 114931
section 5575.01 of the Revised Code. 114932

If, in compliance with section 505.10 of the Revised Code, 114933
the board wishes to sell machinery, equipment, or tools owned by 114934
the township to the person from whom it is to purchase other 114935
machinery, equipment, or tools, the board may offer, if the amount 114936
of the purchase alone involved does not exceed ~~twenty-five~~ fifty 114937
thousand dollars, to sell such machinery, equipment, or tools and 114938
have the amount credited by the vendor against the purchase of the 114939
other machinery, equipment, or tools. If the purchase price of the 114940

other machinery, equipment, or tools alone exceeds ~~twenty-five~~ 114941
fifty thousand dollars, the board may give notice to the 114942
competitive bidders of its willingness to accept offers for the 114943
purchase of the old machinery, equipment, or tools, and those 114944
offers shall be subtracted from the selling price of the other 114945
machinery, equipment, or tools as bid, in determining the lowest 114946
responsible bidder. Notice of the willingness of the board to 114947
accept offers for the purchase of the old machinery, equipment, or 114948
tools shall be made as a part of the advertisement for bids. 114949

Sec. 5552.06. (A) A board of county commissioners or a board 114950
of township trustees may adopt access management regulations or 114951
any amendments to those regulations after holding at least two 114952
public hearings at regular or special sessions of the board. The 114953
board shall consider the county engineer's proposed regulations 114954
prepared under division (B) of section 5552.04 or 5552.05 of the 114955
Revised Code and all comments on those regulations. The board, in 114956
its discretion, may, but need not, adopt any or all of those 114957
proposed regulations. After the public hearings, the board may 114958
decide not to adopt any access management regulations. 114959

The board shall publish notice of the public hearings in a 114960
newspaper of general circulation in the county or township, as 114961
applicable, once a week for ~~at least~~ two weeks or as provided in 114962
section 7.16 of the Revised Code, immediately preceding the 114963
hearings. The notice shall include the time, date, and place of 114964
each hearing. Copies of any proposed regulations or amendments 114965
shall be made available to the public at the board's office and, 114966
if the county engineer administers or is proposed to administer a 114967
point of access permit, in the engineer's office. 114968

(B) In addition to the notice required by division (A) of 114969
this section, not less than thirty days before holding a public 114970
hearing, a board of county commissioners shall send a copy of the 114971

county engineer's proposed regulations, a copy of the advisory 114972
committee's recommendations, and a request for written comments to 114973
the board of township trustees of each township in the county, the 114974
department of transportation district deputy director for the 114975
district in which the county is located, a representative of the 114976
metropolitan planning organization, where applicable, and at least 114977
the local professional associations representing the following 114978
professions: 114979

(1) Homebuilders; 114980

(2) Realtors; 114981

(3) Professional surveyors; 114982

(4) Attorneys; 114983

(5) Professional engineers. 114984

(C) In addition to the notice required by division (A) of 114985
this section, a board of township trustees shall send a copy of 114986
the county engineer's proposed regulations, a copy of the advisory 114987
committee's recommendations, and a request for written comments, 114988
not less than thirty days before holding a public hearing, to the 114989
department of transportation district deputy director for the 114990
district in which the township is located, a representative of the 114991
metropolitan planning organization, where applicable, and at least 114992
the local professional associations representing the professions 114993
listed in division (B) of this section. 114994

Sec. 5553.05. (A) In the resolution required by section 114995
5553.04 of the Revised Code, the board of county commissioners 114996
shall fix a date when it will view the proposed improvement, and 114997
also a date for a final hearing thereon. 114998

The board shall give notice of the time and place for both 114999
such view and hearing by publication once a week for two 115000
consecutive weeks in a newspaper ~~published and having~~ of general 115001

circulation in the county where such improvement is located, ~~but~~ 115002
~~if there is no such newspaper published in said county, then in a~~ 115003
~~newspaper having general circulation in said county or as provided~~ 115004
in section 7.16 of the Revised Code. Such notice, in addition to 115005
the date and place of such view and place and time of the final 115006
hearing, shall state briefly the character of such improvement. 115007

(B) If the board adopts a resolution to vacate a public road 115008
as provided in section 5553.04 of the Revised Code, or if a 115009
petition to vacate a public road is filed, the board shall, in 115010
addition to the notice of the time and place for hearing 115011
prescribed in division (A) of this section, send written notice of 115012
the hearing by first class mail at least twenty days before the 115013
date of the public hearing to owners of property abutting upon 115014
that portion of the road to be vacated, and to the director of 115015
natural resources. Such notice shall be mailed to the addresses of 115016
such owners appearing on the county auditor's current tax list or 115017
the treasurer's mailing list, and such other list or lists that 115018
may be specified by the board. The failure of the delivery of such 115019
notice does not invalidate any such vacating of the road 115020
authorized in the resolution. 115021

Sec. 5553.19. The county engineer shall view and survey the 115022
road as provided in section 5553.18 of the Revised Code, and shall 115023
make a return of the survey and plat of the road to the board of 115024
county commissioners. Upon the filing of the report of the 115025
engineer, the board shall give notice of the filing of such report 115026
by publication as provided in section 7.16 of the Revised Code or 115027
once each week for three consecutive weeks in a newspaper 115028
~~published and having~~ of general circulation in the county in which 115029
such road is situated, ~~but if there is no such newspaper published~~ 115030
~~in said county, then in a newspaper having general circulation in~~ 115031
~~said county.~~ Such notice shall state the date and time of the 115032
hearing upon the report of the engineer. If exceptions or 115033

objections are made, the board shall hear them, and it may approve 115034
or reject said report. If the report of the engineer is approved, 115035
the board shall cause such report to be recorded together with the 115036
survey and plat of such road. 115037

Sec. 5553.23. If a person through whose land a public road 115038
has been established, which is under the jurisdiction of the board 115039
of county commissioners, desires to turn or change or relocate 115040
such road or any part thereof through any part of ~~his~~ the person's 115041
land, ~~he~~ the person may file a petition with the board of county 115042
commissioners setting forth briefly the particular change ~~he~~ 115043
~~desires~~ desired. Upon the receipt of such petition, the board 115044
shall give notice by publication once not later than two weeks 115045
prior to the date for the hearing on such petition in ~~some a~~ 115046
newspaper ~~published and~~ of general circulation in said county, ~~but~~ 115047
~~if there is no such newspaper published in said county, then in a~~ 115048
~~newspaper having general circulation in said county,~~ stating that 115049
such petition has been filed and setting forth the change desired 115050
in such road and the date and place for the hearing on said 115051
petition. If a public road was once established for public 115052
convenience through private lands, but has not been improved by 115053
public funds and for more than twenty-one years has not been used, 115054
the owner of such land may petition the board to vacate the road 115055
in accordance with proceedings under sections 5553.04 to 5553.11 115056
of the Revised Code. 115057

A person through whose land a trail right of way has been 115058
preserved under section 5553.044 of the Revised Code may file a 115059
petition to turn or change the route of the trail right of way in 115060
the manner provided in this section, and such petition shall be 115061
acted upon in the manner set forth in sections 5553.23 to 5553.31 115062
of the Revised Code. Notice of the hearing in such case shall also 115063
be made by first class mail to the director of natural resources. 115064
If the board turns or changes the route of the trail right of way, 115065

it shall furnish the director with a full and accurate description 115066
or map of the change. 115067

Sec. 5553.42. The board of county commissioners shall give 115068
notice to the owners of lands through which the proposed road will 115069
pass of the filing of the petition provided for in section 5553.41 115070
of the Revised Code and the date and place of the hearing thereon. 115071
Such notice shall be served on such owners personally, or by 115072
leaving a copy of such notice at the usual place of residence of 115073
such owners at least five days before the date of the hearing on 115074
said petition. Proof of service of such notice shall be made by 115075
affidavit of the person serving such notice. If any of such owners 115076
are nonresidents of the county, the board shall give notice to 115077
such nonresidents by publication once each week for two 115078
consecutive weeks in a newspaper ~~published and having~~ of general 115079
circulation ~~within in~~ the county, ~~but if there is no such~~ 115080
~~newspaper published in said county, then in a newspaper having~~ 115081
~~general circulation in said county~~ or as provided in section 7.16 115082
of the Revised Code. A copy of the newspaper containing such 115083
notice shall be mailed by the county auditor to each nonresident 115084
whose post-office address is known to such auditor. Such notice 115085
shall state the time and place of the hearing on claims for 115086
compensation and damages. 115087

Sec. 5555.07. The county engineer shall prepare and file with 115088
the board of county commissioners, by the time fixed therefor by 115089
the board, copies of the surveys, plans, profiles, cross sections, 115090
estimates of costs, and specifications for the improvement and 115091
estimated assessments upon lands benefited thereby. Thereupon such 115092
board shall file such copies in its office for the inspection and 115093
examination of all persons interested. Except in a case involving 115094
the improvement of a public road in which no land or property is 115095
taken or assessed, the board shall publish in a newspaper 115096

~~published and of general circulation in the county, or if no~~ 115097
~~newspaper is published in the county then in a newspaper having~~ 115098
~~general circulation in the county,~~ for the period of two weeks or 115099
as provided in section 7.16 of the Revised Code, notice that a 115100
resolution has been adopted providing for said improvement, and 115101
that copies of the surveys, plans, profiles, cross sections, 115102
estimates, and specifications, together with estimated assessments 115103
upon the lands benefited by such improvement for the proportion of 115104
the cost thereof to be assessed therefor, are on file in the 115105
office of the board for the inspection of persons interested 115106
therein. Such notice shall state the time and place for hearing 115107
objections to said improvement and to such estimated assessments. 115108
In a case involving the improvement of a public road in which no 115109
land or property is taken or assessed, the board shall publish the 115110
notice required by this section once a week for two consecutive 115111
weeks or as provided in section 7.16 of the Revised Code. 115112

115113

At such hearing the board may order said surveys, plans, 115114
profiles, cross sections, estimates, and specifications to be 115115
changed or modified and shall make such adjustments of the 115116
estimated assessments as seem just to it. Thereupon the board may 115117
approve such surveys, plans, profiles, cross sections, 115118
specifications, and estimates and approve and confirm estimated 115119
assessments as made by the engineer or as modified and changed by 115120
the board. Such assessments when so approved and confirmed shall 115121
be certified to the county auditor of the county and shall 115122
thereupon become a lien upon the land charged therewith. The board 115123
may declare against said improvement. 115124

Sec. 5555.27. As soon as the county engineer has transmitted 115125
to the several boards of county commissioners copies of ~~his~~ the 115126
engineer's surveys, plans, profiles, cross sections, estimates, 115127
and specifications for the improvement, the joint board of county 115128

commissioners shall, except in cases of reconstruction or repair 115129
of roads where no lands or property are taken, fix a time and 115130
place for hearing objections to said improvement. The joint board 115131
shall thereupon, except in cases of reconstruction or repair of 115132
roads where no lands or property are taken, publish in a newspaper 115133
~~published and~~ of general circulation within each interested 115134
county, ~~or if there is no such newspaper published in such county~~ 115135
~~then in a newspaper having general circulation in such county,~~ 115136
once a week for two consecutive weeks or as provided in section 115137
7.16 of the Revised Code, a notice that such improvement is to be 115138
made and that copies of the surveys, plans, profiles, cross 115139
sections, estimates, and specifications therefor are on file in 115140
the office of the board of each interested county for the 115141
inspection and examination of all persons interested therein. Such 115142
notice shall also state the time and place for hearing objections 115143
to said improvement. Proceedings for the appropriation of land 115144
needed for such improvement shall be maintained in accordance with 115145
sections 163.01 to 163.22, ~~inclusive,~~ of the Revised Code. 115146

Sec. 5555.42. A board of county commissioners desiring to 115147
construct a county road improvement, and finding that no equitable 115148
method of apportioning the compensation, damages, and expenses 115149
thereof is provided by section 5555.41 of the Revised Code, or 115150
finding that an equitable assessment cannot be made by the use of 115151
any of the several assessment areas authorized by said section, 115152
may order the county engineer to make a tentative plan for such 115153
improvement and an approximate estimate of the cost. Such board 115154
may thereupon file an application in the court of common pleas 115155
describing the improvement in question, and a copy of the 115156
tentative plan and approximate estimate of cost shall be attached 115157
to such application. The board shall set forth in such application 115158
that the compensation, damages, and expenses of the improvement 115159
cannot be equitably apportioned under any of the several plans 115160

provided by said section or that such compensation, damages, and 115161
expenses cannot be equitably assessed by the use of any one of the 115162
several assessment areas authorized by said section, or that both 115163
such conditions exist, and it shall set forth a method of 115164
apportioning the compensation, damages, and expenses and a 115165
definite description of the area against which it desires to 115166
assess any part of such compensation, damages, and expenses. The 115167
application shall contain a prayer requesting authority from such 115168
court to construct the improvement and apportion the compensation, 115169
damages, and expenses according to the plan suggested by such 115170
board and to assess the designated portion of the cost against the 115171
real estate within the area described in the petition. 115172

Notice of the filing and pendency of such application shall 115173
be given once a week for four consecutive weeks by publication in 115174
~~two newspapers published and of general circulation in the county,~~ 115175
~~or if there are no such newspapers then in two newspapers a~~ 115176
newspaper of general circulation in such county or as provided in 115177
section 7.16 of the Revised Code. Such notice shall describe the 115178
route and termini of the improvement and set forth the estimated 115179
cost and the proposed method of apportionment and assessment area. 115180
After such notice has been given, the court or a judge thereof 115181
shall fix a time for a hearing on such application, and, at the 115182
time fixed, the court or a judge thereof shall hear such 115183
application and all evidence offered by the board or any taxpayer 115184
of the county for or against the proposed plan of apportionment 115185
and for or against the use of the suggested assessment area. If 115186
the court finds that the suggested plan of apportionment and the 115187
area against which special assessments are to be made are fair and 115188
just, that the cost of the improvement will not be excessive in 115189
view of the benefits conferred, and that all the real estate 115190
within the suggested assessment area will be benefited by the 115191
construction of the improvement upon the plan suggested and by the 115192
use of the method of apportionment set forth in said application, 115193

such court may authorize the board to proceed upon the suggested 115194
plan and to apportion the compensation, damages, and expenses in 115195
the manner set forth in the application and to assess against the 115196
real estate within the assessment area designated in the 115197
application, according to the benefits, that portion of the cost 115198
to be specially assessed; otherwise the court shall dismiss the 115199
application and the board may not proceed with the improvement. 115200
The court may modify the suggested plan of apportionment or the 115201
suggested assessment area and grant the prayer of the application 115202
subject to such modifications as it determines are just and 115203
proper. The board in its application may set up any division of 115204
cost which it thinks proper among the county, the owners of lands 115205
to be specially assessed, and any municipal corporation within 115206
which such projected improvement is situated in whole or in part, 115207
but no portion of the cost may be apportioned to a municipal 115208
corporation without the consent of such municipal corporation 115209
evidenced by an ordinance or resolution of its legislative 115210
authority. 115211

When the prayer of any such application is granted by the 115212
court or a judge thereof and the plan of apportionment and area of 115213
assessment is approved by such court, either as set forth in the 115214
application or as modified by the court, the board may proceed 115215
with the construction of the improvement and use the method of 115216
apportionment and the assessment area authorized by the court. In 115217
such event, the board may levy taxes and issue bonds in the manner 115218
provided by law with respect to improvements, the compensation, 115219
damages, and expenses of which are apportioned and paid as 115220
provided in section 5555.41 of the Revised Code, and all 115221
proceedings in connection with such improvement shall be conducted 115222
in accordance with sections 5555.01 to 5555.83 of the Revised 115223
Code, except as provided in this section. The special assessments 115224
shall be made by the board against the real estate within the 115225
assessment area authorized by the court, but no assessment against 115226

any lot or parcel of real estate shall exceed the actual benefits 115227
conferred thereon by the construction of the improvement. This 115228
section also applies to improvements of sections of a state 115229
highway within counties having a tax duplicate of real and 115230
personal property in excess of three hundred million dollars, and 115231
with respect to which the board desires to co-operate with the 115232
department of transportation. 115233

Sec. 5559.06. Upon the completion of the surveys, plans, 115234
profiles, cross sections, estimates, and specifications for an 115235
improvement under section 5559.02 of the Revised Code by the 115236
county engineer, ~~he~~ the engineer shall transmit to the board of 115237
county commissioners copies of such surveys, plans, profiles, 115238
cross sections, estimates, and specifications. The board shall 115239
then publish, in a newspaper ~~published and~~ of general circulation 115240
within the county, ~~and if there is no such newspaper published in~~ 115241
~~the county then in one having general circulation in such county,~~ 115242
once a week for two consecutive weeks or as provided in section 115243
7.16 of the Revised Code, a notice that such improvement is to be 115244
made and that copies of the surveys, plans, profiles, cross 115245
sections, estimates, and specifications for it are on file in the 115246
office of the board for the inspection and examination of all 115247
persons interested. Such notice shall also state the time and 115248
place for hearing objections to the improvement. 115249

In the event that land or property is to be taken for such 115250
improvement, such taking shall be in accordance with sections 115251
163.01 to 163.22, ~~inclusive,~~ of the Revised Code. 115252

Sec. 5559.10. As soon as all questions of compensation and 115253
damages have been determined in a road improvement case, the 115254
county engineer shall make, upon actual view, an estimated 115255
assessment upon the real estate to be charged therewith, of the 115256
compensation, damages, and costs of an improvement as provided by 115257

section 5559.02 of the Revised Code. Such estimated assessment 115258
shall be according to the benefit which will result to the real 115259
estate. In making such assessment the engineer may take into 115260
consideration any previous special assessments made upon the real 115261
estate for road improvements. The schedule of such assessments 115262
shall be filed in the office of the board of county commissioners 115263
for the inspection of the persons interested. Before adopting the 115264
assessment, the board shall publish, once each week for two 115265
consecutive weeks, in ~~some a newspaper published and~~ of general 115266
circulation in the county or as provided in section 7.16 of the 115267
Revised Code, ~~but if there is no such newspaper then in one having~~ 115268
~~general circulation in the county~~, notice that such assessment has 115269
been made, is on file in the office of the board, and the date 115270
when objections will be heard to such assessment. If any owner of 115271
property affected thereby desires, ~~he~~ the owner may file ~~his~~ 115272
objections to said assessments, in writing, with the board before 115273
the time for hearing. If any objections are filed the board shall 115274
hear them and act as an equalizing board. It may change such 115275
assessments if, in its opinion, any change is necessary to make 115276
them just and equitable, and the board shall approve and confirm 115277
such assessments as reported by the engineer or modified by it. 115278
Such assessments, when so approved and confirmed, shall be a lien 115279
on the land chargeable therewith. 115280

Sec. 5559.12. After the board of county commissioners has 115281
decided to proceed with an improvement as provided by section 115282
5559.02 of the Revised Code, it shall advertise for bids once, not 115283
later than two weeks prior to the date fixed for the letting of 115284
the contract, in a newspaper ~~published and~~ of general circulation 115285
in the county, ~~but if there is no such newspaper then in one~~ 115286
~~having general circulation in such county~~. Such notice shall state 115287
that copies of the surveys, plans, profiles, cross sections, 115288
estimates, and specifications for such improvement are on file in 115289

the office of the board, and the time within which bids will be received. The board shall award the contract to the lowest responsible bidder.

The contract shall be let upon the basis of lump sum bids, unless the board orders that it be let upon the basis of unit price bids, in which event it shall be let upon such basis. The bids received shall be opened at the time stated in the notice. The board may reject all bids.

Sec. 5561.04. The board of county commissioners, desiring to proceed under sections 4957.06 and 5561.01 to 5561.15 of the Revised Code, shall, after receipt of the certificate of necessity and expediency from the director of transportation, as provided in section 5561.03 of the Revised Code, hold a public hearing as to the expediency of constructing such improvement, notice of which shall be given by publication in ~~two newspapers published and a newspaper~~ of general circulation in the county, ~~if such there be, otherwise in two newspapers of general circulation in such county,~~ for two weeks prior to the date set for such hearing or as provided in section 7.16 of the Revised Code, and shall be served upon the railroad or interurban railway companies in the manner for the service of summons in civil actions, not less than twenty days prior to the date of such hearing.

The board, after such hearing and for the purpose of making or causing such an improvement to be made, may, by resolution adopted by unanimous vote, require the railroad company, in co-operation with the county engineer or any engineer designated by the board, to prepare and submit to the board within six months, unless longer time is mutually agreed upon in writing, plans and specifications for such improvements, specifying the number, character, and location of all piers and supports which are to be permanently placed in any road or highway, specifying

the grades to be established for the roads and the height, 115321
character, and estimated cost of any viaduct or way above or below 115322
any railroad track, and the change of grade required to be made of 115323
such tracks including side tracks and switches. But in changing 115324
the grade of any railroad, no grade shall be required in excess of 115325
that adopted by the railroad company for its construction work on 115326
that division or part of the railroad on which the improvement is 115327
to be made, without the consent of the railroad company, nor shall 115328
the railroad company's tracks be required to be placed below 115329
high-water mark. 115330

Such resolution shall be published in the same manner as 115331
resolutions of the legislative authority of a municipal 115332
corporation declaring the necessity of a contemplated public 115333
improvement, and shall be served by the sheriff upon the railroad 115334
or interurban railway companies in the manner provided for the 115335
service of summons in civil actions. If the proposed public 115336
improvement is to be made within a municipal corporation, notice 115337
of the passage of the same shall be served upon the municipal 115338
corporation by delivering to the clerk of the village or 115339
legislative authority of a city a true copy thereof. 115340

If, at the expiration of six months from the passage of such 115341
resolution, the railroad company has refused or failed to 115342
co-operate in the preparation of such plans and specifications, or 115343
if the county engineer or engineer designated by the board and the 115344
railroad company fail to agree upon the plans and specification of 115345
such improvement, then either the railroad company or the county 115346
may submit the matter of determining the method by which the 115347
improvement shall be made to the court of common pleas of such 115348
county. Either the county or company, after the expiration of six 115349
months from the passage of the resolution, may apply to such court 115350
by petition, accompanied by the necessary plans prepared by the 115351
county or railroad company, covering the grade crossing proposed 115352

to be abolished. Such plans must show the grades to be established 115353
for such roads or highways, the changes to be made in the location 115354
of roads or highways, the height, character, and estimated cost of 115355
any viaduct or way above or below the railroad tracks, the number, 115356
character, and location of piers, abutments, or supports to be 115357
permanently located in the roads or highways, and the change of 115358
grade to be made in any railroad tracks, including sidetracks and 115359
switches. 115360

Sec. 5561.08. Notice of the passage of a resolution for a 115361
grade crossing improvement shall be served by the sheriff of the 115362
county, upon the owner of each piece of property which will be 115363
affected by any change of grade, in the manner provided for the 115364
service of summons in civil actions. If any of such owners are 115365
nonresidents of the county, or if it appears from the return that 115366
they cannot be found, the notice shall be published for at least 115367
two weeks in ~~an English language~~ a newspaper published of general 115368
circulation in such the county or as provided in section 7.16 of 115369
the Revised Code. Notice shall be completed at least twenty days 115370
before any work is done on such improvement, and the sheriff's 115371
return shall be prima-facie evidence of the facts recited therein. 115372

Section 727.18 of the Revised Code shall apply to the notice 115373
provided for in this section, and to all claims for damages by 115374
reason of such improvement. Such claims shall be filed with the 115375
county auditor within the time, and rights thereunder shall pass 115376
to vendees, as provided in such section. After the expiration of 115377
the time provided for the filing of claims, the board of county 115378
commissioners, when claims have been filed within the time 115379
limited, shall determine, by resolution, whether such claims are 115380
to be judicially inquired into before commencing or after the 115381
completion of the proposed improvement. Thereupon, the county 115382
prosecutor shall make application for a jury, to the court of 115383
common pleas, or probate court of the county, before commencing or 115384

after the completion of the improvement, as the board determines, 115385
and all proceedings upon such application shall be governed by the 115386
laws relating to similar applications provided for in cases of 115387
city improvements. 115388

Sec. 5571.011. If a person through whose land a public road 115389
has been established which is under the jurisdiction of a board of 115390
township trustees, desires to turn or change or relocate such road 115391
or any part thereof through any part of ~~his~~ the person's land, ~~he~~ 115392
the person may file a petition with such board of township 115393
trustees setting forth briefly the particular change ~~he desires~~ 115394
desired. Upon receipt of such petition, the board of township 115395
trustees shall give notice by publication once, not later than two 115396
weeks prior to the date which such board shall fix for a hearing 115397
on such petition, in a newspaper ~~published or~~ of general 115398
circulation in said township, stating that such petition has been 115399
filed and setting forth the change desired in such road and the 115400
date and place of such hearing. 115401

Upon receipt of such a petition the board of township 115402
trustees shall cause a competent engineer to make a survey of the 115403
ground over which the road is proposed to be changed, and to make 115404
a report in writing, together with a plat and survey of the 115405
proposed change and ~~his~~ the engineer's opinion as to its advantage 115406
or disadvantage. The report of such engineer shall be filed with 115407
the board prior to the hearing of such petition. 115408

At the hearing had on the petition the board of township 115409
trustees may hear evidence for or against changing the road, and 115410
if the board is satisfied that the proposed change will not cause 115411
serious injury or disadvantage to the public, it may make a 115412
finding of such fact in its journal and authorize the petitioner 115413
to change such road in conformity with the prayer of the petition. 115414
The board may grant the change as prayed for in the petition, or 115415

it may order such change of the route of such road as will, in its judgment, be for the best interest of the public.

Upon receiving satisfactory evidence that the road has been changed as authorized by it, and opened to the legal width and improved as required by it, the board of township trustees shall declare such new road a public highway and cause a record thereof to be made and at the same time vacate so much of the old road as is rendered unnecessary by the new road. The person petitioning for such change shall in all cases pay all costs and expenses in connection with the proceeding, as found and determined by the board, and the expense of making such change, including the cost of relocation of any conduits, cables, wires, towers, poles or other equipment or appliances of any public utility, located on, over or under such road. The petitioner shall, on the filing of the petition for such change, give bond to the satisfaction of the board in such amount as it determines to secure payment of the costs of the proceeding and to cover the expense of making the change asked for by the petition.

Sec. 5573.02. Upon the completion of the surveys, plans, profiles, cross sections, estimates, and specifications for a road improvement by the county engineer, ~~he~~ the engineer shall transmit to the board of township trustees copies of the same. Except in cases of reconstruction or repair of roads, where no land or property is taken, the board shall then cause to be published in a newspaper, ~~published in the county and~~ of general circulation within the township, ~~but if no such paper is published in the county then in one having general circulation in such township,~~ once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, a notice that such improvement is to be made and that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for it are on file with the board for the inspection and examination of all persons

interested. 115448

In the event that land or property is to be taken for such 115449
improvement, proceedings shall be had in accordance with sections 115450
163.01 to 163.22, ~~inclusive~~, of the Revised Code. 115451

Sec. 5573.10. As soon as all questions of compensation and 115452
damages have been determined for any road improvement, the county 115453
engineer shall make, upon actual view, an estimated assessment, 115454
upon the real estate to be charged, of such part of the 115455
compensation, damages, and costs of such improvement as is to be 115456
specially assessed. Such assessment shall be according to the 115457
benefits which will result to the real estate. In making such 115458
assessment the engineer may take into consideration any previous 115459
special assessment made upon such real estate for road 115460
improvements. 115461

The schedule for such assessments shall be filed with the 115462
board of township trustees for the inspection of the persons 115463
interested. Before adopting the estimated assessment, the board 115464
shall publish once each week for two consecutive weeks, in ~~some a~~ 115465
newspaper ~~published in the county and~~ of general circulation 115466
within such township, ~~but if there is no such paper published in~~ 115467
~~said county then in one having general circulation in such~~ 115468
~~township or as provided in section 7.16 of the Revised Code,~~ 115469
notice that such assessment has been made and is on file with the 115470
board, and the date when objections will be heard to such 115471
assessment. 115472

If any owner of property affected desires to make objections, 115473
~~he~~ the owner may file ~~his~~ objections to such assessments, in 115474
writing, with the board, before the time of such hearing. If any 115475
objections are filed the board shall hear them and act as an 115476
equalizing board, and may change assessments if, in its opinion, 115477
any changes are necessary to make them just and equitable. The 115478

board shall approve and confirm assessments as reported by the 115479
engineer or modified by the board. Such assessments, when approved 115480
and confirmed, shall be a lien on the land chargeable therewith. 115481

Sec. 5575.01. (A) In the maintenance and repair of roads, the 115482
board of township trustees may proceed either by contract or force 115483
account, but, unless the exemption specified in division (C) of 115484
this section applies, if the board wishes to proceed by force 115485
account, it first shall cause the county engineer to complete the 115486
force account assessment form developed by the auditor of state 115487
under section 117.16 of the Revised Code. Except as otherwise 115488
provided in sections 505.08 and 505.101 of the Revised Code, when 115489
the board proceeds by contract, the contract shall, if the amount 115490
involved exceeds forty-five thousand dollars, be let by the board 115491
to the lowest responsible bidder after advertisement for bids 115492
once, not later than two weeks, prior to the date fixed for the 115493
letting of the contract, in a newspaper ~~published in the county~~ 115494
~~and~~ of general circulation within the township ~~or, if no newspaper~~ 115495
~~is published in the county, in a newspaper having general~~ 115496
~~circulation in the township.~~ If the amount involved is forty-five 115497
thousand dollars or less, a contract may be let without 115498
competitive bidding, or the work may be done by force account. 115499
Such a contract shall be performed under the supervision of a 115500
member of the board or the township road superintendent. 115501

(B) Before undertaking the construction or reconstruction of 115502
a township road, the board shall cause to be made by the county 115503
engineer an estimate of the cost of the work, which estimate shall 115504
include labor, material, freight, fuel, hauling, use of machinery 115505
and equipment, and all other items of cost. If the board finds it 115506
in the best interest of the public, it may, in lieu of 115507
constructing the road by contract, proceed to construct the road 115508
by force account. Except as otherwise provided under sections 115509
505.08 and 505.101 of the Revised Code, where the total ~~estimate~~ 115510

estimated cost of the work exceeds fifteen thousand dollars per 115511
mile, the board shall invite and receive competitive bids for 115512
furnishing all the labor, materials, and equipment and doing the 115513
work, as provided in section 5575.02 of the Revised Code, and 115514
shall consider and reject them before ordering the work done by 115515
force account. When such bids are received, considered, and 115516
rejected, and the work is done by force account, the work shall be 115517
performed in compliance with the plans and specifications upon 115518
which the bids were based. 115519

(C) Force account assessment forms are not required under 115520
division (A) of this section for road maintenance or repair 115521
projects of less than fifteen thousand dollars, or under division 115522
(B) of this section for road construction or reconstruction 115523
projects of less than five thousand dollars per mile. 115524

(D) All force account work under this section shall be done 115525
under the direction of a member of the board or the township road 115526
superintendent. 115527

Sec. 5575.02. After the board of township trustees has 115528
decided to proceed with a road improvement, it shall advertise for 115529
bids once, not later than two weeks prior to the date fixed for 115530
the letting of contracts, in a newspaper ~~published in the county~~ 115531
~~and~~ of general circulation within ~~such the~~ township, ~~but if there~~ 115532
~~is no such paper published in the county then in one having~~ 115533
~~general circulation in the township~~. Such notice shall state that 115534
copies of the surveys, plans, profiles, cross sections, estimates, 115535
and specifications for such improvement are on file with the 115536
board, and the time within which bids will be received. The board 115537
may let the work as a whole or in convenient sections, as it 115538
determines. The contract shall be awarded to the lowest and best 115539
bidder who meets the requirements of section 153.54 of the Revised 115540
Code, and shall be let upon the basis of lump sum bids, unless the 115541

board orders that it be let upon the basis of unit price bids, in 115542
which event it shall be let upon such basis. 115543

Sec. 5577.042. (A) As used in this section: 115544

(1) "Farm machinery" has the same meaning as in section 115545
4501.01 of the Revised Code. 115546

(2) "Farm commodities" includes livestock, bulk milk, corn, 115547
soybeans, tobacco, and wheat. 115548

(3) "Farm truck" means a truck used in the transportation 115549
from a farm of farm commodities when the truck is operated in 115550
accordance with this section. 115551

(4) "Log truck" means a truck used in the transportation of 115552
timber from the site of its cutting when the truck is operated in 115553
accordance with this section. 115554

(5) "Coal truck" means a truck transporting coal from the 115555
site where it is mined when the truck is operated in accordance 115556
with this section. 115557

(6) "Solid waste" has the same meaning as in section 3734.01 115558
of the Revised Code. 115559

(7) "Solid waste haul vehicle" means a vehicle hauling solid 115560
waste for which a bill of lading has not been issued. 115561

(B)~~(1)~~ Notwithstanding sections 5577.02 and 5577.04 of the 115562
Revised Code, the following vehicles under the described 115563
conditions may exceed by no more than seven and one-half per cent 115564
the weight provisions of sections 5577.01 to 5577.09 of the 115565
Revised Code and no penalty prescribed in section 5577.99 of the 115566
Revised Code shall be imposed: 115567

~~(a)~~(1) A coal truck transporting coal, from the place of 115568
production to the first point of delivery where title to the coal 115569
is transferred; 115570

~~(b)(2)~~ A farm truck or farm machinery transporting farm commodities, from the place of production to the first point of delivery where the commodities are weighed and title to the commodities is transferred;

~~(e)(3)~~ A log truck transporting timber, from the site of its cutting to the first point of delivery where the timber is transferred;

~~(d)(4)~~ A solid waste haul vehicle hauling solid waste, from the place of production to the first point of delivery where the solid waste is disposed of or title to the solid waste is transferred.

~~(2) In addition, if any of the vehicles listed in division (B)(1) of this section and operated under the conditions described in that division does not exceed by more than seven and one half per cent the gross vehicle weight provisions of sections 5577.01 to 5577.09 of the Revised Code, no wheel or axle load limits shall apply and no penalty prescribed in section 5577.99 of the Revised Code for a wheel or axle overload shall be imposed.~~

(C) If any of the vehicles listed in division (B)~~(1)~~ of this section and operated under the conditions described in that division exceeds by more than seven and one-half per cent the weight provisions of sections 5577.01 to 5577.09 of the Revised Code, both of the following apply without regard to the seven and one-half per cent allowance provided by division (B) of this section:

(1) The applicable penalty prescribed in section 5577.99 of the Revised Code;

(2) The civil liability imposed by section 5577.12 of the Revised Code.

(D)(1) Division (B) of this section does not apply to the operation of a farm truck, log truck, or farm machinery

transporting farm commodities during the months of February and 115602
March. 115603

(2) Regardless of when the operation occurs, division (B) of 115604
this section does not apply to the operation of a vehicle on 115605
either of the following: 115606

(a) A highway that is part of the interstate system; 115607

(b) A highway, road, or bridge that is subject to reduced 115608
maximum weights under section 4513.33, 5577.07, 5577.071, 5577.08, 115609
5577.09, or 5591.42 of the Revised Code. 115610

Sec. 5577.043. (A) Notwithstanding sections 5577.02 and 115611
5577.04 of the Revised Code, the following vehicles under the 115612
described conditions may exceed by no more than five per cent the 115613
weight provisions of sections 5577.01 to 5577.09 of the Revised 115614
Code and no penalty prescribed in section 5577.99 of the Revised 115615
Code shall be imposed: 115616

(1) A surface mining truck transporting minerals from the 115617
place where the minerals are loaded to any of the following: 115618

(a) The construction site where the minerals are discharged; 115619

(b) The place where title to the minerals is transferred; 115620

(c) The place of processing. 115621

(2) A vehicle transporting hot mix asphalt material from the 115622
place where the material is first mixed to the paving site where 115623
the material is discharged; 115624

(3) A vehicle transporting concrete from the place where the 115625
material is first mixed to the site where the material is 115626
discharged; 115627

(4) A vehicle transporting manure, turf, sod, or silage from 115628
the site where the material is first produced to the first place 115629
of delivery; 115630

(5) A vehicle transporting chips, sawdust, mulch, bark, 115631
pulpwood, biomass, or firewood from the site where the product is 115632
first produced or harvested to the first point where the product 115633
is transferred. 115634

~~(B) In addition, if any of the vehicles listed in division 115635
(A) of this section and operated under the conditions described in 115636
that division does not exceed by more than five per cent the gross 115637
vehicle weight provisions of sections 5577.01 to 5577.09 of the 115638
Revised Code, no wheel or axle load limits shall apply and no 115639
penalty prescribed in section 5577.99 of the Revised Code for a 115640
wheel or axle overload shall be imposed. 115641~~

~~(C)~~ If any of the vehicles listed in division (A) of this 115642
section and operated under the conditions described in that 115643
division exceeds by more than five per cent the weight provisions 115644
of sections 5577.01 to 5577.09 of the Revised Code, both of the 115645
following apply without regard to the allowance provided by 115646
division (A) of this section: 115647

(1) The applicable penalty prescribed in section 5577.99 of 115648
the Revised Code; 115649

(2) The civil liability imposed by section 5577.12 of the 115650
Revised Code. 115651

~~(D) Divisions (C) Division (A) and (B) of this section do 115652
does not apply to the operation of a vehicle listed in division 115653
(A) of this section on either of the following: 115654~~

(1) A highway that is part of the interstate system; 115655

(2) A highway, road, or bridge that is subject to reduced 115656
maximum weights under section 4513.33, 5577.07, 5577.071, 5577.08, 115657
5577.09, or 5591.42 of the Revised Code. 115658

Sec. 5591.15. All resolutions and notices provided for in 115659
sections 5591.03 to 5591.17 of the Revised Code, shall be 115660

published in a newspaper ~~published in and~~ of general circulation 115661
in the county where the improvement provided in such sections is 115662
to be made, and such publication shall be complete when published 115663
once a week, on the same day of the week, for two consecutive 115664
weeks or as provided in section 7.16 of the Revised Code. 115665

Sec. 5593.08. The bridge commission of any county or city 115666
may: 115667

(A) Adopt bylaws for the regulation of its affairs and the 115668
conduct of its business; 115669

(B) Adopt an official seal, which shall not be the seal of 115670
Ohio; 115671

(C) Maintain a principal office and suboffices at such places 115672
within the county or city as it designates; 115673

(D) Sue and be sued in its own name, and plead and be 115674
impleaded. Any actions against a bridge commission shall be 115675
brought in the court of common pleas of the county in which the 115676
principal office of the commission is located, or in the court of 115677
common pleas of the county in which the cause of action arose, 115678
when such county is located within this state. All summonses, 115679
exceptions, and notices of every kind shall be served on the 115680
commission by leaving a copy thereof at the principal office with 115681
the secretary-treasurer or the person in charge. 115682

(E) Construct, acquire by purchase or condemnation, improve, 115683
maintain, repair, police, and operate any bridge, and establish 115684
rules for the use of any such bridge; 115685

(F) Issue bridge revenue bonds of the county or city, payable 115686
solely from revenues, as provided in sections 5593.10 and 5593.16 115687
of the Revised Code, for the purpose of paying any part of the 115688
cost of any bridge or bridges; 115689

(G) Fix and revise from time to time and charge and collect 115690

tolls for transit over each bridge constructed or acquired by it; 115691

(H) Acquire, hold, and dispose of real and personal property 115692
in the exercise of its powers and the performance of its duties 115693
under this chapter; 115694

(I) Acquire, in the name of the county or city, as the case 115695
may be, by purchase or otherwise, on such terms and in such manner 115696
as it determines proper, or by the exercise of the right of 115697
condemnation in the manner provided by sections 163.01 to 163.22 115698
of the Revised Code, any bridge, land, rights, easements, 115699
franchises, and other property necessary or convenient for the 115700
construction of a bridge or the improvement or efficient operation 115701
of any property acquired or constructed under this chapter, or for 115702
securing right-of-way leading to any such bridge or its approach 115703
facilities; 115704

(J) Make and enter into all contracts and agreements 115705
necessary or incidental to the performance of its duties and the 115706
execution of its powers under this chapter: 115707

(1) When the cost under any such contract or agreement, other 115708
than compensation for personal services, involves an expenditure 115709
of more than ten thousand dollars, the commission shall make a 115710
written contract with the lowest and best bidder after 115711
advertisement for not less than two consecutive weeks, or as 115712
provided in section 7.16 of the Revised Code, in a newspaper of 115713
general circulation in Franklin county, and in such other 115714
publications as the commission determines, which notice shall 115715
state the general character of the work and the general character 115716
of the materials to be furnished, the place where plans and 115717
specifications therefor may be examined, and the time and place of 115718
receiving bids. 115719

(2) Each bid for a contract for the construction, demolition, 115720
alteration, repair, or reconstruction of an improvement shall 115721

contain the full name of every person interested in it and meets 115722
the requirements of section 153.54 of the Revised Code. 115723

(3) Each bid for a contract except as provided in division 115724
(J)(2) of this section shall contain the full name of every person 115725
or company interested in it and shall be accompanied by a bond or 115726
certified check on a solvent bank, in such amount as the 115727
commission determines sufficient, that if the bid is accepted a 115728
contract will be entered into and the performance of its proposal 115729
secured. 115730

(4) The commission may reject any and all bids. 115731

(5) A bond with good and sufficient surety, approved by the 115732
commission, shall be required of every contractor awarded a 115733
contract except as provided in division (J)(2) of this section, in 115734
an amount equal to at least fifty per cent of the contract price, 115735
conditioned upon the faithful performance of the contract. 115736

(K) Employ consulting engineers, superintendents, managers, 115737
engineers, construction and accounting experts, attorneys, and 115738
other employees and agents as are necessary in its judgment, and 115739
fix their compensation. All such expenses are payable solely from 115740
the proceeds of bridge revenue bonds issued under this chapter, or 115741
from revenues. 115742

(L) Receive and accept from any federal agency, subject to 115743
the approval of the board of county commissioners or the 115744
legislative authority of the city, as the case may be, grants for 115745
or in aid of the construction, acquisition, improvement, or 115746
operation of any bridge, and receive and accept aid or 115747
contributions from any source of money, property, labor, or other 115748
things of value, to be held, used, and applied only for the 115749
purposes for which such grants and contributions are made; 115750

(M) Provide coverage for its employees under sections 4123.01 115751
to 4123.94 and 4141.01 to 4141.46 of the Revised Code; 115752

(N) Do all acts necessary or proper to carry out the powers 115753
expressly granted in this chapter. 115754

Sec. 5701.13. (A) As used in this section: 115755

(1) "Nursing home" means a nursing home or a home for the 115756
aging, as those terms are defined in section 3721.01 of the 115757
Revised Code, that is issued a license pursuant to section 3721.02 115758
of the Revised Code. 115759

(2) "Residential care facility" means a residential care 115760
facility, as defined in section 3721.01 of the Revised Code, that 115761
is issued a license pursuant to section 3721.02 of the Revised 115762
Code. 115763

(3) "Adult care facility" means an adult care facility as 115764
defined in section ~~3722.01~~ 5119.70 of the Revised Code that is 115765
issued a license pursuant to section ~~3722.04~~ 5119.73 of the 115766
Revised Code. 115767

(B) As used in Title LVII of the Revised Code, and for the 115768
purpose of other sections of the Revised Code that refer 115769
specifically to Chapter 5701. or section 5701.13 of the Revised 115770
Code, a "home for the aged" means either of the following: 115771

(1) A place of residence for aged and infirm persons that 115772
satisfies divisions (B)(1)(a) to (e) of this section: 115773

(a) It is a nursing home, residential care facility, or adult 115774
care facility. 115775

(b) It is owned by a corporation, unincorporated association, 115776
or trust of a charitable, religious, or fraternal nature, which is 115777
organized and operated not for profit, which is not formed for the 115778
pecuniary gain or profit of, and whose net earnings or any part of 115779
whose net earnings is not distributable to, its members, trustees, 115780
officers, or other private persons, and which is exempt from 115781
federal income taxation under section 501 of the "Internal Revenue 115782

Code of 1986," 100 Stat. 2085, 26 U.S.C. 1. 115783

(c) It is open to the public without regard to race, color, 115784
or national origin. 115785

(d) It does not pay, directly or indirectly, compensation for 115786
services rendered, interest on debts incurred, or purchase price 115787
for land, building, equipment, supplies, or other goods or 115788
chattels, which compensation, interest, or purchase price is 115789
unreasonably high. 115790

(e) It provides services for the life of each resident 115791
without regard to the resident's ability to continue payment for 115792
the full cost of the services. 115793

(2) A place of residence that satisfies divisions (B)(1)(b), 115794
(d), and (e) of this section; that satisfies the definition of 115795
"nursing home," or "residential care facility," ~~or "adult care~~ 115796
~~facility"~~ under section 3721.01 of the Revised Code or ~~3722.01~~ the 115797
definition of "adult care facility" under section 5119.70 of the 115798
Revised Code regardless of whether it is licensed as such a home 115799
or facility; and that is provided at no charge to individuals on 115800
account of their service without compensation to a charitable, 115801
religious, fraternal, or educational institution, which 115802
individuals are aged or infirm and are members of the corporation, 115803
association, or trust that owns the place of residence. For the 115804
purposes of division (B)(2) of this section, "compensation" does 115805
not include furnishing room and board, clothing, health care, or 115806
other necessities, or stipends or other de minimis payments to 115807
defray the cost thereof. 115808

Exemption from taxation shall be accorded, on proper 115809
application, only to those homes or parts of homes which meet the 115810
standards and provide the services specified in this section. 115811

Nothing in this section shall be construed as preventing a 115812
home from requiring a resident with financial need to apply for 115813

any applicable financial assistance or requiring a home to retain 115814
a resident who willfully refuses to pay for services for which the 115815
resident has contracted even though the resident has sufficient 115816
resources to do so. 115817

(C)(1) If a corporation, unincorporated association, or trust 115818
described in division (B)(1)(b) of this section is granted a 115819
certificate of need pursuant to section 3702.52 of the Revised 115820
Code to construct, add to, or otherwise modify a nursing home, or 115821
is given approval pursuant to section 3791.04 of the Revised Code 115822
to construct, add to, or otherwise modify a residential care 115823
facility or adult care facility and if the corporation, 115824
association, or trust submits an affidavit to the tax commissioner 115825
stating that, commencing on the date of licensure and continuing 115826
thereafter, the home or facility will be operated in accordance 115827
with the requirements of divisions (B)(1)(a) to (e) of this 115828
section, the corporation, association, or trust shall be 115829
considered to be operating a "home for the aged" within the 115830
meaning of division (B)(1) of this section, beginning on the first 115831
day of January of the year in which such certificate is granted or 115832
approval is given. 115833

(2) If a corporation, association, or trust is considered to 115834
be operating a "home for the aged" pursuant to division (C)(1) of 115835
this section, the corporation, association, or trust shall notify 115836
the tax commissioner in writing upon the occurrence of any of the 115837
following events: 115838

(a) The corporation, association, or trust no longer intends 115839
to complete the construction of, addition to, or modification of 115840
the home or facility, to obtain the appropriate license for the 115841
home or facility, or to commence operation of the home or facility 115842
in accordance with the requirements of divisions (B)(1)(a) to (e) 115843
of this section; 115844

(b) The certificate of approval referred to in division 115845

(C)(1) of this section expires, is revoked, or is otherwise 115846
terminated prior to the completion of the construction of, 115847
addition to, or modification of the home or facility; 115848

(c) The license to operate the home or facility is not 115849
granted by the director of health within one year following 115850
completion of the construction of, addition to, or modification of 115851
the home or facility; 115852

(d) The license to operate the home or facility is not 115853
granted by the director of health within four years following the 115854
date upon which the certificate or approval referred to in 115855
division (C)(1) of this section was granted or given; 115856

(e) The home or facility is granted a license to operate as a 115857
nursing home, residential care facility, or adult care facility. 115858

(3) Upon the occurrence of any of the events referred to in 115859
divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the 115860
corporation, association, or trust shall no longer be considered 115861
to be operating a "home for the aged" pursuant to division (C)(1) 115862
of this section, except that the tax commissioner, for good cause 115863
shown and to the extent the commissioner considers appropriate, 115864
may extend the time period specified in division (C)(2)(c) or (d) 115865
of this section, or both. Nothing in division (C)(3) of this 115866
section shall be construed to prevent a nursing home, residential 115867
care facility, or adult care facility from qualifying as a "home 115868
for the aged" if, upon proper application made pursuant to 115869
division (B) of this section, it is found to meet the requirements 115870
of divisions (A) and (B) of this section. 115871

Sec. 5703.05. All powers, duties, and functions of the 115872
department of taxation are vested in and shall be performed by the 115873
tax commissioner, which powers, duties, and functions shall 115874
include, but shall not be limited to, the following: 115875

(A) Prescribing all blank forms which the department is 115876
authorized to prescribe, and to provide such forms and distribute 115877
the same as required by law and the rules of the department. ~~The~~ 115878
~~tax commissioner shall include a mail in registration form~~ 115879
~~prescribed in section 3503.14 of the Revised Code within the~~ 115880
~~return and instructions for the tax levied in odd numbered years~~ 115881
~~under section 5747.02 of the Revised Code, beginning with the tax~~ 115882
~~levied for 1995. The secretary of state shall bear all costs for~~ 115883
~~the inclusion of the mail in registration form. That form shall be~~ 115884
~~addressed for return to the office of the secretary of state.~~ 115885

(B) Exercising the authority provided by law, including 115886
orders from bankruptcy courts, relative to remitting or refunding 115887
taxes or assessments, including penalties and interest thereon, 115888
illegally or erroneously assessed or collected, or for any other 115889
reason overpaid, and in addition, the commissioner may on written 115890
application of any person, firm, or corporation claiming to have 115891
overpaid to the treasurer of state at any time within five years 115892
prior to the making of such application any tax payable under any 115893
law which the department of taxation is required to administer 115894
which does not contain any provision for refund, or on the 115895
commissioner's own motion investigate the facts and make in 115896
triplicate a written statement of the commissioner's findings, 115897
and, if the commissioner finds that there has been an overpayment, 115898
issue in triplicate a certificate of abatement payable to the 115899
taxpayer, the taxpayer's assigns, or legal representative which 115900
shows the amount of the overpayment and the kind of tax overpaid. 115901
One copy of such statement shall be entered on the journal of the 115902
commissioner, one shall be certified to the attorney general, and 115903
one certified copy shall be delivered to the taxpayer. All copies 115904
of the certificate of abatement shall be transmitted to the 115905
attorney general, and if the attorney general finds it to be 115906
correct the attorney general shall so certify on each copy, and 115907
deliver one copy to the taxpayer, one copy to the commissioner, 115908

and the third copy to the treasurer of state. Except as provided 115909
in sections 5725.08 and 5725.16 of the Revised Code the taxpayer's 115910
copy of any certificates of abatement may be tendered by the payee 115911
or transferee thereof to the treasurer of state as payment, to the 115912
extent of the amount thereof, of any tax payable to the treasurer 115913
of state. 115914

(C) Exercising the authority provided by law relative to 115915
consenting to the compromise and settlement of tax claims; 115916

(D) Exercising the authority provided by law relative to the 115917
use of alternative tax bases by taxpayers in the making of 115918
personal property tax returns; 115919

(E) Exercising the authority provided by law relative to 115920
authorizing the prepayment of taxes on retail sales of tangible 115921
personal property or on the storage, use, or consumption of 115922
personal property, and waiving the collection of such taxes from 115923
the consumers; 115924

(F) Exercising the authority provided by law to revoke 115925
licenses; 115926

(G) Maintaining a continuous study of the practical operation 115927
of all taxation and revenue laws of the state, the manner in which 115928
and extent to which such laws provide revenues for the support of 115929
the state and its political subdivisions, the probable effect upon 115930
such revenue of possible changes in existing laws, and the 115931
possible enactment of measures providing for other forms of 115932
taxation. For this purpose the commissioner may establish and 115933
maintain a division of research and statistics, and may appoint 115934
necessary employees who shall be in the unclassified civil 115935
service; the results of such study shall be available to the 115936
members of the general assembly and the public. 115937

(H) Making all tax assessments, valuations, findings, 115938
determinations, computations, and orders the department of 115939

taxation is by law authorized and required to make and, pursuant 115940
to time limitations provided by law, on the commissioner's own 115941
motion, reviewing, redetermining, or correcting any tax 115942
assessments, valuations, findings, determinations, computations, 115943
or orders the commissioner has made, but the commissioner shall 115944
not review, redetermine, or correct any tax assessment, valuation, 115945
finding, determination, computation, or order which the 115946
commissioner has made as to which an appeal or application for 115947
rehearing, review, redetermination, or correction has been filed 115948
with the board of tax appeals, unless such appeal or application 115949
is withdrawn by the appellant or applicant or dismissed; 115950

(I) Appointing not more than five deputy tax commissioners, 115951
who, under such regulations as the rules of the department of 115952
taxation prescribe, may act for the commissioner in the 115953
performance of such duties as the commissioner prescribes in the 115954
administration of the laws which the commissioner is authorized 115955
and required to administer, and who shall serve in the 115956
unclassified civil service at the pleasure of the commissioner, 115957
but if a person who holds a position in the classified service is 115958
appointed, it shall not affect the civil service status of such 115959
person. The commissioner may designate not more than two of the 115960
deputy commissioners to act as commissioner in case of the 115961
absence, disability, or recusal of the commissioner or vacancy in 115962
the office of commissioner. The commissioner may adopt rules 115963
relating to the order of precedence of such designated deputy 115964
commissioners and to their assumption and administration of the 115965
office of commissioner. 115966

(J) Appointing and prescribing the duties of all other 115967
employees of the department of taxation necessary in the 115968
performance of the work of the department which the tax 115969
commissioner is by law authorized and required to perform, and 115970
creating such divisions or sections of employees as, in the 115971

commissioner's judgment, is proper; 115972

(K) Organizing the work of the department, which the 115973
commissioner is by law authorized and required to perform, so 115974
that, in the commissioner's judgment, an efficient and economical 115975
administration of the laws will result; 115976

(L) Maintaining a journal, which is open to public 115977
inspection, in which the tax commissioner shall keep a record of 115978
all final determinations of the commissioner; 115979

(M) Adopting and promulgating, in the manner provided by 115980
section 5703.14 of the Revised Code, all rules of the department, 115981
including rules for the administration of sections 3517.16, 115982
3517.17, and 5747.081 of the Revised Code; 115983

(N) Destroying any or all returns or assessment certificates 115984
in the manner authorized by law; 115985

(O) Adopting rules, in accordance with division (B) of 115986
section 325.31 of the Revised Code, governing the expenditure of 115987
moneys from the real estate assessment fund under that division. 115988

Sec. 5703.059. (A) The tax commissioner may adopt rules 115989
requiring returns, including any accompanying schedule or 115990
statement, for any of the following taxes to be filed 115991
electronically using the Ohio business gateway as defined in 115992
section 718.051 of the Revised Code, filed telephonically using 115993
the system known as the Ohio telefile system, or filed by any 115994
other electronic means prescribed by the commissioner: 115995

(1) Employer income tax withholding under Chapter 5747. of 115996
the Revised Code; 115997

(2) Motor fuel tax under Chapter 5735. of the Revised Code; 115998

(3) Cigarette and tobacco product tax under Chapter 5743. of 115999
the Revised Code; 116000

(4) Severance tax under Chapter 5749. of the Revised Code; 116001

(5) Use tax under Chapter 5741. of the Revised Code. 116002

(B) The tax commissioner may adopt rules requiring any 116003
payment of tax shown on such a return to be due to be made 116004
electronically in a manner approved by the commissioner. 116005

(C) A rule adopted under this section does not apply to 116006
returns or reports filed or payments made before six months after 116007
the effective date of the rule. The commissioner shall publicize 116008
any new electronic filing requirement on the department's web 116009
site. The commissioner shall educate the public of the requirement 116010
through seminars, workshops, conferences, or other outreach 116011
activities. 116012

(D) Any person required to file returns and make payments 116013
electronically under rules adopted under this section may apply to 116014
the commissioner, on a form prescribed by the commissioner, to be 116015
excused from that requirement. For good cause shown, the 116016
commissioner may excuse the applicant from the requirement and 116017
permit the applicant to file the returns or reports or make the 116018
payments required under this section by nonelectronic means. 116019

Sec. 5703.37. (A)(1) Except as provided in division (B) of 116020
this section, whenever service of a notice or order is required in 116021
the manner provided in this section, a copy of the notice or order 116022
shall be served upon the person affected thereby either by 116023
personal service ~~or~~, by certified mail, or by a delivery service 116024
authorized under section 5703.056 of the Revised Code that 116025
notifies the tax commissioner of the date of delivery. 116026

(2) With the permission of the person affected by the notice 116027
or order, the commissioner may enter into a written agreement to 116028
deliver a notice or order by alternative means as provided in this 116029
section, including, but not limited to, delivery by secure 116030

electronic mail. Delivery by such means satisfies the requirements 116031
for delivery under this section. 116032

(B)(1)(a) If certified mail is returned because of an 116033
undeliverable address, the commissioner shall first utilize 116034
reasonable means to ascertain a new last known address, including 116035
the use of a change of address service offered by the United 116036
States postal service. If, after using reasonable means, the 116037
commissioner is unable to ascertain a new last known address, the 116038
assessment is final for purposes of section 131.02 of the Revised 116039
Code sixty days after the notice or order sent by certified mail 116040
is first returned to the commissioner, and the commissioner shall 116041
certify the notice or order, if applicable, to the attorney 116042
general for collection under section 131.02 of the Revised Code. 116043

(b) Notwithstanding certification to the attorney general 116044
under division (B)(1)(a) of this section, once the commissioner or 116045
attorney general, or the designee of either, makes an initial 116046
contact with the person to whom the notice or order is directed, 116047
the person may protest an assessment by filing a petition for 116048
reassessment within sixty days after the initial contact. The 116049
certification of an assessment under division (B)(1)(a) of this 116050
section is prima-facie evidence that delivery is complete and that 116051
the notice or order is served. 116052

(2) If mailing of a notice or order by certified mail is 116053
returned for some cause other than an undeliverable address, the 116054
tax commissioner shall resend the notice or order by ordinary 116055
mail. The notice or order shall show the date the commissioner 116056
sends the notice or order and include the following statement: 116057

"This notice or order is deemed to be served on the addressee 116058
under applicable law ten days from the date this notice or order 116059
was mailed by the commissioner as shown on the notice or order, 116060
and all periods within which an appeal may be filed apply from and 116061
after that date." 116062

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima-facie evidence that delivery of the notice or order was completed ten days after the commissioner sent the notice or order by ordinary mail and that the notice or order was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the commissioner shall proceed under division (B)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (C) of this section.

(C)(1) A person disputing the presumption of delivery and service under division (B) of this section bears the burden of proving by a preponderance of the evidence that the address to which the notice or order was sent was not an address with which the person was associated at the time the commissioner originally mailed the notice or order by certified mail. For the purposes of this section, a person is associated with an address at the time the commissioner originally mailed the notice or order if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the notice or order was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the notice or order was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If the person elects to protest an assessment certified to the attorney general for collection, the person must do so within sixty days after the attorney general's initial contact with the person. The attorney general may enter into a compromise with the person under sections 131.02 and 5703.06 of the Revised

Code if the person does not file a petition for reassessment with the tax commissioner. 116095
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(D) Nothing in this section prohibits the tax commissioner or the commissioner's designee from delivering a notice or order by personal service. 116097
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(E) Collection actions taken pursuant to section 131.02 of the Revised Code upon any assessment being challenged under division (B)(1)(b) of this section shall be stayed upon the pendency of an appeal under this section. If a petition for reassessment is filed pursuant to this section on a claim that has been certified to the attorney general for collection, the claim shall be uncertified. 116100
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(F) As used in this section: 116107

(1) "Last known address" means the address the department has at the time the document is originally sent by certified mail, or any address the department can ascertain using reasonable means such as the use of a change of address service offered by the United States postal service. 116108
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(2) "Undeliverable address" means an address to which the United States postal service is not able to deliver a notice or order, except when the reason for nondelivery is because the addressee fails to acknowledge or accept the notice or order. 116113
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Sec. 5703.58. (A) Subject to division ~~(C)~~(B) and (D) of this section, the tax commissioner shall not make or issue an assessment for any tax payable to the state that is administered by the tax commissioner, or any penalty, interest, or additional charge on such tax, after the expiration of ten years, including any extension, from the date the tax return or report was due when such amount was not reported and paid, provided that the ten-year period shall be extended by the period of any lawful stay to such 116117
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assessment. As used in this section, "assessment" has the same 116125
meaning as in section 5703.50 of the Revised Code. 116126

(B) Subject to division (D) of this section, the tax 116127
commissioner shall not make or issue an assessment for any tax due 116128
under Chapter 5741. of the Revised Code, or any penalty, interest, 116129
or additional charge on such tax, after the expiration of seven 116130
years, including any extension, from the date the tax return or 116131
report was due if the amount of tax due was not reported and paid, 116132
provided that the seven-year period shall be extended by the 116133
period of any lawful stay to the assessment. 116134

(C) This section does not apply to either of the following: 116135

(1) Any amount collected for the state by a vendor or seller 116136
under Chapter 5739. or 5741. of the Revised Code or withheld by an 116137
employer under Chapter 5747. of the Revised Code. 116138

(2) Any person who fraudulently attempts to avoid such tax. 116139

~~(C)~~(D) This section does not authorize the assessment or 116140
collection of a tax for which the applicable period of limitation 116141
prescribed by law has expired and for which no valid assessment 116142
has been made and served as prescribed by law. 116143

Sec. 5705.01. As used in this chapter: 116144

(A) "Subdivision" means any county; municipal corporation; 116145
township; township police district; joint police district; 116146
township fire district; joint fire district; joint ambulance 116147
district; joint emergency medical services district; fire and 116148
ambulance district; joint recreation district; township waste 116149
disposal district; township road district; community college 116150
district; technical college district; detention facility district; 116151
a district organized under section 2151.65 of the Revised Code; a 116152
combined district organized under sections 2152.41 and 2151.65 of 116153
the Revised Code; a joint-county alcohol, drug addiction, and 116154

mental health service district; a drainage improvement district 116155
created under section 6131.52 of the Revised Code; a union 116156
cemetery district; a county school financing district; a city, 116157
local, exempted village, cooperative education, or joint 116158
vocational school district; or a regional student education 116159
district created under section 3313.83 of the Revised Code. 116160

(B) "Municipal corporation" means all municipal corporations, 116161
including those that have adopted a charter under Article XVIII, 116162
Ohio Constitution. 116163

(C) "Taxing authority" or "bond issuing authority" means, in 116164
the case of any county, the board of county commissioners; in the 116165
case of a municipal corporation, the council or other legislative 116166
authority of the municipal corporation; in the case of a city, 116167
local, exempted village, cooperative education, or joint 116168
vocational school district, the board of education; in the case of 116169
a community college district, the board of trustees of the 116170
district; in the case of a technical college district, the board 116171
of trustees of the district; in the case of a detention facility 116172
district, a district organized under section 2151.65 of the 116173
Revised Code, or a combined district organized under sections 116174
2152.41 and 2151.65 of the Revised Code, the joint board of county 116175
commissioners of the district; in the case of a township, the 116176
board of township trustees; in the case of a joint police 116177
district, the joint police district board; in the case of a joint 116178
fire district, the board of fire district trustees; in the case of 116179
a joint recreation district, the joint recreation district board 116180
of trustees; in the case of a joint-county alcohol, drug 116181
addiction, and mental health service district, the district's 116182
board of alcohol, drug addiction, and mental health services; in 116183
the case of a joint ambulance district or a fire and ambulance 116184
district, the board of trustees of the district; in the case of a 116185
union cemetery district, the legislative authority of the 116186

municipal corporation and the board of township trustees, acting 116187
jointly as described in section 759.341 of the Revised Code; in 116188
the case of a drainage improvement district, the board of county 116189
commissioners of the county in which the drainage district is 116190
located; in the case of a joint emergency medical services 116191
district, the joint board of county commissioners of all counties 116192
in which all or any part of the district lies; and in the case of 116193
a township police district, a township fire district, a township 116194
road district, or a township waste disposal district, the board of 116195
township trustees of the township in which the district is 116196
located. "Taxing authority" also means the educational service 116197
center governing board that serves as the taxing authority of a 116198
county school financing district as provided in section 3311.50 of 116199
the Revised Code, and the board of directors of a regional student 116200
education district created under section 3313.83 of the Revised 116201
Code. 116202

(D) "Fiscal officer" in the case of a county, means the 116203
county auditor; in the case of a municipal corporation, the city 116204
auditor or village clerk, or an officer who, by virtue of the 116205
charter, has the duties and functions of the city auditor or 116206
village clerk, except that in the case of a municipal university 116207
the board of directors of which have assumed, in the manner 116208
provided by law, the custody and control of the funds of the 116209
university, the chief accounting officer of the university shall 116210
perform, with respect to the funds, the duties vested in the 116211
fiscal officer of the subdivision by sections 5705.41 and 5705.44 116212
of the Revised Code; in the case of a school district, the 116213
treasurer of the board of education; in the case of a county 116214
school financing district, the treasurer of the educational 116215
service center governing board that serves as the taxing 116216
authority; in the case of a township, the township fiscal officer; 116217
in the case of a joint police district, the treasurer of the 116218
district; in the case of a joint fire district, the clerk of the 116219

board of fire district trustees; in the case of a joint ambulance 116220
district, the clerk of the board of trustees of the district; in 116221
the case of a joint emergency medical services district, the 116222
person appointed as fiscal officer pursuant to division (D) of 116223
section 307.053 of the Revised Code; in the case of a fire and 116224
ambulance district, the person appointed as fiscal officer 116225
pursuant to division (B) of section 505.375 of the Revised Code; 116226
in the case of a joint recreation district, the person designated 116227
pursuant to section 755.15 of the Revised Code; in the case of a 116228
union cemetery district, the clerk of the municipal corporation 116229
designated in section 759.34 of the Revised Code; in the case of a 116230
children's home district, educational service center, general 116231
health district, joint-county alcohol, drug addiction, and mental 116232
health service district, county library district, detention 116233
facility district, district organized under section 2151.65 of the 116234
Revised Code, a combined district organized under sections 2152.41 116235
and 2151.65 of the Revised Code, or a metropolitan park district 116236
for which no treasurer has been appointed pursuant to section 116237
1545.07 of the Revised Code, the county auditor of the county 116238
designated by law to act as the auditor of the district; in the 116239
case of a metropolitan park district which has appointed a 116240
treasurer pursuant to section 1545.07 of the Revised Code, that 116241
treasurer; in the case of a drainage improvement district, the 116242
auditor of the county in which the drainage improvement district 116243
is located; in the case of a regional student education district, 116244
the fiscal officer appointed pursuant to section 3313.83 of the 116245
Revised Code; and in all other cases, the officer responsible for 116246
keeping the appropriation accounts and drawing warrants for the 116247
expenditure of the moneys of the district or taxing unit. 116248

(E) "Permanent improvement" or "improvement" means any 116249
property, asset, or improvement with an estimated life or 116250
usefulness of five years or more, including land and interests 116251
therein, and reconstructions, enlargements, and extensions thereof 116252

having an estimated life or usefulness of five years or more. 116253

(F) "Current operating expenses" and "current expenses" mean 116254
the lawful expenditures of a subdivision, except those for 116255
permanent improvements, and except payments for interest, sinking 116256
fund, and retirement of bonds, notes, and certificates of 116257
indebtedness of the subdivision. 116258

(G) "Debt charges" means interest, sinking fund, and 116259
retirement charges on bonds, notes, or certificates of 116260
indebtedness. 116261

(H) "Taxing unit" means any subdivision or other governmental 116262
district having authority to levy taxes on the property in the 116263
district or issue bonds that constitute a charge against the 116264
property of the district, including conservancy districts, 116265
metropolitan park districts, sanitary districts, road districts, 116266
and other districts. 116267

(I) "District authority" means any board of directors, 116268
trustees, commissioners, or other officers controlling a district 116269
institution or activity that derives its income or funds from two 116270
or more subdivisions, such as the educational service center, the 116271
trustees of district children's homes, the district board of 116272
health, a joint-county alcohol, drug addiction, and mental health 116273
service district's board of alcohol, drug addiction, and mental 116274
health services, detention facility districts, a joint recreation 116275
district board of trustees, districts organized under section 116276
2151.65 of the Revised Code, combined districts organized under 116277
sections 2152.41 and 2151.65 of the Revised Code, and other such 116278
boards. 116279

(J) "Tax list" and "tax duplicate" mean the general tax lists 116280
and duplicates prescribed by sections 319.28 and 319.29 of the 116281
Revised Code. 116282

(K) "Property" as applied to a tax levy means taxable 116283

property listed on general tax lists and duplicates. 116284

(L) "School library district" means a school district in 116285
which a free public library has been established that is under the 116286
control and management of a board of library trustees as provided 116287
in section 3375.15 of the Revised Code. 116288

Sec. 5705.14. No transfer shall be made from one fund of a 116289
subdivision to any other fund, by order of the court or otherwise, 116290
except as follows: 116291

(A) The unexpended balance in a bond fund that is no longer 116292
needed for the purpose for which such fund was created shall be 116293
transferred to the sinking fund or bond retirement fund from which 116294
such bonds are payable. 116295

(B) The unexpended balance in any specific permanent 116296
improvement fund, other than a bond fund, after the payment of all 116297
obligations incurred in the acquisition of such improvement, shall 116298
be transferred to the sinking fund or bond retirement fund of the 116299
subdivision; provided that if such money is not required to meet 116300
the obligations payable from such funds, it may be transferred to 116301
a special fund for the acquisition of permanent improvements, or, 116302
with the approval of the court of common pleas of the county in 116303
which such subdivision is located, to the general fund of the 116304
subdivision. 116305

(C) The (1) Except as provided in division (C)(2) of this 116306
section, the unexpended balance in the sinking fund or bond 116307
retirement fund of a subdivision, after all indebtedness, 116308
interest, and other obligations for the payment of which such fund 116309
exists have been paid and retired, shall be transferred, in the 116310
case of the sinking fund, to the bond retirement fund, and in the 116311
case of the bond retirement fund, to the sinking fund; provided 116312
that if such transfer is impossible by reason of the nonexistence 116313
of the fund to receive the transfer, such unexpended balance, with 116314

the approval of the court of common pleas of the county in which 116315
such division is located, may be transferred to any other fund of 116316
the subdivision. 116317

(2) Money in a bond fund or bond retirement fund of a city, 116318
local, exempted village, cooperative education, or joint 116319
vocational school district may be transferred to a specific 116320
permanent improvement fund provided that the county budget 116321
commission of the county in which the school district is located 116322
approves the transfer upon its determination that the money 116323
transferred will not be required to meet the obligations payable 116324
from the bond fund or bond retirement fund. In arriving at such a 116325
determination, the county budget commission shall consider the 116326
balance of the bond fund or bond retirement fund, the outstanding 116327
obligations payable from the fund, and the sources and timing of 116328
the fund's revenue. 116329

(D) The unexpended balance in any special fund, other than an 116330
improvement fund, existing in accordance with division (D), (F), 116331
or (G) of section 5705.09 or section 5705.12 of the Revised Code, 116332
may be transferred to the general fund or to the sinking fund or 116333
bond retirement fund after the termination of the activity, 116334
service, or other undertaking for which such special fund existed, 116335
but only after the payment of all obligations incurred and payable 116336
from such special fund. 116337

(E) Money may be transferred from the general fund to any 116338
other fund of the subdivision. 116339

(F) Moneys retained or received by a county under section 116340
4501.04 or division (A)(3) of section 5735.27 of the Revised Code 116341
may be transferred from the fund into which they were deposited to 116342
the sinking fund or bond retirement fund from which any principal, 116343
interest, or charges for which such moneys may be used is payable. 116344

(G) Moneys retained or received by a municipal corporation 116345

under section 4501.04 or division (A)(1) or (2) of section 5735.27 116346
of the Revised Code may be transferred from the fund into which 116347
they were deposited to the sinking fund or bond retirement fund 116348
from which any principal, interest, or charges for which such 116349
moneys may be used is payable. 116350

(H)(1) Money may be transferred from the county developmental 116351
disabilities general fund to the county developmental disabilities 116352
capital fund established under section 5705.091 of the Revised 116353
Code or to any other fund created for the purposes of the county 116354
board of developmental disabilities, so long as money in the fund 116355
to which the money is transferred can be spent for the particular 116356
purpose of the transferred money. The county board of 116357
developmental disabilities may request, by resolution, that the 116358
board of county commissioners make the transfer. The county board 116359
of developmental disabilities shall transmit a certified copy of 116360
the resolution to the board of county commissioners. Upon 116361
receiving the resolution, the board of county commissioners may 116362
make the transfer. Money transferred to a fund shall be credited 116363
to an account appropriate to its particular purpose. 116364

(2) An unexpended balance in an account in the county 116365
developmental disabilities capital fund or any other fund created 116366
for the purposes of the county board of developmental disabilities 116367
may be transferred back to the county developmental disabilities 116368
general fund. The transfer may be made if the unexpended balance 116369
is no longer needed for its particular purpose and all outstanding 116370
obligations have been paid. Money transferred back to the county 116371
developmental disabilities general fund shall be credited to an 116372
account for current expenses within that fund. The county board of 116373
developmental disabilities may request, by resolution, that the 116374
board of county commissioners make the transfer. The county board 116375
of developmental disabilities shall transmit a certified copy of 116376
the resolution to the board of county commissioners. Upon 116377

receiving the resolution, the board of county commissioners may 116378
make the transfer. 116379

(I) Money may be transferred from the public assistance fund 116380
established under section 5101.161 of the Revised Code to either 116381
of the following funds, so long as the money to be transferred 116382
from the public assistance fund may be spent for the purposes for 116383
which money in the receiving fund may be used: 116384

(1) The children services fund established under section 116385
5101.144 of the Revised Code; 116386

(2) The child support enforcement administrative fund 116387
established, as authorized under rules adopted by the director of 116388
job and family services, in the county treasury for use by any 116389
county family services agency. 116390

Except in the case of transfer pursuant to division (E) of 116391
this section, transfers authorized by this section shall only be 116392
made by resolution of the taxing authority passed with the 116393
affirmative vote of two-thirds of the members. 116394

Sec. 5705.16. A resolution of the taxing authority of any 116395
political subdivision shall be passed by a majority of all the 116396
members thereof, declaring the necessity for the transfer of funds 116397
authorized by section 5705.15 of the Revised Code, and such taxing 116398
authority shall prepare a petition addressed to the court of 116399
common pleas of the county in which the funds are held. The 116400
petition shall set forth the name and amount of the fund, the fund 116401
to which it is desired to be transferred, a copy of such 116402
resolution with a full statement of the proceedings pertaining to 116403
its passage, and the reason or necessity for the transfer. A 116404
duplicate copy of said petition shall be forwarded to the tax 116405
commissioner for ~~his~~ the commissioner's examination and approval. 116406

If the petition is disapproved by the commissioner, it shall 116407

be returned within ten days of its receipt to the officers who 116408
submitted it, with a memorandum of the commissioner's objections. 116409
This disapproval shall not prejudice a later application for 116410
approval. If the petition is approved by the commissioner, it 116411
shall be forwarded within ten days of its receipt to the clerk of 116412
the court of common pleas of the county to whose court of common 116413
pleas the petition is addressed, marked with the approval of the 116414
commissioner. If the commissioner approves the petition, ~~he~~ the 116415
commissioner shall notify immediately the officers who submitted 116416
the petition, who then may file the petition in the court to which 116417
it is addressed. 116418

The petitioner shall give notice of the filing, object, and 116419
prayer of the petition, and of the time when it will be heard. The 116420
notice shall be given by one publication in ~~two newspapers having~~ 116421
a newspaper of general circulation in the territory to be affected 116422
by such transfer of funds, ~~preference being given to newspapers~~ 116423
~~published within the territory~~. If there are is no such ~~newspapers~~ 116424
newspaper, the notice shall be posted in ten conspicuous places 116425
within the territory for ~~the~~ a period of four weeks. 116426

The petition may be heard at the time stated in the notice, 116427
or as soon thereafter as convenient for the court. Any person who 116428
objects to the prayer of such petition shall file ~~his~~ the person's 116429
objections in such cause on or before the time fixed in the notice 116430
for hearing, and ~~he~~ that person shall be entitled to be heard. 116431

If, upon hearing, the court finds that the notice has been 116432
given as required by this section, that the petition states 116433
sufficient facts, that there are good reasons, or that a necessity 116434
exists, for the transfer, and that no injury will result 116435
therefrom, it shall grant the prayer of the petition and order the 116436
petitioners to make such transfer. 116437

A copy of the findings, orders, and judgments of the court 116438
shall be certified by the clerk and entered on the records of the 116439

petitioning officers or board, and thereupon the petitioners may 116440
make the transfer of funds as directed by the court. All costs of 116441
such proceedings shall be paid by the petitioners, except that if 116442
objections are filed the court may order such objectors to pay all 116443
or a portion of the costs. 116444

Sec. 5705.191. The taxing authority of any subdivision, other 116445
than the board of education of a school district or the taxing 116446
authority of a county school financing district, by a vote of 116447
two-thirds of all its members, may declare by resolution that the 116448
amount of taxes that may be raised within the ten-mill limitation 116449
by levies on the current tax duplicate will be insufficient to 116450
provide an adequate amount for the necessary requirements of the 116451
subdivision, and that it is necessary to levy a tax in excess of 116452
such limitation for any of the purposes in section 5705.19 of the 116453
Revised Code, or to supplement the general fund for the purpose of 116454
making appropriations for one or more of the following purposes: 116455
public assistance, human or social services, relief, welfare, 116456
hospitalization, health, and support of general hospitals, and 116457
that the question of such additional tax levy shall be submitted 116458
to the electors of the subdivision at a general, primary, or 116459
special election to be held at a time therein specified. Such 116460
resolution shall not include a levy on the current tax list and 116461
duplicate unless such election is to be held at or prior to the 116462
general election day of the current tax year. Such resolution 116463
shall conform to the requirements of section 5705.19 of the 116464
Revised Code, except that a levy to supplement the general fund 116465
for the purposes of public assistance, human or social services, 116466
relief, welfare, hospitalization, health, or the support of 116467
general or tuberculosis hospitals may not be for a longer period 116468
than ten years. All other levies under this section may not be for 116469
a longer period than five years unless a longer period is 116470
permitted by section 5705.19 of the Revised Code, and the 116471

resolution shall specify the date of holding such election, which 116472
shall not be earlier than ninety days after the adoption and 116473
certification of such resolution. The resolution shall go into 116474
immediate effect upon its passage and no publication of the same 116475
is necessary other than that provided for in the notice of 116476
election. A copy of such resolution, immediately after its 116477
passage, shall be certified to the board of elections of the 116478
proper county or counties in the manner provided by section 116479
5705.25 of the Revised Code, and such section shall govern the 116480
arrangements for the submission of such question and other matters 116481
with respect to such election, to which section 5705.25 of the 116482
Revised Code refers, excepting that such election shall be held on 116483
the date specified in the resolution, which shall be consistent 116484
with the requirements of section 3501.01 of the Revised Code, 116485
provided that only one special election for the submission of such 116486
question may be held in any one calendar year and provided that a 116487
special election may be held upon the same day a primary election 116488
is held. Publication of notice of that election shall be made in 116489
~~one or more newspapers~~ a newspaper of general circulation in the 116490
county once a week for two consecutive weeks, or as provided in 116491
section 7.16 of the Revised Code, prior to the election, ~~and, if,~~ 116492
If the board of elections operates and maintains a web site, the 116493
board of elections shall post notice of the election on its web 116494
site for thirty days prior to the election. 116495

If a majority of the electors voting on the question vote in 116496
favor thereof, the taxing authority of the subdivision may make 116497
the necessary levy within such subdivision at the additional rate 116498
or at any lesser rate outside the ten-mill limitation on the tax 116499
list and duplicate for the purpose stated in the resolution. Such 116500
tax levy shall be included in the next annual tax budget that is 116501
certified to the county budget commission. 116502

After the approval of such a levy by the electors, the taxing 116503

authority of the subdivision may anticipate a fraction of the 116504
proceeds of such levy and issue anticipation notes. In the case of 116505
a continuing levy that is not levied for the purpose of current 116506
expenses, notes may be issued at any time after approval of the 116507
levy in an amount not more than fifty per cent of the total 116508
estimated proceeds of the levy for the succeeding ten years, less 116509
an amount equal to the fraction of the proceeds of the levy 116510
previously anticipated by the issuance of anticipation notes. In 116511
the case of a levy for a fixed period that is not for the purpose 116512
of current expenses, notes may be issued at any time after 116513
approval of the levy in an amount not more than fifty per cent of 116514
the total estimated proceeds of the levy throughout the remaining 116515
life of the levy, less an amount equal to the fraction of the 116516
proceeds of the levy previously anticipated by the issuance of 116517
anticipation notes. In the case of a levy for current expenses, 116518
notes may be issued after the approval of the levy by the electors 116519
and prior to the time when the first tax collection from the levy 116520
can be made. Such notes may be issued in an amount not more than 116521
fifty per cent of the total estimated proceeds of the levy 116522
throughout the term of the levy in the case of a levy for a fixed 116523
period, or fifty per cent of the total estimated proceeds for the 116524
first ten years of the levy in the case of a continuing levy. 116525

No anticipation notes that increase the net indebtedness of a 116526
county may be issued without the prior consent of the board of 116527
county commissioners of that county. The notes shall be issued as 116528
provided in section 133.24 of the Revised Code, shall have 116529
principal payments during each year after the year of their 116530
issuance over a period not exceeding the life of the levy 116531
anticipated, and may have a principal payment in the year of their 116532
issuance. 116533

"Taxing authority" and "subdivision" have the same meanings 116534
as in section 5705.01 of the Revised Code. 116535

This section is supplemental to and not in derogation of 116536
sections 5705.20, 5705.21, and 5705.22 of the Revised Code. 116537

Sec. 5705.194. The board of education of any city, local, 116538
exempted village, cooperative education, or joint vocational 116539
school district at any time may declare by resolution that the 116540
revenue that will be raised by all tax levies which the district 116541
is authorized to impose, when combined with state and federal 116542
revenues, will be insufficient to provide for the emergency 116543
requirements of the school district or to avoid an operating 116544
deficit, and that it is therefore necessary to levy an additional 116545
tax in excess of the ten-mill limitation. The resolution shall be 116546
confined to a single purpose and shall specify that purpose. If 116547
the levy is proposed to renew all or a portion of the proceeds 116548
derived from one or more existing levies imposed pursuant to this 116549
section, it shall be called a renewal levy and shall be so 116550
designated on the ballot. If two or more existing levies are to be 116551
included in a single renewal levy but are not scheduled to expire 116552
in the same year, the resolution shall specify that the existing 116553
levies to be renewed shall not be levied after the year preceding 116554
the year in which the renewal levy is first imposed. 116555
Notwithstanding the original purpose of any one or more existing 116556
levies that are to be in any single renewal levy, the purpose of 116557
the renewal levy may be either to avoid an operating deficit or to 116558
provide for the emergency requirements of the school district. The 116559
resolution shall further specify the amount of money it is 116560
necessary to raise for the specified purpose for each calendar 116561
year the millage is to be imposed; if a renewal levy, whether the 116562
levy is to renew all, or a portion of, the proceeds derived from 116563
one or more existing levies; and the number of years in which the 116564
millage is to be in effect, which may include a levy upon the 116565
current year's tax list. The number of years may be any number not 116566
exceeding ten. 116567

The question shall be submitted at a special election on a date specified in the resolution. The date shall not be earlier than eighty days after the adoption and certification of the resolution to the county auditor and shall be consistent with the requirements of section 3501.01 of the Revised Code. A resolution for a renewal levy shall not be placed on the ballot unless the question is submitted on a date on which a special election may be held under division (D) of section 3501.01 of the Revised Code, except for the first Tuesday after the first Monday in February and August, during the last year the levy to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year, except that if the resolution proposes renewing two or more existing levies, the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on that list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on the real and public utility property tax list and duplicate.

The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the county auditor of the proper county. Section 5705.195 of the Revised Code shall govern the arrangements for the submission of questions to the electors under this section and other matters concerning the election. Publication of notice of the election shall be made in one ~~or more newspapers~~ newspaper of general

circulation in the county once a week for two consecutive weeks, 116600
or as provided in section 7.16 of the Revised Code, prior to the 116601
election, ~~and, if.~~ If the board of elections operates and 116602
maintains a web site, the board of elections shall post notice of 116603
the election on its web site for thirty days prior to the 116604
election. If a majority of the electors voting on the question 116605
submitted in an election vote in favor of the levy, the board of 116606
education of the school district may make the additional levy 116607
necessary to raise the amount specified in the resolution for the 116608
purpose stated in the resolution. The tax levy shall be included 116609
in the next tax budget that is certified to the county budget 116610
commission. 116611

After the approval of the levy and prior to the time when the 116612
first tax collection from the levy can be made, the board of 116613
education may anticipate a fraction of the proceeds of the levy 116614
and issue anticipation notes in an amount not exceeding the total 116615
estimated proceeds of the levy to be collected during the first 116616
year of the levy. 116617

The notes shall be issued as provided in section 133.24 of 116618
the Revised Code, shall have principal payments during each year 116619
after the year of their issuance over a period not to exceed five 116620
years, and may have principal payment in the year of their 116621
issuance. 116622

Sec. 5705.196. The election provided for in section 5705.194 116623
of the Revised Code shall be held at the regular places for voting 116624
in the district, and shall be conducted, canvassed, and certified 116625
in the same manner as regular elections in the district for the 116626
election of county officers, provided that in any such election in 116627
which only part of the electors of a precinct are qualified to 116628
vote, the board of elections may assign voters in such part to an 116629
adjoining precinct. Such an assignment may be made to an adjoining 116630

precinct in another county with the consent and approval of the 116631
board of elections of such other county. Notice of the election 116632
shall be published in one ~~or more newspapers~~ newspaper of general 116633
circulation in the district once a week for two consecutive weeks 116634
or as provided in section 7.16 of the Revised Code, prior to the 116635
election, ~~and, if~~. If the board of elections operates and 116636
maintains a web site, the board of elections shall post notice of 116637
the election on its web site for thirty days prior to the 116638
election. Such notice shall state the annual proceeds of the 116639
proposed levy, the purpose for which such proceeds are to be used, 116640
the number of years during which the levy shall run, and the 116641
estimated average additional tax rate expressed in dollars and 116642
cents for each one hundred dollars of valuation as well as in 116643
mills for each one dollar of valuation, outside the limitation 116644
imposed by Section 2 of Article XII, Ohio Constitution, as 116645
certified by the county auditor. 116646

Sec. 5705.21. (A) At any time, the board of education of any 116647
city, local, exempted village, cooperative education, or joint 116648
vocational school district, by a vote of two-thirds of all its 116649
members, may declare by resolution that the amount of taxes which 116650
may be raised within the ten-mill limitation by levies on the 116651
current tax duplicate will be insufficient to provide an adequate 116652
amount for the necessary requirements of the school district, that 116653
it is necessary to levy a tax in excess of such limitation for one 116654
of the purposes specified in division (A), (D), (F), (H), or (DD) 116655
of section 5705.19 of the Revised Code, for general permanent 116656
improvements, for the purpose of operating a cultural center, or 116657
for the purpose of providing education technology, and that the 116658
question of such additional tax levy shall be submitted to the 116659
electors of the school district at a special election on a day to 116660
be specified in the resolution. If the resolution states that the 116661
levy is for the purpose of operating a cultural center, the ballot 116662

shall state that the levy is "for the purpose of operating the 116663
..... (name of cultural center)." 116664

As used in this section, "cultural center" means a 116665
freestanding building, separate from a public school building, 116666
that is open to the public for educational, musical, artistic, and 116667
cultural purposes; "education technology" means, but is not 116668
limited to, computer hardware, equipment, materials, and 116669
accessories, equipment used for two-way audio or video, and 116670
software; and "general permanent improvements" means permanent 116671
improvements without regard to the limitation of division (F) of 116672
section 5705.19 of the Revised Code that the improvements be a 116673
specific improvement or a class of improvements that may be 116674
included in a single bond issue. 116675

The submission of questions to the electors under this 116676
section is subject to the limitation on the number of election 116677
dates established by section 5705.214 of the Revised Code. 116678

(B) Such resolution shall be confined to a single purpose and 116679
shall specify the amount of the increase in rate that it is 116680
necessary to levy, the purpose of the levy, and the number of 116681
years during which the increase in rate shall be in effect. The 116682
number of years may be any number not exceeding five or, if the 116683
levy is for current expenses of the district or for general 116684
permanent improvements, for a continuing period of time. The 116685
resolution shall specify the date of holding such election, which 116686
shall not be earlier than ninety days after the adoption and 116687
certification of the resolution and which shall be consistent with 116688
the requirements of section 3501.01 of the Revised Code. 116689

The resolution may propose to renew one or more existing 116690
levies imposed under this section or to increase or decrease a 116691
single levy imposed under this section. If the board of education 116692
imposes one or more existing levies for the purpose specified in 116693
division (F) of section 5705.19 of the Revised Code, the 116694

resolution may propose to renew one or more of those existing levies, or to increase or decrease a single such existing levy, for the purpose of general permanent improvements. If the resolution proposes to renew two or more existing levies, the levies shall be levied for the same purpose. The resolution shall identify those levies and the rates at which they are levied. The resolution also shall specify that the existing levies shall not be extended on the tax lists after the year preceding the year in which the renewal levy is first imposed, regardless of the years for which those levies originally were authorized to be levied.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the board of elections of the proper county in the manner provided by section 5705.25 of the Revised Code, and that section shall govern the arrangements for the submission of such question and other matters concerning such election, to which that section refers, except that such election shall be held on the date specified in the resolution. Publication of notice of that election shall be made in ~~one or more newspapers~~ a newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election, ~~and, if~~ If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of education may make the necessary levy within the school district at the additional rate, or at any lesser rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. A levy for a continuing period of time may be reduced pursuant to section 5705.261 of the Revised Code. The tax levy

shall be included in the next tax budget that is certified to the county budget commission.

(C)(1) After the approval of a levy on the current tax list and duplicate for current expenses, for recreational purposes, for community centers provided for in section 755.16 of the Revised Code, or for a public library of the district and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy.

(2) After the approval of a levy for general permanent improvements for a specified number of years, or for permanent improvements having the purpose specified in division (F) of section 5705.19 of the Revised Code, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy remaining to be collected in each year over a period of five years after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(3) After approval of a levy for general permanent improvements for a continuing period of time, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each year over a specified period of years, not exceeding ten, after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of 116760
the Revised Code, shall have principal payments during each year 116761
after the year of their issuance over a period not to exceed ten 116762
years, and may have a principal payment in the year of their 116763
issuance. 116764

Sec. 5705.211. (A) As used in this section: 116765

(1) "Adjusted charge-off increase" for a tax year means two 116766
~~and two-tenths~~ per cent of the cumulative carryover property value 116767
increase. ~~If the cumulative carryover property value increase is~~ 116768
~~computed on the basis of a school district's recognized valuation~~ 116769
~~for a fiscal year before fiscal year 2014, the adjusted charge-off~~ 116770
~~increase shall be adjusted to account for the greater charge-off~~ 116771
~~rates prescribed for such fiscal years under sections 3317.022 and~~ 116772
~~3306.13 of the Revised Code.~~ 116773

(2) "Cumulative carryover property value increase" means the 116774
sum of the increases in carryover value certified under division 116775
(B)(2) of section 3317.015 of the Revised Code and included in a 116776
school district's total taxable value in the computation of 116777
recognized valuation under division (B) of that section for all 116778
fiscal years from the fiscal year that ends in the first tax year 116779
a levy under this section is extended on the tax list of real and 116780
public utility property until and including the fiscal year that 116781
ends in the current tax year. 116782

(3) "Taxes charged and payable" means the taxes charged and 116783
payable from a tax levy extended on the real and public utility 116784
property tax list and the general list of personal property before 116785
any reduction under section 319.302, 323.152, or 323.158 of the 116786
Revised Code. 116787

(B) The board of education of a city, local, or exempted 116788
village school district may adopt a resolution proposing the levy 116789
of a tax in excess of the ten-mill limitation for the purpose of 116790

paying the current operating expenses of the district. If the 116791
resolution is approved as provided in division (D) of this 116792
section, the tax may be levied at such a rate each tax year that 116793
the total taxes charged and payable from the levy equals the 116794
adjusted charge-off increase for the tax year or equals a lesser 116795
amount as prescribed under division (C) of this section. The tax 116796
may be levied for a continuing period of time or for a specific 116797
number of years, but not fewer than five years, as provided in the 116798
resolution. The tax may not be placed on the tax list for a tax 116799
year beginning before the first day of January following adoption 116800
of the resolution. A board of education may not adopt a resolution 116801
under this section proposing to levy a tax under this section 116802
concurrently with any other tax levied by the board under this 116803
section. 116804

(C) After the first year a tax is levied under this section, 116805
the rate of the tax in any year shall not exceed the rate, 116806
estimated by the county auditor, that would cause the sums levied 116807
from the tax against carryover property to exceed one hundred four 116808
per cent of the sums levied from the tax against carryover 116809
property in the preceding year. A board of education imposing a 116810
tax under this section may specify in the resolution imposing the 116811
tax that the percentage shall be less than one hundred four per 116812
cent, but the percentage shall not be less than one hundred per 116813
cent. At any time after a resolution adopted under this section is 116814
approved by a majority of electors as provided in division (D) of 116815
this section, the board of education, by resolution, may decrease 116816
the percentage specified in the resolution levying the tax. 116817

(D) A resolution adopted under this section shall state that 116818
the purpose of the tax is to pay current operating expenses of the 116819
district, and shall specify the first year in which the tax is to 116820
be levied, the number of years the tax will be levied or that it 116821
will be levied for a continuing period of time, and the election 116822

at which the question of the tax is to appear on the ballot, which 116823
shall be a general or special election consistent with the 116824
requirements of section 3501.01 of the Revised Code. If the board 116825
of education specifies a percentage less than one hundred four per 116826
cent pursuant to division (C) of this section, the percentage 116827
shall be specified in the resolution. 116828

Upon adoption of the resolution, the board of education may 116829
certify a copy of the resolution to the proper county board of 116830
elections. The copy of the resolution shall be certified to the 116831
board of elections not later than ninety days before the day of 116832
the election at which the question of the tax is to appear on the 116833
ballot. Upon receiving a timely certified copy of such a 116834
resolution, the board of elections shall make the necessary 116835
arrangements for the submission of the question to the electors of 116836
the school district, and the election shall be conducted, 116837
canvassed, and certified in the same manner as regular elections 116838
in the school district for the election of members of the board of 116839
education. Notice of the election shall be published in ~~one or~~ 116840
~~more newspapers~~ a newspaper of general circulation in the school 116841
district once per week for four consecutive weeks or as provided 116842
in section 7.16 of the Revised Code. The notice shall state that 116843
the purpose of the tax is for the current operating expenses of 116844
the school district, the first year the tax is to be levied, the 116845
number of years the tax is to be levied or that it is to be levied 116846
for a continuing period of time, that the tax is to be levied each 116847
year in an amount estimated to offset decreases in state base cost 116848
funding caused by appreciation in real estate values, and that the 116849
estimated additional tax in any year shall not exceed the previous 116850
year's by more than four per cent, or a lesser percentage 116851
specified in the resolution levying the tax, except for increases 116852
caused by the addition of new taxable property. 116853

The question shall be submitted as a separate proposition but 116854

may be printed on the same ballot with any other proposition 116855
submitted at the same election other than the election of 116856
officers. 116857

The form of the ballot shall be substantially as follows: 116858

"An additional tax for the benefit of (name of school 116859
district) for the purpose of paying the current operating expenses 116860
of the district, for (number of years or for continuing 116861
period of time), at a rate sufficient to offset any reduction in 116862
basic state funding caused by appreciation in real estate values? 116863
This levy will permit variable annual growth in revenue up to 116864
..... (amount specified by school district) per cent for the 116865
duration of the levy. 116866

	For the tax levy	
	Against the tax levy	"

116867
116868
116869
116870

If a majority of the electors of the school district voting 116871
on the question vote in favor of the question, the board of 116872
elections shall certify the results of the election to the board 116873
of education and to the tax commissioner immediately after the 116874
canvass. 116875

(E) When preparing any estimate of the contemplated receipts 116876
from a tax levied pursuant to this section for the purposes of 116877
sections 5705.28 to 5705.40 of the Revised Code, and in preparing 116878
to certify the tax under section 5705.34 of the Revised Code, a 116879
board of education authorized to levy such a tax shall use 116880
information supplied by the department of education to determine 116881
the adjusted charge-off increase for the tax year for which that 116882
certification is made. If the board levied a tax under this 116883
section in the preceding tax year, the sum to be certified for 116884
collection from the tax shall not exceed the sum that would exceed 116885

the limitation imposed under division (C) of this section. At the 116886
request of the board of education or the treasurer of the school 116887
district, the county auditor shall assist the board of education 116888
in determining the rate or sum that may be levied under this 116889
section. 116890

The board of education shall certify the sum authorized to be 116891
levied to the county auditor, and, for the purpose of the county 116892
auditor determining the rate at which the tax is to be levied in 116893
the tax year, the sum so certified shall be the sum to be raised 116894
by the tax unless the sum exceeds the limitation imposed by 116895
division (C) of this section. A tax levied pursuant to this 116896
section shall not be levied at a rate in excess of the rate 116897
estimated by the county auditor to produce the sum certified by 116898
the board of education before the reductions under sections 116899
319.302, 323.152, and 323.158 of the Revised Code. Notwithstanding 116900
section 5705.34 of the Revised Code, a board of education 116901
authorized to levy a tax under this section shall certify the tax 116902
to the county auditor before the first day of October of the tax 116903
year in which the tax is to be levied, or at a later date as 116904
approved by the tax commissioner. 116905

Sec. 5705.214. Not more than three elections during any 116906
calendar year shall include the questions by a school district of 116907
tax levies proposed under any one or any combination of the 116908
following sections: sections 5705.194, 5705.199, 5705.21, 116909
5705.212, 5705.213, 5705.217, 5705.218, ~~and 5705.219,~~ and 5748.09 116910
of the Revised Code. 116911

Sec. 5705.218. (A) The board of education of a city, local, 116912
or exempted village school district, at any time by a vote of 116913
two-thirds of all its members, may declare by resolution that it 116914
may be necessary for the school district to issue general 116915
obligation bonds for permanent improvements. The resolution shall 116916

state all of the following: 116917

(1) The necessity and purpose of the bond issue; 116918

(2) The date of the special election at which the question 116919
shall be submitted to the electors; 116920

(3) The amount, approximate date, estimated rate of interest, 116921
and maximum number of years over which the principal of the bonds 116922
may be paid; 116923

(4) The necessity of levying a tax outside the ten-mill 116924
limitation to pay debt charges on the bonds and any anticipatory 116925
securities. 116926

On adoption of the resolution, the board shall certify a copy 116927
of it to the county auditor. The county auditor promptly shall 116928
estimate and certify to the board the average annual property tax 116929
rate required throughout the stated maturity of the bonds to pay 116930
debt charges on the bonds, in the same manner as under division 116931
(C) of section 133.18 of the Revised Code. 116932

(B) After receiving the county auditor's certification under 116933
division (A) of this section, the board of education of the city, 116934
local, or exempted village school district, by a vote of 116935
two-thirds of all its members, may declare by resolution that the 116936
amount of taxes that can be raised within the ten-mill limitation 116937
will be insufficient to provide an adequate amount for the present 116938
and future requirements of the school district; that it is 116939
necessary to issue general obligation bonds of the school district 116940
for permanent improvements and to levy an additional tax in excess 116941
of the ten-mill limitation to pay debt charges on the bonds and 116942
any anticipatory securities; that it is necessary for a specified 116943
number of years or for a continuing period of time to levy 116944
additional taxes in excess of the ten-mill limitation to provide 116945
funds for the acquisition, construction, enlargement, renovation, 116946
and financing of permanent improvements or to pay for current 116947

operating expenses, or both; and that the question of the bonds 116948
and taxes shall be submitted to the electors of the school 116949
district at a special election, which shall not be earlier than 116950
ninety days after certification of the resolution to the board of 116951
elections, and the date of which shall be consistent with section 116952
3501.01 of the Revised Code. The resolution shall specify all of 116953
the following: 116954

(1) The county auditor's estimate of the average annual 116955
property tax rate required throughout the stated maturity of the 116956
bonds to pay debt charges on the bonds; 116957

(2) The proposed rate of the tax, if any, for current 116958
operating expenses, the first year the tax will be levied, and the 116959
number of years it will be levied, or that it will be levied for a 116960
continuing period of time; 116961

(3) The proposed rate of the tax, if any, for permanent 116962
improvements, the first year the tax will be levied, and the 116963
number of years it will be levied, or that it will be levied for a 116964
continuing period of time. 116965

The resolution shall apportion the annual rate of the tax 116966
between current operating expenses and permanent improvements, if 116967
both taxes are proposed. The apportionment may but need not be the 116968
same for each year of the tax, but the respective portions of the 116969
rate actually levied each year for current operating expenses and 116970
permanent improvements shall be limited by the apportionment. The 116971
resolution shall go into immediate effect upon its passage, and no 116972
publication of it is necessary other than that provided in the 116973
notice of election. The board of education shall certify a copy of 116974
the resolution, along with copies of the auditor's estimate and 116975
its resolution under division (A) of this section, to the board of 116976
elections immediately after its adoption. 116977

(C) The board of elections shall make the arrangements for 116978

the submission of the question to the electors of the school 116979
district, and the election shall be conducted, canvassed, and 116980
certified in the same manner as regular elections in the district 116981
for the election of county officers. The resolution shall be put 116982
before the electors as one ballot question, with a favorable vote 116983
indicating approval of the bond issue, the levy to pay debt 116984
charges on the bonds and any anticipatory securities, the current 116985
operating expenses levy, and the permanent improvements levy, if 116986
either or both levies are proposed. The board of elections shall 116987
publish notice of the election in ~~one or more newspapers~~ a 116988
newspaper of general circulation in the school district once a 116989
week for two consecutive weeks, or as provided in section 7.16 of 116990
the Revised Code, prior to the election, ~~and, if.~~ If a board of 116991
elections operates and maintains a web site, that board also shall 116992
post notice of the election on its web site for thirty days prior 116993
to the election. The notice of election shall state all of the 116994
following: 116995

(1) The principal amount of the proposed bond issue; 116996

(2) The permanent improvements for which the bonds are to be 116997
issued; 116998

(3) The maximum number of years over which the principal of 116999
the bonds may be paid; 117000

(4) The estimated additional average annual property tax rate 117001
to pay the debt charges on the bonds, as certified by the county 117002
auditor; 117003

(5) The proposed rate of the additional tax, if any, for 117004
current operating expenses; 117005

(6) The number of years the current operating expenses tax 117006
will be in effect, or that it will be in effect for a continuing 117007
period of time; 117008

(7) The proposed rate of the additional tax, if any, for 117009

permanent improvements; 117010

(8) The number of years the permanent improvements tax will 117011
be in effect, or that it will be in effect for a continuing period 117012
of time; 117013

(9) The time and place of the special election. 117014

(D) The form of the ballot for an election under this section 117015
is as follows: 117016

"Shall the school district be authorized to do the 117017
following: 117018

(1) Issue bonds for the purpose of in the 117019
principal amount of \$....., to be repaid annually over a maximum 117020
period of years, and levy a property tax outside the 117021
ten-mill limitation, estimated by the county auditor to average 117022
over the bond repayment period mills for each one dollar of 117023
tax valuation, which amounts to (rate expressed in cents or 117024
dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of 117025
tax valuation, to pay the annual debt charges on the bonds, and to 117026
pay debt charges on any notes issued in anticipation of those 117027
bonds?" 117028

If either a levy for permanent improvements or a levy for 117029
current operating expenses is proposed, or both are proposed, the 117030
ballot also shall contain the following language, as appropriate: 117031

"(2) Levy an additional property tax to provide funds for the 117032
acquisition, construction, enlargement, renovation, and financing 117033
of permanent improvements at a rate not exceeding mills 117034
for each one dollar of tax valuation, which amounts to 117035
(rate expressed in cents or dollars and cents) for each \$100 of 117036
tax valuation, for (number of years of the levy, or a 117037
continuing period of time)? 117038

(3) Levy an additional property tax to pay current operating 117039

expenses at a rate not exceeding mills for each one dollar 117040
of tax valuation, which amounts to (rate expressed in 117041
cents or dollars and cents) for each \$100 of tax valuation, for 117042
..... (number of years of the levy, or a continuing period of 117043
time)? 117044

	FOR THE BOND ISSUE AND LEVY (OR LEVIES)		117046
	AGAINST THE BOND ISSUE AND LEVY (OR LEVIES)	"	117047

117045

117048

(E) The board of elections promptly shall certify the results 117049
of the election to the tax commissioner and the county auditor of 117050
the county in which the school district is located. If a majority 117051
of the electors voting on the question vote for it, the board of 117052
education may proceed with issuance of the bonds and with the levy 117053
and collection of the property tax or taxes at the additional rate 117054
or any lesser rate in excess of the ten-mill limitation. Any 117055
securities issued by the board of education under this section are 117056
Chapter 133. securities, as that term is defined in section 133.01 117057
of the Revised Code. 117058

(F)(1) After the approval of a tax for current operating 117059
expenses under this section and prior to the time the first 117060
collection and distribution from the levy can be made, the board 117061
of education may anticipate a fraction of the proceeds of such 117062
levy and issue anticipation notes in a principal amount not 117063
exceeding fifty per cent of the total estimated proceeds of the 117064
tax to be collected during the first year of the levy. 117065

(2) After the approval of a tax under this section for 117066
permanent improvements having a specific purpose, the board of 117067
education may anticipate a fraction of the proceeds of such tax 117068
and issue anticipation notes in a principal amount not exceeding 117069
fifty per cent of the total estimated proceeds of the tax 117070

remaining to be collected in each year over a period of five years 117071
after issuance of the notes. 117072

(3) After the approval of a tax for general, on-going 117073
permanent improvements under this section, the board of education 117074
may anticipate a fraction of the proceeds of such tax and issue 117075
anticipation notes in a principal amount not exceeding fifty per 117076
cent of the total estimated proceeds of the tax to be collected in 117077
each year over a specified period of years, not exceeding ten, 117078
after issuance of the notes. 117079

Anticipation notes under this section shall be issued as 117080
provided in section 133.24 of the Revised Code. Notes issued under 117081
division (F)(1) or (2) of this section shall have principal 117082
payments during each year after the year of their issuance over a 117083
period not to exceed five years, and may have a principal payment 117084
in the year of their issuance. Notes issued under division (F)(3) 117085
of this section shall have principal payments during each year 117086
after the year of their issuance over a period not to exceed ten 117087
years, and may have a principal payment in the year of their 117088
issuance. 117089

(G) A tax for current operating expenses or for permanent 117090
improvements levied under this section for a specified number of 117091
years may be renewed or replaced in the same manner as a tax for 117092
current operating expenses or for permanent improvements levied 117093
under section 5705.21 of the Revised Code. A tax for current 117094
operating expenses or for permanent improvements levied under this 117095
section for a continuing period of time may be decreased in 117096
accordance with section 5705.261 of the Revised Code. 117097

(H) The submission of a question to the electors under this 117098
section is subject to the limitation on the number of elections 117099
that can be held in a year under section 5705.214 of the Revised 117100
Code. 117101

(I) A school district board of education proposing a ballot measure under this section to generate local resources for a project under the school building assistance expedited local partnership program under section 3318.36 of the Revised Code may combine the questions under division (D) of this section with a question for the levy of a property tax to generate moneys for maintenance of the classroom facilities acquired under that project as prescribed in section 3318.361 of the Revised Code.

Sec. 5705.25. (A) A copy of any resolution adopted as provided in section 5705.19 or 5705.2111 of the Revised Code shall be certified by the taxing authority to the board of elections of the proper county not less than ninety days before the general election in any year, and the board shall submit the proposal to the electors of the subdivision at the succeeding November election. Except as otherwise provided in this division, a resolution to renew an existing levy, regardless of the section of the Revised Code under which the tax was imposed, shall not be placed on the ballot unless the question is submitted at the general election held during the last year the tax to be renewed or replaced may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year. The limitation of the foregoing sentence does not apply to a resolution to renew and increase or to renew part of an existing levy that was imposed under section 5705.191 of the Revised Code to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: for public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals. The limitation of the second preceding sentence also does not apply to a resolution that proposes to renew two or more existing levies imposed under section 5705.21 of the Revised Code, in which case the question shall be submitted on the date of the general or

primary election held during the last year at least one of the 117134
levies to be renewed may be extended on the real and public 117135
utility property tax list and duplicate, or at any election held 117136
during the ensuing year. For purposes of this section, a levy 117137
shall be considered to be an "existing levy" through the year 117138
following the last year it can be placed on that tax list and 117139
duplicate. 117140

The board shall make the necessary arrangements for the 117141
submission of such questions to the electors of such subdivision, 117142
and the election shall be conducted, canvassed, and certified in 117143
the same manner as regular elections in such subdivision for the 117144
election of county officers. Notice of the election shall be 117145
published in a newspaper of general circulation in the subdivision 117146
once a week for two consecutive weeks, or as provided in section 117147
7.16 of the Revised Code, prior to the election, ~~and, if~~. If the 117148
board of elections operates and maintains a web site, the board of 117149
elections shall post notice of the election on its web site for 117150
thirty days prior to the election. The notice shall state the 117151
purpose, the proposed increase in rate expressed in dollars and 117152
cents for each one hundred dollars of valuation as well as in 117153
mills for each one dollar of valuation, the number of years during 117154
which the increase will be in effect, the first month and year in 117155
which the tax will be levied, and the time and place of the 117156
election. 117157

(B) The form of the ballots cast at an election held pursuant 117158
to division (A) of this section shall be as follows: 117159

"An additional tax for the benefit of (name of subdivision or 117160
public library) for the purpose of (purpose stated in 117161
the resolution) at a rate not exceeding mills 117162
for each one dollar of valuation, which amounts to (rate expressed 117163
in dollars and cents) for each one hundred dollars of 117164
valuation, for (life of indebtedness or number of years the 117165

levy is to run). 117166

117167

	For the Tax Levy	"
	Against the Tax Levy	

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(C) If the levy is to be in effect for a continuing period of 117171
 time, the notice of election and the form of ballot shall so state 117172
 instead of setting forth a specified number of years for the levy. 117173

If the tax is to be placed on the current tax list, the form 117174
 of the ballot shall be modified by adding, after the statement of 117175
 the number of years the levy is to run, the phrase ", commencing 117176
 in (first year the tax is to be levied), first due in 117177
 calendar year (first calendar year in which the tax 117178
 shall be due)." 117179

If the levy submitted is a proposal to renew, increase, or 117180
 decrease an existing levy, the form of the ballot specified in 117181
 division (B) of this section may be changed by substituting for 117182
 the words "An additional" at the beginning of the form, the words 117183
 "A renewal of a" in case of a proposal to renew an existing levy 117184
 in the same amount; the words "A renewal of mills and an 117185
 increase of mills to constitute a" in the case of an 117186
 increase; or the words "A renewal of part of an existing levy, 117187
 being a reduction of mills, to constitute a" in the case of 117188
 a decrease in the proposed levy. 117189

If the levy submitted is a proposal to renew two or more 117190
 existing levies imposed under section 5705.21 of the Revised Code, 117191
 the form of the ballot specified in division (B) of this section 117192
 shall be modified by substituting for the words "an additional 117193
 tax" the words "a renewal of(insert the number of levies to 117194
 be renewed) existing taxes." 117195

The question covered by such resolution shall be submitted as 117196

a separate proposition but may be printed on the same ballot with 117197
any other proposition submitted at the same election, other than 117198
the election of officers. More than one such question may be 117199
submitted at the same election. 117200

(D) A levy voted in excess of the ten-mill limitation under 117201
this section shall be certified to the tax commissioner. In the 117202
first year of the levy, it shall be extended on the tax lists 117203
after the February settlement succeeding the election. If the 117204
additional tax is to be placed upon the tax list of the current 117205
year, as specified in the resolution providing for its submission, 117206
the result of the election shall be certified immediately after 117207
the canvass by the board of elections to the taxing authority, who 117208
shall make the necessary levy and certify it to the county 117209
auditor, who shall extend it on the tax lists for collection. 117210
After the first year, the tax levy shall be included in the annual 117211
tax budget that is certified to the county budget commission. 117212

Sec. 5705.251. (A) A copy of a resolution adopted under 117213
section 5705.212 or 5705.213 of the Revised Code shall be 117214
certified by the board of education to the board of elections of 117215
the proper county not less than ninety days before the date of the 117216
election specified in the resolution, and the board of elections 117217
shall submit the proposal to the electors of the school district 117218
at a special election to be held on that date. The board of 117219
elections shall make the necessary arrangements for the submission 117220
of the question or questions to the electors of the school 117221
district, and the election shall be conducted, canvassed, and 117222
certified in the same manner as regular elections in the school 117223
district for the election of county officers. Notice of the 117224
election shall be published in a newspaper of general circulation 117225
in the subdivision once a week for two consecutive weeks, or as 117226
provided in section 7.16 of the Revised Code, prior to the 117227
election, ~~and, if.~~ If the board of elections operates and 117228

maintains a web site, the board of elections shall post notice of 117229
the election on its web site for thirty days prior to the 117230
election. 117231

(1) In the case of a resolution adopted under section 117232
5705.212 of the Revised Code, the notice shall state separately, 117233
for each tax being proposed, the purpose; the proposed increase in 117234
rate, expressed in dollars and cents for each one hundred dollars 117235
of valuation as well as in mills for each one dollar of valuation; 117236
the number of years during which the increase will be in effect; 117237
and the first calendar year in which the tax will be due. For an 117238
election on the question of a renewal levy, the notice shall state 117239
the purpose; the proposed rate, expressed in dollars and cents for 117240
each one hundred dollars of valuation as well as in mills for each 117241
one dollar of valuation; and the number of years the tax will be 117242
in effect. 117243

(2) In the case of a resolution adopted under section 117244
5705.213 of the Revised Code, the notice shall state the purpose; 117245
the amount proposed to be raised by the tax in the first year it 117246
is levied; the estimated average additional tax rate for the first 117247
year it is proposed to be levied, expressed in mills for each one 117248
dollar of valuation and in dollars and cents for each one hundred 117249
dollars of valuation; the number of years during which the 117250
increase will be in effect; and the first calendar year in which 117251
the tax will be due. The notice also shall state the amount by 117252
which the amount to be raised by the tax may be increased in each 117253
year after the first year. The amount of the allowable increase 117254
may be expressed in terms of a dollar increase over, or a 117255
percentage of, the amount raised by the tax in the immediately 117256
preceding year. For an election on the question of a renewal levy, 117257
the notice shall state the purpose; the amount proposed to be 117258
raised by the tax; the estimated tax rate, expressed in mills for 117259
each one dollar of valuation and in dollars and cents for each one 117260

hundred dollars of valuation; and the number of years the tax will be in effect. 117261
 117262

In any case, the notice also shall state the time and place of the election. 117263
 117264

(B) The form of the ballot in an election on taxes proposed under section 5705.212 of the Revised Code shall be as follows: 117265
 117266

"Shall the school district be authorized to levy taxes for current expenses, the aggregate rate of which may increase in (number) increment(s) of not more than mill(s) for each dollar of valuation, from an original rate of mill(s) for each dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, to a maximum rate of mill(s) for each dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation? The original tax is first proposed to be levied in (the first year of the tax), and the incremental tax in (the first year of the increment) (if more than one incremental tax is proposed in the resolution, the first year that each incremental tax is proposed to be levied shall be stated in the preceding format, and the increments shall be referred to as the first, second, third, or fourth increment, depending on their number). The aggregate rate of tax so authorized will (insert either, "expire with the original rate of tax which shall be in effect for years" or "be in effect for a continuing period of time"). 117267
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	FOR THE TAX LEVIES	
	AGAINST THE TAX LEVIES	"

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The form of the ballot in an election on the question of a 117291

renewal levy under section 5705.212 of the Revised Code shall be 117292
 as follows: 117293

"Shall the school district be authorized to renew a 117294
 tax for current expenses at a rate not exceeding mills 117295
 for each dollar of valuation, which amounts to (rate 117296
 expressed in dollars and cents) for each one hundred dollars of 117297
 valuation, for (number of years the levy shall be in 117298
 effect, or a continuing period of time)? 117299

	FOR THE TAX LEVY	
	AGAINST THE TAX LEVY	"

117300
 117301
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If the tax is to be placed on the current tax list, the form 117304
 of the ballot shall be modified by adding, after the statement of 117305
 the number of years the levy is to be in effect, the phrase ", 117306
 commencing in (first year the tax is to be levied), 117307
 first due in calendar year (first calendar year in 117308
 which the tax shall be due)." 117309

(C) The form of the ballot in an election on a tax proposed 117310
 under section 5705.213 of the Revised Code shall be as follows: 117311

"Shall the school district be authorized to levy the 117312
 following tax for current expenses? The tax will first be levied 117313
 in (year) to raise (dollars). In the (number 117314
 of years) following years, the tax will increase by not more than 117315
 (per cent or dollar amount of increase) each year, so that, 117316
 during (last year of the tax), the tax will raise 117317
 approximately (dollars). The county auditor estimates that 117318
 the rate of the tax per dollar of valuation will be 117319
 mill(s), which amounts to \$. per one hundred dollars of 117320
 valuation, both during (first year of the tax) and 117321
 mill(s), which amounts to \$. per one hundred dollars of 117322

valuation, during (last year of the tax). The tax will not 117323
be levied after (year). 117324

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

117325
117326
117327
117328

The form of the ballot in an election on the question of a 117329
renewal levy under section 5705.213 of the Revised Code shall be 117330
as follows: 117331

"Shall the school district be authorized to renew a 117332
tax for current expenses which will raise (dollars), 117333
estimated by the county auditor to be mills for each 117334
dollar of valuation, which amounts to (rate expressed in 117335
dollars and cents) for each one hundred dollars of valuation? The 117336
tax shall be in effect for (the number of years the levy 117337
shall be in effect, or a continuing period of time). 117338

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

117339
117340
117341
117342

If the tax is to be placed on the current tax list, the form 117343
of the ballot shall be modified by adding, after the statement of 117344
the number of years the levy is to be in effect, the phrase ", 117345
commencing in (first year the tax is to be levied), 117346
first due in calendar year (first calendar year in 117347
which the tax shall be due)." 117348

(D) The question covered by a resolution adopted under 117349
section 5705.212 or 5705.213 of the Revised Code shall be 117350
submitted as a separate question, but may be printed on the same 117351
ballot with any other question submitted at the same election, 117352

other than the election of officers. More than one question may be submitted at the same election.

(E) Taxes voted in excess of the ten-mill limitation under division (B) or (C) of this section shall be certified to the tax commissioner. If an additional tax is to be placed upon the tax list of the current year, as specified in the resolution providing for its submission, the result of the election shall be certified immediately after the canvass by the board of elections to the board of education. The board of education immediately shall make the necessary levy and certify it to the county auditor, who shall extend it on the tax list for collection. After the first year, the levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 5705.261. The question of decrease of an increased rate of levy approved for a continuing period of time by the voters of a subdivision may be initiated by the filing of a petition with the board of elections of the proper county not less than ninety days before the general election in any year requesting that an election be held on such question. Such petition shall state the amount of the proposed decrease in the rate of levy and shall be signed by qualified electors residing in the subdivision equal in number to at least ten per cent of the total number of votes cast in the subdivision for the office of governor at the most recent general election for that office. Only one such petition may be filed during each five-year period following the election at which the voters approved the increased rate for a continuing period of time.

After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the district at the succeeding general election. The election shall be conducted, canvassed, and certified in the same manner as

regular elections in such subdivision for county offices. Notice 117384
of the election shall be published in a newspaper of general 117385
circulation in the district once a week for two consecutive weeks, 117386
or as provided in section 7.16 of the Revised Code, prior to the 117387
election, ~~and, if.~~ If the board of elections operates and 117388
maintains a web site, the board of elections shall post notice of 117389
the election on its web site for thirty days prior to the 117390
election. The notice shall state the purpose, the amount of the 117391
proposed decrease in rate, and the time and place of the election. 117392
The form of the ballot cast at such election shall be prescribed 117393
by the secretary of state. The question covered by such petition 117394
shall be submitted as a separate proposition but it may be printed 117395
on the same ballot with any other propositions submitted at the 117396
same election other than the election of officers. If a majority 117397
of the qualified electors voting on the question of a decrease at 117398
such election approve the proposed decrease in rate, the result of 117399
the election shall be certified immediately after the canvass by 117400
the board of elections to the subdivision's taxing authority, 117401
which shall thereupon, after the current year, cease to levy such 117402
increased rate or levy such tax at such reduced rate upon the 117403
duplicate of the subdivision. If notes have been issued in 117404
anticipation of the collection of such levy, the taxing authority 117405
shall continue to levy and collect under authority of the election 117406
authorizing the original levy such amounts as will be sufficient 117407
to pay the principal of and interest on such anticipation notes as 117408
the same fall due. 117409

Sec. 5705.29. This section does not apply to a subdivision or 117410
taxing unit for which the county budget commission has waived the 117411
requirement to adopt a tax budget pursuant to section 5705.281 of 117412
the Revised Code. The tax budget shall present the following 117413
information in such detail as is prescribed by the auditor of 117414
state: 117415

(A)(1) A statement of the necessary current operating 117416
expenses for the ensuing fiscal year for each department and 117417
division of the subdivision, classified as to personal services 117418
and other expenses, and the fund from which such expenditures are 117419
to be made. Except in the case of a school district, this estimate 117420
may include a contingent expense not designated for any particular 117421
purpose, and not to exceed three per cent of the total amount of 117422
appropriations for current expenses. In the case of a school 117423
district, this estimate may include a contingent expense not 117424
designated for any particular purpose and not to exceed thirteen 117425
per cent of the total amount of appropriations for current 117426
expenses. 117427

(2) A statement of the expenditures for the ensuing fiscal 117428
year necessary for permanent improvements, exclusive of any 117429
expense to be paid from bond issues, classified as to the 117430
improvements contemplated by the subdivision and the fund from 117431
which such expenditures are to be made; 117432

(3) The amounts required for the payment of final judgments; 117433

(4) A statement of expenditures for the ensuing fiscal year 117434
necessary for any purpose for which a special levy is authorized, 117435
and the fund from which such expenditures are to be made; 117436

(5) Comparative statements, so far as possible, in parallel 117437
columns of corresponding items of expenditures for the current 117438
fiscal year and the two preceding fiscal years. 117439

(B)(1) An estimate of receipts from other sources than the 117440
general property tax during the ensuing fiscal year, which shall 117441
include an estimate of unencumbered balances at the end of the 117442
current fiscal year, and the funds to which such estimated 117443
receipts are credited; 117444

(2) The amount each fund requires from the general property 117445
tax, which shall be the difference between the contemplated 117446

expenditure from the fund and the estimated receipts, as provided 117447
in this section. The section of the Revised Code under which the 117448
tax is authorized shall be set forth. 117449

(3) Comparative statements, so far as possible, in parallel 117450
columns of taxes and other revenues for the current fiscal year 117451
and the two preceding fiscal years. 117452

(C)(1) The amount required for debt charges; 117453

(2) The estimated receipts from sources other than the tax 117454
levy for payment of such debt charges, including the proceeds of 117455
refunding bonds to be issued to refund bonds maturing in the next 117456
succeeding fiscal year; 117457

(3) The net amount for which a tax levy shall be made, 117458
classified as to bonds authorized and issued prior to January 1, 117459
1922, and those authorized and issued subsequent to such date, and 117460
as to what portion of the levy will be within and what in excess 117461
of the ten-mill limitation. 117462

(D) An estimate of amounts from taxes authorized to be levied 117463
in excess of the ten-mill limitation on the tax rate, and the fund 117464
to which such amounts will be credited, together with the sections 117465
of the Revised Code under which each such tax is exempted from all 117466
limitations on the tax rate. 117467

(E)(1) A board of education may include in its budget for the 117468
fiscal year in which a levy proposed under section 5705.194, 117469
5705.199, 5705.21, 5705.213, or 5705.219, a property tax levy 117470
proposed under section 5748.09, or the original levy under section 117471
5705.212 of the Revised Code is first extended on the tax list and 117472
duplicate an estimate of expenditures to be known as a voluntary 117473
contingency reserve balance, which shall not be greater than 117474
twenty-five per cent of the total amount of the levy estimated to 117475
be available for appropriation in such year. 117476

(2) A board of education may include in its budget for the 117477

fiscal year following the year in which a levy proposed under 117478
section 5705.194, 5705.199, 5705.21, 5705.213, or 5705.219, a 117479
property tax levy proposed under section 5748.09, or the original 117480
levy under section 5705.212 of the Revised Code is first extended 117481
on the tax list and duplicate an estimate of expenditures to be 117482
known as a voluntary contingency reserve balance, which shall not 117483
be greater than twenty per cent of the amount of the levy 117484
estimated to be available for appropriation in such year. 117485

(3) Except as provided in division (E)(4) of this section, 117486
the full amount of any reserve balance the board includes in its 117487
budget shall be retained by the county auditor and county 117488
treasurer out of the first semiannual settlement of taxes until 117489
the beginning of the next succeeding fiscal year, and thereupon, 117490
with the depository interest apportioned thereto, it shall be 117491
turned over to the board of education, to be used for the purposes 117492
of such fiscal year. 117493

(4) A board of education, by a two-thirds vote of all members 117494
of the board, may appropriate any amount withheld as a voluntary 117495
contingency reserve balance during the fiscal year for any lawful 117496
purpose, provided that prior to such appropriation the board of 117497
education has authorized the expenditure of all amounts 117498
appropriated for contingencies under section 5705.40 of the 117499
Revised Code. Upon request by the board of education, the county 117500
auditor shall draw a warrant on the district's account in the 117501
county treasury payable to the district in the amount requested. 117502

(F)(1) A board of education may include a spending reserve in 117503
its budget for fiscal years ending on or before June 30, 2002. The 117504
spending reserve shall consist of an estimate of expenditures not 117505
to exceed the district's spending reserve balance. A district's 117506
spending reserve balance is the amount by which the designated 117507
percentage of the district's estimated personal property taxes to 117508
be settled during the calendar year in which the fiscal year ends 117509

exceeds the estimated amount of personal property taxes to be so 117510
settled and received by the district during that fiscal year. 117511
Moneys from a spending reserve shall be appropriated in accordance 117512
with section 133.301 of the Revised Code. 117513

(2) For the purposes of computing a school district's 117514
spending reserve balance for a fiscal year, the designated 117515
percentage shall be as follows: 117516

Fiscal year ending in:	Designated percentage	
1998	50%	117517
1999	40%	117518
2000	30%	117519
2001	20%	117520
2002	10%	117521

(G) Except as otherwise provided in this division, the county 117523
budget commission shall not reduce the taxing authority of a 117524
subdivision as a result of the creation of a reserve balance 117525
account. Except as otherwise provided in this division, the county 117526
budget commission shall not consider the amount in a reserve 117527
balance account of a township, county, or municipal corporation as 117528
an unencumbered balance or as revenue for the purposes of division 117529
(E)(3) or (4) of section 5747.51 of the Revised Code. The county 117530
budget commission may require documentation of the reasonableness 117531
of the reserve balance held in any reserve balance account. The 117532
commission shall consider any amount in a reserve balance account 117533
that it determines to be unreasonable as unencumbered and as 117534
revenue for the purposes of section 5747.51 of the Revised Code 117535
and may take such amounts into consideration when determining 117536
whether to reduce the taxing authority of a subdivision. 117537

Sec. 5705.314. If the board of education of a city, local, or 117538
exempted village school district proposes to change its levy 117539
within the ten-mill limitation in a manner that will result in an 117540

increase in the amount of real property taxes levied by the board 117541
in the tax year the change takes effect, the board shall hold a 117542
public hearing solely on the proposal before adopting a resolution 117543
to implement the proposal. The board shall publish notice of the 117544
hearing in a newspaper of general circulation in the school 117545
district once a week for two consecutive weeks or as provided in 117546
section 7.16 of the Revised Code. The second publication shall be 117547
not less than ten nor more than thirty days before the date of the 117548
hearing. ~~The, and the~~ notice shall include the date, time, place, 117549
and subject of the hearing, and a statement that the change 117550
proposed by the board may result in an increase in the amount of 117551
real property taxes levied by the board. At the time the board 117552
submits the notice for publication, the board shall send a copy of 117553
the notice to the auditor of the county where the school district 117554
is located or, if the school district is located in more than one 117555
county, to the auditor of each of those counties. 117556

Sec. 5705.392. (A) A board of county commissioners may adopt 117557
as a part of its annual appropriation measure a spending plan, or 117558
in the case of an amended appropriation measure, an amended 117559
spending plan, setting forth a quarterly schedule of expenses and 117560
expenditures of all appropriations for the fiscal year from the 117561
county general fund. The spending plan shall be classified to set 117562
forth separately a quarterly schedule of expenses and expenditures 117563
for each office, department, and division, and within each, the 117564
amount appropriated for personal services. Each office, 117565
department, and division shall be limited in its expenses and 117566
expenditures of moneys appropriated from the general fund during 117567
any quarter by the schedule established in the spending plan. The 117568
schedule established in the spending plan shall serve as a 117569
limitation during a quarter on the making of contracts and giving 117570
of orders involving the expenditure of money during that quarter 117571
for purposes of division (D) of section 5705.41 of the Revised 117572

Code. 117573

(B)(1) A board of county commissioners, by resolution, may 117574
adopt a spending plan or an amended spending plan setting forth 117575
separately a quarterly schedule of expenses and expenditures of 117576
appropriations from any county fund, for the second half of a 117577
fiscal year and any subsequent fiscal year, for any county office, 117578
department, or division that has spent or encumbered more than 117579
six-tenths of the amount appropriated for personal services and 117580
payrolls during the first half of any fiscal year. 117581

(2) During any fiscal year, a board of county commissioners, 117582
by resolution, may adopt a spending plan or an amended spending 117583
plan setting forth separately a quarterly schedule of expenses and 117584
expenditures of appropriations from any county fund, for any 117585
county office, department, or division that, during the previous 117586
fiscal year, spent one hundred five per cent or more of the total 117587
amount appropriated by the board in its annual appropriation 117588
measure required by section 5705.38 of the Revised Code. The 117589
spending plan or amended spending plan shall remain in effect 117590
three fiscal years, or until the county officer of the office for 117591
which the plan was adopted is no longer in office, including terms 117592
of office to which the county officer is re-elected, whichever is 117593
later. 117594

(3) At least thirty days before adopting a resolution under 117595
division (B)(1) or (2) of this section, the board of county 117596
commissioners shall provide written notice to each county office, 117597
department, or division for which it intends to adopt a spending 117598
plan or an amended spending plan. The notice shall be sent by 117599
regular first class mail or provided by personal service, and 117600
shall include a copy of the proposed spending plan or proposed 117601
amended spending plan. The county office, department, or division 117602
may meet with the board at any regular session of the board to 117603
comment on the notice, or to express concerns or ask questions 117604

about the proposed spending plan or proposed amended spending plan. 117605
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Sec. 5705.412. (A) As used in this section, "qualifying contract" means any agreement for the expenditure of money under which aggregate payments from the funds included in the school district's five-year forecast under section 5705.391 of the Revised Code will exceed the lesser of the following amounts: 117607
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(1) Five hundred thousand dollars; 117612

(2) One per cent of the total revenue to be credited in the current fiscal year to the district's general fund, as specified in the district's most recent certificate of estimated resources certified under section 5705.36 of the Revised Code. 117613
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(B)(1) Notwithstanding section 5705.41 of the Revised Code, no school district shall adopt any appropriation measure, make any qualifying contract, or increase during any school year any wage or salary schedule unless there is attached thereto a certificate, signed as required by this section, that the school district has in effect the authorization to levy taxes including the renewal or replacement of existing levies which, when combined with the estimated revenue from all other sources available to the district at the time of certification, are sufficient to provide the operating revenues necessary to enable the district to maintain all personnel and programs for all the days set forth in its adopted school calendars for the current fiscal year and for a number of days in succeeding fiscal years equal to the number of days instruction was held or is scheduled for the current fiscal year, as follows: 117617
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~~(1)~~(a) A certificate attached to an appropriation measure under this section shall cover only the fiscal year in which the appropriation measure is effective and shall not consider the renewal or replacement of an existing levy as the authority to 117632
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levy taxes that are subject to appropriation in the current fiscal 117636
year unless the renewal or replacement levy has been approved by 117637
the electors and is subject to appropriation in the current fiscal 117638
year. 117639

~~(2)~~(b) A certificate attached, in accordance with this 117640
section, to any qualifying contract shall cover the term of the 117641
contract. 117642

~~(3)~~(c) A certificate attached under this section to a wage or 117643
salary schedule shall cover the term of the schedule. 117644

If the board of education has not adopted a school calendar 117645
for the school year beginning on the first day of the fiscal year 117646
in which a certificate is required, the certificate attached to an 117647
appropriation measure shall include the number of days on which 117648
instruction was held in the preceding fiscal year and other 117649
certificates required under this section shall include that number 117650
of days for the fiscal year in which the certificate is required 117651
and any succeeding fiscal years that the certificate must cover. 117652

The certificate shall be signed by the treasurer and 117653
president of the board of education and the superintendent of the 117654
school district, unless the district is in a state of fiscal 117655
emergency declared under Chapter 3316. of the Revised Code. In 117656
that case, the certificate shall be signed by a member of the 117657
district's financial planning and supervision commission who is 117658
designated by the commission for this purpose. 117659

(2) In lieu of the certificate required under division (B) of 117660
this section, an alternative certificate stating the following may 117661
be attached: 117662

(a) The contract is a multi-year contract for materials, 117663
equipment, or nonpayroll services essential to the education 117664
program of the district; 117665

(b) The multi-year contract demonstrates savings over the 117666

duration of the contract as compared to costs that otherwise would 117667
have been demonstrated in a single year contract, and the terms 117668
will allow the district to reduce the deficit it is currently 117669
facing in future years as demonstrated in its five-year forecast 117670
adopted in accordance with section 5705.391 of the Revised Code. 117671

The certificate shall be signed by the treasurer and 117672
president of the board of education and the superintendent of the 117673
school district, unless the district is in a state of fiscal 117674
emergency declared under Chapter 3316. of the Revised Code. In 117675
that case, the certificate shall be signed by a member of the 117676
district's financial planning and supervision commission who is 117677
designated by the commission for this purpose. 117678

(C) Every qualifying contract made or wage or salary schedule 117679
adopted or put into effect without such a certificate shall be 117680
void, and no payment of any amount due thereon shall be made. 117681

(D) The department of education and the auditor of state 117682
jointly shall adopt rules governing the methods by which 117683
treasurers, presidents of boards of education, superintendents, 117684
and members of financial planning and supervision commissions 117685
shall estimate revenue and determine whether such revenue is 117686
sufficient to provide necessary operating revenue for the purpose 117687
of making certifications required by this section. 117688

(E) The auditor of state shall be responsible for determining 117689
whether school districts are in compliance with this section. At 117690
the time a school district is audited pursuant to section 117.11 117691
of the Revised Code, the auditor of state shall review each 117692
certificate issued under this section since the district's last 117693
audit, and the appropriation measure, contract, or wage and salary 117694
schedule to which such certificate was attached. If the auditor of 117695
state determines that a school district has not complied with this 117696
section with respect to any qualifying contract or wage or salary 117697
schedule, the auditor of state shall notify the prosecuting 117698

attorney for the county, the city director of law, or other chief 117699
law officer of the school district. That officer may file a civil 117700
action in any court of appropriate jurisdiction to seek a 117701
declaration that the contract or wage or salary schedule is void, 117702
to recover for the school district from the payee the amount of 117703
payments already made under it, or both, except that the officer 117704
shall not seek to recover payments made under any collective 117705
bargaining agreement entered into under Chapter 4117. of the 117706
Revised Code. If the officer does not file such an action within 117707
one hundred twenty days after receiving notice of noncompliance 117708
from the auditor of state, any taxpayer may institute the action 117709
in the taxpayer's own name on behalf of the school district. 117710

(F) This section does not apply to any contract or increase 117711
in any wage or salary schedule that is necessary in order to 117712
enable a board of education to comply with division (B) of section 117713
3317.13 of the Revised Code, provided the contract or increase 117714
does not exceed the amount required to be paid to be in compliance 117715
with such division. 117716

(G) Any officer, employee, or other person who expends or 117717
authorizes the expenditure of any public funds or authorizes or 117718
executes any contract or schedule contrary to this section, 117719
expends or authorizes the expenditure of any public funds on the 117720
void contract or schedule, or issues a certificate under this 117721
section which contains any false statements is liable to the 117722
school district for the full amount paid from the district's funds 117723
on the contract or schedule. The officer, employee, or other 117724
person is jointly and severally liable in person and upon any 117725
official bond that the officer, employee, or other person has 117726
given to the school district to the extent of any payments on the 117727
void claim, not to exceed ten thousand dollars. However, no 117728
officer, employee, or other person shall be liable for a mistaken 117729
estimate of available resources made in good faith and based upon 117730

reasonable grounds. If an officer, employee, or other person is found to have complied with rules jointly adopted by the department of education and the auditor of state under this section governing methods by which revenue shall be estimated and determined sufficient to provide necessary operating revenue for the purpose of making certifications required by this section, the officer, employee, or other person shall not be liable under this section if the estimates and determinations made according to those rules do not, in fact, conform with actual revenue. The prosecuting attorney of the county, the city director of law, or other chief law officer of the district shall enforce this liability by civil action brought in any court of appropriate jurisdiction in the name of and on behalf of the school district. If the prosecuting attorney, city director of law, or other chief law officer of the district fails, upon the written request of any taxpayer, to institute action for the enforcement of the liability, the attorney general, or the taxpayer in the taxpayer's own name, may institute the action on behalf of the subdivision.

(H) This section does not require the attachment of an additional certificate beyond that required by section 5705.41 of the Revised Code for current payrolls of, or contracts of employment with, any employees or officers of the school district.

This section does not require the attachment of a certificate to a temporary appropriation measure if all of the following apply:

(1) The amount appropriated does not exceed twenty-five per cent of the total amount from all sources available for expenditure from any fund during the preceding fiscal year;

(2) The measure will not be in effect on or after the thirtieth day following the earliest date on which the district may pass an annual appropriation measure;

(3) An amended official certificate of estimated resources 117762
for the current year, if required, has not been certified to the 117763
board of education under division (B) of section 5705.36 of the 117764
Revised Code. 117765

Sec. 5705.71. (A) The electors of a county may initiate the 117766
question of a tax levy for support of senior citizens services or 117767
facilities by the filing of a petition with the board of elections 117768
of that county not less than ninety days before the date of any 117769
primary or general election requesting that an election be held on 117770
such question. The petition shall be signed by at least ten per 117771
cent of the qualified electors residing in the county and voting 117772
for the office of governor at the last general election. 117773

(B) The petition shall state the purpose for which the senior 117774
citizens tax levy is being proposed, shall specify the amount of 117775
the proposed increase in rate, the period of time during which the 117776
increase is to be in effect, and whether the levy is to be imposed 117777
in the current year. The number of years may be any number not 117778
exceeding five, except that when the additional rate is for the 117779
payment of debt charges the increased rate shall be for the life 117780
of the indebtedness. 117781

(C) After determination by it that such petition is valid, 117782
the board of elections shall submit the question to the electors 117783
of the county at the succeeding primary or general election. 117784

(D) The election shall be conducted, canvassed, and certified 117785
in the same manner as regular elections in such county for county 117786
offices. Notice of the election shall be published in a newspaper 117787
of general circulation in the county once a week for two 117788
consecutive weeks, or as provided in section 7.16 of the Revised 117789
Code, prior to the election, ~~and, if.~~ If the board of elections 117790
operates and maintains a web site, the board of elections shall 117791
post notice of the election on its web site for thirty days prior 117792

to the election. The notice shall state the purpose, the amount of 117793
the proposed increase in rate, and the time and place of the 117794
election. 117795

(E) The form of the ballot cast at such election shall be 117796
prescribed by the secretary of state. If the tax is to be placed 117797
on the tax list of the current tax year, the form of the ballot 117798
shall include a statement to that effect and shall indicate the 117799
first calendar year the tax will be due. The question covered by 117800
such petition shall be submitted as a separate proposition but it 117801
may be printed on the same ballot with any other propositions 117802
submitted at the same election other than the election of 117803
officers. 117804

(F) If a majority of electors voting on the question vote in 117805
favor of the levy, the board of county commissioners shall levy a 117806
tax, for the period and the purpose stated within the petition. If 117807
the tax is to be placed upon the tax list of the current year, as 117808
specified in the petition, the result of the election shall be 117809
certified immediately after the canvass by the board of elections 117810
to the board of county commissioners, which shall forthwith make 117811
the necessary levy and certify it to the county auditor, who shall 117812
extend it on the tax list for collection. After the first year, 117813
the tax levy shall be included in the annual tax budget that is 117814
certified to the county budget commission. 117815

Sec. 5707.031. As used in this section, "qualifying dealer in 117816
intangibles" ~~has the same meaning as "qualifying dealer" in~~ 117817
~~section 5725.24 of the Revised Code~~ means a dealer in intangibles 117818
that is a qualifying dealer in intangibles as defined in section 117819
5733.45 of the Revised Code or a member of a qualifying controlled 117820
group, as defined in section 5733.04 of the Revised Code, of which 117821
an insurance company also is a member on the first day of January 117822
of the year in and for which the tax imposed by section 5707.03 of 117823

the Revised Code is required to be paid by the dealer. 117824

Upon the issuance of a tax credit certificate by the Ohio 117825
venture capital authority under section 150.07 of the Revised 117826
Code, a refundable credit may be claimed against the tax imposed 117827
on a qualifying dealer in intangibles under section 5707.03 and 117828
Chapter 5725. of the Revised Code. The credit shall be claimed on 117829
a return due under section 5725.14 of the Revised Code after the 117830
certificate is issued by the authority. 117831

Sec. 5709.07. (A) The following property shall be exempt from 117832
taxation: 117833

~~(1) Public schoolhouses, the books and furniture in them, and~~ 117834
~~the ground attached to them necessary for the proper occupancy,~~ 117835
~~use, and enjoyment of the schoolhouses, and not leased or~~ 117836
~~otherwise used with a view to profit; Real property used by a~~ 117837
school for primary or secondary educational purposes, including 117838
only so much of the land as is necessary for the proper occupancy, 117839
use, and enjoyment of such real property, and not leased or 117840
otherwise used with a view to profit. 117841

For purposes of division (A)(1) of this section: 117842

(a) "School" means a public or nonpublic school. "School" 117843
excludes home instruction as authorized under section 3321.04 of 117844
the Revised Code. 117845

(b) "Public school" includes schools of a school district, 117846
STEM schools established under Chapter 3326. of the Revised Code, 117847
community schools established under Chapter 3314. of the Revised 117848
Code, and educational service centers established under section 117849
3311.05 of the Revised Code. 117850

(c) "Nonpublic school" means a nonpublic school for which the 117851
state board of education has issued a charter pursuant to section 117852
3301.16 of the Revised Code and prescribes minimum standards under 117853

division (D)(2) of section 3301.07 of the Revised Code. 117854

(2) Houses used exclusively for public worship, the books and 117855
furniture in them, and the ground attached to them that is not 117856
leased or otherwise used with a view to profit and that is 117857
necessary for their proper occupancy, use, and enjoyment; 117858

(3) Real property owned and operated by a church that is used 117859
primarily for church retreats or church camping, and that is not 117860
used as a permanent residence. Real property exempted under 117861
division (A)(3) of this section may be made available by the 117862
church on a limited basis to charitable and educational 117863
institutions if the property is not leased or otherwise made 117864
available with a view to profit. 117865

(4) Public colleges and academies and all buildings connected 117866
with them, and all lands connected with public institutions of 117867
learning, not used with a view to profit, including those 117868
buildings and lands that satisfy all of the following: 117869

(a) The buildings are used for housing for full-time students 117870
or housing-related facilities for students, faculty, or employees 117871
of a state university, or for other purposes related to the state 117872
university's educational purpose, and the lands are underneath the 117873
buildings or are used for common space, walkways, and green spaces 117874
for the state university's students, faculty, or employees. As 117875
used in this division, "housing-related facilities" includes both 117876
parking facilities related to the buildings and common buildings 117877
made available to students, faculty, or employees of a state 117878
university. The leasing of space in housing-related facilities 117879
shall not be considered an activity with a view to profit for 117880
purposes of division (A)(4) of this section. 117881

(b) The buildings and lands are supervised or otherwise under 117882
the control, directly or indirectly, of an organization that is 117883
exempt from federal income taxation under section 501(c)(3) of the 117884

Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as 117885
amended, and the state university has entered into a qualifying 117886
joint use agreement with the organization that entitles the 117887
students, faculty, or employees of the state university to use the 117888
lands or buildings; 117889

(c) The state university has agreed, under the terms of the 117890
qualifying joint use agreement with the organization described in 117891
division (A)(4)(b) of this section, that the state university, to 117892
the extent applicable under the agreement, will make payments to 117893
the organization in amounts sufficient to maintain agreed-upon 117894
debt service coverage ratios on bonds related to the lands or 117895
buildings. 117896

(B) This section shall not extend to leasehold estates or 117897
real property held under the authority of a college or university 117898
of learning in this state; but leaseholds, or other estates or 117899
property, real or personal, the rents, issues, profits, and income 117900
of which is given to a municipal corporation, school district, or 117901
subdistrict in this state exclusively for the use, endowment, or 117902
support of schools for the free education of youth without charge 117903
shall be exempt from taxation as long as such property, or the 117904
rents, issues, profits, or income of the property is used and 117905
exclusively applied for the support of free education by such 117906
municipal corporation, district, or subdistrict. Division (B) of 117907
this section shall not apply with respect to buildings and lands 117908
that satisfy all of the requirements specified in divisions 117909
(A)(4)(a) to (c) of this section. 117910

(C) For purposes of this section, if the requirements 117911
specified in divisions (A)(4)(a) to (c) of this section are 117912
satisfied, the buildings and lands with respect to which exemption 117913
is claimed under division (A)(4) of this section shall be deemed 117914
to be used with reasonable certainty in furthering or carrying out 117915
the necessary objects and purposes of a state university. 117916

(D) As used in this section: 117917

(1) "Church" means a fellowship of believers, congregation, 117918
society, corporation, convention, or association that is formed 117919
primarily or exclusively for religious purposes and that is not 117920
formed for the private profit of any person. 117921

(2) "State university" has the same meaning as in section 117922
3345.011 of the Revised Code. 117923

(3) "Qualifying joint use agreement" means an agreement that 117924
satisfies all of the following: 117925

(a) The agreement was entered into before June 30, 2004; 117926

(b) The agreement is between a state university and an 117927
organization that is exempt from federal income taxation under 117928
section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 117929
2085, 26 U.S.C. 1, as amended; and 117930

(c) The state university that is a party to the agreement 117931
reported to the Ohio board of regents that the university 117932
maintained a headcount of at least twenty-five thousand students 117933
on its main campus during the academic school year that began in 117934
calendar year 2003 and ended in calendar year 2004. 117935

Sec. 5709.084. Real and personal property comprising a 117936
convention center that is constructed or, in the case of personal 117937
property, acquired, after January 1, 2010, are exempt from 117938
taxation if the convention center is located in a county having a 117939
population, when construction of the convention center commences, 117940
of more than one million two hundred thousand according to the 117941
most recent federal decennial census, and if the convention 117942
center, or the land upon which the convention center is situated, 117943
is owned or leased by the county. For the purposes of this 117944
section, construction of the convention center commences upon the 117945
earlier of issuance of debt to finance all or a portion of the 117946

convention center, demolition of existing structures on the site, 117947
or grading of the site in preparation for construction. 117948

Real and personal property comprising a convention center or 117949
golf course owned by the largest city in a county having a 117950
population greater than seven hundred fifty thousand but less than 117951
eight hundred fifty thousand according to the most recent federal 117952
decennial census is exempt from taxation. 117953

As used in this section, "convention center" has the same 117954
meaning as in section 307.695 of the Revised Code. 117955

Sec. 5709.62. (A) In any municipal corporation that is 117956
defined by the United States office of management and budget as a 117957
principal city of a metropolitan statistical area, the legislative 117958
authority of the municipal corporation may designate one or more 117959
areas within its municipal corporation as proposed enterprise 117960
zones. Upon designating an area, the legislative authority shall 117961
petition the director of development for certification of the area 117962
as having the characteristics set forth in division (A)(1) of 117963
section 5709.61 of the Revised Code as amended by Substitute 117964
Senate Bill No. 19 of the 120th general assembly. Except as 117965
otherwise provided in division (E) of this section, on and after 117966
July 1, 1994, legislative authorities shall not enter into 117967
agreements under this section unless the legislative authority has 117968
petitioned the director and the director has certified the zone 117969
under this section as amended by that act; however, all agreements 117970
entered into under this section as it existed prior to July 1, 117971
1994, and the incentives granted under those agreements shall 117972
remain in effect for the period agreed to under those agreements. 117973
Within sixty days after receiving such a petition, the director 117974
shall determine whether the area has the characteristics set forth 117975
in division (A)(1) of section 5709.61 of the Revised Code, and 117976
shall forward the findings to the legislative authority of the 117977

municipal corporation. If the director certifies the area as 117978
having those characteristics, and thereby certifies it as a zone, 117979
the legislative authority may enter into an agreement with an 117980
enterprise under division (C) of this section. 117981

(B) Any enterprise that wishes to enter into an agreement 117982
with a municipal corporation under division (C) of this section 117983
shall submit a proposal to the legislative authority of the 117984
municipal corporation on a form prescribed by the director of 117985
development, together with the application fee established under 117986
section 5709.68 of the Revised Code. The form shall require the 117987
following information: 117988

(1) An estimate of the number of new employees whom the 117989
enterprise intends to hire, or of the number of employees whom the 117990
enterprise intends to retain, within the zone at a facility that 117991
is a project site, and an estimate of the amount of payroll of the 117992
enterprise attributable to these employees; 117993

(2) An estimate of the amount to be invested by the 117994
enterprise to establish, expand, renovate, or occupy a facility, 117995
including investment in new buildings, additions or improvements 117996
to existing buildings, machinery, equipment, furniture, fixtures, 117997
and inventory; 117998

(3) A listing of the enterprise's current investment, if any, 117999
in a facility as of the date of the proposal's submission. 118000

The enterprise shall review and update the listings required 118001
under this division to reflect material changes, and any agreement 118002
entered into under division (C) of this section shall set forth 118003
final estimates and listings as of the time the agreement is 118004
entered into. The legislative authority may, on a separate form 118005
and at any time, require any additional information necessary to 118006
determine whether an enterprise is in compliance with an agreement 118007
and to collect the information required to be reported under 118008

section 5709.68 of the Revised Code. 118009

(C) Upon receipt and investigation of a proposal under 118010
division (B) of this section, if the legislative authority finds 118011
that the enterprise submitting the proposal is qualified by 118012
financial responsibility and business experience to create and 118013
preserve employment opportunities in the zone and improve the 118014
economic climate of the municipal corporation, the legislative 118015
authority, on or before October 15, ~~2011~~ 2012, may do one of the 118016
following: 118017

(1) Enter into an agreement with the enterprise under which 118018
the enterprise agrees to establish, expand, renovate, or occupy a 118019
facility and hire new employees, or preserve employment 118020
opportunities for existing employees, in return for one or more of 118021
the following incentives: 118022

(a) Exemption for a specified number of years, not to exceed 118023
fifteen, of a specified portion, up to seventy-five per cent, of 118024
the assessed value of tangible personal property first used in 118025
business at the project site as a result of the agreement. If an 118026
exemption for inventory is specifically granted in the agreement 118027
pursuant to this division, the exemption applies to inventory 118028
required to be listed pursuant to sections 5711.15 and 5711.16 of 118029
the Revised Code, except that, in the instance of an expansion or 118030
other situations in which an enterprise was in business at the 118031
facility prior to the establishment of the zone, the inventory 118032
that is exempt is that amount or value of inventory in excess of 118033
the amount or value of inventory required to be listed in the 118034
personal property tax return of the enterprise in the return for 118035
the tax year in which the agreement is entered into. 118036

(b) Exemption for a specified number of years, not to exceed 118037
fifteen, of a specified portion, up to seventy-five per cent, of 118038
the increase in the assessed valuation of real property 118039
constituting the project site subsequent to formal approval of the 118040

agreement by the legislative authority; 118041

(c) Provision for a specified number of years, not to exceed 118042
fifteen, of any optional services or assistance that the municipal 118043
corporation is authorized to provide with regard to the project 118044
site. 118045

(2) Enter into an agreement under which the enterprise agrees 118046
to remediate an environmentally contaminated facility, to spend an 118047
amount equal to at least two hundred fifty per cent of the true 118048
value in money of the real property of the facility prior to 118049
remediation as determined for the purposes of property taxation to 118050
establish, expand, renovate, or occupy the remediated facility, 118051
and to hire new employees or preserve employment opportunities for 118052
existing employees at the remediated facility, in return for one 118053
or more of the following incentives: 118054

(a) Exemption for a specified number of years, not to exceed 118055
fifteen, of a specified portion, not to exceed fifty per cent, of 118056
the assessed valuation of the real property of the facility prior 118057
to remediation; 118058

(b) Exemption for a specified number of years, not to exceed 118059
fifteen, of a specified portion, not to exceed one hundred per 118060
cent, of the increase in the assessed valuation of the real 118061
property of the facility during or after remediation; 118062

(c) The incentive under division (C)(1)(a) of this section, 118063
except that the percentage of the assessed value of such property 118064
exempted from taxation shall not exceed one hundred per cent; 118065

(d) The incentive under division (C)(1)(c) of this section. 118066

(3) Enter into an agreement with an enterprise that plans to 118067
purchase and operate a large manufacturing facility that has 118068
ceased operation or announced its intention to cease operation, in 118069
return for exemption for a specified number of years, not to 118070
exceed fifteen, of a specified portion, up to one hundred per 118071

cent, of the assessed value of tangible personal property used in 118072
business at the project site as a result of the agreement, or of 118073
the assessed valuation of real property constituting the project 118074
site, or both. 118075

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 118076
section, the portion of the assessed value of tangible personal 118077
property or of the increase in the assessed valuation of real 118078
property exempted from taxation under those divisions may exceed 118079
seventy-five per cent in any year for which that portion is 118080
exempted if the average percentage exempted for all years in which 118081
the agreement is in effect does not exceed sixty per cent, or if 118082
the board of education of the city, local, or exempted village 118083
school district within the territory of which the property is or 118084
will be located approves a percentage in excess of seventy-five 118085
per cent. 118086

(2) Notwithstanding any provision of the Revised Code to the 118087
contrary, the exemptions described in divisions (C)(1)(a), (b), 118088
and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may 118089
be for up to fifteen years if the board of education of the city, 118090
local, or exempted village school district within the territory of 118091
which the property is or will be located approves a number of 118092
years in excess of ten. 118093

(3) For the purpose of obtaining the approval of a city, 118094
local, or exempted village school district under division (D)(1) 118095
or (2) of this section, the legislative authority shall deliver to 118096
the board of education a notice not later than forty-five days 118097
prior to approving the agreement, excluding Saturdays, Sundays, 118098
and legal holidays as defined in section 1.14 of the Revised Code. 118099
The notice shall state the percentage to be exempted, an estimate 118100
of the true value of the property to be exempted, and the number 118101
of years the property is to be exempted. The board of education, 118102
by resolution adopted by a majority of the board, shall approve or 118103

disapprove the agreement and certify a copy of the resolution to 118104
the legislative authority not later than fourteen days prior to 118105
the date stipulated by the legislative authority as the date upon 118106
which approval of the agreement is to be formally considered by 118107
the legislative authority. The board of education may include in 118108
the resolution conditions under which the board would approve the 118109
agreement, including the execution of an agreement to compensate 118110
the school district under division (B) of section 5709.82 of the 118111
Revised Code. The legislative authority may approve the agreement 118112
at any time after the board of education certifies its resolution 118113
approving the agreement to the legislative authority, or, if the 118114
board approves the agreement conditionally, at any time after the 118115
conditions are agreed to by the board and the legislative 118116
authority. 118117

If a board of education has adopted a resolution waiving its 118118
right to approve agreements and the resolution remains in effect, 118119
approval of an agreement by the board is not required under this 118120
division. If a board of education has adopted a resolution 118121
allowing a legislative authority to deliver the notice required 118122
under this division fewer than forty-five business days prior to 118123
the legislative authority's approval of the agreement, the 118124
legislative authority shall deliver the notice to the board not 118125
later than the number of days prior to such approval as prescribed 118126
by the board in its resolution. If a board of education adopts a 118127
resolution waiving its right to approve agreements or shortening 118128
the notification period, the board shall certify a copy of the 118129
resolution to the legislative authority. If the board of education 118130
rescinds such a resolution, it shall certify notice of the 118131
rescission to the legislative authority. 118132

(4) The legislative authority shall comply with section 118133
5709.83 of the Revised Code unless the board of education has 118134
adopted a resolution under that section waiving its right to 118135

receive such notice. 118136

(E) This division applies to zones certified by the director 118137
of development under this section prior to July 22, 1994. 118138

On or before October 15, ~~2011~~ 2012, the legislative authority 118139
that designated a zone to which this division applies may enter 118140
into an agreement with an enterprise if the legislative authority 118141
finds that the enterprise satisfies one of the criteria described 118142
in divisions (E)(1) to (5) of this section: 118143

(1) The enterprise currently has no operations in this state 118144
and, subject to approval of the agreement, intends to establish 118145
operations in the zone; 118146

(2) The enterprise currently has operations in this state 118147
and, subject to approval of the agreement, intends to establish 118148
operations at a new location in the zone that would not result in 118149
a reduction in the number of employee positions at any of the 118150
enterprise's other locations in this state; 118151

(3) The enterprise, subject to approval of the agreement, 118152
intends to relocate operations, currently located in another 118153
state, to the zone; 118154

(4) The enterprise, subject to approval of the agreement, 118155
intends to expand operations at an existing site in the zone that 118156
the enterprise currently operates; 118157

(5) The enterprise, subject to approval of the agreement, 118158
intends to relocate operations, currently located in this state, 118159
to the zone, and the director of development has issued a waiver 118160
for the enterprise under division (B) of section 5709.633 of the 118161
Revised Code. 118162

The agreement shall require the enterprise to agree to 118163
establish, expand, renovate, or occupy a facility in the zone and 118164
hire new employees, or preserve employment opportunities for 118165

existing employees, in return for one or more of the incentives 118166
described in division (C) of this section. 118167

(F) All agreements entered into under this section shall be 118168
in the form prescribed under section 5709.631 of the Revised Code. 118169
After an agreement is entered into under this section, if the 118170
legislative authority revokes its designation of a zone, or if the 118171
director of development revokes a zone's certification, any 118172
entitlements granted under the agreement shall continue for the 118173
number of years specified in the agreement. 118174

(G) Except as otherwise provided in this division, an 118175
agreement entered into under this section shall require that the 118176
enterprise pay an annual fee equal to the greater of one per cent 118177
of the dollar value of incentives offered under the agreement or 118178
five hundred dollars; provided, however, that if the value of the 118179
incentives exceeds two hundred fifty thousand dollars, the fee 118180
shall not exceed two thousand five hundred dollars. The fee shall 118181
be payable to the legislative authority once per year for each 118182
year the agreement is effective on the days and in the form 118183
specified in the agreement. Fees paid shall be deposited in a 118184
special fund created for such purpose by the legislative authority 118185
and shall be used by the legislative authority exclusively for the 118186
purpose of complying with section 5709.68 of the Revised Code and 118187
by the tax incentive review council created under section 5709.85 118188
of the Revised Code exclusively for the purposes of performing the 118189
duties prescribed under that section. The legislative authority 118190
may waive or reduce the amount of the fee charged against an 118191
enterprise, but such a waiver or reduction does not affect the 118192
obligations of the legislative authority or the tax incentive 118193
review council to comply with section 5709.68 or 5709.85 of the 118194
Revised Code. 118195

(H) When an agreement is entered into pursuant to this 118196
section, the legislative authority authorizing the agreement shall 118197

forward a copy of the agreement to the director of development and 118198
to the tax commissioner within fifteen days after the agreement is 118199
entered into. If any agreement includes terms not provided for in 118200
section 5709.631 of the Revised Code affecting the revenue of a 118201
city, local, or exempted village school district or causing 118202
revenue to be forgone by the district, including any compensation 118203
to be paid to the school district pursuant to section 5709.82 of 118204
the Revised Code, those terms also shall be forwarded in writing 118205
to the director of development along with the copy of the 118206
agreement forwarded under this division. 118207

(I) After an agreement is entered into, the enterprise shall 118208
file with each personal property tax return required to be filed, 118209
or annual report required to be filed under section 5727.08 of the 118210
Revised Code, while the agreement is in effect, an informational 118211
return, on a form prescribed by the tax commissioner for that 118212
purpose, setting forth separately the property, and related costs 118213
and values, exempted from taxation under the agreement. 118214

(J) Enterprises may agree to give preference to residents of 118215
the zone within which the agreement applies relative to residents 118216
of this state who do not reside in the zone when hiring new 118217
employees under the agreement. 118218

(K) An agreement entered into under this section may include 118219
a provision requiring the enterprise to create one or more 118220
temporary internship positions for students enrolled in a course 118221
of study at a school or other educational institution in the 118222
vicinity, and to create a scholarship or provide another form of 118223
educational financial assistance for students holding such a 118224
position in exchange for the student's commitment to work for the 118225
enterprise at the completion of the internship. 118226

(L) The tax commissioner's authority in determining the 118227
accuracy of any exemption granted by an agreement entered into 118228
under this section is limited to divisions (C)(1)(a) and (b), 118229

(C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and 118230
divisions (B)(1) to (10) of section 5709.631 of the Revised Code 118231
and, as authorized by law, to enforcing any modification to, or 118232
revocation of, that agreement by the legislative authority of a 118233
municipal corporation or the director of development. 118234

Sec. 5709.63. (A) With the consent of the legislative 118235
authority of each affected municipal corporation or of a board of 118236
township trustees, a board of county commissioners may, in the 118237
manner set forth in section 5709.62 of the Revised Code, designate 118238
one or more areas in one or more municipal corporations or in 118239
unincorporated areas of the county as proposed enterprise zones. A 118240
board of county commissioners may designate no more than one area 118241
within a township, or within adjacent townships, as a proposed 118242
enterprise zone. The board shall petition the director of 118243
development for certification of the area as having the 118244
characteristics set forth in division (A)(1) or (2) of section 118245
5709.61 of the Revised Code as amended by Substitute Senate Bill 118246
No. 19 of the 120th general assembly. Except as otherwise provided 118247
in division (D) of this section, on and after July 1, 1994, boards 118248
of county commissioners shall not enter into agreements under this 118249
section unless the board has petitioned the director and the 118250
director has certified the zone under this section as amended by 118251
that act; however, all agreements entered into under this section 118252
as it existed prior to July 1, 1994, and the incentives granted 118253
under those agreements shall remain in effect for the period 118254
agreed to under those agreements. The director shall make the 118255
determination in the manner provided under section 5709.62 of the 118256
Revised Code. 118257

Any enterprise wishing to enter into an agreement with the 118258
board under division (B) or (D) of this section shall submit a 118259
proposal to the board on the form and accompanied by the 118260
application fee prescribed under division (B) of section 5709.62 118261

of the Revised Code. The enterprise shall review and update the 118262
estimates and listings required by the form in the manner required 118263
under that division. The board may, on a separate form and at any 118264
time, require any additional information necessary to determine 118265
whether an enterprise is in compliance with an agreement and to 118266
collect the information required to be reported under section 118267
5709.68 of the Revised Code. 118268

(B) If the board of county commissioners finds that an 118269
enterprise submitting a proposal is qualified by financial 118270
responsibility and business experience to create and preserve 118271
employment opportunities in the zone and to improve the economic 118272
climate of the municipal corporation or municipal corporations or 118273
the unincorporated areas in which the zone is located and to which 118274
the proposal applies, the board, on or before October 15, ~~2011~~ 118275
2012, and with the consent of the legislative authority of each 118276
affected municipal corporation or of the board of township 118277
trustees may do either of the following: 118278

(1) Enter into an agreement with the enterprise under which 118279
the enterprise agrees to establish, expand, renovate, or occupy a 118280
facility in the zone and hire new employees, or preserve 118281
employment opportunities for existing employees, in return for the 118282
following incentives: 118283

(a) When the facility is located in a municipal corporation, 118284
the board may enter into an agreement for one or more of the 118285
incentives provided in division (C) of section 5709.62 of the 118286
Revised Code, subject to division (D) of that section; 118287

(b) When the facility is located in an unincorporated area, 118288
the board may enter into an agreement for one or more of the 118289
following incentives: 118290

(i) Exemption for a specified number of years, not to exceed 118291
fifteen, of a specified portion, up to sixty per cent, of the 118292

assessed value of tangible personal property first used in 118293
business at a project site as a result of the agreement. If an 118294
exemption for inventory is specifically granted in the agreement 118295
pursuant to this division, the exemption applies to inventory 118296
required to be listed pursuant to sections 5711.15 and 5711.16 of 118297
the Revised Code, except, in the instance of an expansion or other 118298
situations in which an enterprise was in business at the facility 118299
prior to the establishment of the zone, the inventory that is 118300
exempt is that amount or value of inventory in excess of the 118301
amount or value of inventory required to be listed in the personal 118302
property tax return of the enterprise in the return for the tax 118303
year in which the agreement is entered into. 118304

(ii) Exemption for a specified number of years, not to exceed 118305
fifteen, of a specified portion, up to sixty per cent, of the 118306
increase in the assessed valuation of real property constituting 118307
the project site subsequent to formal approval of the agreement by 118308
the board; 118309

(iii) Provision for a specified number of years, not to 118310
exceed fifteen, of any optional services or assistance the board 118311
is authorized to provide with regard to the project site; 118312

(iv) The incentive described in division (C)(2) of section 118313
5709.62 of the Revised Code. 118314

(2) Enter into an agreement with an enterprise that plans to 118315
purchase and operate a large manufacturing facility that has 118316
ceased operation or has announced its intention to cease 118317
operation, in return for exemption for a specified number of 118318
years, not to exceed fifteen, of a specified portion, up to one 118319
hundred per cent, of tangible personal property used in business 118320
at the project site as a result of the agreement, or of real 118321
property constituting the project site, or both. 118322

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 118323

this section, the portion of the assessed value of tangible 118324
personal property or of the increase in the assessed valuation of 118325
real property exempted from taxation under those divisions may 118326
exceed sixty per cent in any year for which that portion is 118327
exempted if the average percentage exempted for all years in which 118328
the agreement is in effect does not exceed fifty per cent, or if 118329
the board of education of the city, local, or exempted village 118330
school district within the territory of which the property is or 118331
will be located approves a percentage in excess of sixty per cent. 118332

(b) Notwithstanding any provision of the Revised Code to the 118333
contrary, the exemptions described in divisions (B)(1)(b)(i), 118334
(ii), (iii), and (iv) and (B)(2) of this section may be for up to 118335
fifteen years if the board of education of the city, local, or 118336
exempted village school district within the territory of which the 118337
property is or will be located approves a number of years in 118338
excess of ten. 118339

(c) For the purpose of obtaining the approval of a city, 118340
local, or exempted village school district under division 118341
(C)(1)(a) or (b) of this section, the board of county 118342
commissioners shall deliver to the board of education a notice not 118343
later than forty-five days prior to approving the agreement, 118344
excluding Saturdays, Sundays, and legal holidays as defined in 118345
section 1.14 of the Revised Code. The notice shall state the 118346
percentage to be exempted, an estimate of the true value of the 118347
property to be exempted, and the number of years the property is 118348
to be exempted. The board of education, by resolution adopted by a 118349
majority of the board, shall approve or disapprove the agreement 118350
and certify a copy of the resolution to the board of county 118351
commissioners not later than fourteen days prior to the date 118352
stipulated by the board of county commissioners as the date upon 118353
which approval of the agreement is to be formally considered by 118354
the board of county commissioners. The board of education may 118355

include in the resolution conditions under which the board would 118356
approve the agreement, including the execution of an agreement to 118357
compensate the school district under division (B) of section 118358
5709.82 of the Revised Code. The board of county commissioners may 118359
approve the agreement at any time after the board of education 118360
certifies its resolution approving the agreement to the board of 118361
county commissioners, or, if the board of education approves the 118362
agreement conditionally, at any time after the conditions are 118363
agreed to by the board of education and the board of county 118364
commissioners. 118365

If a board of education has adopted a resolution waiving its 118366
right to approve agreements and the resolution remains in effect, 118367
approval of an agreement by the board of education is not required 118368
under division (C) of this section. If a board of education has 118369
adopted a resolution allowing a board of county commissioners to 118370
deliver the notice required under this division fewer than 118371
forty-five business days prior to approval of the agreement by the 118372
board of county commissioners, the board of county commissioners 118373
shall deliver the notice to the board of education not later than 118374
the number of days prior to such approval as prescribed by the 118375
board of education in its resolution. If a board of education 118376
adopts a resolution waiving its right to approve agreements or 118377
shortening the notification period, the board of education shall 118378
certify a copy of the resolution to the board of county 118379
commissioners. If the board of education rescinds such a 118380
resolution, it shall certify notice of the rescission to the board 118381
of county commissioners. 118382

(2) The board of county commissioners shall comply with 118383
section 5709.83 of the Revised Code unless the board of education 118384
has adopted a resolution under that section waiving its right to 118385
receive such notice. 118386

(D) This division applies to zones certified by the director 118387

of development under this section prior to July 22, 1994. 118388

On or before October 15, ~~2011~~ 2012, and with the consent of 118389
the legislative authority of each affected municipal corporation 118390
or board of township trustees of each affected township, the board 118391
of county commissioners that designated a zone to which this 118392
division applies may enter into an agreement with an enterprise if 118393
the board finds that the enterprise satisfies one of the criteria 118394
described in divisions (D)(1) to (5) of this section: 118395

(1) The enterprise currently has no operations in this state 118396
and, subject to approval of the agreement, intends to establish 118397
operations in the zone; 118398

(2) The enterprise currently has operations in this state 118399
and, subject to approval of the agreement, intends to establish 118400
operations at a new location in the zone that would not result in 118401
a reduction in the number of employee positions at any of the 118402
enterprise's other locations in this state; 118403

(3) The enterprise, subject to approval of the agreement, 118404
intends to relocate operations, currently located in another 118405
state, to the zone; 118406

(4) The enterprise, subject to approval of the agreement, 118407
intends to expand operations at an existing site in the zone that 118408
the enterprise currently operates; 118409

(5) The enterprise, subject to approval of the agreement, 118410
intends to relocate operations, currently located in this state, 118411
to the zone, and the director of development has issued a waiver 118412
for the enterprise under division (B) of section 5709.633 of the 118413
Revised Code. 118414

The agreement shall require the enterprise to agree to 118415
establish, expand, renovate, or occupy a facility in the zone and 118416
hire new employees, or preserve employment opportunities for 118417
existing employees, in return for one or more of the incentives 118418

described in division (B) of this section. 118419

(E) All agreements entered into under this section shall be 118420
in the form prescribed under section 5709.631 of the Revised Code. 118421
After an agreement under this section is entered into, if the 118422
board of county commissioners revokes its designation of a zone, 118423
or if the director of development revokes a zone's certification, 118424
any entitlements granted under the agreement shall continue for 118425
the number of years specified in the agreement. 118426

(F) Except as otherwise provided in this division, an 118427
agreement entered into under this section shall require that the 118428
enterprise pay an annual fee equal to the greater of one per cent 118429
of the dollar value of incentives offered under the agreement or 118430
five hundred dollars; provided, however, that if the value of the 118431
incentives exceeds two hundred fifty thousand dollars, the fee 118432
shall not exceed two thousand five hundred dollars. The fee shall 118433
be payable to the board of county commissioners once per year for 118434
each year the agreement is effective on the days and in the form 118435
specified in the agreement. Fees paid shall be deposited in a 118436
special fund created for such purpose by the board and shall be 118437
used by the board exclusively for the purpose of complying with 118438
section 5709.68 of the Revised Code and by the tax incentive 118439
review council created under section 5709.85 of the Revised Code 118440
exclusively for the purposes of performing the duties prescribed 118441
under that section. The board may waive or reduce the amount of 118442
the fee charged against an enterprise, but such waiver or 118443
reduction does not affect the obligations of the board or the tax 118444
incentive review council to comply with section 5709.68 or 5709.85 118445
of the Revised Code, respectively. 118446

(G) With the approval of the legislative authority of a 118447
municipal corporation or the board of township trustees of a 118448
township in which a zone is designated under division (A) of this 118449
section, the board of county commissioners may delegate to that 118450

legislative authority or board any powers and duties of the board 118451
of county commissioners to negotiate and administer agreements 118452
with regard to that zone under this section. 118453

(H) When an agreement is entered into pursuant to this 118454
section, the board of county commissioners authorizing the 118455
agreement or the legislative authority or board of township 118456
trustees that negotiates and administers the agreement shall 118457
forward a copy of the agreement to the director of development and 118458
to the tax commissioner within fifteen days after the agreement is 118459
entered into. If any agreement includes terms not provided for in 118460
section 5709.631 of the Revised Code affecting the revenue of a 118461
city, local, or exempted village school district or causing 118462
revenue to be foregone by the district, including any compensation 118463
to be paid to the school district pursuant to section 5709.82 of 118464
the Revised Code, those terms also shall be forwarded in writing 118465
to the director of development along with the copy of the 118466
agreement forwarded under this division. 118467

(I) After an agreement is entered into, the enterprise shall 118468
file with each personal property tax return required to be filed, 118469
or annual report that is required to be filed under section 118470
5727.08 of the Revised Code, while the agreement is in effect, an 118471
informational return, on a form prescribed by the tax commissioner 118472
for that purpose, setting forth separately the property, and 118473
related costs and values, exempted from taxation under the 118474
agreement. 118475

(J) Enterprises may agree to give preference to residents of 118476
the zone within which the agreement applies relative to residents 118477
of this state who do not reside in the zone when hiring new 118478
employees under the agreement. 118479

(K) An agreement entered into under this section may include 118480
a provision requiring the enterprise to create one or more 118481
temporary internship positions for students enrolled in a course 118482

of study at a school or other educational institution in the 118483
vicinity, and to create a scholarship or provide another form of 118484
educational financial assistance for students holding such a 118485
position in exchange for the student's commitment to work for the 118486
enterprise at the completion of the internship. 118487

(L) The tax commissioner's authority in determining the 118488
accuracy of any exemption granted by an agreement entered into 118489
under this section is limited to divisions (B)(1)(b)(i) and (ii), 118490
(B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of 118491
this section as it pertains to divisions (C)(2)(a), (b), and (c) 118492
of section 5709.62 of the Revised Code, and divisions (B)(1) to 118493
(10) of section 5709.631 of the Revised Code and, as authorized by 118494
law, to enforcing any modification to, or revocation of, that 118495
agreement by the board of county commissioners or the director of 118496
development or, if the board's powers and duties are delegated 118497
under division (G) of this section, by the legislative authority 118498
of a municipal corporation or board of township trustees. 118499

Sec. 5709.632. (A)(1) The legislative authority of a 118500
municipal corporation defined by the United States office of 118501
management and budget as a principal city of a metropolitan 118502
statistical area may, in the manner set forth in section 5709.62 118503
of the Revised Code, designate one or more areas in the municipal 118504
corporation as a proposed enterprise zone. 118505

(2) With the consent of the legislative authority of each 118506
affected municipal corporation or of a board of township trustees, 118507
a board of county commissioners may, in the manner set forth in 118508
section 5709.62 of the Revised Code, designate one or more areas 118509
in one or more municipal corporations or in unincorporated areas 118510
of the county as proposed urban jobs and enterprise zones, except 118511
that a board of county commissioners may designate no more than 118512
one area within a township, or within adjacent townships, as a 118513

proposed urban jobs and enterprise zone. 118514

(3) The legislative authority or board of county 118515
commissioners may petition the director of development for 118516
certification of the area as having the characteristics set forth 118517
in division (A)(3) of section 5709.61 of the Revised Code. Within 118518
sixty days after receiving such a petition, the director shall 118519
determine whether the area has the characteristics set forth in 118520
that division and forward the findings to the legislative 118521
authority or board of county commissioners. If the director 118522
certifies the area as having those characteristics and thereby 118523
certifies it as a zone, the legislative authority or board may 118524
enter into agreements with enterprises under division (B) of this 118525
section. Any enterprise wishing to enter into an agreement with a 118526
legislative authority or board of county commissioners under this 118527
section and satisfying one of the criteria described in divisions 118528
(B)(1) to (5) of this section shall submit a proposal to the 118529
legislative authority or board on the form prescribed under 118530
division (B) of section 5709.62 of the Revised Code and shall 118531
review and update the estimates and listings required by the form 118532
in the manner required under that division. The legislative 118533
authority or board may, on a separate form and at any time, 118534
require any additional information necessary to determine whether 118535
an enterprise is in compliance with an agreement and to collect 118536
the information required to be reported under section 5709.68 of 118537
the Revised Code. 118538

(B) Prior to entering into an agreement with an enterprise, 118539
the legislative authority or board of county commissioners shall 118540
determine whether the enterprise submitting the proposal is 118541
qualified by financial responsibility and business experience to 118542
create and preserve employment opportunities in the zone and to 118543
improve the economic climate of the municipal corporation or 118544
municipal corporations or the unincorporated areas in which the 118545

zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before October 15, ~~2011~~ 2012, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and

hire new employees, or preserve employment opportunities for 118577
existing employees, in return for the following incentives: 118578

(1) When the facility is located in a municipal corporation, 118579
a legislative authority or board of commissioners may enter into 118580
an agreement for one or more of the incentives provided in 118581
division (C) of section 5709.62 of the Revised Code, subject to 118582
division (D) of that section; 118583

(2) When the facility is located in an unincorporated area, a 118584
board of commissioners may enter into an agreement for one or more 118585
of the incentives provided in divisions (B)(1)(b), (B)(2), and 118586
(B)(3) of section 5709.63 of the Revised Code, subject to division 118587
(C) of that section. 118588

(D) All agreements entered into under this section shall be 118589
in the form prescribed under section 5709.631 of the Revised Code. 118590
After an agreement under this section is entered into, if the 118591
legislative authority or board of county commissioners revokes its 118592
designation of the zone, or if the director of development revokes 118593
the zone's certification, any entitlements granted under the 118594
agreement shall continue for the number of years specified in the 118595
agreement. 118596

(E) Except as otherwise provided in this division, an 118597
agreement entered into under this section shall require that the 118598
enterprise pay an annual fee equal to the greater of one per cent 118599
of the dollar value of incentives offered under the agreement or 118600
five hundred dollars; provided, however, that if the value of the 118601
incentives exceeds two hundred fifty thousand dollars, the fee 118602
shall not exceed two thousand five hundred dollars. The fee shall 118603
be payable to the legislative authority or board of commissioners 118604
once per year for each year the agreement is effective on the days 118605
and in the form specified in the agreement. Fees paid shall be 118606
deposited in a special fund created for such purpose by the 118607
legislative authority or board and shall be used by the 118608

legislative authority or board exclusively for the purpose of 118609
complying with section 5709.68 of the Revised Code and by the tax 118610
incentive review council created under section 5709.85 of the 118611
Revised Code exclusively for the purposes of performing the duties 118612
prescribed under that section. The legislative authority or board 118613
may waive or reduce the amount of the fee charged against an 118614
enterprise, but such waiver or reduction does not affect the 118615
obligations of the legislative authority or board or the tax 118616
incentive review council to comply with section 5709.68 or 5709.85 118617
of the Revised Code, respectively. 118618

(F) With the approval of the legislative authority of a 118619
municipal corporation or the board of township trustees of a 118620
township in which a zone is designated under division (A)(2) of 118621
this section, the board of county commissioners may delegate to 118622
that legislative authority or board any powers and duties of the 118623
board to negotiate and administer agreements with regard to that 118624
zone under this section. 118625

(G) When an agreement is entered into pursuant to this 118626
section, the legislative authority or board of commissioners 118627
authorizing the agreement shall forward a copy of the agreement to 118628
the director of development and to the tax commissioner within 118629
fifteen days after the agreement is entered into. If any agreement 118630
includes terms not provided for in section 5709.631 of the Revised 118631
Code affecting the revenue of a city, local, or exempted village 118632
school district or causing revenue to be forgone by the district, 118633
including any compensation to be paid to the school district 118634
pursuant to section 5709.82 of the Revised Code, those terms also 118635
shall be forwarded in writing to the director of development along 118636
with the copy of the agreement forwarded under this division. 118637

(H) After an agreement is entered into, the enterprise shall 118638
file with each personal property tax return required to be filed 118639
while the agreement is in effect, an informational return, on a 118640

form prescribed by the tax commissioner for that purpose, setting 118641
forth separately the property, and related costs and values, 118642
exempted from taxation under the agreement. 118643

(I) An agreement entered into under this section may include 118644
a provision requiring the enterprise to create one or more 118645
temporary internship positions for students enrolled in a course 118646
of study at a school or other educational institution in the 118647
vicinity, and to create a scholarship or provide another form of 118648
educational financial assistance for students holding such a 118649
position in exchange for the student's commitment to work for the 118650
enterprise at the completion of the internship. 118651

Sec. 5713.01. (A) Each county shall be the unit for assessing 118652
real estate for taxation purposes. The county auditor shall be the 118653
assessor of all the real estate in the auditor's county for 118654
purposes of taxation, but this section does not affect the power 118655
conferred by Chapter 5727. of the Revised Code upon the tax 118656
commissioner regarding the valuation and assessment of real 118657
property used in railroad operations. 118658

(B) The auditor shall assess all the real estate situated in 118659
the county at its taxable value in accordance with sections 118660
5713.03, 5713.31, and 5715.01 of the Revised Code and with the 118661
rules and methods applicable to the auditor's county adopted, 118662
prescribed, and promulgated by the tax commissioner. The auditor 118663
shall view and appraise or cause to be viewed and appraised at its 118664
true value in money, each lot or parcel of real estate, including 118665
land devoted exclusively to agricultural use, and the improvements 118666
located thereon at least once in each six-year period and the 118667
taxable values required to be derived therefrom shall be placed on 118668
the auditor's tax list and the county treasurer's duplicate for 118669
the tax year ordered by the commissioner pursuant to section 118670
5715.34 of the Revised Code. The commissioner may grant an 118671

extension of one year or less if the commissioner finds that good 118672
cause exists for the extension. When the auditor so views and 118673
appraises, the auditor may enter each structure located thereon to 118674
determine by actual view what improvements have been made therein 118675
or additions made thereto since the next preceding valuation. The 118676
auditor shall revalue and assess at any time all or any part of 118677
the real estate in such county, including land devoted exclusively 118678
to agricultural use, where the auditor finds that the true or 118679
taxable values thereof have changed, and when a conservation 118680
easement is created under sections 5301.67 to 5301.70 of the 118681
Revised Code. The auditor may increase or decrease the true or 118682
taxable value of any lot or parcel of real estate in any township, 118683
municipal corporation, or other taxing district by an amount which 118684
will cause all real property on the tax list to be valued as 118685
required by law, or the auditor may increase or decrease the 118686
aggregate value of all real property, or any class of real 118687
property, in the county, township, municipal corporation, or other 118688
taxing district, or in any ward or other division of a municipal 118689
corporation by a per cent or amount which will cause all property 118690
to be properly valued and assessed for taxation in accordance with 118691
Section 36, Article II, Section 2, Article XII, Ohio Constitution, 118692
this section, and sections 5713.03, 5713.31, and 5715.01 of the 118693
Revised Code. 118694

(C) When the auditor determines to reappraise all the real 118695
estate in the county or any class thereof, when the tax 118696
commissioner orders an increase in the aggregate true or taxable 118697
value of the real estate in any taxing subdivision, or when the 118698
taxable value of real estate is increased by the application of a 118699
uniform taxable value per cent of true value pursuant to the order 118700
of the commissioner, the auditor shall advertise the completion of 118701
the reappraisal or equalization action in a newspaper of general 118702
circulation in the county once a week for the three consecutive 118703
weeks next preceding the issuance of the tax bills, or as provided 118704

in section 7.16 of the Revised Code for the two consecutive weeks 118705
next preceding the issuance of the tax bills. When the auditor 118706
changes the true or taxable value of any individual parcels of 118707
real estate, the auditor shall notify the owner of the real 118708
estate, or the person in whose name the same stands charged on the 118709
duplicate, by mail or in person, of the changes the auditor has 118710
made in the assessments of such property. Such notice shall be 118711
given at least thirty days prior to the issuance of the tax bills. 118712
Failure to receive notice shall not invalidate any proceeding 118713
under this section. 118714

(D) The auditor shall make the necessary abstracts from books 118715
of the auditor's office containing descriptions of real estate in 118716
such county, together with such platbooks and lists of transfers 118717
of title to land as the auditor deems necessary in the performance 118718
of the auditor's duties in valuing such property for taxation. 118719
Such abstracts, platbooks, and lists shall be in such form and 118720
detail as the tax commissioner prescribes. 118721

(E) The auditor, with the approval of the tax commissioner, 118722
may appoint and employ such experts, deputies, clerks, or other 118723
employees as the auditor deems necessary to the performance of the 118724
auditor's duties as assessor, or, with the approval of the tax 118725
commissioner, the auditor may enter into a contract with an 118726
individual, partnership, firm, company, or corporation to do all 118727
or any part of the work; the amount to be expended in the payment 118728
of the compensation of such employees shall be fixed by the board 118729
of county commissioners. If, in the opinion of the auditor, the 118730
board of county commissioners fails to provide a sufficient amount 118731
for the compensation of such employees, the auditor may apply to 118732
the tax commissioner for an additional allowance, and the 118733
additional amount of compensation allowed by the commissioner 118734
shall be certified to the board of county commissioners, and the 118735
same shall be final. The salaries and compensation of such 118736

experts, deputies, clerks, and employees shall be paid upon the 118737
warrant of the auditor out of the general fund or the real estate 118738
assessment fund of the county, or both. If the salaries and 118739
compensation are in whole or in part fixed by the commissioner, 118740
they shall constitute a charge against the county regardless of 118741
the amount of money in the county treasury levied or appropriated 118742
for such purposes. 118743

(F) Any contract for goods or services related to the 118744
auditor's duties as assessor, including contracts for mapping, 118745
computers, and reproduction on any medium of any documents, 118746
records, photographs, microfiche, or magnetic tapes, but not 118747
including contracts for the professional services of an appraiser, 118748
shall be awarded pursuant to the competitive bidding procedures 118749
set forth in sections 307.86 to 307.92 of the Revised Code and 118750
shall be paid for, upon the warrant of the auditor, from the real 118751
estate assessment fund. 118752

(G) Experts, deputies, clerks, and other employees, in 118753
addition to their other duties, shall perform such services as the 118754
auditor directs in ascertaining such facts, description, location, 118755
character, dimensions of buildings and improvements, and other 118756
circumstances reflecting upon the value of real estate as will aid 118757
the auditor in fixing its true and taxable value and, in the case 118758
of land valued in accordance with section 5713.31 of the Revised 118759
Code, its current agricultural use value. The auditor may also 118760
summon and examine any person under oath in respect to any matter 118761
pertaining to the value of any real property within the county. 118762

Sec. 5715.17. When the county board of revision has completed 118763
its work of equalization and transmitted the returns to ~~him~~ the 118764
county auditor, the ~~county~~ auditor shall give notice by 118765
advertising in ~~two newspapers of opposite politics published in~~ 118766
~~and~~ a newspaper of general circulation throughout the county that 118767

the tax returns for the current year have been revised and the 118768
valuations have been completed and are open for public inspection 118769
in ~~his~~ the auditor's office, and that complaints against any 118770
valuation or assessment, except the valuations fixed and 118771
assessments made by the department of taxation, will be heard by 118772
the board, stating in the notice the time and place of the meeting 118773
of such board. Such advertisement shall be inserted in a 118774
conspicuous place in ~~each~~ such newspaper and be published daily 118775
for ten days, ~~unless there is no daily newspaper published in and~~ 118776
~~of general circulation throughout such county, in which event such~~ 118777
~~advertisement shall be so published once each week for two weeks~~ 118778
or as provided in section 7.16 of the Revised Code. 118779

The auditor shall, upon request, furnish to any person a 118780
certificate setting forth the assessment and valuation of any 118781
tract, lot, or parcel of real estate or any specific personal 118782
property, and mail the same when requested to do so upon receipt 118783
of sufficient postage. 118784

The auditor shall furnish notice to boards of education of 118785
school districts within the county of all hearings, and the 118786
results of such hearings, held in regard to the reduction or 118787
increasing of tax valuations in excess of one hundred thousand 118788
dollars directly affecting the revenue of such district. 118789

Sec. 5715.23. Annually, immediately after the county board of 118790
revision has acted upon the assessments for the current year as 118791
required under section 5715.16 of the Revised Code and the county 118792
auditor has given notice by advertisement in ~~two newspapers a~~ 118793
newspaper of general circulation in the county that the valuations 118794
have been revised and are open for public inspection as provided 118795
in section 5715.17 of the Revised Code, each auditor shall make 118796
out and transmit to the tax commissioner an abstract of the real 118797
property of each taxing district in ~~his~~ the auditor's county, in 118798

which ~~he~~ the auditor shall set forth the aggregate amount and 118799
valuation of each class of real property in such county and in 118800
each taxing district therein as it appears on ~~his~~ the auditor's 118801
tax list or the statements and returns on file in ~~his~~ the 118802
auditor's office and an abstract of the current year's true value 118803
of land valued for such year under section 5713.31 of the Revised 118804
Code as it appears in the current year's agricultural land tax 118805
list. 118806

Sec. 5715.26. (A)(1) Upon receiving the statement required by 118807
section 5715.25 of the Revised Code, the county auditor shall 118808
forthwith add to or deduct from each tract, lot, or parcel of real 118809
property or class of real property the required percentage or 118810
amount of the valuation thereof, adding or deducting any sum less 118811
than five dollars so that the value of any separate tract, lot, or 118812
parcel of real property shall be ten dollars or some multiple 118813
thereof. 118814

(2) After making the additions or deductions required by this 118815
section, the auditor shall transmit to the tax commissioner the 118816
appropriate adjusted abstract of the real property of each taxing 118817
district in the auditor's county in which an adjustment was 118818
required. 118819

(3) If the commissioner increases or decreases the aggregate 118820
value of the real property or any class thereof in any county or 118821
taxing district thereof and does not receive within ninety days 118822
thereafter an adjusted abstract conforming to its statement for 118823
such county or taxing district therein, the commissioner shall 118824
withhold from such county or taxing district therein fifty per 118825
cent of its share in the distribution of state revenues to local 118826
governments pursuant to sections 5747.50 to 5747.55 of the Revised 118827
Code and shall direct the department of education to withhold 118828
therefrom fifty per cent of state revenues to school districts 118829

pursuant to ~~Chapters 3306.~~ and Chapter 3317. of the Revised Code. 118830
The commissioner shall withhold the distribution of such funds 118831
until such county auditor has complied with this division, and the 118832
department shall withhold the distribution of such funds until the 118833
commissioner has notified the department that such county auditor 118834
has complied with this division. 118835

(B)(1) If the commissioner's determination is appealed under 118836
section 5715.251 of the Revised Code, the county auditor, 118837
treasurer, and all other officers shall forthwith proceed with the 118838
levy and collection of the current year's taxes in the manner 118839
prescribed by law. The taxes shall be determined and collected as 118840
if the commissioner had determined under section 5715.24 of the 118841
Revised Code that the real property and the various classes 118842
thereof in the county as shown in the auditor's abstract were 118843
assessed for taxation and the true and agricultural use values 118844
were recorded on the agricultural land tax list as required by 118845
law. 118846

(2) If as a result of the appeal to the board it is finally 118847
determined either that all real property and the various classes 118848
thereof have not been assessed as required by law or that the 118849
values set forth in the agricultural land tax list do not 118850
correctly reflect the true and agricultural use values of the 118851
lands contained therein, the county auditor shall forthwith add to 118852
or deduct from each tract, lot, or parcel of real property or 118853
class of real property the required percentage or amount of the 118854
valuation in accordance with the order of the board or judgment of 118855
the court to which the board's order was appealed, and the taxes 118856
on each tract, lot, or parcel and the percentages required by 118857
section 319.301 of the Revised Code shall be recomputed using the 118858
valuation as finally determined. The order or judgment making the 118859
final determination shall prescribe the time and manner for 118860
collecting, crediting, or refunding the resultant increases or 118861

decreases in taxes. 118862

Sec. 5719.04. (A) Immediately after each settlement required 118863
by division (D) of section 321.24 of the Revised Code the county 118864
auditor shall make a tax list and duplicates thereof of all 118865
general personal and classified property taxes remaining unpaid, 118866
as shown by the county treasurer's books and the list of taxes 118867
returned as delinquent by the treasurer to the auditor at such 118868
settlement. The county auditor shall also include in such list all 118869
taxes assessed by the tax commissioner pursuant to law which were 118870
not charged upon the tax lists and duplicates on which such 118871
settlements were made nor previously charged upon a delinquent tax 118872
list and duplicates pursuant to this section, but the auditor 118873
shall not include taxes specifically excepted from collection 118874
pursuant to section 5711.32 of the Revised Code. Such tax list and 118875
duplicates shall contain the name of the person charged and the 118876
amount of such taxes, and the penalty, due and unpaid, and shall 118877
set forth separately the amount charged or chargeable on the 118878
general and on the classified list and duplicate. The auditor 118879
shall deliver one such duplicate to the treasurer on the first day 118880
of December, annually. Upon receipt of the duplicate the treasurer 118881
may prepare and mail tax bills to all persons charged with such 118882
delinquent taxes. Each bill shall include a notice that the 118883
interest charge prescribed by section 5719.041 of the Revised Code 118884
has begun to accrue. 118885

The auditor shall cause a copy of the delinquent personal and 118886
classified property tax list and duplicate provided for in this 118887
division to be published twice within sixty days after delivery of 118888
such duplicate to the treasurer in a newspaper ~~published in the~~ 118889
~~English language in the county and~~ of general circulation ~~therein;~~ 118890
~~provided that before~~ in the county. The newspaper shall meet the 118891
requirements of section 7.12 of the Revised Code. The auditor may 118892
publish the tax list on a pre-printed insert in the newspaper. The 118893

cost of the second publication of the list shall not exceed 118894
three-fourths of the cost of the first publication of the list. 118895

Before such publication, the auditor shall cause a display 118896
notice of the forthcoming publication of such delinquent personal 118897
and classified property tax list to be inserted once a week for 118898
two consecutive weeks in a newspaper ~~published in the English~~ 118899
~~language in the county and~~ of general circulation ~~therein in the~~ 118900
county. Copy for such display notice shall be furnished by the 118901
auditor to the newspaper selected to publish such delinquent tax 118902
lists simultaneously with the delivery of the duplicate to the 118903
treasurer. ~~If there is only one newspaper published in the county,~~ 118904
~~such display notice and delinquent personal and classified~~ 118905
~~property tax lists shall be published in it.~~ Publication of the 118906
delinquent lists may be made by a newspaper in installments, 118907
provided that complete publication thereof is made twice during 118908
said sixty-day period. 118909

The office of the county treasurer shall be kept open to 118910
receive the payment of delinquent general and classified property 118911
taxes from the day of delivery of the duplicate thereof until the 118912
final publication of the delinquent tax list. The name of any 118913
taxpayer who prior to seven days before either the first or second 118914
publication of said list pays such taxes in full or enters into a 118915
delinquent tax contract to pay such taxes in installments pursuant 118916
to section 5719.05 of the Revised Code shall be stricken from such 118917
list, and the taxpayer's name shall not be included in the list 118918
for that publication. 118919

The other such duplicate, from which shall first be 118920
eliminated the names of persons whose total liability for taxes 118921
and penalty is less than one hundred dollars, shall be filed by 118922
the auditor on the first day of December, annually, in the office 118923
of the county recorder, and the same shall constitute a notice of 118924
lien and operate as of the date of delivery as a lien on the lands 118925

and tenements, vested legal interests therein, and permanent 118926
leasehold estates of each person named therein having such real 118927
estate in such county. Such notice of lien and such lien shall not 118928
be valid as against any mortgagee, pledgee, purchaser, or judgment 118929
creditor whose rights have attached prior to the date of such 118930
delivery. Such duplicate shall be kept by the recorder, designated 118931
as the personal tax lien record, and indexed under the name of the 118932
person charged with such tax. No fee shall be charged by the 118933
recorder for the services required under this section. 118934

The auditor shall add to the tax list made pursuant to this 118935
section all such taxes omitted in a previous year when assessed by 118936
the auditor or finally assessed by the tax commissioner pursuant 118937
to law, and by proper certificates cause the same to be added to 118938
the treasurer's delinquent tax duplicate provided for in this 118939
section, and, in proper cases, file notice of the lien with the 118940
recorder, as provided in this section. 118941

If the authority making any assessment believes that the 118942
collection of such taxes will be jeopardized by delay, such 118943
assessing authority shall so certify on the assessment certificate 118944
thereof, and the auditor shall include a certificate of such 118945
jeopardy in the certificate given by the auditor to the treasurer. 118946
In such event the treasurer shall proceed immediately to collect 118947
such taxes, and to enforce the collection thereof by any means 118948
provided by law, and the treasurer may not accept a tender of any 118949
part of such taxes; but the person or the representatives of the 118950
person against whom such assessment is made may, in the event of 118951
an appeal to the tax commissioner therefrom, obtain a stay of 118952
collection of the whole or any part of the amount of such 118953
assessment by filing with the treasurer a bond in an amount not 118954
exceeding double the amount as to which the stay is desired, with 118955
such surety as the treasurer deems necessary, conditioned upon the 118956
payment of the amount determined to be due by the decision of the 118957

commissioner which has become final, and further conditioned that 118958
if an appeal is not filed within the period provided by law, the 118959
amount of collection which is stayed by the bond will be paid on 118960
notice and demand of the treasurer at any time after the 118961
expiration of such period. The taxpayer may waive such stay as to 118962
the whole or any part of the amount covered by the bond, and if as 118963
the result of such waiver any part of the amount covered by the 118964
bond is paid, then the bond shall be proportionately reduced on 118965
the request of the taxpayer. 118966

(B) Immediately after each settlement required by division 118967
(D) of section 321.24 of the Revised Code the auditor shall make a 118968
separate list and duplicate, prepared as prescribed in division 118969
(A) of this section, of all general personal and classified 118970
property taxes that remain unpaid but are excepted from collection 118971
pursuant to section 5711.32 of the Revised Code. The duplicate of 118972
such list shall be delivered to the treasurer at the time of 118973
delivery of the delinquent personal and classified property tax 118974
duplicate. 118975

Sec. 5721.01. (A) As used in this chapter: 118976

(1) "Delinquent lands" means all lands upon which delinquent 118977
taxes, as defined in section 323.01 of the Revised Code, remain 118978
unpaid at the time a settlement is made between the county 118979
treasurer and auditor pursuant to division (C) of section 321.24 118980
of the Revised Code. 118981

(2) "Delinquent vacant lands" means all lands that have been 118982
delinquent lands for at least one year and that are unimproved by 118983
any dwelling. 118984

(3) "County land reutilization corporation" means a county 118985
land reutilization corporation organized under Chapter 1724. of 118986
the Revised Code. 118987

(B) As used in sections 5719.04, 5721.03, and 5721.31 of the Revised Code and in any other sections of the Revised Code to which those sections are applicable, a "newspaper" or "newspaper of general circulation ~~shall be a publication bearing a title or name, regularly issued as frequently as once a week for a definite price or consideration paid for by not less than fifty per cent of those to whom distribution is made, having a second class mailing privilege, being not less than four pages, published continuously during the immediately preceding one year period, and circulated generally in the political subdivision in which it is published.~~ Such publication shall be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, current happenings, announcements, ~~miscellaneous reading matter, advertisements, and other notices"~~ has the same meaning as in section 7.12 of the Revised Code.

Sec. 5721.03. (A) At the time of making the delinquent land list, as provided in section 5721.011 of the Revised Code, the county auditor shall compile a delinquent tax list consisting of all lands on the delinquent land list on which taxes have become delinquent at the close of the collection period immediately preceding the making of the delinquent land list. The auditor shall also compile a delinquent vacant land tax list of all delinquent vacant lands prior to the institution of any foreclosure and forfeiture actions against delinquent vacant lands under section 5721.14 of the Revised Code or any foreclosure actions against delinquent vacant lands under section 5721.18 of the Revised Code.

The delinquent tax list, and the delinquent vacant land tax list if one is compiled, shall contain all of the information included on the delinquent land list, except that, if the auditor's records show that the name of the person in whose name the property currently is listed is not the name that appears on

the delinquent land list, the name used in the delinquent tax list 119020
or the delinquent vacant land tax list shall be the name of the 119021
person the auditor's records show as the person in whose name the 119022
property currently is listed. 119023

Lands that have been included in a previously published 119024
delinquent tax list shall not be included in the delinquent tax 119025
list so long as taxes have remained delinquent on such lands for 119026
the entire intervening time. 119027

In either list, there may be included lands that have been 119028
omitted in error from a prior list and lands with respect to which 119029
the auditor has received a certification that a delinquent tax 119030
contract has become void since the publication of the last 119031
previously published list, provided the name of the owner was 119032
stricken from a prior list under section 5721.02 of the Revised 119033
Code. 119034

(B)(1) The auditor shall cause the delinquent tax list and 119035
the delinquent vacant land tax list, if one is compiled, to be 119036
published twice within sixty days after the delivery of the 119037
delinquent land duplicate to the county treasurer, in a newspaper 119038
of general circulation in the county. The newspaper shall meet the 119039
requirements of section 7.12 of the Revised Code. ~~The publication~~ 119040
~~shall be printed in the English language~~ auditor may publish the 119041
list or lists on a pre-printed insert in the newspaper. The cost 119042
of the second publication of the list or lists shall not exceed 119043
three-fourths of the cost of the first publication of the list or 119044
lists. 119045

The auditor shall insert display notices of the forthcoming 119046
publication of the delinquent tax list and, if it is to be 119047
published, the delinquent vacant land tax list once a week for two 119048
consecutive weeks in a newspaper of general circulation in the 119049
county. The display notices shall contain the times and methods of 119050
payment of taxes provided by law, including information concerning 119051

installment payments made in accordance with a written delinquent 119052
tax contract. The display notice for the delinquent tax list also 119053
shall include a notice that an interest charge will accrue on 119054
accounts remaining unpaid after the last day of November unless 119055
the taxpayer enters into a written delinquent tax contract to pay 119056
such taxes in installments. The display notice for the delinquent 119057
vacant land tax list if it is to be published also shall include a 119058
notice that delinquent vacant lands in the list are lands on which 119059
taxes have remained unpaid for one year after being certified 119060
delinquent, and that they are subject to foreclosure proceedings 119061
as provided in section 323.25, sections 323.65 to 323.79, or 119062
section 5721.18 of the Revised Code, or foreclosure and forfeiture 119063
proceedings as provided in section 5721.14 of the Revised Code. 119064
Each display notice also shall state that the lands are subject to 119065
a tax certificate sale under section 5721.32 or 5721.33 of the 119066
Revised Code or assignment to a county land reutilization 119067
corporation, as the case may be, and shall include any other 119068
information that the auditor considers pertinent to the purpose of 119069
the notice. The display notices shall be furnished by the auditor 119070
to the ~~newspapers~~ newspaper selected to publish the lists at least 119071
ten days before their first publication. 119072

(2) Publication of the list or lists may be made by a 119073
newspaper in installments, provided the complete publication of 119074
each list is made twice during the sixty-day period. 119075

(3) There shall be attached to the delinquent tax list a 119076
notice that the delinquent lands will be certified for foreclosure 119077
by the auditor unless the taxes, assessments, interest, and 119078
penalties due and owing on them are paid. There shall be attached 119079
to the delinquent vacant land tax list, if it is to be published, 119080
a notice that delinquent vacant lands will be certified for 119081
foreclosure or foreclosure and forfeiture by the auditor unless 119082
the taxes, assessments, interest, and penalties due and owing on 119083

them are paid within twenty-eight days after the final publication 119084
of the notice. 119085

(4) The auditor shall review the first publication of each 119086
list for accuracy and completeness and may correct any errors 119087
appearing in the list in the second publication. 119088

(C) For the purposes of section 5721.18 of the Revised Code, 119089
land is first certified delinquent on the date of the 119090
certification of the delinquent land list containing that land. 119091

Sec. 5721.04. The proper and necessary expenses of publishing 119092
the delinquent tax lists, delinquent vacant land tax lists, and 119093
display notices provided for by sections 5719.04 and 5721.03 of 119094
the Revised Code shall be paid from the county treasury as county 119095
expenses are paid, and the board of county commissioners shall 119096
make provision for them in the annual budget of the county 119097
submitted to the budget commission, and shall make the necessary 119098
appropriations. If the board fails to make such appropriations, or 119099
if an appropriation is insufficient to meet such an expense, any 119100
person interested may apply to the court of common pleas of the 119101
county for an allowance to cover the expense, and the court shall 119102
issue an order instructing the county auditor to issue ~~his~~ a 119103
warrant upon the county treasurer for the amount necessary. The 119104
order by the court shall be final and shall be complied with 119105
immediately. 119106

The aggregate amount paid ~~shall~~ for publication may be 119107
apportioned by the county auditor among the taxing districts in 119108
which the lands on each list are located in proportion to the 119109
amount of delinquent taxes so advertised in such subdivision, or 119110
the county auditor may charge the property owner of land on a list 119111
a flat fee established under section 319.54 of the Revised Code 119112
for the cost of publishing the list and, if the fee is not paid, 119113
may place the fee upon the tax duplicate as a lien on the land, to 119114

be collected as other taxes. Thereafter, the auditor, in making 119115
~~his~~ the auditor's semiannual apportionment of funds, shall retain 119116
at each semiannual apportionment one half the amount apportioned 119117
to each such taxing district. The amounts retained shall be 119118
credited to the general fund of the county until the aggregate of 119119
all amounts paid in the first instance out of the treasury have 119120
been fully reimbursed. 119121

Sec. 5721.18. The county prosecuting attorney, upon the 119122
delivery to the prosecuting attorney by the county auditor of a 119123
delinquent land or delinquent vacant land tax certificate, or of a 119124
master list of delinquent or delinquent vacant tracts, shall 119125
institute a foreclosure proceeding under this section in the name 119126
of the county treasurer to foreclose the lien of the state, in any 119127
court with jurisdiction or in the county board of revision with 119128
jurisdiction pursuant to section 323.66 of the Revised Code, 119129
unless the taxes, assessments, charges, penalties, and interest 119130
are paid prior to the time a complaint is filed, or unless a 119131
foreclosure or foreclosure and forfeiture action has been or will 119132
be instituted under section 323.25, sections 323.65 to 323.79, or 119133
section 5721.14 of the Revised Code. If the delinquent land or 119134
delinquent vacant land tax certificate or the master list of 119135
delinquent or delinquent vacant tracts lists minerals or rights to 119136
minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 119137
of the Revised Code, the county prosecuting attorney may institute 119138
a foreclosure proceeding in the name of the county treasurer, in 119139
any court with jurisdiction, to foreclose the lien of the state 119140
against such minerals or rights to minerals, unless the taxes, 119141
assessments, charges, penalties, and interest are paid prior to 119142
the time the complaint is filed, or unless a foreclosure or 119143
foreclosure and forfeiture action has been or will be instituted 119144
under section 323.25, sections 323.65 to 323.79, or section 119145
5721.14 of the Revised Code. 119146

The prosecuting attorney shall prosecute the proceeding to 119147
final judgment and satisfaction. Within ten days after obtaining a 119148
judgment, the prosecuting attorney shall notify the treasurer in 119149
writing that judgment has been rendered. If there is a copy of a 119150
written delinquent tax contract attached to the certificate or an 119151
asterisk next to an entry on the master list, or if a copy of a 119152
delinquent tax contract is received from the auditor prior to the 119153
commencement of the proceeding under this section, the prosecuting 119154
attorney shall not institute the proceeding under this section, 119155
unless the prosecuting attorney receives a certification of the 119156
treasurer that the delinquent tax contract has become void. 119157

(A) This division applies to all foreclosure proceedings not 119158
instituted and prosecuted under section 323.25 of the Revised Code 119159
or division (B) or (C) of this section. The foreclosure 119160
proceedings shall be instituted and prosecuted in the same manner 119161
as is provided by law for the foreclosure of mortgages on land, 119162
except that, if service by publication is necessary, such 119163
publication shall be made once a week for three consecutive weeks 119164
instead of as provided by the Rules of Civil Procedure, and the 119165
service shall be complete at the expiration of three weeks after 119166
the date of the first publication. In any proceeding prosecuted 119167
under this section, if the prosecuting attorney determines that 119168
service upon a defendant may be obtained ultimately only by 119169
publication, the prosecuting attorney may cause service to be made 119170
simultaneously by certified mail, return receipt requested, 119171
ordinary mail, and publication. 119172

In any county that has adopted a permanent parcel number 119173
system, the parcel may be described in the notice by parcel number 119174
only, instead of also with a complete legal description, if the 119175
prosecuting attorney determines that the publication of the 119176
complete legal description is not necessary to provide reasonable 119177
notice of the foreclosure proceeding to the interested parties. If 119178

the complete legal description is not published, the notice shall 119179
indicate where the complete legal description may be obtained. 119180

It is sufficient, having been made a proper party to the 119181
foreclosure proceeding, for the treasurer to allege in the 119182
treasurer's complaint that the certificate or master list has been 119183
duly filed by the auditor, that the amount of money appearing to 119184
be due and unpaid is due and unpaid, and that there is a lien 119185
against the property described in the certificate or master list, 119186
without setting forth in the complaint any other or special matter 119187
relating to the foreclosure proceeding. The prayer of the 119188
complaint shall be that the court or the county board of revision 119189
with jurisdiction pursuant to section 323.66 of the Revised Code 119190
issue an order that the property be sold or conveyed by the 119191
sheriff or otherwise be disposed of, and the equity of redemption 119192
be extinguished, according to the alternative redemption 119193
procedures prescribed in sections 323.65 to 323.79 of the Revised 119194
Code, or if the action is in the municipal court by the bailiff, 119195
in the manner provided in section 5721.19 of the Revised Code. 119196

In the foreclosure proceeding, the treasurer may join in one 119197
action any number of lots or lands, but the decree shall be 119198
rendered separately, and any proceedings may be severed, in the 119199
discretion of the court or board of revision, for the purpose of 119200
trial or appeal, and the court or board of revision shall make 119201
such order for the payment of costs as is considered proper. The 119202
certificate or master list filed by the auditor with the 119203
prosecuting attorney is prima-facie evidence at the trial of the 119204
foreclosure action of the amount and validity of the taxes, 119205
assessments, charges, penalties, and interest appearing due and 119206
unpaid and of their nonpayment. 119207

(B) Foreclosure proceedings constituting an action in rem may 119208
be commenced by the filing of a complaint after the end of the 119209
second year from the date on which the delinquency was first 119210

certified by the auditor. Prior to filing such an action in rem, 119211
the prosecuting attorney shall cause a title search to be 119212
conducted for the purpose of identifying any lienholders or other 119213
persons with interests in the property subject to foreclosure. 119214
Following the title search, the action in rem shall be instituted 119215
by filing in the office of the clerk of a court with jurisdiction 119216
a complaint bearing a caption substantially in the form set forth 119217
in division (A) of section 5721.181 of the Revised Code. 119218

Any number of parcels may be joined in one action. Each 119219
separate parcel included in a complaint shall be given a serial 119220
number and shall be separately indexed and docketed by the clerk 119221
of the court in a book kept by the clerk for such purpose. A 119222
complaint shall contain the permanent parcel number of each parcel 119223
included in it, the full street address of the parcel when 119224
available, a description of the parcel as set forth in the 119225
certificate or master list, the name and address of the last known 119226
owner of the parcel if they appear on the general tax list, the 119227
name and address of each lienholder and other person with an 119228
interest in the parcel identified in the title search relating to 119229
the parcel that is required by this division, and the amount of 119230
taxes, assessments, charges, penalties, and interest due and 119231
unpaid with respect to the parcel. It is sufficient for the 119232
treasurer to allege in the complaint that the certificate or 119233
master list has been duly filed by the auditor with respect to 119234
each parcel listed, that the amount of money with respect to each 119235
parcel appearing to be due and unpaid is due and unpaid, and that 119236
there is a lien against each parcel, without setting forth any 119237
other or special matters. The prayer of the complaint shall be 119238
that the court issue an order that the land described in the 119239
complaint be sold in the manner provided in section 5721.19 of the 119240
Revised Code. 119241

(1) Within thirty days after the filing of a complaint, the 119242

clerk of the court in which the complaint was filed shall cause a 119243
notice of foreclosure substantially in the form of the notice set 119244
forth in division (B) of section 5721.181 of the Revised Code to 119245
be published once a week for three consecutive weeks in a 119246
newspaper of general circulation in the county. The newspaper 119247
shall meet the requirements of section 7.12 of the Revised Code. 119248
In any county that has adopted a permanent parcel number system, 119249
the parcel may be described in the notice by parcel number only, 119250
instead of also with a complete legal description, if the 119251
prosecuting attorney determines that the publication of the 119252
complete legal description is not necessary to provide reasonable 119253
notice of the foreclosure proceeding to the interested parties. If 119254
the complete legal description is not published, the notice shall 119255
indicate where the complete legal description may be obtained. 119256

After the third publication, the publisher shall file with 119257
the clerk of the court an affidavit stating the fact of the 119258
publication and including a copy of the notice of foreclosure as 119259
published. Service of process for purposes of the action in rem 119260
shall be considered as complete on the date of the last 119261
publication. 119262

Within thirty days after the filing of a complaint and before 119263
the final date of publication of the notice of foreclosure, the 119264
clerk of the court also shall cause a copy of a notice 119265
substantially in the form of the notice set forth in division (C) 119266
of section 5721.181 of the Revised Code to be mailed by certified 119267
mail, with postage prepaid, to each person named in the complaint 119268
as being the last known owner of a parcel included in it, or as 119269
being a lienholder or other person with an interest in a parcel 119270
included in it. The notice shall be sent to the address of each 119271
such person, as set forth in the complaint, and the clerk shall 119272
enter the fact of such mailing upon the appearance docket. If the 119273
name and address of the last known owner of a parcel included in a 119274

complaint is not set forth in it, the auditor shall file an 119275
affidavit with the clerk stating that the name and address of the 119276
last known owner does not appear on the general tax list. 119277

(2)(a) An answer may be filed in an action in rem under this 119278
division by any person owning or claiming any right, title, or 119279
interest in, or lien upon, any parcel described in the complaint. 119280
The answer shall contain the caption and number of the action and 119281
the serial number of the parcel concerned. The answer shall set 119282
forth the nature and amount of interest claimed in the parcel and 119283
any defense or objection to the foreclosure of the lien of the 119284
state for delinquent taxes, assessments, charges, penalties, and 119285
interest as shown in the complaint. The answer shall be filed in 119286
the office of the clerk of the court, and a copy of the answer 119287
shall be served on the prosecuting attorney, not later than 119288
twenty-eight days after the date of final publication of the 119289
notice of foreclosure. If an answer is not filed within such time, 119290
a default judgment may be taken as to any parcel included in a 119291
complaint as to which no answer has been filed. A default judgment 119292
is valid and effective with respect to all persons owning or 119293
claiming any right, title, or interest in, or lien upon, any such 119294
parcel, notwithstanding that one or more of such persons are 119295
minors, incompetents, absentees or nonresidents of the state, or 119296
convicts in confinement. 119297

(b)(i) A receiver appointed pursuant to divisions (C)(2) and 119298
(3) of section 3767.41 of the Revised Code may file an answer 119299
pursuant to division (B)(2)(a) of this section, but is not 119300
required to do so as a condition of receiving proceeds in a 119301
distribution under division (B)(1) of section 5721.17 of the 119302
Revised Code. 119303

(ii) When a receivership under section 3767.41 of the Revised 119304
Code is associated with a parcel, the notice of foreclosure set 119305
forth in division (B) of section 5721.181 of the Revised Code and 119306

the notice set forth in division (C) of that section shall be 119307
modified to reflect the provisions of division (B)(2)(b)(i) of 119308
this section. 119309

(3) At the trial of an action in rem under this division, the 119310
certificate or master list filed by the auditor with the 119311
prosecuting attorney shall be prima-facie evidence of the amount 119312
and validity of the taxes, assessments, charges, penalties, and 119313
interest appearing due and unpaid on the parcel to which the 119314
certificate or master list relates and their nonpayment. If an 119315
answer is properly filed, the court may, in its discretion, and 119316
shall, at the request of the person filing the answer, grant a 119317
severance of the proceedings as to any parcel described in such 119318
answer for purposes of trial or appeal. 119319

(C) In addition to the actions in rem authorized under 119320
division (B) of this section and section 5721.14 of the Revised 119321
Code, an action in rem may be commenced under this division. An 119322
action commenced under this division shall conform to all of the 119323
requirements of division (B) of this section except as follows: 119324

(1) The prosecuting attorney shall not cause a title search 119325
to be conducted for the purpose of identifying any lienholders or 119326
other persons with interests in the property subject to 119327
foreclosure, except that the prosecuting attorney shall cause a 119328
title search to be conducted to identify any receiver's lien. 119329

(2) The names and addresses of lienholders and persons with 119330
an interest in the parcel shall not be contained in the complaint, 119331
and notice shall not be mailed to lienholders and persons with an 119332
interest as provided in division (B)(1) of this section, except 119333
that the name and address of a receiver under section 3767.41 of 119334
the Revised Code shall be contained in the complaint and notice 119335
shall be mailed to the receiver. 119336

(3) With respect to the forms applicable to actions commenced 119337

under division (B) of this section and contained in section 119338
5721.181 of the Revised Code: 119339

(a) The notice of foreclosure prescribed by division (B) of 119340
section 5721.181 of the Revised Code shall be revised to exclude 119341
any reference to the inclusion of the name and address of each 119342
lienholder and other person with an interest in the parcel 119343
identified in a statutorily required title search relating to the 119344
parcel, and to exclude any such names and addresses from the 119345
published notice, except that the revised notice shall refer to 119346
the inclusion of the name and address of a receiver under section 119347
3767.41 of the Revised Code and the published notice shall include 119348
the receiver's name and address. The notice of foreclosure also 119349
shall include the following in boldface type: 119350

"If pursuant to the action the parcel is sold, the sale shall 119351
not affect or extinguish any lien or encumbrance with respect to 119352
the parcel other than a receiver's lien and other than the lien 119353
for land taxes, assessments, charges, interest, and penalties for 119354
which the lien is foreclosed and in satisfaction of which the 119355
property is sold. All other liens and encumbrances with respect to 119356
the parcel shall survive the sale." 119357

(b) The notice to the owner, lienholders, and other persons 119358
with an interest in a parcel shall be a notice only to the owner 119359
and to any receiver under section 3767.41 of the Revised Code, and 119360
the last two sentences of the notice shall be omitted. 119361

(4) As used in this division, a "receiver's lien" means the 119362
lien of a receiver appointed pursuant to divisions (C)(2) and (3) 119363
of section 3767.41 of the Revised Code that is acquired pursuant 119364
to division (H)(2)(b) of that section for any unreimbursed 119365
expenses and other amounts paid in accordance with division (F) of 119366
that section by the receiver and for the fees of the receiver 119367
approved pursuant to division (H)(1) of that section. 119368

(D) If the prosecuting attorney determines that an action in rem under division (B) or (C) of this section is precluded by law, then foreclosure proceedings shall be filed pursuant to division (A) of this section, and the complaint in the action in personam shall set forth the grounds upon which the action in rem is precluded.

(E) The conveyance by the owner of any parcel against which a complaint has been filed pursuant to this section at any time after the date of publication of the parcel on the delinquent tax list but before the date of a judgment of foreclosure pursuant to section 5721.19 of the Revised Code shall not nullify the right of the county to proceed with the foreclosure.

Sec. 5721.19. (A) In its judgment of foreclosure rendered with respect to actions filed pursuant to section 5721.18 of the Revised Code, the court or the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code shall enter a finding with respect to each parcel of the amount of the taxes, assessments, charges, penalties, and interest, and the costs incurred in the foreclosure proceeding instituted against it, that are due and unpaid. The court or the county board of revision shall order such premises to be transferred pursuant to division (I) of this section or may order each parcel to be sold, without appraisal, for not less than either of the following:

(1) The fair market value of the parcel, as determined by the county auditor, plus the costs incurred in the foreclosure proceeding;

(2) The total amount of the finding entered by the court or the county board of revision, including all taxes, assessments, charges, penalties, and interest payable subsequent to the delivery to the county prosecuting attorney of the delinquent land tax certificate or master list of delinquent tracts and prior to

the transfer of the deed of the parcel to the purchaser following 119400
confirmation of sale, plus the costs incurred in the foreclosure 119401
proceeding. For purposes of determining such amount, the county 119402
treasurer may estimate the amount of taxes, assessments, interest, 119403
penalties, and costs that will be payable at the time the deed of 119404
the property is transferred to the purchaser. 119405

Notwithstanding the minimum sales price provisions of 119406
divisions (A)(1) and (2) of this section to the contrary, a parcel 119407
sold pursuant to this section shall not be sold for less than the 119408
amount described in division (A)(2) of this section if the highest 119409
bidder is the owner of record of the parcel immediately prior to 119410
the judgment of foreclosure or a member of the following class of 119411
parties connected to that owner: a member of that owner's 119412
immediate family, a person with a power of attorney appointed by 119413
that owner who subsequently transfers the parcel to the owner, a 119414
sole proprietorship owned by that owner or a member of that 119415
owner's immediate family, or a partnership, trust, business trust, 119416
corporation, or association in which the owner or a member of the 119417
owner's immediate family owns or controls directly or indirectly 119418
more than fifty per cent. If a parcel sells for less than the 119419
amount described in division (A)(2) of this section, the officer 119420
conducting the sale shall require the buyer to complete an 119421
affidavit stating that the buyer is not the owner of record 119422
immediately prior to the judgment of foreclosure or a member of 119423
the specified class of parties connected to that owner, and the 119424
affidavit shall become part of the court records of the 119425
proceeding. If the county auditor discovers within three years 119426
after the date of the sale that a parcel was sold to that owner or 119427
a member of the specified class of parties connected to that owner 119428
for a price less than the amount so described, and if the parcel 119429
is still owned by that owner or a member of the specified class of 119430
parties connected to that owner, the auditor within thirty days 119431
after such discovery shall add the difference between that amount 119432

and the sale price to the amount of taxes that then stand charged 119433
against the parcel and is payable at the next succeeding date for 119434
payment of real property taxes. As used in this paragraph, 119435
"immediate family" means a spouse who resides in the same 119436
household and children. 119437

(B) Each parcel affected by the court's finding and order of 119438
sale shall be separately sold, unless the court orders any of such 119439
parcels to be sold together. 119440

Each parcel shall be advertised and sold by the officer to 119441
whom the order of sale is directed in the manner provided by law 119442
for the sale of real property on execution. The advertisement for 119443
sale of each parcel shall be published once a week for three 119444
consecutive weeks and shall include the date on which a second 119445
sale will be conducted if no bid is accepted at the first sale. 119446
Any number of parcels may be included in one advertisement. 119447

The notice of the advertisement shall be substantially in the 119448
form of the notice set forth in section 5721.191 of the Revised 119449
Code. In any county that has adopted a permanent parcel number 119450
system, the parcel may be described in the notice by parcel number 119451
only, instead of also with a complete legal description, if the 119452
prosecuting attorney determines that the publication of the 119453
complete legal description is not necessary to provide reasonable 119454
notice of the foreclosure sale to potential bidders. If the 119455
complete legal description is not published, the notice shall 119456
indicate where the complete legal description may be obtained. 119457

(C)(1) Whenever the officer charged to conduct the sale 119458
offers any parcel for sale the officer first shall read aloud a 119459
complete legal description of the parcel, or in the alternative, 119460
may read aloud only a summary description, including the complete 119461
street address of the parcel, if any, and a parcel number if the 119462
county has adopted a permanent parcel number system and if the 119463
advertising notice prepared pursuant to this section includes a 119464

complete legal description or indicates where the complete legal description may be obtained. Whenever the officer charged to conduct the sale offers any parcel for sale and no bids are made equal to the lesser of the amounts described in divisions (A)(1) and (2) of this section, the officer shall adjourn the sale of the parcel to the second date that was specified in the advertisement of sale. The second date shall be not less than two weeks or more than six weeks from the day on which the parcel was first offered for sale. The second sale shall be held at the same place and commence at the same time as set forth in the advertisement of sale. The officer shall offer any parcel not sold at the first sale. Upon the conclusion of any sale, or if any parcel remains unsold after being offered at two sales, the officer conducting the sale shall report the results to the court.

(2)(a) If a parcel remains unsold after being offered at two sales, or one sale in the case of abandoned lands foreclosed under sections 323.65 to 323.79 of the Revised Code, or if a parcel sells at any sale but the amount of the price is less than the costs incurred in the proceeding instituted against the parcel under section 5721.18 of the Revised Code, then the clerk of the court shall certify to the county auditor the amount of those costs that remains unpaid. At the next semiannual apportionment of real property taxes that occurs following any such certification, the auditor shall reduce the real property taxes that the auditor otherwise would distribute to each taxing district. In making the reductions, the auditor shall subtract from the otherwise distributable real property taxes to a taxing district an amount that shall be determined by multiplying the certified costs by a fraction the numerator of which shall be the amount of the taxes, assessments, charges, penalties, and interest on the parcel owed to that taxing district at the time the parcel first was offered for sale pursuant to this section, and the denominator of which shall be the total of the taxes, assessments, charges, penalties,

and interest on the parcel owed to all the taxing districts at 119498
that time. The auditor promptly shall pay to the clerk of the 119499
court the amounts of the reductions. 119500

(b) If reductions occur pursuant to division (C)(2)(a) of 119501
this section, and if at a subsequent time a parcel is sold at a 119502
foreclosure sale or a forfeiture sale pursuant to Chapter 5723. of 119503
the Revised Code, then, notwithstanding other provisions of the 119504
Revised Code, except section 5721.17 of the Revised Code, 119505
governing the distribution of the proceeds of a foreclosure or 119506
forfeiture sale, the proceeds first shall be distributed to 119507
reimburse the taxing districts subjected to reductions in their 119508
otherwise distributable real property taxes. The distributions 119509
shall be based on the same proportions used for purposes of 119510
division (C)(2)(a) of this section. 119511

(3) The court, in its discretion, may order any parcel not 119512
sold pursuant to the original order of sale to be advertised and 119513
offered for sale at a subsequent foreclosure sale. For such 119514
purpose, the court may direct the parcel to be appraised and fix a 119515
minimum price for which it may be sold. 119516

(D) Except as otherwise provided in division (B)(1) of 119517
section 5721.17 of the Revised Code, upon the confirmation of a 119518
sale, the proceeds of the sale shall be applied as follows: 119519

(1) The costs incurred in any proceeding filed against the 119520
parcel pursuant to section 5721.18 of the Revised Code shall be 119521
paid first. 119522

(2) Following the payment required by division (D)(1) of this 119523
section, the part of the proceeds that is equal to five per cent 119524
of the taxes and assessments due shall be deposited in equal 119525
shares into each of the delinquent tax and assessment collection 119526
~~fund funds~~ created pursuant to section 321.261 of the Revised 119527
Code. If a county land reutilization corporation is operating in 119528

the county, the board of county commissioners, by resolution, may 119529
provide that an additional amount, not to exceed five per cent of 119530
such taxes and assessments, shall be credited to the county land 119531
reutilization corporation fund created by section 321.263 of the 119532
Revised Code to pay for the corporation's expenses. If such a 119533
resolution is in effect, the percentage of such taxes and 119534
assessments so provided shall be credited to that fund. 119535

(3) Following the payment required by division (D)(2) of this 119536
section, the amount found due for taxes, assessments, charges, 119537
penalties, and interest shall be paid, including all taxes, 119538
assessments, charges, penalties, and interest payable subsequent 119539
to the delivery to the county prosecuting attorney of the 119540
delinquent land tax certificate or master list of delinquent 119541
tracts and prior to the transfer of the deed of the parcel to the 119542
purchaser following confirmation of sale. If the proceeds 119543
available for distribution pursuant to division (D)(3) of this 119544
section are sufficient to pay the entire amount of those taxes, 119545
assessments, charges, penalties, and interest, the portion of the 119546
proceeds representing taxes, interest, and penalties shall be paid 119547
to each claimant in proportion to the amount of taxes levied by 119548
the claimant in the preceding tax year, and the amount 119549
representing assessments and other charges shall be paid to each 119550
claimant in the order in which they became due. If the proceeds 119551
are not sufficient to pay that entire amount, the proportion of 119552
the proceeds representing taxes, penalties, and interest shall be 119553
paid to each claimant in the same proportion that the amount of 119554
taxes levied by the claimant against the parcel in the preceding 119555
tax year bears to the taxes levied by all such claimants against 119556
the parcel in the preceding tax year, and the proportion of the 119557
proceeds representing items of assessments and other charges shall 119558
be credited to those items in the order in which they became due. 119559

(E) If the proceeds from the sale of a parcel are 119560

insufficient to pay in full the amount of the taxes, assessments, 119561
charges, penalties, and interest which are due and unpaid; the 119562
costs incurred in the foreclosure proceeding instituted against it 119563
which are due and unpaid; and, if division (B)(1) of section 119564
5721.17 of the Revised Code is applicable, any notes issued by a 119565
receiver pursuant to division (F) of section 3767.41 of the 119566
Revised Code and any receiver's lien as defined in division (C)(4) 119567
of section 5721.18 of the Revised Code, the court, pursuant to 119568
section 5721.192 of the Revised Code, may enter a deficiency 119569
judgment against the owner of record of the parcel for the unpaid 119570
amount. If that owner of record is a corporation, the court may 119571
enter the deficiency judgment against the stockholder holding a 119572
majority of that corporation's stock. 119573

If after distribution of proceeds from the sale of the parcel 119574
under division (D) of this section the amount of proceeds to be 119575
applied to pay the taxes, assessments, charges, penalties, 119576
interest, and costs is insufficient to pay them in full, and the 119577
court does not enter a deficiency judgment against the owner of 119578
record pursuant to this division, the taxes, assessments, charges, 119579
penalties, interest, and costs shall be deemed satisfied. 119580

(F)(1) Upon confirmation of a sale, a spouse of the party 119581
charged with the delinquent taxes or assessments shall thereby be 119582
barred of the right of dower in the property sold, though such 119583
spouse was not a party to the action. No statute of limitations 119584
shall apply to such action. When the land or lots stand charged on 119585
the tax duplicate as certified delinquent, it is not necessary to 119586
make the state a party to the foreclosure proceeding, but the 119587
state shall be deemed a party to such action through and be 119588
represented by the county treasurer. 119589

(2) Except as otherwise provided in divisions (F)(3) and (G) 119590
of this section, unless such land or lots were previously redeemed 119591
pursuant to section 5721.25 of the Revised Code, upon the filing 119592

of the entry of confirmation of any sale or the expiration of the 119593
alternative redemption period as defined in section 323.65 of the 119594
Revised Code, if applicable, the title to such land or lots shall 119595
be incontestable in the purchaser and shall be free and clear of 119596
all liens and encumbrances, except a federal tax lien notice of 119597
which is properly filed in accordance with section 317.09 of the 119598
Revised Code prior to the date that a foreclosure proceeding is 119599
instituted pursuant to division (B) of section 5721.18 of the 119600
Revised Code and the easements and covenants of record running 119601
with the land or lots that were created prior to the time the 119602
taxes or assessments, for the nonpayment of which the land or lots 119603
are sold at foreclosure, became due and payable. 119604

(3) When proceedings for foreclosure are instituted under 119605
division (C) of section 5721.18 of the Revised Code, unless the 119606
land or lots were previously redeemed pursuant to section 5721.25 119607
of the Revised Code or before the expiration of the alternative 119608
redemption period, upon the filing of the entry of confirmation of 119609
sale or after the expiration of the alternative redemption period, 119610
as may apply to the case, the title to such land or lots shall be 119611
incontestable in the purchaser and shall be free of any receiver's 119612
lien as defined in division (C)(4) of section 5721.18 of the 119613
Revised Code and, except as otherwise provided in division (G) of 119614
this section, the liens for land taxes, assessments, charges, 119615
interest, and penalties for which the lien was foreclosed and in 119616
satisfaction of which the property was sold. All other liens and 119617
encumbrances with respect to the land or lots shall survive the 119618
sale. 119619

(4) The title shall not be invalid because of any 119620
irregularity, informality, or omission of any proceedings under 119621
this chapter, or in any processes of taxation, if such 119622
irregularity, informality, or omission does not abrogate the 119623
provision for notice to holders of title, lien, or mortgage to, or 119624

other interests in, such foreclosed lands or lots, as prescribed 119625
in this chapter. 119626

(G) If a parcel is sold under this section for the amount 119627
described in division (A)(2) of this section, and the county 119628
treasurer's estimate exceeds the amount of taxes, assessments, 119629
interest, penalties, and costs actually payable when the deed is 119630
transferred to the purchaser, the officer who conducted the sale 119631
shall refund to the purchaser the difference between the estimate 119632
and the amount actually payable. If the amount of taxes, 119633
assessments, interest, penalties, and costs actually payable when 119634
the deed is transferred to the purchaser exceeds the county 119635
treasurer's estimate, the officer shall certify the amount of the 119636
excess to the treasurer, who shall enter that amount on the real 119637
and public utility property tax duplicate opposite the property; 119638
the amount of the excess shall be payable at the next succeeding 119639
date prescribed for payment of taxes in section 323.12 of the 119640
Revised Code. 119641

(H) If a parcel is sold or transferred under this section or 119642
sections 323.28 and 323.65 to 323.78 of the Revised Code, the 119643
officer who conducted the sale or made the transfer of the 119644
property shall collect the recording fee and any associated costs 119645
to cover the recording from the purchaser or transferee at the 119646
time of the sale or transfer and, following confirmation of the 119647
sale or transfer, shall execute and record the deed conveying 119648
title to the parcel to the purchaser or transferee. For purposes 119649
of recording such deed, by placement of a bid or making a 119650
statement of interest by any party ultimately awarded the parcel, 119651
that purchaser or transferee thereby appoints the officer who 119652
makes the sale or is charged with executing and delivering the 119653
deed as agent for the purchaser or transferee for the sole purpose 119654
of accepting delivery of the deed. For such purposes, the 119655
confirmation of any such sale or order to transfer the parcel 119656

without appraisal or sale shall be deemed delivered upon the 119657
confirmation of such sale or transfer. 119658

(I) Notwithstanding section 5722.03 of the Revised Code, if 119659
the complaint alleges that the property is delinquent vacant land 119660
as defined in section 5721.01 of the Revised Code, abandoned lands 119661
as defined in section 323.65 of the Revised Code, or lands 119662
described in division (E) of section 5722.01 of the Revised Code, 119663
and the value of the taxes, assessments, penalties, interest, and 119664
all other charges and costs of the action exceed the auditor's 119665
fair market value of the parcel, then the court or board of 119666
revision having jurisdiction over the matter on motion of the 119667
plaintiff, or on the court's or board's own motion, shall, upon 119668
any adjudication of foreclosure, order, without appraisal and 119669
without sale, the fee simple title of the property to be 119670
transferred to and vested in an electing subdivision as defined in 119671
division (A) of section 5722.01 of the Revised Code. For purposes 119672
of determining whether the taxes, assessments, penalties, 119673
interest, and all other charges and costs of the action exceed the 119674
actual fair market value of the parcel, the auditor's most current 119675
valuation shall be rebuttably presumed to be, and constitute 119676
prima-facie evidence of, the fair market value of the parcel. In 119677
such case, the filing for journalization of a decree of 119678
foreclosure ordering that direct transfer without appraisal or 119679
sale shall constitute confirmation of the transfer and thereby 119680
terminate any further statutory or common law right of redemption. 119681

Sec. 5721.30. As used in sections 5721.30 to 5721.43 of the 119682
Revised Code: 119683

(A) "Tax certificate," "certificate," or "duplicate 119684
certificate" means a document that may be issued as a physical 119685
certificate, in book-entry form, or through an electronic medium, 119686
at the discretion of the county treasurer. Such document shall 119687

contain the information required by section 5721.31 of the Revised Code and shall be prepared, transferred, or redeemed in the manner prescribed by sections 5721.30 to 5721.43 of the Revised Code. As used in those sections, "tax certificate," "certificate," and "duplicate certificate" do not refer to the delinquent land tax certificate or the delinquent vacant land tax certificate issued under section 5721.13 of the Revised Code.

(B) "Certificate parcel" means the parcel of delinquent land that is the subject of and is described in a tax certificate.

(C) "Certificate holder" means a person, including a county land reutilization corporation, that purchases or otherwise acquires a tax certificate under section 5721.32, 5721.33, or 5721.42 of the Revised Code, or a person to whom a tax certificate has been transferred pursuant to section 5721.36 of the Revised Code.

(D) "Certificate purchase price" means, with respect to the sale of tax certificates under sections 5721.32, 5721.33, and 5721.42 of the Revised Code, the amount equal to delinquent taxes charged against a certificate parcel at the time the tax certificate respecting that parcel is sold or transferred, not including any delinquent taxes the lien for which has been conveyed to a certificate holder through a prior sale of a tax certificate respecting that parcel. Payment of the certificate purchase price in a sale under section 5721.33 of the Revised Code may be made wholly in cash or partially in cash and partially by noncash consideration acceptable to the county treasurer from the purchaser, and, in the case of a county land reutilization corporation, with notes. In the event that any such noncash consideration is delivered to pay a portion of the certificate purchase price, such noncash consideration may be subordinate to the rights of the holders of other obligations whose proceeds paid the cash portion of the certificate purchase price.

"Certificate purchase price" also includes the amount of the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code.

(E)(1) With respect to a sale of tax certificates under section 5721.32 of the Revised Code, and except as provided in division (E)(2) of this section, "certificate redemption price" means the certificate purchase price plus the greater of the following:

(a) Simple interest, at the certificate rate of interest, accruing during the certificate interest period on the certificate purchase price, calculated in accordance with section 5721.41 of the Revised Code;

(b) Six per cent of the certificate purchase price.

(2) If the certificate rate of interest equals zero, the certificate redemption price equals the certificate purchase price plus the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code.

(F) With respect to a sale or transfer of tax certificates under section 5721.33 of the Revised Code, "certificate redemption price" means the amount equal to the sum of the following:

(1) The certificate purchase price;

(2) Interest accrued on the certificate purchase price at the certificate rate of interest from the date on which a tax certificate is delivered through and including the day immediately preceding the day on which the certificate redemption price is paid;

(3) The fee, if any, charged by the county treasurer to the purchaser of the certificate under division (J) of section 5721.33

of the Revised Code; 119750

(4) Any other fees charged by any county office in connection 119751
with the recording of tax certificates. 119752

(G) "Certificate rate of interest" means the rate of simple 119753
interest per year bid by the winning bidder in an auction of a tax 119754
certificate held under section 5721.32 of the Revised Code, or the 119755
rate of simple interest per year not to exceed eighteen per cent 119756
per year fixed pursuant to section 5721.42 of the Revised Code or 119757
by the county treasurer with respect to any tax certificate sold 119758
or transferred pursuant to a negotiated sale under section 5721.33 119759
of the Revised Code. The certificate rate of interest shall not be 119760
less than zero per cent per year. 119761

(H) "Cash" means United States currency, certified checks, 119762
money orders, bank drafts, electronic transfer of funds, or other 119763
forms of payment authorized by the county treasurer, and excludes 119764
any other form of payment not so authorized. 119765

(I) "The date on which a tax certificate is sold or 119766
transferred," "the date the certificate was sold or transferred," 119767
"the date the certificate is purchased," and any other phrase of 119768
similar content mean, with respect to a sale pursuant to an 119769
auction under section 5721.32 of the Revised Code, the date 119770
designated by the county treasurer for the submission of bids and, 119771
with respect to a negotiated sale or transfer under section 119772
5721.33 of the Revised Code, the date of delivery of the tax 119773
certificates to the purchasers thereof pursuant to a tax 119774
certificate sale/purchase agreement. 119775

(J) "Certificate interest period" means, with respect to a 119776
tax certificate sold under section 5721.32 or 5721.42 of the 119777
Revised Code and for the purpose of accruing interest under 119778
section 5721.41 of the Revised Code, the period beginning on the 119779
date on which the certificate is purchased and, with respect to a 119780

tax certificate sold or transferred under section 5721.33 of the Revised Code, the period beginning on the date of delivery of the tax certificate, and in either case ending on one of the following dates:

(1) The date the certificate holder files a request for foreclosure or notice of intent to foreclose under division (A) of section 5721.37 of the Revised Code and submits the payment required under division (B) of that section;

(2) The date the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, redeems the certificate parcel under division (A) or (C) of section 5721.38 of the Revised Code or redeems the certificate under section 5721.381 of the Revised Code.

(K) "Qualified trustee" means a trust company within the state or a bank having the power of a trust company within the state with a combined capital stock, surplus, and undivided profits of at least one hundred million dollars.

(L) "Tax certificate sale/purchase agreement" means the purchase and sale agreement described in division (C) of section 5721.33 of the Revised Code setting forth the certificate purchase price, plus any applicable premium or less any applicable discount, including, without limitation, the amount to be paid in cash and the amount and nature of any noncash consideration, the date of delivery of the tax certificates, and the other terms and conditions of the sale, including, without limitation, the rate of interest that the tax certificates shall bear.

(M) "Noncash consideration" means any form of consideration other than cash, including, but not limited to, promissory notes whether subordinate or otherwise.

(N) "Private attorney" means any attorney licensed to practice law in this state whose license has not been revoked and

is not currently suspended, and who is retained to bring 119812
foreclosure proceedings pursuant to section 5721.37 of the Revised 119813
Code on behalf of a certificate holder. 119814

(O) "Related certificate parcel" means, with respect to a 119815
certificate holder, the certificate parcel with respect to which 119816
the certificate holder has purchased and holds a tax certificate 119817
pursuant to sections 5721.30 to 5721.43 of the Revised Code and, 119818
with respect to a tax certificate, the certificate parcel against 119819
which the tax certificate has been sold pursuant to those 119820
sections. 119821

(P) "Delinquent taxes" means delinquent taxes as defined in 119822
section 323.01 of the Revised Code and includes assessments and 119823
charges, and penalties and interest computed under section 323.121 119824
of the Revised Code. 119825

(O) "Certificate period" means the period of time after the 119826
sale or delivery of a tax certificate within which a certificate 119827
holder must initiate an action to foreclose the tax lien 119828
represented by the certificate as specified under division (A) of 119829
section 5721.32 of the Revised Code or as negotiated under section 119830
5721.33 of the Revised Code. 119831

Sec. 5721.31. (A)(1) After receipt of a duplicate of the 119832
delinquent land list compiled under section 5721.011 of the 119833
Revised Code, or a delinquent land list compiled previously under 119834
that section, the county treasurer may select from the list 119835
parcels of delinquent land the lien against which the county 119836
treasurer may attempt to transfer by the sale of tax certificates 119837
under sections 5721.30 to 5721.43 of the Revised Code. None of the 119838
following parcels may be selected for a tax certificate sale: 119839

(a) A parcel for which the full amount of taxes, assessments, 119840
penalties, interest, and charges have been paid; 119841

(b) A parcel for which a valid contract under section 119842
323.122, 323.31, or 5713.20 of the Revised Code is in force; 119843

(c) A parcel the owner of which has filed a petition in 119844
bankruptcy, so long as the parcel is property of the bankruptcy 119845
estate. 119846

(2) The county treasurer shall compile a separate list of 119847
parcels selected for tax certificate sales, including the same 119848
information as is required to be included in the delinquent land 119849
list. 119850

Upon compiling the list of parcels selected for tax 119851
certificate sales, the county treasurer may conduct a title search 119852
for any parcel on the list. 119853

(B)(1) Except as otherwise provided in division (B)(3) of 119854
this section, when tax certificates are to be sold under section 119855
5721.32 of the Revised Code with respect to parcels, the county 119856
treasurer shall send written notice by certified mail to either 119857
the owner of record or all interested parties discoverable through 119858
a title search, or both, of each parcel on the list. A notice to 119859
an owner shall be sent to the owner's last known tax-mailing 119860
address. The notice shall inform the owner or interested parties 119861
that a tax certificate will be offered for sale on the parcel, and 119862
that the owner or interested parties may incur additional expenses 119863
as a result of the sale. 119864

(2) Except as otherwise provided in division (B)(3) of this 119865
section, when tax certificates are to be sold or transferred under 119866
section 5721.33 of the Revised Code with respect to parcels, the 119867
county treasurer, at least thirty days prior to the date of sale 119868
or transfer of such tax certificates, shall send written notice of 119869
the sale or transfer by certified mail to the last known 119870
tax-mailing address of the record owner of the property or parcel 119871
and may send such notice to all parties with an interest in the 119872

property that has been recorded in the property records of the 119873
county pursuant to section 317.08 of the Revised Code. The notice 119874
shall state that a tax certificate will be offered for sale or 119875
transfer on the parcel, and that the owner or interested parties 119876
may incur additional expenses as a result of the sale or transfer. 119877

(3) The county treasurer is not required to send a notice 119878
under division (B)(1) or (B)(2) of this section if the treasurer 119879
previously has attempted to send such notice to the owner of the 119880
parcel and the notice has been returned by the post office as 119881
undeliverable. The absence of a valid tax-mailing address for the 119882
owner of a parcel does not preclude the county treasurer from 119883
selling or transferring a tax certificate for the parcel. 119884

(C) The county treasurer shall advertise the sale of tax 119885
certificates under section 5721.32 of the Revised Code in a 119886
newspaper of general circulation in the county, once a week for 119887
two consecutive weeks. The newspaper shall meet the requirements 119888
of section 7.12 of the Revised Code. The advertisement shall 119889
include the date, the time, and the place of the public auction, 119890
abbreviated legal descriptions of the parcels, and the names of 119891
the owners of record of the parcels. The advertisement also shall 119892
include the certificate purchase prices of the parcels or the 119893
total purchase price of tax certificates for sale in blocks of tax 119894
certificates. 119895

(D) After the county treasurer has compiled the list of 119896
parcels selected for tax certificate sales but before a tax 119897
certificate respecting a parcel is sold or transferred, if the 119898
owner of record of the parcel pays to the county treasurer in cash 119899
the delinquent taxes respecting the parcel or otherwise acts so 119900
that any condition in division (A)(1)(a), (b), or (c) of this 119901
section applies to the parcel, the owner of record of the parcel 119902
also shall pay a fee in an amount prescribed by the treasurer to 119903
cover the administrative costs of the treasurer under this section 119904

respecting the parcel. The fee shall be deposited in the county treasury to the credit of the tax certificate administration fund.

(E) A tax certificate administration fund shall be created in the county treasury of each county selling tax certificates under sections 5721.30 to 5721.43 of the Revised Code. The fund shall be administered by the county treasurer, and used solely for the purposes of sections 5721.30 to 5721.43 of the Revised Code or as otherwise permitted in this division. Any fee received by the treasurer under sections 5721.30 to 5721.43 of the Revised Code shall be credited to the fund, except the bidder registration fee under division (B) of section 5721.32 of the Revised Code and the county prosecuting attorney's fee under division (B)(3) of section 5721.37 of the Revised Code. To the extent there is a surplus in the fund from time to time, the surplus may, with the approval of the county treasurer, be utilized for the purposes of a county land reutilization corporation operating in the county.

(F) The county treasurers of more than one county may jointly conduct a regional sale of tax certificates under section 5721.32 of the Revised Code. A regional sale shall be held at a single location in one county, where the tax certificates from each of the participating counties shall be offered for sale at public auction. Before the regional sale, each county treasurer shall advertise the sale for the parcels in the treasurer's county as required by division (C) of this section. At the regional sale, tax certificates shall be sold on parcels from one county at a time, with all of the certificates for one county offered for sale before any certificates for the next county are offered for sale.

(G) The tax commissioner shall prescribe the form of the tax certificate under this section, and county treasurers shall use the form so prescribed.

Sec. 5721.32. (A) The sale of tax certificates by public

auction may be conducted at any time after completion of the 119936
advertising of the sale under section 5721.31 of the Revised Code, 119937
on the date and at the time and place designated in the 119938
advertisements, and may be continued from time to time as the 119939
county treasurer directs. The county treasurer may offer the tax 119940
certificates for sale in blocks of tax certificates, consisting of 119941
any number of tax certificates as determined by the county 119942
treasurer, and may specify a certificate period of not less than 119943
three years and not more than six years. 119944

(B)(1) The sale of tax certificates under this section shall 119945
be conducted at a public auction by the county treasurer or a 119946
designee of the county treasurer. 119947

(2) No person shall be permitted to bid without completing a 119948
bidder registration form, in the form prescribed by the tax 119949
commissioner, and without filing the form with the county 119950
treasurer prior to the start of the auction, together with 119951
remittance of a registration fee, in cash, of five hundred 119952
dollars. The bidder registration form shall include a tax 119953
identification number of the registrant. The registration fee is 119954
refundable at the end of bidding on the day of the auction, unless 119955
the registrant is the winning bidder for one or more tax 119956
certificates or one or more blocks of tax certificates, in which 119957
case the fee may be applied toward the deposit required by this 119958
section. 119959

(3) The county treasurer may require a person who wishes to 119960
bid on one or more parcels to submit a letter from a financial 119961
institution stating that the bidder has sufficient funds available 119962
to pay the purchase price of the parcels and a written 119963
authorization for the treasurer to verify such information with 119964
the financial institution. The county treasurer may require 119965
submission of the letter and authorization sufficiently in advance 119966
of the auction to allow for verification. No person who fails to 119967

submit the required letter and authorization, or whose financial 119968
institution fails to provide the requested verification, shall be 119969
permitted to bid. 119970

(C) At the public auction, the county treasurer or the 119971
treasurer's designee or agent shall begin the bidding at eighteen 119972
per cent per year simple interest, and accept lower bids in even 119973
increments of one-fourth of one per cent to the rate of zero per 119974
cent. The county treasurer, designee, or agent shall award the tax 119975
certificate to the person bidding the lowest certificate rate of 119976
interest. The county treasurer shall decide which person is the 119977
winning bidder in the event of a tie for the lowest bid offered, 119978
or if a person contests the lowest bid offered. The county 119979
treasurer's decision is not appealable. 119980

(D)(1) The winning bidder shall pay the county treasurer a 119981
cash deposit of at least ten per cent of the certificate purchase 119982
price not later than the close of business on the day of the sale. 119983
The winning bidder shall pay the balance and the fee required 119984
under division (H) of this section not later than five business 119985
days after the day on which the certificate is sold. Except as 119986
provided under division (D)(2) of this section, if the winning 119987
bidder fails to pay the balance and fee within the prescribed 119988
time, the bidder forfeits the deposit, and the county treasurer 119989
shall retain the tax certificate and may attempt to sell it at any 119990
auction conducted at a later date. 119991

(2) At the request of a winning bidder, the county treasurer 119992
may release the bidder from the bidder's tax certificate purchase 119993
obligation. The county treasurer may retain all or any portion of 119994
the deposit of a bidder granted a release. After granting a 119995
release under this division, the county treasurer may award the 119996
tax certificate to the person that submitted the second lowest bid 119997
at the auction. 119998

(3) The county treasurer shall deposit the deposit forfeited 119999

or retained under divisions (D)(1) or (2) of this section in the 120000
county treasury to the credit of the tax certificate 120001
administration fund. 120002

(E) Upon receipt of the full payment of the certificate 120003
purchase price from the purchaser, the county treasurer shall 120004
issue the tax certificate and record the tax certificate sale by 120005
entering into a tax certificate register the certificate purchase 120006
price, the certificate rate of interest, the date the certificate 120007
was sold, the certificate period, the name and address of the 120008
certificate holder, and any other information the county treasurer 120009
considers necessary. The county treasurer may keep the tax 120010
certificate register in a hard-copy format or in an electronic 120011
format. The name and address of the certificate holder may be, 120012
upon receipt of instructions from the purchaser, that of the 120013
secured party of the actual purchaser, or an agent or custodian 120014
for the purchaser or secured party. The county treasurer also 120015
shall transfer the tax certificate to the certificate holder. The 120016
county treasurer shall apportion the part of the proceeds from the 120017
sale representing taxes, penalties, and interest among the several 120018
taxing districts in the same proportion that the amount of taxes 120019
levied by each district against the certificate parcel in the 120020
preceding tax year bears to the taxes levied by all such districts 120021
against the certificate parcel in the preceding tax year, and 120022
credit the part of the proceeds representing assessments and other 120023
charges to the items of assessments and charges in the order in 120024
which those items became due. Upon issuing a tax certificate, the 120025
delinquent taxes that make up the certificate purchase price are 120026
transferred, and the superior lien of the state and its taxing 120027
districts for those delinquent taxes is conveyed intact to the 120028
certificate holder. 120029

(F) If a tax certificate is offered for sale under this 120030
section but is not sold, the county treasurer may sell the 120031

certificate in a negotiated sale authorized under section 5721.33 120032
of the Revised Code, or may strike the corresponding certificate 120033
parcel from the list of parcels selected for tax certificate 120034
sales. The lien for taxes, assessments, charges, penalties, and 120035
interest against a parcel stricken from the list thereafter may be 120036
foreclosed in the manner prescribed by section 323.25, sections 120037
323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised 120038
Code unless, prior to the institution of such proceedings against 120039
the parcel, the county treasurer restores the parcel to the list 120040
of parcels selected for tax certificate sales. 120041

(G) A certificate holder shall not be liable for damages 120042
arising from a violation of sections 3737.87 to 3737.891 or 120043
Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., or 120044
6111. of the Revised Code, or a rule adopted or order, permit, 120045
license, variance, or plan approval issued under any of those 120046
chapters, that is or was committed by another person in connection 120047
with the parcel for which the tax certificate is held. 120048

(H) When selling a tax certificate under this section, the 120049
county treasurer shall charge a fee to the purchaser of the 120050
certificate. The county treasurer shall set the fee at a 120051
reasonable amount that covers the treasurer's costs of 120052
administering the sale of the tax certificate. The county 120053
treasurer shall deposit the fee in the county treasury to the 120054
credit of the tax certificate administration fund. 120055

(I) After selling a tax certificate under this section, the 120056
county treasurer shall send written notice by certified mail to 120057
the owner of the certificate parcel at the owner's last known 120058
tax-mailing address. The notice shall inform the owner that the 120059
tax certificate was sold, shall describe the owner's options to 120060
redeem the parcel, including entering into a redemption payment 120061
plan under division (C)(1) of section 5721.38 of the Revised Code, 120062
and shall name the certificate holder and its secured party, if 120063

any. However, the county treasurer is not required to send a 120064
notice under this division if the treasurer previously has 120065
attempted to send a notice to the owner of the parcel at the 120066
owner's last known tax-mailing address, and the postal service has 120067
returned the notice as undeliverable. 120068

(J) A tax certificate shall not be sold to the owner of the 120069
certificate parcel. 120070

Sec. 5721.37. (A)(1) ~~Division (A)(1) of this section applies~~ 120071
~~to tax certificates purchased under section 5721.32 of the Revised~~ 120072
~~Code, or under section 5721.42 of the Revised Code by the holder~~ 120073
~~of a certificate issued under section 5721.32 of the Revised Code.~~ 120074
At any time after one year from the date shown on the tax 120075
certificate as the date the tax certificate was sold, and not 120076
later than ~~six years after that date~~ the end of the certificate 120077
period, a certificate holder, except for a county land 120078
reutilization corporation, may file with the county treasurer a 120079
request for foreclosure, or a private attorney on behalf of the 120080
certificate holder may file with the county treasurer a notice of 120081
intent to foreclose, on a form prescribed by the tax commissioner, 120082
provided the certificate parcel has not been redeemed under 120083
division (A) or (C) of section 5721.38 of the Revised Code and at 120084
least one certificate respecting the certificate parcel, held by 120085
the certificate holder filing the request for foreclosure or 120086
notice of intent to foreclose and eligible to be enforced through 120087
a foreclosure proceeding, has not been voided under section 120088
5721.381 of the Revised Code. If the certificate holder is a 120089
county land reutilization corporation, the corporation may 120090
institute a foreclosure action under the statutes pertaining to 120091
the foreclosure of mortgages or as permitted under sections 323.65 120092
to 323.79 of the Revised Code at any time after it acquires the 120093
tax certificate. 120094

~~(2) Division (A)(2) of this section applies to tax certificates purchased under section 5721.33 of the Revised Code or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code. At any time after one year from the date shown on the tax certificate as the date the tax certificate was sold, and not later than six years after that date or any extension of that date pursuant to division (C)(2) of section 5721.38 of the Revised Code, or not earlier or later than the dates negotiated by the county treasurer and specified in the tax certificate sale/purchase agreement, the certificate holder may file with the county treasurer a request for foreclosure, or a private attorney on behalf of a certificate holder other than a county land reutilization corporation may file with the county treasurer a notice of intent to foreclose, on a form prescribed by the tax commissioner, provided the parcel has not been redeemed under division (A) or (C) of section 5721.38 of the Revised Code and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure or notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action under the statutes pertaining to the foreclosure of mortgages or as permitted under sections 323.65 to 323.79 of the Revised Code at any time after it acquires the tax certificate.~~

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~~(3)(a) Division (A)(3)(a) of this section applies to a tax certificate purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, and not held by a county land reutilization corporation. If, before the expiration of six years after the date a tax certificate was sold, the owner of the property for which the certificate was sold~~

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~~files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first class or certified mail or by binary means of the filing of the petition. It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a request for foreclosure or the private attorney may file a notice of intent to foreclose is the later of six years after the date the certificate was sold or one hundred eighty days after the certificate parcel is no longer property of the bankruptcy estate; however, the six year period measured from the date the certificate was sold is tolled while the property owner's bankruptcy case remains open.~~

~~(b) Division (A)(3)(b) of this section applies to a tax certificate purchased under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code, and not held by a county land reutilization corporation. If, before six years after the date a tax certificate was sold or before the date negotiated by the county treasurer If, before the expiration of the certificate period, the owner of the property files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the petition. It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a request for foreclosure or a notice of intent to foreclose is the later of six years after the date the tax certificate was sold or the date negotiated by the county treasurer, the expiration of the certificate period or one hundred eighty days after the~~

certificate parcel is no longer property of the bankruptcy estate; 120161
however, the ~~six year or negotiated period being measured after~~ 120162
~~the date the certificate was sold~~ certificate period is tolled 120163
while the property owner's bankruptcy case remains open. If the 120164
certificate holder is a county land reutilization corporation, the 120165
corporation may institute a foreclosure action under the statutes 120166
pertaining to the foreclosure of mortgages or as permitted under 120167
sections 323.65 to 323.79 of the Revised Code at any time after it 120168
acquires such tax certificate, subject to any restrictions under 120169
such bankruptcy law or proceeding. 120170

~~(e)~~ Interest at the certificate rate of interest continues to 120171
accrue during any extension of time required by division ~~(A)(3)(a)~~ 120172
~~or (b)(A)(2)~~ of this section unless otherwise provided under Title 120173
11 of the United States Code. 120174

~~(4)(3)~~ If, before the expiration of three years from the date 120175
a tax certificate was sold, the owner of property for which the 120176
certificate was sold applies for an exemption under section 120177
3735.67 or 5715.27 of the Revised Code or under any other section 120178
of the Revised Code under the jurisdiction of the director of 120179
environmental protection, the county treasurer shall notify the 120180
certificate holder by ordinary first-class or certified mail or by 120181
binary means of the filing of the application. Once a 120182
determination has been made on the exemption application, the 120183
county treasurer shall notify the certificate holder of the 120184
determination by ordinary first-class or certified mail or by 120185
binary means. Except with respect to a county land reutilization 120186
corporation, the last day on which the certificate holder may file 120187
a request for foreclosure shall be the later of three years from 120188
the date the certificate was sold or forty-five days after notice 120189
of the determination was provided. 120190

(B) When a request for foreclosure or a notice of intent to 120191
foreclose is filed under ~~division (A)(1) or (2)~~ of this section, 120192

the certificate holder shall submit a payment to the county treasurer equal to the sum of the following:

(1) The certificate redemption prices of all outstanding tax certificates that have been sold on the parcel, other than tax certificates held by the person requesting foreclosure;

(2) Any taxes, assessments, penalties, interest, and charges appearing on the tax duplicate charged against the certificate parcel that is the subject of the foreclosure proceedings and that are not covered by a tax certificate, but such amounts are not payable if the certificate holder is a county land reutilization corporation;

(3) If the foreclosure proceedings are filed by the county prosecuting attorney pursuant to section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code, a fee in the amount prescribed by the county prosecuting attorney to cover the prosecuting attorney's legal costs incurred in the foreclosure proceeding.

(C)(1) With respect to a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, if the certificate parcel has not been redeemed and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code, the county treasurer, within five days after receiving a foreclosure request and the payment required under division (B) of this section, shall certify notice to that effect to the county prosecuting attorney and shall provide a copy of the foreclosure request. The county treasurer also shall send notice by ordinary first class or certified mail to all certificate holders other than the certificate holder requesting foreclosure that foreclosure has been requested by a certificate holder and that payment for the

tax certificates is forthcoming. Within ninety days of receiving 120225
the copy of the foreclosure request, the prosecuting attorney 120226
shall commence a foreclosure proceeding in the name of the county 120227
treasurer in the manner provided under section 323.25, sections 120228
323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised 120229
Code, to enforce the lien vested in the certificate holder by the 120230
certificate. The prosecuting attorney shall attach to the 120231
complaint the foreclosure request and the county treasurer's 120232
written certification. 120233

(2) With respect to a certificate purchased under section 120234
5721.32, 5721.33, or 5721.42 of the Revised Code, if the 120235
certificate parcel has not been redeemed, at least one certificate 120236
respecting the certificate parcel, held by the certificate holder 120237
filing the notice of intent to foreclose and eligible to be 120238
enforced through a foreclosure proceeding, has not been voided 120239
under section 5721.381 of the Revised Code, a notice of intent to 120240
foreclose has been filed, and the payment required under division 120241
(B) of this section has been made, the county treasurer shall 120242
certify notice to that effect to the private attorney. The county 120243
treasurer also shall send notice by ordinary first class or 120244
certified mail or by binary means to all certificate holders other 120245
than the certificate holder represented by the attorney that a 120246
notice of intent to foreclose has been filed and that payment for 120247
the tax certificates is forthcoming. After receipt of the 120248
treasurer's certification and not later than one hundred twenty 120249
days after the filing of the intent to foreclose or the number of 120250
days specified under the terms of a negotiated sale under section 120251
5721.33 of the Revised Code, the private attorney shall commence a 120252
foreclosure proceeding in the name of the certificate holder in 120253
the manner provided under division (F) of this section to enforce 120254
the lien vested in the certificate holder by the certificate. The 120255
private attorney shall attach to the complaint the notice of 120256
intent to foreclose and the county treasurer's written 120257

certification. 120258

(D) The county treasurer shall credit the amount received 120259
under division (B)(1) of this section to the tax certificate 120260
redemption fund. The tax certificates respecting the payment shall 120261
be paid as provided in division (D) of section 5721.38 of the 120262
Revised Code. The amount received under division (B)(2) of this 120263
section shall be distributed to the taxing districts to which the 120264
delinquent and unpaid amounts are owed. The county treasurer shall 120265
deposit the fee received under division (B)(3) of this section in 120266
the county treasury to the credit of the delinquent tax and 120267
assessment collection fund. 120268

~~(E)(1)(a) Except with respect to a county land reutilization 120269
corporation, if, in the case of a certificate purchased under 120270
section 5721.32 of the Revised Code, or under section 5721.42 of 120271
the Revised Code by the holder of a certificate issued under 120272
section 5721.32 of the Revised Code, the certificate holder does 120273
not file with the county treasurer a request for foreclosure or a 120274
notice of intent to foreclose with the required payment within six 120275
years after the date shown on the tax certificate as the date the 120276
certificate was sold or within the period provided under division 120277
(A)(3)(a) of this section, and during that time the certificate 120278
has not been voided under section 5721.381 of the Revised Code and 120279
the parcel has not been redeemed or foreclosed upon, the 120280
certificate holder's lien against the parcel is canceled, and the 120281
certificate is voided, subject to division (E)(1)(b) of this 120282
section. 120283~~

~~(b) In the case of any tax certificate purchased under 120284
section 5721.32 of the Revised Code or under section 5721.42 of 120285
the Revised Code by the holder of a certificate issued under 120286
section 5721.32 of the Revised Code prior to June 24, 2008, the 120287
county treasurer, upon application by the certificate holder, may 120288
sell to the certificate holder a new certificate extending the 120289~~

~~three year period prescribed by division (E)(1) of this section, 120290
as that division existed prior to that date, to six years after 120291
the date shown on the original certificate as the date it was sold 120292
or any extension of that date. 120293~~

~~(2)(a) Except with respect to a county land reutilization 120294
corporation, if, in the case of a certificate purchased under 120295
section 5721.33 of the Revised Code, or under section 5721.42 of 120296
the Revised Code by the holder of a certificate issued under 120297
section 5721.33 of the Revised Code, the certificate holder does 120298
not file with the county treasurer a request for foreclosure or a 120299
notice of intent to foreclose with respect to a certificate parcel 120300
with the required payment within ~~six years after the date shown on~~ 120301
~~the tax certificate as the date the certificate was sold~~ the 120302
certificate period or any extension of that ~~date~~ period pursuant 120303
to division (C)(2) of section 5721.38 of the Revised Code, or 120304
within the period provided under division ~~(A)(3)(b)~~ (A)(2) of this 120305
section ~~or as specified under the terms of a negotiated sale under~~ 120306
~~section 5721.33 of the Revised Code~~, and during that time the 120307
certificate has not been voided under section 5721.381 of the 120308
Revised Code and the certificate parcel has not been redeemed or 120309
foreclosed upon, the certificate holder's lien against the parcel 120310
is canceled and the certificate is voided, subject to division 120311
~~(E)(2)(b)~~ (E)(2) of this section. 120312~~

~~(b)(2) In the case of any tax certificate purchased under 120313
section ~~5721.33~~ 5721.32 of the Revised Code or under section 120314
5721.42 of the Revised Code by the holder of a certificate issued 120315
under section 5721.32 of the Revised Code prior to ~~October 10,~~ 120316
~~2000~~ June 24, 2008, the county treasurer, upon application by the 120317
certificate holder, may sell to the certificate holder a new 120318
certificate extending the three-year period prescribed by division 120319
~~(E)(2)~~ (E)(1) of this section, as that division existed prior to 120320
~~October 10, 2000~~ that date, to six years after the date shown on 120321~~

the original certificate as the date it was sold or any extension 120322
of that date. 120323

~~(3)~~ The county treasurer and the certificate holder shall 120324
negotiate the premium, in cash, to be paid for a new certificate 120325
sold under division ~~(E)(1)(b)~~ or ~~(2)(b)~~ (E)(2) of this section. If 120326
the county treasurer and certificate holder do not negotiate a 120327
mutually acceptable premium, the county treasurer and certificate 120328
holder may agree to engage a person experienced in the valuation 120329
of financial assets to appraise a fair premium for the new 120330
certificate. The certificate holder has the option to purchase the 120331
new certificate for the fair premium so appraised. Not less than 120332
one-half of the fee of the person so engaged shall be paid by the 120333
certificate holder requesting the new certificate; the remainder 120334
of the fee shall be paid from the proceeds of the sale of the new 120335
certificate. If the certificate holder does not purchase the new 120336
certificate for the premium so appraised, the certificate holder 120337
shall pay the entire fee. The county treasurer shall credit the 120338
remaining proceeds from the sale to the items of taxes, 120339
assessments, penalties, interest, and charges in the order in 120340
which they became due. 120341

~~(4)~~ A certificate issued under division ~~(E)(1)(b)~~ or 120342
~~(2)(b)~~ (E)(2) of this section vests in the certificate holder and 120343
its secured party, if any, the same rights, interests, privileges, 120344
and immunities as are vested by the original certificate under 120345
sections 5721.30 to 5721.43 of the Revised Code. The certificate 120346
shall be issued in the same form as the form prescribed for the 120347
original certificate issued except for any modifications 120348
necessary, in the county treasurer's discretion, to reflect the 120349
extension under this division of the certificate holder's lien to 120350
six years after the date shown on the original certificate as the 120351
date it was sold or any extension of that date. The certificate 120352
holder may record a certificate issued under division ~~(E)(1)(b)~~ or 120353

~~(2)(b)(E)(2)~~ of this section or memorandum thereof as provided in 120354
division (B) of section 5721.35 of the Revised Code, and the 120355
county recorder shall index the certificate and record any 120356
subsequent cancellation of the lien as provided in that section. 120357
The sale of a certificate extending the lien under division 120358
~~(E)(1)(b) or (2)(b)(E)(2)~~ of this section does not impair the 120359
right of redemption of the owner of record of the certificate 120360
parcel or of any other person entitled to redeem the property. 120361

~~(5)(3)~~ If the holder of a certificate purchased under section 120362
5721.32, 5721.33, or 5721.42 of the Revised Code submits a notice 120363
of intent to foreclose to the county treasurer but fails to file a 120364
foreclosure action in a court of competent jurisdiction within the 120365
time specified in division (C)(2) of this section, the liens 120366
represented by all tax certificates respecting the certificate 120367
parcel held by that certificate holder, and for which the deadline 120368
for filing a notice of intent to foreclose has passed, are 120369
canceled and the certificates voided, and the certificate holder 120370
forfeits the payment of the amounts described in division (B)(2) 120371
of this section. 120372

(F) With respect to tax certificates purchased under section 120373
5721.32, 5721.33, or 5721.42 of the Revised Code, upon the 120374
delivery to the private attorney by the county treasurer of the 120375
certification provided for under division (C)(2) of this section, 120376
the private attorney shall institute a foreclosure proceeding 120377
under this division in the name of the certificate holder to 120378
enforce the holder's lien, in any court or board of revision with 120379
jurisdiction, unless the certificate redemption price is paid 120380
prior to the time a complaint is filed. The attorney shall 120381
prosecute the proceeding to final judgment and satisfaction, 120382
whether through sale of the property or the vesting of title and 120383
possession in the certificate holder or other disposition under 120384
sections 323.65 to 323.79 of the Revised Code or as may otherwise 120385

be provided by law. 120386

The foreclosure proceedings under this division, except as 120387
otherwise provided in this division, shall be instituted and 120388
prosecuted in the same manner as is provided by law for the 120389
foreclosure of mortgages on land, except that, if service by 120390
publication is necessary, such publication shall be made once a 120391
week for three consecutive weeks and the service shall be complete 120392
at the expiration of three weeks after the date of the first 120393
publication. 120394

Any notice given under this division shall include the name 120395
of the owner of the parcel as last set forth in the records of the 120396
county recorder, the owner's last known mailing address, the 120397
address of the subject parcel if different from that of the owner, 120398
and a complete legal description of the subject parcel. In any 120399
county that has adopted a permanent parcel number system, such 120400
notice may include the permanent parcel number in addition to a 120401
complete legal description. 120402

It is sufficient, having been made a proper party to the 120403
foreclosure proceeding, for the certificate holder to allege in 120404
such holder's complaint that the tax certificate has been duly 120405
purchased by the certificate holder, that the certificate 120406
redemption price is due and unpaid, that there is a lien against 120407
the property described in the tax certificate, and, if applicable, 120408
that the certificate holder desires to invoke the alternative 120409
redemption period prescribed in sections 323.65 to 323.79 of the 120410
Revised Code, without setting forth in such holder's complaint any 120411
other special matter relating to the foreclosure proceeding. The 120412
complaint shall pray for an order directing the sheriff, or the 120413
bailiff if the complaint is filed in municipal court, to offer the 120414
property for sale in the manner provided in section 5721.19 of the 120415
Revised Code or otherwise transferred according to any applicable 120416
procedures provided in sections 323.65 to 323.79 of the Revised 120417

Code, unless the complaint documents that the county auditor has 120418
determined that the true value of the certificate parcel is less 120419
than the certificate purchase price. In that case, the prayer of 120420
the complaint shall request that fee simple title to the property 120421
be transferred to and vested in the certificate holder free and 120422
clear of all subordinate liens. 120423

In the foreclosure proceeding, the certificate holder may 120424
join in one action any number of tax certificates relating to the 120425
same owner. However, the decree for each tax certificate shall be 120426
rendered separately and any proceeding may be severed, in the 120427
discretion of the court or board of revision, for the purpose of 120428
trial or appeal. Except as may otherwise be provided in sections 120429
323.65 to 323.79 of the Revised Code, upon confirmation of sale, 120430
the court or board of revision shall order payment of all costs 120431
related directly or indirectly to the tax certificate, including, 120432
without limitation, attorney's fees of the holder's attorney in 120433
accordance with section 5721.371 of the Revised Code. The tax 120434
certificate purchased by the certificate holder is presumptive 120435
evidence in all courts and boards of revision and in all 120436
proceedings, including, without limitation, at the trial of the 120437
foreclosure action, of the amount and validity of the taxes, 120438
assessments, charges, penalties by the court and added to such 120439
principal amount, and interest appearing due and unpaid and of 120440
their nonpayment. 120441

(G) If a parcel is sold under this section, the officer who 120442
conducted the sale shall collect the recording fee from the 120443
purchaser at the time of the sale and, following confirmation of 120444
the sale, shall prepare and record the deed conveying the title to 120445
the parcel to the purchaser. 120446

Sec. 5721.38. (A) At any time prior to payment to the county 120447
treasurer by the certificate holder to initiate foreclosure 120448

proceedings under division (B) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, may redeem the parcel by paying to the county treasurer an amount equal to the total of the certificate redemption prices of all tax certificates respecting that parcel.

(B) At any time after payment to the county treasurer by the certificate holder to initiate foreclosure proceedings under section 5721.37 of the Revised Code, and before the filing of the entry of confirmation of sale of a certificate parcel, or the expiration of the alternative redemption period defined in section 323.65 of the Revised Code under foreclosure proceedings filed by the county prosecuting attorney, and before the decree conveying title to the certificate holder is rendered as provided for in division (F) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel or any other person entitled to redeem that parcel may redeem the parcel by paying to the county treasurer the sum of the following amounts:

(1) The amount described in division (A) of this section;

(2) Interest on the certificate purchase price for each tax certificate sold respecting the parcel at the rate of eighteen per cent per year for the period beginning on the day on which the payment was submitted by the certificate holder and ending on the day the parcel is redeemed under this division;

(3) An amount equal to the sum of the county prosecuting attorney's fee under division (B)(3) of section 5721.37 of the Revised Code plus interest on that amount at the rate of eighteen per cent per year beginning on the day on which the payment was submitted by the certificate holder and ending on the day the parcel is redeemed under this division. If the parcel is redeemed before the complaint has been filed, the prosecuting attorney shall adjust the fee to reflect services performed to the date of

redemption, and the county treasurer shall calculate the interest 120481
based on the adjusted fee and refund any excess fee to the 120482
certificate holder. 120483

(4) Reasonable attorney's fees in accordance with section 120484
5721.371 of the Revised Code if the certificate holder retained a 120485
private attorney to foreclose the lien; 120486

(5) Any other costs and fees of the proceeding allocable to 120487
the certificate parcel as determined by the court or board of 120488
revision. 120489

The county treasurer may collect the total amount due under 120490
divisions (B)(1) to (5) of this section in the form of guaranteed 120491
funds acceptable to the treasurer. Immediately upon receipt of 120492
such payments, the county treasurer shall reimburse the 120493
certificate holder who initiated foreclosure proceedings as 120494
provided in division (D) of this section. The county treasurer 120495
shall pay the certificate holder interest at the rate of eighteen 120496
per cent per year on amounts paid under divisions (B)(2) and (3) 120497
of section 5721.37 of the Revised Code, beginning on the day the 120498
certificate holder paid the amounts under those divisions and 120499
ending on the day the parcel is redeemed under this section. 120500

(C)(1) During the period beginning on the date a tax 120501
certificate is sold under section 5721.32 of the Revised Code and 120502
ending one year from that date, the county treasurer may enter 120503
into a redemption payment plan with the owner of record of the 120504
certificate parcel or any other person entitled to redeem that 120505
parcel. The plan shall require the owner or other person to pay 120506
the certificate redemption price for the tax certificate in 120507
installments, with the final installment due no later than one 120508
year after the date the tax certificate is sold. The certificate 120509
holder may at any time, by written notice to the county treasurer, 120510
agree to accept installments collected to the date of notice as 120511
payment in full. Receipt of such notice by the treasurer shall 120512

constitute satisfaction of the payment plan and redemption of the 120513
tax certificate. 120514

(2) During the period beginning on the date a tax certificate 120515
is sold under section 5721.33 of the Revised Code and ending on 120516
the date the decree is rendered on the foreclosure proceeding 120517
under division (F) of section 5721.37 of the Revised Code, the 120518
owner of record of the certificate parcel, or any other person 120519
entitled to redeem that parcel, may enter into a redemption 120520
payment plan with the certificate holder and all secured parties 120521
of the certificate holder. The plan shall require the owner or 120522
other person to pay the certificate redemption price for the tax 120523
certificate, an administrative fee not to exceed one hundred 120524
dollars per year, and the actual fees and costs incurred, in 120525
installments, with the final installment due no later than ~~six~~ 120526
~~years after the date the tax certificate is sold~~ the expiration of 120527
the certificate period. The certificate holder shall give written 120528
notice of the plan to the applicable county treasurer within sixty 120529
days after entering into the plan and written notice of default 120530
under the plan within ninety days after the default. If such a 120531
plan is entered into, the time period for filing a request for 120532
foreclosure or a notice of intent to foreclose under section 120533
5721.37 of the Revised Code is extended by the length of time the 120534
plan is in effect and not in default. 120535

(D)(1) Immediately upon receipt of full payment under 120536
division (A) or (B) of this section, the county treasurer shall 120537
make an entry to that effect in the tax certificate register, 120538
credit the payment to the tax certificate redemption fund created 120539
in the county treasury, and shall notify the certificate holder or 120540
holders by ordinary first class or certified mail or by binary 120541
means that the parcel has been redeemed and the lien or liens 120542
canceled, and that payment on the certificate or certificates is 120543
forthcoming. The treasurer shall pay the tax certificate holder or 120544

holders promptly. 120545

The county treasurer shall administer the tax certificate 120546
redemption fund for the purpose of redeeming tax certificates. 120547
Interest earned on the fund shall be credited to the county 120548
general fund. If the county has established a county land 120549
reutilization corporation, the county treasurer may apply interest 120550
earned on the fund to the payment of the expenses of such 120551
corporation. 120552

(2) If a redemption payment plan is entered into pursuant to 120553
division (C)(1) of this section, the county treasurer immediately 120554
shall notify each certificate holder by ordinary first class or 120555
certified mail or by binary means of the terms of the plan. 120556
Installment payments made pursuant to the plan shall be deposited 120557
in the tax certificate redemption fund. Any overpayment of the 120558
installments shall be refunded to the person responsible for 120559
causing the overpayment if the person applies for a refund under 120560
this section. If the person responsible for causing the 120561
overpayment fails to apply for a refund under this section within 120562
five years from the date the plan is satisfied, an amount equal to 120563
the overpayment shall be deposited into the general fund of the 120564
county. If the county has established a county land reutilization 120565
corporation, the county treasurer may apply such overpayment to 120566
the payment of the expenses of the corporation. 120567

Upon satisfaction of the plan, the county treasurer shall 120568
indicate in the tax certificate register that the plan has been 120569
satisfied, and shall notify each certificate holder by ordinary 120570
first class or certified mail or by binary means that the plan has 120571
been satisfied and that payment on the certificate or certificates 120572
is forthcoming. The treasurer shall pay each certificate holder 120573
promptly. 120574

If a redemption payment plan becomes void, the county 120575
treasurer shall notify each certificate holder by ordinary first 120576

class or certified mail or by binary means. If a certificate 120577
holder files a request for foreclosure under section 5721.37 of 120578
the Revised Code, upon the filing of the request for foreclosure, 120579
any money paid under the plan shall be refunded to the person that 120580
paid the money under the plan. 120581

(3) Upon receipt of the payment required under division 120582
(B)(1) of section 5721.37 of the Revised Code, the treasurer shall 120583
pay all other certificate holders and indicate in the tax 120584
certificate register that such certificates have been satisfied. 120585
If a county has organized a county land reutilization corporation, 120586
the county treasurer may apply the redemption price and any 120587
applicable interest payable under division (B) of this section to 120588
the payment of the expenses of the corporation. 120589

Sec. 5721.42. After the settlement required under division 120590
(C) of section 321.24 of the Revised Code, the county treasurer 120591
shall notify the certificate holder of the most recently issued 120592
tax certificate, by ordinary first class or certified mail or by 120593
binary means, that the certificate holder may purchase a 120594
subsequent tax certificate by paying all delinquent taxes on the 120595
related certificate parcel, the lien against which has not been 120596
transferred by the sale of a tax certificate. During the thirty 120597
days after receiving the notice, the certificate holder possesses 120598
the exclusive right to purchase the subsequent tax certificate by 120599
paying those amounts to the county treasurer. The amount of the 120600
payment shall constitute a separate lien against the certificate 120601
parcel that shall be evidenced by the issuance by the treasurer to 120602
the certificate holder of an additional tax certificate with 120603
respect to the delinquent taxes so paid on the related certificate 120604
parcel. The amount of the payment as set forth in the tax 120605
certificate shall earn interest at the rate of eighteen per cent 120606
per year. The certificate period of each subsequent tax 120607
certificate shall terminate on the expiration date of the 120608

certificate period of the most recent tax certificate for the same 120609
certificate parcel. 120610

Sec. 5722.13. Real property acquired and held by an electing 120611
subdivision pursuant to this chapter that is not sold or otherwise 120612
transferred within fifteen years after such acquisition shall be 120613
offered for sale at public auction during the sixteenth year after 120614
acquisition. If the real property is not sold at that time, it may 120615
be disposed of or retained for any lawful purpose without further 120616
application of this chapter. 120617

Notice of the sale shall contain a description of each 120618
parcel, the permanent parcel number, and the full street address 120619
when available. The notice shall be published once a week for 120620
three consecutive weeks prior to the sale in a newspaper of 120621
general circulation within the electing subdivision. The newspaper 120622
shall meet the requirements of section 7.12 of the Revised Code. 120623

Each parcel subsequent to the fifteenth year after its 120624
acquisition as part of a land reutilization program shall be sold 120625
for an amount equal to not less than the greater of: 120626

(A) Two-thirds of its fair market value; 120627

(B) The total amount of accrued taxes, assessments, 120628
penalties, interest, charges, and costs incurred by the electing 120629
subdivision in the acquisition, maintenance, and disposal of each 120630
parcel and the parcel's share of the costs and expenses of the 120631
land reutilization program. 120632

The sale requirements of this section do not apply to real 120633
property acquired and held by a county land reutilization 120634
corporation. 120635

Sec. 5723.05. If the taxes, assessments, charges, penalties, 120636
interest, and costs due on the forfeited lands have not been paid 120637
when the county auditor fixes the date for the sale of forfeited 120638

lands, the auditor shall give notice of them once a week for two 120639
consecutive weeks prior to the date fixed by the auditor for the 120640
sale, ~~in two newspapers~~ as provided in section 5721.03 of the 120641
Revised Code. The notice shall state that if the taxes, 120642
assessments, charges, penalties, interest, and costs charged 120643
against the lands forfeited to the state for nonpayment of taxes 120644
are not paid into the county treasury, and the county treasurer's 120645
receipt produced for the payment before the time specified in the 120646
notice for the sale of the lands, which day shall be named in the 120647
notice, each forfeited tract on which the taxes, assessments, 120648
charges, penalties, interest, and costs remain unpaid will be 120649
offered for sale beginning on the date set by the auditor, at the 120650
courthouse in the county, in order to satisfy the unpaid taxes, 120651
assessments, charges, penalties, interest, and costs, and that the 120652
sale will continue from day to day until each of the tracts is 120653
sold or offered for sale. 120654

The notice also shall state that, if the forfeited land is 120655
sold for an amount that is less than the amount of the delinquent 120656
taxes, assessments, charges, penalties, and interest against it, 120657
and, if division (B)(2) of section 5721.17 of the Revised Code is 120658
applicable, any notes issued by a receiver pursuant to division 120659
(F) of section 3767.41 of the Revised Code and any receiver's lien 120660
as defined in division (C)(4) of section 5721.18 of the Revised 120661
Code, the court, in a separate order, may enter a deficiency 120662
judgment against the last owner of record of the land before its 120663
forfeiture to the state, for the amount of the difference; and 120664
that, if that owner of record is a corporation, the court may 120665
enter the deficiency judgment against the stockholder holding a 120666
majority of that corporation's stock. 120667

Sec. 5723.18. (A) Except as otherwise provided in division 120668
(B)(2) of section 5721.17 and division (B) of section 319.43 of 120669
the Revised Code, the proceeds from a forfeiture sale shall be 120670

distributed as follows: 120671

(1) The county auditor shall deduct all costs pertaining to 120672
the forfeiture and sale of forfeited lands, including costs 120673
pertaining to a foreclosure and forfeiture proceeding instituted 120674
under section 5721.14 of the Revised Code, except those paid under 120675
section 5721.04 of the Revised Code, from the moneys received from 120676
the sale of land and town lots forfeited to the state for the 120677
nonpayment of taxes, and shall pay such costs into the proper 120678
fund. In the case of the forfeiture sale of a parcel against which 120679
a foreclosure and forfeiture proceeding was instituted under 120680
section 5721.14 of the Revised Code, if the proceeds from the 120681
forfeiture sale are insufficient to pay the costs pertaining to 120682
such proceeding, the county auditor, at the next semiannual 120683
apportionment of real property taxes, shall reduce the amount of 120684
real property taxes that the auditor otherwise would distribute to 120685
each subdivision to which taxes, assessments, charges, penalties, 120686
or interest charged against the parcel are due. The reduction in 120687
each subdivision's real property tax distribution shall equal the 120688
amount of the unpaid costs multiplied by a fraction, the numerator 120689
of which is the amount of taxes, assessments, charges, penalties, 120690
and interest due the subdivision, and the denominator of which is 120691
the total amount of taxes, assessments, charges, penalties, and 120692
interest due all such subdivisions. 120693

(2) Following the payment required by division (A)(1) of this 120694
section, the part of the proceeds that is equal to ten per cent of 120695
the taxes and assessments due shall be deposited in equal shares 120696
into each of the delinquent tax and assessment collection ~~fund~~ 120697
funds created pursuant to section 321.261 of the Revised Code. 120698

(3) Following the payment required by division (A)(2) of this 120699
section, the remaining proceeds shall be distributed by the 120700
auditor to the appropriate subdivisions to pay the taxes, 120701
assessments, charges, penalties, and interest which are due and 120702

unpaid. If the proceeds available for distribution under this 120703
division are insufficient to pay the entire amount of those taxes, 120704
assessments, charges, penalties, and interest, the auditor shall 120705
distribute the proceeds available for distribution under this 120706
division to the appropriate subdivisions in proportion to the 120707
amount of those taxes, assessments, charges, penalties, and 120708
interest that each is due. 120709

(B) If the proceeds from the sale of forfeited land are 120710
insufficient to pay in full the amount of the taxes, assessments, 120711
charges, penalties, and interest; the costs incurred in the 120712
proceedings instituted pursuant to this chapter and section 120713
5721.18 of the Revised Code, or the foreclosure and forfeiture 120714
proceeding instituted pursuant to section 5721.14 of the Revised 120715
Code; and, if division (B)(2) of section 5721.17 of the Revised 120716
Code is applicable, any notes issued by a receiver pursuant to 120717
division (F) of section 3767.41 of the Revised Code and any 120718
receiver's lien as defined in division (C)(4) of section 5721.18 120719
of the Revised Code, the court may enter a deficiency judgment 120720
against the last owner of record of the land before its forfeiture 120721
to the state, for the unpaid amount. The court shall enter the 120722
judgment pursuant to section 5721.192 of the Revised Code. Except 120723
as otherwise provided in division (B) of section 319.43 of the 120724
Revised Code, the proceeds paid pursuant to the entry and 120725
satisfaction of such a judgment shall be distributed as if they 120726
had been received as a part of the proceeds from the sale of the 120727
land to satisfy the amount of the taxes, assessments, charges, 120728
penalties, and interest which are due and unpaid; the costs 120729
incurred in the associated proceedings which were due and unpaid; 120730
and, if division (B)(2) of section 5721.17 of the Revised Code is 120731
applicable, any notes issued by a receiver pursuant to division 120732
(F) of section 3767.41 of the Revised Code and any receiver's lien 120733
as defined in division (C)(4) of section 5721.18 of the Revised 120734
Code. 120735

Sec. 5725.151. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code. 120736
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(B) There is allowed a credit against the tax imposed by section 5707.03 and assessed under section 5725.15 of the Revised Code for a dealer in intangibles subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any dealer for any year shall not exceed five million dollars. The credit shall be claimed in the calendar year specified in the certificate. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the dealer but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The dealer may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year. 120739
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(C) A dealer in intangibles claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period. 120757
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~~(D) For the purpose of division (C) of section 5725.24 of the Revised Code, reductions in the amount of taxes collected on account of credits allowed under this section shall be applied to reduce the amount credited to the general revenue fund and shall~~ 120763
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~~not be applied to reduce the amount to be credited to the undivided local government funds of the counties in which such taxes originate.~~

~~Sec. 5725.24. (A) As used in this section, "qualifying dealer" means a dealer in intangibles that is a qualifying dealer in intangibles as defined in section 5733.45 of the Revised Code or a member of a qualifying controlled group, as defined in section 5733.04 of the Revised Code, of which an insurance company also is a member on the first day of January of the year in and for which the tax imposed by section 5707.03 of the Revised Code is required to be paid by the dealer.~~

~~(B) The taxes levied by section 5725.18 of the Revised Code and collected pursuant to this chapter shall be paid into the state treasury to the credit of the general revenue fund.~~

~~(C)(B) The taxes levied by section 5707.03 of the Revised Code on the value of shares in and capital employed by all dealers in intangibles ~~other than those that are qualifying dealers~~ shall be ~~for the use of~~ paid into the state treasury to the credit of the general revenue fund of the state and the local government funds of the several counties in which the taxes originate as ~~provided in this division.~~~~

~~During each month for which there is money in the state treasury for disbursement under this division, the tax commissioner shall provide for payment to the county treasurer of each county of five eighths of the amount of the taxes collected on account of shares in and capital employed by dealers in intangibles other than those that are qualifying dealers, representing capital employed in the county. The balance of the money received and credited on account of taxes assessed on shares in and capital employed by such dealers in intangibles shall be credited to the general revenue fund.~~

~~Reductions in the amount of taxes collected on account of 120798
credits allowed under section 5725.151 of the Revised Code shall 120799
be applied to reduce the amount credited to the general revenue 120800
fund and shall not be applied to reduce the amount to be credited 120801
to the undivided local government funds of the counties in which 120802
such taxes originate. 120803~~

~~For the purpose of this division, such taxes are deemed to 120804
originate in the counties in which such dealers in intangibles 120805
have their offices. 120806~~

~~Money received into the treasury of a county pursuant to this 120807
section shall be credited to the undivided local government fund 120808
of the county and shall be distributed by the budget commission as 120809
provided by law. 120810~~

~~(D) All of the taxes levied under section 5707.03 of the 120811
Revised Code on the value of the shares in and capital employed by 120812
dealers in intangibles that are qualifying dealers shall be paid 120813
into the state treasury to the credit of the general revenue fund. 120814~~

Sec. 5725.34. (A) As used in this section, "certificate 120815
owner" has the same meaning as in section 149.311 of the Revised 120816
Code. 120817

(B) There is allowed a credit against the tax imposed by 120818
section 5725.18 of the Revised Code for an insurance company 120819
subject to that tax that is a certificate owner of a 120820
rehabilitation tax credit certificate issued under section 149.311 120821
of the Revised Code. The credit shall equal twenty-five per cent 120822
of the dollar amount indicated on the certificate, but the amount 120823
of the credit allowed for any company for any year shall not 120824
exceed five million dollars. The credit shall be claimed in the 120825
calendar year specified in the certificate and in the order 120826
required under section 5725.98 of the Revised Code. If the credit 120827
exceeds the amount of tax otherwise due in that year, the excess 120828

shall be refunded to the company but, if any amount of the credit 120829
is refunded, the sum of the amount refunded and the amount applied 120830
to reduce the tax otherwise due in that year shall not exceed 120831
three million dollars. The company may carry forward any balance 120832
of the credit in excess of the amount claimed in that year for not 120833
more than five ensuing years, and shall deduct any amount claimed 120834
in any such year from the amount claimed in an ensuing year. 120835

(C) An insurance company claiming a credit under this section 120836
shall retain the rehabilitation tax credit certificate for four 120837
years following the end of the year in which the credit was 120838
claimed, and shall make the certificate available for inspection 120839
by the tax commissioner upon the request of the tax commissioner 120840
during that period. 120841

Sec. 5725.98. (A) To provide a uniform procedure for 120842
calculating the amount of tax imposed by section 5725.18 of the 120843
Revised Code that is due under this chapter, a taxpayer shall 120844
claim any credits and offsets against tax liability to which it is 120845
entitled in the following order: 120846

(1) The credit for an insurance company or insurance company 120847
group under section 5729.031 of the Revised Code; 120848

(2) The credit for eligible employee training costs under 120849
section 5725.31 of the Revised Code; 120850

(3) The credit for purchasers of qualified low-income 120851
community investments under section 5725.33 of the Revised Code; 120852

(4) The nonrefundable job retention credit under division 120853
(B)(1) of section 122.171 of the Revised Code; 120854

(5) The offset of assessments by the Ohio life and health 120855
insurance guaranty association permitted by section 3956.20 of the 120856
Revised Code; 120857

(6) The refundable credit for rehabilitating a historic 120858

building under section 5725.34 of the Revised Code. 120859

(7) The refundable credit for Ohio job retention under 120860
division (B)(2) or (3) of section 122.171 of the Revised Code; 120861

~~(7)~~(8) The refundable credit for Ohio job creation under 120862
section 5725.32 of the Revised Code; 120863

~~(8)~~(9) The refundable credit under section 5725.19 of the 120864
Revised Code for losses on loans made under the Ohio venture 120865
capital program under sections 150.01 to 150.10 of the Revised 120866
Code. 120867

(B) For any credit except the refundable credits enumerated 120868
in this section, the amount of the credit for a taxable year shall 120869
not exceed the tax due after allowing for any other credit that 120870
precedes it in the order required under this section. Any excess 120871
amount of a particular credit may be carried forward if authorized 120872
under the section creating that credit. Nothing in this chapter 120873
shall be construed to allow a taxpayer to claim, directly or 120874
indirectly, a credit more than once for a taxable year. 120875

Sec. 5727.57. In addition to all other remedies for the 120876
collection of any taxes or penalties due under law, whenever any 120877
taxes, fees, or penalties due from any public utility have 120878
remained unpaid for a period of ninety days, or whenever any 120879
public utility has failed for a period of ninety days to make any 120880
report or return required by law, or to pay any penalty for 120881
failure to make or file such report or return, the attorney 120882
general, upon the request of the tax commissioner, shall file a 120883
petition in the court of common pleas in the county of the state 120884
in which such public utility has its principal place of business 120885
for a judgment for the amount of the taxes and penalties appearing 120886
to be due, the enforcement of any lien in favor of the state, and 120887
an injunction to restrain such public utility and its officers, 120888
directors, and managing agents from the transaction of any 120889

business within this state, other than such acts as are incidental 120890
to liquidation or winding up, until the payment of such taxes, 120891
fees, penalties, and the costs of the proceeding, which shall be 120892
fixed by the court, or the making and filing of such report or 120893
return. 120894

Such petition shall be in the name of the state. All or any 120895
of the public utilities having their principal places of business 120896
in the county may be joined in one suit. On the motion of the 120897
attorney general, the court of common pleas shall enter an order 120898
requiring all defendants to answer by a day certain, and may 120899
appoint a special master commissioner to take testimony, with such 120900
other power and authority as the court confers, and permit process 120901
to be served by certified mail and by publication in a newspaper 120902
of general circulation ~~published~~ in the county, which publication 120903
need not be made more than once, setting forth the name of each 120904
delinquent public utility, the matter in which such public utility 120905
is delinquent, the names of its officers, directors, and managing 120906
agents, if set forth in the petition, and the amount of any taxes, 120907
fees, or penalties claimed to be owing by said public utility. 120908

All of the officers, directors, shareholders, or managing 120909
agents of any public utility may be joined as defendants with such 120910
public utility. 120911

If it appears to the court upon hearing that any public 120912
utility which is a party to such proceeding is indebted to the 120913
state for taxes, fees, or penalties, judgment shall be entered 120914
therefor with interest, which shall be computed at the rate per 120915
annum prescribed by section 5703.47 of the Revised Code; and if it 120916
appears that any public utility has failed to make or file any 120917
report or return, a mandatory injunction may be issued against 120918
such public utility, its officers, directors, and managing agents, 120919
as such enjoining them from the transaction of any business within 120920
this state, other than acts incidental to liquidation or winding 120921

up, until the making and filing of all proper reports or returns 120922
and the payment in full of all taxes, fees, and penalties. 120923

If the officers, directors, shareholders, or managing agents 120924
of a public utility are not made parties in the first instance, 120925
and a judgment or an injunction is rendered or issued against such 120926
public utility, such officers, directors, shareholders, or 120927
managing agents, or any of them, may be made parties to such 120928
proceedings upon the motion of the attorney general, and, upon 120929
notice to them of the form and terms of such injunction, they 120930
shall be bound thereby as fully as if they had been made parties 120931
in the first instance. 120932

In any action authorized by this section, a statement of the 120933
commissioner or the secretary of state, when duly certified shall 120934
be prima-facie evidence of the amount of taxes, fees, or penalties 120935
due from any public utility, or of the failure of any public 120936
utility to file with the commissioner or the secretary of state 120937
any report required by law, and any such certificate of the 120938
commissioner or the secretary of state may be required in evidence 120939
in any such proceeding. 120940

On the application of any defendant and for good cause shown, 120941
the court may order a separate hearing of the issues as to any 120942
defendant. 120943

The costs of the proceeding shall be apportioned among the 120944
parties as the court deems proper. 120945

The court in such proceeding may make, enter, and enforce 120946
such other judgments and orders and grant such other relief as is 120947
necessary or incidental to the enforcement of the claims and lien 120948
of the state. 120949

In the performance of the duties enjoined ~~upon him~~ by this 120950
section the attorney general may direct any prosecuting attorney 120951
to bring an action, as authorized by this section, in the name of 120952

the state with respect to any delinquent public utilities within 120953
~~his~~ the prosecuting attorney's county, and like proceedings and 120954
orders shall be had as if such action were instituted by the 120955
attorney general. 120956

Sec. 5727.84. (A) As used in this section and sections 120957
5727.85, 5727.86, and 5727.87 of the Revised Code: 120958

(1) "School district" means a city, local, or exempted 120959
village school district. 120960

(2) "Joint vocational school district" means a joint 120961
vocational school district created under section 3311.16 of the 120962
Revised Code, and includes a cooperative education school district 120963
created under section 3311.52 or 3311.521 of the Revised Code and 120964
a county school financing district created under section 3311.50 120965
of the Revised Code. 120966

(3) "Local taxing unit" means a subdivision or taxing unit, 120967
as defined in section 5705.01 of the Revised Code, a park district 120968
created under Chapter 1545. of the Revised Code, or a township 120969
park district established under section 511.23 of the Revised 120970
Code, but excludes school districts and joint vocational school 120971
districts. 120972

(4) "State education aid," for a school district, means the 120973
following: 120974

(a) For fiscal years prior to fiscal year 2010, the sum of 120975
state aid amounts computed for the district under the following 120976
provisions, as they existed for the applicable fiscal year: 120977
divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 120978
3317.022; divisions (B), (C), and (D) of section 3317.023; 120979
divisions (G), (L), and (N) of section 3317.024; and sections 120980
3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 120981
3317.053 of the Revised Code; and the adjustments required by: 120982

division (C) of section 3310.08; division (C)(2) of section 120983
3310.41; division (C) of section 3314.08; division (D)(2) of 120984
section 3314.091; division (D) of section 3314.13; divisions (E), 120985
(K), (L), (M), and (N) of section 3317.023; division (C) of 120986
section 3317.20; and sections 3313.979 and 3313.981 of the Revised 120987
Code. However, when calculating state education aid for a school 120988
district for fiscal years 2008 and 2009, include the amount 120989
computed for the district under Section 269.20.80 of H.B. 119 of 120990
the 127th general assembly, as subsequently amended, instead of 120991
division (D) of section 3317.022 of the Revised Code; and include 120992
amounts calculated under Section 269.30.80 of ~~this act~~ H.B. 119 of 120993
the 127th general assembly, as subsequently amended. 120994

(b) For fiscal ~~year~~ years 2010 and ~~for each fiscal year~~ 120995
~~thereafter~~ 2011, the sum of the amounts computed for the district 120996
under former sections 3306.052, 3306.12, 3306.13, 3306.19, 120997
3306.191, and 3306.192+ of the Revised Code and the following 120998
provisions, as they existed for the applicable fiscal year: 120999
division (G) of section 3317.024; sections 3317.05, 3317.052, and 121000
3317.053 of the Revised Code; and the adjustments required by 121001
division (C) of section 3310.08; division (C)(2) of section 121002
3310.41; division (C) of section 3314.08; division (D)(2) of 121003
section 3314.091; division (D) of section 3314.13; divisions (E), 121004
(K), (L), (M), and (N) of section 3317.023; division (C) of 121005
section 3317.20; and sections 3313.979 ~~and~~, 3313.981, and 3326.33 121006
of the Revised Code. 121007

(c) For fiscal years 2012 and 2013, the amount paid in 121008
accordance with the section of H.B. 153 of the 129th general 121009
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 121010
SCHOOL DISTRICTS" and the adjustments required by division (C) of 121011
section 3310.08; division (C)(2) of section 3310.41; section 121012
3310.55; division (C) of section 3314.08; division (D)(2) of 121013
section 3314.091; division (D) of section 3314.13; divisions (B), 121014

(H), (I), (J), and (K) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code. 121015
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(5) "State education aid," for a joint vocational school district, means the following: 121018
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(a) For fiscal years prior to fiscal year 2010, the sum of the state aid amounts computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code. 121020
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However, when calculating state education aid for a joint vocational school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.30.90 of H.B. 119 of the 127th general assembly, as subsequently amended. 121023
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(b) For fiscal years 2010 and 2011, the amount computed for the district in accordance with the section of ~~this act~~ H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS". 121027
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(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 121031
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(6) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code. 121034
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(7) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code. 121037
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(8) "Electric company tax value loss" means the amount determined under division (D) of this section. 121039
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(9) "Natural gas company tax value loss" means the amount determined under division (E) of this section. 121041
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(10) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss. 121043
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(11) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy. 121045
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(12) "Fixed-rate levy loss" means the amount determined under division (G) of this section. 121047
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(13) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code. 121049
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(14) "Fixed-sum levy loss" means the amount determined under division (H) of this section. 121054
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(15) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor. 121056
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(16) "Total resources" has the same meaning as in section 5751.20 of the Revised Code. 121059
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(17) "2011 current expense S.B. 3 allocation" means the sum of payments received by a school district or joint vocational school district in fiscal year 2011 for current expense levy losses pursuant to division (C)(2) of section 5727.85 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "2011 current expense S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy. 121061
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(18) "2010 current expense S.B. 3 allocation" means the sum of payments received by a municipal corporation in calendar year 2010 for current expense levy losses pursuant to division (A)(1) of section 5727.86 of the Revised Code. If a fixed-rate levy 121072
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eligible for reimbursement is not imposed in any year after tax 121076
year 2010, "2010 current expense S.B. 3 allocation" used to 121077
compute payments to be made under division (A)(1)(d) of section 121078
5727.86 of the Revised Code in the tax years following the last 121079
year the levy is imposed shall be reduced by the amount of those 121080
payments attributable to the fixed-rate levy loss of that levy. 121081

(19) "2010 S.B. 3 allocation" means the sum of payments 121082
received by a local taxing unit during calendar year 2010 pursuant 121083
to division (A)(1) of section 5727.86 of the Revised Code. If a 121084
fixed-rate levy eligible for reimbursement is not imposed in any 121085
year after tax year 2010, "2010 S.B. 3 allocation" used to compute 121086
payments to be made under division (A)(1)(d) of section 5727.86 of 121087
the Revised Code in the tax years following the last year the levy 121088
is imposed shall be reduced by the amount of those payments 121089
attributable to the fixed-rate levy loss of that levy. 121090

(20) "Total S.B. 3 allocation" means, in the case of a school 121091
district or joint vocational school district, the sum of the 121092
amounts received in fiscal year 2011 pursuant to divisions (C)(2) 121093
and (D) of section 5727.85 of the Revised Code. In the case of a 121094
local taxing unit, "total S.B. 3 allocation" means the sum of 121095
payments received by the unit in calendar year 2010 pursuant to 121096
divisions (A)(1) and (4) of section 5727.86 of the Revised Code. 121097
If a fixed-rate levy eligible for reimbursement is not imposed in 121098
any year after tax year 2010, "total S.B. 3 allocation" used to 121099
compute payments to be made under division (C)(3) of section 121100
5727.85 or division (A)(1)(d) of section 5727.86 of the Revised 121101
Code in the tax years following the last year the levy is imposed 121102
shall be reduced by the amount of those payments attributable to 121103
the fixed-rate levy loss of that levy as would be computed under 121104
division (C)(2) of section 5727.85 or division (A)(1)(b) of 121105
section 5727.86 of the Revised Code. 121106

(21) "2011 non-current expense S.B. 3 allocation" means the 121107

difference of a school district's or joint vocational school 121108
district's total S.B. 3 allocation minus the sum of the school 121109
district's 2011 current expense S.B. 3 allocation and the portion 121110
of the school district's total S.B. 3 allocation constituting 121111
reimbursement for debt levies pursuant to division (D) of section 121112
5727.85 of the Revised Code. 121113

(22) "2010 non-current expense S.B. 3 allocation" means the 121114
difference of a municipal corporation's total S.B. 3 allocation 121115
minus the sum of its 2010 current expense S.B. 3 allocation and 121116
the portion of its total S.B. 3 allocation constituting 121117
reimbursement for debt levies pursuant to division (A)(4) of 121118
section 5727.86 of the Revised Code. 121119

(23) "Threshold per cent" means, in the case of a school 121120
district or joint vocational school district, two per cent for 121121
fiscal year 2012 and four per cent for fiscal years 2013 and 121122
thereafter. In the case of a local taxing unit, "threshold per 121123
cent" means two per cent for calendar year 2011, four per cent for 121124
calendar year 2012, and six per cent for calendar years 2013 and 121125
thereafter. 121126

(B) The kilowatt-hour tax receipts fund is hereby created in 121127
the state treasury and shall consist of money arising from the tax 121128
imposed by section 5727.81 of the Revised Code. All money in the 121129
kilowatt-hour tax receipts fund shall be credited as follows: 121130

~~(1) Sixty three per cent shall be credited to the general~~ 121131
~~revenue fund.~~ 121132

~~(2) Twenty five and four tenths per cent shall be credited to~~ 121133
~~the school district property tax replacement fund, which is hereby~~ 121134
~~created in the state treasury for the purpose of making the~~ 121135
~~payments described in section 5727.85 of the Revised Code.~~ 121136

~~(3) Eleven and six tenths per cent shall be credited to the~~ 121137
~~local government property tax replacement fund, which is hereby~~ 121138

~~created in the state treasury for the purpose of making the~~ 121139
~~payments described in section 5727.86 of the Revised Code.~~ 121140

<u>Fiscal Year</u>	<u>General Revenue</u>	<u>School District</u>	<u>Local Government</u>	
	<u>Fund</u>	<u>Property Tax</u>	<u>Property Tax</u>	
		<u>Replacement Fund</u>	<u>Replacement Fund</u>	
<u>2001-2011</u>	<u>63.0%</u>	<u>25.4%</u>	<u>11.6%</u>	121142
<u>2012 and</u> <u>thereafter</u>	<u>88.0%</u>	<u>9.0%</u>	<u>3.0%</u>	121143

(C) The natural gas tax receipts fund is hereby created in 121144
the state treasury and shall consist of money arising from the tax 121145
imposed by section 5727.811 of the Revised Code. All money in the 121146
fund shall be credited as follows: 121147

(1) For fiscal years before fiscal year 2012: 121148

(a) Sixty-eight and seven-tenths per cent shall be credited 121149
to the school district property tax replacement fund for the 121150
purpose of making the payments described in section 5727.85 of the 121151
Revised Code. 121152

~~(2)(b)~~ Thirty-one and three-tenths per cent shall be credited 121153
to the local government property tax replacement fund for the 121154
purpose of making the payments described in section 5727.86 of the 121155
Revised Code. 121156

(2) For fiscal years 2012 and thereafter, one hundred per 121157
cent to the general revenue fund. 121158

(D) Not later than January 1, 2002, the tax commissioner 121159
shall determine for each taxing district its electric company tax 121160
value loss, which is the sum of the applicable amounts described 121161
in divisions (D)(1) to (4) of this section: 121162

(1) The difference obtained by subtracting the amount 121163
described in division (D)(1)(b) from the amount described in 121164
division (D)(1)(a) of this section. 121165

(a) The value of electric company and rural electric company
tangible personal property as assessed by the tax commissioner for
tax year 1998 on a preliminary assessment, or an amended
preliminary assessment if issued prior to March 1, 1999, and as
apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company
tangible personal property as assessed by the tax commissioner for
tax year 1998 had the property been apportioned to the taxing
district for tax year 2001, and assessed at the rates in effect
for tax year 2001.

(2) The difference obtained by subtracting the amount
described in division (D)(2)(b) from the amount described in
division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998
of the assessed value from nuclear fuel materials and assemblies
assessed against a person under Chapter 5711. of the Revised Code
from the leasing of them to an electric company for those
respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel
materials and assemblies assessed under division (D)(2)(a) of this
section for tax years 1996, 1997, and 1998, as reflected in the
preliminary assessments, using an assessment rate of twenty-five
per cent.

(3) In the case of a taxing district having a nuclear power
plant within its territory, any amount, resulting in an electric
company tax value loss, obtained by subtracting the amount
described in division (D)(1) of this section from the difference
obtained by subtracting the amount described in division (D)(3)(b)
of this section from the amount described in division (D)(3)(a) of
this section.

(a) The value of electric company tangible personal property

as assessed by the tax commissioner for tax year 2000 on a 121197
preliminary assessment, or an amended preliminary assessment if 121198
issued prior to March 1, 2001, and as apportioned to the taxing 121199
district for tax year 2000; 121200

(b) The value of electric company tangible personal property 121201
as assessed by the tax commissioner for tax year 2001 on a 121202
preliminary assessment, or an amended preliminary assessment if 121203
issued prior to March 1, 2002, and as apportioned to the taxing 121204
district for tax year 2001. 121205

(4) In the case of a taxing district having a nuclear power 121206
plant within its territory, the difference obtained by subtracting 121207
the amount described in division (D)(4)(b) of this section from 121208
the amount described in division (D)(4)(a) of this section, 121209
provided that such difference is greater than ten per cent of the 121210
amount described in division (D)(4)(a) of this section. 121211

(a) The value of electric company tangible personal property 121212
as assessed by the tax commissioner for tax year 2005 on a 121213
preliminary assessment, or an amended preliminary assessment if 121214
issued prior to March 1, 2006, and as apportioned to the taxing 121215
district for tax year 2005; 121216

(b) The value of electric company tangible personal property 121217
as assessed by the tax commissioner for tax year 2006 on a 121218
preliminary assessment, or an amended preliminary assessment if 121219
issued prior to March 1, 2007, and as apportioned to the taxing 121220
district for tax year 2006. 121221

(E) Not later than January 1, 2002, the tax commissioner 121222
shall determine for each taxing district its natural gas company 121223
tax value loss, which is the sum of the amounts described in 121224
divisions (E)(1) and (2) of this section: 121225

(1) The difference obtained by subtracting the amount 121226
described in division (E)(1)(b) from the amount described in 121227

division (E)(1)(a) of this section. 121228

(a) The value of all natural gas company tangible personal 121229
property, other than property described in division (E)(2) of this 121230
section, as assessed by the tax commissioner for tax year 1999 on 121231
a preliminary assessment, or an amended preliminary assessment if 121232
issued prior to March 1, 2000, and apportioned to the taxing 121233
district for tax year 1999; 121234

(b) The value of all natural gas company tangible personal 121235
property, other than property described in division (E)(2) of this 121236
section, as assessed by the tax commissioner for tax year 1999 had 121237
the property been apportioned to the taxing district for tax year 121238
2001, and assessed at the rates in effect for tax year 2001. 121239

(2) The difference in the value of current gas obtained by 121240
subtracting the amount described in division (E)(2)(b) from the 121241
amount described in division (E)(2)(a) of this section. 121242

(a) The three-year average assessed value of current gas as 121243
assessed by the tax commissioner for tax years 1997, 1998, and 121244
1999 on a preliminary assessment, or an amended preliminary 121245
assessment if issued prior to March 1, 2001, and as apportioned in 121246
the taxing district for those respective years; 121247

(b) The three-year average assessed value from current gas 121248
under division (E)(2)(a) of this section for tax years 1997, 1998, 121249
and 1999, as reflected in the preliminary assessment, using an 121250
assessment rate of twenty-five per cent. 121251

(F) The tax commissioner may request that natural gas 121252
companies, electric companies, and rural electric companies file a 121253
report to help determine the tax value loss under divisions (D) 121254
and (E) of this section. The report shall be filed within thirty 121255
days of the commissioner's request. A company that fails to file 121256
the report or does not timely file the report is subject to the 121257
penalty in section 5727.60 of the Revised Code. 121258

(G) Not later than January 1, 2002, the tax commissioner 121259
shall determine for each school district, joint vocational school 121260
district, and local taxing unit its fixed-rate levy loss, which is 121261
the sum of its electric company tax value loss multiplied by the 121262
tax rate in effect in tax year 1998 for fixed-rate levies and its 121263
natural gas company tax value loss multiplied by the tax rate in 121264
effect in tax year 1999 for fixed-rate levies. 121265

(H) Not later than January 1, 2002, the tax commissioner 121266
shall determine for each school district, joint vocational school 121267
district, and local taxing unit its fixed-sum levy loss, which is 121268
the amount obtained by subtracting the amount described in 121269
division (H)(2) of this section from the amount described in 121270
division (H)(1) of this section: 121271

(1) The sum of the electric company tax value loss multiplied 121272
by the tax rate in effect in tax year 1998, and the natural gas 121273
company tax value loss multiplied by the tax rate in effect in tax 121274
year 1999, for fixed-sum levies for all taxing districts within 121275
each school district, joint vocational school district, and local 121276
taxing unit. For the years 2002 through 2006, this computation 121277
shall include school district emergency levies that existed in 121278
1998 in the case of the electric company tax value loss, and 1999 121279
in the case of the natural gas company tax value loss, and all 121280
other fixed-sum levies that existed in 1998 in the case of the 121281
electric company tax value loss and 1999 in the case of the 121282
natural gas company tax value loss and continue to be charged in 121283
the tax year preceding the distribution year. For the years 2007 121284
through 2016 in the case of school district emergency levies, and 121285
for all years after 2006 in the case of all other fixed-sum 121286
levies, this computation shall exclude all fixed-sum levies that 121287
existed in 1998 in the case of the electric company tax value loss 121288
and 1999 in the case of the natural gas company tax value loss, 121289
but are no longer in effect in the tax year preceding the 121290

distribution year. For the purposes of this section, an emergency 121291
levy that existed in 1998 in the case of the electric company tax 121292
value loss, and 1999 in the case of the natural gas company tax 121293
value loss, continues to exist in a year beginning on or after 121294
January 1, 2007, but before January 1, 2017, if, in that year, the 121295
board of education levies a school district emergency levy for an 121296
annual sum at least equal to the annual sum levied by the board in 121297
tax year 1998 or 1999, respectively, less the amount of the 121298
payment certified under this division for 2002. 121299

(2) The total taxable value in tax year 1999 less the tax 121300
value loss in each school district, joint vocational school 121301
district, and local taxing unit multiplied by one-fourth of one 121302
mill. 121303

If the amount computed under division (H) of this section for 121304
any school district, joint vocational school district, or local 121305
taxing unit is greater than zero, that amount shall equal the 121306
fixed-sum levy loss reimbursed pursuant to division ~~(E)~~(F) of 121307
section 5727.85 of the Revised Code or division (A)(2) of section 121308
5727.86 of the Revised Code, and the one-fourth of one mill that 121309
is subtracted under division (H)(2) of this section shall be 121310
apportioned among all contributing fixed-sum levies in the 121311
proportion of each levy to the sum of all fixed-sum levies within 121312
each school district, joint vocational school district, or local 121313
taxing unit. 121314

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 121315
section, in computing the tax value loss, fixed-rate levy loss, 121316
and fixed-sum levy loss, the tax commissioner shall use the 121317
greater of the 1998 tax rate or the 1999 tax rate in the case of 121318
levy losses associated with the electric company tax value loss, 121319
but the 1999 tax rate shall not include for this purpose any tax 121320
levy approved by the voters after June 30, 1999, and the tax 121321
commissioner shall use the greater of the 1999 or the 2000 tax 121322

rate in the case of levy losses associated with the natural gas 121323
company tax value loss. 121324

(J) Not later than January 1, 2002, the tax commissioner 121325
shall certify to the department of education the tax value loss 121326
determined under divisions (D) and (E) of this section for each 121327
taxing district, the fixed-rate levy loss calculated under 121328
division (G) of this section, and the fixed-sum levy loss 121329
calculated under division (H) of this section. The calculations 121330
under divisions (G) and (H) of this section shall separately 121331
display the levy loss for each levy eligible for reimbursement. 121332

(K) Not later than September 1, 2001, the tax commissioner 121333
shall certify the amount of the fixed-sum levy loss to the county 121334
auditor of each county in which a school district with a fixed-sum 121335
levy loss has territory. 121336

Sec. 5727.85. (A) By the thirty-first day of July of each 121337
year, beginning in 2002 and ending in ~~2016~~ 2010, the department of 121338
education shall determine the following for each school district 121339
and each joint vocational school district: 121340

(1) The state education aid offset, which, except as provided 121341
in division (A)(1)(c) of this section, is the difference obtained 121342
by subtracting the amount described in division (A)(1)(b) of this 121343
section from the amount described in division (A)(1)(a) of this 121344
section: 121345

(a) The state education aid computed for the school district 121346
or joint vocational school district for the current fiscal year as 121347
of the thirty-first day of July; 121348

(b) The state education aid that would be computed for the 121349
school district or joint vocational school district for the 121350
current fiscal year as of the thirty-first day of July if the 121351
recognized valuation included the tax value loss for the school 121352

district or joint vocational school district; 121353

(c) The state education aid offset for fiscal year 2010 and 121354
fiscal year 2011 equals the greater of the state education aid 121355
offset calculated for that fiscal year under divisions (A)(1)(a) 121356
and (b) of this section or the state education aid offset 121357
calculated for fiscal year 2009. 121358

(2) ~~The~~ For fiscal years 2008 through 2011, the greater of 121359
zero or the difference obtained by subtracting the state education 121360
aid offset determined under division (A)(1) of this section from 121361
the fixed-rate levy loss certified under division (J) of section 121362
5727.84 of the Revised Code for all taxing districts in each 121363
school district and joint vocational school district. 121364

By the fifth day of August of each such year, the department 121365
of education shall certify the amount so determined under division 121366
(A)(1) of this section to the director of budget and management. 121367

(B) Not later than the thirty-first day of October of the 121368
years 2006 through ~~2016~~ 2010, the department of education shall 121369
determine all of the following for each school district: 121370

(1) The amount obtained by subtracting the district's state 121371
education aid computed for fiscal year 2002 from the district's 121372
state education aid computed for the current fiscal year as of the 121373
fifteenth day of July, by including in the definition of 121374
recognized valuation the machinery and equipment, inventory, 121375
furniture and fixtures, and telephone property tax value losses, 121376
as defined in section 5751.20 of the Revised Code, for the school 121377
district or joint vocational school district for the preceding tax 121378
year; 121379

(2) The inflation-adjusted property tax loss. The 121380
inflation-adjusted property tax loss equals the fixed-rate levy 121381
loss, excluding the tax loss from levies within the ten-mill 121382
limitation to pay debt charges, determined under division (G) of 121383

section 5727.84 of the Revised Code for all taxing districts in 121384
each school district, plus the product obtained by multiplying 121385
that loss by the cumulative percentage increase in the consumer 121386
price index from January 1, 2002, to the thirtieth day of June of 121387
the current year. 121388

(3) The difference obtained by subtracting the amount 121389
computed under division (B)(1) from the amount of the 121390
inflation-adjusted property tax loss. If this difference is zero 121391
or a negative number, no further payments shall be made under 121392
division (C) of this section to the school district from the 121393
school district property tax replacement fund. 121394

(C) The Beginning in 2002 for school districts and beginning 121395
in August 2011 for joint vocational school districts, the 121396
department of education shall pay from the school district 121397
property tax replacement fund to each school district all of the 121398
following: 121399

(1) In February 2002, one-half of the fixed-rate levy loss 121400
certified under division (J) of section 5727.84 of the Revised 121401
Code between the twenty-first and twenty-eighth days of February. 121402

(2) From August 2002 through ~~August 2017~~ February 2011, 121403
one-half of the amount calculated for that fiscal year under 121404
division (A)(2) of this section between the twenty-first and 121405
twenty-eighth days of August and of February, provided the 121406
difference computed under division (B)(3) of this section is not 121407
less than or equal to zero. 121408

~~For~~ (3) For fiscal years 2012 and thereafter, the sum of the 121409
amounts in divisions (C)(3)(a) or (b) and (c) of this section 121410
shall be paid on or before the thirty-first day of August and the 121411
twenty-eighth day of February: 121412

(a) If the ratio of 2011 current expense S.B. 3 allocation to 121413
total resources is equal to or less than the threshold per cent, 121414

zero; 121415

(b) If the ratio of 2011 current expense S.B. 3 allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of 2011 current expense S.B. 3 allocation minus the product of total resources multiplied by the threshold per cent; 121416
121417
121418
121419
121420

(c) Fifty per cent of the product of 2011 non-current expense S.B. 3 allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter. 121421
121422
121423

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code. 121424
121425
121426
121427

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016. 121428
121429
121430
121431
121432
121433
121434

~~The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.~~ 121435
121436
121437
121438

~~(D)~~(E) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 ~~to August 2016~~ through February 2011, the department shall pay from the school district property tax replacement fund to the joint vocational 121439
121440
121441
121442
121443
121444
121445

school district one-half of the amount calculated for that fiscal 121446
year under division (A)(2) of this section between the 121447
twenty-first and twenty-eighth days of August and of February. 121448

~~(E)~~(F)(1) Not later than January 1, 2002, for each fixed-sum 121449
levy levied by each school district or joint vocational school 121450
district and for each year for which a determination is made under 121451
division (H) of section 5727.84 of the Revised Code that a 121452
fixed-sum levy loss is to be reimbursed, the tax commissioner 121453
shall certify to the department of education the fixed-sum levy 121454
loss determined under that division. The certification shall cover 121455
a time period sufficient to include all fixed-sum levies for which 121456
the tax commissioner made such a determination. The department 121457
shall pay from the school district property tax replacement fund 121458
to the school district or joint vocational school district 121459
one-half of the fixed-sum levy loss so certified for each year 121460
between the twenty-first and twenty-eighth days of August and of 121461
February. 121462

(2) Beginning in 2003, by the thirty-first day of January of 121463
each year, the tax commissioner shall review the certification 121464
originally made under division ~~(E)~~(F)(1) of this section. If the 121465
commissioner determines that a debt levy that had been scheduled 121466
to be reimbursed in the current year has expired, a revised 121467
certification for that and all subsequent years shall be made to 121468
the department of education. 121469

~~(F)~~(G) If the balance of the half-mill equalization fund 121470
created under section 3318.18 of the Revised Code is insufficient 121471
to make the full amount of payments required under division (D) of 121472
that section, the department of education, at the end of the third 121473
quarter of the fiscal year, shall certify to the director of 121474
budget and management the amount of the deficiency, and the 121475
director shall transfer an amount equal to the deficiency from the 121476
school district property tax replacement fund to the half-mill 121477

equalization fund. 121478

~~(G)~~(H) Beginning in August 2002, and ending in May ~~2017~~ 2011, 121479
the director of budget and management shall transfer from the 121480
school district property tax replacement fund to the general 121481
revenue fund each of the following: 121482

(1) Between the twenty-eighth day of August and the fifth day 121483
of September, the lesser of one-half of the amount certified for 121484
that fiscal year under division (A)(2) of this section or the 121485
balance in the school district property tax replacement fund; 121486

(2) Between the first and fifth days of May, the lesser of 121487
one-half of the amount certified for that fiscal year under 121488
division (A)(2) of this section or the balance in the school 121489
district property tax replacement fund. 121490

~~(H)~~(I) On the first day of June each year, the director of 121491
budget and management shall transfer any balance remaining in the 121492
school district property tax replacement fund after the payments 121493
have been made under divisions (C), (D), (E), (F), ~~and~~ (G), and 121494
(H) of this section to the half-mill equalization fund created 121495
under section 3318.18 of the Revised Code to the extent required 121496
to make any payments in the current fiscal year under that 121497
section, and shall transfer the remaining balance to the general 121498
revenue fund. 121499

~~(I)~~ (J) ~~From~~ After fiscal year 2002 ~~through fiscal year 2016~~, 121500
if the total amount in the school district property tax 121501
replacement fund is insufficient to make all payments under 121502
divisions (C), (D), (E), ~~and~~ (F), and (G) of this section at the 121503
time the payments are to be made, the director of budget and 121504
management shall transfer from the general revenue fund to the 121505
school district property tax replacement fund the difference 121506
between the total amount to be paid and the total amount in the 121507
school district property tax replacement fund, except that no 121508

transfer shall be made by reason of a deficiency to the extent 121509
that it results from the amendment of section 5727.84 of the 121510
Revised Code by Amended Substitute House Bill No. 95 of the 125th 121511
general assembly. 121512

~~(J)~~(K) If all of the territory of a school district or joint 121513
vocational school district is merged with an existing district, or 121514
if a part of the territory of a school district or joint 121515
vocational school district is transferred to an existing or new 121516
district, the department of education, in consultation with the 121517
tax commissioner, shall adjust the payments made under this 121518
section as follows: 121519

(1) For the merger of all of the territory of two or more 121520
districts, the ~~fixed rate levy loss and the total resources, 2011~~ 121521
~~current expense S.B. 3 allocation, total 2011 S.B. 3 allocation,~~ 121522
~~2011 non-current expense S.B. 3 allocation, and fixed-sum levy~~ 121523
loss of the successor district shall be equal to the sum of the 121524
~~fixed rate levy losses and the total resources, 2011 current~~ 121525
~~expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011~~ 121526
~~non-current expense S.B. 3 allocation, and fixed-sum levy losses~~ 121527
~~loss~~ for each of the districts involved in the merger. 121528

(2) For the transfer of a part of one district's territory to 121529
an existing district, the amount of the ~~fixed rate levy loss total~~ 121530
~~resources, 2011 current expense S.B. 3 allocation, total 2011 S.B.~~ 121531
~~3 allocation, and 2011 non-current expense S.B. 3 allocation~~ that 121532
is transferred to the recipient district shall be an amount equal 121533
to the transferring district's ~~total fixed rate levy loss total~~ 121534
~~resources, 2011 current expense S.B. 3 allocation, total 2011 S.B.~~ 121535
~~3 allocation, and 2011 non-current expense S.B. 3 allocation~~ times 121536
a fraction, the numerator of which is the ~~value of electric~~ 121537
~~company tangible personal property located in the part of the~~ 121538
~~territory that was~~ number of pupils being transferred to the 121539
recipient district, measured, in the case of a school district, by 121540

average daily membership as reported under division (A) of section 121541
3317.03 of the Revised Code or, in the case of a joint vocational 121542
school district, by formula ADM as reported in division (D) of 121543
that section, and the denominator of which is the ~~total value of~~ 121544
~~electric company tangible personal property located in the entire 121545~~
~~district from which the territory was transferred. The value of 121546~~
~~electric company tangible personal property under this division 121547~~
~~shall be determined for the most recent year for which data is 121548~~
~~available average daily membership or formula ADM of the 121549~~
~~transferor district. Fixed-sum levy losses for both districts 121550~~
~~shall be determined under division ~~(J)~~(K)(4) of this section. 121551~~

(3) For the transfer of a part of the territory of one or 121552
more districts to create a new district: 121553

(a) If the new district is created on or after January 1, 121554
2000, but before January 1, 2005, the new district shall be paid 121555
its current fixed-rate levy loss through August 2009. ~~From In~~ 121556
~~February 2010 to, August 2016~~ 2010, and February 2011, the new 121557
district shall be paid fifty per cent of the lesser of: (i) the 121558
amount calculated under division (C)(2) of this section or (ii) an 121559
amount equal to seventy per cent of the new district's fixed-rate 121560
levy loss ~~multiplied by the percentage prescribed by the following 121561~~
~~schedule:~~ 121562

YEAR	PERCENTAGE	
2010	70%	121563
2011	70%	121564
2012	60%	121565
2013	50%	121566
2014	40%	121567
2015	24%	121568
2016	11.5%	121569
2017 and thereafter	0%	121570

Beginning in fiscal year 2012, the new district shall be paid 121572

as provided in division (C) of this section. 121573

Fixed-sum levy losses for the districts shall be determined 121574
under division ~~(J)~~(K)(4) of this section. 121575

(b) If the new district is created on or after January 1, 121576
2005, the new district shall be deemed not to have any fixed-rate 121577
levy loss or, except as provided in division ~~(J)~~(K)(4) of this 121578
section, fixed-sum levy loss. The district or districts from which 121579
the territory was transferred shall have no reduction in their 121580
fixed-rate levy loss, or, except as provided in division ~~(J)~~(K)(4) 121581
of this section, their fixed-sum levy loss. 121582

(4) If a recipient district under division ~~(J)~~(K)(2) of this 121583
section or a new district under division ~~(J)~~(K)(3)(a) or (b) of 121584
this section takes on debt from one or more of the districts from 121585
which territory was transferred, and any of the districts 121586
transferring the territory had fixed-sum levy losses, the 121587
department of education, in consultation with the tax 121588
commissioner, shall make an equitable division of the fixed-sum 121589
levy losses. 121590

~~(K) There is hereby created the public utility property tax 121591
study committee, effective January 1, 2011. The committee shall 121592
consist of the following seven members: the tax commissioner, 121593
three members of the senate appointed by the president of the 121594
senate, and three members of the house of representatives 121595
appointed by the speaker of the house of representatives. The 121596
appointments shall be made not later than January 31, 2011. The 121597
tax commissioner shall be the chairperson of the committee. 121598~~

~~The committee shall study the extent to which each school 121599
district or joint vocational school district has been compensated, 121600
under sections 5727.84 and 5727.85 of the Revised Code as enacted 121601
by Substitute Senate Bill No. 3 of the 123rd general assembly and 121602
any subsequent acts, for the property tax loss caused by the 121603~~

~~reduction in the assessment rates for natural gas, electric, and rural electric company tangible personal property. Not later than June 30, 2011, the committee shall issue a report of its findings, including any recommendations for providing additional compensation for the property tax loss or regarding remedial legislation, to the president of the senate and the speaker of the house of representatives, at which time the committee shall cease to exist.~~

~~The department of taxation and department of education shall provide such information and assistance as is required for the committee to carry out its duties.~~

Sec. 5727.86. (A) Not later than January 1, 2002, the tax commissioner shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), (3), and (4) and division (E) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner determined, pursuant to division (H) of section 5727.84 of the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in divisions (A)(3) and (4) of this section, ~~for fixed rate levy losses determined under division (G) of section 5727.84 of the Revised Code, payments shall be made in each of the following years at the following percentage of the fixed rate levy loss certified under division (A) of this section:~~

YEAR	PERCENTAGE
2002	100%
2003	100%
2004	100%
2005	100%

2006	100%	121635
2007	80%	121636
2008	80%	121637
2009	80%	121638
2010	80%	121639
2011	80%	121640
2012	66.7%	121641
2013	53.4%	121642
2014	40.1%	121643
2015	26.8%	121644
2016	13.5%	121645
2017 and thereafter	0%	121646

the following amounts shall be paid on or before the thirty-first day of August and the twenty-eighth day of February: 121647
121648

(a) For years 2002 through 2006, fifty per cent of the fixed-rate levy loss computed under division (G) of section 5727.84 of the Revised Code; 121649
121650
121651

(b) For years 2007 through 2010, forty per cent of the fixed rate levy loss computed under division (G) of section 5727.84 of the Revised Code; 121652
121653
121654

(c) For the payment in 2011 to be made on or before the twentieth day of February, the amount required to be paid in 2010 on or before the twentieth day of February; 121655
121656
121657

(d) For the payment in 2011 to be made on or before the thirty-first day of August and for all payments to be made in years 2012 and thereafter, the sum of the amounts in divisions (A)(1)(d)(i) or (ii) and (iii) of this section: 121658
121659
121660
121661

(i) If the ratio of fifty per cent of the taxing unit's 2010 S.B. 3 allocation to its total resources is equal to or less than the threshold per cent, zero; 121662
121663
121664

(ii) If the ratio of fifty per cent of the taxing unit's 2010 121665

S.B. 3 allocation to its total resources is greater than the 121666
threshold per cent, the difference of fifty per cent of the 2010 121667
S.B. 3 allocation minus the product of total resources multiplied 121668
by the threshold per cent; 121669

(iii) In the case of a municipal corporation, fifty per cent 121670
of the product of its 2010 non-current expense S.B. 3 allocation 121671
multiplied by seventy-five per cent for year 2011, fifty per cent 121672
for year 2012, and twenty-five percent for years 2013 and 121673
thereafter. 121674

(2) For fixed-sum levy losses determined under division (H) 121675
of section 5727.84 of the Revised Code, payments shall be made in 121676
the amount of one hundred per cent of the fixed-sum levy loss for 121677
payments required to be made in 2002 and thereafter. 121678

(3) A local taxing unit in a county of less than two hundred 121679
fifty square miles that receives eighty per cent or more of its 121680
combined general fund and bond retirement fund revenues from 121681
property taxes and rollbacks based on 1997 actual revenues as 121682
presented in its 1999 tax budget, and in which electric companies 121683
and rural electric companies comprise over twenty per cent of its 121684
property valuation, shall receive one hundred per cent of its 121685
fixed-rate levy losses from electric company tax value losses 121686
certified under division (A) of this section in years 2002 to ~~2016~~ 121687
2010. Beginning in 2011, payments for such local taxing units 121688
shall be determined under division (A)(1) of this section. 121689

(4) For taxes levied within the ten-mill limitation or 121690
pursuant to a municipal charter for debt purposes in tax year 1998 121691
in the case of electric company tax value losses, and in tax year 121692
1999 in the case of natural gas company tax value losses, payments 121693
shall be made equal to one hundred per cent of the loss computed 121694
as if the tax were a fixed-rate levy, but those payments shall 121695
extend from ~~fiscal year 2006~~ 2011 through ~~fiscal year~~ 2016 if the 121696
levy was imposed for debt purposes in tax year 2010. If the levy 121697

is not imposed for debt purposes in tax year 2010 or any following 121698
tax year before tax year 2016, payments for that levy shall be 121699
made under division (A)(1) of this section beginning with the 121700
first year after the year the levy is imposed for a purpose other 121701
than debt. For the purposes of this division, taxes levied 121702
pursuant to a municipal charter refer to taxes levied pursuant to 121703
a provision of a municipal charter that permits the tax to be 121704
levied without prior voter approval. 121705

(B) Beginning in 2003, by the thirty-first day of January of 121706
each year, the tax commissioner shall review the calculation 121707
originally made under division (A) of this section of the 121708
fixed-sum levy loss determined under division (H) of section 121709
5727.84 of the Revised Code. If the commissioner determines that a 121710
fixed-sum levy that had been scheduled to be reimbursed in the 121711
current year has expired, a revised calculation for that and all 121712
subsequent years shall be made. 121713

(C) Payments to local taxing units required to be made under 121714
divisions (A) and (E) of this section shall be paid from the local 121715
government property tax replacement fund to the county undivided 121716
income tax fund in the proper county treasury. ~~One half of the~~ 121717
~~amount certified under those divisions shall be paid between the~~ 121718
~~twenty-first and twenty-eighth days of August and of February.~~ The 121719
county treasurer shall distribute amounts paid under division (A) 121720
of this section to the proper local taxing unit as if they had 121721
been levied and collected as taxes, and the local taxing unit 121722
shall apportion the amounts so received among its funds in the 121723
same proportions as if those amounts had been levied and collected 121724
as taxes. Except in the case of amounts distributed to the county 121725
as a local taxing unit, amounts distributed under division (E)(2) 121726
of this section shall be credited to the general fund of the local 121727
taxing unit that receives them. Amounts distributed to each county 121728
as a local taxing unit under division (E)(2) of this section shall 121729

be credited in the proportion that the current taxes charged and 121730
payable from each levy of or by the county bears to the total 121731
current taxes charged and payable from all levies of or by the 121732
county. 121733

(D) By February 5, 2002, the tax commissioner shall estimate 121734
the amount of money in the local government property tax 121735
replacement fund in excess of the amount necessary to make 121736
payments in that month under division (C) of this section. 121737
Notwithstanding division (A) of this section, the tax commissioner 121738
may pay any local taxing unit, from those excess funds, nine and 121739
four-tenths times the amount computed for 2002 under division 121740
(A)(1) of this section. A payment made under this division shall 121741
be in lieu of the payment to be made in February 2002 under 121742
division (A)(1) of this section. A local taxing unit receiving a 121743
payment under this division will no longer be entitled to any 121744
further payments under division (A)(1) of this section. A payment 121745
made under this division shall be paid from the local government 121746
property tax replacement fund to the county undivided income tax 121747
fund in the proper county treasury. The county treasurer shall 121748
distribute the payment to the proper local taxing unit as if it 121749
had been levied and collected as taxes, and the local taxing unit 121750
shall apportion the amounts so received among its funds in the 121751
same proportions as if those amounts had been levied and collected 121752
as taxes. 121753

(E)(1) On the thirty-first day of July of 2002, 2003, 2004, 121754
2005, and 2006, and on the thirty-first day of January and July of 121755
2007 ~~and each year thereafter~~ through January 2011, if the amount 121756
credited to the local government property tax replacement fund 121757
exceeds the amount needed to be distributed from the fund under 121758
division (A) of this section in the following month, the tax 121759
commissioner shall distribute the excess to each county as 121760
follows: 121761

(a) One-half shall be distributed to each county in proportion to each county's population. 121762
121763

(b) One-half shall be distributed to each county in the proportion that the amounts determined under divisions (G) and (H) of section 5727.84 of the Revised Code for all local taxing units in the county is of the total amounts so determined for all local taxing units in the state. 121764
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(2) The amounts distributed to each county under division (E) of this section shall be distributed by the county auditor to each local taxing unit in the county in the proportion that the unit's current taxes charged and payable are of the total current taxes charged and payable of all the local taxing units in the county. If the amount that the county auditor determines to be distributed to a local taxing unit is less than five dollars, that amount shall not be distributed, and the amount not distributed shall remain credited to the county undivided income tax fund. At the time of the next distribution under division (E)(2) of this section, any amount that had not been distributed in the prior distribution shall be added to the amount available for the next distribution prior to calculation of the amount to be distributed. As used in this division, "current taxes charged and payable" means the taxes charged and payable as most recently determined for local taxing units in the county. 121769
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~~(3) If, in the opinion of the tax commissioner, the excess remaining in the local government property tax replacement fund in any year is not sufficient to warrant distribution After January 2011, any amount that exceeds the amount needed to be distributed from the fund under division (E)(A) of this section, the excess shall remain to the credit of in the following month shall be transferred to the general revenue fund.~~ 121785
121786
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121791

~~(F) From fiscal year 2002 through fiscal year 2016, if~~ If the total amount in the local government property tax replacement fund 121792
121793

is insufficient to make all payments under division (C) of this 121794
section at the times the payments are to be made, the director of 121795
budget and management shall transfer from the general revenue fund 121796
to the local government property tax replacement fund the 121797
difference between the total amount to be paid and the amount in 121798
the local government property tax replacement fund, except that no 121799
transfer shall be made by reason of a deficiency to the extent 121800
that it results from the amendment of section 5727.84 of the 121801
Revised Code by Amended Substitute House Bill 95 of the 125th 121802
general assembly. 121803

(G) If all or a part of the territories of two or more local 121804
taxing units are merged, or unincorporated territory of a township 121805
is annexed by a municipal corporation, the tax commissioner shall 121806
adjust the payments made under this section to each of the local 121807
taxing units in proportion to the ~~tax value less~~ square mileage 121808
apportioned to the merged or annexed territory, or as otherwise 121809
provided by a written agreement between the legislative 121810
authorities of the local taxing units certified to the tax 121811
commissioner not later than the first day of June of the calendar 121812
year in which the payment is to be made. 121813

Sec. 5729.17. (A) As used in this section, "certificate 121814
owner" has the same meaning as in section 149.311 of the Revised 121815
Code. 121816

(B) There is allowed a credit against the tax imposed by 121817
section 5729.03 of the Revised Code for an insurance company 121818
subject to that tax that is a certificate owner of a 121819
rehabilitation tax credit certificate issued under section 149.311 121820
of the Revised Code. The credit shall equal twenty-five per cent 121821
of the dollar amount indicated on the certificate, but the amount 121822
of the credit allowed for any company for any year shall not 121823
exceed five million dollars. The credit shall be claimed in the 121824

calendar year specified in the certificate and in the order 121825
required under section 5729.98 of the Revised Code. If the credit 121826
exceeds the amount of tax otherwise due in that year, the excess 121827
shall be refunded to the company but, if any amount of the credit 121828
is refunded, the sum of the amount refunded and the amount applied 121829
to reduce the tax otherwise due in that year shall not exceed 121830
three million dollars. The company may carry forward any balance 121831
of the credit in excess of the amount claimed in that year for not 121832
more than five ensuing years, and shall deduct any amount claimed 121833
in any such year from the amount claimed in an ensuing year. 121834

(C) An insurance company claiming a credit under this section 121835
shall retain the rehabilitation tax credit certificate for four 121836
years following the end of the year in which the credit was 121837
claimed, and shall make the certificate available for inspection 121838
by the tax commissioner upon the request of the tax commissioner 121839
during that period. 121840

Sec. 5729.98. (A) To provide a uniform procedure for 121841
calculating the amount of tax due under this chapter, a taxpayer 121842
shall claim any credits and offsets against tax liability to which 121843
it is entitled in the following order: 121844

(1) The credit for an insurance company or insurance company 121845
group under section 5729.031 of the Revised Code; 121846

(2) The credit for eligible employee training costs under 121847
section 5729.07 of the Revised Code; 121848

(3) The credit for purchases of qualified low-income 121849
community investments under section 5729.16 of the Revised Code; 121850

(4) The nonrefundable job retention credit under division 121851
(B)(1) of section 122.171 of the Revised Code; 121852

(5) The offset of assessments by the Ohio life and health 121853
insurance guaranty association against tax liability permitted by 121854

section 3956.20 of the Revised Code;	121855	
(6) <u>The refundable credit for rehabilitating a historic building under section 5729.17 of the Revised Code.</u>	121856 121857	
(7) The refundable credit for Ohio job retention under division (B)(2) <u>or (3)</u> of section 122.171 of the Revised Code;	121858 121859	
(7) (8) The refundable credit for Ohio job creation under section 5729.032 of the Revised Code;	121860 121861	
(8) (9) The refundable credit under section 5729.08 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.	121862 121863 121864 121865	
(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	121866 121867 121868 121869 121870 121871 121872 121873	
Sec. 5731.02. (A) A tax is hereby levied on the transfer of the taxable estate, determined as provided in section 5731.14 of the Revised Code, of every person dying on or after July 1, 1968, <u>and before January 1, 2013,</u> who at the time of death was a resident of this state, as follows:	121874 121875 121876 121877 121878	
If the taxable estate is:	The tax shall be:	121879
Not over \$40,000	2% of the taxable estate	121880
Over \$40,000 but not over \$100,000	\$800 plus 3% of the excess over \$40,000	121881
Over \$100,000 but not over \$200,000	\$2,600 plus 4% of the excess over \$100,000	121882

Over \$200,000 but not over \$300,000	\$6,600 plus 5% of the excess over \$200,000	121883
Over \$300,000 but not over \$500,000	\$11,600 plus 6% of the excess over \$300,000	121884
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000.	121885

(B) A credit shall be allowed against the tax imposed by 121886
division (A) of this section equal to the lesser of five hundred 121887
dollars or the amount of the tax for persons dying on or after 121888
July 1, 1968, but before January 1, 2001; the lesser of six 121889
thousand six hundred dollars or the amount of the tax for persons 121890
dying on or after January 1, 2001, but before January 1, 2002; or 121891
the lesser of thirteen thousand nine hundred dollars or the amount 121892
of the tax for persons dying on or after January 1, 2002. 121893

Sec. 5731.19. (A) A tax is hereby levied upon the transfer of 121894
so much of the taxable estate of every person dying on or after 121895
July 1, 1968, and before January 1, 2013, who, at the time of ~~his~~ 121896
death, was not a resident of this state, as consists of real 121897
property situated in this state, tangible personal property having 121898
an actual situs in this state, and intangible personal property 121899
employed in carrying on a business within this state unless 121900
exempted from tax under the provisions of section 5731.34 of the 121901
Revised Code. 121902

(B) The amount of the tax on such real and tangible personal 121903
property shall be determined as follows: 121904

(1) Determine the amount of tax which would be payable under 121905
Chapter 5731. of the Revised Code if the decedent had died a 121906
resident of this state with all ~~his~~ the decedent's property 121907
situated or located within this state; 121908

(2) Multiply the tax so determined by a fraction, the 121909
denominator of which shall be the value of the gross estate 121910

wherever situated and the numerator of which shall be the said 121911
gross estate value of the real property situated and the tangible 121912
personal property having an actual situs in this state and 121913
intangible personal property employed in carrying on a business 121914
within this state and not exempted from tax under section 5731.34 121915
of the Revised Code. The product shall be the amount of tax 121916
payable to this state. 121917

(C) In addition to the tax levied by division (A) of this 121918
section, an additional tax is hereby levied on such real and 121919
tangible personal property determined as follows: 121920

(1) Determine the amount of tax which would be payable under 121921
division (A) of section 5731.18 of the Revised Code, if the 121922
decedent had died a resident of this state with all ~~his~~ the 121923
decedent's property situated or located within this state; 121924

(2) Multiply the tax so determined by a fraction, the 121925
denominator of which shall be the value of the gross estate 121926
wherever situated and the numerator of which shall be the said 121927
gross estate value of the real property situated and the tangible 121928
property having an actual situs in this state and intangible 121929
personal property employed in carrying on a business within this 121930
state and not exempted from tax under section 5731.34 of the 121931
Revised Code. The product so derived shall be credited with the 121932
amount of the tax determined under division (B) of this section. 121933

Sec. 5731.21. (A)(1)(a) Except as provided under division 121934
(A)(3) of this section, the executor or administrator, or, if no 121935
executor or administrator has been appointed, another person in 121936
possession of property the transfer of which is subject to estate 121937
taxes under section 5731.02 or division (A) of section 5731.19 of 121938
the Revised Code, shall file an estate tax return, within nine 121939
months of the date of the decedent's death, in the form prescribed 121940
by the tax commissioner, in duplicate, with the probate court of 121941

the county. The return shall include all property the transfer of 121942
which is subject to estate taxes, whether that property is 121943
transferred under the last will and testament of the decedent or 121944
otherwise. The time for filing the return may be extended by the 121945
tax commissioner. 121946

(b) The estate tax return described in division (A)(1)(a) of 121947
this section shall be accompanied by a certificate, in the form 121948
prescribed by the tax commissioner, that is signed by the 121949
executor, administrator, or other person required to file the 121950
return, and that states all of the following: 121951

(i) The fact that the return was filed; 121952

(ii) The date of the filing of the return; 121953

(iii) The fact that the estate taxes under section 5731.02 or 121954
division (A) of section 5731.19 of the Revised Code, that are 121955
shown to be due in the return, have been paid in full; 121956

(iv) If applicable, the fact that real property listed in the 121957
inventory for the decedent's estate is included in the return; 121958

(v) If applicable, the fact that real property not listed in 121959
the inventory for the decedent's estate, including, but not 121960
limited to, survivorship tenancy property as described in section 121961
5302.17 of the Revised Code or transfer on death property as 121962
described in sections 5302.22 and 5302.23 of the Revised Code, 121963
also is included in the return. In this regard, the certificate 121964
additionally shall describe that real property by the same 121965
description used in the return. 121966

(2) The probate court shall forward one copy of the estate 121967
tax return described in division (A)(1)(a) of this section to the 121968
tax commissioner. 121969

(3) A person shall not be required to file a return under 121970
division (A) of this section if the decedent was a resident of 121971

this state and the value of the decedent's gross estate is 121972
twenty-five thousand dollars or less in the case of a decedent 121973
dying on or after July 1, 1968, but before January 1, 2001; two 121974
hundred thousand dollars or less in the case of a decedent dying 121975
on or after January 1, 2001, but before January 1, 2002; or three 121976
hundred thirty-eight thousand three hundred thirty-three dollars 121977
or less in the case of a decedent dying on or after January 1, 121978
2002. No return shall be filed for estates of decedents dying on 121979
or after January 1, 2013. 121980

(4)(a) Upon receipt of the estate tax return described in 121981
division (A)(1)(a) of this section and the accompanying 121982
certificate described in division (A)(1)(b) of this section, the 121983
probate court promptly shall give notice of the return, by a form 121984
prescribed by the tax commissioner, to the county auditor. The 121985
auditor then shall make a charge based upon the notice and shall 121986
certify a duplicate of the charge to the county treasurer. The 121987
treasurer then shall collect, subject to division (A) of section 121988
5731.25 of the Revised Code or any other statute extending the 121989
time for payment of an estate tax, the tax so charged. 121990

(b) Upon receipt of the return and the accompanying 121991
certificate, the probate court also shall forward the certificate 121992
to the auditor. When satisfied that the estate taxes under section 121993
5731.02 or division (A) of section 5731.19 of the Revised Code, 121994
that are shown to be due in the return, have been paid in full, 121995
the auditor shall stamp the certificate so forwarded to verify 121996
that payment. The auditor then shall return the stamped 121997
certificate to the probate court. 121998

(5)(a) The certificate described in division (A)(1)(b) of 121999
this section is a public record subject to inspection and copying 122000
in accordance with section 149.43 of the Revised Code. It shall be 122001
kept in the records of the probate court pertaining to the 122002
decedent's estate and is not subject to the confidentiality 122003

provisions of section 5731.90 of the Revised Code. 122004

(b) All persons are entitled to rely on the statements 122005
contained in a certificate as described in division (A)(1)(b) of 122006
this section if it has been filed in accordance with that 122007
division, forwarded to a county auditor and stamped in accordance 122008
with division (A)(4) of this section, and placed in the records of 122009
the probate court pertaining to the decedent's estate in 122010
accordance with division (A)(5)(a) of this section. The real 122011
property referred to in the certificate shall be free of, and may 122012
be regarded by all persons as being free of, any lien for estate 122013
taxes under section 5731.02 and division (A) of section 5731.19 of 122014
the Revised Code. 122015

(B) An estate tax return filed under this section, in the 122016
form prescribed by the tax commissioner, and showing that no 122017
estate tax is due shall result in a determination that no estate 122018
tax is due, if the tax commissioner within three months after the 122019
receipt of the return by the department of taxation, fails to file 122020
exceptions to the return in the probate court of the county in 122021
which the return was filed. A copy of exceptions to a return of 122022
that nature, when the tax commissioner files them within that 122023
period, shall be sent by ordinary mail to the person who filed the 122024
return. The tax commissioner is not bound under this division by a 122025
determination that no estate tax is due, with respect to property 122026
not disclosed in the return. 122027

(C) If the executor, administrator, or other person required 122028
to file an estate tax return fails to file it within nine months 122029
of the date of the decedent's death, the tax commissioner may 122030
determine the estate tax in that estate and issue a certificate of 122031
determination in the same manner as is provided in division (B) of 122032
section 5731.27 of the Revised Code. A certificate of 122033
determination of that nature has the same force and effect as 122034
though a return had been filed and a certificate of determination 122035

issued with respect to the return. 122036

Sec. 5731.39. (A) No corporation organized or existing under 122037
the laws of this state shall transfer on its books or issue a new 122038
certificate for any share of its capital stock registered in the 122039
name of a decedent, or in trust for a decedent, or in the name of 122040
a decedent and another person or persons, without the written 122041
consent of the tax commissioner. 122042

(B) No safe deposit company, trust company, financial 122043
institution as defined in division (A) of section 5725.01 of the 122044
Revised Code or other corporation or person, having in possession, 122045
control, or custody a deposit standing in the name of a decedent, 122046
or in trust for a decedent, or in the name of a decedent and 122047
another person or persons, shall deliver or transfer an amount in 122048
excess of three-fourths of the total value of such deposit, 122049
including accrued interest and dividends, as of the date of 122050
decedent's death, without the written consent of the tax 122051
commissioner. The written consent of the tax commissioner need not 122052
be obtained prior to the delivery or transfer of amounts having a 122053
value of three-fourths or less of said total value. 122054

(C) No life insurance company shall pay the proceeds of an 122055
annuity or matured endowment contract, or of a life insurance 122056
contract payable to the estate of a decedent, or of any other 122057
insurance contract taxable under Chapter 5731. of the Revised 122058
Code, without the written consent of the tax commissioner. Any 122059
life insurance company may pay the proceeds of any insurance 122060
contract not specified in this division (C) without the written 122061
consent of the tax commissioner. 122062

(D) No trust company or other corporation or person shall pay 122063
the proceeds of any death benefit, retirement, pension or profit 122064
sharing plan in excess of two thousand dollars, without the 122065
written consent of the tax commissioner. Such trust company or 122066

other corporation or person, however, may pay the proceeds of any death benefit, retirement, pension, or profit-sharing plan which consists of insurance on the life of the decedent payable to a beneficiary other than the estate of the insured without the written consent of the tax commissioner.

(E) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person, having in possession, control, or custody securities, assets, or other property (including the shares of the capital stock of, or other interest in, such safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation), standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, and the transfer of which is taxable under Chapter 5731. of the Revised Code, shall deliver or transfer any such securities, assets, or other property which have a value as of the date of decedent's death in excess of three-fourths of the total value thereof, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of any such securities, assets, or other property having a value of three-fourths or less of said total value.

(F) No safe deposit company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person having possession or control of a safe deposit box or similar receptacle standing in the name of a decedent or in the name of the decedent and another person or persons, or to which the decedent had a right of access, except when such safe deposit box or other receptacle stands in the name of a corporation or partnership, or in the name of the decedent as guardian or executor, shall deliver any of the contents thereof

unless the safe deposit box or similar receptacle has been opened 122099
and inventoried in the presence of the tax commissioner or the 122100
commissioner's agent, and a written consent to transfer issued; 122101
provided, however, that a safe deposit company, financial 122102
institution, or other corporation or person having possession or 122103
control of a safe deposit box may deliver wills, deeds to burial 122104
lots, and insurance policies to a representative of the decedent, 122105
but that a representative of the safe deposit company, financial 122106
institution, or other corporation or person must supervise the 122107
opening of the box and make a written record of the wills, deeds, 122108
and policies removed. Such written record shall be included in the 122109
tax commissioner's inventory records. 122110

(G) Notwithstanding any provision of this section: 122111

(1) The tax commissioner may authorize any delivery or 122112
transfer or waive any of the foregoing requirements under such 122113
terms and conditions as the commissioner may prescribe; 122114

(2) An adult care facility, as defined in section ~~3722.01~~ 122115
5119.70 of the Revised Code, or a home, as defined in section 122116
3721.10 of the Revised Code, may transfer or use the money in a 122117
personal needs allowance account in accordance with section 122118
5111.113 of the Revised Code without the written consent of the 122119
tax commissioner, and without the account having been opened and 122120
inventoried in the presence of the commissioner or the 122121
commissioner's agent. 122122

Failure to comply with this section shall render such safe 122123
deposit company, trust company, life insurance company, financial 122124
institution as defined in division (A) of section 5725.01 of the 122125
Revised Code, or other corporation or person liable for the amount 122126
of the taxes and interest due under the provisions of Chapter 122127
5731. of the Revised Code on the transfer of such stock, deposit, 122128
proceeds of an annuity or matured endowment contract or of a life 122129
insurance contract payable to the estate of a decedent, or other 122130

insurance contract taxable under Chapter 5731. of the Revised Code, proceeds of any death benefit, retirement, pension, or profit sharing plan in excess of two thousand dollars, or securities, assets, or other property of any resident decedent, and in addition thereto, to a penalty of not less than five hundred or more than five thousand dollars.

Sec. 5733.0610. (A) A refundable corporation franchise tax credit granted by the tax credit authority under section 122.17 or division (B)(2) or (3) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5733.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax year. The refundable credit shall not be claimed for any tax years following the calendar year in which a relocation of employment positions occurs in violation of an agreement entered into under section 122.171 of the Revised Code.

(B) A nonrefundable corporation franchise tax credit granted by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5733.98 of the Revised Code.

Sec. 5733.23. In addition to all other remedies for the collection of any taxes or penalties due under law, whenever any taxes, fees, or penalties due from any corporation have remained unpaid for a period of ninety days, or whenever any corporation has failed for a period of ninety days to make any report or return required by law, or to pay any penalty for failure to make or file such report or return, the attorney general, upon the request of the tax commissioner, shall file a petition in the court of common pleas in the county of the state in which such corporation has its principal place of business for a judgment for

the amount of the taxes or penalties appearing to be due, the 122162
enforcement of any lien in favor of the state, and an injunction 122163
to restrain such corporation and its officers, directors, and 122164
managing agents from the transaction of any business within this 122165
state, other than such acts as are incidental to liquidation or 122166
winding up, until the payment of such taxes, fees, and penalties, 122167
and the costs of the proceeding which shall be fixed by the court, 122168
or the making and filing of such report or return. 122169

Such petition shall be in the name of the state. All or any 122170
of the corporations having their principal places of business in 122171
the county may be joined in one suit. On the motion of the 122172
attorney general, the court of common pleas shall enter an order 122173
requiring all defendants to answer by a day certain, and may 122174
appoint a special master commissioner to take testimony, with such 122175
other power and authority as the court confers, and permitting 122176
process to be served by registered mail and by publication in a 122177
newspaper of general circulation ~~published~~ in the county, which 122178
publication need not be made more than once, setting forth the 122179
name of each delinquent corporation, the matter in which such 122180
corporation is delinquent, the names of its officers, directors, 122181
and managing agents, if set forth in the petition, and the amount 122182
of any taxes, fees, or penalties claimed to be owing by said 122183
corporation. 122184

All or any of the officers, directors, shareholders, or 122185
managing agents of any corporation may be joined as defendants 122186
with such corporation. 122187

If it appears to the court upon hearing that any corporation 122188
which is a party to such proceeding is indebted to the state for 122189
taxes, fees, or penalties, judgment shall be entered therefor with 122190
interest; and if it appears that any corporation has failed to 122191
make or file any report or return, a mandatory injunction may be 122192
issued against such corporation, its officers, directors, and 122193

managing agents, enjoining them from the transaction of any 122194
business within this state, other than acts incidental to 122195
liquidation or winding up, until the making and filing of all 122196
proper reports or returns and until the payment in full of all 122197
taxes, fees, and penalties. 122198

If the officers, directors, shareholders, or managing agents 122199
of a corporation are not made parties in the first instance, and a 122200
judgment or an injunction is rendered or issued against such 122201
corporation, such officers, directors, shareholders, or managing 122202
agents may be made parties to such proceedings upon the motion of 122203
the attorney general, and, upon notice to them of the form and 122204
terms of such injunction, they shall be bound thereby as fully as 122205
if they had been made parties in the first instance. 122206

In any action authorized by this section, a statement of the 122207
commissioner, or the secretary of state, when duly certified, 122208
shall be prima-facie evidence of the amount of taxes, fees, or 122209
penalties due from any corporation, or of the failure of any 122210
corporation to file with the commissioner or the secretary of 122211
state any report required by law, and any such certificate of the 122212
commissioner or the secretary of state may be required in evidence 122213
in any such proceeding. 122214

On the application of any defendant and for good cause shown, 122215
the court may order a separate hearing of the issues as to any 122216
defendant. 122217

The costs of the proceeding shall be apportioned among the 122218
parties as the court deems proper. 122219

The court in such proceeding may make, enter, and enforce 122220
such other judgments and orders and grant such other relief as is 122221
necessary or incidental to the enforcement of the claims and lien 122222
of the state. 122223

In the performance of the duties enjoined upon ~~him~~ the 122224

attorney general by this section the attorney general may direct 122225
any prosecuting attorney to bring an action, as authorized by this 122226
section, in the name of the state with respect to any delinquent 122227
corporations within ~~his~~ the prosecuting attorney's county, and 122228
like proceedings and orders shall be had as if such action were 122229
instituted by the attorney general. 122230

Sec. 5739.01. As used in this chapter: 122231

(A) "Person" includes individuals, receivers, assignees, 122232
trustees in bankruptcy, estates, firms, partnerships, 122233
associations, joint-stock companies, joint ventures, clubs, 122234
societies, corporations, the state and its political subdivisions, 122235
and combinations of individuals of any form. 122236

(B) "Sale" and "selling" include all of the following 122237
transactions for a consideration in any manner, whether absolutely 122238
or conditionally, whether for a price or rental, in money or by 122239
exchange, and by any means whatsoever: 122240

(1) All transactions by which title or possession, or both, 122241
of tangible personal property, is or is to be transferred, or a 122242
license to use or consume tangible personal property is or is to 122243
be granted; 122244

(2) All transactions by which lodging by a hotel is or is to 122245
be furnished to transient guests; 122246

(3) All transactions by which: 122247

(a) An item of tangible personal property is or is to be 122248
repaired, except property, the purchase of which would not be 122249
subject to the tax imposed by section 5739.02 of the Revised Code; 122250

(b) An item of tangible personal property is or is to be 122251
installed, except property, the purchase of which would not be 122252
subject to the tax imposed by section 5739.02 of the Revised Code 122253
or property that is or is to be incorporated into and will become 122254

a part of a production, transmission, transportation, or 122255
distribution system for the delivery of a public utility service; 122256

(c) The service of washing, cleaning, waxing, polishing, or 122257
painting a motor vehicle is or is to be furnished; 122258

(d) Until August 1, 2003, industrial laundry cleaning 122259
services are or are to be provided and, on and after August 1, 122260
2003, laundry and dry cleaning services are or are to be provided; 122261

(e) Automatic data processing, computer services, or 122262
electronic information services are or are to be provided for use 122263
in business when the true object of the transaction is the receipt 122264
by the consumer of automatic data processing, computer services, 122265
or electronic information services rather than the receipt of 122266
personal or professional services to which automatic data 122267
processing, computer services, or electronic information services 122268
are incidental or supplemental. Notwithstanding any other 122269
provision of this chapter, such transactions that occur between 122270
members of an affiliated group are not sales. An "affiliated 122271
group" means two or more persons related in such a way that one 122272
person owns or controls the business operation of another member 122273
of the group. In the case of corporations with stock, one 122274
corporation owns or controls another if it owns more than fifty 122275
per cent of the other corporation's common stock with voting 122276
rights. 122277

(f) Telecommunications service, including prepaid calling 122278
service, prepaid wireless calling service, or ancillary service, 122279
is or is to be provided, but not including coin-operated telephone 122280
service; 122281

(g) Landscaping and lawn care service is or is to be 122282
provided; 122283

(h) Private investigation and security service is or is to be 122284
provided; 122285

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	122286 122287
(j) Building maintenance and janitorial service is or is to be provided;	122288 122289
(k) Employment service is or is to be provided;	122290
(l) Employment placement service is or is to be provided;	122291
(m) Exterminating service is or is to be provided;	122292
(n) Physical fitness facility service is or is to be provided;	122293 122294
(o) Recreation and sports club service is or is to be provided;	122295 122296
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	122297 122298
(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	122299 122300 122301 122302 122303 122304 122305 122306
(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;	122307 122308 122309 122310 122311 122312 122313 122314
(s) On and after August 1, 2003, motor vehicle towing service	122315

is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(u) Electronic publishing service is or is to be provided to a consumer for use in business, except that such transactions occurring between members of an affiliated group, as defined in division (B)(3)(e) of this section, are not sales.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of

portable grain bins, or the provision of landscaping and lawn care 122348
service and the transfer of property as part of such service is 122349
never a construction contract. 122350

As used in division (B)(5) of this section: 122351

(a) "Agricultural land tile" means fired clay or concrete 122352
tile, or flexible or rigid perforated plastic pipe or tubing, 122353
incorporated or to be incorporated into a subsurface drainage 122354
system appurtenant to land used or to be used directly in 122355
production by farming, agriculture, horticulture, or floriculture. 122356
The term does not include such materials when they are or are to 122357
be incorporated into a drainage system appurtenant to a building 122358
or structure even if the building or structure is used or to be 122359
used in such production. 122360

(b) "Portable grain bin" means a structure that is used or to 122361
be used by a person engaged in farming or agriculture to shelter 122362
the person's grain and that is designed to be disassembled without 122363
significant damage to its component parts. 122364

(6) All transactions in which all of the shares of stock of a 122365
closely held corporation are transferred, if the corporation is 122366
not engaging in business and its entire assets consist of boats, 122367
planes, motor vehicles, or other tangible personal property 122368
operated primarily for the use and enjoyment of the shareholders; 122369

(7) All transactions in which a warranty, maintenance or 122370
service contract, or similar agreement by which the vendor of the 122371
warranty, contract, or agreement agrees to repair or maintain the 122372
tangible personal property of the consumer is or is to be 122373
provided; 122374

(8) The transfer of copyrighted motion picture films used 122375
solely for advertising purposes, except that the transfer of such 122376
films for exhibition purposes is not a sale; 122377

(9) On and after August 1, 2003, all transactions by which 122378

tangible personal property is or is to be stored, except such 122379
property that the consumer of the storage holds for sale in the 122380
regular course of business; 122381

(10) All transactions in which "guaranteed auto protection" 122382
is provided whereby a person promises to pay to the consumer the 122383
difference between the amount the consumer receives from motor 122384
vehicle insurance and the amount the consumer owes to a person 122385
holding title to or a lien on the consumer's motor vehicle in the 122386
event the consumer's motor vehicle suffers a total loss under the 122387
terms of the motor vehicle insurance policy or is stolen and not 122388
recovered, if the protection and its price are included in the 122389
purchase or lease agreement; 122390

(11)(a) Except as provided in division (B)(11)(b) of this 122391
section, on and after October 1, 2009, all transactions by which 122392
health care services are paid for, reimbursed, provided, 122393
delivered, arranged for, or otherwise made available by a medicaid 122394
health insuring corporation pursuant to the corporation's contract 122395
with the state. 122396

(b) If the centers for medicare and medicaid services of the 122397
United States department of health and human services determines 122398
that the taxation of transactions described in division (B)(11)(a) 122399
of this section constitutes an impermissible health care-related 122400
tax under section 1903(w) of the "Social Security Act," 49 Stat. 122401
620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations 122402
adopted thereunder, the director of job and family services shall 122403
notify the tax commissioner of that determination. Beginning with 122404
the first day of the month following that notification, the 122405
transactions described in division (B)(11)(a) of this section are 122406
not sales for the purposes of this chapter or Chapter 5741. of the 122407
Revised Code. The tax commissioner shall order that the collection 122408
of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 122409
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code 122410

shall cease for transactions occurring on or after that date. 122411

Except as provided in this section, "sale" and "selling" do 122412
not include transfers of interest in leased property where the 122413
original lessee and the terms of the original lease agreement 122414
remain unchanged, or professional, insurance, or personal service 122415
transactions that involve the transfer of tangible personal 122416
property as an inconsequential element, for which no separate 122417
charges are made. 122418

(C) "Vendor" means the person providing the service or by 122419
whom the transfer effected or license given by a sale is or is to 122420
be made or given and, for sales described in division (B)(3)(i) of 122421
this section, the telecommunications service vendor that provides 122422
the nine hundred telephone service; if two or more persons are 122423
engaged in business at the same place of business under a single 122424
trade name in which all collections on account of sales by each 122425
are made, such persons shall constitute a single vendor. 122426

Physicians, dentists, hospitals, and veterinarians who are 122427
engaged in selling tangible personal property as received from 122428
others, such as eyeglasses, mouthwashes, dentifrices, or similar 122429
articles, are vendors. Veterinarians who are engaged in 122430
transferring to others for a consideration drugs, the dispensing 122431
of which does not require an order of a licensed veterinarian or 122432
physician under federal law, are vendors. 122433

(D)(1) "Consumer" means the person for whom the service is 122434
provided, to whom the transfer effected or license given by a sale 122435
is or is to be made or given, to whom the service described in 122436
division (B)(3)(f) or (i) of this section is charged, or to whom 122437
the admission is granted. 122438

(2) Physicians, dentists, hospitals, and blood banks operated 122439
by nonprofit institutions and persons licensed to practice 122440
veterinary medicine, surgery, and dentistry are consumers of all 122441

tangible personal property and services purchased by them in 122442
connection with the practice of medicine, dentistry, the rendition 122443
of hospital or blood bank service, or the practice of veterinary 122444
medicine, surgery, and dentistry. In addition to being consumers 122445
of drugs administered by them or by their assistants according to 122446
their direction, veterinarians also are consumers of drugs that 122447
under federal law may be dispensed only by or upon the order of a 122448
licensed veterinarian or physician, when transferred by them to 122449
others for a consideration to provide treatment to animals as 122450
directed by the veterinarian. 122451

(3) A person who performs a facility management, or similar 122452
service contract for a contractee is a consumer of all tangible 122453
personal property and services purchased for use in connection 122454
with the performance of such contract, regardless of whether title 122455
to any such property vests in the contractee. The purchase of such 122456
property and services is not subject to the exception for resale 122457
under division (E)(1) of this section. 122458

(4)(a) In the case of a person who purchases printed matter 122459
for the purpose of distributing it or having it distributed to the 122460
public or to a designated segment of the public, free of charge, 122461
that person is the consumer of that printed matter, and the 122462
purchase of that printed matter for that purpose is a sale. 122463

(b) In the case of a person who produces, rather than 122464
purchases, printed matter for the purpose of distributing it or 122465
having it distributed to the public or to a designated segment of 122466
the public, free of charge, that person is the consumer of all 122467
tangible personal property and services purchased for use or 122468
consumption in the production of that printed matter. That person 122469
is not entitled to claim exemption under division (B)(42)(f) of 122470
section 5739.02 of the Revised Code for any material incorporated 122471
into the printed matter or any equipment, supplies, or services 122472
primarily used to produce the printed matter. 122473

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(7) In the case of a transaction for health care services under division (B)(11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid health insuring corporation is not subject to the exception for resale under division (E)(1) of this section or to the exemptions provided under divisions (B)(12), (18), (19), and (22) of section 5739.02 of the Revised Code.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(i) The vendor's cost of the property sold;

(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;

(iii) Charges by the vendor for any services necessary to complete the sale;

(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price

reduction or discount through to the consumer; the amount of the 122535
consideration attributable to the sale is fixed and determinable 122536
by the vendor at the time of the sale of the item to the consumer; 122537
and one of the following criteria is met: 122538

(i) The consumer presents a coupon, certificate, or other 122539
document to the vendor to claim a price reduction or discount 122540
where the coupon, certificate, or document is authorized, 122541
distributed, or granted by a third party with the understanding 122542
that the third party will reimburse any vendor to whom the coupon, 122543
certificate, or document is presented; 122544

(ii) The consumer identifies the consumer's self to the 122545
seller as a member of a group or organization entitled to a price 122546
reduction or discount. A preferred customer card that is available 122547
to any patron does not constitute membership in such a group or 122548
organization. 122549

(iii) The price reduction or discount is identified as a 122550
third party price reduction or discount on the invoice received by 122551
the consumer, or on a coupon, certificate, or other document 122552
presented by the consumer. 122553

(c) "Price" does not include any of the following: 122554

(i) Discounts, including cash, term, or coupons that are not 122555
reimbursed by a third party that are allowed by a vendor and taken 122556
by a consumer on a sale; 122557

(ii) Interest, financing, and carrying charges from credit 122558
extended on the sale of tangible personal property or services, if 122559
the amount is separately stated on the invoice, bill of sale, or 122560
similar document given to the purchaser; 122561

(iii) Any taxes legally imposed directly on the consumer that 122562
are separately stated on the invoice, bill of sale, or similar 122563
document given to the consumer. For the purpose of this division, 122564
the tax imposed under Chapter 5751. of the Revised Code is not a 122565

tax directly on the consumer, even if the tax or a portion thereof 122566
is separately stated. 122567

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 122568
section, any discount allowed by an automobile manufacturer to its 122569
employee, or to the employee of a supplier, on the purchase of a 122570
new motor vehicle from a new motor vehicle dealer in this state. 122571

(2) In the case of a sale of any new motor vehicle by a new 122572
motor vehicle dealer, as defined in section 4517.01 of the Revised 122573
Code, in which another motor vehicle is accepted by the dealer as 122574
part of the consideration received, "price" has the same meaning 122575
as in division (H)(1) of this section, reduced by the credit 122576
afforded the consumer by the dealer for the motor vehicle received 122577
in trade. 122578

(3) In the case of a sale of any watercraft or outboard motor 122579
by a watercraft dealer licensed in accordance with section 122580
1547.543 of the Revised Code, in which another watercraft, 122581
watercraft and trailer, or outboard motor is accepted by the 122582
dealer as part of the consideration received, "price" has the same 122583
meaning as in division (H)(1) of this section, reduced by the 122584
credit afforded the consumer by the dealer for the watercraft, 122585
watercraft and trailer, or outboard motor received in trade. As 122586
used in this division, "watercraft" includes an outdrive unit 122587
attached to the watercraft. 122588

(4) In the case of transactions for health care services 122589
under division (B)(11) of this section, "price" means the amount 122590
of managed care premiums received each month by a medicaid health 122591
insuring corporation. 122592

(I) "Receipts" means the total amount of the prices of the 122593
sales of vendors, provided that cash discounts allowed and taken 122594
on sales at the time they are consummated are not included, minus 122595
any amount deducted as a bad debt pursuant to section 5739.121 of 122596

the Revised Code. "Receipts" does not include the sale price of 122597
property returned or services rejected by consumers when the full 122598
sale price and tax are refunded either in cash or by credit. 122599

(J) "Place of business" means any location at which a person 122600
engages in business. 122601

(K) "Premises" includes any real property or portion thereof 122602
upon which any person engages in selling tangible personal 122603
property at retail or making retail sales and also includes any 122604
real property or portion thereof designated for, or devoted to, 122605
use in conjunction with the business engaged in by such person. 122606

(L) "Casual sale" means a sale of an item of tangible 122607
personal property that was obtained by the person making the sale, 122608
through purchase or otherwise, for the person's own use and was 122609
previously subject to any state's taxing jurisdiction on its sale 122610
or use, and includes such items acquired for the seller's use that 122611
are sold by an auctioneer employed directly by the person for such 122612
purpose, provided the location of such sales is not the 122613
auctioneer's permanent place of business. As used in this 122614
division, "permanent place of business" includes any location 122615
where such auctioneer has conducted more than two auctions during 122616
the year. 122617

(M) "Hotel" means every establishment kept, used, maintained, 122618
advertised, or held out to the public to be a place where sleeping 122619
accommodations are offered to guests, in which five or more rooms 122620
are used for the accommodation of such guests, whether the rooms 122621
are in one or several structures, except as otherwise provided in 122622
division (G) of section 5739.09 of the Revised Code. 122623

(N) "Transient guests" means persons occupying a room or 122624
rooms for sleeping accommodations for less than thirty consecutive 122625
days. 122626

(O) "Making retail sales" means the effecting of transactions 122627

wherein one party is obligated to pay the price and the other 122628
party is obligated to provide a service or to transfer title to or 122629
possession of the item sold. "Making retail sales" does not 122630
include the preliminary acts of promoting or soliciting the retail 122631
sales, other than the distribution of printed matter which 122632
displays or describes and prices the item offered for sale, nor 122633
does it include delivery of a predetermined quantity of tangible 122634
personal property or transportation of property or personnel to or 122635
from a place where a service is performed, regardless of whether 122636
the vendor is a delivery vendor. 122637

(P) "Used directly in the rendition of a public utility 122638
service" means that property that is to be incorporated into and 122639
will become a part of the consumer's production, transmission, 122640
transportation, or distribution system and that retains its 122641
classification as tangible personal property after such 122642
incorporation; fuel or power used in the production, transmission, 122643
transportation, or distribution system; and tangible personal 122644
property used in the repair and maintenance of the production, 122645
transmission, transportation, or distribution system, including 122646
only such motor vehicles as are specially designed and equipped 122647
for such use. Tangible personal property and services used 122648
primarily in providing highway transportation for hire are not 122649
used directly in the rendition of a public utility service. In 122650
this definition, "public utility" includes a citizen of the United 122651
States holding, and required to hold, a certificate of public 122652
convenience and necessity issued under 49 U.S.C. 41102. 122653

(Q) "Refining" means removing or separating a desirable 122654
product from raw or contaminated materials by distillation or 122655
physical, mechanical, or chemical processes. 122656

(R) "Assembly" and "assembling" mean attaching or fitting 122657
together parts to form a product, but do not include packaging a 122658
product. 122659

(S) "Manufacturing operation" means a process in which 122660
materials are changed, converted, or transformed into a different 122661
state or form from which they previously existed and includes 122662
refining materials, assembling parts, and preparing raw materials 122663
and parts by mixing, measuring, blending, or otherwise committing 122664
such materials or parts to the manufacturing process. 122665
"Manufacturing operation" does not include packaging. 122666

(T) "Fiscal officer" means, with respect to a regional 122667
transit authority, the secretary-treasurer thereof, and with 122668
respect to a county that is a transit authority, the fiscal 122669
officer of the county transit board if one is appointed pursuant 122670
to section 306.03 of the Revised Code or the county auditor if the 122671
board of county commissioners operates the county transit system. 122672

(U) "Transit authority" means a regional transit authority 122673
created pursuant to section 306.31 of the Revised Code or a county 122674
in which a county transit system is created pursuant to section 122675
306.01 of the Revised Code. For the purposes of this chapter, a 122676
transit authority must extend to at least the entire area of a 122677
single county. A transit authority that includes territory in more 122678
than one county must include all the area of the most populous 122679
county that is a part of such transit authority. County population 122680
shall be measured by the most recent census taken by the United 122681
States census bureau. 122682

(V) "Legislative authority" means, with respect to a regional 122683
transit authority, the board of trustees thereof, and with respect 122684
to a county that is a transit authority, the board of county 122685
commissioners. 122686

(W) "Territory of the transit authority" means all of the 122687
area included within the territorial boundaries of a transit 122688
authority as they from time to time exist. Such territorial 122689
boundaries must at all times include all the area of a single 122690
county or all the area of the most populous county that is a part 122691

of such transit authority. County population shall be measured by 122692
the most recent census taken by the United States census bureau. 122693

(X) "Providing a service" means providing or furnishing 122694
anything described in division (B)(3) of this section for 122695
consideration. 122696

(Y)(1)(a) "Automatic data processing" means processing of 122697
others' data, including keypunching or similar data entry services 122698
together with verification thereof, or providing access to 122699
computer equipment for the purpose of processing data. 122700

(b) "Computer services" means providing services consisting 122701
of specifying computer hardware configurations and evaluating 122702
technical processing characteristics, computer programming, and 122703
training of computer programmers and operators, provided in 122704
conjunction with and to support the sale, lease, or operation of 122705
taxable computer equipment or systems. 122706

(c) "Electronic information services" means providing access 122707
to computer equipment by means of telecommunications equipment for 122708
the purpose of either of the following: 122709

(i) Examining or acquiring data stored in or accessible to 122710
the computer equipment; 122711

(ii) Placing data into the computer equipment to be retrieved 122712
by designated recipients with access to the computer equipment. 122713

For transactions occurring on or after the effective date of 122714
the amendment of this section by H.B. 157 of the 127th general 122715
assembly, December 21, 2007, "electronic information services" 122716
does not include electronic publishing as defined in division 122717
(LLL) of this section. 122718

(d) "Automatic data processing, computer services, or 122719
electronic information services" shall not include personal or 122720
professional services. 122721

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written,

graphic, or electronic means. 122752

The services listed in divisions (Y)(2)(a) to (j) of this 122753
section are not automatic data processing or computer services. 122754

(Z) "Highway transportation for hire" means the 122755
transportation of personal property belonging to others for 122756
consideration by any of the following: 122757

(1) The holder of a permit or certificate issued by this 122758
state or the United States authorizing the holder to engage in 122759
transportation of personal property belonging to others for 122760
consideration over or on highways, roadways, streets, or any 122761
similar public thoroughfare; 122762

(2) A person who engages in the transportation of personal 122763
property belonging to others for consideration over or on 122764
highways, roadways, streets, or any similar public thoroughfare 122765
but who could not have engaged in such transportation on December 122766
11, 1985, unless the person was the holder of a permit or 122767
certificate of the types described in division (Z)(1) of this 122768
section; 122769

(3) A person who leases a motor vehicle to and operates it 122770
for a person described by division (Z)(1) or (2) of this section. 122771

(AA)(1) "Telecommunications service" means the electronic 122772
transmission, conveyance, or routing of voice, data, audio, video, 122773
or any other information or signals to a point, or between or 122774
among points. "Telecommunications service" includes such 122775
transmission, conveyance, or routing in which computer processing 122776
applications are used to act on the form, code, or protocol of the 122777
content for purposes of transmission, conveyance, or routing 122778
without regard to whether the service is referred to as voice-over 122779
internet protocol service or is classified by the federal 122780
communications commission as enhanced or value-added. 122781
"Telecommunications service" does not include any of the 122782

following:	122783
(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;	122784 122785 122786 122787 122788
(b) Installation or maintenance of wiring or equipment on a customer's premises;	122789 122790
(c) Tangible personal property;	122791
(d) Advertising, including directory advertising;	122792
(e) Billing and collection services provided to third parties;	122793 122794
(f) Internet access service;	122795
(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;	122796 122797 122798 122799 122800 122801 122802 122803
(h) Ancillary service;	122804
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	122805 122806
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	122807 122808 122809 122810 122811
(a) "Conference bridging service" means an ancillary service	122812

that links two or more participants of an audio or video 122813
conference call, including providing a telephone number. 122814
"Conference bridging service" does not include telecommunications 122815
services used to reach the conference bridge. 122816

(b) "Detailed telecommunications billing service" means an 122817
ancillary service of separately stating information pertaining to 122818
individual calls on a customer's billing statement. 122819

(c) "Directory assistance" means an ancillary service of 122820
providing telephone number or address information. 122821

(d) "Vertical service" means an ancillary service that is 122822
offered in connection with one or more telecommunications 122823
services, which offers advanced calling features that allow 122824
customers to identify callers and manage multiple calls and call 122825
connections, including conference bridging service. 122826

(e) "Voice mail service" means an ancillary service that 122827
enables the customer to store, send, or receive recorded messages. 122828
"Voice mail service" does not include any vertical services that 122829
the customer may be required to have in order to utilize the voice 122830
mail service. 122831

(3) "900 service" means an inbound toll telecommunications 122832
service purchased by a subscriber that allows the subscriber's 122833
customers to call in to the subscriber's prerecorded announcement 122834
or live service, and which is typically marketed under the name 122835
"900" service and any subsequent numbers designated by the federal 122836
communications commission. "900 service" does not include the 122837
charge for collection services provided by the seller of the 122838
telecommunications service to the subscriber, or services or 122839
products sold by the subscriber to the subscriber's customer. 122840

(4) "Prepaid calling service" means the right to access 122841
exclusively telecommunications services, which must be paid for in 122842
advance and which enables the origination of calls using an access 122843

number or authorization code, whether manually or electronically 122844
dialed, and that is sold in predetermined units of dollars of 122845
which the number declines with use in a known amount. 122846

(5) "Prepaid wireless calling service" means a 122847
telecommunications service that provides the right to utilize 122848
mobile telecommunications service as well as other 122849
non-telecommunications services, including the download of digital 122850
products delivered electronically, and content and ancillary 122851
services, that must be paid for in advance and that is sold in 122852
predetermined units of dollars of which the number declines with 122853
use in a known amount. 122854

(6) "Value-added non-voice data service" means a 122855
telecommunications service in which computer processing 122856
applications are used to act on the form, content, code, or 122857
protocol of the information or data primarily for a purpose other 122858
than transmission, conveyance, or routing. 122859

(7) "Coin-operated telephone service" means a 122860
telecommunications service paid for by inserting money into a 122861
telephone accepting direct deposits of money to operate. 122862

(8) "Customer" has the same meaning as in section 5739.034 of 122863
the Revised Code. 122864

(BB) "Laundry and dry cleaning services" means removing soil 122865
or dirt from towels, linens, articles of clothing, or other fabric 122866
items that belong to others and supplying towels, linens, articles 122867
of clothing, or other fabric items. "Laundry and dry cleaning 122868
services" does not include the provision of self-service 122869
facilities for use by consumers to remove soil or dirt from 122870
towels, linens, articles of clothing, or other fabric items. 122871

(CC) "Magazines distributed as controlled circulation 122872
publications" means magazines containing at least twenty-four 122873
pages, at least twenty-five per cent editorial content, issued at 122874

regular intervals four or more times a year, and circulated 122875
without charge to the recipient, provided that such magazines are 122876
not owned or controlled by individuals or business concerns which 122877
conduct such publications as an auxiliary to, and essentially for 122878
the advancement of the main business or calling of, those who own 122879
or control them. 122880

(DD) "Landscaping and lawn care service" means the services 122881
of planting, seeding, sodding, removing, cutting, trimming, 122882
pruning, mulching, aerating, applying chemicals, watering, 122883
fertilizing, and providing similar services to establish, promote, 122884
or control the growth of trees, shrubs, flowers, grass, ground 122885
cover, and other flora, or otherwise maintaining a lawn or 122886
landscape grown or maintained by the owner for ornamentation or 122887
other nonagricultural purpose. However, "landscaping and lawn care 122888
service" does not include the providing of such services by a 122889
person who has less than five thousand dollars in sales of such 122890
services during the calendar year. 122891

(EE) "Private investigation and security service" means the 122892
performance of any activity for which the provider of such service 122893
is required to be licensed pursuant to Chapter 4749. of the 122894
Revised Code, or would be required to be so licensed in performing 122895
such services in this state, and also includes the services of 122896
conducting polygraph examinations and of monitoring or overseeing 122897
the activities on or in, or the condition of, the consumer's home, 122898
business, or other facility by means of electronic or similar 122899
monitoring devices. "Private investigation and security service" 122900
does not include special duty services provided by off-duty police 122901
officers, deputy sheriffs, and other peace officers regularly 122902
employed by the state or a political subdivision. 122903

(FF) "Information services" means providing conversation, 122904
giving consultation or advice, playing or making a voice or other 122905
recording, making or keeping a record of the number of callers, 122906

and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and also means conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or

labor under the supervision or control of another, when the 122939
personnel so provided or supplied receive their wages, salary, or 122940
other compensation from the provider or supplier of the employment 122941
service or from a third party that provided or supplied the 122942
personnel to the provider or supplier. "Employment service" does 122943
not include: 122944

(1) Acting as a contractor or subcontractor, where the 122945
personnel performing the work are not under the direct control of 122946
the purchaser. 122947

(2) Medical and health care services. 122948

(3) Supplying personnel to a purchaser pursuant to a contract 122949
of at least one year between the service provider and the 122950
purchaser that specifies that each employee covered under the 122951
contract is assigned to the purchaser on a permanent basis. 122952

(4) Transactions between members of an affiliated group, as 122953
defined in division (B)(3)(e) of this section. 122954

(5) Transactions where the personnel so provided or supplied 122955
by a provider or supplier to a purchaser of an employment service 122956
are then provided or supplied by that purchaser to a third party 122957
as an employment service, except "employment service" does include 122958
the transaction between that purchaser and the third party. 122959

(KK) "Employment placement service" means locating or finding 122960
employment for a person or finding or locating an employee to fill 122961
an available position. 122962

(LL) "Exterminating service" means eradicating or attempting 122963
to eradicate vermin infestations from a building or structure, or 122964
the area surrounding a building or structure, and includes 122965
activities to inspect, detect, or prevent vermin infestation of a 122966
building or structure. 122967

(MM) "Physical fitness facility service" means all 122968

transactions by which a membership is granted, maintained, or 122969
renewed, including initiation fees, membership dues, renewal fees, 122970
monthly minimum fees, and other similar fees and dues, by a 122971
physical fitness facility such as an athletic club, health spa, or 122972
gymnasium, which entitles the member to use the facility for 122973
physical exercise. 122974

(NN) "Recreation and sports club service" means all 122975
transactions by which a membership is granted, maintained, or 122976
renewed, including initiation fees, membership dues, renewal fees, 122977
monthly minimum fees, and other similar fees and dues, by a 122978
recreation and sports club, which entitles the member to use the 122979
facilities of the organization. "Recreation and sports club" means 122980
an organization that has ownership of, or controls or leases on a 122981
continuing, long-term basis, the facilities used by its members 122982
and includes an aviation club, gun or shooting club, yacht club, 122983
card club, swimming club, tennis club, golf club, country club, 122984
riding club, amateur sports club, or similar organization. 122985

(OO) "Livestock" means farm animals commonly raised for food 122986
~~or~~, food production, and ~~includes, in the case of captive deer,~~ 122987
~~for private hunting, including,~~ but ~~is~~ not limited to, cattle, 122988
sheep, goats, swine, ~~and~~ poultry, ~~and captive deer~~. "Livestock" 122989
does not include invertebrates, fish, amphibians, reptiles, 122990
horses, domestic pets, animals for use in laboratories or for 122991
exhibition, or other animals not commonly raised for food or food 122992
production. 122993

(PP) "Livestock structure" means a building or structure used 122994
exclusively for the housing, raising, feeding, or sheltering of 122995
livestock, and includes feed storage or handling structures and 122996
structures for livestock waste handling. 122997

(QQ) "Horticulture" means the growing, cultivation, and 122998
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 122999
and nursery stock. As used in this division, "nursery stock" has 123000

the same meaning as in section 927.51 of the Revised Code. 123001

(RR) "Horticulture structure" means a building or structure 123002
used exclusively for the commercial growing, raising, or 123003
overwintering of horticultural products, and includes the area 123004
used for stocking, storing, and packing horticultural products 123005
when done in conjunction with the production of those products. 123006

(SS) "Newspaper" means an unbound publication bearing a title 123007
or name that is regularly published, at least as frequently as 123008
biweekly, and distributed from a fixed place of business to the 123009
public in a specific geographic area, and that contains a 123010
substantial amount of news matter of international, national, or 123011
local events of interest to the general public. 123012

(TT) "Professional racing team" means a person that employs 123013
at least twenty full-time employees for the purpose of conducting 123014
a motor vehicle racing business for profit. The person must 123015
conduct the business with the purpose of racing one or more motor 123016
racing vehicles in at least ten competitive professional racing 123017
events each year that comprise all or part of a motor racing 123018
series sanctioned by one or more motor racing sanctioning 123019
organizations. A "motor racing vehicle" means a vehicle for which 123020
the chassis, engine, and parts are designed exclusively for motor 123021
racing, and does not include a stock or production model vehicle 123022
that may be modified for use in racing. For the purposes of this 123023
division: 123024

(1) A "competitive professional racing event" is a motor 123025
vehicle racing event sanctioned by one or more motor racing 123026
sanctioning organizations, at which aggregate cash prizes in 123027
excess of eight hundred thousand dollars are awarded to the 123028
competitors. 123029

(2) "Full-time employee" means an individual who is employed 123030
for consideration for thirty-five or more hours a week, or who 123031

renders any other standard of service generally accepted by custom 123032
or specified by contract as full-time employment. 123033

(UU)(1) "Lease" or "rental" means any transfer of the 123034
possession or control of tangible personal property for a fixed or 123035
indefinite term, for consideration. "Lease" or "rental" includes 123036
future options to purchase or extend, and agreements described in 123037
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 123038
the amount of consideration may be increased or decreased by 123039
reference to the amount realized upon the sale or disposition of 123040
the property. "Lease" or "rental" does not include: 123041

(a) A transfer of possession or control of tangible personal 123042
property under a security agreement or a deferred payment plan 123043
that requires the transfer of title upon completion of the 123044
required payments; 123045

(b) A transfer of possession or control of tangible personal 123046
property under an agreement that requires the transfer of title 123047
upon completion of required payments and payment of an option 123048
price that does not exceed the greater of one hundred dollars or 123049
one per cent of the total required payments; 123050

(c) Providing tangible personal property along with an 123051
operator for a fixed or indefinite period of time, if the operator 123052
is necessary for the property to perform as designed. For purposes 123053
of this division, the operator must do more than maintain, 123054
inspect, or set-up the tangible personal property. 123055

(2) "Lease" and "rental," as defined in division (UU) of this 123056
section, shall not apply to leases or rentals that exist before 123057
June 26, 2003. 123058

(3) "Lease" and "rental" have the same meaning as in division 123059
(UU)(1) of this section regardless of whether a transaction is 123060
characterized as a lease or rental under generally accepted 123061
accounting principles, the Internal Revenue Code, Title XIII of 123062

the Revised Code, or other federal, state, or local laws. 123063

(VV) "Mobile telecommunications service" has the same meaning 123064
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 123065
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 123066
on and after August 1, 2003, includes related fees and ancillary 123067
services, including universal service fees, detailed billing 123068
service, directory assistance, service initiation, voice mail 123069
service, and vertical services, such as caller ID and three-way 123070
calling. 123071

(WW) "Certified service provider" has the same meaning as in 123072
section 5740.01 of the Revised Code. 123073

(XX) "Satellite broadcasting service" means the distribution 123074
or broadcasting of programming or services by satellite directly 123075
to the subscriber's receiving equipment without the use of ground 123076
receiving or distribution equipment, except the subscriber's 123077
receiving equipment or equipment used in the uplink process to the 123078
satellite, and includes all service and rental charges, premium 123079
channels or other special services, installation and repair 123080
service charges, and any other charges having any connection with 123081
the provision of the satellite broadcasting service. 123082

(YY) "Tangible personal property" means personal property 123083
that can be seen, weighed, measured, felt, or touched, or that is 123084
in any other manner perceptible to the senses. For purposes of 123085
this chapter and Chapter 5741. of the Revised Code, "tangible 123086
personal property" includes motor vehicles, electricity, water, 123087
gas, steam, and prewritten computer software. 123088

(ZZ) "Direct mail" means printed material delivered or 123089
distributed by United States mail or other delivery service to a 123090
mass audience or to addressees on a mailing list provided by the 123091
consumer or at the direction of the consumer when the cost of the 123092
items are not billed directly to the recipients. "Direct mail" 123093

includes tangible personal property supplied directly or 123094
indirectly by the consumer to the direct mail vendor for inclusion 123095
in the package containing the printed material. "Direct mail" does 123096
not include multiple items of printed material delivered to a 123097
single address. 123098

(AAA) "Computer" means an electronic device that accepts 123099
information in digital or similar form and manipulates it for a 123100
result based on a sequence of instructions. 123101

(BBB) "Computer software" means a set of coded instructions 123102
designed to cause a computer or automatic data processing 123103
equipment to perform a task. 123104

(CCC) "Delivered electronically" means delivery of computer 123105
software from the seller to the purchaser by means other than 123106
tangible storage media. 123107

(DDD) "Prewritten computer software" means computer software, 123108
including prewritten upgrades, that is not designed and developed 123109
by the author or other creator to the specifications of a specific 123110
purchaser. The combining of two or more prewritten computer 123111
software programs or prewritten portions thereof does not cause 123112
the combination to be other than prewritten computer software. 123113
"Prewritten computer software" includes software designed and 123114
developed by the author or other creator to the specifications of 123115
a specific purchaser when it is sold to a person other than the 123116
purchaser. If a person modifies or enhances computer software of 123117
which the person is not the author or creator, the person shall be 123118
deemed to be the author or creator only of such person's 123119
modifications or enhancements. Prewritten computer software or a 123120
prewritten portion thereof that is modified or enhanced to any 123121
degree, where such modification or enhancement is designed and 123122
developed to the specifications of a specific purchaser, remains 123123
prewritten computer software; provided, however, that where there 123124
is a reasonable, separately stated charge or an invoice or other 123125

statement of the price given to the purchaser for the modification 123126
or enhancement, the modification or enhancement shall not 123127
constitute prewritten computer software. 123128

(EEE)(1) "Food" means substances, whether in liquid, 123129
concentrated, solid, frozen, dried, or dehydrated form, that are 123130
sold for ingestion or chewing by humans and are consumed for their 123131
taste or nutritional value. "Food" does not include alcoholic 123132
beverages, dietary supplements, soft drinks, or tobacco. 123133

(2) As used in division (EEE)(1) of this section: 123134

(a) "Alcoholic beverages" means beverages that are suitable 123135
for human consumption and contain one-half of one per cent or more 123136
of alcohol by volume. 123137

(b) "Dietary supplements" means any product, other than 123138
tobacco, that is intended to supplement the diet and that is 123139
intended for ingestion in tablet, capsule, powder, softgel, 123140
gelcap, or liquid form, or, if not intended for ingestion in such 123141
a form, is not represented as conventional food for use as a sole 123142
item of a meal or of the diet; that is required to be labeled as a 123143
dietary supplement, identifiable by the "supplement facts" box 123144
found on the label, as required by 21 C.F.R. 101.36; and that 123145
contains one or more of the following dietary ingredients: 123146

(i) A vitamin; 123147

(ii) A mineral; 123148

(iii) An herb or other botanical; 123149

(iv) An amino acid; 123150

(v) A dietary substance for use by humans to supplement the 123151
diet by increasing the total dietary intake; 123152

(vi) A concentrate, metabolite, constituent, extract, or 123153
combination of any ingredient described in divisions 123154

(EEE)(2)(b)(i) to (v) of this section. 123155

(c) "Soft drinks" means nonalcoholic beverages that contain 123156
natural or artificial sweeteners. "Soft drinks" does not include 123157
beverages that contain milk or milk products, soy, rice, or 123158
similar milk substitutes, or that contains greater than fifty per 123159
cent vegetable or fruit juice by volume. 123160

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 123161
tobacco, or any other item that contains tobacco. 123162

(FFF) "Drug" means a compound, substance, or preparation, and 123163
any component of a compound, substance, or preparation, other than 123164
food, dietary supplements, or alcoholic beverages that is 123165
recognized in the official United States pharmacopoeia, official 123166
homeopathic pharmacopoeia of the United States, or official 123167
national formulary, and supplements to them; is intended for use 123168
in the diagnosis, cure, mitigation, treatment, or prevention of 123169
disease; or is intended to affect the structure or any function of 123170
the body. 123171

(GGG) "Prescription" means an order, formula, or recipe 123172
issued in any form of oral, written, electronic, or other means of 123173
transmission by a duly licensed practitioner authorized by the 123174
laws of this state to issue a prescription. 123175

(HHH) "Durable medical equipment" means equipment, including 123176
repair and replacement parts for such equipment, that can 123177
withstand repeated use, is primarily and customarily used to serve 123178
a medical purpose, generally is not useful to a person in the 123179
absence of illness or injury, and is not worn in or on the body. 123180
"Durable medical equipment" does not include mobility enhancing 123181
equipment. 123182

(III) "Mobility enhancing equipment" means equipment, 123183
including repair and replacement parts for such equipment, that is 123184
primarily and customarily used to provide or increase the ability 123185
to move from one place to another and is appropriate for use 123186

either in a home or a motor vehicle, that is not generally used by 123187
persons with normal mobility, and that does not include any motor 123188
vehicle or equipment on a motor vehicle normally provided by a 123189
motor vehicle manufacturer. "Mobility enhancing equipment" does 123190
not include durable medical equipment. 123191

(JJJ) "Prosthetic device" means a replacement, corrective, or 123192
supportive device, including repair and replacement parts for the 123193
device, worn on or in the human body to artificially replace a 123194
missing portion of the body, prevent or correct physical deformity 123195
or malfunction, or support a weak or deformed portion of the body. 123196
As used in this division, "prosthetic device" does not include 123197
corrective eyeglasses, contact lenses, or dental prosthesis. 123198

(KKK)(1) "Fractional aircraft ownership program" means a 123199
program in which persons within an affiliated group sell and 123200
manage fractional ownership program aircraft, provided that at 123201
least one hundred airworthy aircraft are operated in the program 123202
and the program meets all of the following criteria: 123203

(a) Management services are provided by at least one program 123204
manager within an affiliated group on behalf of the fractional 123205
owners. 123206

(b) Each program aircraft is owned or possessed by at least 123207
one fractional owner. 123208

(c) Each fractional owner owns or possesses at least a 123209
one-sixteenth interest in at least one fixed-wing program 123210
aircraft. 123211

(d) A dry-lease aircraft interchange arrangement is in effect 123212
among all of the fractional owners. 123213

(e) Multi-year program agreements are in effect regarding the 123214
fractional ownership, management services, and dry-lease aircraft 123215
interchange arrangement aspects of the program. 123216

(2) As used in division (KKK)(1) of this section:	123217
(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.	123218 123219
(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.	123220 123221 123222 123223
(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.	123224 123225 123226 123227 123228 123229 123230
(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.	123231 123232 123233 123234 123235 123236 123237 123238 123239 123240 123241 123242 123243
(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.	123244 123245 123246
(LLL) "Electronic publishing" means providing access to one	123247

or more of the following primarily for business customers, 123248
including the federal government or a state government or a 123249
political subdivision thereof, to conduct research: news; 123250
business, financial, legal, consumer, or credit materials; 123251
editorials, columns, reader commentary, or features; photos or 123252
images; archival or research material; legal notices, identity 123253
verification, or public records; scientific, educational, 123254
instructional, technical, professional, trade, or other literary 123255
materials; or other similar information which has been gathered 123256
and made available by the provider to the consumer in an 123257
electronic format. Providing electronic publishing includes the 123258
functions necessary for the acquisition, formatting, editing, 123259
storage, and dissemination of data or information that is the 123260
subject of a sale. 123261

(MMM) "Medicaid health insuring corporation" means a health 123262
insuring corporation that holds a certificate of authority under 123263
Chapter 1751. of the Revised Code and is under contract with the 123264
department of job and family services pursuant to section 5111.17 123265
of the Revised Code. 123266

(NNN) "Managed care premium" means any premium, capitation, 123267
or other payment a medicaid health insuring corporation receives 123268
for providing or arranging for the provision of health care 123269
services to its members or enrollees residing in this state. 123270

(OOO) "Captive deer" means deer and other cervidae that have 123271
been legally acquired, or their offspring, that are privately 123272
owned for agricultural, farming, or private hunting purposes. 123273

Sec. 5739.02. For the purpose of providing revenue with which 123274
to meet the needs of the state, for the use of the general revenue 123275
fund of the state, for the purpose of securing a thorough and 123276
efficient system of common schools throughout the state, for the 123277
purpose of affording revenues, in addition to those from general 123278

property taxes, permitted under constitutional limitations, and 123279
from other sources, for the support of local governmental 123280
functions, and for the purpose of reimbursing the state for the 123281
expense of administering this chapter, an excise tax is hereby 123282
levied on each retail sale made in this state. 123283

(A)(1) The tax shall be collected as provided in section 123284
5739.025 of the Revised Code. The rate of the tax shall be five 123285
and one-half per cent. The tax applies and is collectible when the 123286
sale is made, regardless of the time when the price is paid or 123287
delivered. 123288

(2) In the case of the lease or rental, with a fixed term of 123289
more than thirty days or an indefinite term with a minimum period 123290
of more than thirty days, of any motor vehicles designed by the 123291
manufacturer to carry a load of not more than one ton, watercraft, 123292
outboard motor, or aircraft, or of any tangible personal property, 123293
other than motor vehicles designed by the manufacturer to carry a 123294
load of more than one ton, to be used by the lessee or renter 123295
primarily for business purposes, the tax shall be collected by the 123296
vendor at the time the lease or rental is consummated and shall be 123297
calculated by the vendor on the basis of the total amount to be 123298
paid by the lessee or renter under the lease agreement. If the 123299
total amount of the consideration for the lease or rental includes 123300
amounts that are not calculated at the time the lease or rental is 123301
executed, the tax shall be calculated and collected by the vendor 123302
at the time such amounts are billed to the lessee or renter. In 123303
the case of an open-end lease or rental, the tax shall be 123304
calculated by the vendor on the basis of the total amount to be 123305
paid during the initial fixed term of the lease or rental, and for 123306
each subsequent renewal period as it comes due. As used in this 123307
division, "motor vehicle" has the same meaning as in section 123308
4501.01 of the Revised Code, and "watercraft" includes an outdrive 123309
unit attached to the watercraft. 123310

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(3) Except as provided in division (A)(2) of this section, in the case of a sale, the price of which consists in whole or in part of the lease or rental of tangible personal property, the tax shall be measured by the installments of that lease or rental.

(4) In the case of a sale of a physical fitness facility service or recreation and sports club service, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

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(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

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(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

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(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

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(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as

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defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable

purposes in this state, no part of the net income of which inures 123405
to the benefit of any private shareholder or individual, and no 123406
substantial part of the activities of which consists of carrying 123407
on propaganda or otherwise attempting to influence legislation; 123408
sales to offices administering one or more homes for the aged or 123409
one or more hospital facilities exempt under section 140.08 of the 123410
Revised Code; and sales to organizations described in division (D) 123411
of section 5709.12 of the Revised Code. 123412

"Charitable purposes" means the relief of poverty; the 123413
improvement of health through the alleviation of illness, disease, 123414
or injury; the operation of an organization exclusively for the 123415
provision of professional, laundry, printing, and purchasing 123416
services to hospitals or charitable institutions; the operation of 123417
a home for the aged, as defined in section 5701.13 of the Revised 123418
Code; the operation of a radio or television broadcasting station 123419
that is licensed by the federal communications commission as a 123420
noncommercial educational radio or television station; the 123421
operation of a nonprofit animal adoption service or a county 123422
humane society; the promotion of education by an institution of 123423
learning that maintains a faculty of qualified instructors, 123424
teaches regular continuous courses of study, and confers a 123425
recognized diploma upon completion of a specific curriculum; the 123426
operation of a parent-teacher association, booster group, or 123427
similar organization primarily engaged in the promotion and 123428
support of the curricular or extracurricular activities of a 123429
primary or secondary school; the operation of a community or area 123430
center in which presentations in music, dramatics, the arts, and 123431
related fields are made in order to foster public interest and 123432
education therein; the production of performances in music, 123433
dramatics, and the arts; or the promotion of education by an 123434
organization engaged in carrying on research in, or the 123435
dissemination of, scientific and technological knowledge and 123436
information primarily for the public. 123437

Nothing in this division shall be deemed to exempt sales to 123438
any organization for use in the operation or carrying on of a 123439
trade or business, or sales to a home for the aged for use in the 123440
operation of independent living facilities as defined in division 123441
(A) of section 5709.12 of the Revised Code. 123442

(13) Building and construction materials and services sold to 123443
construction contractors for incorporation into a structure or 123444
improvement to real property under a construction contract with 123445
this state or a political subdivision of this state, or with the 123446
United States government or any of its agencies; building and 123447
construction materials and services sold to construction 123448
contractors for incorporation into a structure or improvement to 123449
real property that are accepted for ownership by this state or any 123450
of its political subdivisions, or by the United States government 123451
or any of its agencies at the time of completion of the structures 123452
or improvements; building and construction materials sold to 123453
construction contractors for incorporation into a horticulture 123454
structure or livestock structure for a person engaged in the 123455
business of horticulture or producing livestock; building 123456
materials and services sold to a construction contractor for 123457
incorporation into a house of public worship or religious 123458
education, or a building used exclusively for charitable purposes 123459
under a construction contract with an organization whose purpose 123460
is as described in division (B)(12) of this section; building 123461
materials and services sold to a construction contractor for 123462
incorporation into a building under a construction contract with 123463
an organization exempt from taxation under section 501(c)(3) of 123464
the Internal Revenue Code of 1986 when the building is to be used 123465
exclusively for the organization's exempt purposes; building and 123466
construction materials sold for incorporation into the original 123467
construction of a sports facility under section 307.696 of the 123468
Revised Code; building and construction materials and services 123469
sold to a construction contractor for incorporation into real 123470

property outside this state if such materials and services, when 123471
sold to a construction contractor in the state in which the real 123472
property is located for incorporation into real property in that 123473
state, would be exempt from a tax on sales levied by that state; 123474
and, until one calendar year after the construction of a 123475
convention center that qualifies for property tax exemption under 123476
section 5709.084 of the Revised Code is completed, building and 123477
construction materials and services sold to a construction 123478
contractor for incorporation into the real property comprising 123479
that convention center; 123480

(14) Sales of ships or vessels or rail rolling stock used or 123481
to be used principally in interstate or foreign commerce, and 123482
repairs, alterations, fuel, and lubricants for such ships or 123483
vessels or rail rolling stock; 123484

(15) Sales to persons primarily engaged in any of the 123485
activities mentioned in division (B)(42)(a) or (g) of this 123486
section, to persons engaged in making retail sales, or to persons 123487
who purchase for sale from a manufacturer tangible personal 123488
property that was produced by the manufacturer in accordance with 123489
specific designs provided by the purchaser, of packages, including 123490
material, labels, and parts for packages, and of machinery, 123491
equipment, and material for use primarily in packaging tangible 123492
personal property produced for sale, including any machinery, 123493
equipment, and supplies used to make labels or packages, to 123494
prepare packages or products for labeling, or to label packages or 123495
products, by or on the order of the person doing the packaging, or 123496
sold at retail. "Packages" includes bags, baskets, cartons, 123497
crates, boxes, cans, bottles, bindings, wrappings, and other 123498
similar devices and containers, but does not include motor 123499
vehicles or bulk tanks, trailers, or similar devices attached to 123500
motor vehicles. "Packaging" means placing in a package. Division 123501
(B)(15) of this section does not apply to persons engaged in 123502

highway transportation for hire. 123503

(16) Sales of food to persons using supplemental nutrition 123504
assistance program benefits to purchase the food. As used in this 123505
division, "food" has the same meaning as in 7 U.S.C. 2012 and 123506
federal regulations adopted pursuant to the Food and Nutrition Act 123507
of 2008. 123508

(17) Sales to persons engaged in farming, agriculture, 123509
horticulture, or floriculture, of tangible personal property for 123510
use or consumption directly in the production by farming, 123511
agriculture, horticulture, or floriculture of other tangible 123512
personal property for use or consumption directly in the 123513
production of tangible personal property for sale by farming, 123514
agriculture, horticulture, or floriculture; or material and parts 123515
for incorporation into any such tangible personal property for use 123516
or consumption in production; and of tangible personal property 123517
for such use or consumption in the conditioning or holding of 123518
products produced by and for such use, consumption, or sale by 123519
persons engaged in farming, agriculture, horticulture, or 123520
floriculture, except where such property is incorporated into real 123521
property; 123522

(18) Sales of drugs for a human being that may be dispensed 123523
only pursuant to a prescription; insulin as recognized in the 123524
official United States pharmacopoeia; urine and blood testing 123525
materials when used by diabetics or persons with hypoglycemia to 123526
test for glucose or acetone; hypodermic syringes and needles when 123527
used by diabetics for insulin injections; epoetin alfa when 123528
purchased for use in the treatment of persons with medical 123529
disease; hospital beds when purchased by hospitals, nursing homes, 123530
or other medical facilities; and medical oxygen and medical 123531
oxygen-dispensing equipment when purchased by hospitals, nursing 123532
homes, or other medical facilities; 123533

(19) Sales of prosthetic devices, durable medical equipment 123534

for home use, or mobility enhancing equipment, when made pursuant 123535
to a prescription and when such devices or equipment are for use 123536
by a human being. 123537

(20) Sales of emergency and fire protection vehicles and 123538
equipment to nonprofit organizations for use solely in providing 123539
fire protection and emergency services, including trauma care and 123540
emergency medical services, for political subdivisions of the 123541
state; 123542

(21) Sales of tangible personal property manufactured in this 123543
state, if sold by the manufacturer in this state to a retailer for 123544
use in the retail business of the retailer outside of this state 123545
and if possession is taken from the manufacturer by the purchaser 123546
within this state for the sole purpose of immediately removing the 123547
same from this state in a vehicle owned by the purchaser; 123548

(22) Sales of services provided by the state or any of its 123549
political subdivisions, agencies, instrumentalities, institutions, 123550
or authorities, or by governmental entities of the state or any of 123551
its political subdivisions, agencies, instrumentalities, 123552
institutions, or authorities; 123553

(23) Sales of motor vehicles to nonresidents of this state 123554
under the circumstances described in division (B) of section 123555
5739.029 of the Revised Code; 123556

(24) Sales to persons engaged in the preparation of eggs for 123557
sale of tangible personal property used or consumed directly in 123558
such preparation, including such tangible personal property used 123559
for cleaning, sanitizing, preserving, grading, sorting, and 123560
classifying by size; packages, including material and parts for 123561
packages, and machinery, equipment, and material for use in 123562
packaging eggs for sale; and handling and transportation equipment 123563
and parts therefor, except motor vehicles licensed to operate on 123564
public highways, used in intraplant or interplant transfers or 123565

shipment of eggs in the process of preparation for sale, when the 123566
plant or plants within or between which such transfers or 123567
shipments occur are operated by the same person. "Packages" 123568
includes containers, cases, baskets, flats, fillers, filler flats, 123569
cartons, closure materials, labels, and labeling materials, and 123570
"packaging" means placing therein. 123571

(25)(a) Sales of water to a consumer for residential use, 123572
except the sale of bottled water, distilled water, mineral water, 123573
carbonated water, or ice; 123574

(b) Sales of water by a nonprofit corporation engaged 123575
exclusively in the treatment, distribution, and sale of water to 123576
consumers, if such water is delivered to consumers through pipes 123577
or tubing. 123578

(26) Fees charged for inspection or reinspection of motor 123579
vehicles under section 3704.14 of the Revised Code; 123580

(27) Sales to persons licensed to conduct a food service 123581
operation pursuant to section 3717.43 of the Revised Code, of 123582
tangible personal property primarily used directly for the 123583
following: 123584

(a) To prepare food for human consumption for sale; 123585

(b) To preserve food that has been or will be prepared for 123586
human consumption for sale by the food service operator, not 123587
including tangible personal property used to display food for 123588
selection by the consumer; 123589

(c) To clean tangible personal property used to prepare or 123590
serve food for human consumption for sale. 123591

(28) Sales of animals by nonprofit animal adoption services 123592
or county humane societies; 123593

(29) Sales of services to a corporation described in division 123594
(A) of section 5709.72 of the Revised Code, and sales of tangible 123595

personal property that qualifies for exemption from taxation under 123596
section 5709.72 of the Revised Code; 123597

(30) Sales and installation of agricultural land tile, as 123598
defined in division (B)(5)(a) of section 5739.01 of the Revised 123599
Code; 123600

(31) Sales and erection or installation of portable grain 123601
bins, as defined in division (B)(5)(b) of section 5739.01 of the 123602
Revised Code; 123603

(32) The sale, lease, repair, and maintenance of, parts for, 123604
or items attached to or incorporated in, motor vehicles that are 123605
primarily used for transporting tangible personal property 123606
belonging to others by a person engaged in highway transportation 123607
for hire, except for packages and packaging used for the 123608
transportation of tangible personal property; 123609

(33) Sales to the state headquarters of any veterans' 123610
organization in this state that is either incorporated and issued 123611
a charter by the congress of the United States or is recognized by 123612
the United States veterans administration, for use by the 123613
headquarters; 123614

(34) Sales to a telecommunications service vendor, mobile 123615
telecommunications service vendor, or satellite broadcasting 123616
service vendor of tangible personal property and services used 123617
directly and primarily in transmitting, receiving, switching, or 123618
recording any interactive, one- or two-way electromagnetic 123619
communications, including voice, image, data, and information, 123620
through the use of any medium, including, but not limited to, 123621
poles, wires, cables, switching equipment, computers, and record 123622
storage devices and media, and component parts for the tangible 123623
personal property. The exemption provided in this division shall 123624
be in lieu of all other exemptions under division (B)(42)(a) of 123625
this section to which the vendor may otherwise be entitled, based 123626

upon the use of the thing purchased in providing the 123627
telecommunications, mobile telecommunications, or satellite 123628
broadcasting service. 123629

(35)(a) Sales where the purpose of the consumer is to use or 123630
consume the things transferred in making retail sales and 123631
consisting of newspaper inserts, catalogues, coupons, flyers, gift 123632
certificates, or other advertising material that prices and 123633
describes tangible personal property offered for retail sale. 123634

(b) Sales to direct marketing vendors of preliminary 123635
materials such as photographs, artwork, and typesetting that will 123636
be used in printing advertising material; of printed matter that 123637
offers free merchandise or chances to win sweepstake prizes and 123638
that is mailed to potential customers with advertising material 123639
described in division (B)(35)(a) of this section; and of equipment 123640
such as telephones, computers, facsimile machines, and similar 123641
tangible personal property primarily used to accept orders for 123642
direct marketing retail sales. 123643

(c) Sales of automatic food vending machines that preserve 123644
food with a shelf life of forty-five days or less by refrigeration 123645
and dispense it to the consumer. 123646

For purposes of division (B)(35) of this section, "direct 123647
marketing" means the method of selling where consumers order 123648
tangible personal property by United States mail, delivery 123649
service, or telecommunication and the vendor delivers or ships the 123650
tangible personal property sold to the consumer from a warehouse, 123651
catalogue distribution center, or similar fulfillment facility by 123652
means of the United States mail, delivery service, or common 123653
carrier. 123654

(36) Sales to a person engaged in the business of 123655
horticulture or producing livestock of materials to be 123656
incorporated into a horticulture structure or livestock structure; 123657

(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students; 123658
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(38) Sales to a professional racing team of any of the following: 123663
123664

(a) Motor racing vehicles; 123665

(b) Repair services for motor racing vehicles; 123666

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication. 123667
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(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000; 123675
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123677

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or 123678
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distribution system, including only those motor vehicles as are 123689
specially designed and equipped for such use. The exemption 123690
provided in this division shall be in lieu of all other exemptions 123691
in division (B)(42)(a) of this section to which a provider of 123692
electricity may otherwise be entitled based on the use of the 123693
tangible personal property or service purchased in generating, 123694
transmitting, or distributing electricity. 123695

(41) Sales to a person providing services under division 123696
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 123697
personal property and services used directly and primarily in 123698
providing taxable services under that section. 123699

(42) Sales where the purpose of the purchaser is to do any of 123700
the following: 123701

(a) To incorporate the thing transferred as a material or a 123702
part into tangible personal property to be produced for sale by 123703
manufacturing, assembling, processing, or refining; or to use or 123704
consume the thing transferred directly in producing tangible 123705
personal property for sale by mining, including, without 123706
limitation, the extraction from the earth of all substances that 123707
are classed geologically as minerals, production of crude oil and 123708
natural gas, farming, agriculture, horticulture, or floriculture, 123709
or directly in the rendition of a public utility service, except 123710
that the sales tax levied by this section shall be collected upon 123711
all meals, drinks, and food for human consumption sold when 123712
transporting persons. Persons engaged in rendering farming, 123713
agricultural, horticultural, or floricultural services, and 123714
services in the exploration for, and production of, crude oil and 123715
natural gas, for others are deemed engaged directly in farming, 123716
agriculture, horticulture, and floriculture, or exploration for, 123717
and production of, crude oil and natural gas. This paragraph does 123718
not exempt from "retail sale" or "sales at retail" the sale of 123719
tangible personal property that is to be incorporated into a 123720

structure or improvement to real property.	123721
(b) To hold the thing transferred as security for the performance of an obligation of the vendor;	123722 123723
(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;	123724 123725
(d) To use or consume the thing directly in commercial fishing;	123726 123727
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	123728 123729 123730 123731
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	123732 123733 123734 123735 123736
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	123737 123738 123739
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	123740 123741 123742 123743 123744 123745
(i) To use the thing transferred as qualified research and development equipment;	123746 123747
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar	123748 123749 123750

facility when the inventory is primarily distributed outside this 123751
state to retail stores of the person who owns or controls the 123752
warehouse, distribution center, or similar facility, to retail 123753
stores of an affiliated group of which that person is a member, or 123754
by means of direct marketing. This division does not apply to 123755
motor vehicles registered for operation on the public highways. As 123756
used in this division, "affiliated group" has the same meaning as 123757
in division (B)(3)(e) of section 5739.01 of the Revised Code and 123758
"direct marketing" has the same meaning as in division (B)(35) of 123759
this section. 123760

(k) To use or consume the thing transferred to fulfill a 123761
contractual obligation incurred by a warrantor pursuant to a 123762
warranty provided as a part of the price of the tangible personal 123763
property sold or by a vendor of a warranty, maintenance or service 123764
contract, or similar agreement the provision of which is defined 123765
as a sale under division (B)(7) of section 5739.01 of the Revised 123766
Code; 123767

(l) To use or consume the thing transferred in the production 123768
of a newspaper for distribution to the public; 123769

(m) To use tangible personal property to perform a service 123770
listed in division (B)(3) of section 5739.01 of the Revised Code, 123771
if the property is or is to be permanently transferred to the 123772
consumer of the service as an integral part of the performance of 123773
the service; 123774

(n) To use or consume the thing transferred in acquiring, 123775
formatting, editing, storing, and disseminating data or 123776
information by electronic publishing. 123777

As used in division (B)(42) of this section, "thing" includes 123778
all transactions included in divisions (B)(3)(a), (b), and (e) of 123779
section 5739.01 of the Revised Code. 123780

(43) Sales conducted through a coin operated device that 123781

activates vacuum equipment or equipment that dispenses water, 123782
whether or not in combination with soap or other cleaning agents 123783
or wax, to the consumer for the consumer's use on the premises in 123784
washing, cleaning, or waxing a motor vehicle, provided no other 123785
personal property or personal service is provided as part of the 123786
transaction. 123787

(44) Sales of replacement and modification parts for engines, 123788
airframes, instruments, and interiors in, and paint for, aircraft 123789
used primarily in a fractional aircraft ownership program, and 123790
sales of services for the repair, modification, and maintenance of 123791
such aircraft, and machinery, equipment, and supplies primarily 123792
used to provide those services. 123793

(45) Sales of telecommunications service that is used 123794
directly and primarily to perform the functions of a call center. 123795
As used in this division, "call center" means any physical 123796
location where telephone calls are placed or received in high 123797
volume for the purpose of making sales, marketing, customer 123798
service, technical support, or other specialized business 123799
activity, and that employs at least fifty individuals that engage 123800
in call center activities on a full-time basis, or sufficient 123801
individuals to fill fifty full-time equivalent positions. 123802

(46) Sales by a telecommunications service vendor of 900 123803
service to a subscriber. This division does not apply to 123804
information services, as defined in division (FF) of section 123805
5739.01 of the Revised Code. 123806

(47) Sales of value-added non-voice data service. This 123807
division does not apply to any similar service that is not 123808
otherwise a telecommunications service. 123809

(48)(a) Sales of machinery, equipment, and software to a 123810
qualified direct selling entity for use in a warehouse or 123811
distribution center primarily for storing, transporting, or 123812

otherwise handling inventory that is held for sale to independent salespersons who operate as direct sellers and that is held primarily for distribution outside this state;

(b) As used in division (B)(48)(a) of this section:

(i) "Direct seller" means a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such product at in-home product demonstrations, parties, and other one-on-one selling.

(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B)(48) of this section after execution of the tax credit agreement by the tax credit authority.

(c) Division (B)(48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.

(49) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B)(49) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or

components, and sales of repair or maintenance services for such 123844
full flight simulators. "Full flight simulator" means a replica of 123845
a specific type, or make, model, and series of aircraft cockpit. 123846
It includes the assemblage of equipment and computer programs 123847
necessary to represent aircraft operations in ground and flight 123848
conditions, a visual system providing an out-of-the-cockpit view, 123849
and a system that provides cues at least equivalent to those of a 123850
three-degree-of-freedom motion system, and has the full range of 123851
capabilities of the systems installed in the device as described 123852
in appendices A and B of part 60 of chapter 1 of title 14 of the 123853
Code of Federal Regulations. 123854

(51) Any transfer or lease of tangible personal property 123855
between the state and a successful proposer in accordance with 123856
sections 126.60 to 126.605 of the Revised Code, provided the 123857
property is part of a project as defined in section 126.60 of the 123858
Revised Code and the state retains ownership of the project or 123859
part thereof that is being transferred or leased, between the 123860
state and JobsOhio in accordance with section 4313.02 of the 123861
Revised Code. 123862

(C) For the purpose of the proper administration of this 123863
chapter, and to prevent the evasion of the tax, it is presumed 123864
that all sales made in this state are subject to the tax until the 123865
contrary is established. 123866

(D) The levy of this tax on retail sales of recreation and 123867
sports club service shall not prevent a municipal corporation from 123868
levying any tax on recreation and sports club dues or on any 123869
income generated by recreation and sports club dues. 123870

(E) The tax collected by the vendor from the consumer under 123871
this chapter is not part of the price, but is a tax collection for 123872
the benefit of the state, and of counties levying an additional 123873
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 123874
Code and of transit authorities levying an additional sales tax 123875

pursuant to section 5739.023 of the Revised Code. Except for the 123876
discount authorized under section 5739.12 of the Revised Code and 123877
the effects of any rounding pursuant to section 5703.055 of the 123878
Revised Code, no person other than the state or such a county or 123879
transit authority shall derive any benefit from the collection or 123880
payment of the tax levied by this section or section 5739.021, 123881
5739.023, or 5739.026 of the Revised Code. 123882

Sec. 5739.021. (A) For the purpose of providing additional 123883
general revenues for the county or supporting criminal and 123884
administrative justice services in the county, or both, and to pay 123885
the expenses of administering such levy, any county may levy a tax 123886
at the rate of not more than one per cent at any multiple of 123887
one-fourth of one per cent upon every retail sale made in the 123888
county, except sales of watercraft and outboard motors required to 123889
be titled pursuant to Chapter 1548. of the Revised Code and sales 123890
of motor vehicles, and may increase the rate of an existing tax to 123891
not more than one per cent at any multiple of one-fourth of one 123892
per cent. 123893

The tax shall be levied and the rate increased pursuant to a 123894
resolution of the board of county commissioners. The resolution 123895
shall state the purpose for which the tax is to be levied and the 123896
number of years for which the tax is to be levied, or that it is 123897
for a continuing period of time. If the tax is to be levied for 123898
the purpose of providing additional general revenues and for the 123899
purpose of supporting criminal and administrative justice 123900
services, the resolution shall state the rate or amount of the tax 123901
to be apportioned to each such purpose. The rate or amount may be 123902
different for each year the tax is to be levied, but the rates or 123903
amounts actually apportioned each year shall not be different from 123904
that stated in the resolution for that year. If the resolution is 123905
adopted as an emergency measure necessary for the immediate 123906
preservation of the public peace, health, or safety, it must 123907

receive an affirmative vote of all of the members of the board of 123908
county commissioners and shall state the reasons for such 123909
necessity. The board shall deliver a certified copy of the 123910
resolution to the tax commissioner, not later than the sixty-fifth 123911
day prior to the date on which the tax is to become effective, 123912
which shall be the first day of the calendar quarter. 123913

Prior to the adoption of any resolution under this section, 123914
the board of county commissioners shall conduct two public 123915
hearings on the resolution, the second hearing to be not less than 123916
three nor more than ten days after the first. Notice of the date, 123917
time, and place of the hearings shall be given by publication in a 123918
newspaper of general circulation in the county, or as provided in 123919
section 7.16 of the Revised Code, once a week on the same day of 123920
the week for two consecutive weeks, the second publication being 123921
not less than ten nor more than thirty days prior to the first 123922
hearing. 123923

Except as provided in division (B)(3) of this section, the 123924
resolution shall be subject to a referendum as provided in 123925
sections 305.31 to 305.41 of the Revised Code. 123926

If a petition for a referendum is filed, the county auditor 123927
with whom the petition was filed shall, within five days, notify 123928
the board of county commissioners and the tax commissioner of the 123929
filing of the petition by certified mail. If the board of 123930
elections with which the petition was filed declares the petition 123931
invalid, the board of elections, within five days, shall notify 123932
the board of county commissioners and the tax commissioner of that 123933
declaration by certified mail. If the petition is declared to be 123934
invalid, the effective date of the tax or increased rate of tax 123935
levied by this section shall be the first day of a calendar 123936
quarter following the expiration of sixty-five days from the date 123937
the commissioner receives notice from the board of elections that 123938
the petition is invalid. 123939

(B)(1) A resolution that is not adopted as an emergency 123940
measure may direct the board of elections to submit the question 123941
of levying the tax or increasing the rate of tax to the electors 123942
of the county at a special election held on the date specified by 123943
the board of county commissioners in the resolution, provided that 123944
the election occurs not less than ninety days after a certified 123945
copy of such resolution is transmitted to the board of elections 123946
and the election is not held in February or August of any year. 123947
Upon transmission of the resolution to the board of elections, the 123948
board of county commissioners shall notify the tax commissioner in 123949
writing of the levy question to be submitted to the electors. No 123950
resolution adopted under this division shall go into effect unless 123951
approved by a majority of those voting upon it, and, except as 123952
provided in division (B)(3) of this section, shall become 123953
effective on the first day of a calendar quarter following the 123954
expiration of sixty-five days from the date the tax commissioner 123955
receives notice from the board of elections of the affirmative 123956
vote. 123957

(2) A resolution that is adopted as an emergency measure 123958
shall go into effect as provided in division (A) of this section, 123959
but may direct the board of elections to submit the question of 123960
repealing the tax or increase in the rate of the tax to the 123961
electors of the county at the next general election in the county 123962
occurring not less than ninety days after a certified copy of the 123963
resolution is transmitted to the board of elections. Upon 123964
transmission of the resolution to the board of elections, the 123965
board of county commissioners shall notify the tax commissioner in 123966
writing of the levy question to be submitted to the electors. The 123967
ballot question shall be the same as that prescribed in section 123968
5739.022 of the Revised Code. The board of elections shall notify 123969
the board of county commissioners and the tax commissioner of the 123970
result of the election immediately after the result has been 123971
declared. If a majority of the qualified electors voting on the 123972

question of repealing the tax or increase in the rate of the tax 123973
vote for repeal of the tax or repeal of the increase, the board of 123974
county commissioners, on the first day of a calendar quarter 123975
following the expiration of sixty-five days after the date the 123976
board and tax commissioner receive notice of the result of the 123977
election, shall, in the case of a repeal of the tax, cease to levy 123978
the tax, or, in the case of a repeal of an increase in the rate of 123979
the tax, cease to levy the increased rate and levy the tax at the 123980
rate at which it was imposed immediately prior to the increase in 123981
rate. 123982

(3) If a vendor that is registered with the central 123983
electronic registration system provided for in section 5740.05 of 123984
the Revised Code makes a sale in this state by printed catalog and 123985
the consumer computed the tax on the sale based on local rates 123986
published in the catalog, any tax levied or repealed or rate 123987
changed under this section shall not apply to such a sale until 123988
the first day of a calendar quarter following the expiration of 123989
one hundred twenty days from the date of notice by the tax 123990
commissioner pursuant to division (H) of this section. 123991

(C) If a resolution is rejected at a referendum or if a 123992
resolution adopted after January 1, 1982, as an emergency measure 123993
is repealed by the electors pursuant to division (B)(2) of this 123994
section or section 5739.022 of the Revised Code, then for one year 123995
after the date of the election at which the resolution was 123996
rejected or repealed the board of county commissioners may not 123997
adopt any resolution authorized by this section as an emergency 123998
measure. 123999

(D) The board of county commissioners, at any time while a 124000
tax levied under this section is in effect, may by resolution 124001
reduce the rate at which the tax is levied to a lower rate 124002
authorized by this section. Any reduction in the rate at which the 124003
tax is levied shall be made effective on the first day of a 124004

calendar quarter next following the sixty-fifth day after a 124005
certified copy of the resolution is delivered to the tax 124006
commissioner. 124007

(E) The tax on every retail sale subject to a tax levied 124008
pursuant to this section shall be in addition to the tax levied by 124009
section 5739.02 of the Revised Code and any tax levied pursuant to 124010
section 5739.023 or 5739.026 of the Revised Code. 124011

A county that levies a tax pursuant to this section shall 124012
levy a tax at the same rate pursuant to section 5741.021 of the 124013
Revised Code. 124014

The additional tax levied by the county shall be collected 124015
pursuant to section 5739.025 of the Revised Code. If the 124016
additional tax or some portion thereof is levied for the purpose 124017
of criminal and administrative justice services, the revenue from 124018
the tax, or the amount or rate apportioned to that purpose, shall 124019
be credited to a special fund created in the county treasury for 124020
receipt of that revenue. 124021

Any tax levied pursuant to this section is subject to the 124022
exemptions provided in section 5739.02 of the Revised Code and in 124023
addition shall not be applicable to sales not within the taxing 124024
power of a county under the Constitution of the United States or 124025
the Ohio Constitution. 124026

(F) For purposes of this section, a copy of a resolution is 124027
"certified" when it contains a written statement attesting that 124028
the copy is a true and exact reproduction of the original 124029
resolution. 124030

(G) If a board of commissioners intends to adopt a resolution 124031
to levy a tax in whole or in part for the purpose of criminal and 124032
administrative justice services, the board shall prepare and make 124033
available at the first public hearing at which the resolution is 124034
considered a statement containing the following information: 124035

(1) For each of the two preceding fiscal years, the amount of 124036
expenditures made by the county from the county general fund for 124037
the purpose of criminal and administrative justice services; 124038

(2) For the fiscal year in which the resolution is adopted, 124039
the board's estimate of the amount of expenditures to be made by 124040
the county from the county general fund for the purpose of 124041
criminal and administrative justice services; 124042

(3) For each of the two fiscal years after the fiscal year in 124043
which the resolution is adopted, the board's preliminary plan for 124044
expenditures to be made from the county general fund for the 124045
purpose of criminal and administrative justice services, both 124046
under the assumption that the tax will be imposed for that purpose 124047
and under the assumption that the tax would not be imposed for 124048
that purpose, and for expenditures to be made from the special 124049
fund created under division (E) of this section under the 124050
assumption that the tax will be imposed for that purpose. 124051

The board shall prepare the statement and the preliminary 124052
plan using the best information available to the board at the time 124053
the statement is prepared. Neither the statement nor the 124054
preliminary plan shall be used as a basis to challenge the 124055
validity of the tax in any court of competent jurisdiction, nor 124056
shall the statement or preliminary plan limit the authority of the 124057
board to appropriate, pursuant to section 5705.38 of the Revised 124058
Code, an amount different from that specified in the preliminary 124059
plan. 124060

(H) Upon receipt from a board of county commissioners of a 124061
certified copy of a resolution required by division (A) or (D) of 124062
this section, or from the board of elections of a notice of the 124063
results of an election required by division (A) or (B)(1) or (2) 124064
of this section, the tax commissioner shall provide notice of a 124065
tax rate change in a manner that is reasonably accessible to all 124066
affected vendors. The commissioner shall provide this notice at 124067

least sixty days prior to the effective date of the rate change. 124068
The commissioner, by rule, may establish the method by which 124069
notice will be provided. 124070

(I) As used in this section, "criminal and administrative 124071
justice services" means the exercise by the county sheriff of all 124072
powers and duties vested in that office by law; the exercise by 124073
the county prosecuting attorney of all powers and duties vested in 124074
that office by law; the exercise by any court in the county of all 124075
powers and duties vested in that court; the exercise by the clerk 124076
of the court of common pleas, any clerk of a municipal court 124077
having jurisdiction throughout the county, or the clerk of any 124078
county court of all powers and duties vested in the clerk by law 124079
except, in the case of the clerk of the court of common pleas, the 124080
titling of motor vehicles or watercraft pursuant to Chapter 1548. 124081
or 4505. of the Revised Code; the exercise by the county coroner 124082
of all powers and duties vested in that office by law; making 124083
payments to any other public agency or a private, nonprofit 124084
agency, the purposes of which in the county include the diversion, 124085
adjudication, detention, or rehabilitation of criminals or 124086
juvenile offenders; the operation and maintenance of any detention 124087
facility, as defined in section 2921.01 of the Revised Code; and 124088
the construction, acquisition, equipping, or repair of such a 124089
detention facility, including the payment of any debt charges 124090
incurred in the issuance of securities pursuant to Chapter 133. of 124091
the Revised Code for the purpose of constructing, acquiring, 124092
equipping, or repairing such a facility. 124093

Sec. 5739.022. (A) The question of repeal of either a county 124094
permissive tax or an increase in the rate of a county permissive 124095
tax that was adopted as an emergency measure pursuant to section 124096
5739.021 or 5739.026 of the Revised Code may be initiated by 124097
filing with the board of elections of the county not less than 124098
ninety days before the general election in any year a petition 124099

requesting that an election be held on the question. The question 124100
of repealing an increase in the rate of the county permissive tax 124101
shall be submitted to the electors as a separate question from the 124102
repeal of the tax in effect prior to the increase in the rate. Any 124103
petition filed under this section shall be signed by qualified 124104
electors residing in the county equal in number to ten per cent of 124105
those voting for governor at the most recent gubernatorial 124106
election. 124107

After determination by it that the petition is valid, the 124108
board of elections shall submit the question to the electors of 124109
the county at the next general election. The election shall be 124110
conducted, canvassed, and certified in the same manner as regular 124111
elections for county offices in the county. The board of elections 124112
shall notify the tax commissioner, in writing, of the election 124113
upon determining that the petition is valid. Notice of the 124114
election shall also be published in a newspaper of general 124115
circulation in the district once a week for two consecutive weeks, 124116
or as provided in section 7.16 of the Revised Code, prior to the 124117
election, ~~and, if,~~ If the board of elections operates and 124118
maintains a web site, the board of elections shall post notice of 124119
the election on its web site for thirty days prior to the 124120
election. The notice shall state the purpose, time, and place of 124121
the election. The form of the ballot cast at the election shall be 124122
prescribed by the secretary of state; however, the ballot question 124123
shall read, "shall the tax (or, increase in the rate of the tax) 124124
be retained? 124125

	Yes
	No

"

The question covered by the petition shall be submitted as a 124130
separate proposition, but it may be printed on the same ballot 124131

with any other proposition submitted at the same election other than the election of officers.

(B) If a majority of the qualified electors voting on the question of repeal of either a county permissive tax or an increase in the rate of a county permissive tax approve the repeal, the board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. The board of county commissioners shall, on the first day of the calendar quarter following the expiration of sixty-five days after the date the board and the tax commissioner receive the notice, in the case of a repeal of a county permissive tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of a county permissive tax, levy the tax at the rate at which it was imposed immediately prior to the increase in rate and cease to levy the increased rate.

(C) Upon receipt from a board of elections of a notice of the results of an election required by division (B) of this section, the tax commissioner shall provide notice of a tax repeal or rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(D) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to

division (C) of this section. 124164

Sec. 5739.026. (A) A board of county commissioners may levy a 124165
tax of one-fourth or one-half of one per cent on every retail sale 124166
in the county, except sales of watercraft and outboard motors 124167
required to be titled pursuant to Chapter 1548. of the Revised 124168
Code and sales of motor vehicles, and may increase an existing 124169
rate of one-fourth of one per cent to one-half of one per cent, to 124170
pay the expenses of administering the tax and, except as provided 124171
in division (A)(6) of this section, for any one or more of the 124172
following purposes provided that the aggregate levy for all such 124173
purposes does not exceed one-half of one per cent: 124174

(1) To provide additional revenues for the payment of bonds 124175
or notes issued in anticipation of bonds issued by a convention 124176
facilities authority established by the board of county 124177
commissioners under Chapter 351. of the Revised Code and to 124178
provide additional operating revenues for the convention 124179
facilities authority; 124180

(2) To provide additional revenues for a transit authority 124181
operating in the county; 124182

(3) To provide additional revenue for the county's general 124183
fund; 124184

(4) To provide additional revenue for permanent improvements 124185
within the county to be distributed by the community improvements 124186
board in accordance with section 307.283 and to pay principal, 124187
interest, and premium on bonds issued under section 307.284 of the 124188
Revised Code; 124189

(5) To provide additional revenue for the acquisition, 124190
construction, equipping, or repair of any specific permanent 124191
improvement or any class or group of permanent improvements, which 124192
improvement or class or group of improvements shall be enumerated 124193

in the resolution required by division (D) of this section, and to 124194
pay principal, interest, premium, and other costs associated with 124195
the issuance of bonds or notes in anticipation of bonds issued 124196
pursuant to Chapter 133. of the Revised Code for the acquisition, 124197
construction, equipping, or repair of the specific permanent 124198
improvement or class or group of permanent improvements; 124199

(6) To provide revenue for the implementation and operation 124200
of a 9-1-1 system in the county. If the tax is levied or the rate 124201
increased exclusively for such purpose, the tax shall not be 124202
levied or the rate increased for more than five years. At the end 124203
of the last year the tax is levied or the rate increased, any 124204
balance remaining in the special fund established for such purpose 124205
shall remain in that fund and be used exclusively for such purpose 124206
until the fund is completely expended, and, notwithstanding 124207
section 5705.16 of the Revised Code, the board of county 124208
commissioners shall not petition for the transfer of money from 124209
such special fund, and the tax commissioner shall not approve such 124210
a petition. 124211

If the tax is levied or the rate increased for such purpose 124212
for more than five years, the board of county commissioners also 124213
shall levy the tax or increase the rate of the tax for one or more 124214
of the purposes described in divisions (A)(1) to (5) of this 124215
section and shall prescribe the method for allocating the revenues 124216
from the tax each year in the manner required by division (C) of 124217
this section. 124218

(7) To provide additional revenue for the operation or 124219
maintenance of a detention facility, as that term is defined under 124220
division (F) of section 2921.01 of the Revised Code; 124221

(8) To provide revenue to finance the construction or 124222
renovation of a sports facility, but only if the tax is levied for 124223
that purpose in the manner prescribed by section 5739.028 of the 124224
Revised Code. 124225

As used in division (A)(8) of this section: 124226

(a) "Sports facility" means a facility intended to house 124227
major league professional athletic teams. 124228

(b) "Constructing" or "construction" includes providing 124229
fixtures, furnishings, and equipment. 124230

(9) To provide additional revenue for the acquisition of 124231
agricultural easements, as defined in section 5301.67 of the 124232
Revised Code; to pay principal, interest, and premium on bonds 124233
issued under section 133.60 of the Revised Code; and for the 124234
supervision and enforcement of agricultural easements held by the 124235
county; 124236

(10) To provide revenue for the provision of ambulance, 124237
paramedic, or other emergency medical services. 124238

Pursuant to section 755.171 of the Revised Code, a board of 124239
county commissioners may pledge and contribute revenue from a tax 124240
levied for the purpose of division (A)(5) of this section to the 124241
payment of debt charges on bonds issued under section 755.17 of 124242
the Revised Code. 124243

The rate of tax shall be a multiple of one-fourth of one per 124244
cent, unless a portion of the rate of an existing tax levied under 124245
section 5739.023 of the Revised Code has been reduced, and the 124246
rate of tax levied under this section has been increased, pursuant 124247
to section 5739.028 of the Revised Code, in which case the 124248
aggregate of the rates of tax levied under this section and 124249
section 5739.023 of the Revised Code shall be a multiple of 124250
one-fourth of one per cent. The tax shall be levied and the rate 124251
increased pursuant to a resolution adopted by a majority of the 124252
members of the board. The board shall deliver a certified copy of 124253
the resolution to the tax commissioner, not later than the 124254
sixty-fifth day prior to the date on which the tax is to become 124255
effective, which shall be the first day of a calendar quarter. 124256

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county, or as provided in section 7.16 of the Revised Code, once a week on the same day of the week for two consecutive weeks, ~~the.~~ The second publication being shall be no fewer than ten nor more than thirty days prior to the first hearing. Except as provided in division (E) of this section, the resolution shall be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for the necessity.

If the tax is for more than one of the purposes set forth in divisions (A)(1) to (7), (9), and (10) of this section, or is exclusively for one of the purposes set forth in division (A)(1), (2), (4), (5), (6), (7), (9), or (10) of this section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax.

(B) The board of county commissioners shall adopt a resolution under section 351.02 of the Revised Code creating the convention facilities authority, or under section 307.283 of the Revised Code creating the community improvements board, before adopting a resolution levying a tax for the purpose of a convention facilities authority under division (A)(1) of this section or for the purpose of a community improvements board under division (A)(4) of this section.

(C)(1) If the tax is to be used for more than one of the purposes set forth in divisions (A)(1) to (7), (9), and (10) of this section, the board of county commissioners shall establish the method that will be used to determine the amount or proportion of the tax revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (C)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax.

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for any year, if the amendment is approved by the governing board of each entity whose allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding, no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on

such bonds. 124321

(b) If the additional revenues provided to the county are 124322
pledged by the county for the payment of bonds or notes described 124323
in division (A)(4) or (5) of this section, for as long as such 124324
bonds or notes are outstanding, no reduction of the county's or 124325
the community improvements board's allocation of the tax shall be 124326
made for any year, except to the extent that the reduced county or 124327
community improvements board allocation is sufficient to meet the 124328
debt service requirements for that year on such bonds or notes. 124329

(c) If the additional revenues provided to the transit 124330
authority are pledged by the authority for the payment of revenue 124331
bonds issued under section 306.37 of the Revised Code, for as long 124332
as such bonds are outstanding, no reduction of the authority's 124333
allocation of tax shall be made for any year, except to the extent 124334
that the authority's reduced allocation, when combined with the 124335
authority's other revenues pledged for that purpose, is sufficient 124336
to meet the debt service requirements for that year on such bonds. 124337

(d) If the additional revenues provided to the county are 124338
pledged by the county for the payment of bonds or notes issued 124339
under section 133.60 of the Revised Code, for so long as the bonds 124340
or notes are outstanding, no reduction of the county's allocation 124341
of the tax shall be made for any year, except to the extent that 124342
the reduced county allocation is sufficient to meet the debt 124343
service requirements for that year on the bonds or notes. 124344

(D)(1) The resolution levying the tax or increasing the rate 124345
of tax shall state the rate of the tax or the rate of the 124346
increase; the purpose or purposes for which it is to be levied; 124347
the number of years for which it is to be levied or that it is for 124348
a continuing period of time; the allocation method required by 124349
division (C) of this section; and if required to be submitted to 124350
the electors of the county under division (A) of this section, the 124351
date of the election at which the proposal shall be submitted to 124352

the electors of the county, which shall be not less than ninety 124353
days after the certification of a copy of the resolution to the 124354
board of elections and, if the tax is to be levied exclusively for 124355
the purpose set forth in division (A)(3) of this section, shall 124356
not occur in February or August of any year. Upon certification of 124357
the resolution to the board of elections, the board of county 124358
commissioners shall notify the tax commissioner in writing of the 124359
levy question to be submitted to the electors. If approved by a 124360
majority of the electors, the tax shall become effective on the 124361
first day of a calendar quarter next following the sixty-fifth day 124362
following the date the board of county commissioners and tax 124363
commissioner receive from the board of elections the certification 124364
of the results of the election, except as provided in division (E) 124365
of this section. 124366

(2)(a) A resolution specifying that the tax is to be used 124367
exclusively for the purpose set forth in division (A)(3) of this 124368
section that is not adopted as an emergency measure may direct the 124369
board of elections to submit the question of levying the tax or 124370
increasing the rate of the tax to the electors of the county at a 124371
special election held on the date specified by the board of county 124372
commissioners in the resolution, provided that the election occurs 124373
not less than ninety days after the resolution is certified to the 124374
board of elections and the election is not held in February or 124375
August of any year. Upon certification of the resolution to the 124376
board of elections, the board of county commissioners shall notify 124377
the tax commissioner in writing of the levy question to be 124378
submitted to the electors. No resolution adopted under division 124379
(D)(2)(a) of this section shall go into effect unless approved by 124380
a majority of those voting upon it and, except as provided in 124381
division (E) of this section, not until the first day of a 124382
calendar quarter following the expiration of sixty-five days from 124383
the date the tax commissioner receives notice from the board of 124384
elections of the affirmative vote. 124385

(b) A resolution specifying that the tax is to be used 124386
exclusively for the purpose set forth in division (A)(3) of this 124387
section that is adopted as an emergency measure shall become 124388
effective as provided in division (A) of this section, but may 124389
direct the board of elections to submit the question of repealing 124390
the tax or increase in the rate of the tax to the electors of the 124391
county at the next general election in the county occurring not 124392
less than ninety days after the resolution is certified to the 124393
board of elections. Upon certification of the resolution to the 124394
board of elections, the board of county commissioners shall notify 124395
the tax commissioner in writing of the levy question to be 124396
submitted to the electors. The ballot question shall be the same 124397
as that prescribed in section 5739.022 of the Revised Code. The 124398
board of elections shall notify the board of county commissioners 124399
and the tax commissioner of the result of the election immediately 124400
after the result has been declared. If a majority of the qualified 124401
electors voting on the question of repealing the tax or increase 124402
in the rate of the tax vote for repeal of the tax or repeal of the 124403
increase, the board of county commissioners, on the first day of a 124404
calendar quarter following the expiration of sixty-five days after 124405
the date the board and tax commissioner received notice of the 124406
result of the election, shall, in the case of a repeal of the tax, 124407
cease to levy the tax, or, in the case of a repeal of an increase 124408
in the rate of the tax, cease to levy the increased rate and levy 124409
the tax at the rate at which it was imposed immediately prior to 124410
the increase in rate. 124411

(c) A board of county commissioners, by resolution, may 124412
reduce the rate of a tax levied exclusively for the purpose set 124413
forth in division (A)(3) of this section to a lower rate 124414
authorized by this section. Any such reduction shall be made 124415
effective on the first day of the calendar quarter next following 124416
the sixty-fifth day after the tax commissioner receives a 124417
certified copy of the resolution from the board. 124418

(E) If a vendor that is registered with the central 124419
electronic registration system provided for in section 5740.05 of 124420
the Revised Code makes a sale in this state by printed catalog and 124421
the consumer computed the tax on the sale based on local rates 124422
published in the catalog, any tax levied or repealed or rate 124423
changed under this section shall not apply to such a sale until 124424
the first day of a calendar quarter following the expiration of 124425
one hundred twenty days from the date of notice by the tax 124426
commissioner pursuant to division (G) of this section. 124427

(F) The tax levied pursuant to this section shall be in 124428
addition to the tax levied by section 5739.02 of the Revised Code 124429
and any tax levied pursuant to section 5739.021 or 5739.023 of the 124430
Revised Code. 124431

A county that levies a tax pursuant to this section shall 124432
levy a tax at the same rate pursuant to section 5741.023 of the 124433
Revised Code. 124434

The additional tax levied by the county shall be collected 124435
pursuant to section 5739.025 of the Revised Code. 124436

Any tax levied pursuant to this section is subject to the 124437
exemptions provided in section 5739.02 of the Revised Code and in 124438
addition shall not be applicable to sales not within the taxing 124439
power of a county under the Constitution of the United States or 124440
the Ohio Constitution. 124441

(G) Upon receipt from a board of county commissioners of a 124442
certified copy of a resolution required by division (A) of this 124443
section, or from the board of elections a notice of the results of 124444
an election required by division (D)(1), (2)(a), (b), or (c) of 124445
this section, the tax commissioner shall provide notice of a tax 124446
rate change in a manner that is reasonably accessible to all 124447
affected vendors. The commissioner shall provide this notice at 124448
least sixty days prior to the effective date of the rate change. 124449

The commissioner, by rule, may establish the method by which 124450
notice will be provided. 124451

Sec. 5739.07. (A) When, pursuant to this chapter, a vendor 124452
has paid taxes to the treasurer of state or the treasurer of 124453
state's agent, or to the tax commissioner or the commissioner's 124454
agent, the commissioner shall refund to the vendor the amount of 124455
taxes paid if the vendor has refunded to the consumer the full 124456
amount of taxes the consumer paid illegally or erroneously or if 124457
the vendor has illegally or erroneously billed the consumer but 124458
has not collected the taxes from the consumer. 124459

(B) When, pursuant to this chapter, a consumer has paid taxes 124460
directly to the treasurer of state or the treasurer of state's 124461
agent, or to the tax commissioner or the commissioner's agent, and 124462
the payment or assessment was illegal or erroneous, the 124463
commissioner shall refund to the consumer the full amount of 124464
illegal or erroneous taxes paid. 124465

(C) The commissioner shall refund to the consumer taxes paid 124466
illegally or erroneously to a vendor only if: 124467

(1) The commissioner has not refunded the tax to the vendor 124468
and the vendor has not refunded the tax to the consumer; or 124469

(2) The consumer has received a refund from a manufacturer or 124470
other person, other than the vendor, of the full purchase price, 124471
but not the tax, paid to the vendor in settlement of a complaint 124472
by the consumer about the property or service purchased. 124473

The commissioner may require the consumer to obtain or the 124474
vendor to provide a written statement confirming that the vendor 124475
has not refunded the tax to the consumer and has not filed an 124476
application for refund of the tax with the commissioner. 124477

(D) ~~An~~ Subject to division (E) of this section, an 124478
application for refund shall be filed with the tax commissioner on 124479

the form prescribed by the commissioner within four years from the 124480
date of the illegal or erroneous payment of the tax, unless the 124481
vendor or consumer waives the time limitation under division 124482
(A)(3) of section 5739.16 of the Revised Code. If the time 124483
limitation is waived, the refund application period shall be 124484
extended for the same period as the waiver. 124485

(E) An application for refund shall be filed in accordance 124486
with division (D) of this section unless a person is subject to an 124487
assessment that is subject to the time limit of division (B) of 124488
section 5703.58 of the Revised Code for a tax not reported and 124489
paid between the four-year time limit described in division (D) of 124490
this section and the seven-year limit described in division (B) of 124491
section 5703.58 of the Revised Code, in which case the person may 124492
file an application for refund for the year in which the 124493
assessment is issued or any following year. 124494

(F) On the filing of an application for a refund, the 124495
commissioner shall determine the amount of refund to which the 124496
applicant is entitled. If the amount is not less than that 124497
claimed, the commissioner shall certify that amount to the 124498
director of budget and management and the treasurer of state for 124499
payment from the tax refund fund created by section 5703.052 of 124500
the Revised Code. If the amount is less than that claimed, the 124501
commissioner shall proceed in accordance with section 5703.70 of 124502
the Revised Code. 124503

~~(F)~~(G) When a refund is granted under this section, it shall 124504
include interest thereon as provided by section 5739.132 of the 124505
Revised Code. 124506

Sec. 5739.101. (A) The legislative authority of a municipal 124507
corporation, by ordinance, or of a township, by resolution, may 124508
declare the municipal corporation or township to be a resort area 124509
for the purposes of this section, if all of the following criteria 124510

are met: 124511

(1) According to statistics published by the federal 124512
government based on data compiled during the most recent decennial 124513
census of the United States, at least sixty-two per cent of total 124514
housing units in the municipal corporation or township are 124515
classified as "for seasonal, recreational, or occasional use"; 124516

(2) Entertainment and recreation facilities are provided 124517
within the municipal corporation or township that are primarily 124518
intended to provide seasonal leisure time activities for persons 124519
other than permanent residents of the municipal corporation or 124520
township; 124521

(3) The municipal corporation or township experiences 124522
seasonal peaks of employment and demand for government services as 124523
a direct result of the seasonal population increase. 124524

(B) For the purpose of providing revenue for its general 124525
fund, the legislative authority of a municipal corporation or 124526
township, in its ordinance or resolution declaring itself a resort 124527
area under this section, may levy a tax on the privilege of 124528
engaging in the business of either of the following: 124529

(1) Making sales in the municipal corporation or township, 124530
whether wholesale or retail, but including sales of food only to 124531
the extent such sales are subject to the tax levied under section 124532
5739.02 of the Revised Code; 124533

(2) Intrastate transportation of passengers or property 124534
primarily to or from the municipal corporation or township by a 124535
railroad, watercraft, or motor vehicle subject to regulation by 124536
the public utilities commission, except not including 124537
transportation of passengers as part of a tour or cruise in which 124538
the passengers will stay in the municipal corporation or township 124539
for no more than one hour. 124540

The tax is imposed upon and shall be paid by the person 124541

making the sales or transporting the passengers or property. The 124542
rate of the tax shall be one-half, one, or one and one-half per 124543
cent of the person's gross receipts derived from making the sales 124544
or transporting the passengers or property to or from the 124545
municipal corporation or township. 124546

(C) The tax shall take effect on the first day of the month 124547
that begins at least sixty days after the effective date of the 124548
ordinance or resolution in which it is levied. The legislative 124549
authority shall certify copies of the ordinance or resolution to 124550
the tax commissioner and treasurer of state within five days after 124551
its adoption. In addition, one time each week during the two weeks 124552
following the adoption of the ordinance or resolution, the 124553
legislative authority shall cause to be published in a newspaper 124554
of general circulation in the municipal corporation or township or 124555
as provided in section 7.16 of the Revised Code, a notice 124556
explaining the tax and stating the rate of the tax, the date it 124557
will take effect, and that persons subject to the tax must 124558
register with the tax commissioner under section 5739.103 of the 124559
Revised Code. 124560

(D) No more than once a year, and subject to the rates 124561
prescribed in division (B) of this section, the legislative 124562
authority of the municipal corporation or township, by ordinance 124563
or resolution, may increase or decrease the rate of a tax levied 124564
under this section. The legislative authority, by ordinance or 124565
resolution, at any time may repeal such a tax. The legislative 124566
authority shall certify to the tax commissioner and treasurer of 124567
state copies of the ordinance or resolution repealing or changing 124568
the rate of the tax within five days after its adoption. In 124569
addition, one time each week during the two weeks following the 124570
adoption of the ordinance or resolution, the legislative authority 124571
shall cause to be published in a newspaper of general circulation 124572
in the municipal corporation or township or as provided in section 124573

7.16 of the Revised Code, notice of the repeal or change. 124574

Sec. 5739.19. The tax commissioner may revoke any retail 124575
vendor's license upon ascertaining that the vendor has no need for 124576
the license because the vendor is not engaged in making taxable 124577
retail sales. Notice of the revocation shall be delivered to the 124578
vendor personally or by certified mail, ~~return receipt requested~~ 124579
or by an alternative delivery service as authorized under section 124580
5703.37 of the Revised Code. The revocation shall be effective on 124581
the first day of the month following the expiration of fifteen 124582
days after the vendor received the notice of the revocation. 124583

The revocation of the vendor's license shall be stayed if, 124584
within fifteen days after receiving notice of the revocation, the 124585
vendor objects, in writing, to the revocation. The commissioner 124586
shall consider the written objections of the vendor and issue a 124587
final determination on the revocation of the vendor's license. The 124588
commissioner's final determination may be appealed to the board of 124589
tax appeals pursuant to section 5717.02 of the Revised Code. The 124590
revocation shall be effective on the first day of the month 124591
following the expiration of all time limits for appeal. 124592

Sec. 5739.30. (A) No person, including any officer, employee, 124593
or trustee of a corporation or business trust, shall fail to file 124594
any return or report required to be filed by this chapter, or file 124595
or cause to be filed any incomplete, false or fraudulent return, 124596
report, or statement, or aid or abet another in the filing of any 124597
false or fraudulent return, report, or statement. 124598

(B) If any vendor required to file monthly returns under 124600
section 5739.12 of the Revised Code fails, on two consecutive 124601
months or on three or more months within a twelve-month period, to 124602
file such returns when due or to pay the tax thereon, or if any 124603

vendor authorized by the tax commissioner to file semiannual 124604
returns fails on two or more occasions within a twenty-four month 124605
period, to file such returns when due or to pay the tax due 124606
thereon, the commissioner may do any of the following: 124607

(1) Require the vendor to furnish security in an amount equal 124608
to the average tax liability of the vendor for a period of one 124609
year, as determined by the commissioner from a review of returns 124610
or other information pertaining to the vendor, which amount shall 124611
in no event be less than one thousand dollars. The security may be 124612
in the form of a corporate surety bond, satisfactory to the 124613
commissioner, conditioned upon payment of the tax due with the 124614
returns from the vendor. The security shall be filed within ten 124615
days following the vendor's receipt of the notice from the 124616
commissioner of its requirements. 124617

(2) Suspend the license issued to the vendor pursuant to 124618
section 5739.17 of the Revised Code. The suspension shall be 124619
effective ten days after service of written notice to the vendor 124620
of the commissioner's intention to do so. The notice shall be 124621
served upon the vendor personally ~~or~~, by certified mail, or by an 124622
alternative delivery service as authorized under section 5703.37 124623
of the Revised Code. On the first day of the suspension, the 124624
commissioner shall cause to be posted, at every public entrance of 124625
the vendor's premises, a notice identifying the vendor and the 124626
location and informing the public that the vendor's license is 124627
under suspension and that no retail sales may be transacted at 124628
that location. No person, other than the commissioner or the 124629
commissioner's agent or employee, shall remove, cover, or deface 124630
the posted notice. No license which has been suspended under this 124631
section shall be reinstated, and no posted notice shall be 124632
removed, until the vendor has filed complete and correct returns 124633
for all periods in which no return had been filed and paid the 124634
full amount of the tax, penalties, and other charges due on those 124635

returns. 124636

A corporate surety bond filed under this section shall be 124637
returned to the vendor if, for a period of twelve consecutive 124638
months following the date the bond was filed, the vendor has filed 124639
all returns and remitted payment with them within the time 124640
prescribed in section 5739.12 of the Revised Code. 124641

Sec. 5747.01. Except as otherwise expressly provided or 124642
clearly appearing from the context, any term used in this chapter 124643
that is not otherwise defined in this section has the same meaning 124644
as when used in a comparable context in the laws of the United 124645
States relating to federal income taxes or if not used in a 124646
comparable context in those laws, has the same meaning as in 124647
section 5733.40 of the Revised Code. Any reference in this chapter 124648
to the Internal Revenue Code includes other laws of the United 124649
States relating to federal income taxes. 124650

As used in this chapter: 124651

(A) "Adjusted gross income" or "Ohio adjusted gross income" 124652
means federal adjusted gross income, as defined and used in the 124653
Internal Revenue Code, adjusted as provided in this section: 124654

(1) Add interest or dividends on obligations or securities of 124655
any state or of any political subdivision or authority of any 124656
state, other than this state and its subdivisions and authorities. 124657

(2) Add interest or dividends on obligations of any 124658
authority, commission, instrumentality, territory, or possession 124659
of the United States to the extent that the interest or dividends 124660
are exempt from federal income taxes but not from state income 124661
taxes. 124662

(3) Deduct interest or dividends on obligations of the United 124663
States and its territories and possessions or of any authority, 124664
commission, or instrumentality of the United States to the extent 124665

that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter.

"Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not

otherwise allowable as a deduction but that would have been 124698
allowable as a deduction in computing federal adjusted gross 124699
income for the taxable year, had the targeted jobs credit allowed 124700
and determined under sections 38, 51, and 52 of the Internal 124701
Revenue Code not been in effect. 124702

(8) Deduct any interest or interest equivalent on public 124703
obligations and purchase obligations to the extent that the 124704
interest or interest equivalent is included in federal adjusted 124705
gross income. 124706

(9) Add any loss or deduct any gain resulting from the sale, 124707
exchange, or other disposition of public obligations to the extent 124708
that the loss has been deducted or the gain has been included in 124709
computing federal adjusted gross income. 124710

(10) Deduct or add amounts, as provided under section 5747.70 124711
of the Revised Code, related to contributions to variable college 124712
savings program accounts made or tuition units purchased pursuant 124713
to Chapter 3334. of the Revised Code. 124714

(11)(a) Deduct, to the extent not otherwise allowable as a 124715
deduction or exclusion in computing federal or Ohio adjusted gross 124716
income for the taxable year, the amount the taxpayer paid during 124717
the taxable year for medical care insurance and qualified 124718
long-term care insurance for the taxpayer, the taxpayer's spouse, 124719
and dependents. No deduction for medical care insurance under 124720
division (A)(11) of this section shall be allowed either to any 124721
taxpayer who is eligible to participate in any subsidized health 124722
plan maintained by any employer of the taxpayer or of the 124723
taxpayer's spouse, or to any taxpayer who is entitled to, or on 124724
application would be entitled to, benefits under part A of Title 124725
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 124726
301, as amended. For the purposes of division (A)(11)(a) of this 124727
section, "subsidized health plan" means a health plan for which 124728
the employer pays any portion of the plan's cost. The deduction 124729

allowed under division (A)(11)(a) of this section shall be the net 124730
of any related premium refunds, related premium reimbursements, or 124731
related insurance premium dividends received during the taxable 124732
year. 124733

(b) Deduct, to the extent not otherwise deducted or excluded 124734
in computing federal or Ohio adjusted gross income during the 124735
taxable year, the amount the taxpayer paid during the taxable 124736
year, not compensated for by any insurance or otherwise, for 124737
medical care of the taxpayer, the taxpayer's spouse, and 124738
dependents, to the extent the expenses exceed seven and one-half 124739
per cent of the taxpayer's federal adjusted gross income. 124740

(c) Deduct, to the extent not otherwise deducted or excluded 124741
in computing federal or Ohio adjusted gross income, any amount 124742
included in federal adjusted gross income under section 105 or not 124743
excluded under section 106 of the Internal Revenue Code solely 124744
because it relates to an accident and health plan for a person who 124745
otherwise would be a "qualifying relative" and thus a "dependent" 124746
under section 152 of the Internal Revenue Code but for the fact 124747
that the person fails to meet the income and support limitations 124748
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 124749

(d) For purposes of division (A)(11) of this section, 124750
"medical care" has the meaning given in section 213 of the 124751
Internal Revenue Code, subject to the special rules, limitations, 124752
and exclusions set forth therein, and "qualified long-term care" 124753
has the same meaning given in section 7702B(c) of the Internal 124754
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 124755
of this section, "dependent" includes a person who otherwise would 124756
be a "qualifying relative" and thus a "dependent" under section 124757
152 of the Internal Revenue Code but for the fact that the person 124758
fails to meet the income and support limitations under section 124759
152(d)(1)(B) and (C) of the Internal Revenue Code. 124760

(12)(a) Deduct any amount included in federal adjusted gross 124761

income solely because the amount represents a reimbursement or 124762
refund of expenses that in any year the taxpayer had deducted as 124763
an itemized deduction pursuant to section 63 of the Internal 124764
Revenue Code and applicable United States department of the 124765
treasury regulations. The deduction otherwise allowed under 124766
division (A)(12)(a) of this section shall be reduced to the extent 124767
the reimbursement is attributable to an amount the taxpayer 124768
deducted under this section in any taxable year. 124769

(b) Add any amount not otherwise included in Ohio adjusted 124770
gross income for any taxable year to the extent that the amount is 124771
attributable to the recovery during the taxable year of any amount 124772
deducted or excluded in computing federal or Ohio adjusted gross 124773
income in any taxable year. 124774

(13) Deduct any portion of the deduction described in section 124775
1341(a)(2) of the Internal Revenue Code, for repaying previously 124776
reported income received under a claim of right, that meets both 124777
of the following requirements: 124778

(a) It is allowable for repayment of an item that was 124779
included in the taxpayer's adjusted gross income for a prior 124780
taxable year and did not qualify for a credit under division (A) 124781
or (B) of section 5747.05 of the Revised Code for that year; 124782

(b) It does not otherwise reduce the taxpayer's adjusted 124783
gross income for the current or any other taxable year. 124784

(14) Deduct an amount equal to the deposits made to, and net 124785
investment earnings of, a medical savings account during the 124786
taxable year, in accordance with section 3924.66 of the Revised 124787
Code. The deduction allowed by division (A)(14) of this section 124788
does not apply to medical savings account deposits and earnings 124789
otherwise deducted or excluded for the current or any other 124790
taxable year from the taxpayer's federal adjusted gross income. 124791

(15)(a) Add an amount equal to the funds withdrawn from a 124792

medical savings account during the taxable year, and the net 124793
investment earnings on those funds, when the funds withdrawn were 124794
used for any purpose other than to reimburse an account holder 124795
for, or to pay, eligible medical expenses, in accordance with 124796
section 3924.66 of the Revised Code; 124797

(b) Add the amounts distributed from a medical savings 124798
account under division (A)(2) of section 3924.68 of the Revised 124799
Code during the taxable year. 124800

(16) Add any amount claimed as a credit under section 124801
5747.059 of the Revised Code to the extent that such amount 124802
satisfies either of the following: 124803

(a) The amount was deducted or excluded from the computation 124804
of the taxpayer's federal adjusted gross income as required to be 124805
reported for the taxpayer's taxable year under the Internal 124806
Revenue Code; 124807

(b) The amount resulted in a reduction of the taxpayer's 124808
federal adjusted gross income as required to be reported for any 124809
of the taxpayer's taxable years under the Internal Revenue Code. 124810

(17) Deduct the amount contributed by the taxpayer to an 124811
individual development account program established by a county 124812
department of job and family services pursuant to sections 329.11 124813
to 329.14 of the Revised Code for the purpose of matching funds 124814
deposited by program participants. On request of the tax 124815
commissioner, the taxpayer shall provide any information that, in 124816
the tax commissioner's opinion, is necessary to establish the 124817
amount deducted under division (A)(17) of this section. 124818

(18) Beginning in taxable year 2001 but not for any taxable 124819
year beginning after December 31, 2005, if the taxpayer is married 124820
and files a joint return and the combined federal adjusted gross 124821
income of the taxpayer and the taxpayer's spouse for the taxable 124822
year does not exceed one hundred thousand dollars, or if the 124823

taxpayer is single and has a federal adjusted gross income for the 124824
taxable year not exceeding fifty thousand dollars, deduct amounts 124825
paid during the taxable year for qualified tuition and fees paid 124826
to an eligible institution for the taxpayer, the taxpayer's 124827
spouse, or any dependent of the taxpayer, who is a resident of 124828
this state and is enrolled in or attending a program that 124829
culminates in a degree or diploma at an eligible institution. The 124830
deduction may be claimed only to the extent that qualified tuition 124831
and fees are not otherwise deducted or excluded for any taxable 124832
year from federal or Ohio adjusted gross income. The deduction may 124833
not be claimed for educational expenses for which the taxpayer 124834
claims a credit under section 5747.27 of the Revised Code. 124835

(19) Add any reimbursement received during the taxable year 124836
of any amount the taxpayer deducted under division (A)(18) of this 124837
section in any previous taxable year to the extent the amount is 124838
not otherwise included in Ohio adjusted gross income. 124839

(20)(a)(i) Add five-sixths of the amount of depreciation 124840
expense allowed by subsection (k) of section 168 of the Internal 124841
Revenue Code, including the taxpayer's proportionate or 124842
distributive share of the amount of depreciation expense allowed 124843
by that subsection to a pass-through entity in which the taxpayer 124844
has a direct or indirect ownership interest. 124845

(ii) Add five-sixths of the amount of qualifying section 179 124846
depreciation expense, including a person's proportionate or 124847
distributive share of the amount of qualifying section 179 124848
depreciation expense allowed to any pass-through entity in which 124849
the person has a direct or indirect ownership. For the purposes of 124850
this division, "qualifying section 179 depreciation expense" means 124851
the difference between (I) the amount of depreciation expense 124852
directly or indirectly allowed to the taxpayer under section 179 124853
of the Internal Revenue Code, and (II) the amount of depreciation 124854
expense directly or indirectly allowed to the taxpayer under 124855

section 179 of the Internal Revenue Code as that section existed 124856
on December 31, 2002. 124857

The tax commissioner, under procedures established by the 124858
commissioner, may waive the add-backs related to a pass-through 124859
entity if the taxpayer owns, directly or indirectly, less than 124860
five per cent of the pass-through entity. 124861

(b) Nothing in division (A)(20) of this section shall be 124862
construed to adjust or modify the adjusted basis of any asset. 124863

(c) To the extent the add-back required under division 124864
(A)(20)(a) of this section is attributable to property generating 124865
nonbusiness income or loss allocated under section 5747.20 of the 124866
Revised Code, the add-back shall be situated to the same location 124867
as the nonbusiness income or loss generated by the property for 124868
the purpose of determining the credit under division (A) of 124869
section 5747.05 of the Revised Code. Otherwise, the add-back shall 124870
be apportioned, subject to one or more of the four alternative 124871
methods of apportionment enumerated in section 5747.21 of the 124872
Revised Code. 124873

(d) For the purposes of division (A) of this section, net 124874
operating loss carryback and carryforward shall not include 124875
five-sixths of the allowance of any net operating loss deduction 124876
carryback or carryforward to the taxable year to the extent such 124877
loss resulted from depreciation allowed by section 168(k) of the 124878
Internal Revenue Code and by the qualifying section 179 124879
depreciation expense amount. 124880

(21)(a) If the taxpayer was required to add an amount under 124881
division (A)(20)(a) of this section for a taxable year, deduct 124882
one-fifth of the amount so added for each of the five succeeding 124883
taxable years. 124884

(b) If the amount deducted under division (A)(21)(a) of this 124885
section is attributable to an add-back allocated under division 124886

(A)(20)(c) of this section, the amount deducted shall be situated 124887
to the same location. Otherwise, the add-back shall be apportioned 124888
using the apportionment factors for the taxable year in which the 124889
deduction is taken, subject to one or more of the four alternative 124890
methods of apportionment enumerated in section 5747.21 of the 124891
Revised Code. 124892

(c) No deduction is available under division (A)(21)(a) of 124893
this section with regard to any depreciation allowed by section 124894
168(k) of the Internal Revenue Code and by the qualifying section 124895
179 depreciation expense amount to the extent that such 124896
depreciation resulted in or increased a federal net operating loss 124897
carryback or carryforward to a taxable year to which division 124898
(A)(20)(d) of this section does not apply. 124899

(22) Deduct, to the extent not otherwise deducted or excluded 124900
in computing federal or Ohio adjusted gross income for the taxable 124901
year, the amount the taxpayer received during the taxable year as 124902
reimbursement for life insurance premiums under section 5919.31 of 124903
the Revised Code. 124904

(23) Deduct, to the extent not otherwise deducted or excluded 124905
in computing federal or Ohio adjusted gross income for the taxable 124906
year, the amount the taxpayer received during the taxable year as 124907
a death benefit paid by the adjutant general under section 5919.33 124908
of the Revised Code. 124909

(24) Deduct, to the extent included in federal adjusted gross 124910
income and not otherwise allowable as a deduction or exclusion in 124911
computing federal or Ohio adjusted gross income for the taxable 124912
year, military pay and allowances received by the taxpayer during 124913
the taxable year for active duty service in the United States 124914
army, air force, navy, marine corps, or coast guard or reserve 124915
components thereof or the national guard. The deduction may not be 124916
claimed for military pay and allowances received by the taxpayer 124917
while the taxpayer is stationed in this state. 124918

(25) Deduct, to the extent not otherwise allowable as a 124919
deduction or exclusion in computing federal or Ohio adjusted gross 124920
income for the taxable year and not otherwise compensated for by 124921
any other source, the amount of qualified organ donation expenses 124922
incurred by the taxpayer during the taxable year, not to exceed 124923
ten thousand dollars. A taxpayer may deduct qualified organ 124924
donation expenses only once for all taxable years beginning with 124925
taxable years beginning in 2007. 124926

For the purposes of division (A)(25) of this section: 124927

(a) "Human organ" means all or any portion of a human liver, 124928
pancreas, kidney, intestine, or lung, and any portion of human 124929
bone marrow. 124930

(b) "Qualified organ donation expenses" means travel 124931
expenses, lodging expenses, and wages and salary forgone by a 124932
taxpayer in connection with the taxpayer's donation, while living, 124933
of one or more of the taxpayer's human organs to another human 124934
being. 124935

(26) Deduct, to the extent not otherwise deducted or excluded 124936
in computing federal or Ohio adjusted gross income for the taxable 124937
year, amounts received by the taxpayer as retired military 124938
personnel pay for service in the United States army, navy, air 124939
force, coast guard, or marine corps or reserve components thereof, 124940
or the national guard, or received by the surviving spouse or 124941
former spouse of such a taxpayer under the survivor benefit plan 124942
on account of such a taxpayer's death. If the taxpayer receives 124943
income on account of retirement paid under the federal civil 124944
service retirement system or federal employees retirement system, 124945
or under any successor retirement program enacted by the congress 124946
of the United States that is established and maintained for 124947
retired employees of the United States government, and such 124948
retirement income is based, in whole or in part, on credit for the 124949
taxpayer's military service, the deduction allowed under this 124950

division shall include only that portion of such retirement income 124951
that is attributable to the taxpayer's military service, to the 124952
extent that portion of such retirement income is otherwise 124953
included in federal adjusted gross income and is not otherwise 124954
deducted under this section. Any amount deducted under division 124955
(A)(26) of this section is not included in a taxpayer's adjusted 124956
gross income for the purposes of section 5747.055 of the Revised 124957
Code. No amount may be deducted under division (A)(26) of this 124958
section on the basis of which a credit was claimed under section 124959
5747.055 of the Revised Code. 124960

(27) Deduct, to the extent not otherwise deducted or excluded 124961
in computing federal or Ohio adjusted gross income for the taxable 124962
year, the amount the taxpayer received during the taxable year 124963
from the military injury relief fund created in section 5101.98 of 124964
the Revised Code. 124965

(28) Deduct, to the extent not otherwise deducted or excluded 124966
in computing federal or Ohio adjusted gross income for the taxable 124967
year, the amount the taxpayer received as a veterans bonus during 124968
the taxable year from the Ohio department of veterans services as 124969
authorized by Section 2r of Article VIII, Ohio Constitution. 124970

(29) Deduct, to the extent not otherwise deducted or excluded 124971
in computing federal or Ohio adjusted gross income for the taxable 124972
year, any loss from wagering transactions that is allowed as an 124973
itemized deduction under section 165 of the Internal Revenue Code 124974
and that the taxpayer deducted in computing federal taxable 124975
income. 124976

(30) Deduct, to the extent not otherwise deducted or excluded 124977
in computing federal or Ohio adjusted gross income for the taxable 124978
year, any income derived from providing public services under a 124979
contract through a project owned by the state, as described in 124980
section 126.604 of the Revised Code or derived from a transfer 124981
agreement or from the enterprise transferred under that agreement 124982

<u>under section 4313.02 of the Revised Code.</u>	124983
(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.	124984 124985 124986 124987 124988 124989 124990 124991 124992 124993
(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.	124994 124995 124996 124997 124998
(D) "Compensation" means any form of remuneration paid to an employee for personal services.	124999 125000
(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.	125001 125002 125003
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	125004 125005
(G) "Individual" means any natural person.	125006
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	125007 125008
(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:	125009 125010 125011
(1) An individual who is domiciled in this state, subject to	125012

section 5747.24 of the Revised Code; 125013

(2) The estate of a decedent who at the time of death was 125014
domiciled in this state. The domicile tests of section 5747.24 of 125015
the Revised Code are not controlling for purposes of division 125016
(I)(2) of this section. 125017

(3) A trust that, in whole or part, resides in this state. If 125018
only part of a trust resides in this state, the trust is a 125019
resident only with respect to that part. 125020

For the purposes of division (I)(3) of this section: 125021

(a) A trust resides in this state for the trust's current 125022
taxable year to the extent, as described in division (I)(3)(d) of 125023
this section, that the trust consists directly or indirectly, in 125024
whole or in part, of assets, net of any related liabilities, that 125025
were transferred, or caused to be transferred, directly or 125026
indirectly, to the trust by any of the following: 125027

(i) A person, a court, or a governmental entity or 125028
instrumentality on account of the death of a decedent, but only if 125029
the trust is described in division (I)(3)(e)(i) or (ii) of this 125030
section; 125031

(ii) A person who was domiciled in this state for the 125032
purposes of this chapter when the person directly or indirectly 125033
transferred assets to an irrevocable trust, but only if at least 125034
one of the trust's qualifying beneficiaries is domiciled in this 125035
state for the purposes of this chapter during all or some portion 125036
of the trust's current taxable year; 125037

(iii) A person who was domiciled in this state for the 125038
purposes of this chapter when the trust document or instrument or 125039
part of the trust document or instrument became irrevocable, but 125040
only if at least one of the trust's qualifying beneficiaries is a 125041
resident domiciled in this state for the purposes of this chapter 125042
during all or some portion of the trust's current taxable year. If 125043

a trust document or instrument became irrevocable upon the death 125044
of a person who at the time of death was domiciled in this state 125045
for purposes of this chapter, that person is a person described in 125046
division (I)(3)(a)(iii) of this section. 125047

(b) A trust is irrevocable to the extent that the transferor 125048
is not considered to be the owner of the net assets of the trust 125049
under sections 671 to 678 of the Internal Revenue Code. 125050

(c) With respect to a trust other than a charitable lead 125051
trust, "qualifying beneficiary" has the same meaning as "potential 125052
current beneficiary" as defined in section 1361(e)(2) of the 125053
Internal Revenue Code, and with respect to a charitable lead trust 125054
"qualifying beneficiary" is any current, future, or contingent 125055
beneficiary, but with respect to any trust "qualifying 125056
beneficiary" excludes a person or a governmental entity or 125057
instrumentality to any of which a contribution would qualify for 125058
the charitable deduction under section 170 of the Internal Revenue 125059
Code. 125060

(d) For the purposes of division (I)(3)(a) of this section, 125061
the extent to which a trust consists directly or indirectly, in 125062
whole or in part, of assets, net of any related liabilities, that 125063
were transferred directly or indirectly, in whole or part, to the 125064
trust by any of the sources enumerated in that division shall be 125065
ascertained by multiplying the fair market value of the trust's 125066
assets, net of related liabilities, by the qualifying ratio, which 125067
shall be computed as follows: 125068

(i) The first time the trust receives assets, the numerator 125069
of the qualifying ratio is the fair market value of those assets 125070
at that time, net of any related liabilities, from sources 125071
enumerated in division (I)(3)(a) of this section. The denominator 125072
of the qualifying ratio is the fair market value of all the 125073
trust's assets at that time, net of any related liabilities. 125074

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of the sources enumerated in division (I)(3)(a) of this section shall be ascertained without regard to the domicile of the trust's beneficiaries.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this

section, a "qualifying transfer" is a transfer of assets, net of 125106
any related liabilities, directly or indirectly to a trust, if the 125107
transfer is described in any of the following: 125108

(i) The transfer is made to a trust, created by the decedent 125109
before the decedent's death and while the decedent was domiciled 125110
in this state for the purposes of this chapter, and, prior to the 125111
death of the decedent, the trust became irrevocable while the 125112
decedent was domiciled in this state for the purposes of this 125113
chapter. 125114

(ii) The transfer is made to a trust to which the decedent, 125115
prior to the decedent's death, had directly or indirectly 125116
transferred assets, net of any related liabilities, while the 125117
decedent was domiciled in this state for the purposes of this 125118
chapter, and prior to the death of the decedent the trust became 125119
irrevocable while the decedent was domiciled in this state for the 125120
purposes of this chapter. 125121

(iii) The transfer is made on account of a contractual 125122
relationship existing directly or indirectly between the 125123
transferor and either the decedent or the estate of the decedent 125124
at any time prior to the date of the decedent's death, and the 125125
decedent was domiciled in this state at the time of death for 125126
purposes of the taxes levied under Chapter 5731. of the Revised 125127
Code. 125128

(iv) The transfer is made to a trust on account of a 125129
contractual relationship existing directly or indirectly between 125130
the transferor and another person who at the time of the 125131
decedent's death was domiciled in this state for purposes of this 125132
chapter. 125133

(v) The transfer is made to a trust on account of the will of 125134
a testator who was domiciled in this state at the time of the 125135
testator's death for purposes of the taxes levied under Chapter 125136

5731. of the Revised Code.	125137
(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.	125138 125139 125140 125141 125142 125143
(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.	125144 125145
(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.	125146 125147 125148 125149
(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.	125150 125151
(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.	125152 125153 125154 125155
(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.	125156 125157 125158 125159
(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.	125160 125161 125162 125163
(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been	125164 125165 125166

permitted to claim had the taxpayer filed a federal income tax return. 125167
125168

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed. 125169
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125171
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125173

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code: 125174
125175

(1) "Subdivision" means any county, municipal corporation, park district, or township. 125176
125177

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution. 125178
125179
125180
125181

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax. 125182
125183

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows: 125184
125185
125186

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section: 125187
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125194

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to 125195
125196

beneficiaries for the taxable year; 125197

(b) The net amount is attributable to the S portion of an 125198
electing small business trust for the taxable year. 125199

(2) Add interest or dividends, net of ordinary, necessary, 125200
and reasonable expenses not deducted in computing federal taxable 125201
income, on obligations of any authority, commission, 125202
instrumentality, territory, or possession of the United States to 125203
the extent that the interest or dividends are exempt from federal 125204
income taxes but not from state income taxes, but only to the 125205
extent that such net amount is not otherwise includible in Ohio 125206
taxable income and is described in either division (S)(1)(a) or 125207
(b) of this section; 125208

(3) Add the amount of personal exemption allowed to the 125209
estate pursuant to section 642(b) of the Internal Revenue Code; 125210

(4) Deduct interest or dividends, net of related expenses 125211
deducted in computing federal taxable income, on obligations of 125212
the United States and its territories and possessions or of any 125213
authority, commission, or instrumentality of the United States to 125214
the extent that the interest or dividends are exempt from state 125215
taxes under the laws of the United States, but only to the extent 125216
that such amount is included in federal taxable income and is 125217
described in either division (S)(1)(a) or (b) of this section; 125218

(5) Deduct the amount of wages and salaries, if any, not 125219
otherwise allowable as a deduction but that would have been 125220
allowable as a deduction in computing federal taxable income for 125221
the taxable year, had the targeted jobs credit allowed under 125222
sections 38, 51, and 52 of the Internal Revenue Code not been in 125223
effect, but only to the extent such amount relates either to 125224
income included in federal taxable income for the taxable year or 125225
to income of the S portion of an electing small business trust for 125226
the taxable year; 125227

(6) Deduct any interest or interest equivalent, net of 125228
related expenses deducted in computing federal taxable income, on 125229
public obligations and purchase obligations, but only to the 125230
extent that such net amount relates either to income included in 125231
federal taxable income for the taxable year or to income of the S 125232
portion of an electing small business trust for the taxable year; 125233

(7) Add any loss or deduct any gain resulting from sale, 125234
exchange, or other disposition of public obligations to the extent 125235
that such loss has been deducted or such gain has been included in 125236
computing either federal taxable income or income of the S portion 125237
of an electing small business trust for the taxable year; 125238

(8) Except in the case of the final return of an estate, add 125239
any amount deducted by the taxpayer on both its Ohio estate tax 125240
return pursuant to section 5731.14 of the Revised Code, and on its 125241
federal income tax return in determining federal taxable income; 125242

(9)(a) Deduct any amount included in federal taxable income 125243
solely because the amount represents a reimbursement or refund of 125244
expenses that in a previous year the decedent had deducted as an 125245
itemized deduction pursuant to section 63 of the Internal Revenue 125246
Code and applicable treasury regulations. The deduction otherwise 125247
allowed under division (S)(9)(a) of this section shall be reduced 125248
to the extent the reimbursement is attributable to an amount the 125249
taxpayer or decedent deducted under this section in any taxable 125250
year. 125251

(b) Add any amount not otherwise included in Ohio taxable 125252
income for any taxable year to the extent that the amount is 125253
attributable to the recovery during the taxable year of any amount 125254
deducted or excluded in computing federal or Ohio taxable income 125255
in any taxable year, but only to the extent such amount has not 125256
been distributed to beneficiaries for the taxable year. 125257

(10) Deduct any portion of the deduction described in section 125258

1341(a)(2) of the Internal Revenue Code, for repaying previously 125259
reported income received under a claim of right, that meets both 125260
of the following requirements: 125261

(a) It is allowable for repayment of an item that was 125262
included in the taxpayer's taxable income or the decedent's 125263
adjusted gross income for a prior taxable year and did not qualify 125264
for a credit under division (A) or (B) of section 5747.05 of the 125265
Revised Code for that year. 125266

(b) It does not otherwise reduce the taxpayer's taxable 125267
income or the decedent's adjusted gross income for the current or 125268
any other taxable year. 125269

(11) Add any amount claimed as a credit under section 125270
5747.059 of the Revised Code to the extent that the amount 125271
satisfies either of the following: 125272

(a) The amount was deducted or excluded from the computation 125273
of the taxpayer's federal taxable income as required to be 125274
reported for the taxpayer's taxable year under the Internal 125275
Revenue Code; 125276

(b) The amount resulted in a reduction in the taxpayer's 125277
federal taxable income as required to be reported for any of the 125278
taxpayer's taxable years under the Internal Revenue Code. 125279

(12) Deduct any amount, net of related expenses deducted in 125280
computing federal taxable income, that a trust is required to 125281
report as farm income on its federal income tax return, but only 125282
if the assets of the trust include at least ten acres of land 125283
satisfying the definition of "land devoted exclusively to 125284
agricultural use" under section 5713.30 of the Revised Code, 125285
regardless of whether the land is valued for tax purposes as such 125286
land under sections 5713.30 to 5713.38 of the Revised Code. If the 125287
trust is a pass-through entity investor, section 5747.231 of the 125288
Revised Code applies in ascertaining if the trust is eligible to 125289

claim the deduction provided by division (S)(12) of this section 125290
in connection with the pass-through entity's farm income. 125291

Except for farm income attributable to the S portion of an 125292
electing small business trust, the deduction provided by division 125293
(S)(12) of this section is allowed only to the extent that the 125294
trust has not distributed such farm income. Division (S)(12) of 125295
this section applies only to taxable years of a trust beginning in 125296
2002 or thereafter. 125297

(13) Add the net amount of income described in section 641(c) 125298
of the Internal Revenue Code to the extent that amount is not 125299
included in federal taxable income. 125300

(14) Add or deduct the amount the taxpayer would be required 125301
to add or deduct under division (A)(20) or (21) of this section if 125302
the taxpayer's Ohio taxable income were computed in the same 125303
manner as an individual's Ohio adjusted gross income is computed 125304
under this section. In the case of a trust, division (S)(14) of 125305
this section applies only to any of the trust's taxable years 125306
beginning in 2002 or thereafter. 125307

(T) "School district income" and "school district income tax" 125308
have the same meanings as in section 5748.01 of the Revised Code. 125309

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 125310
of this section, "public obligations," "purchase obligations," and 125311
"interest or interest equivalent" have the same meanings as in 125312
section 5709.76 of the Revised Code. 125313

(V) "Limited liability company" means any limited liability 125314
company formed under Chapter 1705. of the Revised Code or under 125315
the laws of any other state. 125316

(W) "Pass-through entity investor" means any person who, 125317
during any portion of a taxable year of a pass-through entity, is 125318
a partner, member, shareholder, or equity investor in that 125319
pass-through entity. 125320

(X) "Banking day" has the same meaning as in section 1304.01 125321
of the Revised Code. 125322

(Y) "Month" means a calendar month. 125323

(Z) "Quarter" means the first three months, the second three 125324
months, the third three months, or the last three months of the 125325
taxpayer's taxable year. 125326

(AA)(1) "Eligible institution" means a state university or 125327
state institution of higher education as defined in section 125328
3345.011 of the Revised Code, or a private, nonprofit college, 125329
university, or other post-secondary institution located in this 125330
state that possesses a certificate of authorization issued by the 125331
Ohio board of regents pursuant to Chapter 1713. of the Revised 125332
Code or a certificate of registration issued by the state board of 125333
career colleges and schools under Chapter 3332. of the Revised 125334
Code. 125335

(2) "Qualified tuition and fees" means tuition and fees 125336
imposed by an eligible institution as a condition of enrollment or 125337
attendance, not exceeding two thousand five hundred dollars in 125338
each of the individual's first two years of post-secondary 125339
education. If the individual is a part-time student, "qualified 125340
tuition and fees" includes tuition and fees paid for the academic 125341
equivalent of the first two years of post-secondary education 125342
during a maximum of five taxable years, not exceeding a total of 125343
five thousand dollars. "Qualified tuition and fees" does not 125344
include: 125345

(a) Expenses for any course or activity involving sports, 125346
games, or hobbies unless the course or activity is part of the 125347
individual's degree or diploma program; 125348

(b) The cost of books, room and board, student activity fees, 125349
athletic fees, insurance expenses, or other expenses unrelated to 125350
the individual's academic course of instruction; 125351

(c) Tuition, fees, or other expenses paid or reimbursed 125352
through an employer, scholarship, grant in aid, or other 125353
educational benefit program. 125354

(BB)(1) "Modified business income" means the business income 125355
included in a trust's Ohio taxable income after such taxable 125356
income is first reduced by the qualifying trust amount, if any. 125357

(2) "Qualifying trust amount" of a trust means capital gains 125358
and losses from the sale, exchange, or other disposition of equity 125359
or ownership interests in, or debt obligations of, a qualifying 125360
investee to the extent included in the trust's Ohio taxable 125361
income, but only if the following requirements are satisfied: 125362

(a) The book value of the qualifying investee's physical 125363
assets in this state and everywhere, as of the last day of the 125364
qualifying investee's fiscal or calendar year ending immediately 125365
prior to the date on which the trust recognizes the gain or loss, 125366
is available to the trust. 125367

(b) The requirements of section 5747.011 of the Revised Code 125368
are satisfied for the trust's taxable year in which the trust 125369
recognizes the gain or loss. 125370

Any gain or loss that is not a qualifying trust amount is 125371
modified business income, qualifying investment income, or 125372
modified nonbusiness income, as the case may be. 125373

(3) "Modified nonbusiness income" means a trust's Ohio 125374
taxable income other than modified business income, other than the 125375
qualifying trust amount, and other than qualifying investment 125376
income, as defined in section 5747.012 of the Revised Code, to the 125377
extent such qualifying investment income is not otherwise part of 125378
modified business income. 125379

(4) "Modified Ohio taxable income" applies only to trusts, 125380
and means the sum of the amounts described in divisions (BB)(4)(a) 125381
to (c) of this section: 125382

(a) The fraction, calculated under section 5747.013, and 125383
applying section 5747.231 of the Revised Code, multiplied by the 125384
sum of the following amounts: 125385

(i) The trust's modified business income; 125386

(ii) The trust's qualifying investment income, as defined in 125387
section 5747.012 of the Revised Code, but only to the extent the 125388
qualifying investment income does not otherwise constitute 125389
modified business income and does not otherwise constitute a 125390
qualifying trust amount. 125391

(b) The qualifying trust amount multiplied by a fraction, the 125392
numerator of which is the sum of the book value of the qualifying 125393
investee's physical assets in this state on the last day of the 125394
qualifying investee's fiscal or calendar year ending immediately 125395
prior to the day on which the trust recognizes the qualifying 125396
trust amount, and the denominator of which is the sum of the book 125397
value of the qualifying investee's total physical assets 125398
everywhere on the last day of the qualifying investee's fiscal or 125399
calendar year ending immediately prior to the day on which the 125400
trust recognizes the qualifying trust amount. If, for a taxable 125401
year, the trust recognizes a qualifying trust amount with respect 125402
to more than one qualifying investee, the amount described in 125403
division (BB)(4)(b) of this section shall equal the sum of the 125404
products so computed for each such qualifying investee. 125405

(c)(i) With respect to a trust or portion of a trust that is 125406
a resident as ascertained in accordance with division (I)(3)(d) of 125407
this section, its modified nonbusiness income. 125408

(ii) With respect to a trust or portion of a trust that is 125409
not a resident as ascertained in accordance with division 125410
(I)(3)(d) of this section, the amount of its modified nonbusiness 125411
income satisfying the descriptions in divisions (B)(2) to (5) of 125412
section 5747.20 of the Revised Code, except as otherwise provided 125413

in division (BB)(4)(c)(ii) of this section. With respect to a 125414
trust or portion of a trust that is not a resident as ascertained 125415
in accordance with division (I)(3)(d) of this section, the trust's 125416
portion of modified nonbusiness income recognized from the sale, 125417
exchange, or other disposition of a debt interest in or equity 125418
interest in a section 5747.212 entity, as defined in section 125419
5747.212 of the Revised Code, without regard to division (A) of 125420
that section, shall not be allocated to this state in accordance 125421
with section 5747.20 of the Revised Code but shall be apportioned 125422
to this state in accordance with division (B) of section 5747.212 125423
of the Revised Code without regard to division (A) of that 125424
section. 125425

If the allocation and apportionment of a trust's income under 125426
divisions (BB)(4)(a) and (c) of this section do not fairly 125427
represent the modified Ohio taxable income of the trust in this 125428
state, the alternative methods described in division (C) of 125429
section 5747.21 of the Revised Code may be applied in the manner 125430
and to the same extent provided in that section. 125431

(5)(a) Except as set forth in division (BB)(5)(b) of this 125432
section, "qualifying investee" means a person in which a trust has 125433
an equity or ownership interest, or a person or unit of government 125434
the debt obligations of either of which are owned by a trust. For 125435
the purposes of division (BB)(2)(a) of this section and for the 125436
purpose of computing the fraction described in division (BB)(4)(b) 125437
of this section, all of the following apply: 125438

(i) If the qualifying investee is a member of a qualifying 125439
controlled group on the last day of the qualifying investee's 125440
fiscal or calendar year ending immediately prior to the date on 125441
which the trust recognizes the gain or loss, then "qualifying 125442
investee" includes all persons in the qualifying controlled group 125443
on such last day. 125444

(ii) If the qualifying investee, or if the qualifying 125445

investee and any members of the qualifying controlled group of 125446
which the qualifying investee is a member on the last day of the 125447
qualifying investee's fiscal or calendar year ending immediately 125448
prior to the date on which the trust recognizes the gain or loss, 125449
separately or cumulatively own, directly or indirectly, on the 125450
last day of the qualifying investee's fiscal or calendar year 125451
ending immediately prior to the date on which the trust recognizes 125452
the qualifying trust amount, more than fifty per cent of the 125453
equity of a pass-through entity, then the qualifying investee and 125454
the other members are deemed to own the proportionate share of the 125455
pass-through entity's physical assets which the pass-through 125456
entity directly or indirectly owns on the last day of the 125457
pass-through entity's calendar or fiscal year ending within or 125458
with the last day of the qualifying investee's fiscal or calendar 125459
year ending immediately prior to the date on which the trust 125460
recognizes the qualifying trust amount. 125461

(iii) For the purposes of division (BB)(5)(a)(iii) of this 125462
section, "upper level pass-through entity" means a pass-through 125463
entity directly or indirectly owning any equity of another 125464
pass-through entity, and "lower level pass-through entity" means 125465
that other pass-through entity. 125466

An upper level pass-through entity, whether or not it is also 125467
a qualifying investee, is deemed to own, on the last day of the 125468
upper level pass-through entity's calendar or fiscal year, the 125469
proportionate share of the lower level pass-through entity's 125470
physical assets that the lower level pass-through entity directly 125471
or indirectly owns on the last day of the lower level pass-through 125472
entity's calendar or fiscal year ending within or with the last 125473
day of the upper level pass-through entity's fiscal or calendar 125474
year. If the upper level pass-through entity directly and 125475
indirectly owns less than fifty per cent of the equity of the 125476
lower level pass-through entity on each day of the upper level 125477

pass-through entity's calendar or fiscal year in which or with 125478
which ends the calendar or fiscal year of the lower level 125479
pass-through entity and if, based upon clear and convincing 125480
evidence, complete information about the location and cost of the 125481
physical assets of the lower pass-through entity is not available 125482
to the upper level pass-through entity, then solely for purposes 125483
of ascertaining if a gain or loss constitutes a qualifying trust 125484
amount, the upper level pass-through entity shall be deemed as 125485
owning no equity of the lower level pass-through entity for each 125486
day during the upper level pass-through entity's calendar or 125487
fiscal year in which or with which ends the lower level 125488
pass-through entity's calendar or fiscal year. Nothing in division 125489
(BB)(5)(a)(iii) of this section shall be construed to provide for 125490
any deduction or exclusion in computing any trust's Ohio taxable 125491
income. 125492

(b) With respect to a trust that is not a resident for the 125493
taxable year and with respect to a part of a trust that is not a 125494
resident for the taxable year, "qualifying investee" for that 125495
taxable year does not include a C corporation if both of the 125496
following apply: 125497

(i) During the taxable year the trust or part of the trust 125498
recognizes a gain or loss from the sale, exchange, or other 125499
disposition of equity or ownership interests in, or debt 125500
obligations of, the C corporation. 125501

(ii) Such gain or loss constitutes nonbusiness income. 125502

(6) "Available" means information is such that a person is 125503
able to learn of the information by the due date plus extensions, 125504
if any, for filing the return for the taxable year in which the 125505
trust recognizes the gain or loss. 125506

(CC) "Qualifying controlled group" has the same meaning as in 125507
section 5733.04 of the Revised Code. 125508

(DD) "Related member" has the same meaning as in section 125509
5733.042 of the Revised Code. 125510

(EE)(1) For the purposes of division (EE) of this section: 125511

(a) "Qualifying person" means any person other than a 125512
qualifying corporation. 125513

(b) "Qualifying corporation" means any person classified for 125514
federal income tax purposes as an association taxable as a 125515
corporation, except either of the following: 125516

(i) A corporation that has made an election under subchapter 125517
S, chapter one, subtitle A, of the Internal Revenue Code for its 125518
taxable year ending within, or on the last day of, the investor's 125519
taxable year; 125520

(ii) A subsidiary that is wholly owned by any corporation 125521
that has made an election under subchapter S, chapter one, 125522
subtitle A of the Internal Revenue Code for its taxable year 125523
ending within, or on the last day of, the investor's taxable year. 125524

(2) For the purposes of this chapter, unless expressly stated 125525
otherwise, no qualifying person indirectly owns any asset directly 125526
or indirectly owned by any qualifying corporation. 125527

(FF) For purposes of this chapter and Chapter 5751. of the 125528
Revised Code: 125529

(1) "Trust" does not include a qualified pre-income tax 125530
trust. 125531

(2) A "qualified pre-income tax trust" is any pre-income tax 125532
trust that makes a qualifying pre-income tax trust election as 125533
described in division (FF)(3) of this section. 125534

(3) A "qualifying pre-income tax trust election" is an 125535
election by a pre-income tax trust to subject to the tax imposed 125536
by section 5751.02 of the Revised Code the pre-income tax trust 125537
and all pass-through entities of which the trust owns or controls, 125538

directly, indirectly, or constructively through related interests, 125539
five per cent or more of the ownership or equity interests. The 125540
trustee shall notify the tax commissioner in writing of the 125541
election on or before April 15, 2006. The election, if timely 125542
made, shall be effective on and after January 1, 2006, and shall 125543
apply for all tax periods and tax years until revoked by the 125544
trustee of the trust. 125545

(4) A "pre-income tax trust" is a trust that satisfies all of 125546
the following requirements: 125547

(a) The document or instrument creating the trust was 125548
executed by the grantor before January 1, 1972; 125549

(b) The trust became irrevocable upon the creation of the 125550
trust; and 125551

(c) The grantor was domiciled in this state at the time the 125552
trust was created. 125553

Sec. 5747.058. (A) A refundable income tax credit granted by 125554
the tax credit authority under section 122.17 or division (B)(2) 125555
or (3) of section 122.171 of the Revised Code may be claimed under 125556
this chapter, in the order required under section 5747.98 of the 125557
Revised Code. For purposes of making tax payments under this 125558
chapter, taxes equal to the amount of the refundable credit shall 125559
be considered to be paid to this state on the first day of the 125560
taxable year. The refundable credit shall not be claimed for any 125561
taxable years ending with or following the calendar year in which 125562
a relocation of employment positions occurs in violation of an 125563
agreement entered into under section 122.171 of the Revised Code. 125564

(B) A nonrefundable income tax credit granted by the tax 125565
credit authority under division (B)(1) of section 122.171 of the 125566
Revised Code may be claimed under this chapter, in the order 125567
required under section 5747.98 of the Revised Code. 125568

Sec. 5747.113. (A) Any taxpayer claiming a refund under 125569
section 5747.11 of the Revised Code ~~for taxable years ending on or~~ 125570
~~after October 14, 1983,~~ who wishes to contribute any part of the 125571
taxpayer's refund to the natural areas and preserves fund created 125572
in section 1517.11 of the Revised Code, the nongame and endangered 125573
wildlife fund created in section 1531.26 of the Revised Code, the 125574
military injury relief fund created in section 5101.98 of the 125575
Revised Code, the Ohio historical society income tax contribution 125576
fund created in section 149.308 of the Revised Code, or all of 125577
those funds, may designate on the taxpayer's income tax return the 125578
amount that the taxpayer wishes to contribute to the fund or 125579
funds. A designated contribution is irrevocable upon the filing of 125580
the return and shall be made in the full amount designated if the 125581
refund found due the taxpayer upon the initial processing of the 125582
taxpayer's return, after any deductions including those required 125583
by section 5747.12 of the Revised Code, is greater than or equal 125584
to the designated contribution. If the refund due as initially 125585
determined is less than the designated contribution, the 125586
contribution shall be made in the full amount of the refund. The 125587
tax commissioner shall subtract the amount of the contribution 125588
from the amount of the refund initially found due the taxpayer and 125589
shall certify the difference to the director of budget and 125590
management and treasurer of state for payment to the taxpayer in 125591
accordance with section 5747.11 of the Revised Code. For the 125592
purpose of any subsequent determination of the taxpayer's net tax 125593
payment, the contribution shall be considered a part of the refund 125594
paid to the taxpayer. 125595

(B) The tax commissioner shall provide a space on the income 125596
tax return form in which a taxpayer may indicate that the taxpayer 125597
wishes to make a donation in accordance with this section. The tax 125598
commissioner shall also print in the instructions accompanying the 125599
income tax return form a description of the purposes for which the 125600

natural areas and preserves fund, the nongame and endangered 125601
wildlife fund, ~~and~~ the military injury relief fund, and the Ohio 125602
historical society income tax contribution fund were created and 125603
the use of moneys from the income tax refund contribution system 125604
established in this section. No person shall designate on the 125605
person's income tax return any part of a refund claimed under 125606
section 5747.11 of the Revised Code as a contribution to any fund 125607
other than the natural areas and preserves fund, the nongame and 125608
endangered wildlife fund, the military injury relief fund, ~~or all~~ 125609
~~of these funds~~ the Ohio historical society income tax contribution 125610
fund. 125611

(C) The money collected under the income tax refund 125612
contribution system established in this section shall be deposited 125613
by the tax commissioner into the natural areas and preserves fund, 125614
the nongame and endangered wildlife fund, ~~and~~ the military injury 125615
relief fund, and the Ohio historical society income tax 125616
contribution fund in the amounts designated on the tax returns. 125617

(D) No later than the thirtieth day of September each year, 125618
the tax commissioner shall determine the total amount contributed 125619
to each fund under this section during the preceding eight months, 125620
any adjustments to prior months, and the cost to the department of 125621
taxation of administering the income tax refund contribution 125622
system during that eight-month period. The commissioner shall make 125623
an additional determination no later than the thirty-first day of 125624
January of each year of the total amount contributed to each fund 125625
under this section during the preceding four calendar months, any 125626
adjustments to prior years made during that four-month period, and 125627
the cost to the department of taxation of administering the income 125628
tax contribution system during that period. The cost of 125629
administering the income tax contribution system shall be 125630
certified by the tax commissioner to the director of budget and 125631
management, who shall transfer an amount equal to ~~one-third~~ 125632

one-fourth of such administrative costs from the natural areas and preserves fund, ~~one-third~~ one-fourth of such costs from the nongame and endangered wildlife fund, ~~and one-third~~ one-fourth of such costs from the military injury relief fund, and one-fourth of such costs from the Ohio historical society income tax contribution fund to the litter control and natural resource tax administration fund, which is hereby created, provided that the moneys that the department receives to pay the cost of administering the income tax refund contribution system in any year shall not exceed two and one-half per cent of the total amount contributed under that system during that year.

(E)(1) The director of natural resources, in January of every odd-numbered year, shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the natural areas and preserves fund and the nongame and endangered wildlife fund. The report shall include the amount of money contributed to each fund in each of the previous five years, the amount of money contributed directly to each fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

(2) The director of job and family services and the director of the Ohio historical society, in January of every odd-numbered year, each shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the military injury relief fund and the Ohio historical society income tax contribution fund, respectively. The report shall include the amount of money contributed to the fund in each of the previous five years, the amount of money contributed directly to the fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was

expended. 125665

Sec. 5747.451. (A) The mere retirement from business or 125666
voluntary dissolution of a domestic or foreign qualifying entity 125667
does not exempt it from the requirements to make reports as 125668
required under sections 5747.42 to 5747.44 or to pay the taxes 125669
imposed under section 5733.41 or 5747.41 of the Revised Code. If 125670
any qualifying entity subject to the taxes imposed under section 125671
5733.41 or 5747.41 of the Revised Code sells its business or stock 125672
of merchandise or quits its business, the taxes required to be 125673
paid prior to that time, together with any interest or penalty 125674
thereon, become due and payable immediately, and the qualifying 125675
entity shall make a final return within fifteen days after the 125676
date of selling or quitting business. The successor of the 125677
qualifying entity shall withhold a sufficient amount of the 125678
purchase money to cover the amount of such taxes, interest, and 125679
penalties due and unpaid until the qualifying entity produces a 125680
receipt from the tax commissioner showing that the taxes, 125681
interest, and penalties have been paid, or a certificate 125682
indicating that no taxes are due. If the purchaser of the business 125683
or stock of goods fails to withhold purchase money, the purchaser 125684
is personally liable for the payment of the taxes, interest, and 125685
penalties accrued and unpaid during the operation of the business 125686
by the qualifying entity. If the amount of those taxes, interest, 125687
and penalty unpaid at the time of the purchase exceeds the total 125688
purchase money, the tax commissioner may adjust the qualifying 125689
entity's liability for those taxes, interest, and penalty, or 125690
adjust the responsibility of the purchaser to pay that liability, 125691
in a manner calculated to maximize the collection of those 125692
liabilities. 125693

(B) Annually, on the last day of each qualifying taxable year 125694
of a qualifying entity, the taxes imposed under section 5733.41 or 125695
5747.41 of the Revised Code, together with any penalties 125696

subsequently accruing thereon, become a lien on all property in 125697
this state of the qualifying entity, whether such property is 125698
employed by the qualifying entity in the prosecution of its 125699
business or is in the hands of an assignee, trustee, or receiver 125700
for the benefit of the qualifying entity's creditors and 125701
investors. The lien shall continue until those taxes, together 125702
with any penalties subsequently accruing, are paid. 125703

Upon failure of such a qualifying entity to pay those taxes 125704
on the day fixed for payment, the treasurer of state shall 125705
thereupon notify the tax commissioner, and the commissioner may 125706
file in the office of the county recorder in each county in this 125707
state in which the qualifying entity owns or has a beneficial 125708
interest in real estate, notice of the lien containing a brief 125709
description of such real estate. No fee shall be charged for such 125710
a filing. The lien is not valid as against any mortgagee, 125711
purchaser, or judgment creditor whose rights have attached prior 125712
to the time the notice is so filed in the county in which the real 125713
estate which is the subject of such mortgage, purchase, or 125714
judgment lien is located. The notice shall be recorded in a book 125715
kept by the recorder, called the qualifying entity tax lien 125716
record, and indexed under the name of the qualifying entity 125717
charged with the tax. When the tax, together with any penalties 125718
subsequently accruing thereon, have been paid, the tax 125719
commissioner shall furnish to the qualifying entity an 125720
acknowledgment of such payment that the qualifying entity may 125721
record with the recorder of each county in which notice of such 125722
lien has been filed, for which recording the recorder shall charge 125723
and receive a fee of two dollars. 125724

(C) In addition to all other remedies for the collection of 125725
any taxes or penalties due under law, whenever any taxes, 125726
interest, or penalties due from any qualifying entity under 125727
section 5733.41 of the Revised Code or this chapter have remained 125728

unpaid for a period of ninety days, or whenever any qualifying 125729
entity has failed for a period of ninety days to make any report 125730
or return required by law, or to pay any penalty for failure to 125731
make or file such report or return, the attorney general, upon the 125732
request of the tax commissioner, shall file a petition in the 125733
court of common pleas in the county of the state in which such 125734
qualifying entity has its principal place of business for a 125735
judgment for the amount of the taxes, interest, or penalties 125736
appearing to be due, the enforcement of any lien in favor of the 125737
state, and an injunction to restrain such qualifying entity and 125738
its officers, directors, and managing agents from the transaction 125739
of any business within this state, other than such acts as are 125740
incidental to liquidation or winding up, until the payment of such 125741
taxes, interest, and penalties, and the costs of the proceeding 125742
fixed by the court, or the making and filing of such report or 125743
return. 125744

The petition shall be in the name of the state. Any of the 125745
qualifying entities having its principal places of business in the 125746
county may be joined in one suit. On the motion of the attorney 125747
general, the court of common pleas shall enter an order requiring 125748
all defendants to answer by a day certain, and may appoint a 125749
special master commissioner to take testimony, with such other 125750
power and authority as the court confers, and permitting process 125751
to be served by registered mail and by publication in a newspaper 125752
of general circulation ~~published~~ in the county, which publication 125753
need not be made more than once, setting forth the name of each 125754
delinquent qualifying entity, the matter in which the qualifying 125755
entity is delinquent, the names of its officers, directors, and 125756
managing agents, if set forth in the petition, and the amount of 125757
any taxes, fees, or penalties claimed to be owing by the 125758
qualifying entity. 125759

All or any of the trustees or other fiduciaries, officers, 125760

directors, investors, beneficiaries, or managing agents of any 125761
qualifying entity may be joined as defendants with the qualifying 125762
entity. 125763

If it appears to the court upon hearing that any qualifying 125764
entity that is a party to the proceeding is indebted to the state 125765
for taxes imposed under section 5733.41 or 5747.41 of the Revised 125766
Code, or interest or penalties thereon, judgment shall be entered 125767
therefor with interest; and if it appears that any qualifying 125768
entity has failed to make or file any report or return, a 125769
mandatory injunction may be issued against the qualifying entity, 125770
its trustees or other fiduciaries, officers, directors, and 125771
managing agents, enjoining them from the transaction of any 125772
business within this state, other than acts incidental to 125773
liquidation or winding up, until the making and filing of all 125774
proper reports or returns and until the payment in full of all 125775
taxes, interest, and penalties. 125776

If the trustees or other fiduciaries, officers, directors, 125777
investors, beneficiaries, or managing agents of a qualifying 125778
entity are not made parties in the first instance, and a judgment 125779
or an injunction is rendered or issued against the qualifying 125780
entity, those officers, directors, investors, or managing agents 125781
may be made parties to such proceedings upon the motion of the 125782
attorney general, and, upon notice to them of the form and terms 125783
of such injunction, they shall be bound thereby as fully as if 125784
they had been made parties in the first instance. 125785

In any action authorized by this division, a statement of the 125786
tax commissioner, or the secretary of state, when duly certified, 125787
shall be prima-facie evidence of the amount of taxes, interest, or 125788
penalties due from any qualifying entity, or of the failure of any 125789
qualifying entity to file with the commissioner or the secretary 125790
of state any report required by law, and any such certificate of 125791
the commissioner or the secretary of state may be required in 125792

evidence in any such proceeding. 125793

On the application of any defendant and for good cause shown, 125794
the court may order a separate hearing of the issues as to any 125795
defendant. 125796

The costs of the proceeding shall be apportioned among the 125797
parties as the court deems proper. 125798

The court in such proceeding may make, enter, and enforce 125799
such other judgments and orders and grant such other relief as is 125800
necessary or incidental to the enforcement of the claims and lien 125801
of the state. 125802

In the performance of the duties enjoined upon the attorney 125803
general by this division, the attorney general may direct any 125804
prosecuting attorney to bring an action, as authorized by this 125805
division, in the name of the state with respect to any delinquent 125806
qualifying entities within the prosecuting attorney's county, and 125807
like proceedings and orders shall be had as if such action were 125808
instituted by the attorney general. 125809

(D) If any qualifying entity fails to make and file the 125810
reports or returns required under this chapter, or to pay the 125811
penalties provided by law for failure to make and file such 125812
reports or returns for a period of ninety days after the time 125813
prescribed by this chapter, the attorney general, on the request 125814
of the tax commissioner, shall commence an action in quo warranto 125815
in the court of appeals of the county in which that qualifying 125816
entity has its principal place of business to forfeit and annul 125817
its privileges and franchises. If the court is satisfied that any 125818
such qualifying entity is in default, it shall render judgment 125819
ousting such qualifying entity from the exercise of its privileges 125820
and franchises within this state, and shall otherwise proceed as 125821
provided in sections 2733.02 to 2733.39 of the Revised Code. 125822

Sec. 5747.46. As used in sections 5747.46 and 5747.47 of the	125823
Revised Code:	125824
(A) "Year's fund balance" means the amount credited to the	125825
public library fund during a calendar year.	125826
(B) "Distribution year" means the calendar year during which	125827
a year's fund balance is distributed under section 5747.47 of the	125828
Revised Code.	125829
(C) "CPI" means the consumer price index for all urban	125830
consumers (United States city average, all items), prepared by the	125831
United States department of labor, bureau of labor statistics.	125832
(D) "Inflation factor" means the quotient obtained by	125833
dividing the CPI for May of the year preceding the distribution	125834
year by the CPI for May of the second preceding year. If the	125835
quotient so obtained is less than one, the inflation factor shall	125836
equal one.	125837
(E) "Population" means whichever of the following has most	125838
recently been issued, as of the first day of June preceding the	125839
distribution year:	125840
(1) The most recent decennial census figures that include	125841
population figures for each county in the state;	125842
(2) The most current issue of "Current Population Reports:	125843
Local Population Estimates" issued by the United States bureau of	125844
the census that contains population estimates for each county in	125845
the state and the state.	125846
(F) "County's equalization ratio for a distribution year"	125847
means a percentage computed for that county as follows:	125848
(1) Square the per cent that the county's population is of	125849
the state's population;	125850
(2) Divide the product so obtained by the per cent that the	125851

county's total entitlement for the preceding year is of all 125852
counties' total entitlements for the preceding year; 125853

(3) Divide the quotient so obtained by the sum of the 125854
quotients so obtained for all counties. 125855

(G) "Total entitlement" means, with respect to a distribution 125856
year, the sum of a county's guaranteed share plus its share of the 125857
excess. For the 2012 distribution year, "total entitlement" equals 125858
the sum of payments made to a county public library fund during 125859
that year. 125860

(1) "Guaranteed share" means, for a distribution year, the 125861
product obtained by multiplying a county's total entitlement for 125862
the preceding distribution year by the ~~inflaction~~ inflation 125863
factor. If the sum of the guaranteed shares for all counties 125864
exceeds the year's fund balance, the guaranteed shares of all 125865
counties shall be reduced by a percentage that will result in the 125866
sum of such guaranteed shares being equal to the year's fund 125867
balance. 125868

(2) "Share of excess" means, for a distribution year, the 125869
product obtained by multiplying a county's equalization ratio by 125870
the difference between the year's fund balance and the sum of the 125871
guaranteed shares for all counties. If the sum of the guaranteed 125872
shares for all counties exceeds the year's fund balance the share 125873
of the excess for all counties is zero. 125874

(H) "Net distribution" means the sum of the payments made to 125875
a county's public library fund during a distribution year, 125876
adjusted as follows: 125877

(1) If the county received an overpayment during the 125878
preceding distribution year, add the amount of the overpayment; 125879

(2) If the county received an underpayment during the 125880
preceding distribution year, deduct the amount of the 125881
underpayment. 125882

(I) "Overpayment" or "underpayment" for a distribution year 125883
means the amount by which the net distribution to a county's 125884
public library fund during that distribution year exceeded or was 125885
less than the county's total entitlement for that year. 125886

All computations made under this section shall be rounded to 125887
the nearest one-hundredth of one per cent. 125888

Sec. 5747.51. ~~(A)~~ On or before the twenty-fifth day of July 125889
of each year, the tax commissioner shall make and certify to the 125890
county auditor of each county an estimate of the amount of the 125891
local government fund to be allocated to the undivided local 125892
government fund of each county for the ensuing calendar year ~~and~~ 125893
~~the estimated amount to be received by the undivided local~~ 125894
~~government fund of each county from the taxes levied pursuant to~~ 125895
~~section 5707.03 of the Revised Code for the ensuing calendar year.~~ 125896
Upon the auditor's receipt of the estimate, the county budget 125897
commission shall determine the amount that shall be distributed 125898
from the undivided local government fund to each subdivision under 125899
section 5747.52 or 5747.53 of the Revised Code. The commission's 125900
determination is final and may not be appealed unless the 125901
commission failed to comply with the formula under section 5747.52 125902
or 5747.53 of the Revised Code. 125903

~~(B)~~ At each annual regular session of the county budget 125904
commission convened pursuant to section 5705.27 of the Revised 125905
Code, each auditor shall present to the commission the certificate 125906
of the commissioner, the annual tax budget and estimates, and the 125907
records showing the action of the commission in its last preceding 125908
regular session. The estimates shown on the certificate of the 125909
commissioner of the amount to be allocated from the local 125910
government fund and the amount to be received from taxes levied 125911
pursuant to section 5707.03 of the Revised Code shall be combined 125912
into one total comprising the estimate of the undivided local 125913

~~government fund of the county. The commission, after extending to 125914
the representatives of each subdivision an opportunity to be 125915
heard, under oath administered by any member of the commission, 125916
and considering all the facts and information presented to it by 125917
the auditor, shall determine the amount of the undivided local 125918
government fund needed by and to be apportioned to each 125919
subdivision for current operating expenses, as shown in the tax 125920
budget of the subdivision. This determination shall be made 125921
pursuant to divisions (C) to (I) of this section, unless the 125922
commission has provided for a formula pursuant to section 5747.53 125923
of the Revised Code. 125924~~

~~Nothing in this section prevents the budget commission, for 125925
the purpose of apportioning the undivided local government fund, 125926
from inquiring into the claimed needs of any subdivision as stated 125927
in its tax budget, or from adjusting claimed needs to reflect 125928
actual needs. For the purposes of this section, "current operating 125929
expenses" means the lawful expenditures of a subdivision, except 125930
those for permanent improvements and except payments for interest, 125931
sinking fund, and retirement of bonds, notes, and certificates of 125932
indebtedness of the subdivision. 125933~~

~~(C) The commission shall determine the combined total of the 125934
estimated expenditures, including transfers, from the general fund 125935
and any special funds other than special funds established for 125936
road and bridge; street construction, maintenance, and repair; 125937
state highway improvement; and gas, water, sewer, and electric 125938
public utilities operated by a subdivision, as shown in the 125939
subdivision's tax budget for the ensuing calendar year. 125940~~

~~(D) From the combined total of expenditures calculated 125941
pursuant to division (C) of this section, the commission shall 125942
deduct the following expenditures, if included in these funds in 125943
the tax budget: 125944~~

~~(1) Expenditures for permanent improvements as defined in 125945~~

division (E) of section 5705.01 of the Revised Code;	125946
(2) In the case of counties and townships, transfers to the road and bridge fund, and in the case of municipalities, transfers to the street construction, maintenance, and repair fund and the state highway improvement fund;	125947
	125948
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(3) Expenditures for the payment of debt charges;	125951
(4) Expenditures for the payment of judgments.	125952
(E) In addition to the deductions made pursuant to division (D) of this section, revenues accruing to the general fund and any special fund considered under division (C) of this section from the following sources shall be deducted from the combined total of expenditures calculated pursuant to division (C) of this section:	125953
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	125957
(1) Taxes levied within the ten mill limitation, as defined in section 5705.02 of the Revised Code;	125958
	125959
(2) The budget commission allocation of estimated county public library fund revenues to be distributed pursuant to section 5747.48 of the Revised Code;	125960
	125961
	125962
(3) Estimated unencumbered balances as shown on the tax budget as of the thirty first day of December of the current year in the general fund, but not any estimated balance in any special fund considered in division (C) of this section;	125963
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(4) Revenue, including transfers, shown in the general fund and any special funds other than special funds established for road and bridge; street construction, maintenance, and repair; state highway improvement; and gas, water, sewer, and electric public utilities, from all other sources except those that a subdivision receives from an additional tax or service charge voted by its electorate or receives from special assessment or revenue bond collection. For the purposes of this division, where the charter of a municipal corporation prohibits the levy of an	125967
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~~income tax, an income tax levied by the legislative authority of 125976
such municipal corporation pursuant to an amendment of the charter 125977
of that municipal corporation to authorize such a levy represents 125978
an additional tax voted by the electorate of that municipal 125979
corporation. For the purposes of this division, any measure 125980
adopted by a board of county commissioners pursuant to section 125981
322.02, 324.02, 4504.02, or 5739.021 of the Revised Code, 125982
including those measures upheld by the electorate in a referendum 125983
conducted pursuant to section 322.021, 324.021, 4504.021, or 125984
5739.022 of the Revised Code, shall not be considered an 125985
additional tax voted by the electorate. 125986~~

~~Subject to division (G) of section 5705.29 of the Revised 125987
Code, money in a reserve balance account established by a county, 125988
township, or municipal corporation under section 5705.13 of the 125989
Revised Code shall not be considered an unencumbered balance or 125990
revenue under division (E)(3) or (4) of this section. Money in a 125991
reserve balance account established by a township under section 125992
5705.132 of the Revised Code shall not be considered an 125993
unencumbered balance or revenue under division (E)(3) or (4) of 125994
this section. 125995~~

~~If a county, township, or municipal corporation has created 125996
and maintains a nonexpendable trust fund under section 5705.131 of 125997
the Revised Code, the principal of the fund, and any additions to 125998
the principal arising from sources other than the reinvestment of 125999
investment earnings arising from such a fund, shall not be 126000
considered an unencumbered balance or revenue under division 126001
(E)(3) or (4) of this section. Only investment earnings arising 126002
from investment of the principal or investment of such additions 126003
to principal may be considered an unencumbered balance or revenue 126004
under those divisions. 126005~~

~~(F) The total expenditures calculated pursuant to division 126006
(C) of this section, less the deductions authorized in divisions 126007~~

~~(D) and (E) of this section, shall be known as the "relative need" of the subdivision, for the purposes of this section.~~ 126008
126009

~~(G) The budget commission shall total the relative need of all participating subdivisions in the county, and shall compute a relative need factor by dividing the total estimate of the undivided local government fund by the total relative need of all participating subdivisions.~~ 126010
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~~(H) The relative need of each subdivision shall be multiplied by the relative need factor to determine the proportionate share of the subdivision in the undivided local government fund of the county; provided, that the maximum proportionate share of a county shall not exceed the following maximum percentages of the total estimate of the undivided local government fund governed by the relationship of the percentage of the population of the county that resides within municipal corporations within the county to the total population of the county as reported in the reports on population in Ohio by the department of development as of the twentieth day of July of the year in which the tax budget is filed with the budget commission:~~ 126015
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Percentage of municipal population within the county:	Percentage share of the county shall not exceed:	126027
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Less than forty one per cent	Sixty per cent	126029
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Forty one per cent or more but less than eighty one per cent	Fifty per cent	126030
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Eighty one per cent or more	Thirty per cent	126031
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~~Where the proportionate share of the county exceeds the limitations established in this division, the budget commission shall adjust the proportionate shares determined pursuant to this division so that the proportionate share of the county does not exceed these limitations, and it shall increase the proportionate shares of all other subdivisions on a pro rata basis. In counties~~ 126032
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~~having a population of less than one hundred thousand, not less than ten per cent shall be distributed to the townships therein.~~ 126038
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~~(I) The proportionate share of each subdivision in the undivided local government fund determined pursuant to division (H) of this section for any calendar year shall not be less than the product of the average of the percentages of the undivided local government fund of the county as apportioned to that subdivision for the calendar years 1968, 1969, and 1970, multiplied by the total amount of the undivided local government fund of the county apportioned pursuant to former section 5735.23 of the Revised Code for the calendar year 1970. For the purposes of this division, the total apportioned amount for the calendar year 1970 shall be the amount actually allocated to the county in 1970 from the state collected intangible tax as levied by section 5707.03 of the Revised Code and distributed pursuant to section 5725.24 of the Revised Code, plus the amount received by the county in the calendar year 1970 pursuant to division (B)(1) of former section 5739.21 of the Revised Code, and distributed pursuant to former section 5739.22 of the Revised Code. If the total amount of the undivided local government fund for any calendar year is less than the amount of the undivided local government fund apportioned pursuant to former section 5739.23 of the Revised Code for the calendar year 1970, the minimum amount guaranteed to each subdivision for that calendar year pursuant to this division shall be reduced on a basis proportionate to the amount by which the amount of the undivided local government fund for that calendar year is less than the amount of the undivided local government fund apportioned for the calendar year 1970.~~ 126040
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~~(J) On the basis of such apportionment the budget commission's determination, the county auditor shall compute the percentage share of each such subdivision in the undivided local government fund and shall at the same time certify to the tax~~ 126066
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commissioner the percentage share of the county as a subdivision. 126070
~~No payment shall be made from the undivided local government fund,~~ 126071
~~except in accordance with such percentage shares.~~ 126072

Within ten days after the budget commission has made its 126073
~~apportionment, whether conducted pursuant to section 5747.51 or~~ 126074
~~5747.53 of the Revised Code~~ determination, the auditor shall 126075
publish a list of the subdivisions and the amount each is to 126076
receive from the undivided local government fund and the 126077
percentage share of each subdivision, in a newspaper or newspapers 126078
of countywide circulation, and send a copy of ~~such allocation~~ the 126079
list to the tax commissioner. 126080

The county auditor shall also send by certified mail, return 126081
receipt requested, a copy of ~~such allocation~~ the list to the 126082
fiscal officer of each subdivision entitled to participate in the 126083
allocation of the undivided local government fund of the county. 126084
This copy shall constitute the official notice of the commission 126085
action referred to in section 5705.37 of the Revised Code. 126086

All money received into the treasury of a subdivision from 126087
the undivided local government fund in a county treasury shall be 126088
paid into the general fund and used for the current operating 126089
expenses of the subdivision. 126090

If a municipal corporation maintains a municipal university, 126091
such municipal university, when the board of trustees so requests 126092
the legislative authority of the municipal corporation, shall 126093
participate in the money apportioned to such municipal corporation 126094
from the total local government fund, however created and 126095
constituted, in such amount as requested by the board of trustees, 126096
provided such sum does not exceed nine per cent of the total 126097
amount paid to the municipal corporation. 126098

If any public official fails to maintain the records required 126099
by sections 5747.50 to 5747.55 of the Revised Code or by the rules 126100

issued by the tax commissioner, the auditor of state, or the 126101
treasurer of state pursuant to such sections, or fails to comply 126102
with any law relating to the enforcement of such sections, the 126103
local government fund money allocated to the county may be 126104
withheld until such time as the public official has complied with 126105
such sections or such law or the rules issued pursuant thereto. 126106

Sec. 5747.52. (A) For purposes of this section: 126107

(1) "Total county allocation" means the estimate certified by 126108
the tax commissioner under division (A) of section 5747.51 of the 126109
Revised Code. 126110

(2) "Total base allocation" means the sum of the base 126111
allocations of the county, metropolitan park district, and each 126112
subdivision. 126113

(3) "Base allocation" means, in the case of a county, thirty 126114
per cent of total county allocation. In the case of a metropolitan 126115
park district if one exists in the county, "base allocation" means 126116
five and one-half per cent of total county allocation. For all 126117
other subdivisions, "base allocation" means the average of a 126118
subdivision's current year allocation, first preceding year 126119
distribution, and second preceding year distribution. 126120

(4) "Current year allocation" means the amount allocated to a 126121
subdivision for the current year. 126122

(5) "First preceding year distribution" means the amount 126123
actually distributed to a subdivision pursuant to this section or 126124
section 5747.53 of the Revised Code in the year immediately 126125
preceding the current year. 126126

(6) "Second preceding year distribution" means the amount 126127
actually distributed to a subdivision pursuant to this section or 126128
section 5747.53 of the Revised Code in the second year immediately 126129
preceding the current year. 126130

- (7) "Adjusted base allocation" means the product of total county allocation multiplied by the quotient of the subdivision's base allocation divided by total base allocation. 126131
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- (8) "Total excess allocation" means the difference of total county allocation minus total base allocation, but not less than zero. 126134
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- (9) "Excess allocation" of a subdivision means the product of total excess allocation multiplied by the subdivision's excess allocation percentage. 126137
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- (10) "Excess allocation percentage" means the average of a subdivision's property wealth ratio, income ratio, and population ratio. 126140
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- (11) "Property wealth ratio" means the quotient of a subdivision's property wealth factor divided by the sum of the property wealth factors of all subdivisions. 126143
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- (12) "Property wealth factor" means the quotient of a subdivision's population divided by its taxable value per capita. 126146
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- (13) "Income ratio" means the quotient of a subdivision's income factor divided by the sum of the income factors of all subdivisions. 126148
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- (14) "Income factor" means the quotient of a subdivision's population divided by its per capita income. 126151
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- (15) "Population ratio" means the quotient of a subdivision's population factor divided by the sum of the population factors of all subdivisions. 126153
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- (16) "Population density" means the quotient of a subdivision's population divided by the subdivision's geographical size, measured in square miles, as determined by the county engineer. 126156
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- (17) "Population factor" means the product of a subdivision's 126160

population multiplied by its population density. 126161

(18) "Population" means the population of a subdivision as determined by a regional or county planning commission or, if no such commission exists, by the county budget commission. 126162
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(19) "Taxable value" means the taxable value of all taxable property in the subdivision as indicated on the tax list of real and public utility property for the preceding tax year. 126165
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(20) "Taxable value per capita" means the quotient of a subdivision's population divided by its taxable value. 126168
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(21) "Per capita income" of a subdivision means the per capita income as published by or derived from information prepared by the United States bureau of the census. 126170
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(B) If the total county allocation is equal to or greater than the total base allocation, the amount that shall be distributed to a subdivision from the undivided local government fund equals the sum of the subdivision's base allocation plus its excess allocation. If the total county allocation is less than the total base allocation, the amount that shall be distributed to a subdivision from the undivided local government fund equals the subdivision's adjusted base allocation. 126173
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(C) If the actual amount distributed to the undivided local government fund in a year exceeds the total county allocation for that year, the excess shall be distributed to subdivisions as provided in divisions (C)(1) and (2) of this section. 126181
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(1) Of the first seven hundred fifty thousand dollars of excess, a subdivision shall receive the product of the excess multiplied by the quotient of the subdivision's allocation under division (B) of this section divided by the total county allocation. 126185
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(2) Any amount in excess of seven hundred fifty thousand 126190

<u>dollars shall be distributed as follows:</u>	126191
<u>(a) To the county, thirty per cent;</u>	126192
<u>(b) To a metropolitan park district if one exists in the</u> <u>county, five and one-half per cent;</u>	126193 126194
<u>(c) The remainder shall be distributed to all other</u> <u>subdivisions in amounts to be determined in the same manner as the</u> <u>subdivisions' excess allocation is determined, except that "total</u> <u>excess allocation" equals the total amount to be distributed under</u> <u>division (C)(2)(c) of this section.</u>	126195 126196 126197 126198 126199
 Sec. 5747.53. (A) As used in this section:	126200
(1) "City, located wholly or partially in the county, with the greatest population" means the city, located wholly or partially in the county, with the greatest population residing in the county; however, if the county budget commission on or before January 1, 1998, adopted an alternative method of apportionment that was approved by the legislative authority of the city, located partially in the county, with the greatest population but not the greatest population residing in the county, "city, located wholly or partially in the county, with the greatest population" means the city, located wholly or partially in the county, with the greatest population whether residing in the county or not, if this alternative meaning is adopted by action of the board of county commissioners and a majority of the boards of township trustees and legislative authorities of municipal corporations located wholly or partially in the county.	126201 126202 126203 126204 126205 126206 126207 126208 126209 126210 126211 126212 126213 126214 126215
(2) "Participating political subdivision" means a municipal corporation or township that satisfies all of the following:	126216 126217
(a) It is located wholly or partially in the county.	126218
(b) It is not the city, located wholly or partially in the county, with the greatest population.	126219 126220

~~(c) Undivided local government fund moneys are apportioned to it under the county's alternative method or formula of apportionment in the current calendar year.~~

~~(B) In lieu of the method of apportionment of the undivided local government fund of the county provided by section 5747.51 of the Revised Code, upon the approval of seventy-five per cent or more of the subdivisions located wholly or partially in the county acting by motion adopted after July 1, 2011, the county budget commission may provide for the apportionment of the fund under an alternative method or on a formula basis as authorized by this section.~~

~~Except as otherwise provided in division (C) of this section, the alternative method of apportionment shall have first been approved by all of the following governmental units: the board of county commissioners; the legislative authority of the city, located wholly or partially in the county, with the greatest population; and a majority of the boards of township trustees and legislative authorities of municipal corporations, located wholly or partially in the county, excluding the legislative authority of the city, located wholly or partially in the county, with the greatest population. In granting or denying approval for an alternative method of apportionment, the board of county commissioners, boards of township trustees, and legislative authorities of municipal corporations shall act by motion. A motion to approve shall be passed upon a majority vote of the members of a board of county commissioners, board of township trustees, or legislative authority of a municipal corporation, shall take effect immediately, and need not be published.~~

Any alternative method of apportionment adopted and approved under this ~~division~~ section may be revised, amended, or repealed in the same manner as it may be adopted and approved. If an alternative method of apportionment adopted and approved under

this ~~division section~~ is repealed, the undivided local government 126253
fund of the county shall be apportioned among the subdivisions 126254
eligible to participate in the fund, commencing in the ensuing 126255
calendar year, under the apportionment provided in section 5747.52 126256
of the Revised Code, ~~unless the repeal occurs by operation of~~ 126257
~~division (C) of this section or a new method for apportionment of~~ 126258
~~the fund is provided in the action of repeal.~~ 126259

~~(C) This division applies only in counties in which the city,~~ 126260
~~located wholly or partially in the county, with the greatest~~ 126261
~~population has a population of twenty thousand or less and a~~ 126262
~~population that is less than fifteen per cent of the total~~ 126263
~~population of the county. In such a county, the legislative~~ 126264
~~authorities or boards of township trustees of two or more~~ 126265
~~participating political subdivisions, which together have a~~ 126266
~~population residing in the county that is a majority of the total~~ 126267
~~population of the county, each may adopt a resolution to exclude~~ 126268
~~the approval otherwise required of the legislative authority of~~ 126269
~~the city, located wholly or partially in the county, with the~~ 126270
~~greatest population. All of the resolutions to exclude that~~ 126271
~~approval shall be adopted not later than the first Monday of~~ 126272
~~August of the year preceding the calendar year in which~~ 126273
~~distributions are to be made under an alternative method of~~ 126274
~~apportionment.~~ 126275

~~A motion granting or denying approval of an alternative~~ 126276
~~method of apportionment under this division shall be adopted by a~~ 126277
~~majority vote of the members of the board of county commissioners~~ 126278
~~and by a majority vote of a majority of the boards of township~~ 126279
~~trustees and legislative authorities of the municipal corporations~~ 126280
~~located wholly or partially in the county, other than the city,~~ 126281
~~located wholly or partially in the county, with the greatest~~ 126282
~~population, shall take effect immediately, and need not be~~ 126283
~~published. The alternative method of apportionment under this~~ 126284

~~division shall be adopted and approved annually, not later than 126285
the first Monday of August of the year preceding the calendar year 126286
in which distributions are to be made under it. A motion granting 126287
approval of an alternative method of apportionment under this 126288
division repeals any existing alternative method of apportionment, 126289
effective with distributions to be made from the fund in the 126290
ensuing calendar year. An alternative method of apportionment 126291
under this division shall not be revised or amended after the 126292
first Monday of August of the year preceding the calendar year in 126293
which distributions are to be made under it. 126294~~

~~(D) In determining an alternative method of apportionment 126295
authorized by this section, the county budget commission may 126296
include in the method any factor considered to be appropriate and 126297
reliable, in the sole discretion of the county budget commission. 126298~~

~~(E) The limitations set forth in section 5747.51 of the 126299
Revised Code, stating the maximum amount that the county may 126300
receive from the undivided local government fund and the minimum 126301
amount the townships in counties having a population of less than 126302
one hundred thousand may receive from the fund, are applicable to 126303
any alternative method of apportionment authorized under this 126304
section. 126305~~

~~(F) On the basis of any alternative method of apportionment 126306
adopted and approved as authorized by this section, as certified 126307
by the auditor to the county treasurer, the county treasurer shall 126308
make distribution of the money in the undivided local government 126309
fund to each subdivision eligible to participate in the fund, and 126310
the auditor, when the amount of those shares is in the custody of 126311
the treasurer in the amounts so computed to be due the respective 126312
subdivisions, shall at the same time certify to the tax 126313
commissioner the percentage share of the county as a subdivision. 126314
All money received into the treasury of a subdivision from the 126315
undivided local government fund in a county treasury shall be paid 126316~~

into the general fund and used for the current operating expenses 126317
of the subdivision. If a municipal corporation maintains a 126318
municipal university, the university, when the board of trustees 126319
so requests the legislative authority of the municipal 126320
corporation, shall participate in the money apportioned to the 126321
municipal corporation from the total local government fund, 126322
however created and constituted, in the amount requested by the 126323
board of trustees, provided that amount does not exceed nine per 126324
cent of the total amount paid to the municipal corporation. 126325

~~(G)~~ The actions of the county budget commission taken 126326
pursuant to this section are final and may not be appealed to the 126327
board of tax appeals, except on the issues of abuse of discretion 126328
and failure to comply with the formula. 126329

Sec. 5748.01. As used in this chapter: 126330

(A) "School district income tax" means an income tax adopted 126331
under one of the following: 126332

(1) Former section 5748.03 of the Revised Code as it existed 126333
prior to its repeal by Amended Substitute House Bill No. 291 of 126334
the 115th general assembly; 126335

(2) Section 5748.03 of the Revised Code as enacted in 126336
Substitute Senate Bill No. 28 of the 118th general assembly; 126337

(3) Section 5748.08 of the Revised Code as enacted in Amended 126338
Substitute Senate Bill No. 17 of the 122nd general assembly; 126339

(4) Section 5748.021 of the Revised Code; 126340

(5) Section 5748.081 of the Revised Code; 126341

(6) Section 5748.09 of the Revised Code. 126342

(B) "Individual" means an individual subject to the tax 126343
levied by section 5747.02 of the Revised Code. 126344

(C) "Estate" means an estate subject to the tax levied by 126345

section 5747.02 of the Revised Code. 126346

(D) "Taxable year" means a taxable year as defined in 126347
division (M) of section 5747.01 of the Revised Code. 126348

(E) "Taxable income" means: 126349

(1) In the case of an individual, one of the following, as 126350
specified in the resolution imposing the tax: 126351

(a) Ohio adjusted gross income for the taxable year as 126352
defined in division (A) of section 5747.01 of the Revised Code, 126353
less the exemptions provided by section 5747.02 of the Revised 126354
Code; 126355

(b) Wages, salaries, tips, and other employee compensation to 126356
the extent included in Ohio adjusted gross income as defined in 126357
section 5747.01 of the Revised Code, and net earnings from 126358
self-employment, as defined in section 1402(a) of the Internal 126359
Revenue Code, to the extent included in Ohio adjusted gross 126360
income. 126361

(2) In the case of an estate, taxable income for the taxable 126362
year as defined in division (S) of section 5747.01 of the Revised 126363
Code. 126364

(F) "Resident" of the school district means: 126365

(1) An individual who is a resident of this state as defined 126366
in division (I) of section 5747.01 of the Revised Code during all 126367
or a portion of the taxable year and who, during all or a portion 126368
of such period of state residency, is domiciled in the school 126369
district or lives in and maintains a permanent place of abode in 126370
the school district; 126371

(2) An estate of a decedent who, at the time of death, was 126372
domiciled in the school district. 126373

(G) "School district income" means: 126374

(1) With respect to an individual, the portion of the taxable 126375

income of an individual that is received by the individual during 126376
the portion of the taxable year that the individual is a resident 126377
of the school district and the school district income tax is in 126378
effect in that school district. An individual may have school 126379
district income with respect to more than one school district. 126380

(2) With respect to an estate, the taxable income of the 126381
estate for the portion of the taxable year that the school 126382
district income tax is in effect in that school district. 126383

(H) "Taxpayer" means an individual or estate having school 126384
district income upon which a school district income tax is 126385
imposed. 126386

(I) "School district purposes" means any of the purposes for 126387
which a tax may be levied pursuant to section 5705.21 of the 126388
Revised Code, including the combined purposes authorized by 126389
section 5705.217 of the Revised Code. 126390

Sec. 5748.02. (A) The board of education of any school 126391
district, except a joint vocational school district, may declare, 126392
by resolution, the necessity of raising annually a specified 126393
amount of money for school district purposes. The resolution shall 126394
specify whether the income that is to be subject to the tax is 126395
taxable income of individuals and estates as defined in divisions 126396
(E)(1)(a) and (2) of section 5748.01 of the Revised Code or 126397
taxable income of individuals as defined in division (E)(1)(b) of 126398
that section. A copy of the resolution shall be certified to the 126399
tax commissioner no later than one hundred days prior to the date 126400
of the election at which the board intends to propose a levy under 126401
this section. Upon receipt of the copy of the resolution, the tax 126402
commissioner shall estimate both of the following: 126403

(1) The property tax rate that would have to be imposed in 126404
the current year by the district to produce an equivalent amount 126405
of money; 126406

(2) The income tax rate that would have had to have been in effect for the current year to produce an equivalent amount of money from a school district income tax.

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Within ten days of receiving the copy of the board's resolution, the commissioner shall prepare these estimates and certify them to the board. Upon receipt of the certification, the board may adopt a resolution proposing an income tax under division (B) of this section at the estimated rate contained in the certification rounded to the nearest one-fourth of one per cent. The commissioner's certification applies only to the board's proposal to levy an income tax at the election for which the board requested the certification. If the board intends to submit a proposal to levy an income tax at any other election, it shall request another certification for that election in the manner prescribed in this division.

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(B)(1) Upon the receipt of a certification from the tax commissioner under division (A) of this section, a majority of the members of a board of education may adopt a resolution proposing the levy of an annual tax for school district purposes on school district income. The proposed levy may be for a continuing period of time or for a specified number of years. The resolution shall set forth the purpose for which the tax is to be imposed, the rate of the tax, which shall be the rate set forth in the commissioner's certification rounded to the nearest one-fourth of one per cent, the number of years the tax will be levied or that it will be levied for a continuing period of time, the date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted, and the date of the election at which the proposal shall be submitted to the electors of the district, which shall be on the date of a primary, general, or special election the date of which is consistent with section 3501.01 of the Revised Code. The

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resolution shall specify whether the income that is to be subject 126439
to the tax is taxable income of individuals and estates as defined 126440
in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised 126441
Code or taxable income of individuals as defined in division 126442
(E)(1)(b) of that section. The specification shall be the same as 126443
the specification in the resolution adopted and certified under 126444
division (A) of this section. 126445

If the tax is to be levied for current expenses and permanent 126446
improvements, the resolution shall apportion the annual rate of 126447
the tax. The apportionment may be the same or different for each 126448
year the tax is levied, but the respective portions of the rate 126449
actually levied each year for current expenses and for permanent 126450
improvements shall be limited by the apportionment. 126451

If the board of education currently imposes an income tax 126452
pursuant to this chapter that is due to expire and a question is 126453
submitted under this section for a proposed income tax to take 126454
effect upon the expiration of the existing tax, the board may 126455
specify in the resolution that the proposed tax renews the 126456
expiring tax. Two or more expiring income taxes may be renewed 126457
under this paragraph if the taxes are due to expire on the same 126458
date. If the tax rate being proposed is no higher than the total 126459
tax rate imposed by the expiring tax or taxes, the resolution may 126460
state that the proposed tax is not an additional income tax. 126461

(2) A board of education adopting a resolution under division 126462
(B)(1) of this section proposing a school district income tax for 126463
a continuing period of time and limited to the purpose of current 126464
expenses may propose in that resolution to reduce the rate or 126465
rates of one or more of the school district's property taxes 126466
levied for a continuing period of time in excess of the ten-mill 126467
limitation for the purpose of current expenses. The reduction in 126468
the rate of a property tax may be any amount, expressed in mills 126469
per one dollar in valuation, not exceeding the rate at which the 126470

tax is authorized to be levied. The reduction in the rate of a tax 126471
shall first take effect for the tax year that includes the day on 126472
which the school district income tax first takes effect, and shall 126473
continue for each tax year that both the school district income 126474
tax and the property tax levy are in effect. 126475

In addition to the matters required to be set forth in the 126476
resolution under division (B)(1) of this section, a resolution 126477
containing a proposal to reduce the rate of one or more property 126478
taxes shall state for each such tax the maximum rate at which it 126479
currently may be levied and the maximum rate at which the tax 126480
could be levied after the proposed reduction, expressed in mills 126481
per one dollar in valuation, and that the tax is levied for a 126482
continuing period of time. 126483

If a board of education proposes to reduce the rate of one or 126484
more property taxes under division (B)(2) of this section, the 126485
board, when it makes the certification required under division (A) 126486
of this section, shall designate the specific levy or levies to be 126487
reduced, the maximum rate at which each levy currently is 126488
authorized to be levied, and the rate by which each levy is 126489
proposed to be reduced. The tax commissioner, when making the 126490
certification to the board under division (A) of this section, 126491
also shall certify the reduction in the total effective tax rate 126492
for current expenses for each class of property that would have 126493
resulted if the proposed reduction in the rate or rates had been 126494
in effect the previous tax year. As used in this paragraph, 126495
"effective tax rate" has the same meaning as in section 323.08 of 126496
the Revised Code. 126497

(C) A resolution adopted under division (B) of this section 126498
shall go into immediate effect upon its passage, and no 126499
publication of the resolution shall be necessary other than that 126500
provided for in the notice of election. Immediately after its 126501
adoption and at least ninety days prior to the election at which 126502

the question will appear on the ballot, a copy of the resolution 126503
shall be certified to the board of elections of the proper county, 126504
which shall submit the proposal to the electors on the date 126505
specified in the resolution. The form of the ballot shall be as 126506
provided in section 5748.03 of the Revised Code. Publication of 126507
notice of the election shall be made in ~~one or more newspapers~~ a 126508
newspaper of general circulation in the county once a week for two 126509
consecutive weeks, or as provided in section 7.16 of the Revised 126510
Code, prior to the election, ~~and, if.~~ If the board of elections 126511
operates and maintains a web site, the board of elections shall 126512
post notice of the election on its web site for thirty days prior 126513
to the election. The notice shall contain the time and place of 126514
the election and the question to be submitted to the electors. The 126515
question covered by the resolution shall be submitted as a 126516
separate proposition, but may be printed on the same ballot with 126517
any other proposition submitted at the same election, other than 126518
the election of officers. 126519

(D) No board of education shall submit the question of a tax 126520
on school district income to the electors of the district more 126521
than twice in any calendar year. If a board submits the question 126522
twice in any calendar year, one of the elections on the question 126523
shall be held on the date of the general election. 126524

(E)(1) No board of education may submit to the electors of 126525
the district the question of a tax on school district income on 126526
the taxable income of individuals as defined in division (E)(1)(b) 126527
of section 5748.01 of the Revised Code if that tax would be in 126528
addition to an existing tax on the taxable income of individuals 126529
and estates as defined in divisions (E)(1)(a) and (2) of that 126530
section. 126531

(2) No board of education may submit to the electors of the 126532
district the question of a tax on school district income on the 126533
taxable income of individuals and estates as defined in divisions 126534

(E)(1)(a) and (2) of section 5748.01 of the Revised Code if that 126535
tax would be in addition to an existing tax on the taxable income 126536
of individuals as defined in division (E)(1)(b) of that section. 126537

Sec. 5748.021. A board of education that levies a tax under 126538
section 5748.02 of the Revised Code on the school district income 126539
of individuals and estates as defined in divisions (G) and 126540
(E)(1)(a) and (2) of section 5748.01 of the Revised Code may 126541
declare, at any time, by a resolution adopted by a majority of its 126542
members, the necessity of raising annually a specified amount of 126543
money for school district purposes by replacing the existing tax 126544
with a tax on the school district income of individuals as defined 126545
in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the 126546
Revised Code. The specified amount of money to be raised annually 126547
may be the same as, or more or less than, the amount of money 126548
raised annually by the existing tax. 126549

The board shall certify a copy of the resolution to the tax 126550
commissioner not later than the eighty-fifth day before the date 126551
of the election at which the board intends to propose the 126552
replacement to the electors of the school district. Not later than 126553
the tenth day after receiving the resolution, the tax commissioner 126554
shall estimate the tax rate that would be required in the school 126555
district annually to raise the amount of money specified in the 126556
resolution. The tax commissioner shall certify the estimate to the 126557
board. 126558

Upon receipt of the tax commissioner's estimate, the board 126559
may propose, by a resolution adopted by a majority of its members, 126560
to replace the existing tax on the school district income of 126561
individuals and estates as defined in divisions (G) and (E)(1)(a) 126562
and (2) of section 5748.01 of the Revised Code with the levy of an 126563
annual tax on the school district income of individuals as defined 126564
in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the 126565

Revised Code. In the resolution, the board shall specify the rate 126566
of the replacement tax, whether the replacement tax is to be 126567
levied for a specified number of years or for a continuing time, 126568
the specific school district purposes for which the replacement 126569
tax is to be levied, the date on which the replacement tax will 126570
begin to be levied, the date of the election at which the question 126571
of the replacement is to be submitted to the electors of the 126572
school district, that the existing tax will cease to be levied and 126573
the replacement tax will begin to be levied if the replacement is 126574
approved by a majority of the electors voting on the replacement, 126575
and that if the replacement is not approved by a majority of the 126576
electors voting on the replacement the existing tax will remain in 126577
effect under its original authority for the remainder of its 126578
previously approved term. The resolution goes into immediate 126579
effect upon its adoption. Publication of the resolution is not 126580
necessary, and the information that will be provided in the notice 126581
of election is sufficient notice. At least seventy-five days 126582
before the date of the election at which the question of the 126583
replacement will be submitted to the electors of the school 126584
district, the board shall certify a copy of the resolution to the 126585
board of elections. 126586

The replacement tax shall have the same specific school 126587
district purposes as the existing tax, and its rate shall be the 126588
same as the tax commissioner's estimate rounded to the nearest 126589
one-fourth of one per cent. The replacement tax shall begin to be 126590
levied on the first day of January of the year following the year 126591
in which the question of the replacement is submitted to and 126592
approved by the electors of the school district or on the first 126593
day of January of a later year, as specified in the resolution. 126594
The date of the election shall be the date of an otherwise 126595
scheduled primary, general, or special election. 126596

The board of elections shall make arrangements to submit the 126597

question of the replacement to the electors of the school district 126598
 on the date specified in the resolution. The board of elections 126599
 shall publish notice of the election on the question of the 126600
 replacement in one ~~or more newspapers~~ newspaper of general 126601
 circulation in the school district once a week for four 126602
 consecutive weeks or as provided in section 7.16 of the Revised 126603
Code. The notice shall set forth the question to be submitted to 126604
 the electors and the time and place of the election thereon. 126605

The question shall be submitted to the electors of the school 126606
 district as a separate proposition, but may be printed on the same 126607
 ballot with other propositions that are submitted at the same 126608
 election, other than the election of officers. The form of the 126609
 ballot shall be substantially as follows: 126610

"Shall the existing tax of (state the rate) on the 126611
 school district income of individuals and estates imposed by 126612
 (state the name of the school district) be replaced by a tax of 126613
 (state the rate) on the earned income of individuals 126614
 residing in the school district for (state the number of 126615
 years the tax is to be in effect or that it will be in effect for 126616
 a continuing time), beginning (state the date the new tax 126617
 will take effect), for the purpose of (state the specific 126618
 school district purposes of the tax)? If the new tax is not 126619
 approved, the existing tax will remain in effect under its 126620
 original authority, for the remainder of its previously approved 126621
 term. 126622

	For replacing the existing tax with the new tax	
	Against replacing the existing tax with the new tax	

126623
 " 126624

The board of elections shall conduct and canvass the election 126625
 in the same manner as regular elections in the school district for 126626
 the election of county officers. The board shall certify the 126627

results of the election to the board of education and to the tax commissioner. If a majority of the electors voting on the question vote in favor of the replacement, the existing tax shall cease to be levied, and the replacement tax shall begin to be levied, on the date specified in the ballot question. If a majority of the electors voting on the question vote against the replacement, the existing tax shall continue to be levied under its original authority, for the remainder of its previously approved term.

A board of education may not submit the question of replacing a tax more than twice in a calendar year. If a board submits the question more than once, one of the elections at which the question is submitted shall be on the date of a general election.

If a board of education later intends to renew a replacement tax levied under this section, it shall repeat the procedure outlined in this section to do so, the replacement tax then being levied being the "existing tax" and the renewed replacement tax being the "replacement tax."

Sec. 5748.04. (A) The question of the repeal of a school district income tax levied for more than five years may be initiated not more than once in any five-year period by filing with the board of elections of the appropriate counties not later than ninety days before the general election in any year after the year in which it is approved by the electors a petition requesting that an election be held on the question. The petition shall be signed by qualified electors residing in the school district levying the income tax equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

The board of elections shall determine whether the petition is valid, and if it so determines, it shall submit the question to the electors of the district at the next general election. The election shall be conducted, canvassed, and certified in the same

manner as regular elections for county offices in the county. 126659
Notice of the election shall be published in a newspaper of 126660
general circulation in the district once a week for two 126661
consecutive weeks, or as provided in section 7.16 of the Revised 126662
Code, prior to the election, ~~and, if~~. If the board of elections 126663
operates and maintains a web site, the board of elections shall 126664
post notice of the election on its web site for thirty days prior 126665
to the election. The notice shall state the purpose, time, and 126666
place of the election. The form of the ballot cast at the election 126667
shall be as follows: 126668

"Shall the annual income tax of per cent, currently 126669
levied on the school district income of individuals and estates by 126670
..... (state the name of the school district) for the purpose 126671
of (state purpose of the tax), be repealed? 126672

	For repeal of the income tax	
	Against repeal of the income tax	"

126673

126674

126675

126676

(B)(1) If the tax is imposed on taxable income as defined in 126677
division (E)(1)(b) of section 5748.01 of the Revised Code, the 126678
form of the ballot shall be modified by stating that the tax 126679
currently is levied on the "earned income of individuals residing 126680
in the school district" in lieu of the "school district income of 126681
individuals and estates." 126682

(2) If the rate of one or more property tax levies was 126683
reduced for the duration of the income tax levy pursuant to 126684
division (B)(2) of section 5748.02 of the Revised Code, the form 126685
of the ballot shall be modified by adding the following language 126686
immediately after "repealed": ", and shall the rate of an existing 126687
tax on property for the purpose of current expenses, which rate 126688
was reduced for the duration of the income tax, be INCREASED from 126689

..... mills to mills per one dollar of valuation beginning 126690
in (state the first year for which the rate of the property 126691
tax will increase)." In lieu of "for repeal of the income tax" and 126692
"against repeal of the income tax," the phrases "for the issue" 126693
and "against the issue," respectively, shall be substituted. 126694

(3) If the rate of more than one property tax was reduced for 126695
the duration of the income tax, the ballot language shall be 126696
modified accordingly to express the rates at which those taxes 126697
currently are levied and the rates to which the taxes would be 126698
increased. 126699

(C) The question covered by the petition shall be submitted 126700
as a separate proposition, but it may be printed on the same 126701
ballot with any other proposition submitted at the same election 126702
other than the election of officers. If a majority of the 126703
qualified electors voting on the question vote in favor of it, the 126704
result shall be certified immediately after the canvass by the 126705
board of elections to the board of education of the school 126706
district and the tax commissioner, who shall thereupon, after the 126707
current year, cease to levy the tax, except that if notes have 126708
been issued pursuant to section 5748.05 of the Revised Code the 126709
tax commissioner shall continue to levy and collect under 126710
authority of the election authorizing the levy an annual amount, 126711
rounded upward to the nearest one-fourth of one per cent, as will 126712
be sufficient to pay the debt charges on the notes as they fall 126713
due. 126714

(D) If a school district income tax repealed pursuant to this 126715
section was approved in conjunction with a reduction in the rate 126716
of one or more school district property taxes as provided in 126717
division (B)(2) of section 5748.02 of the Revised Code, then each 126718
such property tax may be levied after the current year at the rate 126719
at which it could be levied prior to the reduction, subject to any 126720
adjustments required by the county budget commission pursuant to 126721

Chapter 5705. of the Revised Code. Upon the repeal of a school 126722
district income tax under this section, the board of education may 126723
resume levying a property tax, the rate of which has been reduced 126724
pursuant to a question approved under section 5748.02 of the 126725
Revised Code, at the rate the board originally was authorized to 126726
levy the tax. A reduction in the rate of a property tax under 126727
section 5748.02 of the Revised Code is a reduction in the rate at 126728
which a board of education may levy that tax only for the period 126729
during which a school district income tax is levied prior to any 126730
repeal pursuant to this section. The resumption of the authority 126731
to levy the tax upon such a repeal does not constitute a tax 126732
levied in excess of the one per cent limitation prescribed by 126733
Section 2 of Article XII, Ohio Constitution, or in excess of the 126734
ten-mill limitation. 126735

(E) This section does not apply to school district income tax 126736
levies that are levied for five or fewer years. 126737

Sec. 5748.05. After the approval by the electors of a 126738
resolution under section 5748.03 ~~or~~, 5748.08, or 5748.09 of the 126739
Revised Code to impose a school district income tax to provide an 126740
increase in current operating revenues or in current revenues for 126741
permanent improvements and prior to the time when the first 126742
payment to the district from the tax can be made, a board of 126743
education may anticipate a fraction of the proceeds of the tax and 126744
issue anticipation notes in an amount not exceeding fifty per cent 126745
of the total estimated proceeds of the tax to be collected for its 126746
first year of collection as estimated by the tax commissioner. The 126747
anticipation notes are Chapter 133. securities and shall be issued 126748
as provided in section 133.24 of the Revised Code as if property 126749
tax anticipation notes. The notes shall have principal payments 126750
during each year after their year of issuance over a period not to 126751
exceed five years and, if determined by the board of education, 126752
during the year of their issuance. The legislation authorizing 126753

issuance of the notes may also provide for the annual levy and 126754
collection of voted ad valorem property taxes levied for the 126755
applicable purpose for which the notes are issued and for the 126756
application of the proceeds of the levy to the extent necessary to 126757
pay annual debt charges on the notes. 126758

Sec. 5748.08. (A) The board of education of a city, local, or 126759
exempted village school district, at any time by a vote of 126760
two-thirds of all its members, may declare by resolution that it 126761
may be necessary for the school district to do all of the 126762
following: 126763

(1) Raise a specified amount of money for school district 126764
purposes by levying an annual tax on school district income; 126765

(2) Issue general obligation bonds for permanent 126766
improvements, stating in the resolution the necessity and purpose 126767
of the bond issue and the amount, approximate date, estimated rate 126768
of interest, and maximum number of years over which the principal 126769
of the bonds may be paid; 126770

(3) Levy a tax outside the ten-mill limitation to pay debt 126771
charges on the bonds and any anticipatory securities; 126772

(4) Submit the question of the school district income tax and 126773
bond issue to the electors of the district at a special election. 126774

The resolution shall specify whether the income that is to be 126775
subject to the tax is taxable income of individuals and estates as 126776
defined in divisions (E)(1)(a) and (2) of section 5748.01 of the 126777
Revised Code or taxable income of individuals as defined in 126778
division (E)(1)(b) of that section. 126779

On adoption of the resolution, the board shall certify a copy 126780
of it to the tax commissioner and the county auditor no later than 126781
one hundred five days prior to the date of the special election at 126782
which the board intends to propose the income tax and bond issue. 126783

Not later than ten days of receipt of the resolution, the tax commissioner, in the same manner as required by division (A) of section 5748.02 of the Revised Code, shall estimate the rates designated in divisions (A)(1) and (2) of that section and certify them to the board. Not later than ten days of receipt of the resolution, the county auditor shall estimate and certify to the board the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds, in the same manner as under division (C) of section 133.18 of the Revised Code.

(B) On receipt of the tax commissioner's and county auditor's certifications prepared under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may adopt a resolution proposing for a specified number of years or for a continuing period of time the levy of an annual tax for school district purposes on school district income and declaring that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to issue general obligation bonds of the school district for specified permanent improvements and to levy an additional tax in excess of the ten-mill limitation to pay the debt charges on the bonds and any anticipatory securities; and that the question of the bonds and taxes shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The purpose for which the school district income tax is to be imposed and the rate of the tax, which shall be the rate set

forth in the tax commissioner's certification rounded to the nearest one-fourth of one per cent;

(2) Whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section.

(3) The number of years the tax will be levied, or that it will be levied for a continuing period of time;

(4) The date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted;

(5) The county auditor's estimate of the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least ninety days prior to the election at which the question will appear on the ballot, the board of education shall certify a copy of the resolution, along with copies of the auditor's estimate and its resolution under division (A) of this section, to the board of elections of the proper county. The board of education shall make the arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers.

The resolution shall be put before the electors as one ballot question, with a majority vote indicating approval of the school district income tax, the bond issue, and the levy to pay debt charges on the bonds and any anticipatory securities. The board of elections shall publish the notice of the election in ~~one or more newspapers~~ a newspaper of general circulation in the school district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election ~~and, if~~. If the board of elections operates and maintains a web site, it also shall post notice of the election on its web site for thirty days prior to the election. The notice of election shall state all of the following:

- (1) The questions to be submitted to the electors;
- (2) The rate of the school district income tax;
- (3) The principal amount of the proposed bond issue;
- (4) The permanent improvements for which the bonds are to be issued;
- (5) The maximum number of years over which the principal of the bonds may be paid;
- (6) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor;
- (7) The time and place of the special election.

(D) The form of the ballot on a question submitted to the electors under this section shall be as follows:

"Shall the school district be authorized to do both of the following:

- (1) Impose an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates, for (state the number of years the tax would be

levied, or that it would be levied for a continuing period of 126877
 time), beginning (state the date the tax would first take 126878
 effect), for the purpose of (state the purpose of the 126879
 tax)? 126880

(2) Issue bonds for the purpose of in the principal 126881
 amount of \$....., to be repaid annually over a maximum period of 126882
 years, and levy a property tax outside the ten-mill 126883
 limitation estimated by the county auditor to average over the 126884
 bond repayment period mills for each one dollar of tax 126885
 valuation, which amounts to (rate expressed in cents or 126886
 dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of 126887
 tax valuation, to pay the annual debt charges on the bonds, and to 126888
 pay debt charges on any notes issued in anticipation of those 126889
 bonds? 126890

	FOR THE INCOME TAX AND BOND ISSUE	
	AGAINST THE INCOME TAX AND BOND ISSUE	"

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(E) If the question submitted to electors proposes a school 126895
 district income tax only on the taxable income of individuals as 126896
 defined in division (E)(1)(b) of section 5748.01 of the Revised 126897
 Code, the form of the ballot shall be modified by stating that the 126898
 tax is to be levied on the "earned income of individuals residing 126899
 in the school district" in lieu of the "school district income of 126900
 individuals and of estates." 126901

(F) The board of elections promptly shall certify the results 126902
 of the election to the tax commissioner and the county auditor of 126903
 the county in which the school district is located. If a majority 126904
 of the electors voting on the question vote in favor of it, the 126905
 income tax and the applicable provisions of Chapter 5747. of the 126906
 Revised Code shall take effect on the date specified in the 126907

resolution, and the board of education may proceed with issuance 126908
of the bonds and with the levy and collection of the property 126909
taxes to pay debt charges on the bonds, at the additional rate or 126910
any lesser rate in excess of the ten-mill limitation. Any 126911
securities issued by the board of education under this section are 126912
Chapter 133. securities, as that term is defined in section 133.01 126913
of the Revised Code. 126914

(G) After approval of a question under this section, the 126915
board of education may anticipate a fraction of the proceeds of 126916
the school district income tax in accordance with section 5748.05 126917
of the Revised Code. Any anticipation notes under this division 126918
shall be issued as provided in section 133.24 of the Revised Code, 126919
shall have principal payments during each year after the year of 126920
their issuance over a period not to exceed five years, and may 126921
have a principal payment in the year of their issuance. 126922

(H) The question of repeal of a school district income tax 126923
levied for more than five years may be initiated and submitted in 126924
accordance with section 5748.04 of the Revised Code. 126925

(I) No board of education shall submit a question under this 126926
section to the electors of the school district more than twice in 126927
any calendar year. If a board submits the question twice in any 126928
calendar year, one of the elections on the question shall be held 126929
on the date of the general election. 126930

Sec. 5748.081. A board of education of a school district 126931
that, under divisions (A)(1), (D)(1), and (E) of section 5748.08 126932
or under section 5748.09 of the Revised Code, levies a tax on the 126933
school district income of individuals and estates as defined in 126934
divisions (G) and (E)(1)(a) and (2) of section 5748.01 of the 126935
Revised Code may replace that tax with a tax on the school 126936
district income of individuals as defined in divisions (G)(1) and 126937
(E)(1)(b) of section 5748.01 of the Revised Code by following the 126938

procedure outlined in, and subject to the conditions specified in, 126939
section 5748.021 of the Revised Code, as if the existing tax 126940
levied under section 5748.08 or 5748.09 were levied under section 126941
5748.02 of the Revised Code. The tax commissioner and the board of 126942
elections shall perform duties in response to the actions of the 126943
board of education under this section as directed in section 126944
5748.021 of the Revised Code. 126945

Sec. 5748.09. (A) The board of education of a city, local, or 126946
exempted village school district, at any time by a vote of 126947
two-thirds of all its members, may declare by resolution that it 126948
may be necessary for the school district to do all of the 126949
following: 126950

(1) Raise a specified amount of money for school district 126951
purposes by levying an annual tax on school district income; 126952

(2) Levy an additional property tax in excess of the ten-mill 126953
limitation for the purpose of providing for the necessary 126954
requirements of the district, stating in the resolution the amount 126955
of money to be raised each year for such purpose; 126956

(3) Submit the question of the school district income tax and 126957
property tax to the electors of the district at a special 126958
election. 126959

The resolution shall specify whether the income that is to be 126960
subject to the tax is taxable income of individuals and estates as 126961
defined in divisions (E)(1)(a) and (2) of section 5748.01 of the 126962
Revised Code or taxable income of individuals as defined in 126963
division (E)(1)(b) of that section. 126964

On adoption of the resolution, the board shall certify a copy 126965
of it to the tax commissioner and the county auditor not later 126966
than one hundred days prior to the date of the special election at 126967
which the board intends to propose the income tax and property 126968

tax. Not later than ten days after receipt of the resolution, the tax commissioner, in the same manner as required by division (A) of section 5748.02 of the Revised Code, shall estimate the rates designated in divisions (A)(1) and (2) of that section and certify them to the board. Not later than ten days after receipt of the resolution, the county auditor, in the same manner as required by section 5705.195 of the Revised Code, shall make the calculation specified in that section and certify it to the board.

(B) On receipt of the tax commissioner's and county auditor's certifications prepared under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may adopt a resolution declaring that the amount of taxes that can be raised by all tax levies the district is authorized to impose, when combined with state and federal revenues, will be insufficient to provide an adequate amount for the present and future requirements of the school district, and that it is therefore necessary to levy, for a specified number of years or for a continuing period of time, an annual tax for school district purposes on school district income, and to levy, for a specified number of years not exceeding ten or for a continuing period of time, an additional property tax in excess of the ten-mill limitation for the purpose of providing for the necessary requirements of the district, and declaring that the question of the school district income tax and property tax shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The purpose for which the school district income tax is to be imposed and the rate of the tax, which shall be the rate set

forth in the tax commissioner's certification rounded to the 127001
nearest one-fourth of one per cent; 127002

(2) Whether the income that is to be subject to the tax is 127003
taxable income of individuals and estates as defined in divisions 127004
(E)(1)(a) and (2) of section 5748.01 of the Revised Code or 127005
taxable income of individuals as defined in division (E)(1)(b) of 127006
that section. The specification shall be the same as the 127007
specification in the resolution adopted and certified under 127008
division (A) of this section. 127009

(3) The number of years the school district income tax will 127010
be levied, or that it will be levied for a continuing period of 127011
time; 127012

(4) The date on which the school district income tax shall 127013
take effect, which shall be the first day of January of any year 127014
following the year in which the question is submitted; 127015

(5) The amount of money it is necessary to raise for the 127016
purpose of providing for the necessary requirements of the 127017
district for each year the property tax is to be imposed; 127018

(6) The number of years the property tax will be levied, or 127019
that it will be levied for a continuing period of time; 127020

(7) The tax list upon which the property tax shall be first 127021
levied, which may be the current year's tax list; 127022

(8) The amount of the average tax levy, expressed in dollars 127023
and cents for each one hundred dollars of valuation as well as in 127024
mills for each one dollar of valuation, estimated by the county 127025
auditor under division (A) of this section. 127026

(C) A resolution adopted under division (B) of this section 127027
shall go into immediate effect upon its passage, and no 127028
publication of the resolution shall be necessary other than that 127029
provided for in the notice of election. Immediately after its 127030

adoption and at least ninety days prior to the election at which 127031
the question will appear on the ballot, the board of education 127032
shall certify a copy of the resolution, along with copies of the 127033
county auditor's certification and the resolution under division 127034
(A) of this section, to the board of elections of the proper 127035
county. The board of education shall make the arrangements for the 127036
submission of the question to the electors of the school district, 127037
and the election shall be conducted, canvassed, and certified in 127038
the same manner as regular elections in the district for the 127039
election of county officers. 127040

The resolution shall be put before the electors as one ballot 127041
question, with a majority vote indicating approval of the school 127042
district income tax and the property tax. The board of elections 127043
shall publish the notice of the election in a newspaper of general 127044
circulation in the school district once a week for two consecutive 127045
weeks, or as provided in section 7.16 of the Revised Code, prior 127046
to the election. If the board of elections operates and maintains 127047
a web site, also shall post notice of the election on its web site 127048
for thirty days prior to the election. The notice of election 127049
shall state all of the following: 127050

(1) The questions to be submitted to the electors as a single 127051
ballot question; 127052

(2) The rate of the school district income tax; 127053

(3) The number of years the school district income tax will 127054
be levied or that it will be levied for a continuing period of 127055
time; 127056

(4) The annual proceeds of the proposed property tax levy for 127057
the purpose of providing for the necessary requirements of the 127058
district; 127059

(5) The number of years during which the property tax levy 127060
shall be levied, or that it shall be levied for a continuing 127061

period of time; 127062

(6) The estimated average additional tax rate of the property tax, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, outside the limitation imposed by Section 2 of Article XII, Ohio Constitution, as certified by the county auditor; 127063
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(7) The time and place of the special election. 127068

(D) The form of the ballot on a question submitted to the electors under this section shall be as follows: 127069
127070

"Shall the school district be authorized to do both of the following: 127071
127072

(1) Impose an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates, for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date the tax would first take effect), for the purpose of (state the purpose of the tax)? 127073
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(2) Impose a property tax levy outside of the ten-mill limitation for the purpose of providing for the necessary requirements of the district in the sum of (here insert annual amount the levy is to produce), estimated by the county auditor to average (here insert number of mills) mills for each one dollar of valuation, which amounts to (here insert rate expressed in dollars and cents) for each one hundred dollars of valuation, for (state the number of years the tax is to be imposed or that it will be imposed for a continuing period of time), commencing in (first year the tax is to be levied), first due in calendar year (first calendar year in which the tax shall be due)? 127080
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	<u>FOR THE INCOME TAX AND PROPERTY TAX</u>	
	<u>AGAINST THE INCOME TAX AND PROPERTY TAX</u>	"

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If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

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(E) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote in favor of it:

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(1) The income tax and the applicable provisions of Chapter 5747. of the Revised Code shall take effect on the date specified in the resolution.

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(2) The board of education of the school district may make the additional property tax levy necessary to raise the amount specified on the ballot for the purpose of providing for the necessary requirements of the district. The property tax levy shall be included in the next tax budget that is certified to the county budget commission.

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(F)(1) After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code,

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shall have principal payments during each year after the year of 127122
their issuance over a period not to exceed five years, and may 127123
have a principal payment in the year of their issuance. 127124

(2) After the approval of a question under this section and 127125
prior to the time when the first tax collection from the property 127126
tax levy can be made, the board of education may anticipate a 127127
fraction of the proceeds of the levy and issue anticipation notes 127128
in an amount not exceeding the total estimated proceeds of the 127129
levy to be collected during the first year of the levy. Any 127130
anticipation notes under this division shall be issued as provided 127131
in section 133.24 of the Revised Code, shall have principal 127132
payments during each year after the year of their issuance over a 127133
period not to exceed five years, and may have a principal payment 127134
in the year of their issuance. 127135

(G)(1) The question of repeal of a school district income tax 127136
levied for more than five years may be initiated and submitted in 127137
accordance with section 5748.04 of the Revised Code. 127138

(2) A property tax levy for a continuing period of time may 127139
be reduced in the manner provided under section 5705.261 of the 127140
Revised Code. 127141

(H) No board of education shall submit a question under this 127142
section to the electors of the school district more than twice in 127143
any calendar year. If a board submits the question twice in any 127144
calendar year, one of the elections on the question shall be held 127145
on the date of the general election. 127146

(I) If the electors of the school district approve a question 127147
under this section, and if the last calendar year the school 127148
district income tax is in effect and the last calendar year of 127149
collection of the property tax are the same, the board of 127150
education of the school district may propose to submit under this 127151
section the combined question of a school district income tax to 127152

take effect upon the expiration of the existing income tax and a 127153
property tax to be first collected in the calendar year after the 127154
calendar year of last collection of the existing property tax, and 127155
specify in the resolutions adopted under this section that the 127156
proposed taxes would renew the existing taxes. The form of the 127157
ballot on a question submitted to the electors under division (I) 127158
of this section shall be as follows: 127159

"Shall the school district be authorized to do both 127160
of the following: 127161

(1) Impose an annual income tax of (state the 127162
proposed rate of tax) on the school district income of individuals 127163
and of estates to renew an income tax expiring at the end of 127164
..... (state the last year the existing income tax may be 127165
levied) for (state the number of years the tax would be 127166
levied, or that it would be levied for a continuing period of 127167
time), beginning (state the date the tax would first take 127168
effect), for the purpose of (state the purpose of the 127169
tax)? 127170

(2) Impose a property tax levy renewing an existing levy 127171
outside of the ten-mill limitation for the purpose of providing 127172
for the necessary requirements of the district in the sum of 127173
..... (here insert annual amount the levy is to 127174
produce), estimated by the county auditor to average 127175
..... (here insert number of mills) mills for each one 127176
dollar of valuation, which amounts to (here 127177
insert rate expressed in dollars and cents) for each one hundred 127178
dollars of valuation, for (state the number of years 127179
the tax is to be imposed or that it will be imposed for a 127180
continuing period of time), commencing in (first year 127181
the tax is to be levied), first due in calendar year 127182
(first calendar year in which the tax shall be due)? 127183

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	<u>FOR THE INCOME TAX AND PROPERTY TAX</u>		127185
	<u>AGAINST THE INCOME TAX AND PROPERTY TAX</u>	"	127186

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If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

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The question of a renewal levy under this division shall not be placed on the ballot unless the question is submitted on a date on which a special election may be held under section 3501.01 of the Revised Code, except for the first Tuesday after the first Monday in February and August, during the last year the property tax levy to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year.

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(J) If the electors of the school district approve a question under this section, the board of education of the school district may propose to renew either or both of the existing taxes as individual ballot questions in accordance with section 5748.02 of the Revised Code for the school district income tax, or section 5705.194 of the Revised Code for the property tax.

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Sec. 5751.01. As used in this chapter: 127209

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability

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partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities.

(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code.

(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code.

(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.

(E) "Excluded person" means any of the following:

(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b) Taxable gross receipts that cannot be directly attributed 127244
to any activity, multiplied by a fraction whose numerator is the 127245
taxable gross receipts described in division (E)(2)(a) of this 127246
section and whose denominator is the total taxable gross receipts 127247
that can be directly attributed to any activity; 127248

(c) Except for any differences resulting from the use of an 127249
accrual basis method of accounting for purposes of determining 127250
gross receipts under this chapter and the use of the cash basis 127251
method of accounting for purposes of determining gross receipts 127252
under section 5727.24 of the Revised Code, the gross receipts 127253
directly attributed to the activity of a natural gas company shall 127254
be determined in a manner consistent with division (D) of section 127255
5727.03 of the Revised Code. 127256

As used in division (E)(2) of this section, "combined 127257
company" and "public utility" have the same meanings as in section 127258
5727.01 of the Revised Code. 127259

(3) A financial institution, as defined in section 5725.01 of 127260
the Revised Code, that paid the corporation franchise tax charged 127261
by division (D) of section 5733.06 of the Revised Code based on 127262
one or more taxable years that include the entire tax period under 127263
this chapter; 127264

(4) A dealer in intangibles, as defined in section 5725.01 of 127265
the Revised Code, that paid the dealer in intangibles tax levied 127266
by division (D) of section 5707.03 of the Revised Code based on 127267
one or more measurement periods that include the entire tax period 127268
under this chapter; 127269

(5) A financial holding company as defined in the "Bank 127270
Holding Company Act," 12 U.S.C. 1841(p); 127271

(6) A bank holding company as defined in the "Bank Holding 127272
Company Act," 12 U.S.C. 1841(a); 127273

(7) A savings and loan holding company as defined in the 127274

"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging 127275
only in activities or investments permissible for a financial 127276
holding company under 12 U.S.C. 1843(k); 127277

(8) A person directly or indirectly owned by one or more 127278
financial institutions, financial holding companies, bank holding 127279
companies, or savings and loan holding companies described in 127280
division (E)(3), (5), (6), or (7) of this section that is engaged 127281
in activities permissible for a financial holding company under 12 127282
U.S.C. 1843(k), except that any such person held pursuant to 127283
merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 127284
U.S.C. 1843(k)(4)(I) is not an excluded person, or a person 127285
directly or indirectly owned by one or more insurance companies 127286
described in division (E)(9) of this section that is authorized to 127287
do the business of insurance in this state. 127288

For the purposes of division (E)(8) of this section, a person 127289
owns another person under the following circumstances: 127290

(a) In the case of corporations issuing capital stock, one 127291
corporation owns another corporation if it owns fifty per cent or 127292
more of the other corporation's capital stock with current voting 127293
rights; 127294

(b) In the case of a limited liability company, one person 127295
owns the company if that person's membership interest, as defined 127296
in section 1705.01 of the Revised Code, is fifty per cent or more 127297
of the combined membership interests of all persons owning such 127298
interests in the company; 127299

(c) In the case of a partnership, trust, or other 127300
unincorporated business organization other than a limited 127301
liability company, one person owns the organization if, under the 127302
articles of organization or other instrument governing the affairs 127303
of the organization, that person has a beneficial interest in the 127304
organization's profits, surpluses, losses, or distributions of 127305

fifty per cent or more of the combined beneficial interests of all 127306
persons having such an interest in the organization; 127307

(d) In the case of multiple ownership, the ownership 127308
interests of more than one person may be aggregated to meet the 127309
fifty per cent ownership tests in this division only when each 127310
such owner is described in division (E)(3), (5), (6), or (7) of 127311
this section and is engaged in activities permissible for a 127312
financial holding company under 12 U.S.C. 1843(k) or is a person 127313
directly or indirectly owned by one or more insurance companies 127314
described in division (E)(9) of this section that is authorized to 127315
do the business of insurance in this state. 127316

(9) A domestic insurance company or foreign insurance 127317
company, as defined in section 5725.01 of the Revised Code, that 127318
paid the insurance company premiums tax imposed by section 5725.18 127319
or Chapter 5729. of the Revised Code based on one or more 127320
measurement periods that include the entire tax period under this 127321
chapter; 127322

(10) A person that solely facilitates or services one or more 127323
securitizations or similar transactions for any person described 127324
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 127325
For purposes of this division, "securitization" means transferring 127326
one or more assets to one or more persons and then issuing 127327
securities backed by the right to receive payment from the asset 127328
or assets so transferred. 127329

(11) Except as otherwise provided in this division, a 127330
pre-income tax trust as defined in division (FF)(4) of section 127331
5747.01 of the Revised Code and any pass-through entity of which 127332
such pre-income tax trust owns or controls, directly, indirectly, 127333
or constructively through related interests, more than five per 127334
cent of the ownership or equity interests. If the pre-income tax 127335
trust has made a qualifying pre-income tax trust election under 127336
division (FF)(3) of section 5747.01 of the Revised Code, then the 127337

trust and the pass-through entities of which it owns or controls, 127338
directly, indirectly, or constructively through related interests, 127339
more than five per cent of the ownership or equity interests, 127340
shall not be excluded persons for purposes of the tax imposed 127341
under section 5751.02 of the Revised Code. 127342

(12) Nonprofit organizations or the state and its agencies, 127343
instrumentalities, or political subdivisions. 127344

(F) Except as otherwise provided in divisions (F)(2), (3), 127345
and (4) of this section, "gross receipts" means the total amount 127346
realized by a person, without deduction for the cost of goods sold 127347
or other expenses incurred, that contributes to the production of 127348
gross income of the person, including the fair market value of any 127349
property and any services received, and any debt transferred or 127350
forgiven as consideration. In the case of a person that is a 127351
casino operator of casino facilities, as those terms are defined 127352
in section 3772.01 of the Revised Code, "gross receipts" for the 127353
purposes of this chapter only shall be determined without 127354
deduction for any winnings paid to wagerers. 127355

(1) The following are examples of gross receipts: 127356

(a) Amounts realized from the sale, exchange, or other 127357
disposition of the taxpayer's property to or with another; 127358

(b) Amounts realized from the taxpayer's performance of 127359
services for another; 127360

(c) Amounts realized from another's use or possession of the 127361
taxpayer's property or capital; 127362

(d) Any combination of the foregoing amounts. 127363

(2) "Gross receipts" excludes the following amounts: 127364

(a) Interest income except interest on credit sales; 127365

(b) Dividends and distributions from corporations, and 127366
distributive or proportionate shares of receipts and income from a 127367

pass-through entity as defined under section 5733.04 of the Revised Code;

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;

(g) Compensation, whether current or deferred, and whether in

cash or in kind, received or to be received by an employee, former 127399
employee, or the employee's legal successor for services rendered 127400
to or for an employer, including reimbursements received by or for 127401
an individual for medical or education expenses, health insurance 127402
premiums, or employee expenses, or on account of a dependent care 127403
spending account, legal services plan, any cafeteria plan 127404
described in section 125 of the Internal Revenue Code, or any 127405
similar employee reimbursement; 127406

(h) Proceeds received from the issuance of the taxpayer's own 127407
stock, options, warrants, puts, or calls, or from the sale of the 127408
taxpayer's treasury stock; 127409

(i) Proceeds received on the account of payments from 127410
insurance policies, except those proceeds received for the loss of 127411
business revenue; 127412

(j) Gifts or charitable contributions received; membership 127413
dues received by trade, professional, homeowners', or condominium 127414
associations; and payments received for educational courses, 127415
meetings, meals, or similar payments to a trade, professional, or 127416
other similar association; and fundraising receipts received by 127417
any person when any excess receipts are donated or used 127418
exclusively for charitable purposes; 127419

(k) Damages received as the result of litigation in excess of 127420
amounts that, if received without litigation, would be gross 127421
receipts; 127422

(l) Property, money, and other amounts received or acquired 127423
by an agent on behalf of another in excess of the agent's 127424
commission, fee, or other remuneration; 127425

(m) Tax refunds, other tax benefit recoveries, and 127426
reimbursements for the tax imposed under this chapter made by 127427
entities that are part of the same combined taxpayer or 127428
consolidated elected taxpayer group, and reimbursements made by 127429

entities that are not members of a combined taxpayer or	127430
consolidated elected taxpayer group that are required to be made	127431
for economic parity among multiple owners of an entity whose tax	127432
obligation under this chapter is required to be reported and paid	127433
entirely by one owner, pursuant to the requirements of sections	127434
5751.011 and 5751.012 of the Revised Code;	127435
(n) Pension reversions;	127436
(o) Contributions to capital;	127437
(p) Sales or use taxes collected as a vendor or an	127438
out-of-state seller on behalf of the taxing jurisdiction from a	127439
consumer or other taxes the taxpayer is required by law to collect	127440
directly from a purchaser and remit to a local, state, or federal	127441
tax authority;	127442
(q) In the case of receipts from the sale of cigarettes or	127443
tobacco products by a wholesale dealer, retail dealer,	127444
distributor, manufacturer, or seller, all as defined in section	127445
5743.01 of the Revised Code, an amount equal to the federal and	127446
state excise taxes paid by any person on or for such cigarettes or	127447
tobacco products under subtitle E of the Internal Revenue Code or	127448
Chapter 5743. of the Revised Code;	127449
(r) In the case of receipts from the sale of motor fuel by a	127450
licensed motor fuel dealer, licensed retail dealer, or licensed	127451
permissive motor fuel dealer, all as defined in section 5735.01 of	127452
the Revised Code, an amount equal to federal and state excise	127453
taxes paid by any person on such motor fuel under section 4081 of	127454
the Internal Revenue Code or Chapter 5735. of the Revised Code;	127455
(s) In the case of receipts from the sale of beer or	127456
intoxicating liquor, as defined in section 4301.01 of the Revised	127457
Code, by a person holding a permit issued under Chapter 4301. or	127458
4303. of the Revised Code, an amount equal to federal and state	127459
excise taxes paid by any person on or for such beer or	127460

intoxicating liquor under subtitle E of the Internal Revenue Code 127461
or Chapter 4301. or 4305. of the Revised Code; 127462

(t) Receipts realized by a new motor vehicle dealer or used 127463
motor vehicle dealer, as defined in section 4517.01 of the Revised 127464
Code, from the sale or other transfer of a motor vehicle, as 127465
defined in that section, to another motor vehicle dealer for the 127466
purpose of resale by the transferee motor vehicle dealer, but only 127467
if the sale or other transfer was based upon the transferee's need 127468
to meet a specific customer's preference for a motor vehicle; 127469

(u) Receipts from a financial institution described in 127470
division (E)(3) of this section for services provided to the 127471
financial institution in connection with the issuance, processing, 127472
servicing, and management of loans or credit accounts, if such 127473
financial institution and the recipient of such receipts have at 127474
least fifty per cent of their ownership interests owned or 127475
controlled, directly or constructively through related interests, 127476
by common owners; 127477

(v) Receipts realized from administering anti-neoplastic 127478
drugs and other cancer chemotherapy, biologicals, therapeutic 127479
agents, and supportive drugs in a physician's office to patients 127480
with cancer; 127481

(w) Funds received or used by a mortgage broker that is not a 127482
dealer in intangibles, other than fees or other consideration, 127483
pursuant to a table-funding mortgage loan or warehouse-lending 127484
mortgage loan. Terms used in division (F)(2)(w) of this section 127485
have the same meanings as in section 1322.01 of the Revised Code, 127486
except "mortgage broker" means a person assisting a buyer in 127487
obtaining a mortgage loan for a fee or other consideration paid by 127488
the buyer or a lender, or a person engaged in table-funding or 127489
warehouse-lending mortgage loans that are first lien mortgage 127490
loans. 127491

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;

(z) Qualifying distribution center receipts.

(i) For purposes of division (F)(2)(z) of this section:

(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage.

(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere. "Further shipping" includes storing and repackaging such property into smaller or larger bundles, so long as such property is not subject to further manufacturing or processing.

(III) "Qualified distribution center" means a warehouse or other similar facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. However, all warehouses or other similar facilities that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution

center. 127523

(IV) "Qualifying year" means the calendar year to which the 127524
qualifying certificate applies. 127525

(V) "Qualifying period" means the period of the first day of 127526
July of the second year preceding the qualifying year through the 127527
thirtieth day of June of the year preceding the qualifying year. 127528

(VI) "Qualifying certificate" means the certificate issued by 127529
the tax commissioner after the operator of a distribution center 127530
files an annual application with the commissioner. The application 127531
and annual fee shall be filed and paid for each qualified 127532
distribution center on or before the first day of September before 127533
the qualifying year or within forty-five days after the 127534
distribution center opens, whichever is later. 127535

The applicant must substantiate to the commissioner's 127536
satisfaction that, for the qualifying period, all persons 127537
operating the distribution center have more than fifty per cent of 127538
the cost of the qualified property shipped to a location such that 127539
it would be situated outside this state under the provisions of 127540
division (E) of section 5751.033 of the Revised Code. The 127541
applicant must also substantiate that the distribution center 127542
cumulatively had costs from its suppliers equal to or exceeding 127543
five hundred million dollars during the qualifying period. (For 127544
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 127545
excludes any person that is part of the consolidated elected 127546
taxpayer group, if applicable, of the operator of the qualified 127547
distribution center.) The commissioner may require the applicant 127548
to have an independent certified public accountant certify that 127549
the calculation of the minimum thresholds required for a qualified 127550
distribution center by the operator of a distribution center has 127551
been made in accordance with generally accepted accounting 127552
principles. The commissioner shall issue or deny the issuance of a 127553
certificate within sixty days after the receipt of the 127554

application. A denial is subject to appeal under section 5717.02 127555
of the Revised Code. If the operator files a timely appeal under 127556
section 5717.02 of the Revised Code, the operator shall be granted 127557
a qualifying certificate, provided that the operator is liable for 127558
any tax, interest, or penalty upon amounts claimed as qualifying 127559
distribution center receipts, other than those receipts exempt 127560
under division (C)(1) of section 5751.011 of the Revised Code, 127561
that would have otherwise not been owed by its suppliers if the 127562
qualifying certificate was valid. 127563

(VII) "Ohio delivery percentage" means the proportion of the 127564
total property delivered to a destination inside Ohio from the 127565
qualified distribution center during the qualifying period 127566
compared with total deliveries from such distribution center 127567
everywhere during the qualifying period. 127568

(ii) If the distribution center is new and was not open for 127569
the entire qualifying period, the operator of the distribution 127570
center may request that the commissioner grant a qualifying 127571
certificate. If the certificate is granted and it is later 127572
determined that more than fifty per cent of the qualified property 127573
during that year was not shipped to a location such that it would 127574
be situated outside of this state under the provisions of division 127575
(E) of section 5751.033 of the Revised Code or if it is later 127576
determined that the person that operates the distribution center 127577
had average monthly costs from its suppliers of less than forty 127578
million dollars during that year, then the operator of the 127579
distribution center shall be liable for any tax, interest, or 127580
penalty upon amounts claimed as qualifying distribution center 127581
receipts, other than those receipts exempt under division (C)(1) 127582
of section 5751.011 of the Revised Code, that would have not 127583
otherwise been owed by its suppliers during the qualifying year if 127584
the qualifying certificate was valid. (For purposes of division 127585
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 127586

is part of the consolidated elected taxpayer group, if applicable, 127587
of the operator of the qualified distribution center.) 127588

(iii) When filing an application for a qualifying certificate 127589
under division (F)(2)(z)(i)(VI) of this section, the operator of a 127590
qualified distribution center also shall provide documentation, as 127591
the commissioner requires, for the commissioner to ascertain the 127592
Ohio delivery percentage. The commissioner, upon issuing the 127593
qualifying certificate, also shall certify the Ohio delivery 127594
percentage. The operator of the qualified distribution center may 127595
appeal the commissioner's certification of the Ohio delivery 127596
percentage in the same manner as an appeal is taken from the 127597
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 127598
of this section. 127599

Within thirty days after all appeals have been exhausted, the 127600
operator of the qualified distribution center shall notify the 127601
affected suppliers of qualified property that such suppliers are 127602
required to file, within sixty days after receiving notice from 127603
the operator of the qualified distribution center, amended reports 127604
for the impacted calendar quarter or quarters or calendar year, 127605
whichever the case may be. Any additional tax liability or tax 127606
overpayment shall be subject to interest but shall not be subject 127607
to the imposition of any penalty so long as the amended returns 127608
are timely filed. The supplier of tangible personal property 127609
delivered to the qualified distribution center shall include in 127610
its report of taxable gross receipts the receipts from the total 127611
sales of property delivered to the qualified distribution center 127612
for the calendar quarter or calendar year, whichever the case may 127613
be, multiplied by the Ohio delivery percentage for the qualifying 127614
year. Nothing in division (F)(2)(z)(iii) of this section shall be 127615
construed as imposing liability on the operator of a qualified 127616
distribution center for the tax imposed by this chapter arising 127617
from any change to the Ohio delivery percentage. 127618

(iv) In the case where the distribution center is new and not open for the entire qualifying period, the operator shall make a good faith estimate of an Ohio delivery percentage for use by suppliers in their reports of taxable gross receipts for the remainder of the qualifying period. The operator of the facility shall disclose to the suppliers that such Ohio delivery percentage is an estimate and is subject to recalculation. By the due date of the next application for a qualifying certificate, the operator shall determine the actual Ohio delivery percentage for the estimated qualifying period and proceed as provided in division (F)(2)(z)(iii) of this section with respect to the calculation and recalculation of the Ohio delivery percentage. The supplier is required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.

(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F)(2)(z) of this section. A person receiving a qualifying certificate is responsible for paying the tax, interest, and penalty upon amounts claimed as qualifying distribution center receipts that would not otherwise have been owed by the supplier if the qualifying certificate were available when it is later determined that the qualifying certificate should not have been issued because the statutory requirements were in fact not met.

(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F)(2)(z)(i)(VI) of this section. The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter. The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the commercial activity tax administrative fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.

(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center as set forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this section.

(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;

(bb) Cash discounts allowed and taken;

(cc) Returns and allowances;

(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed

as such if the taxpayer kept its accounts on the accrual basis. 127682
"Bad debts" does not include repossessed property, uncollectible 127683
amounts on property that remains in the possession of the taxpayer 127684
until the full purchase price is paid, or expenses in attempting 127685
to collect any account receivable or for any portion of the debt 127686
recovered; 127687

(ee) Any amount realized from the sale of an account 127688
receivable to the extent the receipts from the underlying 127689
transaction giving rise to the account receivable were included in 127690
the gross receipts of the taxpayer; 127691

(ff) Any receipts directly attributed to providing public 127692
services pursuant to sections 126.60 to 126.605 of the Revised 127693
Code, or any receipts directly attributed to a transfer agreement 127694
or to the enterprise transferred under that agreement under 127695
section 4313.02 of the Revised Code. 127696

(gg) Any receipts for which the tax imposed by this chapter 127697
is prohibited by the Constitution or laws of the United States or 127698
the Constitution of Ohio. 127699

~~(gg)~~(hh) Amounts realized by licensed motor fuel dealers or 127700
licensed permissive motor fuel dealers from the exchange of 127701
petroleum products, including motor fuel, between such dealers, 127702
provided that delivery of the petroleum products occurs at a 127703
refinery, terminal, pipeline, or marine vessel and that the 127704
exchanging dealers agree neither dealer shall require monetary 127705
compensation from the other for the value of the exchanged 127706
petroleum products other than such compensation for differences in 127707
product location or grade. Division (F)(2)~~(gg)~~(hh) of this section 127708
does not apply to amounts realized as a result of differences in 127709
location or grade of exchanged petroleum products or from 127710
handling, lubricity, dye, or other additive injections fees, 127711
pipeline security fees, or similar fees. As used in this division, 127712
"motor fuel," "licensed motor fuel dealer," "licensed permissive 127713

motor fuel dealer," and "terminal" have the same meanings as in 127714
section 5735.01 of the Revised Code. 127715

(ii) Qualified uranium receipts qualifying for exclusion 127716
under section 5751.41 of the Revised Code. 127717

(3) In the case of a taxpayer when acting as a real estate 127718
broker, "gross receipts" includes only the portion of any fee for 127719
the service of a real estate broker, or service of a real estate 127720
salesperson associated with that broker, that is retained by the 127721
broker and not paid to an associated real estate salesperson or 127722
another real estate broker. For the purposes of this division, 127723
"real estate broker" and "real estate salesperson" have the same 127724
meanings as in section 4735.01 of the Revised Code. 127725

(4) A taxpayer's method of accounting for gross receipts for 127726
a tax period shall be the same as the taxpayer's method of 127727
accounting for federal income tax purposes for the taxpayer's 127728
federal taxable year that includes the tax period. If a taxpayer's 127729
method of accounting for federal income tax purposes changes, its 127730
method of accounting for gross receipts under this chapter shall 127731
be changed accordingly. 127732

(G) "Taxable gross receipts" means gross receipts situated to 127733
this state under section 5751.033 of the Revised Code. 127734

(H) A person has "substantial nexus with this state" if any 127735
of the following applies. The person: 127736

(1) Owns or uses a part or all of its capital in this state; 127737

(2) Holds a certificate of compliance with the laws of this 127738
state authorizing the person to do business in this state; 127739

(3) Has bright-line presence in this state; 127740

(4) Otherwise has nexus with this state to an extent that the 127741
person can be required to remit the tax imposed under this chapter 127742
under the Constitution of the United States. 127743

(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:

(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.

(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:

(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;

(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and

(c) Any amount the person pays for services performed in this state on its behalf by another.

(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.

(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.

(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.

(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.

(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as

when used in a comparable context in the laws of the United States 127774
relating to federal income taxes unless a different meaning is 127775
clearly required. Any reference in this chapter to the Internal 127776
Revenue Code includes other laws of the United States relating to 127777
federal income taxes. 127778

(L) "Calendar quarter" means a three-month period ending on 127779
the thirty-first day of March, the thirtieth day of June, the 127780
thirtieth day of September, or the thirty-first day of December. 127781

(M) "Tax period" means the calendar quarter or calendar year 127782
on the basis of which a taxpayer is required to pay the tax 127783
imposed under this chapter. 127784

(N) "Calendar year taxpayer" means a taxpayer for which the 127785
tax period is a calendar year. 127786

(O) "Calendar quarter taxpayer" means a taxpayer for which 127787
the tax period is a calendar quarter. 127788

(P) "Agent" means a person authorized by another person to 127789
act on its behalf to undertake a transaction for the other, 127790
including any of the following: 127791

(1) A person receiving a fee to sell financial instruments; 127792

(2) A person retaining only a commission from a transaction 127793
with the other proceeds from the transaction being remitted to 127794
another person; 127795

(3) A person issuing licenses and permits under section 127796
1533.13 of the Revised Code; 127797

(4) A lottery sales agent holding a valid license issued 127798
under section 3770.05 of the Revised Code; 127799

(5) A person acting as an agent of the division of liquor 127800
control under section 4301.17 of the Revised Code. 127801

(Q) "Received" includes amounts accrued under the accrual 127802
method of accounting. 127803

(R) "Reporting person" means a person in a consolidated
elected taxpayer or combined taxpayer group that is designated by
that group to legally bind the group for all filings and tax
liabilities and to receive all legal notices with respect to
matters under this chapter, or, for the purposes of section
5751.04 of the Revised Code, a separate taxpayer that is not a
member of such a group.

Sec. 5751.011. (A) A group of two or more persons may elect
to be a consolidated elected taxpayer for the purposes of this
chapter if the group satisfies all of the following requirements:

(1) The group elects to include all persons, including
persons enumerated in divisions (E)(2) to (10) of section 5751.01
of the Revised Code, having at least eighty per cent, or having at
least fifty per cent, of the value of their ownership interests
owned or controlled, directly or constructively through related
interests, by common owners during all or any portion of the tax
period, together with the common owners.

A group making its initial election on the basis of the
eighty per cent ownership test may change its election so that its
consolidated elected taxpayer group is formed on the basis of the
fifty per cent ownership test if all of the following are
satisfied:

(a) When the initial election was made, the group did not
have any persons satisfying the fifty per cent ownership test;

(b) One or more of the persons in the initial group
subsequently acquires ownership interests in a person such that
the fifty per cent ownership test is satisfied, the eighty per
cent ownership test is not satisfied, and the acquired person
would be required to be included in a combined taxpayer group
under section 5751.012 of the Revised Code;

(c) The group requests the change in a written request to the tax commissioner on or before the due date for filing the first return due under section 5751.051 of the Revised Code after the date of the acquisition;

(d) The group has not previously changed its election.

At the election of the group, all entities that are not incorporated or formed under the laws of a state or of the United States and that meet the consolidated elected ownership test shall either be included in the group or all shall be excluded from the group. If, at the time of registration, the group does not include any such entities that meet the consolidated elected ownership test, the group shall elect to either include or exclude the newly acquired entities before the due date of the first return due after the date of the acquisition.

Each group shall notify the tax commissioner of the foregoing elections before the due date of the return for the period in which the election becomes binding. If fifty per cent of the value of a person's ownership interests is owned or controlled by each of two consolidated elected taxpayer groups formed under the fifty per cent ownership or control test, that person is a member of each group for the purposes of this section, and each group shall include in the group's taxable gross receipts fifty per cent of that person's taxable gross receipts. Otherwise, all of that person's taxable gross receipts shall be included in the taxable gross receipts of the consolidated elected taxpayer group of which the person is a member. In no event shall the ownership or control of fifty per cent of the value of a person's ownership interests by two otherwise unrelated groups form the basis for consolidating the groups into a single consolidated elected taxpayer group or permit any exclusion under division (C) of this section of taxable gross receipts between members of the two groups. Division (A)(3) of this section applies with respect to the elections described in

this division. 127866

(2) The group makes the election to be treated as a 127867
consolidated elected taxpayer in the manner prescribed under 127868
division (D) of this section. 127869

(3) Subject to review and audit by the tax commissioner, the 127870
group agrees that all of the following apply: 127871

(a) The group shall file reports as a single taxpayer for at 127872
least the next eight calendar quarters following the election so 127873
long as at least two or more of the members of the group meet the 127874
requirements of division (A)(1) of this section. 127875

(b) Before the expiration of the eighth such calendar 127876
quarter, the group shall notify the commissioner if it elects to 127877
cancel its designation as a consolidated elected taxpayer. If the 127878
group does not so notify the tax commissioner, the election 127879
remains in effect for another eight calendar quarters. 127880

(c) If, at any time during any of those eight calendar 127881
quarters following the election, a former member of the group no 127882
longer meets the requirements under division (A)(1) of this 127883
section, that member shall report and pay the tax imposed under 127884
this chapter separately, as a member of a combined taxpayer, or, 127885
if the former member satisfies such requirements with respect to 127886
another consolidated elected group, as a member of that 127887
consolidated elected group. 127888

(d) The group agrees to the application of division (B) of 127889
this section. 127890

(B) A group of persons making the election under this section 127891
shall report and pay tax on all of the group's taxable gross 127892
receipts even if substantial nexus with this state does not exist 127893
for one or more persons in the group. 127894

(C)(1)(a) Members of a consolidated elected taxpayer group 127895

shall exclude gross receipts among persons included in the 127896
consolidated elected taxpayer group. 127897

(b) Subject to divisions (C)(1)(c) and (C)(2) of this 127898
section, nothing in this section shall have the effect of 127899
requiring a consolidated elected taxpayer group to include gross 127900
receipts received by a person enumerated in divisions (E)(2) to 127901
(10) of section 5751.01 of the Revised Code if that person is a 127902
member of the group pursuant to the elections made by the group 127903
under division (A)(1) of this section. 127904

(c)(i) As used in division (C)(1)(c) of this section, "dealer 127905
transfer" means a transfer of property that satisfies both of the 127906
following: (I) the property is directly transferred by any means 127907
from one member of the group to another member of the group that 127908
is a dealer in intangibles but is not a qualifying dealer as 127909
defined in section ~~5725.24~~ 5707.031 of the Revised Code; and (II) 127910
the property is subsequently delivered by the dealer in 127911
intangibles to a person that is not a member of the group. 127912

(ii) In the event of a dealer transfer, a consolidated 127913
elected taxpayer group shall not exclude, under division (C) of 127914
this section, gross receipts from the transfer described in 127915
division (C)(1)(c)(i)(I) of this section. 127916

(2) Gross receipts related to the sale or transmission of 127917
electricity through the use of an intermediary regional 127918
transmission organization approved by the federal energy 127919
regulatory commission shall be excluded from taxable gross 127920
receipts under division (C)(1) of this section if all other 127921
requirements of that division are met, even if the receipts are 127922
from and to the same member of the group. 127923

(D) To make the election to be a consolidated elected 127924
taxpayer, a group of persons shall notify the tax commissioner of 127925
the election in the manner prescribed by the commissioner and pay 127926

the commissioner a registration fee equal to the lesser of two 127927
hundred dollars or twenty dollars for each person in the group. No 127928
additional fee shall be imposed for the addition of new members to 127929
the group once the group has remitted a fee in the amount of two 127930
hundred dollars. The election shall be made and the fee paid 127931
before the beginning of the first calendar quarter to which the 127932
election applies. The fee shall be collected and used in the same 127933
manner as provided in section 5751.04 of the Revised Code. 127934

The election shall be made on a form prescribed by the tax 127935
commissioner for that purpose and shall be signed by one or more 127936
individuals with authority, separately or together, to make a 127937
binding election on behalf of all persons in the group. 127938

Any person acquired or formed after the filing of the 127939
registration shall be included in the group if the person meets 127940
the requirements of division (A)(1) of this section, and the group 127941
shall notify the tax commissioner of any additions to the group 127942
with the next tax return it files with the commissioner. 127943

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 127944
the Revised Code: 127945

(1) "School district," "joint vocational school district," 127946
"local taxing unit," "recognized valuation," "fixed-rate levy," 127947
and "fixed-sum levy" have the same meanings as used in section 127948
5727.84 of the Revised Code. 127949

(2) "State education aid" for a school district means the 127950
following: 127951

(a) For fiscal years prior to fiscal year 2010, the sum of 127952
state aid amounts computed for the district under the following 127953
provisions, as they existed for the applicable fiscal year: 127954
division (A) of section 3317.022 of the Revised Code, including 127955
the amounts calculated under sections 3317.029 and 3317.0217 of 127956

the Revised Code; divisions (C)(1), (C)(4), (D), (E), and (F) of 127957
section 3317.022; divisions (B), (C), and (D) of section 3317.023; 127958
divisions (L) and (N) of section 3317.024; section 3317.0216; and 127959
any unit payments for gifted student services paid under sections 127960
3317.05, 3317.052, and 3317.053 of the Revised Code; except that, 127961
for fiscal years 2008 and 2009, the amount computed for the 127962
district under Section 269.20.80 of H.B. 119 of the 127th general 127963
assembly and as that section subsequently may be amended shall be 127964
substituted for the amount computed under division (D) of section 127965
3317.022 of the Revised Code, and the amount computed under 127966
Section 269.30.80 of H.B. 119 of the 127th general assembly and as 127967
that section subsequently may be amended shall be included. 127968

(b) For fiscal ~~year~~ years 2010 and ~~for each fiscal year~~ 127969
~~thereafter~~ 2011, the sum of the amounts computed under former 127970
sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 127971
3306.192 of the Revised Code; 127972

(c) For fiscal years 2012 and 2013, the amount paid in 127973
accordance with the section of H.B. 153 of the 129th general 127974
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 127975
SCHOOL DISTRICTS." 127976

(3) "State education aid" for a joint vocational school 127977
district means the following: 127978

(a) For fiscal years prior to fiscal year 2010, the sum of 127979
the state aid computed for the district under division (N) of 127980
section 3317.024 and section 3317.16 of the Revised Code, except 127981
that, for fiscal years 2008 and 2009, the amount computed under 127982
Section 269.30.80 of H.B. 119 of the 127th general assembly and as 127983
that section subsequently may be amended shall be included. 127984

(b) For fiscal years 2010 and 2011, the amount paid in 127985
accordance with the section of ~~this act~~ H.B. 1 of the 128th 127986
general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL 127987

DISTRICTS."	127988
<u>(c) For fiscal years 2012 and 2013, the amount paid in</u>	127989
<u>accordance with the section of H.B. 153 of the 129th general</u>	127990
<u>assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."</u>	127991
(4) "State education aid offset" means the amount determined	127992
for each school district or joint vocational school district under	127993
division (A)(1) of section 5751.21 of the Revised Code.	127994
(5) "Machinery and equipment property tax value loss" means	127995
the amount determined under division (C)(1) of this section.	127996
(6) "Inventory property tax value loss" means the amount	127997
determined under division (C)(2) of this section.	127998
(7) "Furniture and fixtures property tax value loss" means	127999
the amount determined under division (C)(3) of this section.	128000
(8) "Machinery and equipment fixed-rate levy loss" means the	128001
amount determined under division (D)(1) of this section.	128002
(9) "Inventory fixed-rate levy loss" means the amount	128003
determined under division (D)(2) of this section.	128004
(10) "Furniture and fixtures fixed-rate levy loss" means the	128005
amount determined under division (D)(3) of this section.	128006
(11) "Total fixed-rate levy loss" means the sum of the	128007
machinery and equipment fixed-rate levy loss, the inventory	128008
fixed-rate levy loss, the furniture and fixtures fixed-rate levy	128009
loss, and the telephone company fixed-rate levy loss.	128010
(12) "Fixed-sum levy loss" means the amount determined under	128011
division (E) of this section.	128012
(13) "Machinery and equipment" means personal property	128013
subject to the assessment rate specified in division (F) of	128014
section 5711.22 of the Revised Code.	128015
(14) "Inventory" means personal property subject to the	128016

assessment rate specified in division (E) of section 5711.22 of the Revised Code. 128017
128018

(15) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code. 128019
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(16) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005. For the purpose of determining the rate of a qualifying levy authorized by section 5705.212 or 5705.213 of the Revised Code, the rate shall be the rate that would be in effect for tax year 2010. 128022
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(17) "Telephone property" means tangible personal property of a telephone, telegraph, or interexchange telecommunications company subject to an assessment rate specified in section 5727.111 of the Revised Code in tax year 2004. 128028
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(18) "Telephone property tax value loss" means the amount determined under division (C)(4) of this section. 128032
128033

(19) "Telephone property fixed-rate levy loss" means the amount determined under division (D)(4) of this section. 128034
128035

(20) "Taxes charged and payable" means taxes charged and payable after the reduction required by section 319.301 of the Revised Code but before the reductions required by sections 319.302 and 323.152 of the Revised Code. 128036
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(21) "Median estate tax collections" means, in the case of a municipal corporation to which revenue from the taxes levied in Chapter 5731. of the Revised Code was distributed in each of calendar years 2006, 2007, 2008, and 2009, the median of those distributions. In the case of a municipal corporation to which no distributions were made in one or more of those years, "median estate tax collections" means zero. 128040
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(22) "Total resources," in the case of a school district, 128047
means the sum of the amounts in divisions (A)(22)(a) to (h) of 128048
this section less any reduction required under division (A)(32) of 128049
this section. 128050

(a) The state education aid for fiscal year 2010; 128051

(b) The sum of the payments received by the school district 128052
in fiscal year 2010 for current expense levy losses pursuant to 128053
division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of 128054
section 5751.21 of the Revised Code, excluding the portion of such 128055
payments attributable to levies for joint vocational school 128056
district purposes; 128057

(c) The sum of fixed-sum levy loss payments received by the 128058
school district in fiscal year 2010 pursuant to division (E)(1) of 128059
section 5727.85 and division (E)(1) of section 5751.21 of the 128060
Revised Code for fixed-sum levies imposed for a purpose other than 128061
paying debt charges; 128062

(d) Fifty per cent of the school district's taxes charged and 128063
payable against all property on the tax list of real and public 128064
utility property for current expense purposes for tax year 2008, 128065
including taxes charged and payable from emergency levies imposed 128066
under section 5709.194 of the Revised Code and excluding taxes 128067
levied for joint vocational school district purposes; 128068

(e) Fifty per cent of the school district's taxes charged and 128069
payable against all property on the tax list of real and public 128070
utility property for current expenses for tax year 2009, including 128071
taxes charged and payable from emergency levies and excluding 128072
taxes levied for joint vocational school district purposes; 128073

(f) The school district's taxes charged and payable against 128074
all property on the general tax list of personal property for 128075
current expenses for tax year 2009, including taxes charged and 128076
payable from emergency levies; 128077

<u>(g) The amount certified for fiscal year 2010 under division</u>	128078
<u>(A)(2) of section 3317.08 of the Revised Code;</u>	128079
<u>(h) Distributions received during calendar year 2009 from</u>	128080
<u>taxes levied under section 718.09 of the Revised Code.</u>	128081
<u>(23) "Total resources," in the case of a joint vocational</u>	128082
<u>school district, means the sum of amounts in divisions (A)(23)(a)</u>	128083
<u>to (g) of this section less any reduction required under division</u>	128084
<u>(A)(32) of this section.</u>	128085
<u>(a) The state education aid for fiscal year 2010;</u>	128086
<u>(b) The sum of the payments received by the joint vocational</u>	128087
<u>school district in fiscal year 2010 for current expense levy</u>	128088
<u>losses pursuant to division (C)(2) of section 5727.85 and</u>	128089
<u>divisions (C)(8) and (9) of section 5751.21 of the Revised Code;</u>	128090
<u>(c) Fifty per cent of the joint vocational school district's</u>	128091
<u>taxes charged and payable against all property on the tax list of</u>	128092
<u>real and public utility property for current expense purposes for</u>	128093
<u>tax year 2008;</u>	128094
<u>(d) Fifty per cent of the joint vocational school district's</u>	128095
<u>taxes charged and payable against all property on the tax list of</u>	128096
<u>real and public utility property for current expenses for tax year</u>	128097
<u>2009;</u>	128098
<u>(e) Fifty per cent of a city, local, or exempted village</u>	128099
<u>school district's taxes charged and payable against all property</u>	128100
<u>on the tax list of real and public utility property for current</u>	128101
<u>expenses of the joint vocational school district for tax year</u>	128102
<u>2008;</u>	128103
<u>(f) Fifty per cent of a city, local, or exempted village</u>	128104
<u>school district's taxes charged and payable against all property</u>	128105
<u>on the tax list of real and public utility property for current</u>	128106
<u>expenses of the joint vocational school district for tax year</u>	128107

<u>2009;</u>	128108
<u>(g) The joint vocational school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009.</u>	128109 128110 128111
<u>(24) "Total resources," in the case of county mental health and disability related functions, means the sum of the amounts in divisions (A)(24)(a) and (b) of this section less any reduction required under division (A)(32) of this section.</u>	128112 128113 128114 128115
<u>(a) The sum of the payments received by the county for mental health and developmental disability related functions in calendar year 2010 under division (A)(1) of section 5727.86 and division (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;</u>	128116 128117 128118 128119 128120
<u>(b) With respect to taxes levied by the county for mental health and developmental disability related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.</u>	128121 128122 128123 128124
<u>(25) "Total resources," in the case of county senior services related functions, means the sum of the amounts in divisions (A)(25)(a) and (b) of this section less any reduction required under division (A)(32) of this section.</u>	128125 128126 128127 128128
<u>(a) The sum of the payments received by the county for senior services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;</u>	128129 128130 128131 128132
<u>(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.</u>	128133 128134 128135 128136
<u>(26) "Total resources," in the case of county children's</u>	128137

services related functions, means the sum of the amounts in 128138
divisions (A)(26)(a) and (b) of this section less any reduction 128139
required under division (A)(32) of this section. 128140

(a) The sum of the payments received by the county for 128141
children's services related functions in calendar year 2010 under 128142
division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of 128143
section 5751.22 of the Revised Code as they existed at that time; 128144

(b) With respect to taxes levied by the county for children's 128145
services related purposes, the taxes charged and payable for such 128146
purposes against all property on the tax list of real and public 128147
utility property for tax year 2009. 128148

(27) "Total resources," in the case of county public health 128149
related functions, means the sum of the amounts in divisions 128150
(A)(27)(a) and (b) of this section less any reduction required 128151
under division (A)(32) of this section. 128152

(a) The sum of the payments received by the county for public 128153
health related functions in calendar year 2010 under division 128154
(A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 128155
5751.22 of the Revised Code as they existed at that time; 128156

(b) With respect to taxes levied by the county for public 128157
health related purposes, the taxes charged and payable for such 128158
purposes against all property on the tax list of real and public 128159
utility property for tax year 2009. 128160

(28) "Total resources," in the case of all county functions 128161
not included in divisions (A)(24) to (27) of this section, means 128162
the sum of the amounts in divisions (A)(28)(a) to (d) of this 128163
section less any reduction required under division (A)(32) of this 128164
section. 128165

(a) The sum of the payments received by the county for all 128166
other purposes in calendar year 2010 under division (A)(1) of 128167
section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of 128168

<u>the Revised Code as they existed at that time;</u>	128169
<u>(b) The county's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;</u>	128170 128171 128172 128173 128174 128175 128176
<u>(c) With respect to taxes levied by the county for all other purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009, excluding taxes charged and payable for the purpose of paying debt charges;</u>	128177 128178 128179 128180 128181
<u>(d) The sum of the amounts distributed to the county in calendar year 2010 for the taxes levied pursuant to sections 5739.021 and 5741.021 of the Revised Code.</u>	128182 128183 128184
<u>(29) "Total resources," in the case of a municipal corporation, means the sum of the amounts in divisions (A)(29)(a) to (g) of this section less any reduction required under division (A)(32) of this section.</u>	128185 128186 128187 128188
<u>(a) The sum of the payments received by the municipal corporation in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;</u>	128189 128190 128191 128192
<u>(b) The municipal corporation's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;</u>	128193 128194 128195 128196 128197 128198 128199

(c) The sum of the amounts distributed to the municipal corporation in calendar year 2010 pursuant to section 5747.50 of the Revised Code; 128200
128201
128202

(d) With respect to taxes levied by the municipal corporation, the taxes charged and payable against all property on the tax list of real and public utility property for current expenses, defined in division (A)(33) of this section, for tax year 2009; 128203
128204
128205
128206
128207

(e) The amount of admissions tax collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner; 128208
128209
128210
128211
128212

(f) The amount of income taxes collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner; 128213
128214
128215
128216
128217

(g) The municipal corporation's median estate tax collections. 128218
128219

(30) "Total resources," in the case of a township, means the sum of the amounts in divisions (A)(30)(a) to (c) of this section less any reduction required under division (A)(32) of this section. 128220
128221
128222
128223

(a) The sum of the payments received by the township in calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time, excluding payments received for debt purposes; 128224
128225
128226
128227
128228

(b) The township's percentage share of county undivided local government fund allocations as certified to the tax commissioner 128229
128230

for calendar year 2010 by the county auditor under division (J) of 128231
section 5747.51 of the Revised Code or division (F) of section 128232
5747.53 of the Revised Code multiplied by the total amount 128233
actually distributed in calendar year 2010 from the county 128234
undivided local government fund; 128235

(c) With respect to taxes levied by the township, the taxes 128236
charged and payable against all property on the tax list of real 128237
and public utility property for tax year 2009 excluding taxes 128238
charged and payable for the purpose of paying debt charges. 128239

(31) "Total resources," in the case of a local taxing unit 128240
that is not a county, municipal corporation, or township, means 128241
the sum of the amounts in divisions (A)(31)(a) to (e) of this 128242
section less any reduction required under division (A)(32) of this 128243
section. 128244

(a) The sum of the payments received by the local taxing unit 128245
in calendar year 2010 pursuant to division (A)(1) of section 128246
5727.86 of the Revised Code and divisions (A)(1) and (2) of 128247
section 5751.22 of the Revised Code as they existed at that time; 128248

(b) The local taxing unit's percentage share of county 128249
undivided local government fund allocations as certified to the 128250
tax commissioner for calendar year 2010 by the county auditor 128251
under division (J) of section 5747.51 of the Revised Code or 128252
division (F) of section 5747.53 of the Revised Code multiplied by 128253
the total amount actually distributed in calendar year 2010 from 128254
the county undivided local government fund; 128255

(c) With respect to taxes levied by the local taxing unit, 128256
the taxes charged and payable against all property on the tax list 128257
of real and public utility property for tax year 2009 excluding 128258
taxes charged and payable for the purpose of paying debt charges; 128259

(d) The amount received from the tax commissioner during 128260
calendar year 2010 for sales or use taxes authorized under 128261

sections 5739.023 and 5741.022 of the Revised Code; 128262

(e) For institutions of higher education receiving tax 128263
revenue from a local levy, as identified in section 3358.02 of the 128264
Revised Code, the final state share of instruction allocation for 128265
fiscal year 2010 as calculated by the board of regents and 128266
reported to the state controlling board. 128267

(32) If a fixed-rate levy that is a qualifying levy is not 128268
imposed in any year after tax year 2010, "total resources" used to 128269
compute payments to be made under division (C)(12) of section 128270
5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the 128271
Revised Code in the tax years following the last year the levy is 128272
imposed shall be reduced by the amount of payments attributable to 128273
the fixed-rate levy loss of that levy as would be computed under 128274
division (C)(2) of section 5727.85, division (A)(1) of section 128275
5727.85, divisions (C)(8) and (9) of section 5751.21, or division 128276
(A)(1) of section 5751.22 of the Revised Code. 128277

(33) "Municipal current expense property tax levies" means 128278
all property tax levies of a municipality, except those with the 128279
following levy names: airport resurfacing; bond or any levy name 128280
including the word "bond"; capital improvement or any levy name 128281
including the word "capital"; debt or any levy name including the 128282
word "debt"; equipment or any levy name including the word 128283
"equipment," unless the levy is for combined operating and 128284
equipment; employee termination fund; fire pension or any levy 128285
containing the word "pension," including police pensions; 128286
fireman's fund or any practically similar name; sinking fund; road 128287
improvements or any levy containing the word "road"; fire truck or 128288
apparatus; flood or any levy containing the word "flood"; 128289
conservancy district; county health; note retirement; sewage, or 128290
any levy containing the words "sewage" or "sewer"; park 128291
improvement; parkland acquisition; storm drain; street or any levy 128292
name containing the word "street"; lighting, or any levy name 128293

containing the word "lighting"; and water. 128294

(34) "Current expense TPP allocation" means, in the case of a 128295
school district or joint vocational school district, the sum of 128296
the payments received by the school district in fiscal year 2011 128297
pursuant to divisions (C)(10) and (11) of section 5751.21 of the 128298
Revised Code to the extent paid for current expense levies. In the 128299
case of a municipal corporation, "current expense TPP allocation" 128300
means the sum of the payments received by the municipal 128301
corporation in calendar year 2010 pursuant to divisions (A)(1) and 128302
(2) of section 5751.22 of the Revised Code to the extent paid for 128303
municipal current expense property tax levies as defined in 128304
division (A)(33) of this section. If a fixed-rate levy that is a 128305
qualifying levy is not imposed in any year after tax year 2010, 128306
"current expense TPP allocation" used to compute payments to be 128307
made under division (C)(12) of section 5751.21 or division 128308
(A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax 128309
years following the last year the levy is imposed shall be reduced 128310
by the amount of payments attributable to the fixed-rate levy loss 128311
of that levy as would be computed under divisions (C)(10) and (11) 128312
of section 5751.21 or division (A)(1) of section 5751.22 of the 128313
Revised Code. 128314

(35) "TPP allocation" means the sum of payments received by a 128315
local taxing unit in calendar year 2010 pursuant to divisions 128316
(A)(1) and (2) of section 5751.22 of the Revised Code. If a 128317
fixed-rate levy that is a qualifying levy is not imposed in any 128318
year after tax year 2010, "TPP allocation" used to compute 128319
payments to be made under division (A)(1)(b) or (c) of section 128320
5751.22 of the Revised Code in the tax years following the last 128321
year the levy is imposed shall be reduced by the amount of payment 128322
attributable to the fixed-rate levy loss of that levy as would be 128323
computed under division (A)(1) of that section. 128324

(36) "Total TPP allocation" means, in the case of a school 128325

district or joint vocational school district, the sum of the 128326
amounts received in fiscal year 2011 pursuant to divisions (C)(10) 128327
and (11) and (D) of section 5751.21 of the Revised Code. In the 128328
case of a local taxing unit, "total TPP allocation" means the sum 128329
of payments received by the unit in calendar year 2010 pursuant to 128330
divisions (A)(1), (2), and (3) of section 5751.22 of the Revised 128331
Code. If a fixed-rate levy that is a qualifying levy is not 128332
imposed in any year after tax year 2010, "total TPP allocation" 128333
used to compute payments to be made under division (C)(12) of 128334
section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of 128335
the Revised Code in the tax years following the last year the levy 128336
is imposed shall be reduced by the amount of payments attributable 128337
to the fixed-rate levy loss of that levy as would be computed 128338
under divisions (C)(10) and (11) of section 5751.21 or division 128339
(A)(1) of section 5751.22 of the Revised Code. 128340

(37) "Non-current expense TPP allocation" means the 128341
difference of total TPP allocation minus the sum of current 128342
expense TPP allocation and the portion of total TPP allocation 128343
constituting reimbursement for debt levies, pursuant to division 128344
(D) of section 5751.21 of the Revised Code in the case of a school 128345
district or joint vocational school district and pursuant to 128346
division (A)(3) of section 5751.22 of the Revised Code in the case 128347
of a municipal corporation. 128348

(38) "Threshold per cent" means, in the case of a school 128349
district or joint vocational school district, two per cent for 128350
fiscal year 2012 and four per cent for fiscal years 2013 and 128351
thereafter. In the case of a local taxing unit, "threshold per 128352
cent" means two per cent for tax year 2011, four per cent for tax 128353
year 2012, and six per cent for tax years 2013 and thereafter. 128354

(B) The commercial activities tax receipts fund is hereby 128355
created in the state treasury and shall consist of money arising 128356
from the tax imposed under this chapter. Eighty-five 128357

one-hundredths of one per cent of the money credited to that fund 128358
 shall be credited to the tax reform system implementation fund, 128359
 which is hereby created in the state treasury, and shall be used 128360
 to defray the costs incurred by the department of taxation in 128361
 administering the tax imposed by this chapter and in implementing 128362
 tax reform measures. The remainder in the commercial activities 128363
 tax receipts fund shall be credited for each fiscal year in the 128364
 following percentages to the general revenue fund, to the school 128365
 district tangible property tax replacement fund, which is hereby 128366
 created in the state treasury for the purpose of making the 128367
 payments described in section 5751.21 of the Revised Code, and to 128368
 the local government tangible property tax replacement fund, which 128369
 is hereby created in the state treasury for the purpose of making 128370
 the payments described in section 5751.22 of the Revised Code, in 128371
 the following percentages: 128372

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund	
2006	67.7%	22.6%	9.7%	128374
2007	0%	70.0%	30.0%	128375
2008	0%	70.0%	30.0%	128376
2009	0%	70.0%	30.0%	128377
2010	0%	70.0%	30.0%	128378
2011	0%	70.0%	30.0%	128379
2012	5.3 <u>25.0%</u>	70.0 <u>52.5%</u>	24.7 <u>22.5%</u>	128380
2013 <u>and</u> <u>thereafter</u>	10.6 <u>50.0%</u>	70.0 <u>35.0%</u>	19.4 <u>15.0%</u>	128381
2014	14.1%	70.0%	15.9%	128382
2015	17.6%	70.0%	12.4%	128383
2016	21.1%	70.0%	8.9%	128384
2017	24.6%	70.0%	5.4%	128385
2018	28.1%	70.0%	1.9%	128386

~~2019 and~~ 30% 70%% 0% 128387
~~thereafter~~

(C) Not later than September 15, 2005, the tax commissioner 128388
shall determine for each school district, joint vocational school 128389
district, and local taxing unit its machinery and equipment, 128390
inventory property, furniture and fixtures property, and telephone 128391
property tax value losses, which are the applicable amounts 128392
described in divisions (C)(1), (2), (3), and (4) of this section, 128393
except as provided in division (C)(5) of this section: 128394

(1) Machinery and equipment property tax value loss is the 128395
taxable value of machinery and equipment property as reported by 128396
taxpayers for tax year 2004 multiplied by: 128397

(a) For tax year 2006, thirty-three and eight-tenths per 128398
cent; 128399

(b) For tax year 2007, sixty-one and three-tenths per cent; 128400

(c) For tax year 2008, eighty-three per cent; 128401

(d) For tax year 2009 and thereafter, one hundred per cent. 128402

(2) Inventory property tax value loss is the taxable value of 128403
inventory property as reported by taxpayers for tax year 2004 128404
multiplied by: 128405

(a) For tax year 2006, a fraction, the numerator of which is 128406
five and three-fourths and the denominator of which is 128407
twenty-three; 128408

(b) For tax year 2007, a fraction, the numerator of which is 128409
nine and one-half and the denominator of which is twenty-three; 128410

(c) For tax year 2008, a fraction, the numerator of which is 128411
thirteen and one-fourth and the denominator of which is 128412
twenty-three; 128413

(d) For tax year 2009 and thereafter a fraction, the 128414
numerator of which is seventeen and the denominator of which is 128415

twenty-three.	128416
(3) Furniture and fixtures property tax value loss is the	128417
taxable value of furniture and fixture property as reported by	128418
taxpayers for tax year 2004 multiplied by:	128419
(a) For tax year 2006, twenty-five per cent;	128420
(b) For tax year 2007, fifty per cent;	128421
(c) For tax year 2008, seventy-five per cent;	128422
(d) For tax year 2009 and thereafter, one hundred per cent.	128423
The taxable value of property reported by taxpayers used in	128424
divisions (C)(1), (2), and (3) of this section shall be such	128425
values as determined to be final by the tax commissioner as of	128426
August 31, 2005. Such determinations shall be final except for any	128427
correction of a clerical error that was made prior to August 31,	128428
2005, by the tax commissioner.	128429
(4) Telephone property tax value loss is the taxable value of	128430
telephone property as taxpayers would have reported that property	128431
for tax year 2004 if the assessment rate for all telephone	128432
property for that year were twenty-five per cent, multiplied by:	128433
(a) For tax year 2006, zero per cent;	128434
(b) For tax year 2007, zero per cent;	128435
(c) For tax year 2008, zero per cent;	128436
(d) For tax year 2009, sixty per cent;	128437
(e) For tax year 2010, eighty per cent;	128438
(f) For tax year 2011 and thereafter, one hundred per cent.	128439
(5) Division (C)(5) of this section applies to any school	128440
district, joint vocational school district, or local taxing unit	128441
in a county in which is located a facility currently or formerly	128442
devoted to the enrichment or commercialization of uranium or	128443
uranium products, and for which the total taxable value of	128444

property listed on the general tax list of personal property for 128445
any tax year from tax year 2001 to tax year 2004 was fifty per 128446
cent or less of the taxable value of such property listed on the 128447
general tax list of personal property for the next preceding tax 128448
year. 128449

In computing the fixed-rate levy losses under divisions 128450
(D)(1), (2), and (3) of this section for any school district, 128451
joint vocational school district, or local taxing unit to which 128452
division (C)(5) of this section applies, the taxable value of such 128453
property as listed on the general tax list of personal property 128454
for tax year 2000 shall be substituted for the taxable value of 128455
such property as reported by taxpayers for tax year 2004, in the 128456
taxing district containing the uranium facility, if the taxable 128457
value listed for tax year 2000 is greater than the taxable value 128458
reported by taxpayers for tax year 2004. For the purpose of making 128459
the computations under divisions (D)(1), (2), and (3) of this 128460
section, the tax year 2000 valuation is to be allocated to 128461
machinery and equipment, inventory, and furniture and fixtures 128462
property in the same proportions as the tax year 2004 values. For 128463
the purpose of the calculations in division (A) of section 5751.21 128464
of the Revised Code, the tax year 2004 taxable values shall be 128465
used. 128466

To facilitate the calculations required under division (C) of 128467
this section, the county auditor, upon request from the tax 128468
commissioner, shall provide by August 1, 2005, the values of 128469
machinery and equipment, inventory, and furniture and fixtures for 128470
all single-county personal property taxpayers for tax year 2004. 128471

(D) Not later than September 15, 2005, the tax commissioner 128472
shall determine for each tax year from 2006 through 2009 for each 128473
school district, joint vocational school district, and local 128474
taxing unit its machinery and equipment, inventory, and furniture 128475
and fixtures fixed-rate levy losses, and for each tax year from 128476

2006 through 2011 its telephone property fixed-rate levy loss. 128477
Except as provided in division (F) of this section, such losses 128478
are the applicable amounts described in divisions (D)(1), (2), 128479
(3), and (4) of this section: 128480

(1) The machinery and equipment fixed-rate levy loss is the 128481
machinery and equipment property tax value loss multiplied by the 128482
sum of the tax rates of fixed-rate qualifying levies. 128483

(2) The inventory fixed-rate loss is the inventory property 128484
tax value loss multiplied by the sum of the tax rates of 128485
fixed-rate qualifying levies. 128486

(3) The furniture and fixtures fixed-rate levy loss is the 128487
furniture and fixture property tax value loss multiplied by the 128488
sum of the tax rates of fixed-rate qualifying levies. 128489

(4) The telephone property fixed-rate levy loss is the 128490
telephone property tax value loss multiplied by the sum of the tax 128491
rates of fixed-rate qualifying levies. 128492

(E) Not later than September 15, 2005, the tax commissioner 128493
shall determine for each school district, joint vocational school 128494
district, and local taxing unit its fixed-sum levy loss. The 128495
fixed-sum levy loss is the amount obtained by subtracting the 128496
amount described in division (E)(2) of this section from the 128497
amount described in division (E)(1) of this section: 128498

(1) The sum of the machinery and equipment property tax value 128499
loss, the inventory property tax value loss, and the furniture and 128500
fixtures property tax value loss, and, for 2008 through ~~2017~~ 2010, 128501
the telephone property tax value loss of the district or unit 128502
multiplied by the sum of the fixed-sum tax rates of qualifying 128503
levies. For 2006 through 2010, this computation shall include all 128504
qualifying levies remaining in effect for the current tax year and 128505
any school district levies imposed under section 5705.194 or 128506
5705.213 of the Revised Code that are qualifying levies not 128507

remaining in effect for the current year. For 2011 through 2017 in 128508
the case of school district levies imposed under section 5705.194 128509
or 5705.213 of the Revised Code and for all years after 2010 in 128510
the case of other fixed-sum levies, this computation shall include 128511
only qualifying levies remaining in effect for the current year. 128512
For purposes of this computation, a qualifying school district 128513
levy imposed under section 5705.194 or 5705.213 of the Revised 128514
Code remains in effect in a year after 2010 only if, for that 128515
year, the board of education levies a school district levy imposed 128516
under section 5705.194, 5705.199, 5705.213, or 5705.219 of the 128517
Revised Code for an annual sum at least equal to the annual sum 128518
levied by the board in tax year 2004 less the amount of the 128519
payment certified under this division for 2006. 128520

(2) The total taxable value in tax year 2004 less the sum of 128521
the machinery and equipment, inventory, furniture and fixtures, 128522
and telephone property tax value losses in each school district, 128523
joint vocational school district, and local taxing unit multiplied 128524
by one-half of one mill per dollar. 128525

(3) For the calculations in divisions (E)(1) and (2) of this 128526
section, the tax value losses are those that would be calculated 128527
for tax year 2009 under divisions (C)(1), (2), and (3) of this 128528
section and for tax year 2011 under division (C)(4) of this 128529
section. 128530

(4) To facilitate the calculation under divisions (D) and (E) 128531
of this section, not later than September 1, 2005, any school 128532
district, joint vocational school district, or local taxing unit 128533
that has a qualifying levy that was approved at an election 128534
conducted during 2005 before September 1, 2005, shall certify to 128535
the tax commissioner a copy of the county auditor's certificate of 128536
estimated property tax millage for such levy as required under 128537
division (B) of section 5705.03 of the Revised Code, which is the 128538
rate that shall be used in the calculations under such divisions. 128539

If the amount determined under division (E) of this section 128540
for any school district, joint vocational school district, or 128541
local taxing unit is greater than zero, that amount shall equal 128542
the reimbursement to be paid pursuant to division (E) of section 128543
5751.21 or division (A)(3) of section 5751.22 of the Revised Code, 128544
and the one-half of one mill that is subtracted under division 128545
(E)(2) of this section shall be apportioned among all contributing 128546
fixed-sum levies in the proportion that each levy bears to the sum 128547
of all fixed-sum levies within each school district, joint 128548
vocational school district, or local taxing unit. 128549

(F) If a school district levies a tax under section 5705.219 128550
of the Revised Code, the fixed-rate levy loss for qualifying 128551
levies, to the extent repealed under that section, shall equal the 128552
sum of the following amounts in lieu of the amounts computed for 128553
such levies under division (D) of this section: 128554

(1) The sum of the rates of qualifying levies to the extent 128555
so repealed multiplied by the sum of the machinery and equipment, 128556
inventory, and furniture and fixtures tax value losses for 2009 as 128557
determined under that division; 128558

(2) The sum of the rates of qualifying levies to the extent 128559
so repealed multiplied by the telephone property tax value loss 128560
for 2011 as determined under that division. 128561

The fixed-rate levy losses for qualifying levies to the 128562
extent not repealed under section 5705.219 of the Revised Code 128563
shall be as determined under division (D) of this section. The 128564
revised fixed-rate levy losses determined under this division and 128565
division (D) of this section first apply in the year following the 128566
first year the district levies the tax under section 5705.219 of 128567
the Revised Code. 128568

(G) Not later than October 1, 2005, the tax commissioner 128569
shall certify to the department of education for every school 128570

district and joint vocational school district the machinery and 128571
equipment, inventory, furniture and fixtures, and telephone 128572
property tax value losses determined under division (C) of this 128573
section, the machinery and equipment, inventory, furniture and 128574
fixtures, and telephone fixed-rate levy losses determined under 128575
division (D) of this section, and the fixed-sum levy losses 128576
calculated under division (E) of this section. The calculations 128577
under divisions (D) and (E) of this section shall separately 128578
display the levy loss for each levy eligible for reimbursement. 128579

(H) Not later than October 1, 2005, the tax commissioner 128580
shall certify the amount of the fixed-sum levy losses to the 128581
county auditor of each county in which a school district, joint 128582
vocational school district, or local taxing unit with a fixed-sum 128583
levy loss reimbursement has territory. 128584

(I) Not later than the twenty-eighth day of February each 128585
year beginning in 2011 and ending in 2014, the tax commissioner 128586
shall certify to the department of education for each school 128587
district first levying a tax under section 5705.219 of the Revised 128588
Code in the preceding year the revised fixed-rate levy losses 128589
determined under divisions (D) and (F) of this section. 128590

Sec. 5751.21. (A) Not later than the thirtieth day of July of 128591
2007 through ~~2017~~ 2010, the department of education shall consult 128592
with the director of budget and management and determine the 128593
following for each school district and each joint vocational 128594
school district eligible for payment under division (B) of this 128595
section: 128596

(1) The state education aid offset, which, except as provided 128597
in division (A)(1)(c) of this section, is the difference obtained 128598
by subtracting the amount described in division (A)(1)(b) of this 128599
section from the amount described in division (A)(1)(a) of this 128600
section: 128601

(a) The state education aid computed for the school district 128602
or joint vocational school district for the current fiscal year as 128603
of the thirtieth day of July; 128604

(b) The state education aid that would be computed for the 128605
school district or joint vocational school district for the 128606
current fiscal year as of the thirtieth day of July if the 128607
~~recognized~~ valuation used in the calculation in division (B)(1) of 128608
section 3306.13 of the Revised Code as that division existed for 128609
fiscal years 2010 and 2011 included the machinery and equipment, 128610
inventory, furniture and fixtures, and telephone property tax 128611
value losses for the school district or joint vocational school 128612
district for the second preceding tax year, and if taxes charged 128613
and payable associated with the tax value losses are accounted for 128614
in any state education aid computation dependent on taxes charged 128615
and payable. 128616

(c) The state education aid offset for fiscal year 2010 and 128617
fiscal year 2011 equals the greater of the state education aid 128618
offset calculated for that fiscal year under divisions (A)(1)(a) 128619
and (b) of this section and the state education aid offset 128620
calculated for fiscal year 2009. For fiscal year 2012 and 2013, 128621
the state education aid offset equals the state education aid 128622
offset for fiscal year 2011. 128623

(2) ~~The~~ For fiscal years 2008 through 2011, the greater of 128624
zero or the difference obtained by subtracting the state education 128625
aid offset determined under division (A)(1) of this section from 128626
the sum of the machinery and equipment fixed-rate levy loss, the 128627
inventory fixed-rate levy loss, furniture and fixtures fixed-rate 128628
levy loss, and telephone property fixed-rate levy loss certified 128629
under divisions (G) and (I) of section 5751.20 of the Revised Code 128630
for all taxing districts in each school district and joint 128631
vocational school district for the second preceding tax year. 128632

By the thirtieth day of July of each such year, the 128633

department of education and the director of budget and management 128634
shall agree upon the amount to be determined under division (A)(1) 128635
of this section. 128636

(B) On or before the thirty-first day of August of ~~each year~~ 128637
~~beginning in 2008, 2009, and 2010,~~ the department of education 128638
shall recalculate the offset described under division (A) of this 128639
section for the previous fiscal year and recalculate the payments 128640
made under division (C) of this section in the preceding fiscal 128641
year using the offset calculated under this division. If the 128642
payments calculated under this division differ from the payments 128643
made under division (C) of this section in the preceding fiscal 128644
year, the difference shall either be paid to a school district or 128645
recaptured from a school district through an adjustment at the 128646
same times during the current fiscal year that the payments under 128647
division (C) of this section are made. In August and October of 128648
the current fiscal year, the amount of each adjustment shall be 128649
three-sevenths of the amount calculated under this division. In 128650
May of the current fiscal year, the adjustment shall be 128651
one-seventh of the amount calculated under this division. 128652

(C) The department of education shall pay from the school 128653
district tangible property tax replacement fund to each school 128654
district and joint vocational school district all of the following 128655
for fixed-rate levy losses certified under divisions (G) and (I) 128656
of section 5751.20 of the Revised Code: 128657

(1) On or before May 31, 2006, one-seventh of the total 128658
fixed-rate levy loss for tax year 2006; 128659

(2) On or before August 31, 2006, and October 31, 2006, 128660
one-half of six-sevenths of the total fixed-rate levy loss for tax 128661
year 2006; 128662

(3) On or before May 31, 2007, one-seventh of the total 128663
fixed-rate levy loss for tax year 2007; 128664

(4) On or before August 31, 2007, and October 31, 2007, 128665
forty-three per cent of the amount determined under division 128666
(A)(2) of this section for fiscal year 2008, but not less than 128667
zero, plus one-half of six-sevenths of the difference between the 128668
total fixed-rate levy loss for tax year 2007 and the total 128669
fixed-rate levy loss for tax year 2006. 128670

(5) On or before May 31, 2008, fourteen per cent of the 128671
amount determined under division (A)(2) of this section for fiscal 128672
year 2008, but not less than zero, plus one-seventh of the 128673
difference between the total fixed-rate levy loss for tax year 128674
2008 and the total fixed-rate levy loss for tax year 2006. 128675

(6) On or before August 31, 2008, and October 31, 2008, 128676
forty-three per cent of the amount determined under division 128677
(A)(2) of this section for fiscal year 2009, but not less than 128678
zero, plus one-half of six-sevenths of the difference between the 128679
total fixed-rate levy loss in tax year 2008 and the total 128680
fixed-rate levy loss in tax year 2007. 128681

(7) On or before May 31, 2009, fourteen per cent of the 128682
amount determined under division (A)(2) of this section for fiscal 128683
year 2009, but not less than zero, plus one-seventh of the 128684
difference between the total fixed-rate levy loss for tax year 128685
2009 and the total fixed-rate levy loss for tax year 2007. 128686

(8) On or before August 31, 2009, and October 31, 2009, 128687
forty-three per cent of the amount determined under division 128688
(A)(2) of this section for fiscal year 2010, but not less than 128689
zero, plus one-half of six-sevenths of the difference between the 128690
total fixed-rate levy loss in tax year 2009 and the total 128691
fixed-rate levy loss in tax year 2008. 128692

(9) On or before May 31, 2010, fourteen per cent of the 128693
amount determined under division (A)(2) of this section for fiscal 128694
year 2010, but not less than zero, plus one-seventh of the 128695

difference between the total fixed-rate levy loss in tax year 2010 128696
and the total fixed-rate levy loss in tax year 2008. 128697

(10) On or before August 31, 2010, and October 31, 2010, 128698
forty-three per cent of the amount determined under division 128699
(A)(2) of this section for fiscal year 2011, but not less than 128700
zero, plus one-half of six-sevenths of the difference between the 128701
telephone property fixed-rate levy loss for tax year 2010 and the 128702
telephone property fixed-rate levy loss for tax year 2009. 128703

(11) On or before May 31, 2011, fourteen per cent of the 128704
amount determined under division (A)(2) of this section for fiscal 128705
year 2011, but not less than zero, plus one-seventh of the 128706
difference between the telephone property fixed-rate levy loss for 128707
tax year 2011 and the telephone property fixed-rate levy loss for 128708
tax year 2009. 128709

~~(12) On or before August 31, 2011, and October 31, 2011,~~ 128710
~~forty three per cent of the amount determined under division~~ 128711
~~(A)(2) of this section, but not less than zero, plus one half of~~ 128712
~~six sevenths of the difference between the telephone property~~ 128713
~~fixed rate levy loss for tax year 2011 and the telephone property~~ 128714
~~fixed rate levy loss for tax year 2010.~~ 128715

~~(13) On or before May 31, 2012, fourteen per cent of the~~ 128716
~~amount determined under division (A)(2) of this section for fiscal~~ 128717
~~year 2012, but not less than zero, plus one seventh of the~~ 128718
~~difference between the telephone property fixed rate levy loss for~~ 128719
~~tax year 2011 and the telephone property fixed rate levy loss for~~ 128720
~~tax year 2010.~~ 128721

~~(14) On or before August 31, 2012, October 31, 2012, and May~~ 128722
~~31, 2013, the amount determined under division (A)(2) of this~~ 128723
~~section but not less than zero, multiplied by one third.~~ 128724

~~(15) On or before August 31, 2013, October 31, 2013, and May~~ 128725
~~31, 2014, the amount determined under division (A)(2) of this~~ 128726

~~section multiplied by a fraction, the numerator of which is nine 128727
and the denominator of which is seventeen, but not less than zero, 128728
multiplied by one third. 128729~~

~~(16) On or before August 31, 2014, October 31, 2014, and May 128730
31, 2015, the amount determined under division (A)(2) of this 128731
section multiplied by a fraction, the numerator of which is seven 128732
and the denominator of which is seventeen, but not less than zero, 128733
multiplied by one third. 128734~~

~~(17) On or before August 31, 2015, October 31, 2015, and May 128735
31, 2016, the amount determined under division (A)(2) of this 128736
section multiplied by a fraction, the numerator of which is five 128737
and the denominator of which is seventeen, but not less than zero, 128738
multiplied by one third. 128739~~

~~(18) On or before August 31, 2016, October 31, 2016, and May 128740
31, 2017, the amount determined under division (A)(2) of this 128741
section multiplied by a fraction, the numerator of which is three 128742
and the denominator of which is seventeen, but not less than zero, 128743
multiplied by one third. 128744~~

~~(19) On or before August 31, 2017, October 31, 2017, and May 128745
31, 2018, the amount determined under division (A)(2) of this 128746
section multiplied by a fraction, the numerator of which is one 128747
and the denominator of which is seventeen, but not less than zero, 128748
multiplied by one third. For fiscal years 2012 and thereafter, the 128749
sum of the amounts in divisions (C)(12)(a) or (b) and (c) of this 128750
section shall be paid on or before the twentieth day of November 128751
and the last day of May: 128752~~

(a) If the ratio of current expense TPP allocation to total 128753
resources is equal to or less than the threshold per cent, zero; 128754

(b) If the ratio of current expense TPP allocation to total 128755
resources is greater than the threshold per cent, fifty per cent 128756
of the difference of current expense TPP allocation minus the 128757

product of total resources multiplied by the threshold per cent; 128758

(c) Fifty per cent of the product of non-current expense TPP 128759
allocation multiplied by seventy-five per cent for fiscal year 128760
2012 and fifty per cent for fiscal years 2013 and thereafter. 128761

The department of education shall report to each school 128762
district and joint vocational school district the apportionment of 128763
the payments among the school district's or joint vocational 128764
school district's funds based on the certifications under 128765
divisions (G) and (I) of section 5751.20 of the Revised Code. 128766

~~Any qualifying levy that is a fixed rate levy that is not~~ 128767
~~applicable to a tax year after 2010 does not qualify for any~~ 128768
~~reimbursement after the tax year to which it is last applicable.~~ 128769

(D) For taxes levied within the ten-mill limitation for debt 128770
purposes in tax year 2005, payments shall be made equal to one 128771
hundred per cent of the loss computed as if the tax were a 128772
fixed-rate levy, but those payments shall extend from fiscal year 128773
2006 through fiscal year 2018, as long as the qualifying levy 128774
continues to be used for debt purposes. If the purpose of such a 128775
qualifying levy is changed, that levy becomes subject to the 128776
payments determined in division (C) of this section. 128777

(E)(1) Not later than January 1, 2006, for each fixed-sum 128778
levy of each school district or joint vocational school district 128779
and for each year for which a determination is made under division 128780
(E) of section 5751.20 of the Revised Code that a fixed-sum levy 128781
loss is to be reimbursed, the tax commissioner shall certify to 128782
the department of education the fixed-sum levy loss determined 128783
under that division. The certification shall cover a time period 128784
sufficient to include all fixed-sum levies for which the 128785
commissioner made such a determination. The On or before the last 128786
day of May of the current year, the department shall pay from the 128787
school district property tax replacement fund to the school 128788

district or joint vocational school district one-third of the 128789
fixed-sum levy loss so certified ~~for each year~~, plus one-third of 128790
the amount certified under division (I) of section 5751.20 of the 128791
Revised Code, and on or before the last twentieth day of May, 128792
~~August, and October of the current year~~ November, two-thirds of 128793
the fixed-sum levy loss so certified, plus two-thirds of the 128794
amount certified under division (I) of section 5751.20 of the 128795
Revised Code. Payments under this division of the amounts 128796
certified under division (I) of section 5751.20 of the Revised 128797
Code shall continue until the levy adopted under section 5705.219 128798
of the Revised Code expires. 128799

(2) Beginning in 2006, by the first day of January of each 128800
year, the tax commissioner shall review the certification 128801
originally made under division (E)(1) of this section. If the 128802
commissioner determines that a debt levy that had been scheduled 128803
to be reimbursed in the current year has expired, a revised 128804
certification for that and all subsequent years shall be made to 128805
the department of education. 128806

(F) Beginning in September 2007 and through June ~~2018~~ 2013, 128807
the director of budget and management shall transfer from the 128808
school district tangible property tax replacement fund to the 128809
general revenue fund each of the following: 128810

(1) On the first day of September, one-fourth of the amount 128811
determined for that fiscal year under division (A)(1) of this 128812
section; 128813

(2) On the first day of December, one-fourth of the amount 128814
determined for that fiscal year under division (A)(1) of this 128815
section; 128816

(3) On the first day of March, one-fourth of the amount 128817
determined for that fiscal year under division (A)(1) of this 128818
section; 128819

(4) On the first day of June, one-fourth of the amount 128820
determined for that fiscal year under division (A)(1) of this 128821
section. 128822

If, when a transfer is required under division (F)(1), (2), 128823
(3), or (4) of this section, there is not sufficient money in the 128824
school district tangible property tax replacement fund to make the 128825
transfer in the required amount, the director shall transfer the 128826
balance in the fund to the general revenue fund and may make 128827
additional transfers on later dates as determined by the director 128828
in a total amount that does not exceed one-fourth of the amount 128829
determined for the fiscal year. 128830

~~(G) For each of the fiscal years 2006 through 2018, if~~ If the 128831
total amount in the school district tangible property tax 128832
replacement fund is insufficient to make all payments under 128833
divisions (C), (D), and (E) of this section at the times the 128834
payments are to be made, the director of budget and management 128835
shall transfer from the general revenue fund to the school 128836
district tangible property tax replacement fund the difference 128837
between the total amount to be paid and the amount in the school 128838
district tangible property tax replacement fund. ~~For each fiscal~~ 128839
~~year after 2018, at the time payments under division (E) of this~~ 128840
~~section are to be made, the director of budget and management~~ 128841
~~shall transfer from the general revenue fund to the school~~ 128842
~~district property tax replacement fund the amount necessary to~~ 128843
~~make such payments.~~ 128844

~~(H)(1) On the fifteenth day of June of 2006 through 2011 of~~ 128845
each year, the director of budget and management may transfer any 128846
balance in the school district tangible property tax replacement 128847
fund to the general revenue fund. ~~At the end of fiscal years 2012~~ 128848
~~through 2018, any balance in the school district tangible property~~ 128849
~~tax replacement fund shall remain in the fund to be used in future~~ 128850
~~fiscal years for school purposes.~~ 128851

~~(2) In each fiscal year beginning with fiscal year 2019, all amounts credited to the school district tangible personal property tax replacement fund shall be appropriated for school purposes.~~

(I) If all of the territory of a school district or joint vocational school district is merged with another district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or newly created district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For a merger of two or more districts, ~~the machinery and equipment, inventory, furniture and fixtures, and telephone property fixed rate levy losses and the fixed-sum levy losses,~~ total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation of the successor district shall be equal to the sum of ~~the machinery and equipment, inventory, furniture and fixtures, and telephone property fixed rate levy losses and debt levy losses as determined in section 5751.20 of the Revised Code,~~ such items for each of the districts involved in the merger.

(2) If property is transferred from one district to a previously existing district, the amount of ~~machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses and fixed rate levy losses~~ total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation that shall be transferred to the recipient district shall be an amount equal to ~~the total machinery and equipment, inventory, furniture and fixtures, and telephone property fixed rate levy losses~~ total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation of the transferor district times a fraction, the numerator of which is the ~~value of business tangible~~

~~personal property on the land being transferred in the most recent~~ 128884
~~year for which data are available~~ number of pupils being 128885
~~transferred to the recipient district, measured, in the case of a~~ 128886
~~school district, by average daily membership as reported under~~ 128887
~~division (A) of section 3317.03 of the Revised Code or, in the~~ 128888
~~case of a joint vocational school district, by formula ADM as~~ 128889
~~reported in division (D) of that section, and the denominator of~~ 128890
~~which is the total value of business tangible personal property in~~ 128891
~~the district from which the land is being transferred in the most~~ 128892
~~recent year for which data are available. For each of the first~~ 128893
~~five years after the property is transferred, but not after fiscal~~ 128894
~~year 2012, if the tax rate in the recipient district is less than~~ 128895
~~the tax rate of the district from which the land was transferred,~~ 128896
~~one half of the payments arising from the amount of fixed rate~~ 128897
~~levy losses so transferred to the recipient district shall be paid~~ 128898
~~to the recipient district and one half of the payments arising~~ 128899
~~from the fixed rate levy losses so transferred shall be paid to~~ 128900
~~the district from which the land was transferred. Fixed rate levy~~ 128901
~~losses so transferred shall be computed on the basis of the sum of~~ 128902
~~the rates of fixed rate qualifying levies of the district from~~ 128903
~~which the land was transferred, notwithstanding division (E) of~~ 128904
~~this section~~ average daily membership or formula ADM of the 128905
transferor district. 128906

(3) After December 31, ~~2004~~ 2010, if property is transferred 128907
from one or more districts to a district that is newly created out 128908
of the transferred property, the newly created district shall be 128909
deemed not to have any ~~machinery and equipment, inventory,~~ 128910
~~furniture and fixtures, or telephone property~~ fixed rate levy 128911
~~losses and the districts from which the property was transferred~~ 128912
~~shall have no reduction in their machinery and equipment,~~ 128913
~~inventory, furniture and fixtures, and telephone property~~ 128914
~~fixed rate levy losses~~ total resources, current expense TPP 128915
allocation, total TPP allocation, or non-current expense TPP 128916

allocation. 128917

(4) If the recipient district under division (I)(2) of this 128918
section or the newly created district under division (I)(3) of 128919
this section is assuming debt from one or more of the districts 128920
from which the property was transferred and any of the districts 128921
losing the property had fixed-sum levy losses, the department of 128922
education, in consultation with the tax commissioner, shall make 128923
an equitable division of the fixed-sum levy loss reimbursements. 128924

Sec. 5751.22. (A) Not later than January 1, 2006, the tax 128925
commissioner shall compute the payments to be made to each local 128926
taxing unit for each year according to divisions (A)(1), (2), (3), 128927
and (4) of this section as this section existed on that date, and 128928
shall distribute the payments in the manner prescribed by division 128929
(C) of this section. The calculation of the fixed-sum levy loss 128930
shall cover a time period sufficient to include all fixed-sum 128931
levies for which the commissioner determined, pursuant to division 128932
(E) of section 5751.20 of the Revised Code, that a fixed-sum levy 128933
loss is to be reimbursed. 128934

(1) Except as provided in division (A)~~(4)~~(3) of this section, 128935
for ~~machinery and equipment, inventory, and furniture and fixtures~~ 128936
fixed-rate levy losses determined under division (D) of section 128937
5751.20 of the Revised Code, payments shall be made in an amount 128938
equal to ~~each of those losses multiplied by~~ the following: 128939

(a) For tax years 2006 through 2010, one hundred per cent of 128940
such losses; 128941

(b) For the payment in tax year 2011, ~~a fraction, the~~ 128942
~~numerator of which is fourteen and the denominator of which is~~ 128943
~~seventeen~~; 128944

~~(c) For tax year 2012, a fraction, the numerator of which is~~ 128945
~~eleven and the denominator of which is seventeen~~; 128946

(d) For tax year 2013, a fraction, the numerator of which is nine and the denominator of which is seventeen;	128947
(e) For tax year 2014, a fraction, the numerator of which is seven and the denominator of which is seventeen;	128948
(f) For tax year 2015, a fraction, the numerator of which is five and the denominator of which is seventeen;	128949
(g) For tax year 2016, a fraction, the numerator of which is three and the denominator of which is seventeen;	128950
(h) For tax year 2017, a fraction, the numerator of which is one and the denominator of which is seventeen;	128951
(i) For tax years 2018 and thereafter, no fixed rate payments shall be made.	128952
Any qualifying levy that is a fixed rate levy that is not applicable to a tax year after 2010 shall not qualify for any reimbursement after the tax year to which it is last applicable.	128953
(2) Except as provided in division (A)(4) of this section, for telephone property fixed rate levy losses determined under division (D)(4) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to each of those losses multiplied by the following:	128954
(a) For tax years 2009 through 2011, one hundred per cent;	128955
(b) For tax year 2012, seven eighths;	128956
(c) For tax year 2013, six eighths;	128957
(d) For tax year 2014, five eighths;	128958
(e) For tax year 2015, four eighths;	128959
(f) For tax year 2016, three eighths;	128960
(g) For tax year 2017, two eighths;	128961
(h) For tax year 2018, one eighth;	128962

~~(i) For tax years 2019 and thereafter, no fixed rate payments shall be made to be made on or before the twentieth day of November, the sum of the amount in division (A)(1)(b)(i) or (ii) and division (A)(1)(b)(iii) of this section:~~ 128975
128976
128977
128978

~~(i) If the ratio of six-sevenths of the TPP allocation to total resources is equal to or less than the threshold per cent, zero;~~ 128979
128980
128981

~~(ii) If the ratio of six-sevenths of the TPP allocation to total resources is greater than the threshold per cent, the difference of six-sevenths of the TPP allocation minus the product of total resources multiplied by the threshold per cent;~~ 128982
128983
128984
128985

~~(iii) In the case of a municipal corporation, six-sevenths of the product of the non-current expense TPP allocation multiplied by seventy-five per cent.~~ 128986
128987
128988

~~(c) For tax years 2012 and thereafter, the sum of the amount in division (A)(1)(c)(i) or (ii) and division (A)(1)(c)(iii) of this section:~~ 128989
128990
128991

~~(i) If the ratio of TPP allocation to total resources is equal to or less than the threshold per cent, zero;~~ 128992
128993

~~(ii) If the ratio of TPP allocation to total resources is greater than the threshold per cent, the TPP allocation minus the product of total resources multiplied by the threshold per cent;~~ 128994
128995
128996

~~(iii) In the case of a municipal corporation, non-current expense TPP allocation multiplied by fifty per cent for tax year 2012 and twenty-five per cent for tax years 2013 and thereafter.~~ 128997
128998
128999

~~Any qualifying levy that is a fixed rate levy that is not applicable to a tax year after 2011 shall not qualify for any reimbursement after the tax year to which it is last applicable.~~ 129000
129001
129002

~~(3)(2)~~ For fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code, payments shall be made 129003
129004

in the amount of one hundred per cent of the fixed-sum levy loss 129005
for payments required to be made in 2006 and thereafter until the 129006
qualifying levy has expired. 129007

~~(4)~~(3) For taxes levied within the ten-mill limitation or 129008
pursuant to a municipal charter for debt purposes in tax year 129009
2005, payments shall be made based on the schedule in division 129010
(A)(1) of this section for each of the calendar years 2006 through 129011
2010. For each of the calendar years 2011 through 2017, the 129012
percentages for calendar year 2010 shall be used for taxes levied 129013
within the ten-mill limitation or pursuant to a municipal charter 129014
for debt purposes in tax year 2010, as long as ~~the qualifying levy~~ 129015
~~continues~~ such levies continue to be used for debt purposes. If 129016
the purpose of such a qualifying levy is changed, that levy 129017
becomes subject to the payment schedules in divisions (A)(1)(a) to 129018
(h) of this section. No payments shall be made for such levies 129019
after calendar year 2017. For the purposes of this division, taxes 129020
levied pursuant to a municipal charter refer to taxes levied 129021
pursuant to a provision of a municipal charter that permits the 129022
tax to be levied without prior voter approval. 129023

(B) Beginning in 2007, by the thirty-first day of January of 129024
each year, the tax commissioner shall review the calculation 129025
originally made under division (A) of this section of the 129026
fixed-sum levy losses determined under division (E) of section 129027
5751.20 of the Revised Code. If the commissioner determines that a 129028
fixed-sum levy that had been scheduled to be reimbursed in the 129029
current year has expired, a revised calculation for that and all 129030
subsequent years shall be made. 129031

(C) Payments to local taxing units required to be made under 129032
division (A) of this section shall be paid from the local 129033
government tangible property tax replacement fund to the county 129034
undivided income tax fund in the proper county treasury. ~~Beginning~~ 129035
~~in~~ From May 2006 through November 2010, one-seventh of the amount 129036

~~certified~~ determined under that division shall be paid by the last 129037
day of May each year, and three-sevenths shall be paid by the last 129038
day of August and October each year. From May 2011 through 129039
November 2013, one-seventh of the amount determined under that 129040
division shall be paid on or before the last day of May each year, 129041
and six-sevenths shall be paid on or before the twentieth day of 129042
November each year, except that in November 2011, the payment 129043
shall equal one hundred per cent of the amount calculated for that 129044
payment. Beginning in May 2014, one-half of the amount determined 129045
under that division shall be paid on or before the last day of May 129046
each year, and one-half shall be paid on or before the twentieth 129047
day of November each year. Within ~~forty-five~~ forty days after 129048
receipt of such payments, the county treasurer shall distribute 129049
amounts determined under division (A) of this section to the 129050
proper local taxing unit as if they had been levied and collected 129051
as taxes, and the local taxing unit shall apportion the amounts so 129052
received among its funds in the same proportions as if those 129053
amounts had been levied and collected as taxes. 129054

(D) For each of the fiscal years 2006 through ~~2019~~ 2018, if 129055
the total amount in the local government tangible property tax 129056
replacement fund is insufficient to make all payments under 129057
division (C) of this section at the times the payments are to be 129058
made, the director of budget and management shall transfer from 129059
the general revenue fund to the local government tangible property 129060
tax replacement fund the difference between the total amount to be 129061
paid and the amount in the local government tangible property tax 129062
replacement fund. For each fiscal year after ~~2019~~ 2018, at the 129063
time payments under division (A)(2) of this section are to be 129064
made, the director of budget and management shall transfer from 129065
the general revenue fund to the local government property tax 129066
replacement fund the amount necessary to make such payments. 129067

(E) On the fifteenth day of June of each year from 2006 129068

through 2018, the director of budget and management may transfer 129069
any balance in the local government tangible property tax 129070
replacement fund to the general revenue fund. 129071

(F) If all or a part of the territories of two or more local 129072
taxing units are merged, or unincorporated territory of a township 129073
is annexed by a municipal corporation, the tax commissioner shall 129074
adjust the payments made under this section to each of the local 129075
taxing units in proportion to the ~~tax value loss apportioned to~~ 129076
square mileage of the merged or annexed territory as a percentage 129077
of the total square mileage of the jurisdiction from which the 129078
territory originated, or as otherwise provided by a written 129079
agreement between the legislative authorities of the local taxing 129080
units certified to the commissioner not later than the first day 129081
of June of the calendar year in which the payment is to be made. 129082

Sec. 5751.23. (A) As used in this section: 129083

(1) "Administrative fees" means the dollar percentages 129084
allowed by the county auditor for services or by the county 129085
treasurer as fees, or paid to the credit of the real estate 129086
assessment fund, under divisions (A) and (C) of section 319.54 and 129087
division (A) of section 321.26 of the Revised Code. 129088

(2) "Administrative fee loss" means a county's loss of 129089
administrative fees due to its tax value loss, determined as 129090
follows: 129091

(a) For purposes of the determination made under division (B) 129092
of this section in the years 2006 through 2010, the administrative 129093
fee loss shall be computed by multiplying the amounts determined 129094
for all taxing districts in the county under divisions (D) and (E) 129095
of section 5751.20 of the Revised Code by nine thousand six 129096
hundred fifty-nine ten-thousandths of one per cent if total taxes 129097
collected in the county in 2004 exceeded one hundred fifty million 129098
dollars, or one and one thousand one hundred fifty-nine 129099

ten-thousandths of one per cent if total taxes collected in the 129100
county in 2004 were one hundred fifty million dollars or less; 129101

(b) For purposes of the determination under division (B) of 129102
this section in the years after 2010, the administrative fee 129103
~~losses shall be determined by multiplying~~ loss equals 129104
fourteen-seventeenths of the administrative fee losses loss 129105
calculated for 2010 ~~by the fractions in divisions (A)(1)(b) to (i)~~ 129106
~~of section 5751.22 of the Revised Code~~ multiplied by the following 129107
percentages: 100% for 2011, 80% for 2012, 60% for 2013, 40% for 129108
2014, 20% for 2015, and 0% for 2016. 129109

(3) "Total taxes collected" means all money collected on any 129110
tax duplicate of the county, other than the estate tax duplicates. 129111
"Total taxes collected" does not include amounts received pursuant 129112
to divisions (F) and (G) of section 321.24 or section 323.156 of 129113
the Revised Code. 129114

(B) Not later than December 31, 2005, the tax commissioner 129115
shall certify to each county auditor the tax levy losses 129116
calculated under divisions (D) and (E) of section 5751.20 of the 129117
Revised Code for each school district, joint vocational school 129118
district, and local taxing unit in the county. Not later than the 129119
thirty-first day of January of 2006 through ~~2017~~ 2015, the county 129120
auditor shall determine the administrative fee loss for the county 129121
and apportion that loss ratably among the school districts, joint 129122
vocational school districts, and local taxing units on the basis 129123
of the tax levy losses certified under this division. 129124

(C) On or before each of the days prescribed for the 129125
settlements under divisions (A) and (C) of section 321.24 of the 129126
Revised Code in the years 2006 through ~~2017~~ 2015, the county 129127
treasurer shall deduct one-half of the amount apportioned to each 129128
school district, joint vocational school district, and local 129129
taxing unit from the portions of revenue payable to them. 129130

(D) On or before each of the days prescribed for settlements 129131
under divisions (A) and (C) of section 321.24 of the Revised Code 129132
in the years 2006 through ~~2017~~ 2015, the county auditor shall 129133
cause to be deposited an amount equal to one-half of the amount of 129134
the administrative fee loss in the same funds as if allowed as 129135
administrative fees. 129136

Sec. 5751.41. (A) As used in this division: 129137

(1) "Qualified uranium receipts" means receipts from the 129138
sale, exchange, lease, loan, production, processing, or other 129139
disposition of uranium within a uranium enrichment zone certified 129140
by the tax commissioner under division (B) of this section, 129141
including receipts from transactions that originate or terminate 129142
within a uranium enrichment zone. 129143

(2) "Uranium enrichment zone" means all real property that is 129144
part of a uranium enrichment facility licensed by the United 129145
States nuclear regulatory commission and that was or is owned or 129146
controlled by the United States department of energy or its 129147
successor. 129148

(B) Any person that owns, leases, or operates real or 129149
tangible personal property constituting or located within a 129150
uranium enrichment zone may apply to the tax commissioner to have 129151
the uranium enrichment zone certified for the purpose of excluding 129152
qualified uranium receipts under division (F)(2)(ii) of section 129153
5751. 01 of the Revised Code. The application shall include such 129154
information that the tax commissioner prescribes. Within sixty 129155
days after receiving the application, the tax commissioner shall 129156
certify the zone for that purpose if the commissioner determines 129157
that the property qualifies as a uranium enrichment zone as 129158
defined in this section or, if the tax commissioner cannot 129159
determine that the property so qualifies, deny the application or 129160
request additional information from the applicant. If the tax 129161

commissioner denies an application, the commissioner shall state 129162
the reasons for the denial. The applicant may appeal the denial of 129163
an application to the board of tax appeals pursuant to section 129164
5717.02 of the Revised Code. If the applicant files a timely 129165
appeal, the tax commissioner shall conditionally certify the 129166
applicant's property until final resolution of the appeal. If the 129167
board of tax appeals upholds the tax commissioner's determination 129168
to deny the application, the applicant shall be liable for any 129169
tax, interest, or penalties due on amounts erroneously claimed as 129170
qualifying uranium enrichments receipts, except that no amount 129171
shall be due on receipts that would have been excluded under 129172
another provision of law. 129173

Sec. 5751.50. (A) For tax periods beginning on or after 129174
January 1, 2008, a refundable credit granted by the tax credit 129175
authority under section 122.17 or division (B)(2) or (3) of 129176
section 122.171 of the Revised Code may be claimed under this 129177
chapter in the order required under section 5751.98 of the Revised 129178
Code. For purposes of making tax payments under this chapter, 129179
taxes equal to the amount of the refundable credit shall be 129180
considered to be paid to this state on the first day of the tax 129181
period. A credit claimed in calendar year 2008 may not be applied 129182
against the tax otherwise due for a tax period beginning before 129183
July 1, 2008. The refundable credit shall not be claimed against 129184
the tax otherwise due for any tax period beginning after the date 129185
on which a relocation of employment positions occurs in violation 129186
of an agreement entered into under section 122.17 or 122.171 of 129187
the Revised Code. 129188

(B) For tax periods beginning on or after January 1, 2008, a 129189
nonrefundable credit granted by the tax credit authority under 129190
division (B)(1) of section 122.171 of the Revised Code may be 129191
claimed under this chapter in the order required under section 129192
5751.98 of the Revised Code. A credit claimed in calendar year 129193

2008 may not be applied against the tax otherwise due under this 129194
chapter for a tax period beginning before July 1, 2008. The credit 129195
shall not be claimed against the tax otherwise due for any tax 129196
period beginning after the date on which a relocation of 129197
employment positions occurs in violation of an agreement entered 129198
into under section 122.17 or 122.171 of the Revised Code. No 129199
credit shall be allowed under this chapter if the credit was 129200
available against the tax imposed by section 5733.06 or 5747.02 of 129201
the Revised Code, except to the extent the credit was not applied 129202
against such tax. 129203

Sec. 5753.01. As used in Chapter 5753. of the Revised Code 129204
and for no other purpose under Title LVII of the Revised Code: 129205

(A) "Casino facility" has the same meaning as in section 129206
3772.01 of the Revised Code. 129207

(B) "Casino gaming" has the same meaning as in section 129208
3772.01 of the Revised Code. 129209

(C) "Casino operator" has the same meaning as in section 129210
3772.01 of the Revised Code. 129211

(D) "Gross casino revenue" means the total amount of money 129212
exchanged for the purchase of chips, tokens, tickets, electronic 129213
cards, or similar objects by casino patrons, less winnings paid to 129214
wagerers. "Gross casino revenue" does not mean, and has no 129215
relation to or effect on, a casino operator's "gross receipts" as 129216
defined in division (F) of section 5751.01 of the Revised Code. 129217

(E) "Person" has the same meaning as in section 3772.01 of 129218
the Revised Code. 129219

(F) "Slot machine" has the same meaning as in section 3772.01 129220
of the Revised Code. 129221

(G) "Table game" has the same meaning as in section 3772.01 129222
of the Revised Code. 129223

(H) "Tax period" means one twenty-four-hour period with regard to which a casino operator is required to pay the tax levied by this chapter.

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Sec. 5901.02. In each county there shall be a commission known as "the veterans service commission." ~~Except as provided in section 5901.021 of the Revised Code, the~~ The commission shall be composed of five residents of the county appointed to five-year terms by a judge of the court of common pleas. At the time of appointment or reappointment to the commission, no commission member appointed under this section shall be an employee of the commission or hold an elective or other appointive office of the county served by the commission.

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Each member of the commission appointed under this section shall be an honorably discharged or honorably separated veteran. Within sixty days after the date of appointment, each such member shall file the member's form DD214 with the department of veterans services in accordance with guidelines established by the director of that department. Such appointments shall be made from lists of recommended persons, in the manner specified in the following paragraph. One person shall be a representative recommended by the American Legion; one person shall be a representative recommended by the Veterans of Foreign Wars; one person shall be a representative recommended by the Disabled American Veterans; one person shall be a representative recommended by the AMVETS; and one person shall be a representative recommended by the Military Order of the Purple Heart of the U.S.A., the Vietnam Veterans of America, or the Korean War Veterans Association. If any such organization has no post or chapter located in the county, the appointment shall be made from lists of recommended persons submitted by posts or chapters of any other congressionally chartered veterans organizations located in the county. If no such other organizations have posts or chapters located in the county,

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the judge responsible for making appointments under this section 129256
may appoint any qualified veteran to represent the veteran 129257
community. 129258

On or before the fifteenth day of October of each year, the 129259
appointing judge shall notify each post or chapter of each 129260
organization within the county from which the member may or must 129261
be appointed that it may submit a list containing three 129262
recommendations of persons who are eligible for appointment. If 129263
the judge does not receive any recommendations within sixty days 129264
after providing the required notification, the judge may appoint 129265
any qualified veteran to represent the veteran community. The 129266
judge shall make the appointment on or before the fifteenth day of 129267
January of each year. Any vacancy in a membership appointed under 129268
this section shall be filled in the same manner as the original 129269
appointments. 129270

Beginning in the year 2000, appointment of members to the 129271
commission under this section shall be made as follows: 129272

(A) Appointments for members to represent the American Legion 129273
shall be made for terms to commence in years ending in zero and 129274
five. 129275

(B) Appointments for members to represent the Veterans of 129276
Foreign Wars shall be made for terms to commence in years ending 129277
in one and six. 129278

(C) Appointments for members to represent the Disabled 129279
American Veterans shall be made for terms to commence in years 129280
ending in two and seven. 129281

(D) Appointments for members to represent the AMVETS shall be 129282
made for terms to commence in years ending in three and eight. 129283

(E) Appointments for members to represent the Military Order 129284
of the Purple Heart of the U.S.A., the Vietnam Veterans of 129285
America, or the Korean War Veterans Association shall be made for 129286

terms to commence in years ending in four and nine. 129287

The terms immediately preceding the initial appointments made 129288
under divisions (A) to (E) of this section may be for periods of 129289
less than five years. 129290

The appointing authority shall remove a member who fails to 129291
maintain certification or whose certification is revoked by the 129292
director of veterans services. 129293

Sec. 6101.16. When it is determined to let the work relating 129294
to the improvements for which a conservancy district was 129295
established by contract, contracts in amounts to exceed 129296
twenty-five thousand dollars shall be advertised after notice 129297
calling for bids has been published once a week for two 129298
consecutive weeks or as provided in section 7.16 of the Revised 129299
Code, with the last publication to occur at least eight days prior 129300
to the date on which bids will be accepted, in a newspaper of 129301
general circulation within the conservancy district where the work 129302
is to be done. If the bids are for a contract for the 129303
construction, demolition, alteration, repair, or reconstruction of 129304
an improvement, the board of directors of the conservancy district 129305
may let the contract to the lowest responsive and most responsible 129306
bidder who meets the requirements of section 153.54 of the Revised 129307
Code. If the bids are for a contract for any other work relating 129308
to the improvements for which a conservancy district was 129309
established, the board of directors of the district may let the 129310
contract to the lowest responsive and most responsible bidder who 129311
gives a good and approved bond, with ample security, conditioned 129312
on the carrying out of the contract. The contract shall be in 129313
writing and shall be accompanied by or refer to plans and 129314
specifications for the work to be done prepared by the chief 129315
engineer. The plans and specifications shall at all times be made 129316
and considered a part of the contract. The contract shall be 129317

approved by the board and signed by the president of the board and 129318
by the contractor and shall be executed in duplicate. In case of 129319
sudden emergency when it is necessary in order to protect the 129320
district, the advertising of contracts may be waived upon the 129321
consent of the board, with the approval of the court or a judge of 129322
the court of common pleas of the county in which the office of the 129323
district is located. 129324

Sec. 6103.04. (A) Whenever any portion of a county sewer 129325
district is incorporated as, or annexed to, a municipal 129326
corporation, the area so incorporated or annexed shall remain 129327
under the jurisdiction of the board of county commissioners for 129328
purposes of the acquisition and construction of water supply 129329
improvements until all of the improvements for the area for which 129330
a resolution described in division (A) or (E) of section 6103.05 129331
of the Revised Code has been adopted by the board have been 129332
acquired or completed or until the board has abandoned the 129333
improvements. The board, unless and until a conveyance is made to 129334
a municipal corporation in accordance with division (B) of this 129335
section, shall continue to have jurisdiction in the area so 129336
incorporated or annexed with respect to the management, 129337
maintenance, and operation of all water supply improvements so 129338
acquired or completed, or previously acquired or completed, 129339
including the right to establish rules and rates and charges for 129340
the use of, and connections to, the improvements. The 129341
incorporation or annexation of any part of a district shall not 129342
affect the legality or enforceability of any public obligations 129343
issued or incurred by the county for purposes of this chapter to 129344
provide for the payment of the cost of acquisition, construction, 129345
maintenance, or operation of any water supply improvements within 129346
the area, or the validity of any assessments levied or to be 129347
levied upon properties within the area to provide for the payment 129348
of the cost of acquisition, construction, maintenance, or 129349

operation of the improvements. 129350

(B) ~~Any~~ A board may convey, by mutual agreement, to a 129351
municipal corporation any completed water supply facilities 129352
acquired or constructed by a county under this chapter for the use 129353
of, ~~or service of property located in,~~ any county sewer district, 129354
or any part of those facilities, ~~that~~ to which any of the 129355
following applies: 129356

(1) The facilities are located within a the municipal 129357
corporation or within any area that is incorporated as, or annexed 129358
to, a the municipal corporation, ~~or any part of the.~~ 129359

(2) The facilities ~~that~~ provide water for a the municipal 129360
corporation or ~~such an area, may be conveyed, by mutual agreement~~ 129361
~~between the board and the municipal corporation, to~~ any area that 129362
is located within or that is incorporated as, or annexed to, the 129363
municipal corporation ~~on.~~ 129364

(3) The facilities are connected to water supply facilities 129365
of the municipal corporation. 129366

The conveyance shall be completed with terms and for 129367
consideration as may be negotiated. Upon and after the conveyance, 129368
the municipal corporation shall manage, maintain, and operate the 129369
facilities in accordance with the agreement. The board may retain 129370
the right to joint use of all or part of any facilities so 129371
conveyed for the benefit of the district. Neither the validity of 129372
any assessment levied or to be levied, nor the legality or 129373
enforceability of any public obligations issued or incurred, to 129374
provide for the payment of the cost of the acquisition, 129375
construction, maintenance, or operation of the facilities or any 129376
part of them shall be affected by the conveyance. 129377

Sec. 6103.05. (A) After the establishment of any county sewer 129378
district, the board of county commissioners, if a water supply 129379

improvement is to be undertaken, may have the county sanitary 129380
engineer prepare, or otherwise cause to be prepared, for the 129381
district, or revise as needed, a general plan of water supply that 129382
is as complete as can be developed at the time. After the general 129383
plan, in original or revised form, has been approved by the board, 129384
it may adopt a resolution generally describing the water supply 129385
improvement that is necessary to be acquired or constructed in 129386
accordance with the plan, declaring that the improvement is 129387
necessary for the preservation and promotion of the public health 129388
and welfare, and determining whether or not special assessments 129389
are to be levied and collected to pay any part of the cost of the 129390
improvement. 129391

(B) If special assessments are not to be levied and collected 129392
to pay any part of the cost of the improvement, the board, in the 129393
resolution provided for in division (A) of this section or in a 129394
subsequent resolution, including a resolution authorizing the 129395
issuance or incurrence of public obligations for the improvement, 129396
may authorize the improvement and the expenditure of the funds 129397
required for its acquisition or construction and may proceed with 129398
the improvement without regard to the procedures otherwise 129399
required by divisions (C), (D), and (E) of this section and by 129400
sections 6103.06, 6103.07, and 6117.09 to 6117.24 of the Revised 129401
Code. Those procedures shall be required only for improvements for 129402
which special assessments are to be levied and collected. 129403

(C) If special assessments are to be levied and collected 129404
pursuant to a determination made in the resolution provided for in 129405
division (A) of this section or in a subsequent resolution, the 129406
procedures referred to in division (B) of this section as being 129407
required for that purpose shall apply, and the board may have the 129408
county sanitary engineer prepare, or otherwise cause to be 129409
prepared, detailed plans, specifications, and an estimate of cost 129410
for the improvement, together with a tentative assessment of the 129411

cost based on the estimate. The tentative assessment shall be for 129412
the information of property owners and shall not be levied or 129413
certified to the county auditor for collection. The detailed 129414
plans, specifications, estimate of cost, and tentative assessment, 129415
if approved by the board, shall be carefully preserved in the 129416
office of the board or the county sanitary engineer and shall be 129417
open to the inspection of all persons interested in the 129418
improvement. 129419

(D) After the board's approval of the detailed plans, 129420
specifications, estimate of cost, and tentative assessment, and at 129421
least twenty-four days before adopting a resolution pursuant to 129422
division (E) of this section, the board, except to the extent that 129423
appropriate waivers of notice are obtained from affected owners, 129424
shall cause to be sent a notice of its intent to adopt a 129425
resolution to each owner of property proposed to be assessed that 129426
is listed on the records of the county auditor for current 129427
agricultural use value taxation pursuant to section 5713.31 of the 129428
Revised Code and that is not located in an agricultural district 129429
established under section 929.02 of the Revised Code. The notice 129430
shall satisfy all of the following: 129431

(1) Be sent by first class or certified mail; 129432

(2) Specify the proposed date of the adoption of the 129433
resolution; 129434

(3) Contain a statement that the improvement will be financed 129435
in whole or in part by special assessments and that all properties 129436
not located in an agricultural district established pursuant to 129437
section 929.02 of the Revised Code may be subject to a special 129438
assessment; 129439

(4) Contain a statement that an agricultural district may be 129440
established by filing an application with the county auditor. 129441

If it appears, by the return of the mailed notices or by 129442

other means, that one or more of the affected owners cannot be 129443
found or are not served by the mailed notice, the board shall 129444
cause the notice to be published once in a newspaper of general 129445
circulation in the county not later than ten days before the 129446
adoption of the resolution. 129447

(E) After complying with divisions (A), (C), and (D) of this 129448
section, the board may adopt a resolution declaring that the 129449
improvement, which shall be described as to its nature and its 129450
location, route, and termini, is necessary for the preservation 129451
and promotion of the public health and welfare, referring to the 129452
plans, specifications, estimate of cost, and tentative assessment, 129453
stating the place where they are on file and may be examined, and 129454
providing that the entire cost or a lesser designated part of the 129455
cost will be specially assessed against the benefited properties 129456
within the district and that any balance will be paid by the 129457
county at large from other available funds. The resolution also 129458
shall contain a description of the boundaries of that part of the 129459
district to be assessed and shall designate a time and place for 129460
objections to the improvement, to the tentative assessment, or to 129461
the boundaries of the assessment district to be heard by the 129462
board. The date of that hearing shall be not less than twenty-four 129463
days after the date of the first publication of the notice of the 129464
hearing required by this division. 129465

The board shall cause a notice of the hearing to be published 129466
once a week for two consecutive weeks in a newspaper of general 129467
circulation in the county or as provided in section 7.16 of the 129468
Revised Code, and on or before the date of the second publication, 129469
it shall cause to be sent by first class or certified mail a copy 129470
of the notice to every owner of property to be assessed for the 129471
improvement whose address is known. 129472

The notice shall set forth the time and place of the hearing, 129473
a summary description of the proposed improvement, including its 129474

general route and termini, a summary description of the area 129475
constituting the assessment district, and the place where the 129476
plans, specifications, estimate of cost, and tentative assessment 129477
are on file and may be examined. Each mailed notice also shall 129478
include a statement that the property of the addressee will be 129479
assessed for the improvement. The notice also shall be sent by 129480
first class or certified mail, on or before the date of the second 129481
publication, to the clerk, or the official discharging the duties 129482
of a clerk, of any municipal corporation any part of which lies 129483
within the assessment district and shall state whether or not any 129484
property belonging to the municipal corporation is to be assessed 129485
and, if so, shall identify that property. 129486

At the hearing, or at any adjournment of the hearing, of 129487
which no further published or mailed notice need be given, the 129488
board shall hear all parties whose properties are proposed to be 129489
assessed. Written objections to or endorsements of the proposed 129490
improvement, its character and termini, the boundaries of the 129491
assessment district, or the tentative assessment shall be received 129492
by the board for a period of five days after the completion of the 129493
hearing, and no action shall be taken by the board in the matter 129494
until after that period has elapsed. The minutes of the hearing 129495
shall be entered on the journal of the board showing the persons 129496
who appear in person or by attorney, and all written objections 129497
shall be preserved and filed in the office of the board. 129498

Sec. 6103.06. After the expiration of the period of five days 129499
provided in section 6103.05 of the Revised Code for the filing of 129500
written objections, the board of county commissioners shall 129501
determine whether it will proceed with the construction of the 129502
proposed improvement. If it decides to proceed therewith, the 129503
board shall ratify or amend the plans for the improvement, the 129504
character and termini thereof, the boundaries of the assessment 129505
district, and the tentative assessment, and may cause such 129506

revision of plans, boundaries, or assessments as is necessary to 129507
be made by the county sanitary engineer. If the boundaries of the 129508
assessment district are amended so as to include any property not 129509
included within the boundaries as established by the resolution of 129510
necessity, provided for in section 6103.05 of the Revised Code, 129511
the owners of all such property shall be notified by mail if their 129512
addresses are known, and notice shall be published once a week for 129513
two consecutive weeks in a newspaper of general circulation within 129514
the county or as provided in section 7.16 of the Revised Code, 129515
that such amendments have been adopted and that a hearing will be 129516
given by the board at a time and place stated in such notice at 129517
which all persons interested will be heard by the board. The date 129518
of such hearing shall be not less than twenty-four days after the 129519
first publication of such notice, and the hearing shall be 129520
conducted and records kept in the same manner as the first 129521
hearing. Five days shall be allowed for the filing of written 129522
objections as provided in section 6103.05 of the Revised Code for 129523
the first hearing and after the expiration of such five day period 129524
the board shall ratify the plans for the improvement, the 129525
character and termini thereof, the boundaries of the assessment 129526
district, and the tentative assessment, or shall further amend the 129527
same. If the boundaries of the assessment district are amended so 129528
as to include any property not included in the assessment district 129529
as originally established or previously amended, further notice 129530
and hearing shall be given to the owners of such property in the 129531
same manner as for the first amendment of such boundaries, and the 129532
same procedure shall be repeated until all property owners 129533
affected have been given an opportunity to be heard. If the owners 129534
of all property added to an assessment district by amendment of 129535
the original boundaries thereof waive objection to such amendment 129536
in writing, no further notice or hearing shall be given. After the 129537
board has ratified the plans for the improvement, the character 129538
and termini thereof, the boundaries of the assessment district, 129539

and the tentative assessment, either as originally presented or as amended, and if it decides to proceed therewith, the board shall adopt a resolution, to be known as the improvement resolution. Said improvement resolution shall declare the determination of such board to proceed with the construction of the improvement provided for in the resolution of necessity, in accordance with the plans and specification provided for such improvement, as ratified or amended, and whether bonds or certificates of indebtedness shall be issued in anticipation of the collection of special assessments, or that money in the county treasury unappropriated for any other purpose shall be appropriated to pay for said improvement.

Sec. 6103.081. (A) After the establishment of any county sewer district, the board of county commissioners may determine by resolution that it is necessary to provide water supply improvements and to maintain and operate the improvements within the district or a designated portion of the district, that the improvements, which shall be generally described in the resolution, shall be constructed, that funds are required to pay the preliminary costs of the improvements to be incurred prior to the commencement of the proceedings for their construction, and that those funds shall be provided in accordance with this section.

(B) Prior to the adoption of the resolution, the board shall give notice of its pendency and of the proposed determination of the necessity of the improvements generally described in the resolution. The notice shall set forth a description of the properties to be benefited by the improvements and the time and place of a hearing of objections to and endorsements of the improvements. The notice shall be given either by publication in a newspaper of general circulation in the county once a week for two consecutive weeks, by publication as provided in section 7.16 of

the Revised Code, or by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by ~~both~~ a combination of these manners, the first publication to be made or the mailing to occur at least two weeks prior to the date set for the hearing. At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed and the evidence it considers to be necessary. The board then shall determine the necessity of the proposed improvements and whether the improvements shall be made by the board and, if they are to be made, shall direct the preparation of tentative assessments upon the benefited properties and by whom they shall be prepared.

(C) In order to obtain funds for the preparation of a general or revised general plan of water supply for the district or part of the district, for the preparation of the detailed plans, specifications, estimate of cost, and tentative assessment for the proposed improvements, and for the cost of financing and legal services incident to the preparation of all of those plans and a plan of financing the proposed improvements, the board may levy upon the properties to be benefited in the district a preliminary assessment apportioned according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine. The assessments shall be in the amount determined to be necessary to obtain funds for the general and detailed plans and the cost of financing and legal services and shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of the assessments.

(D) The board shall have power at any time to levy additional

assessments according to benefits or to tax valuation or partly by 129604
one method and partly by the other method as the board may 129605
determine for the purposes described in division (C) of this 129606
section upon the benefited properties to complete the payment of 129607
the costs described in division (C) of this section or to pay the 129608
cost of any additional plans, specifications, estimate of cost, or 129609
tentative assessment and the cost of financing and legal services 129610
incident to the preparation of those plans and the plan of 129611
financing, which additional assessments shall be payable in the 129612
number of years that the board shall determine, not to exceed 129613
twenty years, together with interest on any public obligations 129614
that may be issued or incurred in anticipation of the collection 129615
of the additional assessments. 129616

(E) Prior to the adoption of a resolution levying assessments 129617
under this section, the board shall give notice either by one 129618
publication in a newspaper of general circulation in the county, 129619
or by mailing a copy of the notice by first class or certified 129620
mail to the owners of the properties proposed to be assessed at 129621
their respective tax mailing addresses, or by both manners, the 129622
publication to be made or the mailing to occur at least ten days 129623
prior to the date of the meeting at which the resolution shall be 129624
taken up for consideration; that notice shall state the time and 129625
place of the meeting at which the resolution is to be considered. 129626
At the time and place of the meeting, or at any adjournment of the 129627
meeting, of which no further published or mailed notice need be 129628
given, the board shall hear all persons whose properties are 129629
proposed to be assessed, shall correct any errors and make any 129630
revisions that appear to be necessary or just, and then may adopt 129631
a resolution levying upon the properties determined to be 129632
benefited the assessments as so corrected and revised. 129633

The assessments levied by the resolution shall be certified 129634
to the county auditor for collection in the same manner as taxes 129635

in the year or years in which they are payable. 129636

(F) Upon the adoption of the resolution described in division 129637
(E) of this section, no further action shall be taken or work done 129638
until ten days have elapsed. If, at the expiration of that period, 129639
no appeal has been effected by any property owner as provided in 129640
this division, the action of the board shall be final. If, at the 129641
end of that ten days, any owner of property to be assessed for the 129642
improvements has effected an appeal, no further action shall be 129643
taken and no work done in connection with the improvements under 129644
the resolution until the matters appealed from have been disposed 129645
of in court. 129646

Any owner of property to be assessed may appeal as provided 129647
and upon the grounds stated in sections 6117.09 to 6117.24 of the 129648
Revised Code. 129649

If no appeal has been perfected or if on appeal the 129650
resolution of the board is sustained, the board may authorize and 129651
enter into contracts to carry out the purpose for which the 129652
assessments have been levied without the prior issuance of notes, 129653
provided that the payments under those contracts do not fall due 129654
prior to the time by which the assessments are to be collected. 129655
The board may issue and sell bonds with a maximum maturity of 129656
twenty years in anticipation of the collection of the assessments 129657
and may issue notes in anticipation of the issuance of the bonds, 129658
which notes and bonds, as public obligations, shall be issued and 129659
sold as provided in Chapter 133. of the Revised Code. 129660

Sec. 6103.31. (A) If the board of county commissioners 129661
determines by resolution that the best interests of the county and 129662
the users of water supply facilities of the county serving a sewer 129663
district so require, the board may sell or otherwise dispose of 129664
the facilities to another public agency or a person. The 129665
resolution declaring the necessity of that disposition shall 129666

recite the reasons for the sale or other disposition and shall 129667
establish any conditions or terms that the board may impose, 129668
including, but not limited to, a minimum sales price if a sale is 129669
proposed, a requirement for the submission by bidders of the 129670
schedule of water rates and charges initially proposed to be paid 129671
by the users of the facilities, and other pertinent conditions or 129672
terms relating to the sale or other disposition. The resolution 129673
also shall designate a time and place for the hearing of 129674
objections to the sale or other disposition by the board. Notice 129675
of the adoption of the resolution and the time and place of the 129676
hearing shall be published as provided in section 7.16 of the 129677
Revised Code, or once a week for two consecutive weeks, in a 129678
newspaper of general circulation in the sewer district and in the 129679
county. The public hearing on the sale or other disposition shall 129680
be held not less than twenty-four days following the date of first 129681
publication of the notice. A copy of the notice also shall be sent 129682
by first class or certified mail, on or before the date of the 129683
second publication, to any public agency within the area served by 129684
the facilities. At the public hearing, or at any adjournment of 129685
it, of which no further published or mailed notice need be given, 129686
the board shall hear all interested parties. A period of five days 129687
shall be given following the completion of the hearing for the 129688
filing of written objections by any interested persons or public 129689
agencies to the sale or other disposition, after which the board 129690
shall consider any objections and by resolution determine whether 129691
or not to proceed with the sale or other disposition. If the board 129692
determines to proceed with the sale or other disposition, it shall 129693
receive bids after advertising once a week for four consecutive 129694
weeks in a newspaper of general circulation in the county or as 129695
provided in section 7.16 of the Revised Code and, subject to the 129696
right of the board to reject any or all bids, may make an award to 129697
a responsible bidder whose proposal is determined by the board to 129698

be in the best interests of the county and the users of the 129699
facilities. 129700

(B) A conveyance of water supply facilities by a county to a 129701
municipal corporation, in accordance with division (B) of section 129702
6103.04 of the Revised Code, may be made without regard to 129703
division (A) of this section. 129704

Sec. 6105.131. The board of directors of a watershed district 129705
may designate a specific reach in the channel of any watercourse 129706
within the territorial boundaries of the district as a restricted 129707
channel, when the construction or alteration of structures or 129708
obstructions within such channel will restrict its capacity so as 129709
to constitute an unreasonable hazard to the safety of life and 129710
property in times of flood, or designate any area outside the 129711
banks of a restricted channel as a restricted floodway when such 129712
area is reasonably necessary to the efficiency of a restricted 129713
channel as a means of carrying off flood waters. Such designation 129714
of a restricted channel or restricted floodway shall be made in 129715
the following manner: 129716

(A) The board shall adopt a resolution stating its intent to 129717
designate a specific reach in a channel of a watercourse as a 129718
restricted channel or a specific area as a restricted floodway. 129719
Such resolution shall contain a description of the reach of the 129720
channel to be designated as a restricted channel or description of 129721
the area to be designated as a restricted floodway and the reasons 129722
of the board for making such designation. 129723

(B) The board shall cause such resolution to be published as 129724
provided in section 7.16 of the Revised Code or once a week for 129725
two consecutive weeks in a newspaper of general circulation in the 129726
county or counties in which such restricted channel or restricted 129727
floodway is located, together with a notice of the time and place 129728

where a hearing will be held by the board on the question of 129729
designating such channel as a restricted channel or such area as a 129730
restricted floodway ~~and~~. The board also shall give not less than 129731
ten days notice of said hearing by first class mail to all owners 129732
of property within the area proposed to be designated as a 129733
restricted floodway. The date of such hearing shall be not less 129734
than ten days after the completion of the publication provided for 129735
by this division. 129736

(C) The board shall hold a hearing at the time and place 129737
designated in the notice published under division (B) of this 129738
section at which time indorsements of and objections to the 129739
designation of such channel as a restricted channel or such area 129740
as a restricted floodway shall be heard. 129741

(D) The board may, after the completion of the hearing under 129742
division (C) of this section and after finding that the 129743
construction or alteration of structures or obstructions or 129744
relocation, alteration, restriction, deposit, or encroachment 129745
within the designated reach of such channel will restrict its 129746
capacity so as to constitute an unreasonable hazard to the safety 129747
of life and property in times of flood, adopt a resolution 129748
designating the reach of the channel described in the resolution 129749
of intent adopted under division (A) of this section or any 129750
modification thereof as a restricted channel. 129751

(E) In like manner the board may, after completion of a 129752
hearing under division (C) of this section and after finding that 129753
the construction or alteration of structures or obstructions or 129754
change of grade within a designated floodway area will restrict 129755
its capacity or efficiency as a means of carrying off flood water 129756
so as to constitute an unreasonable hazard to the safety of life 129757
and property in times of flood, adopt a resolution designating the 129758
area described in the resolution of intent adopted under division 129759
(A) of this section, or any modification thereof, as a restricted 129760

floodway. 129761

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 129762
of this section, on and after January 1, 1994, no person shall 129763
operate or maintain a public water system in this state without a 129764
license issued by the director of environmental protection. A 129765
person who operates or maintains a public water system on January 129766
1, 1994, shall obtain an initial license under this section in 129767
accordance with the following schedule: 129768

(1) If the public water system is a community water system, 129769
not later than January 31, 1994; 129770

(2) If the public water system is not a community water 129771
system and serves a nontransient population, not later than 129772
January 31, 1994; 129773

(3) If the public water system is not a community water 129774
system and serves a transient population, not later than January 129775
31, 1995. 129776

A person proposing to operate or maintain a new public water 129777
system after January 1, 1994, in addition to complying with 129778
section 6109.07 of the Revised Code and rules adopted under it, 129779
shall submit an application for an initial license under this 129780
section to the director prior to commencing operation of the 129781
system. 129782

A license or license renewal issued under this section shall 129783
be renewed annually. Such a license or license renewal shall 129784
expire on the thirtieth day of January in the year following its 129785
issuance. A license holder that proposes to continue operating the 129786
public water system for which the license or license renewal was 129787
issued shall apply for a license renewal at least thirty days 129788
prior to that expiration date. 129789

The director shall adopt, and may amend and rescind, rules in 129790

accordance with Chapter 119. of the Revised Code establishing 129791
procedures governing and information to be included on 129792
applications for licenses and license renewals under this section. 129793
Through June 30, ~~2012~~ 2014, each application shall be accompanied 129794
by the appropriate fee established under division (M) of section 129795
3745.11 of the Revised Code, provided that an applicant for an 129796
initial license who is proposing to operate or maintain a new 129797
public water system after January 1, 1994, shall submit a fee that 129798
equals a prorated amount of the appropriate fee established under 129799
that division for the remainder of the licensing year. 129800

(B) Not later than thirty days after receiving a completed 129801
application and the appropriate license fee for an initial license 129802
under division (A) of this section, the director shall issue the 129803
license for the public water system. Not later than thirty days 129804
after receiving a completed application and the appropriate 129805
license fee for a license renewal under division (A) of this 129806
section, the director shall do one of the following: 129807

(1) Issue the license renewal for the public water system; 129808

(2) Issue the license renewal subject to terms and conditions 129809
that the director determines are necessary to ensure compliance 129810
with this chapter and rules adopted under it; 129811

(3) Deny the license renewal if the director finds that the 129812
public water system was not operated in substantial compliance 129813
with this chapter and rules adopted under it. 129814

(C) The director may suspend or revoke a license or license 129815
renewal issued under this section if the director finds that the 129816
public water system was not operated in substantial compliance 129817
with this chapter and rules adopted under it. The director shall 129818
adopt, and may amend and rescind, rules in accordance with Chapter 129819
119. of the Revised Code governing such suspensions and 129820
revocations. 129821

(D)(1) As used in division (D) of this section, "church" 129822
means a fellowship of believers, congregation, society, 129823
corporation, convention, or association that is formed primarily 129824
or exclusively for religious purposes and that is not formed or 129825
operated for the private profit of any person. 129826

(2) This section does not apply to a church that operates or 129827
maintains a public water system solely to provide water for that 129828
church or for a campground that is owned by the church and 129829
operated primarily or exclusively for members of the church and 129830
their families. A church that, on or before March 5, 1996, has 129831
obtained a license under this section for such a public water 129832
system need not obtain a license renewal under this section. 129833

(E) This section does not apply to any public or nonpublic 129834
school that meets minimum standards of the state board of 129835
education that operates or maintains a public water system solely 129836
to provide water for that school. 129837

(F) The environmental protection agency shall collect well 129838
log filing fees on behalf of the division of soil and water 129839
resources in the department of natural resources in accordance 129840
with section 1521.05 of the Revised Code and rules adopted under 129841
it. The fees shall be submitted to the division quarterly as 129842
provided in those rules. 129843

Sec. 6111.038. There is hereby created in the state treasury 129844
the surface water protection fund, consisting of moneys 129845
distributed to it. The director of environmental protection shall 129846
use moneys in the fund solely for administration and 129847
implementation of surface water protection programs, including at 129848
least programs required under the "Federal Water Pollution Control 129849
Act" and programs necessary to carry out the purposes of this 129850
chapter. Those programs shall include at least the development of 129851
water quality standards; the development of wasteload allocations; 129852

the establishment of water quality-based effluent limits; the 129853
monitoring and analysis of chemical, physical, and biological 129854
surface water quality; the issuance, modification, and renewal of 129855
NPDES permits and permits to install; the ensurance of compliance 129856
with permit conditions; the management and oversight of 129857
pretreatment programs; the provision of technical assistance to 129858
publicly owned treatment works; and the administration of the 129859
water pollution control loan fund created in section 6111.036 of 129860
the Revised Code. 129861

~~Moneys in the fund shall not be used to meet any state 129862
matching requirements that are necessary to obtain federal grants. 129863~~

Sec. 6111.044. Upon receipt of an application for an 129864
injection well drilling permit, an injection well operating 129865
permit, a renewal of an injection well operating permit, or a 129866
modification of an injection well drilling permit, operating 129867
permit, or renewal of an operating permit, the director of 129868
environmental protection shall determine whether the application 129869
is complete and demonstrates that the activities for which the 129870
permit, renewal permit, or modification is requested will comply 129871
with the Federal Water Pollution Control Act and regulations 129872
adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 129873
(1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted 129874
under it; and this chapter and the rules adopted under it. If the 129875
application demonstrates that the proposed activities will not 129876
comply or will pose an unreasonable risk of inducing seismic 129877
activity, inducing geologic fracturing, or contamination of an 129878
underground source of drinking water, the director shall deny the 129879
application. If the application does not make the required 129880
demonstrations, the director shall return it to the applicant with 129881
an indication of those matters about which a required 129882
demonstration was not made. If the director determines that the 129883
application makes the required demonstrations, the director shall 129884

transmit copies of the application and all of the accompanying 129885
maps, data, samples, and information to the chief of the division 129886
of ~~mineral~~ oil and gas resources management, the chief of the 129887
division of geological survey, ~~and~~ the chief of the division of 129888
soil and water resources, and, if the well is or is to be located 129889
in a coal bearing township designated under section 1561.06 of the 129890
Revised Code, the chief of the division of mineral resources 129891
management in the department of natural resources. 129892

The chief of the division of geological survey shall comment 129893
upon the application if the chief determines that the proposed 129894
well or injection will present an unreasonable risk of loss or 129895
damage to valuable mineral resources. If the chief submits 129896
comments on the application, those comments shall be accompanied 129897
by an evaluation of the geological factors upon which the comments 129898
are based, including fractures, faults, earthquake potential, and 129899
the porosity and permeability of the injection zone and confining 129900
zone, and by the documentation supporting the evaluation. The 129901
director shall take into consideration the chief's comments, and 129902
the accompanying evaluation of geologic factors and supporting 129903
documentation, when considering the application. The director 129904
shall provide written notice to the chief of the director's 129905
decision on the application and, if the chief's comments are not 129906
included in the permit, renewal permit, or modification, of the 129907
director's rationale for not including them. 129908

The chief of the division of ~~mineral~~ oil and gas resources 129909
management shall comment upon the application if the chief 129910
determines that the proposed well or injection will present an 129911
unreasonable risk that waste or contamination of recoverable oil 129912
or gas in the earth will occur. If the chief submits comments on 129913
the application, those comments shall be accompanied by an 129914
evaluation of the oil or gas reserves that, in the best 129915
professional judgment of the chief, are recoverable and will be 129916

adversely affected by the proposed well or injection, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of soil and water resources shall assist the director in determining whether all underground sources of drinking water in the area of review of the proposed well or injection have been identified and correctly delineated in the application. If the application fails to identify or correctly delineate an underground source of drinking water, the chief shall provide written notice of that fact to the director.

The chief of the division of mineral resources management ~~also~~ shall review the application as follows:

If the application concerns the drilling or conversion of a well or the injection into a well that is not or is not to be located within five thousand feet of the excavation and workings of a mine, the chief of the division of mineral resources management shall note upon the application that it has been examined by the division of mineral resources management, retain a copy of the application and map, and immediately return a copy of the application to the director.

If the application concerns the drilling or conversion of a well or the injection into a well that is or is to be located within five thousand feet, but more than five hundred feet from the surface excavations and workings of a mine, the chief of the division of mineral resources management immediately shall notify the owner or lessee of the mine that the application has been

filed and send to the owner or lessee a copy of the map 129949
accompanying the application setting forth the location of the 129950
well. The chief of the division of mineral resources management 129951
shall note on the application that the notice has been sent to the 129952
owner or lessee of the mine, retain a copy of the application and 129953
map, and immediately return a copy of the application to the 129954
director with the chief's notation on it. 129955

If the application concerns the drilling or conversion of a 129956
well or the injection into a well that is or is to be located 129957
within five thousand feet of the underground excavations and 129958
workings of a mine or within five hundred feet of the surface 129959
excavations and workings of a mine, the chief of the division of 129960
mineral resources management immediately shall notify the owner or 129961
lessee of the mine that the application has been filed and send to 129962
the owner or lessee a copy of the map accompanying the application 129963
setting forth the location of the well. If the owner or lessee 129964
objects to the application, the owner or lessee shall notify the 129965
chief of the division of mineral resources management of the 129966
objection, giving the reasons, within six days after the receipt 129967
of the notice. If the chief of the division of mineral resources 129968
management receives no objections from the owner or lessee of the 129969
mine within ten days after the receipt of the notice by the owner 129970
or lessee, or if in the opinion of the chief of the division of 129971
mineral resources management the objections offered by the owner 129972
or lessee are not sufficiently well founded, the chief shall 129973
retain a copy of the application and map and return a copy of the 129974
application to the director with any applicable notes concerning 129975
it. 129976

If the chief of the division of mineral resources management 129977
receives an objection from the owner or lessee of the mine as to 129978
the application, within ten days after receipt of the notice by 129979
the owner or lessee, and if in the opinion of the chief the 129980

objection is well founded, the chief shall disapprove the 129981
application and immediately return it to the director together 129982
with the chief's reasons for the disapproval. The director 129983
promptly shall notify the applicant for the permit, renewal 129984
permit, or modification of the disapproval. The applicant may 129985
appeal the disapproval of the application by the chief of the 129986
division of mineral resources management to the reclamation 129987
commission created under section 1513.05 of the Revised Code, and 129988
the commission shall hear the appeal in accordance with section 129989
1513.13 of the Revised Code. The appeal shall be filed within 129990
thirty days from the date the applicant receives notice of the 129991
disapproval. No comments concerning or disapproval of an 129992
application shall be delayed by the chief of the division of 129993
mineral resources management for more than fifteen days from the 129994
date of sending of notice to the mine owner or lessee as required 129995
by this section. 129996

The director shall not approve an application for an 129997
injection well drilling permit, an injection well operating 129998
permit, a renewal of an injection well operating permit, or a 129999
modification of an injection well drilling permit, operating 130000
permit, or renewal of an operating permit for a well that is or is 130001
to be located within three hundred feet of any opening of any mine 130002
used as a means of ingress, egress, or ventilation for persons 130003
employed in the mine, nor within one hundred feet of any building 130004
or flammable structure connected with the mine and actually used 130005
as a part of the operating equipment of the mine, unless the chief 130006
of the division of mineral resources management determines that 130007
life or property will not be endangered by drilling and operating 130008
the well in that location. 130009

Upon review by the chief of the division of ~~mineral oil and~~ 130010
gas resources management, the chief of the division of geological 130011
survey, and the chief of the division of soil and water resources, 130012

and if the chief of the division of mineral resources management 130013
has not disapproved the application, the director shall issue a 130014
permit, renewal permit, or modification with any terms and 130015
conditions that may be necessary to comply with the Federal Water 130016
Pollution Control Act and regulations adopted under it; the "Safe 130017
Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f) as 130018
amended, and regulations adopted under it; and this chapter and 130019
the rules adopted under it. The director shall not issue a permit, 130020
renewal permit, or modification to an applicant if the applicant 130021
or persons associated with the applicant have engaged in or are 130022
engaging in a substantial violation of this chapter that is 130023
endangering or may endanger human health or the environment or if, 130024
in the case of an applicant for an injection well drilling permit, 130025
the applicant, at the time of applying for the permit, did not 130026
hold an injection well operating permit or renewal of an injection 130027
well drilling permit and failed to demonstrate sufficient 130028
expertise and competency to operate the well in compliance with 130029
the applicable provisions of this chapter. 130030

If the director receives a disapproval from the chief of the 130031
division of mineral resources management regarding an application 130032
for an injection well drilling or operating permit, renewal 130033
permit, or modification, if required, the director shall issue an 130034
order denying the application. 130035

The director need not issue a proposed action under section 130036
3745.07 of the Revised Code or hold an adjudication hearing under 130037
that section and Chapter 119. of the Revised Code before issuing 130038
or denying a permit, renewal permit, or modification of a permit 130039
or renewal permit. Before issuing or renewing a permit to drill or 130040
operate a class I injection well or a modification of it, the 130041
director shall propose the permit, renewal permit, or modification 130042
in draft form and shall hold a public hearing to receive public 130043
comment on the draft permit, renewal permit, or modification. At 130044

least fifteen days before the public hearing on a draft permit, 130045
renewal permit, or modification, the director shall publish notice 130046
of the date, time, and location of the public hearing in at least 130047
one newspaper of general circulation serving the area where the 130048
well is or is to be located. The proposing of such a draft permit, 130049
renewal permit, or modification does not constitute the issuance 130050
of a proposed action under section 3745.07 of the Revised Code, 130051
and the holding of the public hearing on such a draft permit, 130052
renewal permit, or modification does not constitute the holding of 130053
an adjudication hearing under that section and Chapter 119. of the 130054
Revised Code. Appeals of orders other than orders of the chief of 130055
the division of mineral resources management shall be taken under 130056
sections 3745.04 to 3745.08 of the Revised Code. 130057

The director may order that an injection well drilling permit 130058
or an injection well operating permit or renewal permit be 130059
suspended and that activities under it cease after determining 130060
that those activities are occurring in violation of law, rule, 130061
order, or term or condition of the permit. Upon service of a copy 130062
of the order upon the permit holder or the permit holder's 130063
authorized agent or assignee, the permit and activities under it 130064
shall be suspended immediately without prior hearing and shall 130065
remain suspended until the violation is corrected and the order of 130066
suspension is lifted. If a violation is the second within a 130067
one-year period, the director, after a hearing, may revoke the 130068
permit. 130069

The director may order that an injection well drilling permit 130070
or an injection well operating permit or renewal permit be 130071
suspended and that activities under it cease if the director has 130072
reasonable cause to believe that the permit would not have been 130073
issued if the information available at the time of suspension had 130074
been available at the time a determination was made by one of the 130075
agencies acting under authority of this section. Upon service of a 130076

copy of the order upon the permit holder or the permit holder's 130077
authorized agent or assignee, the permit and activities under it 130078
shall be suspended immediately without prior hearing, but a permit 130079
may not be suspended for that reason without prior hearing unless 130080
immediate suspension is necessary to prevent waste or 130081
contamination of oil or gas, comply with the Federal Water 130082
Pollution Control Act and regulations adopted under it; the "Safe 130083
Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as 130084
amended, and regulations adopted under it; and this chapter and 130085
the rules adopted under it, or prevent damage to valuable mineral 130086
resources, prevent contamination of an underground source of 130087
drinking water, or prevent danger to human life or health. If 130088
after a hearing the director determines that the permit would not 130089
have been issued if the information available at the time of the 130090
hearing had been available at the time a determination was made by 130091
one of the agencies acting under authority of this section, the 130092
director shall revoke the permit. 130093

When a permit has been revoked, the permit holder or other 130094
person responsible for it immediately shall plug the well in the 130095
manner required by the director. 130096

The director may issue orders to prevent or require cessation 130097
of violations of this section, section 6111.043, 6111.045, 130098
6111.046, or 6111.047 of the Revised Code, rules adopted under any 130099
of those sections, and terms or conditions of permits issued under 130100
any of them. The orders may require the elimination of conditions 130101
caused by the violation. 130102

Sec. 6111.46. (A) The environmental protection agency shall 130103
exercise general supervision of the treatment and disposal of 130104
sewage and industrial wastes and the operation and maintenance of 130105
works or means installed for the collection, treatment, and 130106
disposal of sewage and industrial wastes. Such general supervision 130107

shall apply to all features of construction, operation, and 130108
maintenance of the works or means that do or may affect the proper 130109
treatment and disposal of sewage and industrial wastes. 130110

(B)(1) The agency shall investigate the works or means 130111
employed in the collection, treatment, and disposal of sewage and 130112
industrial wastes whenever considered necessary or whenever 130113
requested to do so by local health officials and may issue and 130114
enforce orders and shall adopt rules governing the operation and 130115
maintenance of the works or means of treatment and disposal of 130116
such sewage and industrial wastes. In adopting rules under this 130117
section, the agency shall establish standards governing the 130118
construction, operation, and maintenance of the works or means of 130119
collection, treatment, and disposal of sewage that is generated at 130120
recreational vehicle parks, recreation camps, combined park-camps, 130121
and temporary park-camps that are separate from such standards 130122
relative to manufactured home parks. 130123

(2) As used in division (B)(1) of this section: 130124

(a) "Manufactured home parks" has the same meaning as in 130125
section ~~3733.01~~ 4781.01 of the Revised Code. 130126

(b) "Recreational vehicle parks," "recreation camps," 130127
"combined park-camps," and "temporary park-camps" have the same 130128
meanings as in section 3729.01 of the Revised Code. 130129

(C) The agency may require the submission of records and data 130130
of construction, operation, and maintenance, including plans and 130131
descriptions of existing works or means of treatment and disposal 130132
of such sewage and industrial wastes. When the agency requires the 130133
submission of such records or information, the public officials or 130134
person, firm, or corporation having the works in charge shall 130135
comply promptly with that order. 130136

Sec. 6115.01. As used in sections 6115.01 to 6115.79 of the 130137

Revised Code: 130138

(A) "Publication" means once a week for three consecutive 130139
weeks in ~~each of two newspapers of different political~~ 130140
~~affiliations, if there are such newspapers, and a newspaper~~ of 130141
general circulation in the counties wherein publication is to be 130142
made or as provided in section 7.16 of the Revised Code. 130143
Publication need not be made on the same day of the week in each 130144
of the ~~three~~ weeks; but not less than fourteen days, excluding the 130145
day of first publication, shall intervene between the first 130146
publication and the last publication. Publication shall be 130147
complete on the date of the last publication. 130148

(B) "Person" means person, firm, partnership, association, or 130149
corporation, other than county, township, municipal corporation, 130150
or other political subdivision. 130151

(C) "Public corporation" means counties, townships, municipal 130152
corporations, school districts, road districts, ditch districts, 130153
park districts, levee districts, and all other governmental 130154
agencies clothed with the power of levying general or special 130155
taxes. 130156

(D) "Court" means the court of common pleas in which the 130157
petition for the organization of a sanitary district was filed and 130158
granted. In the case of a district lying in more than one county, 130159
"court" means the court comprised of one judge of the court of 130160
common pleas from each county as provided in section 6115.04 of 130161
the Revised Code. 130162

(E) "Land" or "property," unless otherwise specified, means 130163
real property, as "real property" is used in and defined by the 130164
laws of this state, and embraces all railroads, tramroads, roads, 130165
electric railroads, street and interurban railroads, streets and 130166
street improvements, telephones, telegraph, and transmission 130167
lines, gas, sewerage, and water systems, pipelines and 130168

rights-of-way of public service corporations, and all other real 130169
property whether public or private. 130170

(F) "Board of directors" applies to the duties of one 130171
director appointed in accordance with section 6115.10 of the 130172
Revised Code in a district lying wholly within one county. 130173

(G) "Biting arthropods" include mosquitoes, ticks, biting 130174
flies, or other biting arthropods capable of transmitting disease 130175
to humans. 130176

(H) "Bond" or "bonds" means bonds, notes, certificates of 130177
indebtedness, certificates of participation, commercial paper, and 130178
other instruments in writing, including, unless the context does 130179
not admit, bonds or notes issued in anticipation of the issuance 130180
of other bonds, issued by a sanitary district to evidence its 130181
obligation to repay money borrowed, or to pay interest, by, or to 130182
pay at any future time other money obligations of, the sanitary 130183
district. 130184

(I) "Financing costs" has the same meaning as in division (K) 130185
of section 133.01 of the Revised Code. 130186

Sec. 6115.20. (A) When it is determined to let the work 130187
relating to the improvements for which a sanitary district was 130188
established by contract, contracts in amounts to exceed ten 130189
thousand dollars shall be advertised after notice calling for bids 130190
has been published once a week for five consecutive weeks 130191
completed on the date of last publication or as provided in 130192
section 7.16 of the Revised Code, in ~~at least one~~ a newspaper of 130193
general circulation within the sanitary district where the work is 130194
to be done. The board of directors of the sanitary district shall 130195
let bids as provided in this section or, if applicable, section 130196
9.312 of the Revised Code. If the bids are for a contract for the 130197
construction, demolition, alteration, repair, or reconstruction of 130198
an improvement, the board of directors of the sanitary district 130199

shall let the contract to the lowest or best bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a sanitary district was established, the board of directors of the sanitary district shall let the contract to the lowest or best bidder who gives a good and approved bond, with ample security, conditioned on the carrying out of the contract and the payment for all labor and material. The contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done prepared by the chief engineer. The plans and specifications at all times shall be made and considered a part of the contract. The contract shall be approved by the board and signed by the president of the board and by the contractor and shall be executed in duplicate. In case of emergency the advertising of contracts may be waived upon the consent of the board with the approval of the court or judge in vacation.

(B) In the case of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use that includes two municipal corporations in two counties, any service to be purchased, including the services of an accountant, architect, attorney at law, physician, or professional engineer, at a cost in excess of ten thousand dollars shall be obtained in the manner provided in sections 153.65 to ~~153.71~~ 153.73 of the Revised Code. For the purposes of the application of those sections to division (B) of this section, all of the following apply:

(1) "Public authority," as used in those sections, shall be deemed to mean a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use that includes two municipal corporations in two counties;

(2) "Professional design firm," as used in those sections, 130232
shall be deemed to mean any person legally engaged in rendering 130233
professional design services as defined in division (B)(3) of this 130234
section; 130235

(3) "Professional design services," as used in those 130236
sections, shall be deemed to mean accounting, architectural, 130237
legal, medical, or professional engineering services; 130238

(4) The use of other terms in those sections shall be adapted 130239
accordingly, including, without limitation, for the purposes of 130240
division ~~(D)(2)~~ (E) of section 153.67 of the Revised Code; 130241

(5) Divisions (A) to (C) of section 153.71 of the Revised 130242
Code do not apply. 130243

(C) The board of directors of a district organized wholly for 130244
the purpose of providing a water supply for domestic, municipal, 130245
and public use may contract for, purchase, or otherwise procure 130246
for the benefit of employees of the district and pay all or any 130247
part of the cost of group insurance policies that may provide 130248
benefits, including, but not limited to, hospitalization, surgical 130249
care, major medical care, disability, dental care, vision care, 130250
medical care, hearing aids, or prescription drugs. Any group 130251
insurance policy purchased under this division shall be purchased 130252
from the health care corporation that the board of directors 130253
determines offers the most cost-effective group insurance policy. 130254

Sec. 6115.321. (A) The legislative authority of a municipal 130255
corporation whose territory is included within the territory of a 130256
sanitary district that is established solely for the reduction of 130257
populations of biting arthropods pursuant to division (F) of 130258
section 6115.04 of the Revised Code may enact an ordinance by a 130259
majority vote to submit to the electors of the municipal 130260
corporation the question of whether the territory of the municipal 130261
corporation that is currently included in the district should be 130262

excluded from the district. If the legislative authority of a 130263
municipal corporation enacts such an ordinance, the clerk of the 130264
legislative authority shall transmit a certified copy of the 130265
ordinance to all of the applicable boards of elections. On receipt 130266
of such a certified copy of an ordinance from a legislative 130267
authority, each applicable board of elections shall submit the 130268
proposed question to the electors of the municipal corporation for 130269
approval or rejection at the next general election occurring 130270
subsequent to ninety days after the clerk certifies the ordinance 130271
to the boards of elections. A board of elections shall publish the 130272
full text of the proposed question as set forth in division (B) of 130273
this section one time in a newspaper of general circulation in the 130274
municipal corporation at least fifteen days prior to the election 130275
at which the question is to be submitted to the electors. 130276

(B) The form of the ballots cast at the election shall be as 130277
follows: 130278

"Shall the territory (name of municipal 130279
corporation) be excluded from the (name of sanitary 130280
district) established solely for the reduction of populations of 130281
biting arthropods? 130282

	<u>Yes</u>	"
	<u>No</u>	

130283
130284
130285

(C) If a majority of electors voting on the question of 130286
excluding a municipal corporation from the sanitary district vote 130287
in favor of the exclusion, the clerk of the legislative authority 130288
of the municipal corporation shall transmit a copy of the 130289
certified election results to all of the following: 130290

(1) The court of common pleas that entered the order that 130291
established the sanitary district in accordance with section 130292
6115.08 of the Revised Code; 130293

(2) The county auditor of each county in which territory of 130294
the municipal corporation is located; 130295

(3) The county treasurer of each county in which territory of 130296
the municipal corporation is located. 130297

(D) On receipt of a copy of the certified election results 130298
under division (C)(1) of this section, the applicable court of 130299
common pleas shall enter an order on the docket excluding the 130300
territory of the municipal corporation from the territory of the 130301
sanitary district. The exclusion shall take effect on the first 130302
day of January or the first day of July, whichever is earlier, 130303
following the vote in favor of the exclusion of the territory of 130304
the municipal corporation from the territory of the sanitary 130305
district. 130306

(E) On receipt of a copy of the certified election results 130307
under division (C)(2) of this section, a county auditor shall 130308
remove any assessment levied by or for the benefit of the sanitary 130309
district under this chapter on real property that is located 130310
within the territory of the municipal corporation that is to 130311
become due on or after the first day of January or the first day 130312
of July, whichever is earlier, following the vote in favor of the 130313
exclusion of the territory of the municipal corporation from the 130314
territory of the sanitary district. 130315

(F) On receipt of a copy of the certified election results 130316
under division (C)(3) of this section, a county treasurer shall 130317
not collect on or after the first day of January or the first day 130318
of July, whichever is earlier, following the vote in favor of the 130319
exclusion of the territory of the municipal corporation from the 130320
territory of the sanitary district any assessment levied by or for 130321
the benefit of the sanitary district under this chapter on real 130322
property that is located within the territory of the municipal 130323
corporation. 130324

Sec. 6117.05. (A) Whenever any portion of a sewer district is 130325
incorporated as, or annexed to, a municipal corporation, the area 130326
so incorporated or annexed shall remain under the jurisdiction of 130327
the board of county commissioners for purposes of the acquisition 130328
and construction of sanitary and drainage facility and prevention 130329
or replacement facility improvements until all of those 130330
improvements for the area for which a resolution described in 130331
division (A) or (E) of section 6117.06 of the Revised Code has 130332
been adopted by the board have been acquired or completed or until 130333
the board has abandoned the improvements. The board, unless and 130334
until a conveyance is made to a municipal corporation in 130335
accordance with division (B) of this section, shall continue to 130336
have jurisdiction in the area so incorporated or annexed with 130337
respect to the management, maintenance, and operation of all 130338
sanitary and drainage facilities and prevention or replacement 130339
facilities so acquired or completed, or previously acquired or 130340
completed, including the right to establish rules and rates and 130341
charges for the use of, and connections to, the facilities. The 130342
incorporation or annexation of any part of a district shall not 130343
affect the legality or enforceability of any public obligations 130344
issued or incurred by the county for purposes of this chapter to 130345
provide for the payment of the cost of acquisition, construction, 130346
maintenance, or operation of any sanitary or drainage facilities 130347
or prevention or replacement facilities within the area, or the 130348
validity of any assessments levied or to be levied upon properties 130349
within the area to provide for the payment of the cost of 130350
acquisition, construction, maintenance, or operation of the 130351
facilities. 130352

(B) ~~Any~~ A board may convey, by mutual agreement, to a 130353
municipal corporation any completed sanitary or drainage 130354
facilities or prevention or replacement facilities acquired or 130355
constructed by a county under this chapter for the use of, or 130356

service of property located in, any county sewer district, or any 130357
part of those facilities, that to which any of the following 130358
applies: 130359

(1) The facilities are located within a the municipal 130360
corporation or within any area that is incorporated as, or annexed 130361
to, a the municipal corporation, ~~or any part of the.~~ 130362

(2) The facilities that serve a the municipal corporation or 130363
~~such an area, may be conveyed, by mutual agreement between the~~ 130364
~~board and the municipal corporation, to~~ any area that is located 130365
within or that is incorporated as, or annexed to, the municipal 130366
corporation ~~en.~~ 130367

(3) The facilities are connected to facilities of the 130368
municipal corporation. 130369

The conveyance shall be completed with terms and for 130370
consideration as may be negotiated. Upon and after the conveyance, 130371
the municipal corporation shall manage, maintain, and operate the 130372
facilities in accordance with the agreement. The board may retain 130373
the right to joint use of all or part of any facilities so 130374
conveyed for the benefit of the district. Neither the validity of 130375
any assessment levied or to be levied, nor the legality or 130376
enforceability of any public obligations issued or incurred, to 130377
provide for the payment of the cost of the acquisition, 130378
construction, maintenance, or operation of the facilities or any 130379
part of them, shall be affected by the conveyance. 130380

Sec. 6117.06. (A) After the establishment of any sewer 130381
district, the board of county commissioners, if a sanitary or 130382
drainage facility or prevention or replacement facility 130383
improvement is to be undertaken, may have the county sanitary 130384
engineer prepare, or otherwise cause to be prepared, for the 130385
district, or revise as needed, a general plan of sewerage or 130386
drainage that is as complete in each case as can be developed at 130387

the time and that is devised with regard to any existing sanitary 130388
or drainage facilities or prevention or replacement facilities in 130389
the district and present as well as prospective needs for 130390
additional sanitary or drainage facilities or prevention or 130391
replacement facilities in the district. After the general plan, in 130392
original or revised form, has been approved by the board, it may 130393
adopt a resolution generally describing the improvement that is 130394
necessary to be acquired or constructed in accordance with the 130395
particular plan, declaring that the improvement is necessary for 130396
the preservation and promotion of the public health and welfare, 130397
and determining whether or not special assessments are to be 130398
levied and collected to pay any part of the cost of the 130399
improvement. 130400

(B) If special assessments are not to be levied and collected 130401
to pay any part of the cost of the improvement, the board, in the 130402
resolution provided for in division (A) of this section or in a 130403
subsequent resolution, including a resolution authorizing the 130404
issuance or incurrence of public obligations for the improvement, 130405
may authorize the improvement and the expenditure of the funds 130406
required for its acquisition or construction and may proceed with 130407
the improvement without regard to the procedures otherwise 130408
required by divisions (C), (D), and (E) of this section and by 130409
sections 6117.07 to 6117.24 of the Revised Code. Those procedures 130410
are required only for improvements for which special assessments 130411
are to be levied and collected. 130412

(C) If special assessments are to be levied and collected 130413
pursuant to a determination made in the resolution provided for in 130414
division (A) of this section or in a subsequent resolution, the 130415
procedures referred to in division (B) of this section as being 130416
required for that purpose shall apply, and the board may have the 130417
county sanitary engineer prepare, or otherwise cause to be 130418
prepared, detailed plans, specifications, and an estimate of cost 130419

for the improvement, together with a tentative assessment of the 130420
cost based on the estimate. The tentative assessment shall be for 130421
the information of property owners and shall not be levied or 130422
certified to the county auditor for collection. The detailed 130423
plans, specifications, estimate of cost, and tentative assessment, 130424
if approved by the board, shall be carefully preserved in the 130425
office of the board or the county sanitary engineer and shall be 130426
open to the inspection of all persons interested in the 130427
improvement. 130428

(D) After the board's approval of the detailed plans, 130429
specifications, estimate of cost, and tentative assessment, and at 130430
least twenty-four days before adopting a resolution pursuant to 130431
division (E) of this section, the board, except to the extent that 130432
appropriate waivers of notice are obtained from affected owners, 130433
shall cause to be sent a notice of its intent to adopt the 130434
resolution to each owner of property proposed to be assessed that 130435
is listed on the records of the county auditor for current 130436
agricultural use value taxation pursuant to section 5713.31 of the 130437
Revised Code and that is not located in an agricultural district 130438
established under section 929.02 of the Revised Code. The notice 130439
shall satisfy all of the following: 130440

(1) Be sent by first class or certified mail; 130441

(2) Specify the proposed date of the adoption of the 130442
resolution; 130443

(3) Contain a statement that the improvement will be financed 130444
in whole or in part by special assessments and that all properties 130445
not located in an agricultural district established pursuant to 130446
section 929.02 of the Revised Code may be subject to a special 130447
assessment; 130448

(4) Contain a statement that an agricultural district may be 130449
established by filing an application with the county auditor. 130450

If it appears, by the return of the mailed notices or by other means, that one or more of the affected owners cannot be found or are not served by the mailed notice, the board shall cause the notice to be published once in a newspaper of general circulation in the county not later than ten days before the adoption of the resolution.

(E) After complying with divisions (A), (C), and (D) of this section, the board may adopt a resolution declaring that the improvement, which shall be described as to its nature and its location, route, and termini, is necessary for the preservation and promotion of the public health and welfare, referring to the plans, specifications, estimate of cost, and tentative assessment, stating the place where they are on file and may be examined, and providing that the entire cost or a lesser designated part of the cost will be specially assessed against the benefited properties within the district and that any balance will be paid by the county at large from other available funds. The resolution also shall contain a description of the boundaries of that part of the district to be assessed and shall designate a time and place for objections to the improvement, to the tentative assessment, or to the boundaries of the assessment district to be heard by the board. The date of that hearing shall be not less than twenty-four days after the date of the first publication of the notice of the hearing required by this division.

The board shall cause a notice of the hearing to be published once a week for two consecutive weeks in a newspaper of general circulation in the county, ~~and on~~ or as provided in section 7.16 of the Revised Code. On or before the date of the second publication, ~~it~~ the board shall cause to be sent by first class or certified mail a copy of the notice to every owner of property to be assessed for the improvement whose address is known.

The notice shall set forth the time and place of the hearing,

a summary description of the proposed improvement, including its 130483
general route and termini, a summary description of the area 130484
constituting the assessment district, and the place where the 130485
plans, specifications, estimate of cost, and tentative assessment 130486
are on file and may be examined. Each mailed notice also shall 130487
include a statement that the property of the addressee will be 130488
assessed for the improvement. The notice also shall be sent by 130489
first class or certified mail, on or before the date of the second 130490
publication, to the clerk, or to the official discharging the 130491
duties of a clerk, of any municipal corporation any part of which 130492
lies within the assessment district and shall state whether or not 130493
any property belonging to the municipal corporation is to be 130494
assessed and, if so, shall identify that property. 130495

At the hearing, or at any adjournment of the hearing, of 130496
which no further published or mailed notice need be given, the 130497
board shall hear all parties whose properties are proposed to be 130498
assessed. Written objections to or endorsements of the proposed 130499
improvement, its character and termini, the boundaries of the 130500
assessment district, or the tentative assessment shall be received 130501
by the board for a period of five days after the completion of the 130502
hearing, and no action shall be taken by the board in the matter 130503
until after that period has elapsed. The minutes of the hearing 130504
shall be entered on the journal of the board, showing the persons 130505
who appear in person or by attorney, and all written objections 130506
shall be preserved and filed in the office of the board. 130507

Sec. 6117.07. After the expiration of the period of five days 130508
provided for in section 6117.06 of the Revised Code for the filing 130509
of written objections, the board of county commissioners shall 130510
determine whether or not it will proceed with the construction of 130511
the improvement mentioned in such section. Notice of the time and 130512
place of each meeting of the board of county commissioners, at 130513
which the resolution to proceed with the construction of such 130514

improvement will be considered, shall be given in writing to all 130515
persons who filed written objections as provided in section 130516
6117.06 of the Revised Code. Such notice shall contain the 130517
following language in addition to the time and place of the 130518
meeting of the board: "any person, firm, or corporation desiring 130519
to appeal from the final order or judgment of the board upon any 130520
of the questions mentioned in section 6117.09 of the Revised Code 130521
shall, on or before the date of the passage of the improvement 130522
resolution, give notice in writing of an intention to appeal, 130523
specifying therein the matters to be appealed from." If it decides 130524
to proceed therewith, the board shall ratify or amend the plans 130525
for the improvement and the character and termini thereof, the 130526
boundaries of the assessment district, and the tentative 130527
assessment, and may cause such revision of plans, boundaries, or 130528
assessments as the board considers necessary to be made by the 130529
county sanitary engineer. If the boundaries of the assessment 130530
district are amended so as to include any property not included 130531
within the boundaries as established by the resolution of 130532
necessity provided for in section 6117.06 of the Revised Code, the 130533
owners of all such property shall be notified by mail if their 130534
addresses are known, and notice shall be published once a week for 130535
two consecutive weeks in a newspaper of general circulation within 130536
the county or as provided in section 7.16 of the Revised Code that 130537
such amendments have been adopted and that a hearing will be given 130538
by the board at a time and place stated in such notice, at which 130539
all persons interested will be heard by the board. The date of 130540
such hearing shall be not less than twenty-four days after the 130541
first publication of such notice, and the hearing shall be 130542
conducted and records kept in the same manner as the first 130543
hearing. Five days shall be allowed for the filing of written 130544
objections as provided in such section for the first hearing. 130545

After the expiration of such five day period, the board shall 130546
ratify the plans for the improvement and the character and termini 130547

thereof, the boundaries of the assessment district, and the 130548
tentative assessment, or shall further amend the same. If the 130549
boundaries of the assessment district are amended so as to include 130550
any property not included in the assessment district as originally 130551
established or previously amended, further notice and hearing 130552
shall be given to the owners of such property in the same manner 130553
as for the first amendment of such boundaries, and the same 130554
procedure shall be repeated until all property owners affected 130555
have been given an opportunity to be heard. If the owners of all 130556
property added to an assessment district by amendment of the 130557
original boundaries thereof waive objection to such amendment in 130558
writing, no further notice or hearing shall be given. 130559

After the board has ratified the plans for the improvement 130560
and the character and termini thereof, the boundaries of the 130561
assessment district, and the tentative assessment, either as 130562
originally presented or as amended, and if it decides to proceed 130563
therewith, the board shall adopt a resolution to be known as the 130564
improvement resolution. Said improvement resolution shall declare 130565
the determination of such board to proceed with the construction 130566
of the improvement provided for in the resolution of necessity, in 130567
accordance with the plans and specifications provided for such 130568
improvement as ratified or amended, and whether bonds or 130569
certificates of indebtedness shall be issued in anticipation of 130570
the collection of special assessments, as provided in section 130571
6117.08 to 6117.45, inclusive, of the Revised Code, or that money 130572
in the county treasury unappropriated for any other purpose shall 130573
be appropriated to pay for said improvement. 130574

Sec. 6117.251. (A) After the establishment of any county 130575
sewer district, the board of county commissioners may determine by 130576
resolution that it is necessary to provide sanitary or drainage 130577
facility improvements or prevention or replacement facility 130578
improvements and to maintain and operate the improvements within 130579

the district or a designated portion of the district, that the 130580
improvements, which shall be generally described in the 130581
resolution, shall be constructed, that funds are required to pay 130582
the preliminary costs of the improvements to be incurred prior to 130583
the commencement of the proceedings for their construction, and 130584
that those funds shall be provided in accordance with this 130585
section. 130586

(B) Prior to the adoption of the resolution, the board shall 130587
give notice of its pendency and of the proposed determination of 130588
the necessity of the improvements generally described in the 130589
resolution. The notice shall set forth a description of the 130590
properties to be benefited by the improvements and the time and 130591
place of a hearing of objections to and endorsements of the 130592
improvements. The notice shall be given ~~either~~ by publication in a 130593
newspaper of general circulation in the county once a week for two 130594
consecutive weeks, ~~or~~ by publication as provided in section 7.16 130595
of the Revised Code, by mailing a copy of the notice by first 130596
class or certified mail to the owners of the properties proposed 130597
to be assessed at their respective tax mailing addresses, or by 130598
~~both~~ a combination of these manners, the first publication to be 130599
made or the mailing to occur at least two weeks prior to the date 130600
set for the hearing. At the hearing, or at any adjournment of the 130601
hearing, of which no further published or mailed notice need be 130602
given, the board shall hear all persons whose properties are 130603
proposed to be assessed and the evidence it considers to be 130604
necessary. The board then shall determine the necessity of the 130605
proposed improvements and whether the improvements shall be made 130606
by the board and, if they are to be made, shall direct the 130607
preparation of tentative assessments upon the benefited properties 130608
and by whom they shall be prepared. 130609

(C) In order to obtain funds for the preparation of a general 130610
or revised general plan of sewerage or drainage for the district 130611

or part of the district, for the preparation of the detailed 130612
plans, specifications, estimate of cost, and tentative assessment 130613
for the proposed improvements, and for the cost of financing and 130614
legal services incident to the preparation of all of those plans 130615
and a plan of financing the proposed improvements, the board may 130616
levy upon the properties to be benefited in the district a 130617
preliminary assessment apportioned according to benefits or to tax 130618
valuation or partly by one method and partly by the other method 130619
as the board may determine. The assessments shall be in the amount 130620
determined to be necessary to obtain funds for the general and 130621
detailed plans and the cost of financing and legal services and 130622
shall be payable in the number of years that the board shall 130623
determine, not to exceed twenty years, together with interest on 130624
any public obligations that may be issued or incurred in 130625
anticipation of the collection of the assessments. 130626

(D) The board shall have power at any time to levy additional 130627
assessments according to benefits or to tax valuation or partly by 130628
one method and partly by the other method as the board may 130629
determine for the purposes described in division (C) of this 130630
section upon the benefited properties to complete the payment of 130631
the costs described in division (C) of this section or to pay the 130632
cost of any additional plans, specifications, estimate of cost, or 130633
tentative assessment and the cost of financing and legal services 130634
incident to the preparation of those plans and the plan of 130635
financing, which additional assessments shall be payable in the 130636
number of years that the board shall determine, not to exceed 130637
twenty years, together with interest on any public obligations 130638
that may be issued or incurred in anticipation of the collection 130639
of the additional assessments. 130640

(E) Prior to the adoption of a resolution levying assessments 130641
under this section, the board shall give notice either by one 130642
publication in a newspaper of general circulation in the county, 130643

or by mailing a copy of the notice by first class or certified 130644
mail to the owners of the properties proposed to be assessed at 130645
their respective tax mailing addresses, or by both manners, the 130646
publication to be made or the mailing to occur at least ten days 130647
prior to the date of the meeting at which the resolution shall be 130648
taken up for consideration; that notice shall state the time and 130649
place of the meeting at which the resolution is to be considered. 130650
At the time and place of the meeting, or at any adjournment of the 130651
meeting, of which no further published or mailed notice need be 130652
given, the board shall hear all persons whose properties are 130653
proposed to be assessed, shall correct any errors and make any 130654
revisions that appear to be necessary or just, and then may adopt 130655
a resolution levying upon the properties determined to be 130656
benefited the assessments as so corrected and revised. 130657

The assessments levied by the resolution shall be certified 130658
to the county auditor for collection in the same manner as taxes 130659
in the year or years in which they are payable. 130660

(F) Upon the adoption of the resolution described in division 130661
(E) of this section, no further action shall be taken or work done 130662
until ten days have elapsed. If, at the expiration of that period, 130663
no appeal has been effected by any property owner as provided in 130664
this division, the action of the board shall be final. If, at the 130665
end of that ten days, any owner of property to be assessed for the 130666
improvements has effected an appeal, no further action shall be 130667
taken and no work done in connection with the improvements under 130668
the resolution until the matters appealed from have been disposed 130669
of in court. 130670

Any owner of property to be assessed may appeal as provided 130671
and upon the grounds stated in sections 6117.09 to 6117.24 of the 130672
Revised Code. 130673

If no appeal has been perfected or if on appeal the 130674
resolution of the board is sustained, the board may authorize and 130675

enter into contracts to carry out the purposes for which the 130676
assessments have been levied without the prior issuance of notes, 130677
provided that the payments under those contracts do not fall due 130678
prior to the time by which the assessments are to be collected. 130679
The board may issue and sell bonds with a maximum maturity of 130680
twenty years in anticipation of the collection of the assessments 130681
and may issue notes in anticipation of the issuance of the bonds, 130682
which notes and bonds, as public obligations, shall be issued and 130683
sold as provided in Chapter 133. of the Revised Code. 130684

Sec. 6117.49. (A) If the board of county commissioners 130685
determines by resolution that the best interests of the county and 130686
those served by the sanitary or drainage facilities or the 130687
prevention or replacement facilities of a county sewer district so 130688
require, the board may sell or otherwise dispose of the facilities 130689
to another public agency or a person. The resolution declaring the 130690
necessity of that disposition shall recite the reasons for the 130691
sale or other disposition and shall establish any conditions or 130692
terms that the board may impose, including, but not limited to, a 130693
minimum sales price if a sale is proposed, a requirement for the 130694
submission by bidders of the schedule of rates and charges 130695
initially proposed to be paid for the services of the facilities, 130696
and other pertinent conditions or terms relating to the sale or 130697
other disposition. The resolution also shall designate a time and 130698
place for the hearing of objections to the sale or other 130699
disposition by the board. Notice of the adoption of the resolution 130700
and the time and place of the hearing shall be published as 130701
provided in section 7.16 of the Revised Code or once a week for 130702
two consecutive weeks, in a newspaper of general circulation in 130703
the sewer district and in the county. The public hearing on the 130704
sale or other disposition shall be held not less than twenty-four 130705
days following the date of first publication of the notice. A copy 130706
of the notice also shall be sent by first class or certified mail, 130707

on or before the date of the second publication, to any public 130708
agency within the area served by the facilities. At the public 130709
hearing, or at any adjournment of it, of which no further 130710
published or mailed notice need be given, the board shall hear all 130711
interested parties. A period of five days shall be given following 130712
the completion of the hearing for the filing of written objections 130713
by any interested persons or public agencies to the sale or other 130714
disposition, after which the board shall consider any objections 130715
and by resolution determine whether or not to proceed with the 130716
sale or other disposition. If the board determines to proceed with 130717
the sale or other disposition, it shall receive bids after 130718
advertising once a week for four consecutive weeks or as provided 130719
in section 7.16 of the Revised Code, in a newspaper of general 130720
circulation in the county and, subject to the right of the board 130721
to reject any or all bids, may make an award to a responsible 130722
bidder whose proposal is determined by the board to be in the best 130723
interests of the county and those served by the facilities. 130724

(B) A conveyance of sanitary or drainage facilities or of 130725
prevention or replacement facilities by a county to a municipal 130726
corporation in accordance with division (B) of section 6117.05 of 130727
the Revised Code may be made without regard to division (A) of 130728
this section. 130729

Sec. 6119.061. (A) Whenever any portion of a regional water 130730
and sewer district is incorporated as, or annexed to, a municipal 130731
corporation, the area so incorporated or annexed shall remain 130732
under the jurisdiction of the district for purposes of the 130733
acquisition, construction, or operation of a water resource 130734
project until the water resource project has been acquired or 130735
completed or until the project is abandoned by the district. The 130736
board of trustees of the district, unless and until a conveyance 130737
is made to a municipal corporation in accordance with division (B) 130738
of this section, shall continue to have jurisdiction in the area 130739

so incorporated or annexed with respect to the management, 130740
maintenance, and operation of all water resource projects so 130741
acquired or completed or previously acquired or completed, 130742
including the right to establish rules and rates and charges for 130743
the use of, and connections to, the projects. The incorporation or 130744
annexation of any part of a district shall not affect the legality 130745
or enforceability of any public obligations issued or incurred by 130746
the district for purposes of this chapter to provide for the 130747
payment of the cost of acquisition, construction, maintenance, or 130748
operation of any water resource project or the validity of any 130749
assessments levied or to be levied on properties within the area 130750
to provide for the payment of the cost of acquisition, 130751
construction, maintenance, or operation of the project. 130752

(B) The board of trustees of a regional water and sewer 130753
district may convey, by mutual agreement, to a municipal 130754
corporation any completed water resource project acquired or 130755
constructed under this chapter for the use of, or service of 130756
property located in, the regional water and sewer district, or any 130757
part of that project to which any of the following applies: 130758

(1) The project is located within the municipal corporation 130759
or within any area that is incorporated as, or annexed to, the 130760
municipal corporation. 130761

(2) The project serves the municipal corporation or any area 130762
that is located within or that is incorporated as, or annexed to, 130763
the municipal corporation. 130764

(3) The project is connected to water supply or sanitary, 130765
drainage, prevention, or replacement facilities of the municipal 130766
corporation. 130767

The conveyance shall be completed with terms and for 130768
consideration as may be negotiated. Upon and after the conveyance, 130769
the municipal corporation shall manage, maintain, and operate the 130770

water resource project in accordance with the agreement. The board 130771
of trustees may retain the right to the joint use of all or part 130772
of any project so conveyed for the benefit of the district. 130773
Neither the validity of any assessment levied or to be levied, nor 130774
the legality or enforceability of any public obligations issued or 130775
incurred, to provide for the payment of the cost of the 130776
acquisition, construction, maintenance, or operation of the 130777
project or any part of the project shall be affected by the 130778
conveyance. 130779

Sec. 6119.10. The board of trustees of a regional water and 130780
sewer district or any officer or employee designated by the board 130781
may make any contract for the purchase of supplies or material or 130782
for labor for any work, under the supervision of the board, the 130783
cost of which shall not exceed twenty-five thousand dollars. When 130784
an expenditure, other than for the acquisition of real estate and 130785
interests in real estate, the discharge of noncontractual claims, 130786
personal services, the joint use of facilities or the exercise of 130787
powers with other political subdivisions, or the product or 130788
services of public utilities, exceeds twenty-five thousand 130789
dollars, the expenditures shall be made only after a notice 130790
calling for bids has been published ~~not less than~~ two consecutive 130791
weeks in ~~at least~~ one newspaper ~~having a~~ of general circulation 130792
within the district or as provided in section 7.16 of the Revised 130793
Code. If the bids are for a contract for the construction, 130794
demolition, alteration, repair, or reconstruction of an 130795
improvement, the board may let the contract to the lowest and best 130796
bidder who meets the requirements of section 153.54 of the Revised 130797
Code. If the bids are for a contract for any other work relating 130798
to the improvements for which a regional water and sewer district 130799
was established, the board of trustees of the regional water and 130800
sewer district may let the contract to the lowest or best bidder 130801
who gives a good and approved bond with ample security conditioned 130802

on the carrying out of the contract. The contract shall be in 130803
writing and shall be accompanied by or shall refer to plans and 130804
specifications for the work to be done, approved by the board. The 130805
plans and specifications shall at all times be made and considered 130806
part of the contract. The contract shall be approved by the board 130807
and signed by its president or other duly authorized officer and 130808
by the contractor. In case of a real and present emergency, the 130809
board of trustees of the district, by two-thirds vote of all 130810
members, may authorize the president or other duly authorized 130811
officer to enter into a contract for work to be done or for the 130812
purchase of supplies or materials without formal bidding or 130813
advertising. All contracts shall have attached the certificate 130814
required by section 5705.41 of the Revised Code duly executed by 130815
the secretary of the board of trustees of the district. The 130816
district may make improvements by force account or direct labor, 130817
provided that, if the estimated cost of supplies or material for 130818
any such improvement exceeds twenty-five thousand dollars, bids 130819
shall be received as provided in this section. For the purposes of 130820
the competitive bidding requirements of this section, the board 130821
shall not sever a contract for supplies or materials and labor 130822
into separate contracts for labor, supplies, or materials if the 130823
contracts are in fact a part of a single contract required to be 130824
bid competitively under this section. 130825

Sec. 6119.18. The board of trustees of a regional water and 130826
sewer district, by a vote of two-thirds of all its members, may 130827
declare by resolution that it is necessary to levy a tax in excess 130828
of the ten-mill limitation for the purpose of providing funds to 130829
pay current expenses of the district or for the purpose of paying 130830
any portion of the cost of one or more water resource projects or 130831
parts thereof or for both of such purposes, and that the question 130832
of such tax levy shall be submitted to the electors of the 130833
district at a general or primary election. Such resolution shall 130834

conform to the requirements of section 5705.19 of the Revised Code, except as otherwise permitted by this section and except that such levy may be for a period not longer than ten years. The resolution shall go into immediate effect upon its passage and no publication of the resolution is necessary other than that provided for in the notice of election. A copy of such resolution shall, immediately after its passage, be certified to the board of elections of the proper county or counties in the manner provided by section 5705.25 of the Revised Code, and such section shall govern the arrangements for the submission of such question and other matters with respect to such election to which such section refers. Publication of the notice of that election shall be made in one ~~or more newspapers having a~~ newspaper of general circulation in the district once a week for two consecutive weeks prior to the election, ~~and, if~~ or as provided in section 7.16 of the Revised Code. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election.

If a majority of the electors voting on the question vote in favor thereof, the board may make the necessary levy within the district at the additional rate or at any lesser rate on the tax list and duplicate for the purpose or purposes stated in the resolution.

The taxes realized from such levy shall be collected at the same time and in the same manner as other taxes on such tax list and duplicate and such taxes, when collected, shall be paid to the district and deposited by it in a special fund which shall be established by the district for all revenues derived from such levy and for the proceeds of anticipation notes which shall be deposited in such fund.

After the approval of such levy, the district may anticipate a fraction of the proceeds of such levy and, from time to time,

during the life of such levy, issue anticipation notes in an amount not exceeding fifty per cent of the estimated proceeds of such levy to be collected in each year up to a period of five years after the date of issuance of such notes, less an amount equal to the proceeds of such levy previously obligated for each year by the issuance of anticipation notes, provided that the total amount maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of such levy for that year. Each issue of notes shall be sold as provided in Chapter 133. of the Revised Code, and shall, except for such limitation that the total amount of such notes maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of such levy for that year, mature serially in substantially equal installments during each year over a period not to exceed five years after their issuance.

Sec. 6119.22. When a plan of sewerage devised in accordance with section 6119.19 of the Revised Code has been prepared, the board of trustees of the regional water and sewer district shall give at least ten days' notice in one newspaper of general circulation in such area or give notice as provided in section 7.16 of the Revised Code, stating that such plans have been prepared and are filed in the office of the secretary of the board for examination and inspection by the parties interested.

Any objection to such plan shall then be made to the board and it may amend or correct such plan, and shall thereupon file it as amended, or if no amendments are made, it shall file the original plan in the office of the secretary.

Sec. 6119.25. When the board of trustees of a regional water and sewer district deems it necessary to construct all or a part of the sewers provided for in the plan devised in accordance with section 6119.19 of the Revised Code, the board shall declare by

resolution the necessity thereof. Such resolution shall contain a 130898
declaration of the necessity of such improvement, a statement of 130899
the districts, areas, or parts thereof proposed to be constructed, 130900
the character of the materials to be used, a reference to the 130901
plans and specifications, where they are on file, and the mode of 130902
payment therefor, and shall publish the resolution once a week for 130903
not less than two nor more than four consecutive weeks in one 130904
newspaper of general circulation in the area or as provided in 130905
section 7.16 of the Revised Code. 130906

Sec. 6119.58. In order to obtain funds for the preparation of 130907
plans, specifications, estimates of cost, tentative assessments, 130908
and a plan of financing for any water resource project or part 130909
thereof, the board of trustees of a regional water and sewer 130910
district may levy upon the property in such district to be 130911
benefited by such project assessments apportioned in accordance 130912
with one or more of the methods set forth in section 6119.42 of 130913
the Revised Code. The aggregate of such assessments shall not 130914
exceed the amount determined by the board of trustees to be 130915
necessary for such purpose, including costs of financing, legal 130916
services, and other incidental costs, and shall be payable in such 130917
number of annual installments, not less than one, as the board of 130918
trustees prescribes, together with interest on any water resource 130919
revenue notes and bonds which may be issued in anticipation of the 130920
collection of such assessments. 130921

If the board of trustees proposes to obtain funds in 130922
accordance with this section, it shall determine by resolution 130923
that it is necessary to construct the water resource project and 130924
to maintain and operate the same on behalf of the district. 130925

Prior to the adoption of the resolution making such 130926
determination, the board of trustees shall give notice of the 130927
pendency thereof and of the proposed determination of the 130928

necessity of the construction of such project therein generally 130929
described, and such notice shall set forth a description of the 130930
properties to be benefited by such project and the time and place 130931
of a hearing of objections to, and endorsements of, such project. 130932
Such notice shall be given by publication in ~~at least~~ one 130933
newspaper ~~having a~~ of general circulation in the district once a 130934
week for two consecutive weeks or as provided in section 7.16 of 130935
the Revised Code, the first publication to be at least two weeks 130936
prior to the date set for the hearing, provided that the board of 130937
trustees may give, or cause to be given, such alternative or 130938
further notice of such hearing as it finds to be necessary or 130939
appropriate. At such hearing, or at any adjournment thereof, of 130940
which no further notice need be given, the board of trustees shall 130941
hear all owners whose properties are proposed to be assessed and 130942
such other evidence as is considered to be necessary, and may then 130943
adopt its resolution determining that the proposed project is 130944
necessary and should be undertaken by the district. In such 130945
resolution, the board of trustees shall direct the preparation of 130946
the estimated assessments upon the benefited properties and by 130947
whom they shall be prepared. 130948

After such assessments have been prepared and filed in the 130949
office of the secretary of the board of trustees and prior to the 130950
adoption of the resolution levying such assessments, the board of 130951
trustees shall give notice of the pendency of such resolution and 130952
of the proposed determination to levy such assessments, and such 130953
notice shall set forth the time and place of a hearing of 130954
objections to such assessments. Such notice shall be given by 130955
publication once in ~~at least~~ one newspaper ~~having a~~ of general 130956
circulation in the district, such publication to be made at least 130957
ten days prior to the date set for the hearing, provided that the 130958
board of trustees may give or cause to be given, such alternative 130959
of further notice of such hearing as it finds to be necessary or 130960
appropriate. At such hearing, or at any adjournment thereof, of 130961

which no further notice need be given, the board of trustees shall 130962
hear all persons whose properties are proposed to be assessed, 130963
shall correct any errors and make any revisions in the estimated 130964
assessments that appear to be necessary or just, and may then 130965
adopt a resolution levying upon the properties determined to be 130966
benefited the assessments as originally prepared or as so 130967
corrected and revised. 130968

The board of trustees shall have the power at any time to 130969
levy additional assessments upon such properties to complete the 130970
payment of the costs for which the original assessments were 130971
levied or to provide funds for any additional plans, 130972
specifications, estimates of cost, tentative assessments, and 130973
other incidental costs, provided that the board shall first have 130974
held a hearing on objections to such additional assessments in the 130975
same manner as required by this section with respect to such 130976
original assessments. Such additional assessments shall be payable 130977
in such number of annual installments, not less than one, as the 130978
board of trustees prescribes, together with interest on any water 130979
resource revenue notes and bonds which may be issued in 130980
anticipation of the collection of such assessments. 130981

The board of trustees may authorize contracts to carry out 130982
the purposes for which such assessments have been levied without 130983
the prior issuance of water resource revenue notes and bonds, 130984
provided that the payments to be made by the district do not fall 130985
due prior to the times when such assessments shall be collected. 130986

Section 101.02. That existing sections 7.10, 7.11, 7.12, 130987
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6119.18, 6119.22, 6119.25, and 6119.58 of the Revised Code are 131180
hereby repealed. 131181

Section 105.01. That sections 7.14, 122.0818, 122.452, 131182
126.04, 126.501, 126.502, 126.507, 165.031, 181.21, 181.22, 131183

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5111.893, 5111.971, 5122.36, 5123.172, 5123.181, 5123.193, 131201
5123.211, 5126.18, 5126.19, 5747.52, and 5901.021 of the Revised 131202
Code are hereby repealed. 131203
131204

Section 105.10. That sections 126.60, 126.601, 126.602, 131205
126.603, 126.604, and 126.605 of the Revised Code, as enacted by 131206
this act, are hereby repealed, effective June 30, 2013. 131207

Section 120.10. That the version of section 5111.913 of the 131208
Revised Code that results from Section 101.01 of this act be 131209
amended to read as follows: 131210

Sec. 5111.913. If the department of job and family services 131211
enters into a contract with the department of alcohol and drug 131212
addiction services under section 5111.91 of the Revised Code, 131213

~~boards of alcohol, drug addiction, and mental health the~~ 131214
~~department of job and family services shall pay the nonfederal~~ 131215
~~share of any medicaid payment to a provider for services under the~~ 131216
~~component, or aspect of the component, the department of alcohol~~ 131217
~~and drug addiction services administers. A board shall use funds~~ 131218
~~allocated to the board under section 3793.04 of the Revised Code~~ 131219
~~to pay the nonfederal share. If necessary, the director of job and~~ 131220
~~family services shall submit a medicaid state plan amendment to~~ 131221
~~the United States secretary of health and human services regarding~~ 131222
~~the department of job and family services' duty under this~~ 131223
~~section.~~ 131224

Section 120.11. That the existing version of section 5111.913 131225
of the Revised Code that results from Section 101.01 of this act 131226
is hereby repealed. 131227

Section 120.12. That Sections 120.10 and 120.11 of this act 131228
take effect July 1, 2012. 131229

Section 120.20. That sections 3721.16, 5111.709, 5119.221, 131230
5122.01, 5122.02, 5122.27, 5122.271, 5122.29, 5122.31, 5122.32, 131231
5123.092, 5123.19, 5123.191, 5123.35, 5123.60, 5123.61, 5123.63, 131232
5123.64, 5123.69, 5123.701, 5123.86, 5123.99, and 5126.33 be 131233
amended; that section 5123.60 (5123.601) be amended for the 131234
purpose of adopting a new section number as indicated in 131235
parentheses; and that new sections 5123.60 and 5123.602 of the 131236
Revised Code be enacted to read as follows: 131237

Sec. 3721.16. For each resident of a home, notice of a 131238
proposed transfer or discharge shall be in accordance with this 131239
section. 131240

(A)(1) The administrator of a home shall notify a resident in 131241

writing, and the resident's sponsor in writing by certified mail, 131242
return receipt requested, in advance of any proposed transfer or 131243
discharge from the home. The administrator shall send a copy of 131244
the notice to the state department of health. The notice shall be 131245
provided at least thirty days in advance of the proposed transfer 131246
or discharge, unless any of the following applies: 131247

(a) The resident's health has improved sufficiently to allow 131248
a more immediate discharge or transfer to a less skilled level of 131249
care; 131250

(b) The resident has resided in the home less than thirty 131251
days; 131252

(c) An emergency arises in which the safety of individuals in 131253
the home is endangered; 131254

(d) An emergency arises in which the health of individuals in 131255
the home would otherwise be endangered; 131256

(e) An emergency arises in which the resident's urgent 131257
medical needs necessitate a more immediate transfer or discharge. 131258

In any of the circumstances described in divisions (A)(1)(a) 131259
to (e) of this section, the notice shall be provided as many days 131260
in advance of the proposed transfer or discharge as is 131261
practicable. 131262

(2) The notice required under division (A)(1) of this section 131263
shall include all of the following: 131264

(a) The reasons for the proposed transfer or discharge; 131265

(b) The proposed date the resident is to be transferred or 131266
discharged; 131267

(c) The proposed location to which the resident is to be 131268
transferred or discharged; 131269

(d) Notice of the right of the resident and the resident's 131270
sponsor to an impartial hearing at the home on the proposed 131271

transfer or discharge, and of the manner in which and the time 131272
within which the resident or sponsor may request a hearing 131273
pursuant to section 3721.161 of the Revised Code; 131274

(e) A statement that the resident will not be transferred or 131275
discharged before the date specified in the notice unless the home 131276
and the resident or, if the resident is not competent to make a 131277
decision, the home and the resident's sponsor, agree to an earlier 131278
date; 131279

(f) The address of the legal services office of the 131280
department of health; 131281

(g) The name, address, and telephone number of a 131282
representative of the state long-term care ombudsperson program 131283
and, if the resident or patient has a developmental disability or 131284
mental illness, the name, address, and telephone number of the 131285
Ohio ~~legal rights service~~ protection and advocacy system. 131286

(B) No home shall transfer or discharge a resident before the 131287
date specified in the notice required by division (A) of this 131288
section unless the home and the resident or, if the resident is 131289
not competent to make a decision, the home and the resident's 131290
sponsor, agree to an earlier date. 131291

(C) Transfer or discharge actions shall be documented in the 131292
resident's medical record by the home if there is a medical basis 131293
for the action. 131294

(D) A resident or resident's sponsor may challenge a transfer 131295
or discharge by requesting an impartial hearing pursuant to 131296
section 3721.161 of the Revised Code, unless the transfer or 131297
discharge is required because of one of the following reasons: 131298

(1) The home's license has been revoked under this chapter; 131299

(2) The home is being closed pursuant to section 3721.08, 131300
sections 5111.35 to 5111.62, or section 5155.31 of the Revised 131301

Code; 131302

(3) The resident is a recipient of medicaid and the home's participation in the medicaid program has been involuntarily terminated or denied by the federal government; 131303
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(4) The resident is a beneficiary under the medicare program and the home's certification under the medicare program has been involuntarily terminated or denied by the federal government. 131306
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(E) If a resident is transferred or discharged pursuant to this section, the home from which the resident is being transferred or discharged shall provide the resident with adequate preparation prior to the transfer or discharge to ensure a safe and orderly transfer or discharge from the home, and the home or alternative setting to which the resident is to be transferred or discharged shall have accepted the resident for transfer or discharge. 131309
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(F) At the time of a transfer or discharge of a resident who is a recipient of medicaid from a home to a hospital or for therapeutic leave, the home shall provide notice in writing to the resident and in writing by certified mail, return receipt requested, to the resident's sponsor, specifying the number of days, if any, during which the resident will be permitted under the medicaid program to return and resume residence in the home and specifying the medicaid program's coverage of the days during which the resident is absent from the home. An individual who is absent from a home for more than the number of days specified in the notice and continues to require the services provided by the facility shall be given priority for the first available bed in a semi-private room. 131317
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Sec. 5111.709. (A) There is hereby created the medicaid buy-in advisory council. The council shall consist of all of the following: 131330
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(1) The following voting members:	131333
(a) The executive director of assistive technology of Ohio or the executive director's designee;	131334 131335
(b) The director of the axis center for public awareness of people with disabilities or the director's designee;	131336 131337
(c) The executive director of the cerebral palsy association of Ohio or the executive director's designee;	131338 131339
(d) The chief executive officer of Ohio advocates for mental health or the chief executive officer's designee;	131340 131341
(e) The state director of the Ohio chapter of AARP or the state director's designee;	131342 131343
(f) The director of the Ohio developmental disabilities council created under section 5123.35 of the Revised Code or the director's designee;	131344 131345 131346
(g) The executive director of the governor's council on people with disabilities created under section 3303.41 of the Revised Code or the executive director's designee;	131347 131348 131349
(h) The administrator of the legal rights service created under section 5123.60 of the Revised Code or the administrator's designee;	131350 131351 131352
(i) The chairperson of the Ohio Olmstead task force or the chairperson's designee;	131353 131354
(j) <u>(i)</u> The executive director of the Ohio statewide independent living council or the executive director's designee;	131355 131356
(k) <u>(j)</u> The president of the Ohio chapter of the national multiple sclerosis society or the president's designee;	131357 131358
(l) <u>(k)</u> The executive director of the arc of Ohio or the executive director's designee;	131359 131360
(m) <u>(l)</u> The executive director of the commission on minority	131361

health or the executive director's designee; 131362

~~(n)~~(m) The executive director of the brain injury association 131363
of Ohio or the executive director's designee; 131364

~~(e)~~(n) The executive officer of any other advocacy 131365
organization who volunteers to serve on the council, or such an 131366
executive officer's designee, if the other voting members, at a 131367
meeting called by the chairperson elected under division (C) of 131368
this section, determine it is appropriate for the advocacy 131369
organization to be represented on the council; 131370

~~(p)~~(o) One or more participants who volunteer to serve on the 131371
council and are selected by the other voting members at a meeting 131372
the chairperson calls after the medicaid buy-in for workers with 131373
disabilities program is implemented. 131374

(2) The following non-voting members: 131375

(a) The director of job and family services or the director's 131376
designee; 131377

(b) The administrator of the rehabilitation services 131378
commission or the administrator's designee; 131379

(c) The director of alcohol and drug addiction services or 131380
the director's designee; 131381

(d) The director of developmental disabilities or the 131382
director's designee; 131383

(e) The director of mental health or the director's designee; 131384

(f) The executive officer of any other government entity, or 131385
the executive officer's designee, if the voting members, at a 131386
meeting called by the chairperson, determine it is appropriate for 131387
the government entity to be represented on the council. 131388

(B) All members of the medicaid buy-in advisory council shall 131389
serve without compensation or reimbursement, except as serving on 131390
the council is considered part of their usual job duties. 131391

(C) The voting members of the medicaid buy-in advisory 131392
council shall elect one of the members of the council to serve as 131393
the council's chairperson for a two-year term. The chairperson may 131394
be re-elected to successive terms. 131395

(D) The department of job and family services shall provide 131396
the Ohio medicaid buy-in advisory council with accommodations for 131397
the council to hold its meetings and shall provide the council 131398
with other administrative assistance the council needs to perform 131399
its duties. 131400

Sec. 5119.221. (A) Upon petition by the director of mental 131401
health, the court of common pleas or the probate court may appoint 131402
a receiver to take possession of and operate a residential 131403
facility licensed pursuant to section 5119.22 of the Revised Code, 131404
when conditions existing at the residential facility present a 131405
substantial risk of physical or mental harm to residents and no 131406
other remedies at law are adequate to protect the health, safety, 131407
and welfare of the residents. 131408

Petitions filed pursuant to this section shall include: 131409

(1) A description of the specific conditions existing at the 131410
residential facility which present a substantial risk of physical 131411
or mental harm to residents; 131412

(2) A statement of the absence of other adequate remedies at 131413
law; 131414

(3) The number of individuals residing at the facility; 131415

(4) A statement that the facts have been brought to the 131416
attention of the owner or licensee and that conditions have not 131417
been remedied within a reasonable period of time or that the 131418
conditions, though remedied periodically, habitually exist at the 131419
residential facility as a pattern or practice; and 131420

(5) The name and address of the person holding the license 131421

for the residential facility. 131422

(B) A court in which a petition is filed pursuant to this 131423
section shall notify the person holding the license for the 131424
facility of the filing. The department shall send notice of the 131425
filing to the following, as appropriate: the ~~legal rights service~~ 131426
~~created pursuant to~~ Ohio protection and advocacy system as defined 131427
in section 5123.60 of the Revised Code; facility owner; facility 131428
operator; board of alcohol, drug addiction, and mental health 131429
services; board of health; department of developmental 131430
disabilities; department of job and family services; facility 131431
residents; and residents' families and guardians. The court shall 131432
provide a hearing on the petition within five court days of the 131433
time it was filed, except that the court may appoint a receiver 131434
prior to that time if it determines that the circumstances 131435
necessitate such action. 131436

Following a hearing on the petition, and upon a determination 131437
that the appointment of a receiver is warranted, the court shall 131438
appoint a receiver and notify the department of mental health and 131439
appropriate persons of this action. 131440

In setting forth the powers of the receiver, the court may 131441
generally authorize the receiver to do all that is prudent and 131442
necessary to safely and efficiently operate the residential 131443
facility within the requirements of state and federal law, but 131444
shall require the receiver to obtain court approval prior to 131445
making any single expenditure of more than five thousand dollars 131446
to correct deficiencies in the structure or furnishings of a 131447
facility. The court shall closely review the conduct of the 131448
receiver and shall require regular and detailed reports. 131449

(C) A receivership established pursuant to this section shall 131450
be terminated, following notification of the appropriate parties 131451
and a hearing, if the court determines either of the following: 131452

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility;

(2) Circumstances no longer exist at the residential facility which present a substantial risk of physical or mental harm to residents, and there is no deficiency in the residential facility that is likely to create a future risk of harm.

Notwithstanding division (C)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of mental health.

(D) Except for the department of mental health or appropriate board of alcohol, drug addiction, and mental health services, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of the department of mental health shall maintain a list of the names of such persons. The department of mental health, the department of job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Before entering upon the duties of receiver, the receiver must be sworn to perform the duties faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(1) Under the control of the appointing court, a receiver may do the following:

(a) Bring and defend actions in the appointee's name as

receiver;	131484
(b) Take and keep possession of property.	131485
(2) The court shall authorize the receiver to do the following:	131486
(a) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;	131487
(b) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession, but, in the case of a rental agreement only to the extent of payments that are for the use of the property during the period of the receivership, or, in the case of a purchase agreement, only to the extent that payments come due during the period of the receivership;	131488
(c) If transfer of residents is necessary, provide for the orderly transfer of residents by:	131489
(i) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;	131490
(ii) Providing for the transportation of residents' belongings and records;	131491
(iii) Helping to locate alternative placements and develop plans for transfer;	131492
(iv) Encouraging residents or guardians to participate in transfer planning except when an emergency exists and immediate transfer is necessary.	131493
(d) Make periodic reports on the status of the residential facility to the court; the appropriate state agencies; and the	131494
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board of alcohol, drug addiction, and mental health services. Each 131514
report shall be made available to residents, their guardians, and 131515
families. 131516

(e) Compromise demands or claims; and 131517

(f) Generally do such acts respecting the residential 131518
facility as the court authorizes. 131519

Notwithstanding any other provision of law, contracts which 131520
are necessary to carry out the powers and duties of the receiver 131521
need not be competitively bid. 131522

Sec. 5122.01. As used in this chapter and Chapter 5119. of 131523
the Revised Code: 131524

(A) "Mental illness" means a substantial disorder of thought, 131525
mood, perception, orientation, or memory that grossly impairs 131526
judgment, behavior, capacity to recognize reality, or ability to 131527
meet the ordinary demands of life. 131528

(B) "Mentally ill person subject to hospitalization by court 131529
order" means a mentally ill person who, because of the person's 131530
illness: 131531

(1) Represents a substantial risk of physical harm to self as 131532
manifested by evidence of threats of, or attempts at, suicide or 131533
serious self-inflicted bodily harm; 131534

(2) Represents a substantial risk of physical harm to others 131535
as manifested by evidence of recent homicidal or other violent 131536
behavior, evidence of recent threats that place another in 131537
reasonable fear of violent behavior and serious physical harm, or 131538
other evidence of present dangerousness; 131539

(3) Represents a substantial and immediate risk of serious 131540
physical impairment or injury to self as manifested by evidence 131541
that the person is unable to provide for and is not providing for 131542
the person's basic physical needs because of the person's mental 131543

illness and that appropriate provision for those needs cannot be made immediately available in the community; or

(4) Would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(C)(1) "Patient" means, subject to division (C)(2) of this section, a person who is admitted either voluntarily or involuntarily to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter, who is under observation or receiving treatment in such place.

(2) "Patient" does not include a person admitted to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to patient, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(D) "Licensed physician" means a person licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of the person's official duties.

(E) "Psychiatrist" means a licensed physician who has satisfactorily completed a residency training program in psychiatry, as approved by the residency review committee of the American medical association, the committee on post-graduate education of the American osteopathic association, or the American osteopathic board of neurology and psychiatry, or who on July 1, 1989, has been recognized as a psychiatrist by the Ohio state medical association or the Ohio osteopathic association on the

basis of formal training and five or more years of medical 131575
practice limited to psychiatry. 131576

(F) "Hospital" means a hospital or inpatient unit licensed by 131577
the department of mental health under section 5119.20 of the 131578
Revised Code, and any institution, hospital, or other place 131579
established, controlled, or supervised by the department under 131580
Chapter 5119. of the Revised Code. 131581

(G) "Public hospital" means a facility that is tax-supported 131582
and under the jurisdiction of the department of mental health. 131583

(H) "Community mental health agency" means an agency that 131584
provides community mental health services that are certified by 131585
the director of mental health under section 5119.611 of the 131586
Revised Code. 131587

(I) "Licensed clinical psychologist" means a person who holds 131588
a current valid psychologist license issued under section 4732.12 131589
or 4732.15 of the Revised Code, and in addition, meets either of 131590
the following criteria: 131591

(1) Meets the educational requirements set forth in division 131592
(B) of section 4732.10 of the Revised Code and has a minimum of 131593
two years' full-time professional experience, or the equivalent as 131594
determined by rule of the state board of psychology, at least one 131595
year of which shall be a predoctoral internship, in clinical 131596
psychological work in a public or private hospital or clinic or in 131597
private practice, diagnosing and treating problems of mental 131598
illness or mental retardation under the supervision of a 131599
psychologist who is licensed or who holds a diploma issued by the 131600
American board of professional psychology, or whose qualifications 131601
are substantially similar to those required for licensure by the 131602
state board of psychology when the supervision has occurred prior 131603
to enactment of laws governing the practice of psychology; 131604

(2) Meets the educational requirements set forth in division 131605

(B) of section 4732.15 of the Revised Code and has a minimum of 131606
four years' full-time professional experience, or the equivalent 131607
as determined by rule of the state board of psychology, in 131608
clinical psychological work in a public or private hospital or 131609
clinic or in private practice, diagnosing and treating problems of 131610
mental illness or mental retardation under supervision, as set 131611
forth in division (I)(1) of this section. 131612

(J) "Health officer" means any public health physician; 131613
public health nurse; or other person authorized by or designated 131614
by a city health district; a general health district; or a board 131615
of alcohol, drug addiction, and mental health services to perform 131616
the duties of a health officer under this chapter. 131617

(K) "Chief clinical officer" means the medical director of a 131618
hospital, or a community mental health agency, or a board of 131619
alcohol, drug addiction, and mental health services, or, if there 131620
is no medical director, the licensed physician responsible for the 131621
treatment a hospital or community mental health agency provides. 131622
The chief clinical officer may delegate to the attending physician 131623
responsible for a patient's care the duties imposed on the chief 131624
clinical officer by this chapter. Within a community mental health 131625
agency, the chief clinical officer shall be designated by the 131626
governing body of the agency and shall be a licensed physician or 131627
licensed clinical psychologist who supervises diagnostic and 131628
treatment services. A licensed physician or licensed clinical 131629
psychologist designated by the chief clinical officer may perform 131630
the duties and accept the responsibilities of the chief clinical 131631
officer in the chief clinical officer's absence. 131632

(L) "Working day" or "court day" means Monday, Tuesday, 131633
Wednesday, Thursday, and Friday, except when such day is a 131634
holiday. 131635

(M) "Indigent" means unable without deprivation of 131636
satisfaction of basic needs to provide for the payment of an 131637

attorney and other necessary expenses of legal representation, 131638
including expert testimony. 131639

(N) "Respondent" means the person whose detention, 131640
commitment, hospitalization, continued hospitalization or 131641
commitment, or discharge is being sought in any proceeding under 131642
this chapter. 131643

(O) ~~"Legal rights service" means the service established~~ 131644
~~under "Ohio protection and advocacy system" has the same meaning~~ 131645
~~as in~~ section 5123.60 of the Revised Code. 131646

(P) "Independent expert evaluation" means an evaluation 131647
conducted by a licensed clinical psychologist, psychiatrist, or 131648
licensed physician who has been selected by the respondent or the 131649
respondent's counsel and who consents to conducting the 131650
evaluation. 131651

(Q) "Court" means the probate division of the court of common 131652
pleas. 131653

(R) "Expunge" means: 131654

(1) The removal and destruction of court files and records, 131655
originals and copies, and the deletion of all index references; 131656

(2) The reporting to the person of the nature and extent of 131657
any information about the person transmitted to any other person 131658
by the court; 131659

(3) Otherwise insuring that any examination of court files 131660
and records in question shall show no record whatever with respect 131661
to the person; 131662

(4) That all rights and privileges are restored, and that the 131663
person, the court, and any other person may properly reply that no 131664
such record exists, as to any matter expunged. 131665

(S) "Residence" means a person's physical presence in a 131666
county with intent to remain there, except that: 131667

(1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;

(2) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, residence means the county where the criminal charges were filed.

When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health for investigation and determination. Residence shall not be a basis for a board's denying services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.

(T) "Admission" to a hospital or other place means that a patient is accepted for and stays at least one night at the hospital or other place.

(U) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(V) "Treatment plan" means a written statement of reasonable objectives and goals for an individual established by the treatment team, with specific criteria to evaluate progress towards achieving those objectives. The active participation of the patient in establishing the objectives and goals shall be documented. The treatment plan shall be based on patient needs and

include services to be provided to the patient while the patient 131699
is hospitalized and after the patient is discharged. The treatment 131700
plan shall address services to be provided upon discharge, 131701
including but not limited to housing, financial, and vocational 131702
services. 131703

(W) "Community control sanction" has the same meaning as in 131704
section 2929.01 of the Revised Code. 131705

(X) "Post-release control sanction" has the same meaning as 131706
in section 2967.01 of the Revised Code. 131707

Sec. 5122.02. (A) Except as provided in division (D) of this 131708
section, any person who is eighteen years of age or older and who 131709
is, appears to be, or believes self to be mentally ill may make 131710
written application for voluntary admission to the chief medical 131711
officer of a hospital. 131712

(B) Except as provided in division (D) of this section, the 131713
application also may be made on behalf of a minor by a parent, a 131714
guardian of the person, or the person with custody of the minor, 131715
and on behalf of an adult incompetent person by the guardian or 131716
the person with custody of the incompetent person. 131717

Any person whose admission is applied for under division (A) 131718
or (B) of this section may be admitted for observation, diagnosis, 131719
care, or treatment, in any hospital unless the chief clinical 131720
officer finds that hospitalization is inappropriate, and except 131721
that, in the case of a public hospital, no person shall be 131722
admitted without the authorization of the board of the person's 131723
county of residence. 131724

(C) If a minor or person adjudicated incompetent due to 131725
mental illness whose voluntary admission is applied for under 131726
division (B) of this section is admitted, the court shall 131727
determine, upon petition by ~~the legal rights service~~, private or 131728

otherwise appointed counsel, a relative, or one acting as next 131729
friend, whether the admission or continued hospitalization is in 131730
the best interest of the minor or incompetent. 131731

The chief clinical officer shall discharge any voluntary 131732
patient who has recovered or whose hospitalization the officer 131733
determines to be no longer advisable and may discharge any 131734
voluntary patient who refuses to accept treatment consistent with 131735
the written treatment plan required by section 5122.27 of the 131736
Revised Code. 131737

(D) A person who is found incompetent to stand trial or not 131738
guilty by reason of insanity and who is committed pursuant to 131739
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 131740
Code shall not voluntarily admit ~~himself or herself~~ the person or 131741
be voluntarily admitted to a hospital pursuant to this section 131742
until after the final termination of the commitment, as described 131743
in division (J) of section 2945.401 of the Revised Code. 131744

Sec. 5122.27. The chief clinical officer of the hospital or 131745
~~his~~ the chief clinical officer's designee shall assure that all 131746
patients hospitalized or committed pursuant to this chapter shall: 131747

(A) Receive, within twenty days of their admission sufficient 131748
professional care to assure that an evaluation of current status, 131749
differential diagnosis, probable prognosis, and description of the 131750
current treatment plan is stated on the official chart; 131751

(B) Have a written treatment plan consistent with the 131752
evaluation, diagnosis, prognosis, and goals which shall be 131753
provided, upon request of the patient or patient's counsel, to the 131754
patient's counsel and to any private physician or licensed 131755
clinical psychologist designated by the patient or ~~his~~ the 131756
patient's counsel or to the ~~legal rights service~~ Ohio protection 131757
and advocacy system; 131758

(C) Receive treatment consistent with the treatment plan. The 131759
department of mental health shall set standards for treatment 131760
provided to such patients, consistent wherever possible with 131761
standards set by the joint commission on accreditation of 131762
healthcare organizations. 131763

(D) Receive periodic reevaluations of the treatment plan by 131764
the professional staff at intervals not to exceed ninety days; 131765

(E) Be provided with adequate medical treatment for physical 131766
disease or injury; 131767

(F) Receive humane care and treatment, including without 131768
limitation, the following: 131769

(1) The least restrictive environment consistent with the 131770
treatment plan; 131771

(2) The necessary facilities and personnel required by the 131772
treatment plan; 131773

(3) A humane psychological and physical environment; 131774

(4) The right to obtain current information concerning ~~his~~ 131775
the patient's treatment program and expectations in terms that ~~he~~ 131776
the patient can reasonably understand; 131777

(5) Participation in programs designed to afford ~~him~~ the 131778
patient substantial opportunity to acquire skills to facilitate 131779
~~his~~ return to the community or to terminate an involuntary 131780
commitment; 131781

(6) The right to be free from unnecessary or excessive 131782
medication; 131783

(7) Freedom from restraints or isolation unless it is stated 131784
in a written order by the chief clinical officer or ~~his~~ the chief 131785
clinical officer's designee, or the patient's individual physician 131786
or psychologist in a private or general hospital. 131787

~~(G) Be notified of their rights under the law within~~ 131788

~~twenty four hours of admission, according to rules established by~~ 131789
~~the legal rights service.~~ 131790

If the chief clinical officer of the hospital is unable to 131791
provide the treatment required by divisions (C), (E), and (F) of 131792
this section for any patient hospitalized pursuant to Chapter 131793
5122. of the Revised Code, ~~he~~ the chief clinical officer shall 131794
immediately notify the patient, the court, the ~~legal rights~~ 131795
~~service~~ Ohio protection and advocacy system, the director of 131796
mental health, and the patient's counsel and legal guardian, if 131797
known. If within ten days after receipt of such notification by 131798
the director, ~~he~~ the director is unable to effect a transfer of 131799
the patient, pursuant to section 5122.20 of the Revised Code, to a 131800
hospital, community mental health agency, or other medical 131801
facility where treatment is available, or has not received an 131802
order of the court to the contrary, the involuntary commitment of 131803
any patient hospitalized pursuant to Chapter 5122. of the Revised 131804
Code and defined as a mentally ill person subject to 131805
hospitalization by court order under division (B)(4) of section 131806
5122.01 of the Revised Code shall automatically be terminated. 131807

Sec. 5122.271. (A) Except as provided in divisions (C), (D), 131808
and (E) of this section, the chief clinical officer or, in a 131809
nonpublic hospital, the attending physician responsible for a 131810
patient's care shall provide all information, including expected 131811
physical and medical consequences, necessary to enable any patient 131812
of a hospital for the mentally ill to give a fully informed, 131813
intelligent, and knowing consent, the opportunity to consult with 131814
independent specialists and counsel, and the right to refuse 131815
consent for any of the following: 131816

(1) Surgery; 131817

(2) Convulsive therapy; 131818

(3) Major aversive interventions; 131819

(4) Sterilizations;	131820
(5) Any unusually hazardous treatment procedures;	131821
(6) Psycho-surgery.	131822
(B) No patient shall be subjected to any of the procedures listed in divisions (A)(4) to (6) of this section until both the patient's informed, intelligent, and knowing consent and the approval of the court have been obtained, except that court approval is not required for a legally competent and voluntary patient in a nonpublic hospital.	131823 131824 131825 131826 131827 131828
(C) If, after providing the information required under division (A) of this section to the patient, the chief clinical officer or attending physician concludes that a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section, or has been adjudicated incompetent, the information may be provided to the patient's natural or court-appointed guardian, who may give an informed, intelligent, and knowing written consent.	131829 131830 131831 131832 131833 131834 131835 131836
If a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section and has no guardian, the information, the recommendation of the chief clinical officer, and the concurring judgment of a licensed physician who is not a full-time employee of the state may be provided to the court in the county in which the hospital is located, which may approve the surgery. Before approving the surgery, the court shall notify the legal rights service <u>Ohio protection and advocacy system</u> created by section 5123.60 of the Revised Code, and shall notify the patient of the rights to consult with counsel, to have counsel appointed by the court if the patient is indigent, and to contest the recommendation of the chief clinical officer.	131837 131838 131839 131840 131841 131842 131843 131844 131845 131846 131847 131848 131849
(D) If, in a medical emergency, and after providing the	131850

information required under division (A) of this section to the 131851
patient, it is the judgment of one licensed physician that delay 131852
in obtaining surgery would create a grave danger to the health of 131853
the patient, it may be administered without the consent of the 131854
patient or the patient's guardian if the necessary information is 131855
provided to the patient's spouse or next of kin to enable that 131856
person to give informed, intelligent, and knowing written consent. 131857
If no spouse or next of kin can reasonably be contacted, or if the 131858
spouse or next of kin is contacted, but refuses to consent, the 131859
surgery may be performed upon the written authorization of the 131860
chief clinical officer or, in a nonpublic hospital, upon the 131861
written authorization of the attending physician responsible for 131862
the patient's care, and after the approval of the court has been 131863
obtained. However, if delay in obtaining court approval would 131864
create a grave danger to the life of the patient, the chief 131865
clinical officer or, in a nonpublic hospital, the attending 131866
physician responsible for the patient's care may authorize 131867
surgery, in writing, without court approval. If the surgery is 131868
authorized without court approval, the chief clinical officer or 131869
the attending physician who made the authorization and the 131870
physician who performed the surgery shall each execute an 131871
affidavit describing the circumstances constituting the emergency 131872
and warranting the surgery and the circumstances warranting their 131873
not obtaining prior court approval. The affidavit shall be filed 131874
with the court with which the request for prior approval would 131875
have been filed within five court days after the surgery, and a 131876
copy of the affidavit shall be placed in the patient's file and be 131877
given to the guardian, spouse, or next of kin of the patient, to 131878
the hospital at which the surgery was performed, and to the ~~legal~~ 131879
~~rights service created by~~ Ohio protection and advocacy system as 131880
defined in section 5123.60 of the Revised Code. 131881

(E) Major aversive interventions shall not be used unless a 131882
patient continues to engage in behavior destructive to self or 131883

others after other forms of therapy have been attempted. Major 131884
aversive interventions may be applied if approved by the director 131885
of mental health. ~~The director of the legal rights service created~~ 131886
~~by section 5123.60 of the Revised Code shall be notified of any~~ 131887
~~proposed major aversive intervention prior to review by the~~ 131888
~~director of mental health.~~ Major aversive interventions shall not 131889
be applied to a voluntary patient without the informed, 131890
intelligent, and knowing written consent of the patient or the 131891
patient's guardian. 131892

(F) Unless there is substantial risk of physical harm to self 131893
or others, or other than under division (D) of this section, this 131894
chapter does not authorize any form of compulsory medical, 131895
psychological, or psychiatric treatment of any patient who is 131896
being treated by spiritual means through prayer alone in 131897
accordance with a recognized religious method of healing without 131898
specific court authorization. 131899

(G) For purposes of this section, "convulsive therapy" does 131900
not include defibrillation. 131901

Sec. 5122.29. All patients hospitalized or committed pursuant 131902
to this chapter have the following rights: 131903

(A) The right to a written list of all rights enumerated in 131904
this chapter, to that person, ~~his~~ that person's legal guardian, 131905
and ~~his~~ that person's counsel. If the person is unable to read, 131906
the list shall be read and explained to ~~him~~ the person. 131907

(B) The right at all times to be treated with consideration 131908
and respect for ~~his~~ the patient's privacy and dignity, including 131909
without limitation, the following: 131910

(1) At the time a person is taken into custody for diagnosis, 131911
detention, or treatment under Chapter 5122. of the Revised Code, 131912
the person taking ~~him~~ that person into custody shall take 131913

reasonable precautions to preserve and safeguard the personal 131914
property in the possession of or on the premises occupied by that 131915
person; 131916

(2) A person who is committed, voluntarily or involuntarily, 131917
shall be given reasonable protection from assault or battery by 131918
any other person. 131919

(C) The right to communicate freely with and be visited at 131920
reasonable times by ~~his~~ the patient's private counsel or personnel 131921
of the ~~legal rights service~~ Ohio protection and advocacy system 131922
and, unless prior court restriction has been obtained, to 131923
communicate freely with and be visited at reasonable times by ~~his~~ 131924
the patient's personal physician or psychologist. 131925

(D) The right to communicate freely with others, unless 131926
specifically restricted in the patient's treatment plan for clear 131927
treatment reasons, including without limitation the following: 131928

(1) To receive visitors at reasonable times; 131929

(2) To have reasonable access to telephones to make and 131930
receive confidential calls, including a reasonable number of free 131931
calls if unable to pay for them and assistance in calling if 131932
requested and needed. 131933

(E) The right to have ready access to letter writing 131934
materials, including a reasonable number of stamps without cost if 131935
unable to pay for them, and to mail and receive unopened 131936
correspondence and assistance in writing if requested and needed. 131937

(F) The right to the following personal privileges consistent 131938
with health and safety: 131939

(1) To wear ~~his~~ the patient's own clothes and maintain ~~his~~ 131940
the patient's own personal effects; 131941

(2) To be provided an adequate allowance for or allotment of 131942
neat, clean, and seasonable clothing if unable to provide ~~his~~ the 131943

<u>patient's</u> own;	131944
(3) To maintain his <u>the patient's</u> personal appearance	131945
according to his <u>the patient's</u> own personal taste, including head	131946
and body hair;	131947
(4) To keep and use personal possessions, including toilet	131948
articles;	131949
(5) To have access to individual storage space for his <u>the</u>	131950
<u>patient's</u> private use;	131951
(6) To keep and spend a reasonable sum of his <u>the patient's</u>	131952
own money for expenses and small purchases;	131953
(7) To receive and possess reading materials without	131954
ensorship, except when the materials create a clear and present	131955
danger to the safety of persons in the facility.	131956
(G) The right to reasonable privacy, including both periods	131957
of privacy and places of privacy.	131958
(H) The right to free exercise of religious worship within	131959
the facility, including a right to services and sacred texts that	131960
are within the reasonable capacity of the facility to supply,	131961
provided that no patient shall be coerced into engaging in any	131962
religious activities.	131963
(I) The right to social interaction with members of either	131964
sex, subject to adequate supervision, unless such social	131965
interaction is specifically withheld under a patient's written	131966
treatment plan for clear treatment reasons.	131967
As used in this section, "clear treatment reasons" means that	131968
permitting the patient to communicate freely with others will	131969
present a substantial risk of physical harm to the patient or	131970
others or will substantially preclude effective treatment of the	131971
patient. If a right provided under this section is restricted or	131972
withheld for clear treatment reasons, the patient's written	131973

treatment plan shall specify the treatment designed to eliminate 131974
the restriction or withholding of the right at the earliest 131975
possible time. 131976

Sec. 5122.31. (A) All certificates, applications, records, 131977
and reports made for the purpose of this chapter and sections 131978
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 131979
Code, other than court journal entries or court docket entries, 131980
and directly or indirectly identifying a patient or former patient 131981
or person whose hospitalization has been sought under this 131982
chapter, shall be kept confidential and shall not be disclosed by 131983
any person except: 131984

(1) If the person identified, or the person's legal guardian, 131985
if any, or if the person is a minor, the person's parent or legal 131986
guardian, consents, and if the disclosure is in the best interests 131987
of the person, as may be determined by the court for judicial 131988
records and by the chief clinical officer for medical records; 131989

(2) When disclosure is provided for in this chapter or 131990
section ~~5123.60~~ 5123.601 of the Revised Code; 131991

(3) That hospitals, boards of alcohol, drug addiction, and 131992
mental health services, and community mental health agencies may 131993
release necessary medical information to insurers and other 131994
third-party payers, including government entities responsible for 131995
processing and authorizing payment, to obtain payment for goods 131996
and services furnished to the patient; 131997

(4) Pursuant to a court order signed by a judge; 131998

(5) That a patient shall be granted access to the patient's 131999
own psychiatric and medical records, unless access specifically is 132000
restricted in a patient's treatment plan for clear treatment 132001
reasons; 132002

(6) That hospitals and other institutions and facilities 132003

within the department of mental health may exchange psychiatric 132004
records and other pertinent information with other hospitals, 132005
institutions, and facilities of the department, and with community 132006
mental health agencies and boards of alcohol, drug addiction, and 132007
mental health services with which the department has a current 132008
agreement for patient care or services. Records and information 132009
that may be released pursuant to this division shall be limited to 132010
medication history, physical health status and history, financial 132011
status, summary of course of treatment in the hospital, summary of 132012
treatment needs, and a discharge summary, if any. 132013

(7) That hospitals within the department, other institutions 132014
and facilities within the department, hospitals licensed by the 132015
department under section 5119.20 of the Revised Code, and 132016
community mental health agencies may exchange psychiatric records 132017
and other pertinent information with payers and other providers of 132018
treatment and health services if the purpose of the exchange is to 132019
facilitate continuity of care for a patient; 132020

(8) That a patient's family member who is involved in the 132021
provision, planning, and monitoring of services to the patient may 132022
receive medication information, a summary of the patient's 132023
diagnosis and prognosis, and a list of the services and personnel 132024
available to assist the patient and the patient's family, if the 132025
patient's treating physician determines that the disclosure would 132026
be in the best interests of the patient. No such disclosure shall 132027
be made unless the patient is notified first and receives the 132028
information and does not object to the disclosure. 132029

(9) That community mental health agencies may exchange 132030
psychiatric records and certain other information with the board 132031
of alcohol, drug addiction, and mental health services and other 132032
agencies in order to provide services to a person involuntarily 132033
committed to a board. Release of records under this division shall 132034
be limited to medication history, physical health status and 132035

history, financial status, summary of course of treatment, summary 132036
of treatment needs, and discharge summary, if any. 132037

(10) That information may be disclosed to the executor or the 132038
administrator of an estate of a deceased patient when the 132039
information is necessary to administer the estate; 132040

(11) That records in the possession of the Ohio historical 132041
society may be released to the closest living relative of a 132042
deceased patient upon request of that relative; 132043

(12) That information may be disclosed to staff members of 132044
the appropriate board or to staff members designated by the 132045
director of mental health for the purpose of evaluating the 132046
quality, effectiveness, and efficiency of services and determining 132047
if the services meet minimum standards. Information obtained 132048
during such evaluations shall not be retained with the name of any 132049
patient. 132050

(13) That records pertaining to the patient's diagnosis, 132051
course of treatment, treatment needs, and prognosis shall be 132052
disclosed and released to the appropriate prosecuting attorney if 132053
the patient was committed pursuant to section 2945.38, 2945.39, 132054
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 132055
attorney designated by the board for proceedings pursuant to 132056
involuntary commitment under this chapter. 132057

(14) That the department of mental health may exchange 132058
psychiatric hospitalization records, other mental health treatment 132059
records, and other pertinent information with the department of 132060
rehabilitation and correction to ensure continuity of care for 132061
inmates who are receiving mental health services in an institution 132062
of the department of rehabilitation and correction. The department 132063
shall not disclose those records unless the inmate is notified, 132064
receives the information, and does not object to the disclosure. 132065
The release of records under this division is limited to records 132066

regarding an inmate's medication history, physical health status 132067
and history, summary of course of treatment, summary of treatment 132068
needs, and a discharge summary, if any. 132069

(15) That a community mental health agency that ceases to 132070
operate may transfer to either a community mental health agency 132071
that assumes its caseload or to the board of alcohol, drug 132072
addiction, and mental health services of the service district in 132073
which the patient resided at the time services were most recently 132074
provided any treatment records that have not been transferred 132075
elsewhere at the patient's request. 132076

(B) Before records are disclosed pursuant to divisions 132077
(A)(3), (6), (7), and (9) of this section, the custodian of the 132078
records shall attempt to obtain the patient's consent for the 132079
disclosure. No person shall reveal the contents of a medical 132080
record of a patient except as authorized by law. 132081

(C) The managing officer of a hospital who releases necessary 132082
medical information under division (A)(3) of this section to allow 132083
an insurance carrier or other third party payor to comply with 132084
section 5121.43 of the Revised Code shall neither be subject to 132085
criminal nor civil liability. 132086

Sec. 5122.32. (A) As used in this section: 132087

(1) "Quality assurance committee" means a committee that is 132088
appointed in the central office of the department of mental health 132089
by the director of mental health, a committee of a hospital or 132090
community setting program, a committee established pursuant to 132091
section 5119.47 of the Revised Code of the department of mental 132092
health appointed by the managing officer of the hospital or 132093
program, or a duly authorized subcommittee of a committee of that 132094
nature and that is designated to carry out quality assurance 132095
program activities. 132096

(2) "Quality assurance program" means a comprehensive program 132097
within the department of mental health to systematically review 132098
and improve the quality of medical and mental health services 132099
within the department and its hospitals and community setting 132100
programs, the safety and security of persons receiving medical and 132101
mental health services within the department and its hospitals and 132102
community setting programs, and the efficiency and effectiveness 132103
of the utilization of staff and resources in the delivery of 132104
medical and mental health services within the department and its 132105
hospitals and community setting programs. "Quality assurance 132106
program" includes the central office quality assurance committees, 132107
morbidity and mortality review committees, quality assurance 132108
programs of community setting programs, quality assurance 132109
committees of hospitals operated by the department of mental 132110
health, and the office of licensure and certification of the 132111
department. 132112

(3) "Quality assurance program activities" include collecting 132113
or compiling information and reports required by a quality 132114
assurance committee, receiving, reviewing, or implementing the 132115
recommendations made by a quality assurance committee, and 132116
credentialing, privileging, infection control, tissue review, peer 132117
review, utilization review including access to patient care 132118
records, patient care assessment records, and medical and mental 132119
health records, medical and mental health resource management, 132120
mortality and morbidity review, and identification and prevention 132121
of medical or mental health incidents and risks, whether performed 132122
by a quality assurance committee or by persons who are directed by 132123
a quality assurance committee. 132124

(4) "Quality assurance records" means the proceedings, 132125
discussion, records, findings, recommendations, evaluations, 132126
opinions, minutes, reports, and other documents or actions that 132127
emanate from quality assurance committees, quality assurance 132128

programs, or quality assurance program activities. "Quality
assurance records" does not include aggregate statistical
information that does not disclose the identity of persons
receiving or providing medical or mental health services in
department of mental health institutions.

(B)(1) Except as provided in division (E) of this section,
quality assurance records are confidential and are not public
records under section 149.43 of the Revised Code, and shall be
used only in the course of the proper functions of a quality
assurance program.

(2) Except as provided in division (E) of this section, no
person who possesses or has access to quality assurance records
and who knows that the records are quality assurance records shall
willfully disclose the contents of the records to any person or
entity.

(C)(1) Except as provided in division (E) of this section, no
quality assurance record shall be subject to discovery in, and is
not admissible in evidence, in any judicial or administrative
proceeding.

(2) Except as provided in division (E) of this section, no
member of a quality assurance committee or a person who is
performing a function that is part of a quality assurance program
shall be permitted or required to testify in a judicial or
administrative proceeding with respect to quality assurance
records or with respect to any finding, recommendation,
evaluation, opinion, or other action taken by the committee,
member, or person.

(3) Information, documents, or records otherwise available
from original sources are not to be construed as being unavailable
for discovery or admission in evidence in a judicial or
administrative proceeding merely because they were presented to a

quality assurance committee. No person testifying before a quality 132160
assurance committee or person who is a member of a quality 132161
assurance committee shall be prevented from testifying as to 132162
matters within the person's knowledge, but the witness cannot be 132163
asked about the witness' testimony before the quality assurance 132164
committee or about an opinion formed by the person as a result of 132165
the quality assurance committee proceedings. 132166

(D)(1) A person who, without malice and in the reasonable 132167
belief that the information is warranted by the facts known to the 132168
person, provides information to a person engaged in quality 132169
assurance program activities is not liable for damages in a civil 132170
action for injury, death, or loss to person or property to any 132171
person as a result of providing the information. 132172

(2) A member of a quality assurance committee, a person 132173
engaged in quality assurance program activities, and an employee 132174
of the department of mental health shall not be liable in damages 132175
in a civil action for injury, death, or loss to person or property 132176
to any person for any acts, omissions, decisions, or other conduct 132177
within the scope of the functions of the quality assurance 132178
program. 132179

(3) Nothing in this section shall relieve any institution or 132180
individual from liability arising from the treatment of a patient. 132181

(E) Quality assurance records may be disclosed, and testimony 132182
may be provided concerning quality assurance records, only to the 132183
following persons or entities: 132184

(1) Persons who are employed or retained by the department of 132185
mental health and who have authority to evaluate or implement the 132186
recommendations of a state-operated hospital, community setting 132187
program, or central office quality assurance committee; 132188

(2) Public or private agencies or organizations if needed to 132189
perform a licensing or accreditation function related to 132190

department of mental health hospitals or community setting 132191
programs, or to perform monitoring of a hospital or program of 132192
that nature as required by law. 132193

(F) A disclosure of quality assurance records pursuant to 132194
division (E) of this section does not otherwise waive the 132195
confidential and privileged status of the disclosed quality 132196
assurance records. 132197

(G) Nothing in this section shall limit the access of the 132198
~~legal rights service~~ Ohio protection and advocacy system to 132199
records or personnel as ~~set forth in sections 5123.60 to 5123.604~~ 132200
required under section 5123.601 of the Revised Code. Nothing in 132201
this section shall limit the admissibility of documentary or 132202
testimonial evidence in an action brought by the ~~legal rights~~ 132203
~~service~~ Ohio protection and advocacy system in its own name or on 132204
behalf of a client. 132205

Sec. 5123.092. (A) There is hereby established at each 132206
institution and branch institution under the control of the 132207
department of developmental disabilities a citizen's advisory 132208
council consisting of thirteen members. At least seven of the 132209
members shall be persons who are not providers of mental 132210
retardation services. Each council shall include parents or other 132211
relatives of residents of institutions under the control of the 132212
department, community leaders, professional persons in relevant 132213
fields, and persons who have an interest in or knowledge of mental 132214
retardation. The managing officer of the institution shall be a 132215
nonvoting member of the council. 132216

(B) The director of developmental disabilities shall be the 132217
appointing authority for the voting members of each citizen's 132218
advisory council. Each time the term of a voting member expires, 132219
the remaining members of the council shall recommend to the 132220
director one or more persons to serve on the council. The director 132221

may accept a nominee of the council or reject the nominee or 132222
nominees. If the director rejects the nominee or nominees, the 132223
remaining members of the advisory council shall further recommend 132224
to the director one or more other persons to serve on the advisory 132225
council. This procedure shall continue until a member is appointed 132226
to the advisory council. 132227

Each advisory council shall elect from its appointed members 132228
a chairperson, vice-chairperson, and a secretary to serve for 132229
terms of one year. Advisory council officers shall not serve for 132230
more than two consecutive terms in the same office. A majority of 132231
the advisory council members constitutes a quorum. 132232

(C) Terms of office shall be for three years, each term 132233
ending on the same day of the same month of the year as did the 132234
term which it succeeds. No member shall serve more than two 132235
consecutive terms, except that any former member may be appointed 132236
if one year or longer has elapsed since the member served two 132237
consecutive terms. Each member shall hold office from the date of 132238
appointment until the end of the term for which the member was 132239
appointed. Any vacancy shall be filled in the same manner in which 132240
the original appointment was made, and the appointee to a vacancy 132241
in an unexpired term shall serve the balance of the term of the 132242
original appointee. Any member shall continue in office subsequent 132243
to the expiration date of the member's term until the member's 132244
successor takes office, or until a period of sixty days has 132245
elapsed, whichever occurs first. 132246

(D) Members shall be expected to attend all meetings of the 132247
advisory council. Unexcused absence from two successive regularly 132248
scheduled meetings shall be considered prima-facie evidence of 132249
intent not to continue as a member. The chairperson of the board 132250
shall, after a member has been absent for two successive regularly 132251
scheduled meetings, direct a letter to the member asking if the 132252
member wishes to remain in membership. If an affirmative reply is 132253

received, the member shall be retained as a member except that, 132254
if, after having expressed a desire to remain a member, the member 132255
then misses a third successive regularly scheduled meeting without 132256
being excused, the chairperson shall terminate the member's 132257
membership. 132258

(E) A citizen's advisory council shall meet six times 132259
annually, or more frequently if three council members request the 132260
chairperson to call a meeting. The council shall keep minutes of 132261
each meeting and shall submit them to the managing officer of the 132262
institution with which the council is associated, and the 132263
department of developmental disabilities, ~~and the legal rights~~ 132264
~~service.~~ 132265

(F) Members of citizen's advisory councils shall receive no 132266
compensation for their services, except that they shall be 132267
reimbursed for their actual and necessary expenses incurred in the 132268
performance of their official duties by the institution with which 132269
they are associated from funds allocated to it, provided that 132270
reimbursement for those expenses shall not exceed limits imposed 132271
upon the department of developmental disabilities by 132272
administrative rules regulating travel within this state. 132273

(G) The councils shall have reasonable access to all patient 132274
treatment and living areas and records of the institution, except 132275
those records of a strictly personal or confidential nature. The 132276
councils shall have access to a patient's personal records with 132277
the consent of the patient or the patient's legal guardian or, if 132278
the patient is a minor, with the consent of the parent or legal 132279
guardian of the patient. 132280

(H) As used in this section, "branch institution" means a 132281
facility that is located apart from an institution and is under 132282
the control of the managing officer of the institution. 132283

Sec. 5123.19. (A) As used in this section and in sections 132284

5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of 132285
the Revised Code: 132286

(1)(a) "Residential facility" means a home or facility in 132287
which a mentally retarded or developmentally disabled person 132288
resides, except the home of a relative or legal guardian in which 132289
a mentally retarded or developmentally disabled person resides, a 132290
respite care home certified under section 5126.05 of the Revised 132291
Code, a county home or district home operated pursuant to Chapter 132292
5155. of the Revised Code, or a dwelling in which the only 132293
mentally retarded or developmentally disabled residents are in an 132294
independent living arrangement or are being provided supported 132295
living. 132296

(b) "Intermediate care facility for the mentally retarded" 132297
means a residential facility that is considered an intermediate 132298
care facility for the mentally retarded for the purposes of 132299
Chapter 5111. of the Revised Code. 132300

(2) "Political subdivision" means a municipal corporation, 132301
county, or township. 132302

(3) "Independent living arrangement" means an arrangement in 132303
which a mentally retarded or developmentally disabled person 132304
resides in an individualized setting chosen by the person or the 132305
person's guardian, which is not dedicated principally to the 132306
provision of residential services for mentally retarded or 132307
developmentally disabled persons, and for which no financial 132308
support is received for rendering such service from any 132309
governmental agency by a provider of residential services. 132310

(4) "Licensee" means the person or government agency that has 132311
applied for a license to operate a residential facility and to 132312
which the license was issued under this section. 132313

(5) "Related party" has the same meaning as in section 132314

5123.16 of the Revised Code except that "provider" as used in the 132315
definition of "related party" means a person or government entity 132316
that held or applied for a license to operate a residential 132317
facility, rather than a person or government entity certified to 132318
provide supported living. 132319

(B) Every person or government agency desiring to operate a 132320
residential facility shall apply for licensure of the facility to 132321
the director of developmental disabilities unless the residential 132322
facility is subject to section 3721.02, 5119.73, 5103.03, or 132323
5119.20 of the Revised Code. Notwithstanding Chapter 3721. of the 132324
Revised Code, a nursing home that is certified as an intermediate 132325
care facility for the mentally retarded under Title XIX of the 132326
"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as 132327
amended, shall apply for licensure of the portion of the home that 132328
is certified as an intermediate care facility for the mentally 132329
retarded. 132330

(C) Subject to section 5123.196 of the Revised Code, the 132331
director of developmental disabilities shall license the operation 132332
of residential facilities. An initial license shall be issued for 132333
a period that does not exceed one year, unless the director denies 132334
the license under division (D) of this section. A license shall be 132335
renewed for a period that does not exceed three years, unless the 132336
director refuses to renew the license under division (D) of this 132337
section. The director, when issuing or renewing a license, shall 132338
specify the period for which the license is being issued or 132339
renewed. A license remains valid for the length of the licensing 132340
period specified by the director, unless the license is 132341
terminated, revoked, or voluntarily surrendered. 132342

(D) If it is determined that an applicant or licensee is not 132343
in compliance with a provision of this chapter that applies to 132344
residential facilities or the rules adopted under such a 132345
provision, the director may deny issuance of a license, refuse to 132346

renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed

the basis for the order has been corrected. 132379

(5) If the director determines that two or more residential 132380
facilities owned or operated by the same person or government 132381
entity are not being operated in compliance with a provision of 132382
this chapter that applies to residential facilities or the rules 132383
adopted under such a provision, and the director's findings are 132384
based on the same or a substantially similar action, practice, 132385
circumstance, or incident that creates a substantial risk to the 132386
health and safety of the residents, the director shall conduct a 132387
survey as soon as practicable at each residential facility owned 132388
or operated by that person or government entity. The director may 132389
take any action authorized by this section with respect to any 132390
facility found to be operating in violation of a provision of this 132391
chapter that applies to residential facilities or the rules 132392
adopted under such a provision. 132393

(6) When the director initiates license revocation 132394
proceedings, no opportunity for submitting a plan of correction 132395
shall be given. The director shall notify the licensee by letter 132396
of the initiation of the proceedings. The letter shall list the 132397
deficiencies of the residential facility and inform the licensee 132398
that no plan of correction will be accepted. The director shall 132399
also send a copy of the letter to the county board of 132400
developmental disabilities. The county board shall send a copy of 132401
the letter to each of the following: 132402

(a) Each resident who receives services from the licensee; 132403

(b) The guardian of each resident who receives services from 132404
the licensee if the resident has a guardian; 132405

(c) The parent or guardian of each resident who receives 132406
services from the licensee if the resident is a minor. 132407

(7) Pursuant to rules which shall be adopted in accordance 132408
with Chapter 119. of the Revised Code, the director may order the 132409

immediate removal of residents from a residential facility 132410
whenever conditions at the facility present an immediate danger of 132411
physical or psychological harm to the residents. 132412

(8) In determining whether a residential facility is being 132413
operated in compliance with a provision of this chapter that 132414
applies to residential facilities or the rules adopted under such 132415
a provision, or whether conditions at a residential facility 132416
present an immediate danger of physical or psychological harm to 132417
the residents, the director may rely on information obtained by a 132418
county board of developmental disabilities or other governmental 132419
agencies. 132420

(9) In proceedings initiated to deny, refuse to renew, or 132421
revoke licenses, the director may deny, refuse to renew, or revoke 132422
a license regardless of whether some or all of the deficiencies 132423
that prompted the proceedings have been corrected at the time of 132424
the hearing. 132425

(E) The director shall establish a program under which public 132426
notification may be made when the director has initiated license 132427
revocation proceedings or has issued an order for the suspension 132428
of admissions, placement of a monitor, or removal of residents. 132429
The director shall adopt rules in accordance with Chapter 119. of 132430
the Revised Code to implement this division. The rules shall 132431
establish the procedures by which the public notification will be 132432
made and specify the circumstances for which the notification must 132433
be made. The rules shall require that public notification be made 132434
if the director has taken action against the facility in the 132435
eighteen-month period immediately preceding the director's latest 132436
action against the facility and the latest action is being taken 132437
for the same or a substantially similar violation of a provision 132438
of this chapter that applies to residential facilities or the 132439
rules adopted under such a provision. The rules shall specify a 132440
method for removing or amending the public notification if the 132441

director's action is found to have been unjustified or the 132442
violation at the residential facility has been corrected. 132443

(F)(1) Except as provided in division (F)(2) of this section, 132444
appeals from proceedings initiated to impose a sanction under 132445
division (D) of this section shall be conducted in accordance with 132446
Chapter 119. of the Revised Code. 132447

(2) Appeals from proceedings initiated to order the 132448
suspension of admissions to a facility shall be conducted in 132449
accordance with Chapter 119. of the Revised Code, unless the order 132450
was issued before providing an opportunity for an adjudication, in 132451
which case all of the following apply: 132452

(a) The licensee may request a hearing not later than ten 132453
days after receiving the notice specified in section 119.07 of the 132454
Revised Code. 132455

(b) If a timely request for a hearing that includes the 132456
licensee's current address is made, the hearing shall commence not 132457
later than thirty days after the department receives the request. 132458

(c) After commencing, the hearing shall continue 132459
uninterrupted, except for Saturdays, Sundays, and legal holidays, 132460
unless other interruptions are agreed to by the licensee and the 132461
director. 132462

(d) If the hearing is conducted by a hearing examiner, the 132463
hearing examiner shall file a report and recommendations not later 132464
than ten days after the last of the following: 132465

(i) The close of the hearing; 132466

(ii) If a transcript of the proceedings is ordered, the 132467
hearing examiner receives the transcript; 132468

(iii) If post-hearing briefs are timely filed, the hearing 132469
examiner receives the briefs. 132470

(e) A copy of the written report and recommendation of the 132471

hearing examiner shall be sent, by certified mail, to the licensee 132472
and the licensee's attorney, if applicable, not later than five 132473
days after the report is filed. 132474

(f) Not later than five days after the hearing examiner files 132475
the report and recommendations, the licensee may file objections 132476
to the report and recommendations. 132477

(g) Not later than fifteen days after the hearing examiner 132478
files the report and recommendations, the director shall issue an 132479
order approving, modifying, or disapproving the report and 132480
recommendations. 132481

(h) Notwithstanding the pendency of the hearing, the director 132482
shall lift the order for the suspension of admissions when the 132483
director determines that the violation that formed the basis for 132484
the order has been corrected. 132485

(G) Neither a person or government agency whose application 132486
for a license to operate a residential facility is denied nor a 132487
related party of the person or government agency may apply for a 132488
license to operate a residential facility before the date that is 132489
one year after the date of the denial. Neither a licensee whose 132490
residential facility license is revoked nor a related party of the 132491
licensee may apply for a residential facility license before the 132492
date that is five years after the date of the revocation. 132493

(H) In accordance with Chapter 119. of the Revised Code, the 132494
director shall adopt and may amend and rescind rules for licensing 132495
and regulating the operation of residential facilities, including 132496
intermediate care facilities for the mentally retarded. The rules 132497
for intermediate care facilities for the mentally retarded may 132498
differ from those for other residential facilities. The rules 132499
shall establish and specify the following: 132500

(1) Procedures and criteria for issuing and renewing 132501
licenses, including procedures and criteria for determining the 132502

length of the licensing period that the director must specify for	132503
each license when it is issued or renewed;	132504
(2) Procedures and criteria for denying, refusing to renew,	132505
terminating, and revoking licenses and for ordering the suspension	132506
of admissions to a facility, placement of a monitor at a facility,	132507
and the immediate removal of residents from a facility;	132508
(3) Fees for issuing and renewing licenses, which shall be	132509
deposited into the program fee fund created under section 5123.033	132510
of the Revised Code;	132511
(4) Procedures for surveying residential facilities;	132512
(5) Requirements for the training of residential facility	132513
personnel;	132514
(6) Classifications for the various types of residential	132515
facilities;	132516
(7) Certification procedures for licensees and management	132517
contractors that the director determines are necessary to ensure	132518
that they have the skills and qualifications to properly operate	132519
or manage residential facilities;	132520
(8) The maximum number of persons who may be served in a	132521
particular type of residential facility;	132522
(9) Uniform procedures for admission of persons to and	132523
transfers and discharges of persons from residential facilities;	132524
(10) Other standards for the operation of residential	132525
facilities and the services provided at residential facilities;	132526
(11) Procedures for waiving any provision of any rule adopted	132527
under this section.	132528
(I) Before issuing a license, the director of the department	132529
or the director's designee shall conduct a survey of the	132530
residential facility for which application is made. The director	132531
or the director's designee shall conduct a survey of each licensed	132532

residential facility at least once during the period the license 132533
is valid and may conduct additional inspections as needed. A 132534
survey includes but is not limited to an on-site examination and 132535
evaluation of the residential facility, its personnel, and the 132536
services provided there. 132537

In conducting surveys, the director or the director's 132538
designee shall be given access to the residential facility; all 132539
records, accounts, and any other documents related to the 132540
operation of the facility; the licensee; the residents of the 132541
facility; and all persons acting on behalf of, under the control 132542
of, or in connection with the licensee. The licensee and all 132543
persons on behalf of, under the control of, or in connection with 132544
the licensee shall cooperate with the director or the director's 132545
designee in conducting the survey. 132546

Following each survey, unless the director initiates a 132547
license revocation proceeding, the director or the director's 132548
designee shall provide the licensee with a report listing any 132549
deficiencies, specifying a timetable within which the licensee 132550
shall submit a plan of correction describing how the deficiencies 132551
will be corrected, and, when appropriate, specifying a timetable 132552
within which the licensee must correct the deficiencies. After a 132553
plan of correction is submitted, the director or the director's 132554
designee shall approve or disapprove the plan. A copy of the 132555
report and any approved plan of correction shall be provided to 132556
any person who requests it. 132557

The director shall initiate disciplinary action against any 132558
department employee who notifies or causes the notification to any 132559
unauthorized person of an unannounced survey of a residential 132560
facility by an authorized representative of the department. 132561

(J) In addition to any other information which may be 132562
required of applicants for a license pursuant to this section, the 132563
director shall require each applicant to provide a copy of an 132564

approved plan for a proposed residential facility pursuant to 132565
section 5123.042 of the Revised Code. This division does not apply 132566
to renewal of a license or to an applicant for an initial or 132567
modified license who meets the requirements of section 5123.193 or 132568
5123.197 of the Revised Code. 132569

(K) A licensee shall notify the owner of the building in 132570
which the licensee's residential facility is located of any 132571
significant change in the identity of the licensee or management 132572
contractor before the effective date of the change if the licensee 132573
is not the owner of the building. 132574

Pursuant to rules which shall be adopted in accordance with 132575
Chapter 119. of the Revised Code, the director may require 132576
notification to the department of any significant change in the 132577
ownership of a residential facility or in the identity of the 132578
licensee or management contractor. If the director determines that 132579
a significant change of ownership is proposed, the director shall 132580
consider the proposed change to be an application for development 132581
by a new operator pursuant to section 5123.042 of the Revised Code 132582
and shall advise the applicant within sixty days of the 132583
notification that the current license shall continue in effect or 132584
a new license will be required pursuant to this section. If the 132585
director requires a new license, the director shall permit the 132586
facility to continue to operate under the current license until 132587
the new license is issued, unless the current license is revoked, 132588
refused to be renewed, or terminated in accordance with Chapter 132589
119. of the Revised Code. 132590

(L) A county board of developmental disabilities, ~~the legal~~ 132591
~~rights service,~~ and any interested person may file complaints 132592
alleging violations of statute or department rule relating to 132593
residential facilities with the department. All complaints shall 132594
be in writing and shall state the facts constituting the basis of 132595
the allegation. The department shall not reveal the source of any 132596

complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(N) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice,

excluding Saturdays, Sundays, and legal holidays. If the director 132628
receives written comments from any notified officials within the 132629
specified time, the director shall make written findings 132630
concerning the comments and the director's decision on the 132631
issuance of the license. If the director does not receive written 132632
comments from any notified local officials within the specified 132633
time, the director shall continue the process for issuance of the 132634
license. 132635

(O) Any person may operate a licensed residential facility 132636
that provides room and board, personal care, habilitation 132637
services, and supervision in a family setting for at least six but 132638
not more than eight persons with mental retardation or a 132639
developmental disability as a permitted use in any residential 132640
district or zone, including any single-family residential district 132641
or zone, of any political subdivision. These residential 132642
facilities may be required to comply with area, height, yard, and 132643
architectural compatibility requirements that are uniformly 132644
imposed upon all single-family residences within the district or 132645
zone. 132646

(P) Any person may operate a licensed residential facility 132647
that provides room and board, personal care, habilitation 132648
services, and supervision in a family setting for at least nine 132649
but not more than sixteen persons with mental retardation or a 132650
developmental disability as a permitted use in any multiple-family 132651
residential district or zone of any political subdivision, except 132652
that a political subdivision that has enacted a zoning ordinance 132653
or resolution establishing planned unit development districts may 132654
exclude these residential facilities from those districts, and a 132655
political subdivision that has enacted a zoning ordinance or 132656
resolution may regulate these residential facilities in 132657
multiple-family residential districts or zones as a conditionally 132658
permitted use or special exception, in either case, under 132659

reasonable and specific standards and conditions set out in the 132660
zoning ordinance or resolution to: 132661

(1) Require the architectural design and site layout of the 132662
residential facility and the location, nature, and height of any 132663
walls, screens, and fences to be compatible with adjoining land 132664
uses and the residential character of the neighborhood; 132665

(2) Require compliance with yard, parking, and sign 132666
regulation; 132667

(3) Limit excessive concentration of these residential 132668
facilities. 132669

(Q) This section does not prohibit a political subdivision 132670
from applying to residential facilities nondiscriminatory 132671
regulations requiring compliance with health, fire, and safety 132672
regulations and building standards and regulations. 132673

(R) Divisions (O) and (P) of this section are not applicable 132674
to municipal corporations that had in effect on June 15, 1977, an 132675
ordinance specifically permitting in residential zones licensed 132676
residential facilities by means of permitted uses, conditional 132677
uses, or special exception, so long as such ordinance remains in 132678
effect without any substantive modification. 132679

(S)(1) The director may issue an interim license to operate a 132680
residential facility to an applicant for a license under this 132681
section if either of the following is the case: 132682

(a) The director determines that an emergency exists 132683
requiring immediate placement of persons in a residential 132684
facility, that insufficient licensed beds are available, and that 132685
the residential facility is likely to receive a permanent license 132686
under this section within thirty days after issuance of the 132687
interim license. 132688

(b) The director determines that the issuance of an interim 132689

license is necessary to meet a temporary need for a residential facility. 132690
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(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license. 132692
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(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days. 132697
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(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses. 132700
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(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986. 132703
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(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section. 132712
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The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court 132717
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may grant the injunction on a showing that the person or 132721
governmental agency named in the petition is operating a 132722
residential facility without a license. The court may grant the 132723
injunction, regardless of whether the residential facility meets 132724
the requirements for receiving a license under this section. 132725

Sec. 5123.191. (A) The court of common pleas or a judge 132726
thereof in the judge's county, or the probate court, may appoint a 132727
receiver to take possession of and operate a residential facility 132728
licensed by the department of developmental disabilities, in 132729
causes pending in such courts respectively, when conditions 132730
existing at the facility present a substantial risk of physical or 132731
mental harm to residents and no other remedies at law are adequate 132732
to protect the health, safety, and welfare of the residents. 132733
Conditions at the facility that may present such risk of harm 132734
include, but are not limited to, instances when any of the 132735
following occur: 132736

(1) The residential facility is in violation of state or 132737
federal law or regulations. 132738

(2) The facility has had its license revoked or procedures 132739
for revocation have been initiated, or the facility is closing or 132740
intends to cease operations. 132741

(3) Arrangements for relocating residents need to be made. 132742

(4) Insolvency of the operator, licensee, or landowner 132743
threatens the operation of the facility. 132744

(5) The facility or operator has demonstrated a pattern and 132745
practice of repeated violations of state or federal laws or 132746
regulations. 132747

(B) A court in which a petition is filed pursuant to this 132748
section shall notify the person holding the license for the 132749
facility and the department of developmental disabilities of the 132750

filing. The court shall order the department to notify the ~~legal~~ 132751
~~rights service,~~ facility owner, facility operator, county board of 132752
developmental disabilities, facility residents, and residents' 132753
parents and guardians of the filing of the petition. 132754

The court shall provide a hearing on the petition within five 132755
court days of the time it was filed, except that the court may 132756
appoint a receiver prior to that time if it determines that the 132757
circumstances necessitate such action. Following a hearing on the 132758
petition, and upon a determination that the appointment of a 132759
receiver is warranted, the court shall appoint a receiver and 132760
notify the department of developmental disabilities and 132761
appropriate persons of this action. 132762

(C) A residential facility for which a receiver has been 132763
named is deemed to be in compliance with section 5123.19 and 132764
Chapter 3721. of the Revised Code for the duration of the 132765
receivership. 132766

(D) When the operating revenue of a residential facility in 132767
receivership is insufficient to meet its operating expenses, 132768
including the cost of bringing the facility into compliance with 132769
state or federal laws or regulations, the court may order the 132770
state to provide necessary funding, except as provided in division 132771
(K) of this section. The state shall provide such funding, subject 132772
to the approval of the controlling board. The court may also order 132773
the appropriate authorities to expedite all inspections necessary 132774
for the issuance of licenses or the certification of a facility, 132775
and order a facility to be closed if it determines that reasonable 132776
efforts cannot bring the facility into substantial compliance with 132777
the law. 132778

(E) In establishing a receivership, the court shall set forth 132779
the powers and duties of the receiver. The court may generally 132780
authorize the receiver to do all that is prudent and necessary to 132781
safely and efficiently operate the residential facility within the 132782

requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver it has appointed and shall require regular and detailed reports. The receivership shall be reviewed at least every sixty days.

(F) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility.

(2) Circumstances no longer exist at the facility that present a substantial risk of physical or mental harm to residents, and there is no deficiency in the facility that is likely to create a future risk of harm.

Notwithstanding division (F)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of developmental disabilities.

(G) The department of developmental disabilities may, upon its own initiative or at the request of an owner, operator, or resident of a residential facility, or at the request of a resident's guardian or relative, or a county board of developmental disabilities, ~~or the legal rights service~~, petition the court to appoint a receiver to take possession of and operate a residential facility. When the department has been requested to file a petition by any of the parties listed above, it shall, within forty-eight hours of such request, either file such a

petition or notify the requesting party of its decision not to 132814
file. If the department refuses to file, the requesting party may 132815
file a petition with the court requesting the appointment of a 132816
receiver to take possession of and operate a residential facility. 132817

Petitions filed pursuant to this division shall include the 132818
following: 132819

(1) A description of the specific conditions existing at the 132820
facility which present a substantial risk of physical or mental 132821
harm to residents; 132822

(2) A statement of the absence of other adequate remedies at 132823
law; 132824

(3) The number of individuals residing at the facility; 132825

(4) A statement that the facts have been brought to the 132826
attention of the owner or licensee and that conditions have not 132827
been remedied within a reasonable period of time or that the 132828
conditions, though remedied periodically, habitually exist at the 132829
facility as a pattern or practice; 132830

(5) The name and address of the person holding the license 132831
for the facility and the address of the department of 132832
developmental disabilities. 132833

The court may award to an operator appropriate costs and 132834
expenses, including reasonable attorney's fees, if it determines 132835
that a petitioner has initiated a proceeding in bad faith or 132836
merely for the purpose of harassing or embarrassing the operator. 132837

(H) Except for the department of developmental disabilities 132838
or a county board of developmental disabilities, no party or 132839
person interested in an action shall be appointed a receiver 132840
pursuant to this section. 132841

To assist the court in identifying persons qualified to be 132842
named as receivers, the director of developmental disabilities or 132843

the director's designee shall maintain a list of the names of such persons. The director shall, in accordance with Chapter 119. of the Revised Code, establish standards for evaluating persons desiring to be included on such a list.

(I) Before a receiver enters upon the duties of that person, the receiver must be sworn to perform the duties of receiver faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(J) Under the control of the appointing court, a receiver may bring and defend actions in the receiver's own name as receiver and take and keep possession of property.

The court shall authorize the receiver to do the following:

(1) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

(2) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession and continues to use, subject to the following conditions:

(a) In the case of a rental agreement, only to the extent of payments that are for the use of the property during the period of the receivership;

(b) In the case of a purchase agreement only to the extent of payments that come due during the period of the receivership.

(3) If transfer of residents is necessary, provide for the

orderly transfer of residents by doing the following:	132874
(a) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;	132875 132876 132877
(b) Providing for the transportation of residents' belongings and records;	132878 132879
(c) Helping to locate alternative placements and develop discharge plans;	132880 132881
(d) Preparing residents for the trauma of discharge;	132882
(e) Permitting residents or guardians to participate in transfer or discharge planning except when an emergency exists and immediate transfer is necessary.	132883 132884 132885
(4) Make periodic reports on the status of the residential program to the appropriate state agency, county board of developmental disabilities, parents, guardians, and residents;	132886 132887 132888
(5) Compromise demands or claims;	132889
(6) Generally do such acts respecting the residential facility as the court authorizes.	132890 132891
(K) Neither the receiver nor the department of developmental disabilities is liable for debts incurred by the owner or operator of a residential facility for which a receiver has been appointed.	132892 132893 132894
(L) The department of developmental disabilities may contract for the operation of a residential facility in receivership. The department shall establish the conditions of a contract. Notwithstanding any other provision of law, contracts that are necessary to carry out the powers and duties of the receiver need not be competitively bid.	132895 132896 132897 132898 132899 132900
(M) The department of developmental disabilities, the department of job and family services, and the department of health shall provide technical assistance to any receiver	132901 132902 132903

appointed pursuant to this section. 132904

Sec. 5123.35. (A) There is hereby created the Ohio 132905
developmental disabilities council, which shall serve as an 132906
advocate for all persons with developmental disabilities. The 132907
council shall act in accordance with the "Developmental 132908
Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 132909
(1984), 42 U.S.C. 6001, as amended. The governor shall appoint the 132910
members of the council in accordance with 42 U.S.C. 6024. 132911

(B) The Ohio developmental disabilities council shall develop 132912
the state plan required by federal law as a condition of receiving 132913
federal assistance under 42 U.S.C. 6021 to 6030. The department of 132914
developmental disabilities, as the state agency selected by the 132915
governor for purposes of receiving the federal assistance, shall 132916
receive, account for, and disburse funds based on the state plan 132917
and shall provide assurances and other administrative support 132918
services required as a condition of receiving the federal 132919
assistance. 132920

(C) The federal funds may be disbursed through grants to or 132921
contracts with persons and government agencies for the provision 132922
of necessary or useful goods and services for developmentally 132923
disabled persons. The Ohio developmental disabilities council may 132924
award the grants or enter into the contracts. 132925

(D) The Ohio developmental disabilities council may award 132926
grants to or enter into contracts with a member of the council or 132927
an entity that the member represents if all of the following 132928
apply: 132929

(1) The member serves on the council as a representative of 132930
one of the principal state agencies concerned with services for 132931
persons with developmental disabilities as specified in 42 U.S.C. 132932
6024(b)(3), a representative of a university affiliated program as 132933
defined in 42 U.S.C. 6001(18), or a representative of the ~~legal~~ 132934

~~rights service created under Ohio protection and advocacy system,~~ 132935
~~as defined in~~ section 5123.60 of the Revised Code. 132936

(2) The council determines that the member or the entity the 132937
member represents is capable of providing the goods or services 132938
specified under the terms of the grant or contract. 132939

(3) The member has not taken part in any discussion or vote 132940
of the council related to awarding the grant or entering into the 132941
contract, including service as a member of a review panel 132942
established by the council to award grants or enter into contracts 132943
or to make recommendations with regard to awarding grants or 132944
entering into contracts. 132945

(E) A member of the Ohio developmental disabilities council 132946
is not in violation of Chapter 102. or section 2921.42 of the 132947
Revised Code with regard to receiving a grant or entering into a 132948
contract under this section if the requirements of division (D) of 132949
this section have been met. 132950

Sec. 5123.60. (A) As used in this section and section 132951
5123.601 of the Revised Code, "Ohio protection and advocacy 132952
system" means the nonprofit entity designated by the governor in 132953
accordance with H.B. 153 of the 129th general assembly to serve as 132954
the state's protection and advocacy system and client assistance 132955
program. 132956

(B) The Ohio protection and advocacy system shall provide 132957
both of the following: 132958

(1) Advocacy services for people with disabilities, as 132959
provided under section 101 of the "Developmental Disabilities 132960
Assistance and Bill of Rights Act of 2000," 114 Stat. 1678 (2000), 132961
42 U.S.C. 15001; 132962

(2) A client assistance program, as provided under section 132963
112 of the "Workforce Investment Act of 1998," 112 Stat. 1163 132964

(1998), 29 U.S.C. 732, as amended. 132965

(C) The Ohio protection and advocacy system may establish any 132966
guidelines necessary for its operation. 132967

Sec. ~~5123.60~~ 5123.601. (A) ~~A legal rights service is hereby~~ 132968
~~created and established to protect and advocate the rights of~~ 132969
~~mentally ill persons, mentally retarded persons, developmentally~~ 132970
~~disabled persons, and other disabled persons who may be~~ 132971
~~represented by the service pursuant to division (L) of this~~ 132972
~~section; to receive and act upon complaints concerning~~ 132973
~~institutional and hospital practices and conditions of~~ 132974
~~institutions for mentally retarded or developmentally disabled~~ 132975
~~persons and hospitals for the mentally ill; and to assure that all~~ 132976
~~persons detained, hospitalized, discharged, or institutionalized,~~ 132977
~~and all persons whose detention, hospitalization, discharge, or~~ 132978
~~institutionalization is sought or has been sought under this~~ 132979
~~chapter or Chapter 5122. of the Revised Code are fully informed of~~ 132980
~~their rights and adequately represented by counsel in proceedings~~ 132981
~~under this chapter or Chapter 5122. of the Revised Code and in any~~ 132982
~~proceedings to secure the rights of those persons. Notwithstanding~~ 132983
~~the definitions of "mentally retarded person" and "developmentally~~ 132984
~~disabled person" in section 5123.01 of the Revised Code, the legal~~ 132985
~~rights service shall determine who is a mentally retarded or~~ 132986
~~developmentally disabled person for purposes of this section and~~ 132987
~~sections 5123.601 to 5123.604 of the Revised Code.~~ 132988

~~(B)(1) In regard to those persons detained, hospitalized, or~~ 132989
~~institutionalized under Chapter 5122. of the Revised Code, the~~ 132990
~~legal rights service shall undertake formal representation only of~~ 132991
~~those persons who are involuntarily detained, hospitalized, or~~ 132992
~~institutionalized pursuant to sections 5122.10 to 5122.15 of the~~ 132993
~~Revised Code, and those voluntarily detained, hospitalized, or~~ 132994
~~institutionalized who are minors, who have been adjudicated~~ 132995

~~incompetent, who have been detained, hospitalized, or 132996
institutionalized in a public hospital, or who have requested 132997
representation by the legal rights service. 132998~~

~~(2) If a person referred to in division (A) of this section 132999
voluntarily requests in writing that the legal rights service 133000
terminate participation in the person's case, such involvement 133001
shall cease. 133002~~

~~(3) Persons described in divisions (A) and (B)(1) of this 133003
section who are represented by the legal rights service are 133004
clients of the legal rights service. 133005~~

~~(C) Any person voluntarily hospitalized or institutionalized 133006
in a public hospital under division (A) of section 5122.02 of the 133007
Revised Code, after being fully informed of the person's rights 133008
under division (A) of this section, may, by written request, waive 133009
assistance by the legal rights service if the waiver is knowingly 133010
and intelligently made, without duress or coercion. 133011~~

~~The waiver may be rescinded at any time by the voluntary 133012
patient or resident, or by the voluntary patient's or resident's 133013
legal guardian. 133014~~

~~(D)(1) The legal rights service commission is hereby created 133015
for the purposes of appointing an administrator of the legal 133016
rights service, advising the administrator, assisting the 133017
administrator in developing a budget, advising the administrator 133018
in establishing and annually reviewing a strategic plan, creating 133019
a procedure for filing and determination of grievances against the 133020
legal rights service, and establishing general policy guidelines, 133021
including guidelines for the commencement of litigation, for the 133022
legal rights service. The commission may adopt rules to carry 133023
these purposes into effect and may receive and act upon appeals of 133024
personnel decisions by the administrator. 133025~~

~~(2) The commission shall consist of seven members. One 133026~~

~~member, who shall serve as chairperson, shall be appointed by the
chief justice of the supreme court, three members shall be
appointed by the speaker of the house of representatives, and
three members shall be appointed by the president of the senate.
At least two members shall have experience in the field of
developmental disabilities, and at least two members shall have
experience in the field of mental health. No member shall be a
provider or related to a provider of services to mentally
retarded, developmentally disabled, or mentally ill persons.~~

~~(3) Terms of office of the members of the commission shall be
for three years, each term ending on the same day of the month of
the year as did the term which it succeeds. Each member shall
serve subsequent to the expiration of the member's term until a
successor is appointed and qualifies, or until sixty days has
elapsed, whichever occurs first. No member shall serve more than
two consecutive terms.~~

~~All vacancies in the membership of the commission shall be
filled in the manner prescribed for regular appointments to the
commission and shall be limited to the unexpired terms.~~

~~(4) The commission shall meet at least four times each year.
Members shall be reimbursed for their necessary and actual
expenses incurred in the performance of their official duties.~~

~~(5) The administrator of the legal rights service shall serve
at the pleasure of the commission.~~

~~The administrator shall be an attorney admitted to practice
law in this state. The salary of the administrator shall be
established in accordance with section 124.14 of the Revised Code.~~

~~(E) The legal rights service shall be completely independent
of the department of mental health and the department of
developmental disabilities and, notwithstanding section 109.02 of
the Revised Code, shall also be independent of the office of the~~

~~attorney general.~~ The ~~administrator of the legal rights service,~~ 133058
Ohio protection and advocacy system staff, and attorneys 133059
designated by the ~~administrator~~ system to represent persons 133060
detained, hospitalized, or institutionalized under this chapter or 133061
Chapter 5122. of the Revised Code shall have ready access to all 133062
of the following: 133063

(1) During normal business hours and at other reasonable 133064
times, all records, except records of community residential 133065
facilities and records of contract agencies of county boards of 133066
developmental disabilities and boards of alcohol, drug addiction, 133067
and mental health services, relating to expenditures of state and 133068
federal funds or to the commitment, care, treatment, and 133069
habilitation of all persons represented by the ~~legal rights~~ 133070
~~service~~ Ohio protection and advocacy system, including those who 133071
may be represented pursuant to division ~~(L)~~(D) of this section, or 133072
persons detained, hospitalized, institutionalized, or receiving 133073
services under this chapter or Chapter 340., 5119., 5122., or 133074
5126. of the Revised Code that are records maintained by the 133075
following entities providing services for those persons: 133076
departments; institutions; hospitals; boards of alcohol, drug 133077
addiction, and mental health services; county boards of 133078
developmental disabilities; and any other entity providing 133079
services to persons who may be represented by the ~~service~~ Ohio 133080
protection and advocacy system pursuant to division ~~(L)~~(D) of this 133081
section; 133082

(2) Any records maintained in computerized data banks of the 133083
departments or boards or, in the case of persons who may be 133084
represented by the ~~service~~ Ohio protection and advocacy system 133085
pursuant to division ~~(L)~~(D) of this section, any other entity that 133086
provides services to those persons; 133087

(3) During their normal working hours, personnel of the 133088
departments, facilities, boards, agencies, institutions, 133089

hospitals, and other service-providing entities; 133090

(4) At any time, all persons detained, hospitalized, or 133091
institutionalized; persons receiving services under this chapter 133092
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 133093
persons who may be represented by the ~~service~~ Ohio protection and 133094
advocacy system pursuant to division ~~(L)~~(D) of this section. 133095

(5) Records of a community residential facility, a contract 133096
agency of a board of alcohol, drug addiction, and mental health 133097
services, or a contract agency of a county board of developmental 133098
disabilities with one of the following consents: 133099

(a) The consent of the person, including when the person is a 133100
minor or has been adjudicated incompetent; 133101

(b) The consent of the person's guardian of the person, if 133102
any, or the parent if the person is a minor; 133103

(c) No consent, if the person is unable to consent for any 133104
reason, and the guardian of the person, if any, or the parent of 133105
the minor, has refused to consent or has not responded to a 133106
request for consent and either of the following has occurred: 133107

(i) A complaint regarding the person has been received by the 133108
~~legal rights service~~ Ohio protection and advocacy system; 133109

(ii) The ~~legal rights service~~ Ohio protection and advocacy 133110
system has determined that there is probable cause to believe that 133111
such person has been subjected to abuse or neglect. 133112

~~(F) The administrator of the legal rights service shall do~~ 133113
~~the following:~~ 133114

~~(1) Administer and organize the work of the legal rights~~ 133115
~~service and establish administrative or geographic divisions as~~ 133116
~~the administrator considers necessary, proper, and expedient;~~ 133117

~~(2) Adopt and promulgate rules that are not in conflict with~~ 133118
~~rules adopted by the commission and prescribe duties for the~~ 133119

efficient conduct of the business and general administration of	133120
the legal rights service;	133121
(3) Appoint and discharge employees, and hire experts,	133122
consultants, advisors, or other professionally qualified persons	133123
as the administrator considers necessary to carry out the duties	133124
of the legal rights service;	133125
(4) Apply for and accept grants of funds, and accept	133126
charitable gifts and bequests;	133127
(5) Prepare and submit a budget to the general assembly for	133128
the operation of the legal rights service. At least thirty days	133129
prior to submitting the budget to the general assembly, the	133130
administrator shall provide a copy of the budget to the commission	133131
for review and comment. When submitting the budget to the general	133132
assembly, the administrator shall include a copy of any written	133133
comments returned by the commission to the administrator.	133134
(6) Enter into contracts and make expenditures necessary for	133135
the efficient operation of the legal rights service;	133136
(7) Annually prepare a report of activities and submit copies	133137
of the report to the governor, the chief justice of the supreme	133138
court, the president of the senate, the speaker of the house of	133139
representatives, the director of mental health, and the director	133140
of developmental disabilities, and make the report available to	133141
the public;	133142
(8) Upon request of the commission or of the chairperson of	133143
the commission, report to the commission on specific litigation	133144
issues or activities.	133145
(C)(1) The legal rights service may act directly or contract	133146
with other organizations or individuals for the provision of the	133147
services envisioned under this section.	133148
(2) Whenever possible, the administrator shall attempt to	133149

~~facilitate the resolution of complaints through administrative channels. Subject to division (G)(3) of this section, if attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section.~~

~~(3) The administrator may not pursue a class action lawsuit under division (G)(2) of this section when attempts at administrative resolution of a complaint prove unsatisfactory under that division unless both of the following have first occurred:~~

~~(a) At least four members of the commission, by their affirmative vote, have consented to the pursuit of the class action lawsuit;~~

~~(b) At least five members of the commission are present at the meeting of the commission at which that consent is obtained.~~

~~(4) The class represented in any class action lawsuit brought by the legal rights service shall include only persons who are mentally ill, mentally retarded, or developmentally disabled.~~

~~(5) If compensation for the work of attorneys employed by the legal rights service or another agency or political subdivision of the state is awarded to the service in a class action lawsuit pursued by the service, the compensation shall be limited to the actual hourly rate of pay for that legal work.~~

~~(6)(B) All records received or maintained by the legal rights service Ohio protection and advocacy system in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the legal rights service Ohio protection and advocacy system or, subject to any privilege, a guardian of the person or parent of the minor. Subject to~~

~~division (G)(5) of this section, relationships~~ Relationships 133181
~~between personnel and the agents of the legal rights service~~ Ohio 133182
~~protection and advocacy system~~ and its clients shall be fiduciary 133183
relationships, and all communications shall be privileged as if 133184
between attorney and client. 133185

~~(7) Any person who has been represented by the legal rights~~ 133186
~~service or who has applied for and been denied representation and~~ 133187
~~who files a grievance with the service concerning the~~ 133188
~~representation or application may appeal the decision of the~~ 133189
~~service on the grievance to the commission. The person may appeal~~ 133190
~~notwithstanding any objections of the person's legal guardian. The~~ 133191
~~commission may examine any records relevant to the appeal and~~ 133192
~~shall maintain the confidentiality of any records that are~~ 133193
~~required to be kept confidential.~~ 133194

~~(H)(C) The legal rights service, on the order of the~~ 133195
~~administrator, with the approval by an affirmative vote of at~~ 133196
~~least four members of the commission, Ohio protection and advocacy~~ 133197
~~system may compel by subpoena the appearance and sworn testimony~~ 133198
~~of any person the administrator Ohio protection and advocacy~~ 133199
~~system reasonably believes may be able to provide information or~~ 133200
~~to produce any documents, books, records, papers, or other~~ 133201
~~information necessary to carry out its duties. On the refusal of~~ 133202
~~any person to produce or authenticate any requested documents, the~~ 133203
~~legal rights service Ohio protection and advocacy system may apply~~ 133204
~~to the Franklin county court of common pleas to compel the~~ 133205
~~production or authentication of requested documents. If the court~~ 133206
~~finds that failure to produce or authenticate any requested~~ 133207
~~documents was improper, the court may hold the person in contempt~~ 133208
~~as in the case of disobedience of the requirements of a subpoena~~ 133209
~~issued from the court, or a refusal to testify in the court.~~ 133210

~~(I) The legal rights service may conduct public hearings.~~ 133211

~~(J) The legal rights service may request from any~~ 133212

~~governmental agency any cooperation, assistance, services, or data 133213
that will enable it to perform its duties. 133214~~

~~(K) In any malpractice action filed against the administrator 133215
of the legal rights service, a member of the staff of the legal 133216
rights service, or an attorney designated by the administrator to 133217
perform legal services under division (E) of this section, the 133218
state shall, when the administrator, member, or attorney has acted 133219
in good faith and in the scope of employment, indemnify the 133220
administrator, member, or attorney for any judgment awarded or 133221
amount negotiated in settlement, and for any court costs or legal 133222
fees incurred in defense of the claim. 133223~~

~~This division does not limit or waive, and shall not be 133224
construed to limit or waive, any defense that is available to the 133225
legal rights service, its administrator or employees, persons 133226
under a personal services contract with it, or persons designated 133227
under division (E) of this section, including, but not limited to, 133228
any defense available under section 9.86 of the Revised Code. 133229~~

~~(L)(D) In addition to providing services to mentally ill, 133230
mentally retarded, or developmentally disabled persons, when a 133231
grant authorizing the provision of services to other individuals 133232
is accepted pursuant to division (F)(4) of this section by the 133233
Ohio protection and advocacy system, the legal rights service and 133234
its ombudsperson section Ohio protection and advocacy system may 133235
provide advocacy or ombudsperson services to those other 133236
individuals and exercise any other authority granted by this 133237
section or sections 5123.601 to 5123.604 of the Revised Code on 133238
behalf of those individuals. Determinations of whether an 133239
individual is eligible for services under this division shall be 133240
made by the legal rights service Ohio protection and advocacy 133241
system. 133242~~

Sec. 5123.602. (A) The class represented in any class action 133243

lawsuit brought by the Ohio protection and advocacy system shall 133244
include only persons who are mentally ill, mentally retarded, or 133245
developmentally disabled. 133246

(B) If compensation for the work of attorneys employed by the 133247
Ohio protection and advocacy system or an agency or political 133248
subdivision of the state is awarded to the system in a class 133249
action lawsuit pursued by the system, the compensation shall be 133250
limited to the actual hourly rate of pay for that legal work. 133251

Sec. 5123.61. (A) As used in this section: 133252

(1) "Law enforcement agency" means the state highway patrol, 133253
the police department of a municipal corporation, or a county 133254
sheriff. 133255

(2) "Abuse" has the same meaning as in section 5123.50 of the 133256
Revised Code, except that it includes a misappropriation, as 133257
defined in that section. 133258

(3) "Neglect" has the same meaning as in section 5123.50 of 133259
the Revised Code. 133260

(B) The department of developmental disabilities shall 133261
establish a registry office for the purpose of maintaining reports 133262
of abuse, neglect, and other major unusual incidents made to the 133263
department under this section and reports received from county 133264
boards of developmental disabilities under section 5126.31 of the 133265
Revised Code. The department shall establish committees to review 133266
reports of abuse, neglect, and other major unusual incidents. 133267

(C)(1) Any person listed in division (C)(2) of this section, 133268
having reason to believe that a person with mental retardation or 133269
a developmental disability has suffered or faces a substantial 133270
risk of suffering any wound, injury, disability, or condition of 133271
such a nature as to reasonably indicate abuse or neglect of that 133272
person, shall immediately report or cause reports to be made of 133273

such information to the entity specified in this division. Except 133274
as provided in section 5120.173 of the Revised Code or as 133275
otherwise provided in this division, the person making the report 133276
shall make it to a law enforcement agency or to the county board 133277
of developmental disabilities. If the report concerns a resident 133278
of a facility operated by the department of developmental 133279
disabilities the report shall be made either to a law enforcement 133280
agency or to the department. If the report concerns any act or 133281
omission of an employee of a county board of developmental 133282
disabilities, the report immediately shall be made to the 133283
department and to the county board. 133284

(2) All of the following persons are required to make a 133285
report under division (C)(1) of this section: 133286

(a) Any physician, including a hospital intern or resident, 133287
any dentist, podiatrist, chiropractor, practitioner of a limited 133288
branch of medicine as specified in section 4731.15 of the Revised 133289
Code, hospital administrator or employee of a hospital, nurse 133290
licensed under Chapter 4723. of the Revised Code, employee of an 133291
ambulatory health facility as defined in section 5101.61 of the 133292
Revised Code, employee of a home health agency, employee of an 133293
adult care facility licensed under Chapter 3722. of the Revised 133294
Code, or employee of a community mental health facility; 133295

(b) Any school teacher or school authority, social worker, 133296
psychologist, attorney, peace officer, coroner, or residents' 133297
rights advocate as defined in section 3721.10 of the Revised Code; 133298

(c) A superintendent, board member, or employee of a county 133299
board of developmental disabilities; an administrator, board 133300
member, or employee of a residential facility licensed under 133301
section 5123.19 of the Revised Code; an administrator, board 133302
member, or employee of any other public or private provider of 133303
services to a person with mental retardation or a developmental 133304
disability, or any MR/DD employee, as defined in section 5123.50 133305

of the Revised Code; 133306

(d) A member of a citizen's advisory council established at 133307
an institution or branch institution of the department of 133308
developmental disabilities under section 5123.092 of the Revised 133309
Code; 133310

(e) A clergyman who is employed in a position that includes 133311
providing specialized services to an individual with mental 133312
retardation or another developmental disability, while acting in 133313
an official or professional capacity in that position, or a person 133314
who is employed in a position that includes providing specialized 133315
services to an individual with mental retardation or another 133316
developmental disability and who, while acting in an official or 133317
professional capacity, renders spiritual treatment through prayer 133318
in accordance with the tenets of an organized religion. 133319

(3)(a) The reporting requirements of this division do not 133320
apply to ~~members of the legal rights service commission or to~~ 133321
employees of the ~~legal rights service~~ Ohio protection and advocacy 133322
system. 133323

(b) An attorney or physician is not required to make a report 133324
pursuant to division (C)(1) of this section concerning any 133325
communication the attorney or physician receives from a client or 133326
patient in an attorney-client or physician-patient relationship, 133327
if, in accordance with division (A) or (B) of section 2317.02 of 133328
the Revised Code, the attorney or physician could not testify with 133329
respect to that communication in a civil or criminal proceeding, 133330
except that the client or patient is deemed to have waived any 133331
testimonial privilege under division (A) or (B) of section 2317.02 133332
of the Revised Code with respect to that communication and the 133333
attorney or physician shall make a report pursuant to division 133334
(C)(1) of this section, if both of the following apply: 133335

(i) The client or patient, at the time of the communication, 133336

is a person with mental retardation or a developmental disability. 133337

(ii) The attorney or physician knows or suspects, as a result 133338
of the communication or any observations made during that 133339
communication, that the client or patient has suffered or faces a 133340
substantial risk of suffering any wound, injury, disability, or 133341
condition of a nature that reasonably indicates abuse or neglect 133342
of the client or patient. 133343

(4) Any person who fails to make a report required under 133344
division (C) of this section and who is an MR/DD employee, as 133345
defined in section 5123.50 of the Revised Code, shall be eligible 133346
to be included in the registry regarding misappropriation, abuse, 133347
neglect, or other specified misconduct by MR/DD employees 133348
established under section 5123.52 of the Revised Code. 133349

(D) The reports required under division (C) of this section 133350
shall be made forthwith by telephone or in person and shall be 133351
followed by a written report. The reports shall contain the 133352
following: 133353

(1) The names and addresses of the person with mental 133354
retardation or a developmental disability and the person's 133355
custodian, if known; 133356

(2) The age of the person with mental retardation or a 133357
developmental disability; 133358

(3) Any other information that would assist in the 133359
investigation of the report. 133360

(E) When a physician performing services as a member of the 133361
staff of a hospital or similar institution has reason to believe 133362
that a person with mental retardation or a developmental 133363
disability has suffered injury, abuse, or physical neglect, the 133364
physician shall notify the person in charge of the institution or 133365
that person's designated delegate, who shall make the necessary 133366
reports. 133367

(F) Any person having reasonable cause to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering abuse or neglect may report or cause a report to be made of that belief to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or the county board of developmental disabilities. If the person is a resident of a facility operated by the department of developmental disabilities, the report shall be made to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(G)(1) Upon the receipt of a report concerning the possible abuse or neglect of a person with mental retardation or a developmental disability, the law enforcement agency shall inform the county board of developmental disabilities or, if the person is a resident of a facility operated by the department of developmental disabilities, the director of the department or the director's designee.

(2) On receipt of a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the department of developmental disabilities shall notify the law enforcement agency.

(3) When a county board of developmental disabilities receives a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the superintendent of the board or an individual the superintendent designates under division (H) of this section shall notify the law enforcement agency. The

superintendent or individual shall notify the department of 133400
developmental disabilities when it receives any report under this 133401
section. 133402

(4) When a county board of developmental disabilities 133403
receives a report under this section and believes that the degree 133404
of risk to the person is such that the report is an emergency, the 133405
superintendent of the board or an employee of the board the 133406
superintendent designates shall attempt a face-to-face contact 133407
with the person with mental retardation or a developmental 133408
disability who allegedly is the victim within one hour of the 133409
board's receipt of the report. 133410

(H) The superintendent of the board may designate an 133411
individual to be responsible for notifying the law enforcement 133412
agency and the department when the county board receives a report 133413
under this section. 133414

(I) An adult with mental retardation or a developmental 133415
disability about whom a report is made may be removed from the 133416
adult's place of residence only by law enforcement officers who 133417
consider that the adult's immediate removal is essential to 133418
protect the adult from further injury or abuse or in accordance 133419
with the order of a court made pursuant to section 5126.33 of the 133420
Revised Code. 133421

(J) A law enforcement agency shall investigate each report of 133422
abuse or neglect it receives under this section. In addition, the 133423
department, in cooperation with law enforcement officials, shall 133424
investigate each report regarding a resident of a facility 133425
operated by the department to determine the circumstances 133426
surrounding the injury, the cause of the injury, and the person 133427
responsible. The investigation shall be in accordance with the 133428
memorandum of understanding prepared under section 5126.058 of the 133429
Revised Code. The department shall determine, with the registry 133430
office which shall be maintained by the department, whether prior 133431

reports have been made concerning an adult with mental retardation 133432
or a developmental disability or other principals in the case. If 133433
the department finds that the report involves action or inaction 133434
that may constitute a crime under federal law or the law of this 133435
state, it shall submit a report of its investigation, in writing, 133436
to the law enforcement agency. If the person with mental 133437
retardation or a developmental disability is an adult, with the 133438
consent of the adult, the department shall provide such protective 133439
services as are necessary to protect the adult. The law 133440
enforcement agency shall make a written report of its findings to 133441
the department. 133442

If the person is an adult and is not a resident of a facility 133443
operated by the department, the county board of developmental 133444
disabilities shall review the report of abuse or neglect in 133445
accordance with sections 5126.30 to 5126.33 of the Revised Code 133446
and the law enforcement agency shall make the written report of 133447
its findings to the county board. 133448

(K) Any person or any hospital, institution, school, health 133449
department, or agency participating in the making of reports 133450
pursuant to this section, any person participating as a witness in 133451
an administrative or judicial proceeding resulting from the 133452
reports, or any person or governmental entity that discharges 133453
responsibilities under sections 5126.31 to 5126.33 of the Revised 133454
Code shall be immune from any civil or criminal liability that 133455
might otherwise be incurred or imposed as a result of such actions 133456
except liability for perjury, unless the person or governmental 133457
entity has acted in bad faith or with malicious purpose. 133458

(L) No employer or any person with the authority to do so 133459
shall discharge, demote, transfer, prepare a negative work 133460
performance evaluation, reduce pay or benefits, terminate work 133461
privileges, or take any other action detrimental to an employee or 133462
retaliate against an employee as a result of the employee's having 133463

made a report under this section. This division does not preclude 133464
an employer or person with authority from taking action with 133465
regard to an employee who has made a report under this section if 133466
there is another reasonable basis for the action. 133467

(M) Reports made under this section are not public records as 133468
defined in section 149.43 of the Revised Code. Information 133469
contained in the reports on request shall be made available to the 133470
person who is the subject of the report, to the person's legal 133471
counsel, and to agencies authorized to receive information in the 133472
report by the department or by a county board of developmental 133473
disabilities. 133474

(N) Notwithstanding section 4731.22 of the Revised Code, the 133475
physician-patient privilege shall not be a ground for excluding 133476
evidence regarding the injuries or physical neglect of a person 133477
with mental retardation or a developmental disability or the cause 133478
thereof in any judicial proceeding resulting from a report 133479
submitted pursuant to this section. 133480

Sec. 5123.63. Every state agency, county board of 133481
developmental disabilities, or political subdivision that provides 133482
services, either directly or through a contract, to persons with 133483
mental retardation or a developmental disability shall give each 133484
provider a copy of the list of rights contained in section 5123.62 133485
of the Revised Code. Each public and private provider of services 133486
shall carry out the requirements of this section in addition to 133487
any other posting or notification requirements imposed by local, 133488
state, or federal law or rules. 133489

The provider shall make copies of the list of rights and 133490
shall be responsible for an initial distribution of the list to 133491
each individual receiving services from the provider. If the 133492
individual is unable to read the list, the provider shall 133493
communicate the contents of the list to the individual to the 133494

extent practicable in a manner that the individual understands. 133495
The individual receiving services or the parent, guardian, or 133496
advocate of the individual shall sign an acknowledgement of 133497
receipt of a copy of the list of rights, and a copy of the signed 133498
acknowledgement shall be placed in the individual's file. The 133499
provider shall also be responsible for answering any questions and 133500
giving any explanations necessary to assist the individual to 133501
understand the rights enumerated. Instruction in these rights 133502
shall be documented. 133503

Each provider shall make available to all persons receiving 133504
services and all employees and visitors a copy of the list of 133505
rights and the addresses and telephone numbers of the ~~legal rights~~ 133506
~~service~~ Ohio protection and advocacy system, the department of 133507
developmental disabilities, and the county board of developmental 133508
disabilities of the county in which the provider provides 133509
services. 133510

Sec. 5123.64. (A) Every provider of services to persons with 133511
mental retardation or a developmental disability shall establish 133512
policies and programs to ensure that all staff members are 133513
familiar with the rights enumerated in section 5123.62 of the 133514
Revised Code and observe those rights in their contacts with 133515
persons receiving services. Any policy, procedure, or rule of the 133516
provider that conflicts with any of the rights enumerated shall be 133517
null and void. Every provider shall establish written procedures 133518
for resolving complaints of violations of those rights. A copy of 133519
the procedures shall be provided to any person receiving services 133520
or to any parent, guardian, or advocate of a person receiving 133521
services. 133522

(B) Any person with mental retardation or a developmental 133523
disability who believes that the person's rights as enumerated in 133524
section 5123.62 of the Revised Code have been violated may: 133525

(1) Bring the violation to the attention of the provider for resolution; 133526
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(2) Report the violation to the department of developmental disabilities, the ~~ombudsman section of the legal rights service~~ Ohio protection and advocacy system, or the appropriate county board of developmental disabilities; 133528
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(3) Take any other appropriate action to ensure compliance with sections ~~5123.60~~ 5123.61 to 5123.64 of the Revised Code, including the filing of a legal action to enforce rights or to recover damages for violation of rights. 133532
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Sec. 5123.69. (A) Except as provided in division ~~(E)~~(D) of this section, any person who is eighteen years of age or older and who is or believes self to be mentally retarded may make written application to the managing officer of any institution for voluntary admission. Except as provided in division ~~(E)~~(D) of this section, the application may be made on behalf of a minor by a parent or guardian, and on behalf of an adult adjudicated mentally incompetent by a guardian. 133536
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(B) The managing officer of an institution, with the concurrence of the chief program director, may admit a person applying pursuant to this section only after a comprehensive evaluation has been made of the person and only if the comprehensive evaluation concludes that the person is mentally retarded and would benefit significantly from admission. 133544
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~~(C) If application for voluntary admission of a minor or of a person adjudicated mentally incompetent is made by the parent or guardian of the minor or by the guardian of an incompetent and the minor or incompetent is admitted, the probate division of the court of common pleas shall determine, upon petition by the legal rights service, whether the voluntary admission or continued institutionalization is in the best interest of the minor or~~ 133550
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~~incompetent.~~ 133557

~~(D)~~ The managing officer shall discharge any voluntary 133558
resident if, in the judgment of the chief program director, the 133559
results of a comprehensive examination indicate that 133560
institutionalization no longer is advisable. In light of the 133561
results of the comprehensive evaluation, the managing officer also 133562
may discharge any voluntary resident if, in the judgment of the 133563
chief program director, the discharge would contribute to the most 133564
effective use of the institution in the habilitation and care of 133565
the mentally retarded. 133566

~~(E)~~(D) A person who is found incompetent to stand trial or 133567
not guilty by reason of insanity and who is committed pursuant to 133568
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 133569
Code shall not voluntarily commit self pursuant to this section 133570
until after the final termination of the commitment, as described 133571
in division (J) of section 2945.401 of the Revised Code. 133572

Sec. 5123.701. (A) Except as provided in division ~~(E)~~(D) of 133573
this section, any person in the community who is eighteen years of 133574
age or older and who is or believes self to be mentally retarded 133575
may make written application to the managing officer of any 133576
institution for temporary admission for short-term care. The 133577
application may be made on behalf of a minor by a parent or 133578
guardian, and on behalf of an adult adjudicated mentally 133579
incompetent by a guardian. 133580

(B) For purposes of this section, short-term care shall be 133581
defined to mean appropriate services provided to a person with 133582
mental retardation for no more than fourteen consecutive days and 133583
for no more than forty-two days in a fiscal year. When 133584
circumstances warrant, the fourteen-day period may be extended at 133585
the discretion of the managing officer. Short-term care is 133586
provided in a developmental center to meet the family's or 133587

caretaker's needs for separation from the person with mental 133588
retardation. 133589

(C) The managing officer of an institution, with the 133590
concurrence of the chief program director, may admit a person for 133591
short-term care only after a medical examination has been made of 133592
the person and only if the managing officer concludes that the 133593
person is mentally retarded. 133594

~~(D) If application for admission for short term care of a 133595
minor or of a person adjudicated mentally incompetent is made by 133596
the minor's parent or guardian or by the incompetent's guardian 133597
and the minor or incompetent is admitted, the probate division of 133598
the court of common pleas shall determine, upon petition by the 133599
legal rights service, whether the admission for short term care is 133600
in the best interest of the minor or the incompetent. 133601~~

~~(E)~~ A person who is found not guilty by reason of insanity 133602
shall not admit self to an institution for short-term care unless 133603
a hearing was held regarding the person pursuant to division (A) 133604
of section 2945.40 of the Revised Code and either of the following 133605
applies: 133606

(1) The person was found at the hearing not to be a mentally 133607
retarded person subject to institutionalization by court order; 133608

(2) The person was found at the hearing to be a mentally 133609
retarded person subject to institutionalization by court order, 133610
was involuntarily committed, and was finally discharged. 133611

~~(F)~~(E) The mentally retarded person, liable relatives, and 133612
guardians of mentally retarded persons admitted for respite care 133613
shall pay support charges in accordance with sections 5121.01 to 133614
5121.21 of the Revised Code. 133615

~~(G)~~(F) At the conclusion of each period of short-term care, 133616
the person shall return to the person's family or caretaker. Under 133617
no circumstances shall a person admitted for short-term care 133618

according to this section remain in the institution after the 133619
period of short-term care unless the person is admitted according 133620
to section 5123.70, sections 5123.71 to 5123.76, or section 133621
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 133622
Code. 133623

Sec. 5123.86. (A) Except as provided in divisions (C), (D), 133624
(E), and (F) of this section, the chief medical officer shall 133625
provide all information, including expected physical and medical 133626
consequences, necessary to enable any resident of an institution 133627
for the mentally retarded to give a fully informed, intelligent, 133628
and knowing consent if any of the following procedures are 133629
proposed: 133630

(1) Surgery; 133631

(2) Convulsive therapy; 133632

(3) Major aversive interventions; 133633

(4) Sterilization; 133634

(5) Experimental procedures; 133635

(6) Any unusual or hazardous treatment procedures. 133636

(B) No resident shall be subjected to any of the procedures 133637
listed in division (A)(4), (5), or (6) of this section without the 133638
resident's informed consent. 133639

(C) If a resident is physically or mentally unable to receive 133640
the information required for surgery under division (A)(1) of this 133641
section, or has been adjudicated incompetent, the information may 133642
be provided to the resident's natural or court-appointed guardian, 133643
including an agency providing guardianship services under contract 133644
with the department of developmental disabilities under sections 133645
5123.55 to 5123.59 of the Revised Code, who may give the informed, 133646
intelligent, and knowing written consent for surgery. Consent for 133647
surgery shall not be provided by a guardian who is an officer or 133648

employee of the department of mental health or the department of 133649
developmental disabilities. 133650

If a resident is physically or mentally unable to receive the 133651
information required for surgery under division (A)(1) of this 133652
section and has no guardian, then the information, the 133653
recommendation of the chief medical officer, and the concurring 133654
judgment of a licensed physician who is not a full-time employee 133655
of the state may be provided to the court in the county in which 133656
the institution is located, which may approve the surgery. Before 133657
approving the surgery, the court shall notify the ~~legal rights~~ 133658
~~service~~ Ohio protection and advocacy system created by section 133659
5123.60 of the Revised Code, and shall notify the resident of the 133660
resident's rights to consult with counsel, to have counsel 133661
appointed by the court if the resident is indigent, and to contest 133662
the recommendation of the chief medical officer. 133663

(D) If, in the judgment of two licensed physicians, delay in 133664
obtaining consent for surgery would create a grave danger to the 133665
health of a resident, emergency surgery may be performed without 133666
the consent of the resident if the necessary information is 133667
provided to the resident's guardian, including an agency providing 133668
guardianship services under contract with the department of 133669
developmental disabilities under sections 5123.55 to 5123.59 of 133670
the Revised Code, or to the resident's spouse or next of kin to 133671
enable that person or agency to give an informed, intelligent, and 133672
knowing written consent. 133673

If the guardian, spouse, or next of kin cannot be contacted 133674
through exercise of reasonable diligence, or if the guardian, 133675
spouse, or next of kin is contacted, but refuses to consent, then 133676
the emergency surgery may be performed upon the written 133677
authorization of the chief medical officer and after court 133678
approval has been obtained. However, if delay in obtaining court 133679
approval would create a grave danger to the life of the resident, 133680

the chief medical officer may authorize surgery, in writing, 133681
without court approval. If the surgery is authorized without court 133682
approval, the chief medical officer who made the authorization and 133683
the physician who performed the surgery shall each execute an 133684
affidavit describing the circumstances constituting the emergency 133685
and warranting the surgery and the circumstances warranting their 133686
not obtaining prior court approval. The affidavit shall be filed 133687
with the court with which the request for prior approval would 133688
have been filed within five court days after the surgery, and a 133689
copy of the affidavit shall be placed in the resident's file and 133690
shall be given to the guardian, spouse, or next of kin of the 133691
resident, to the hospital at which the surgery was performed, and 133692
to the ~~legal rights service~~ Ohio protection and advocacy system 133693
created by section 5123.60 of the Revised Code. 133694

(E)(1) If it is the judgment of two licensed physicians, as 133695
described in division (E)(2) of this section, that a medical 133696
emergency exists and delay in obtaining convulsive therapy creates 133697
a grave danger to the life of a resident who is both mentally 133698
retarded and mentally ill, convulsive therapy may be administered 133699
without the consent of the resident if the resident is physically 133700
or mentally unable to receive the information required for 133701
convulsive therapy and if the necessary information is provided to 133702
the resident's natural or court-appointed guardian, including an 133703
agency providing guardianship services under contract with the 133704
department of developmental disabilities under sections 5123.55 to 133705
5123.59 of the Revised Code, or to the resident's spouse or next 133706
of kin to enable that person or agency to give an informed, 133707
intelligent, and knowing written consent. If neither the 133708
resident's guardian, spouse, nor next of kin can be contacted 133709
through exercise of reasonable diligence, or if the guardian, 133710
spouse, or next of kin is contacted, but refuses to consent, then 133711
convulsive therapy may be performed upon the written authorization 133712
of the chief medical officer and after court approval has been 133713

obtained. 133714

(2) The two licensed physicians referred to in division 133715
(E)(1) of this section shall not be associated with each other in 133716
the practice of medicine or surgery by means of a partnership or 133717
corporate arrangement, other business arrangement, or employment. 133718
At least one of the physicians shall be a psychiatrist as defined 133719
in division (E) of section 5122.01 of the Revised Code. 133720

(F) Major aversive interventions shall not be used unless a 133721
resident continues to engage in behavior destructive to self or 133722
others after other forms of therapy have been attempted. ~~The~~ 133723
~~director of the legal rights service created by section 5123.60 of~~ 133724
~~the Revised Code shall be notified of any proposed major aversive~~ 133725
~~intervention.~~ Major aversive interventions shall not be applied to 133726
a voluntary resident without the informed, intelligent, and 133727
knowing written consent of the resident or the resident's 133728
guardian, including an agency providing guardianship services 133729
under contract with the department of developmental disabilities 133730
under sections 5123.55 to 5123.59 of the Revised Code. 133731

(G)(1) This chapter does not authorize any form of compulsory 133732
medical or psychiatric treatment of any resident who is being 133733
treated by spiritual means through prayer alone in accordance with 133734
a recognized religious method of healing. 133735

(2) For purposes of this section, "convulsive therapy" does 133736
not include defibrillation. 133737

Sec. 5123.99. (A) Whoever violates section 5123.16 or 5123.20 133738
of the Revised Code is guilty of a misdemeanor of the first 133739
degree. 133740

(B) Whoever violates division (C), (E), or (G)(3) of section 133741
5123.61 of the Revised Code is guilty of a misdemeanor of the 133742
fourth degree or, if the abuse or neglect constitutes a felony, a 133743

misdemeanor of the second degree. In addition to any other 133744
sanction or penalty authorized or required by law, if a person who 133745
is convicted of or pleads guilty to a violation of division (C), 133746
(E), or (G)(3) of section 5123.61 of the Revised Code is an MR/DD 133747
employee, as defined in section 5123.50 of the Revised Code, the 133748
offender shall be eligible to be included in the registry 133749
regarding misappropriation, abuse, neglect, or other specified 133750
misconduct by MR/DD employees established under section 5123.52 of 133751
the Revised Code. 133752

~~(C) Whoever violates division (A) of section 5123.604 of the 133753
Revised Code is guilty of a misdemeanor of the second degree. 133754~~

~~(D) Whoever violates division (B) of section 5123.604 of the 133755
Revised Code shall be fined not more than one thousand dollars. 133756
Each violation constitutes a separate offense. 133757~~

Sec. 5126.33. (A) A county board of developmental 133758
disabilities may file a complaint with the probate court of the 133759
county in which an adult with mental retardation or a 133760
developmental disability resides for an order authorizing the 133761
board to arrange services described in division (C) of section 133762
5126.31 of the Revised Code for that adult if the adult is 133763
eligible to receive services or support under section 5126.041 of 133764
the Revised Code and the board has been unable to secure consent. 133765
The complaint shall include: 133766

(1) The name, age, and address of the adult; 133767

(2) Facts describing the nature of the abuse, neglect, or 133768
exploitation and supporting the board's belief that services are 133769
needed; 133770

(3) The types of services proposed by the board, as set forth 133771
in the protective service plan described in division (J) of 133772
section 5126.30 of the Revised Code and filed with the complaint; 133773

(4) Facts showing the board's attempts to obtain the consent of the adult or the adult's guardian to the services. 133774
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(B) The board shall give the adult notice of the filing of the complaint and in simple and clear language shall inform the adult of the adult's rights in the hearing under division (C) of this section and explain the consequences of a court order. This notice shall be personally served upon all parties, and also shall be given to the adult's legal counsel, if any, ~~and the legal rights service~~. The notice shall be given at least twenty-four hours prior to the hearing, although the court may waive this requirement upon a showing that there is a substantial risk that the adult will suffer immediate physical harm in the twenty-four hour period and that the board has made reasonable attempts to give the notice required by this division. 133776
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(C) Upon the filing of a complaint for an order under this section, the court shall hold a hearing at least twenty-four hours and no later than seventy-two hours after the notice under division (B) of this section has been given unless the court has waived the notice. All parties shall have the right to be present at the hearing, present evidence, and examine and cross-examine witnesses. The Ohio Rules of Evidence shall apply to a hearing conducted pursuant to this division. The adult shall be represented by counsel unless the court finds that the adult has made a voluntary, informed, and knowing waiver of the right to counsel. If the adult is indigent, the court shall appoint counsel to represent the adult. The board shall be represented by the county prosecutor or an attorney designated by the board. 133788
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(D)(1) The court shall issue an order authorizing the board to arrange the protective services if it finds, on the basis of clear and convincing evidence, all of the following: 133801
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(a) The adult has been abused, neglected, or exploited; 133804

(b) The adult is incapacitated; 133805

(c) There is a substantial risk to the adult of immediate 133806
physical harm or death; 133807

(d) The adult is in need of the services; 133808

(e) No person authorized by law or court order to give 133809
consent for the adult is available or willing to consent to the 133810
services. 133811

(2) The board shall develop a detailed protective service 133812
plan describing the services that the board will provide, or 133813
arrange for the provision of, to the adult to prevent further 133814
abuse, neglect, or exploitation. The board shall submit the plan 133815
to the court for approval. The protective service plan may be 133816
changed only by court order. 133817

(3) In formulating the order, the court shall consider the 133818
individual protective service plan and shall specifically 133819
designate the services that are necessary to deal with the abuse, 133820
neglect, or exploitation or condition resulting from abuse, 133821
neglect, or exploitation and that are available locally, and 133822
authorize the board to arrange for these services only. The court 133823
shall limit the provision of these services to a period not 133824
exceeding six months, renewable for an additional six-month period 133825
on a showing by the board that continuation of the order is 133826
necessary. 133827

(E) If the court finds that all other options for meeting the 133828
adult's needs have been exhausted, it may order that the adult be 133829
removed from the adult's place of residence and placed in another 133830
residential setting. Before issuing that order, the court shall 133831
consider the adult's choice of residence and shall determine that 133832
the new residential setting is the least restrictive alternative 133833
available for meeting the adult's needs and is a place where the 133834
adult can obtain the necessary requirements for daily living in 133835

safety. The court shall not order an adult to a hospital or public hospital as defined in section 5122.01 or a state institution as defined in section 5123.01 of the Revised Code.

(F) The court shall not authorize a change in an adult's placement ordered under division (E) of this section unless it finds compelling reasons to justify a change. The parties to whom notice was given in division (B) of this section shall be given notice of a proposed change at least five working days prior to the change.

(G) The adult, the board, or any other person who received notice of the petition may file a motion for modification of the court order at any time.

(H) The county board shall pay court costs incurred in proceedings brought pursuant to this section. The adult shall not be required to pay for court-ordered services.

(I)(1) After the filing of a complaint for an order under this section, the court, prior to the final disposition, may enter any temporary order that the court finds necessary to protect the adult with mental retardation or a developmental disability from abuse, neglect, or exploitation including, but not limited to, the following:

(a) A temporary protection order;

(b) An order requiring the evaluation of the adult;

(c) An order requiring a party to vacate the adult's place of residence or legal settlement, provided that, subject to division (K)(1)(d) of this section, no operator of a residential facility licensed by the department may be removed under this division;

(d) In the circumstances described in, and in accordance with the procedures set forth in, section 5123.191 of the Revised Code, an order of the type described in that section that appoints a

receiver to take possession of and operate a residential facility 133866
licensed by the department. 133867

(2) The court may grant an ex parte order pursuant to this 133868
division on its own motion or if a party files a written motion or 133869
makes an oral motion requesting the issuance of the order and 133870
stating the reasons for it if it appears to the court that the 133871
best interest and the welfare of the adult require that the court 133872
issue the order immediately. The court, if acting on its own 133873
motion, or the person requesting the granting of an ex parte 133874
order, to the extent possible, shall give notice of its intent or 133875
of the request to all parties, the adult's legal counsel, if any, 133876
~~and the legal rights service.~~ If the court issues an ex parte 133877
order, the court shall hold a hearing to review the order within 133878
seventy-two hours after it is issued or before the end of the next 133879
day after the day on which it is issued, whichever occurs first. 133880
The court shall give written notice of the hearing to all parties 133881
to the action. 133882

Section 120.21. That existing sections 3721.16, 5111.709, 133883
5119.221, 5122.01, 5122.02, 5122.27, 5122.271, 5122.29, 5122.31, 133884
5122.32, 5123.092, 5123.19, 5123.191, 5123.35, 5123.60, 5123.61, 133885
5123.63, 5123.64, 5123.69, 5123.701, 5123.86, 5123.99, and 5126.33 133886
of the Revised Code are hereby repealed. 133887

Section 120.22. That sections 5123.601, 5123.602, 5123.603, 133888
5123.604, and 5123.605 of the Revised Code are hereby repealed. 133889

Section 120.23. Sections 120.20, 120.21, and 120.22 of this 133890
act take effect October 1, 2012. 133891

Section 201.10. Except as otherwise provided in this act, all 133892
appropriation items in this act are appropriated out of any moneys 133893
in the state treasury to the credit of the designated fund that 133894

are not otherwise appropriated. For all appropriations made in 133895
this act, the amounts in the first column are for fiscal year 2012 133896
and the amounts in the second column are for fiscal year 2013. 133897

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Section 203.10. ACC ACCOUNTANCY BOARD OF OHIO

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General Services Fund Group

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4J80 889601 CPA Education \$ 200,000 \$ 200,000 133901
Assistance

4K90 889609 Operating Expenses \$ 977,200 \$ 977,500 133902

TOTAL GSF General Services Fund 133903

Group \$ 1,177,200 \$ 1,177,500 133904

TOTAL ALL BUDGET FUND GROUPS \$ 1,177,200 \$ 1,177,500 133905

Section 205.10. ADJ ADJUTANT GENERAL

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General Revenue Fund

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GRF 745401 Ohio Military Reserve \$ 12,308 \$ 12,308 133909

GRF 745404 Air National Guard \$ 1,810,606 \$ 1,810,606 133910

GRF 745407 National Guard \$ 400,000 \$ 400,000 133911
Benefits

GRF 745409 Central \$ 2,692,098 \$ 2,692,098 133912

Administration

GRF 745499 Army National Guard \$ 3,687,888 \$ 3,689,871 133913

TOTAL GRF General Revenue Fund \$ 8,602,900 \$ 8,604,883 133914

General Services Fund Group

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5340 745612 Property Operations \$ 534,304 \$ 534,304 133916
Management

5360 745605 Marksmanship \$ 128,600 \$ 128,600 133917

Activities

5360 745620 Camp Perry and \$ 1,178,311 \$ 978,846 133918

Buckeye Inn

Operations

5370	745604	Ohio National Guard Facilities Maintenance	\$	62,000	\$	62,000	133919
TOTAL GSF General Services Fund Group			\$	1,903,215	\$	1,703,750	133920
Federal Special Revenue Fund Group							133921
3410	745615	Air National Guard Base Security	\$	2,977,692	\$	2,977,692	133922
3420	745616	Army National Guard Service Agreement	\$	10,970,050	\$	10,970,050	133923
3E80	745628	Air National Guard Operations and Maintenance	\$	16,958,595	\$	16,958,595	133924
3R80	745603	Counter Drug Operations	\$	25,000	\$	25,000	133925
TOTAL FED Federal Special Revenue Fund Group			\$	30,931,337	\$	30,931,337	133926
State Special Revenue Fund Group							133927
5U80	745613	Community Match Armories	\$	250,000	\$	250,000	133928
TOTAL SSR State Special Revenue Fund Group			\$	250,000	\$	250,000	133929
TOTAL ALL BUDGET FUND GROUPS			\$	41,687,452	\$	41,489,970	133930
NATIONAL GUARD BENEFITS							133931
The foregoing appropriation item 745407, National Guard Benefits, shall be used for purposes of sections 5919.31 and 5919.33 of the Revised Code, and for administrative costs of the associated programs.							133932 133933 133934 133935
For active duty members of the Ohio National Guard who died after October 7, 2001, while performing active duty, the death benefit, pursuant to section 5919.33 of the Revised Code, shall be paid to the beneficiary or beneficiaries designated on the							133936 133937 133938 133939

member's Servicemembers' Group Life Insurance Policy.					133940
STATE ACTIVE DUTY COSTS					133941
Of the foregoing appropriation item 745409, Central Administration, \$50,000 in each fiscal year shall be used for the purpose of paying expenses related to state active duty of members of the Ohio organized militia, in accordance with a proclamation of the Governor. Expenses include, but are not limited to, the cost of equipment, supplies, and services, as determined by the Adjutant General's Department.					133942 133943 133944 133945 133946 133947 133948
Section 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES					133949
General Revenue Fund					133950
GRF 100403 Public Employees	\$	400,000	\$	400,000	133951
Health Care Program					
GRF 100415 OAKS Rental Payments	\$	23,024,500	\$	23,006,300	133952
GRF 100416 STARS Lease Rental Payments	\$	4,970,700	\$	4,971,300	133953
GRF 100418 Web Sites and Business Gateway	\$	2,895,063	\$	2,795,176	133954
GRF 100419 IT Security Infrastructure	\$	742,535	\$	742,648	133955
GRF 100439 Equal Opportunity Certification Programs	\$	625,000	\$	625,000	133956
GRF 100447 OBA - Building Rent Payments	\$	53,260,000	\$	83,504,200	133957
GRF 100448 OBA - Building Operating Payments	\$	21,000,000	\$	21,000,000	133958
GRF 100449 DAS - Building Operating Payments	\$	7,551,245	\$	7,551,571	133959
GRF 100451 Minority Affairs	\$	24,016	\$	24,016	133960
GRF 130321 State Agency Support Services	\$	2,779,457	\$	2,780,032	133961

TOTAL GRF General Revenue Fund	\$	117,272,516	\$	147,400,243	133962
General Services Fund Group					133963
1120 100616 DAS Administration	\$	4,900,000	\$	4,900,000	133964
1150 100632 Central Service Agency	\$	911,995	\$	912,305	133965
1170 100644 General Services	\$	13,000,000	\$	13,000,000	133966
Division - Operating					
1220 100637 Fleet Management	\$	2,000,000	\$	2,000,000	133967
1250 100622 Human Resources	\$	16,922,295	\$	16,717,009	133968
Division - Operating					
1250 100657 Benefits Communication	\$	925,586	\$	921,531	133969
1280 100620 Collective Bargaining	\$	3,462,529	\$	3,464,148	133970
1300 100606 Risk Management	\$	6,000,000	\$	7,000,000	133971
Reserve					
1310 100639 State Architect's	\$	9,812,132	\$	9,813,342	133972
Office					
1320 100631 DAS Building	\$	11,000,000	\$	11,000,000	133973
Management					
1330 100607 IT Services Delivery	\$	58,088,940	\$	58,103,005	133974
1880 100649 Equal Opportunity	\$	939,559	\$	863,013	133975
Division - Operating					
2100 100612 State Printing	\$	25,000,000	\$	25,000,000	133976
2290 100630 IT Governance	\$	14,000,000	\$	14,000,000	133977
2290 100640 Leveraged Enterprise	\$	3,000,000	\$	3,000,000	133978
Purchases					
4270 100602 Investment Recovery	\$	4,100,000	\$	4,100,000	133979
4N60 100617 Major IT Purchases	\$	1,950,000	\$	4,950,000	133980
4P30 100603 DAS Information	\$	5,047,565	\$	4,979,392	133981
Services					
5C20 100605 MARCS Administration	\$	14,075,705	\$	14,077,467	133982
5C30 100608 Skilled Trades	\$	404,297	\$	404,375	133983
5EB0 100635 OAKS Support	\$	19,000,539	\$	19,003,108	133984
Organization					
5EB0 100656 OAKS Updates and	\$	12,265,952	\$	8,743,462	133985

	Developments				
5HU0 100655	Construction Reform	\$	150,000	\$	150,000 133986
	Demo Compliance				
5L70 100610	Professional	\$	2,496,679	\$	2,496,760 133987
	Development				
5V60 100619	Employee Educational	\$	800,000	\$	850,000 133988
	Development				
5X30 100634	Centralized Gateway	\$	2,052,308	\$	2,052,308 133989
	Enhancement				
TOTAL GSF General Services Fund					133990
Group		\$	232,306,081	\$	232,501,225 133991
Federal Special Revenue Fund Group					133992
3AJ0 100654	ARRA Broadband Mapping	\$	270,756	\$	106,347 133993
	Grant				
TOTAL FED Federal Special Revenue					133994
Fund Group		\$	270,756	\$	106,347 133995
State Special Revenue Fund Group					133996
5JQ0 100658	Professions Licensing	\$	2,000,000	\$	1,000,000 133997
	System				
TOTAL SSR State Special Revenue					133998
Fund Group		\$	2,000,000	\$	1,000,000 133999
TOTAL ALL BUDGET FUND GROUPS		\$	351,849,353	\$	381,007,815 134000

Section 207.10.10. PUBLIC EMPLOYEES HEALTH CARE PROGRAM 134002

The foregoing appropriation item 100403, Public Employees 134003
 Health Care Program, shall be used by the Department of 134004
 Administrative Services to carry out its duties prescribed in 134005
 Section 515.60 of this act. 134006

Section 207.10.20. OHIO ADMINISTRATIVE KNOWLEDGE SYSTEM 134007

The Ohio Administrative Knowledge System (OAKS) is an 134008
 enterprise resource planning system that replaced the state's 134009

central services infrastructure systems, including, but not 134010
limited to, the Central Accounting System, the Human 134011
Resources/Payroll System, the Capital Improvements Projects 134012
Tracking System, the Fixed Assets Management System, and the 134013
Procurement System. The Department of Administrative Services, in 134014
conjunction with the Office of Budget and Management, may update 134015
or add functionality to the OAKS system that will support shared 134016
services, financial or human resources functions, and enterprise 134017
applications that improve the state's operational efficiency. This 134018
includes, but is not limited to, the installation and 134019
implementation of hardware and software. Any lease-purchase 134020
arrangement entered into under Chapter 125. of the Revised Code to 134021
finance the OAKS system and the enhancements described above, 134022
including any fractionalized interest therein, as defined in 134023
division (N) of section 133.01 of the Revised Code, shall provide 134024
that at the end of the lease period, the financed asset becomes 134025
the property of the state. 134026

Section 207.10.30. OAKS LEASE RENTAL PAYMENTS 134027

The foregoing appropriation item 100415, OAKS Rental 134028
Payments, shall be used for payments at the times they are 134029
required to be made for the period from July 1, 2011, through June 134030
30, 2013, pursuant to leases and agreements entered into under 134031
Chapter 125. of the Revised Code, as supplemented by Section 134032
281.10 of Am. Sub. H.B. 562 of the 127th General Assembly and 134033
other prior acts of the General Assembly, with respect to 134034
financing the costs associated with the acquisition, development, 134035
installation, and implementation of the Ohio Administrative 134036
Knowledge System. If it is determined that additional 134037
appropriations are necessary for this purpose, the amounts are 134038
hereby appropriated. 134039

Section 207.10.40. STATE TAXATION ACCOUNTING AND REVENUE 134040

SYSTEM 134041

The Department of Administrative Services, in conjunction 134042
with the Department of Taxation, may acquire the State Taxation 134043
Accounting and Revenue System (STARS) pursuant to Chapter 125. of 134044
the Revised Code, including, but not limited to, the application 134045
hardware and software and installation and implementation thereof, 134046
for the use of the Department of Taxation. STARS is an integrated 134047
tax collection and audit system that will replace all of the 134048
state's existing separate tax software and administration systems 134049
for the various taxes collected by the state. Any lease-purchase 134050
arrangement used under Chapter 125. of the Revised Code to acquire 134051
STARS, including any fractionalized interests therein as defined 134052
in division (N) of section 133.01 of the Revised Code, shall 134053
provide that at the end of the lease period, STARS becomes the 134054
property of the state. 134055

Section 207.10.50. STARS LEASE RENTAL PAYMENTS 134056

The foregoing appropriation item 100416, STARS Lease Rental 134057
Payments, shall be used for payments at the times they are 134058
required to be made for the period from July 1, 2011, through June 134059
30, 2013, pursuant to leases and agreements entered into under 134060
Chapter 125. of the Revised Code, as supplemented by Section 134061
207.10.30 of Am. Sub. H.B. 1 of the 128th General Assembly and 134062
other prior acts of the General Assembly, with respect to 134063
financing the cost for the acquisition, development, installation, 134064
and implementation of the State Taxation Accounting and Revenue 134065
System (STARS). If it is determined that additional appropriations 134066
are necessary for this purpose, the amounts are appropriated. 134067

Section 207.10.60. EQUAL OPPORTUNITY CERTIFICATION PROGRAMS 134068

The foregoing appropriation item 100439, Equal Opportunity 134069
Certification Programs, shall be used to pay costs associated with 134070

the equal employment opportunity project tracking software that 134071
were formerly paid from appropriation item 100423, EEO Project 134072
Tracking Software. 134073

Section 207.10.70. BUILDING RENT PAYMENTS 134074

The foregoing appropriation item 100447, OBA - Building Rent 134075
Payments, shall be used to meet all payments at the times they are 134076
required to be made during the period from July 1, 2011, through 134077
June 30, 2013, by the Department of Administrative Services to the 134078
Ohio Building Authority pursuant to leases and agreements under 134079
Chapter 152. of the Revised Code. These appropriations are the 134080
source of funds pledged for bond service charges on obligations 134081
issued pursuant to Chapter 152. of the Revised Code. 134082

The foregoing appropriation item 100448, OBA - Building 134083
Operating Payments, shall be used to meet all payments at the 134084
times that they are required to be made during the period from 134085
July 1, 2011, through June 30, 2013, by the Department of 134086
Administrative Services to the Ohio Building Authority pursuant to 134087
leases and agreements under Chapter 152. of the Revised Code, but 134088
limited to the aggregate amount of \$42,800,000. 134089

The payments to the Ohio Building Authority are for paying 134090
the expenses of agencies that occupy space in various state 134091
facilities. The Department of Administrative Services may enter 134092
into leases and agreements with the Ohio Building Authority 134093
providing for the payment of these expenses. The Ohio Building 134094
Authority shall report to the Department of Administrative 134095
Services and the Office of Budget and Management not later than 134096
five months after the start of each fiscal year the actual 134097
expenses incurred by the Ohio Building Authority in operating the 134098
facilities and any balances remaining from payments and rentals 134099
received in the prior fiscal year. The Department of 134100
Administrative Services shall reduce subsequent payments by the 134101

amount of the balance reported to it by the Ohio Building Authority. 134102
134103

Section 207.10.80. DAS - BUILDING OPERATING PAYMENTS 134104

The foregoing appropriation item 100449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2012 and 2013. 134105
134106
134107
134108

The foregoing appropriation item, 100449, DAS - Building Operating Payments, also may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the state. 134109
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134114

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants that are relocated because of building renovations. These payments shall be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 1320). 134115
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Section 207.10.90. CENTRAL SERVICE AGENCY FUND 134125

Appropriation item 100632, Central Service Agency, shall be used to purchase the equipment, products, and services that are needed to maintain existing automated applications for the professional licensing boards and to support board licensing functions in fiscal years 2012 and 2013 until these functions are replaced by the Ohio Professionals Licensing System. Appropriation 134126
134127
134128
134129
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134131

item 100632, Central Service Agency, may also be used for these 134132
purposes for the Casino Control Commission if the commission 134133
elects to use these automated applications for its licensing 134134
functions. The Department of Administrative Services shall 134135
establish charges for recovering the costs of carrying out these 134136
functions. The charges shall be billed to the professional 134137
licensing boards, and the Casino Control Commission if applicable, 134138
and deposited via intrastate transfer vouchers to the credit of 134139
the Central Service Agency Fund (Fund 1150). 134140

Section 207.20.10. GENERAL SERVICE CHARGES 134141

The Department of Administrative Services, with the approval 134142
of the Director of Budget and Management, shall establish charges 134143
for recovering the costs of administering the programs funded by 134144
the General Services Fund (Fund 1170) and the State Printing Fund 134145
(Fund 2100). Such charges within Fund 1170 may be used to recover 134146
the cost of paying a vendor to establish reduced pricing for 134147
contracted supplies or services. 134148

If the Director of Administrative Services determines that 134149
additional amounts are necessary to pay for consulting and 134150
administrative costs related to securing lower pricing, the 134151
Director of Administrative Services may request that the Director 134152
of Budget and Management approve additional expenditures. Such 134153
approved additional amounts are appropriated to appropriation item 134154
100644, General Services Division-Operating. 134155

Section 207.20.20. COLLECTIVE BARGAINING ARBITRATION EXPENSES 134156

With approval of the Director of Budget and Management, the 134157
Department of Administrative Services may seek reimbursement from 134158
state agencies for the actual costs and expenses the Department 134159
incurs in the collective bargaining arbitration process. The 134160
reimbursements shall be processed through intrastate transfer 134161

vouchers and credited to the Collective Bargaining Fund (Fund 1280). 134162
134163

Section 207.20.30. EQUAL OPPORTUNITY PROGRAM 134164

The Department of Administrative Services, with the approval 134165
of the Director of Budget and Management, shall establish charges 134166
for recovering the costs of administering the activities supported 134167
by the State EEO Fund (Fund 1880). These charges shall be 134168
deposited to the credit of the State EEO Fund (Fund 1880) upon 134169
payment made by state agencies, state-supported or state-assisted 134170
institutions of higher education, and tax-supported agencies, 134171
municipal corporations, and other political subdivisions of the 134172
state, for services rendered. 134173

Section 207.20.40. INVESTMENT RECOVERY FUND 134174

Notwithstanding division (B) of section 125.14 of the Revised 134175
Code, cash balances in the Investment Recovery Fund (Fund 4270) 134176
may be used to support the operating expenses of the Federal 134177
Surplus Operating Program created in sections 125.84 to 125.90 of 134178
the Revised Code. 134179

Notwithstanding division (B) of section 125.14 of the Revised 134180
Code, cash balances in the Investment Recovery Fund may be used to 134181
support the operating expenses of the Asset Management Services 134182
Program, including, but not limited to, the cost of establishing 134183
and maintaining procedures for inventory records for state 134184
property as described in section 125.16 of the Revised Code. 134185

Of the foregoing appropriation item 100602, Investment 134186
Recovery, up to \$2,092,697 in fiscal year 2012 and up to 134187
\$2,092,697 in fiscal year 2013 may be used to pay the operating 134188
expenses of the State Surplus Property Program, the Surplus 134189
Federal Property Program, and the Asset Management Services 134190
Program under Chapter 125. of the Revised Code and this section. 134191

If additional appropriations are necessary for the operations of 134192
these programs, the Director of Administrative Services shall seek 134193
increased appropriations from the Controlling Board under section 134194
131.35 of the Revised Code. 134195

Of the foregoing appropriation item 100602, Investment 134196
Recovery, \$3,500,000 in each fiscal year shall be used to transfer 134197
proceeds from the sale of surplus property from the Investment 134198
Recovery Fund to non-General Revenue Funds under division (A)(2) 134199
of section 125.14 of the Revised Code. If it is determined by the 134200
Director of Administrative Services that additional amounts are 134201
necessary for the transfer of such sale proceeds, the Director of 134202
Administrative Services may request the Director of Budget and 134203
Management to authorize additional amounts. Such authorized 134204
additional amounts are hereby appropriated. 134205

Section 207.20.50. DAS INFORMATION SERVICES 134206

There is hereby established in the State Treasury the DAS 134207
Information Services Fund. The foregoing appropriation item 134208
100603, DAS Information Services, shall be used to pay the costs 134209
of providing information systems and services in the Department of 134210
Administrative Services. Any state agency, board, or commission 134211
may use DAS Information Services by paying for the services 134212
rendered. 134213

The Department of Administrative Services shall establish 134214
user charges for all information systems and services that are 134215
allowable in the statewide indirect cost allocation plan submitted 134216
annually to the United States Department of Health and Human 134217
Services. These charges shall comply with federal regulations and 134218
shall be deposited to the credit of the DAS Information Services 134219
Fund (Fund 4P30). 134220

Section 207.20.60. PROFESSIONAL DEVELOPMENT FUND 134221

The foregoing appropriation item 100610, Professional Development, shall be used to make payments from the Professional Development Fund (Fund 5L70) under section 124.182 of the Revised Code. If it is determined by the Director of Administrative Services that additional amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management approve additional amounts. Such approved additional amounts are hereby appropriated.

Section 207.20.70. EMPLOYEE EDUCATIONAL DEVELOPMENT 134230

The foregoing appropriation item 100619, Employee Educational Development, shall be used to make payments from the Employee Educational Development Fund (Fund 5V60) under section 124.86 of the Revised Code. The fund shall be used to pay the costs of administering educational programs under existing collective bargaining agreements with District 1199, the Health Care and Social Service Union; State Council of Professional Educators; Ohio Education Association and National Education Association; the Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio State Troopers Association, Units 1 and 15.

If it is determined by the Director of Administrative Services that additional amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management approve additional amounts. Such approved additional amounts are hereby appropriated.

Section 207.20.80. CENTRALIZED GATEWAY ENHANCEMENT FUND 134246

(A) As used in this section, "Ohio Business Gateway" refers to the internet-based system operated by the Department of Administrative Services with the advice of the Ohio Business Gateway Steering Committee established under section 5703.57 of the Revised Code. The Ohio Business Gateway is established to

provide businesses a central web site where various filings and 134252
payments are submitted online to government. The information is 134253
then distributed to the various government entities that interact 134254
with the business community. 134255

(B) As used in this section: 134256

(1) "State Portal" refers to the official web site of the 134257
state, operated by the Department of Administrative Services. 134258

(2) "Shared Hosting Environment" refers to the computerized 134259
system operated by the Department of Administrative Services for 134260
the purpose of providing capability for state agencies to host web 134261
sites. 134262

(C) There is hereby created in the state treasury the 134263
Centralized Gateway Enhancement Fund (Fund 5X30). The foregoing 134264
appropriation item 100634, Centralized Gateway Enhancement, shall 134265
be used by the Department of Administrative Services to pay the 134266
costs of enhancing, expanding, and operating the infrastructure of 134267
the Ohio Business Gateway, State Portal, and Shared Hosting 134268
Environment. The Director of Administrative Services shall submit 134269
spending plans to the Director of Budget and Management to justify 134270
operating transfers to the fund from the General Revenue Fund. 134271
Upon approval, the Director of Budget and Management shall 134272
transfer approved amounts to the fund, not to exceed the amount of 134273
the annual appropriation in each fiscal year. The spending plans 134274
may be based on the recommendations of the Ohio Business Gateway 134275
Steering Committee or its successor. 134276

Section 207.20.90. CASH TRANSFERS FROM THE MAJOR IT PURCHASES 134277
FUND 134278

Upon request of the Director of Administrative Services, the 134279
Director of Budget and Management may make the following transfers 134280
from the Major IT Purchases Fund (Fund 4N60): 134281

(1) Up to \$2,800,000 in each fiscal year of the biennium to 134282
the State Architect's Fund (Fund 1310) to support the OAKS Capital 134283
Improvements Module and other costs of the State Architect's 134284
Office that are not directly related to capital projects managed 134285
by the State Architect; 134286

(2) Up to \$310,276 in fiscal year 2012 and up to \$305,921 in 134287
fiscal year 2013 to the Director's Office Fund (Fund 1120) to 134288
support operating expenses of the Accountability and Results 134289
Initiative. 134290

Section 207.20.93. CASH TRANSFERS FROM THE BUILDING 134291
MANAGEMENT FUND TO THE STATE ARCHITECT'S FUND 134292

Upon request of the Director of Administrative Services, the 134293
Director of Budget and Management may transfer up to \$2,000,000 134294
from the Building Management Fund (Fund 1320) to the State 134295
Architect's Fund (Fund 1310) to support the OAKS Capital 134296
Improvements Module and other costs of the State Architect's 134297
Office that are not directly related to capital projects managed 134298
by the State Architect. If the cash balance in the State 134299
Architect's Fund (Fund 1310) is determined to be sufficient, the 134300
Director of Administrative Services may request that the Director 134301
of Budget and Management transfer cash from the State Architect's 134302
Fund (Fund 1310) to the Building Management Fund (Fund 1320) in an 134303
amount equal to the initial cash transfer made under this section 134304
plus applicable interest. 134305

Section 207.30.10. MULTI-AGENCY RADIO COMMUNICATION SYSTEM 134306
DEBT SERVICE PAYMENTS 134307

The Director of Administrative Services, in consultation with 134308
the Multi-Agency Radio Communication System (MARCS) Steering 134309
Committee and the Director of Budget and Management, shall 134310
determine the share of debt service payments attributable to 134311

spending for MARCS components that are not specific to any one 134312
agency and that shall be charged to agencies supported by the 134313
motor fuel tax. Such share of debt service payments shall be 134314
calculated for MARCS capital disbursements made beginning July 1, 134315
1997. Within thirty days of any payment made from appropriation 134316
item 100447, OBA - Building Rent Payments, the Director of 134317
Administrative Services shall certify to the Director of Budget 134318
and Management the amount of this share. The Director of Budget 134319
and Management shall transfer such amounts to the General Revenue 134320
Fund from the State Highway Safety Fund (Fund 7036) established in 134321
section 4501.06 of the Revised Code. 134322

The Director of Administrative Services shall consider 134323
renting or leasing existing tower sites at reasonable or current 134324
market rates, so long as these existing sites are equipped with 134325
the technical capabilities to support the MARCS project. 134326

Section 207.30.20. OHIO PROFESSIONALS LICENSING SYSTEM 134327

There is hereby created in the state treasury the Ohio 134328
Professionals Licensing System Fund (Fund 5JQ0). Appropriation 134329
item 100658, Ohio Professionals Licensing System, shall be used to 134330
make payments from the fund. The fund shall be used to purchase 134331
the equipment, products, and services necessary to develop and 134332
maintain a replacement automated licensing system for the 134333
professional licensing boards. The Director of Budget and 134334
Management may transfer up to a total of \$3,000,000 in cash from 134335
the Occupational Licensing and Regulatory Fund (4K90), the State 134336
Medical Board Operating Fund (Fund 5C60), and the Casino Control 134337
Commission - Operating Fund (Fund 5HS0) if the Casino Control 134338
Commission elects to use the replacement automated licensing 134339
system, to the Ohio Professionals Licensing System Fund during the 134340
FY 2012-FY 2013 biennium. These transfers shall be in proportion 134341
to the number of current licensees, or current and anticipated 134342

licensees in the case of the Casino Control Commission if 134343
applicable. The purpose of these cash transfers is to fund the 134344
initial acquisition and development of the system. Any cash 134345
balances not expended in fiscal year 2012 are reappropriated in 134346
fiscal year 2013. 134347

Effective with the implementation of the replacement 134348
licensing system, the Department of Administrative Services shall 134349
establish charges for recovering the costs of ongoing maintenance 134350
of the system. The charges shall be billed to the professional 134351
licensing boards, and the Casino Control Commission if applicable, 134352
and deposited via intrastate transfer vouchers to the credit of 134353
the Ohio Professionals Licensing System Fund. 134354

Section 207.30.30. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY 134355

Whenever the Director of Administrative Services declares a 134356
"public exigency," as provided in division (C) of section 123.15 134357
of the Revised Code, the Director shall also notify the members of 134358
the Controlling Board. 134359

Section 209.10. AGE DEPARTMENT OF AGING 134360

General Revenue Fund 134361

GRF	490321	Operating Expenses	\$	1,501,616	\$	1,502,442	134362
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GRF	490410	Long-Term Care	\$	482,271	\$	482,271	134363
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Ombudsman

GRF	490411	Senior Community	\$	7,130,952	\$	7,131,236	134364
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Services

GRF	490414	Alzheimer's Respite	\$	1,917,740	\$	1,917,757	134365
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GRF	490423	Long Term Care Budget	\$	3,419,250	\$	3,419,250	134366
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- State

GRF	490506	National Senior	\$	241,413	\$	241,413	134367
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Service Corps

TOTAL GRF	General Revenue Fund	\$	14,693,242	\$	14,694,369	134368
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General Services Fund Group					134369
4800 490606 Senior Community	\$	372,518	\$	372,523	134370
Outreach and					
Education					
TOTAL GSF General Services Fund					134371
Group	\$	372,518	\$	372,523	134372
Federal Special Revenue Fund Group					134373
3220 490618 Federal Aging Grants	\$	14,000,000	\$	14,000,000	134374
3C40 490623 Long Term Care Budget	\$	3,525,000	\$	3,525,000	134375
3M40 490612 Federal Independence	\$	63,655,080	\$	63,655,080	134376
Services					
TOTAL FED Federal Special Revenue					134377
Fund Group	\$	81,180,080	\$	81,180,080	134378
State Special Revenue Fund Group					134379
4C40 490609 Regional Long-Term	\$	935,000	\$	935,000	134380
Care Ombudsman					
Program					
5BA0 490620 Ombudsman Support	\$	750,000	\$	750,000	134381
5K90 490613 Long Term Care	\$	820,400	\$	820,400	134382
Consumers Guide					
5W10 490616 Resident Services	\$	344,692	\$	344,700	134383
Coordinator Program					
TOTAL SSR State Special Revenue					134384
Fund Group	\$	2,850,092	\$	2,850,100	134385
TOTAL ALL BUDGET FUND GROUPS	\$	99,095,932	\$	99,097,072	134386

Section 209.20. LONG-TERM CARE 134388

Pursuant to an interagency agreement, the Department of Job 134389
and Family Services shall designate the Department of Aging to 134390
perform assessments under section 5111.204 of the Revised Code. 134391
The Department of Aging shall provide long-term care consultations 134392
under section 173.42 of the Revised Code to assist individuals in 134393

planning for their long-term health care needs. 134394

The Department of Aging shall administer the Medicaid 134395
waiver-funded PASSPORT Home Care Program, the Choices Program, the 134396
Assisted Living Program, and the PACE Program as delegated by the 134397
Department of Job and Family Services in an interagency agreement. 134398
The foregoing appropriation items 490423, Long Term Care Budget - 134399
State, and 490623, Long Term Care Budget, may be used to support 134400
the Department of Aging's administrative costs associated with 134401
operating the PASSPORT, Choices, Assisted Living, and PACE 134402
programs. 134403

Section 209.30. LONG-TERM CARE OMBUDSMAN 134404

The foregoing appropriation item 490410, Long-Term Care 134405
Ombudsman, shall be used for a program to fund ombudsman program 134406
activities as authorized in sections 173.14 to 173.27 and section 134407
173.99 of the Revised Code. 134408

SENIOR COMMUNITY SERVICES 134409

The foregoing appropriation item 490411, Senior Community 134410
Services, shall be used for services designated by the Department 134411
of Aging, including, but not limited to, home-delivered and 134412
congregate meals, transportation services, personal care services, 134413
respite services, adult day services, home repair, care 134414
coordination, and decision support systems. Service priority shall 134415
be given to low income, frail, and cognitively impaired persons 60 134416
years of age and over. The department shall promote cost sharing 134417
by service recipients for those services funded with senior 134418
community services funds, including, when possible, sliding-fee 134419
scale payment systems based on the income of service recipients. 134420

ALZHEIMER'S RESPITE 134421

The foregoing appropriation item 490414, Alzheimer's Respite, 134422
shall be used to fund only Alzheimer's disease services under 134423

section 173.04 of the Revised Code.	134424
SENIOR COMMUNITY OUTREACH AND EDUCATION	134425
The foregoing appropriation item 490606, Senior Community Outreach and Education, may be used to provide training to workers in the field of aging pursuant to division (G) of section 173.02 of the Revised Code.	134426 134427 134428 134429
TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES AND FEDERAL AGING GRANTS	134430 134431
At the request of the Director of Aging, the Director of Budget and Management may transfer appropriation between appropriation items 490612, Federal Independence Services, and 490618, Federal Aging Grants. The amounts transferred shall not exceed 30 per cent of the appropriation from which the transfer is made. Any transfers shall be reported by the Department of Aging to the Controlling Board at the next scheduled meeting of the board.	134432 134433 134434 134435 134436 134437 134438 134439
REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM	134440
The foregoing appropriation item 490609, Regional Long-Term Care Ombudsman Program, shall be used to pay the costs of operating the regional long-term care ombudsman programs designated by the Long-Term Care Ombudsman.	134441 134442 134443 134444
TRANSFER OF RESIDENT PROTECTION FUNDS	134445
In each fiscal year, the Director of Budget and Management may transfer up to \$750,000 cash from the Resident Protection Fund (Fund 4E30), which is used by the Department of Job and Family Services, to the Ombudsman Support Fund (Fund 5BA0), which is used by the Department of Aging. The moneys in the Ombudsman Support Fund may be used by the state office of the Long-Term Care Ombudsman Program and by regional ombudsman programs to promote person-centered care in nursing homes.	134446 134447 134448 134449 134450 134451 134452 134453

On July 1, 2011, or as soon as possible thereafter, the Department of Aging shall certify to the Director of Budget and Management the amount of the cash balance in the Ombudsman Support Fund at the end of fiscal year 2011.

LONG-TERM CARE CONSUMERS GUIDE

The foregoing appropriation item 490613, Long-Term Care Consumers Guide, shall be used to conduct annual customer satisfaction surveys and to pay for other administrative expenses related to the publication of the Ohio Long-Term Care Consumer Guide.

During fiscal year 2012 and fiscal year 2013, the Department of Aging shall identify methods and tools for assessing consumer satisfaction with adult care facilities and with the providers of home and community-based services. The Department shall also consider the development of a provider fee structure to support the inclusion of information about adult care facilities and providers of home and community-based services among the types of providers reviewed in the Ohio Long-Term Care Consumer Guide.

Section 211.10. AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

GRF 700401	Animal Disease Control	\$	3,936,687	\$	3,936,687	134474
GRF 700403	Dairy Division	\$	1,088,115	\$	1,088,115	134475
GRF 700404	Ohio Proud	\$	50,000	\$	50,000	134476
GRF 700406	Consumer Analytical Lab	\$	1,287,556	\$	1,287,556	134477
GRF 700407	Food Safety	\$	848,792	\$	848,792	134478
GRF 700409	Farmland Preservation	\$	72,750	\$	72,750	134479
GRF 700412	Weights and Measures	\$	600,000	\$	600,000	134480
GRF 700415	Poultry Inspection	\$	392,978	\$	392,978	134481
GRF 700418	Livestock Regulation	\$	1,108,071	\$	1,108,071	134482

	Program				
GRF 700424	Livestock Testing and Inspections	\$	102,770	\$	102,770 134483
GRF 700499	Meat Inspection Program - State Share	\$	4,175,097	\$	4,175,097 134484
GRF 700501	County Agricultural Societies	\$	391,413	\$	391,413 134485
TOTAL GRF	General Revenue Fund	\$	14,054,229	\$	14,054,229 134486
	General Services Fund Group				134487
5DA0 700644	Laboratory Administration Support	\$	1,094,867	\$	1,094,867 134488
5GH0 700655	Central Support Indirect Cost	\$	4,456,842	\$	4,456,842 134489
TOTAL GSF	General Services Fund Group	\$	5,551,709	\$	5,551,709 134490
	Federal Special Revenue Fund Group				134491
3260 700618	Meat Inspection Program - Federal Share	\$	4,950,000	\$	4,950,000 134492
3360 700617	Ohio Farm Loan Revolving Fund	\$	150,000	\$	150,000 134493
3820 700601	Cooperative Contracts	\$	2,000,000	\$	2,000,000 134494
3AB0 700641	Agricultural Easement	\$	1,000,000	\$	1,000,000 134495
3J40 700607	Indirect Cost	\$	600,000	\$	600,000 134496
3R20 700614	Federal Plant Industry	\$	1,000,000	\$	1,000,000 134497
TOTAL FED	Federal Special Revenue Fund Group	\$	9,700,000	\$	9,700,000 134498
	State Special Revenue Fund Group				134499
4960 700626	Ohio Grape Industries	\$	846,611	\$	846,611 134500
4970 700627	Commodity Handlers	\$	483,402	\$	483,402 134501

		Regulatory Program					
4C90	700605	Commercial Feed and Seed	\$	1,816,897	\$	1,816,897	134503
4D20	700609	Auction Education	\$	41,000	\$	41,000	134504
4E40	700606	Utility Radiological Safety	\$	131,785	\$	131,785	134505
4P70	700610	Food Safety Inspection	\$	1,085,836	\$	1,085,836	134506
4R00	700636	Ohio Proud Marketing	\$	30,500	\$	30,500	134507
4R20	700637	Dairy Industry Inspection	\$	1,758,247	\$	1,758,247	134508
4T60	700611	Poultry and Meat Inspection	\$	180,000	\$	180,000	134509
4T70	700613	Ohio Proud International and Domestic Market Development	\$	50,000	\$	50,000	134510
5780	700620	Ride Inspection Fees	\$	1,175,142	\$	1,175,142	134511
5B80	700629	Auctioneers	\$	359,823	\$	359,823	134512
5FC0	700648	Plant Pest Program	\$	1,164,000	\$	1,164,000	134513
5H20	700608	Metrology Lab and Scale Certification	\$	750,000	\$	750,000	134514
5HP0	700656	Livestock Care Standards Board	\$	80,000	\$	80,000	134515
5L80	700604	Livestock Management Program	\$	584,000	\$	584,000	134516
6520	700634	Animal and Consumer Analytical Laboratory	\$	4,366,383	\$	4,366,383	134517
6690	700635	Pesticide, Fertilizer, and Lime Inspection Program	\$	3,418,041	\$	3,418,041	134518
TOTAL SSR	State Special Revenue						134519
Fund Group			\$	18,321,667	\$	18,321,667	134520

Clean Ohio Conservation Fund Group					134521
7057 700632 Clean Ohio	\$	310,000	\$	310,000	134522
Agricultural Easement					
TOTAL CLF Clean Ohio Conservation	\$	310,000	\$	310,000	134523
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	47,937,605	\$	47,937,605	134524
COUNTY AGRICULTURAL SOCIETIES					134525
The foregoing appropriation item 700501, County Agricultural					134526
Societies, shall be used to reimburse county and independent					134527
agricultural societies for expenses related to Junior Fair					134528
activities.					134529
CLEAN OHIO AGRICULTURAL EASEMENT					134530
The foregoing appropriation item 700632, Clean Ohio					134531
Agricultural Easement, shall be used by the Department of					134532
Agriculture in administering Ohio Agricultural Easement Fund (Fund					134533
7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to					134534
5301.70 of the Revised Code.					134535
Section 213.10. AIR AIR QUALITY DEVELOPMENT AUTHORITY					134536
General Services Fund Group					134537
5EG0 898608 Energy Strategy	\$	240,382	\$	240,681	134538
Development					
TOTAL GSF General Services Fund	\$	240,382	\$	240,681	134539
Agency Fund Group					134540
4Z90 898602 Small Business	\$	288,050	\$	288,232	134541
Ombudsman					
5700 898601 Operating Expenses	\$	323,980	\$	323,980	134542
5A00 898603 Small Business	\$	71,087	\$	71,087	134543
Assistance					
TOTAL AGY Agency Fund Group	\$	683,117	\$	683,299	134544
TOTAL ALL BUDGET FUND GROUPS	\$	923,499	\$	923,980	134545

Section 213.20. ENERGY STRATEGY DEVELOPMENT 134547

The Ohio Air Quality Development Authority shall establish 134548
the Energy Strategy Development Program for the purpose of 134549
developing energy initiatives, projects, and policy for the state. 134550
Issues addressed by such initiatives, projects, and policy shall 134551
not be limited to those governed by Chapter 3706. of the Revised 134552
Code. 134553

There is hereby created in the state treasury the Energy 134554
Strategy Development Fund (Fund 5EG0). The fund shall consist of 134555
money credited to it and money obtained for advanced energy 134556
projects from federal or private grants, loans, or other sources. 134557
Money in the fund shall be used to carry out the purposes of the 134558
program. Interest earned on the money in the fund shall be 134559
credited to the General Revenue Fund. 134560

On July 1 of each fiscal year, or as soon as possible 134561
thereafter, the Director of Budget and Management may transfer 134562
cash from the funds specified below, in the amounts specified 134563
below, to the Energy Strategy Development Fund. Fund 5EG0 may 134564
accept contributions and transfers made to the fund. On July 1, 134565
2013, or as soon as possible thereafter, the Director shall 134566
transfer to the General Revenue Fund all cash credited to Fund 134567
5EG0. Upon completion of the transfer, Fund 5EG0 is abolished. 134568

<u>Fund</u>	<u>Fund Name</u>	<u>User</u>	<u>FY 2012</u>	<u>FY 2013</u>	
1170	Office Services	Department of Administrative Services	\$27,405	\$27,439	134569 134570
5GH0	Central Support Indirect Cost	Department of Agriculture	\$27,405	\$27,439	134571
1350	Supportive Services	Department of Development	\$27,405	\$27,439	134572
2190	Central Support	Environmental	\$27,405	\$27,439	134573

	Indirect Cost	Protection Agency			
1570	Central Support	Department of	\$27,405	\$27,439	134574
	Indirect	Natural Resources			
	Chargeback				
7002	Highway Operating	Department of	\$39,150	\$39,199	134575
		Transportation			

Section 213.30. REIMBURSEMENT TO AIR QUALITY DEVELOPMENT 134576
AUTHORITY TRUST ACCOUNT 134577

Notwithstanding any other provision of law to the contrary, 134578
the Air Quality Development Authority may reimburse the Air 134579
Quality Development Authority trust account established under 134580
section 3706.10 of the Revised Code from all operating funds of 134581
the agency for expenses pertaining to the administration and 134582
shared costs incurred by the Air Quality Development Authority in 134583
the execution of responsibilities as prescribed in Chapter 3706. 134584
of the Revised Code. Reimbursement shall be made by voucher and 134585
completed in accordance with the administrative indirect costs 134586
allocation plan approved by the Office of Budget and Management. 134587

Section 215.10. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 134588
SERVICES 134589

	General Revenue Fund				134590
GRF 038401	Treatment Services	\$ 35,184,703	\$ 7,020,974		134591
GRF 038404	Prevention Services	\$ 868,659	\$ 868,659		134592
TOTAL GRF	General Revenue Fund	\$ 36,053,362	\$ 7,889,633		134593
	General Services Fund				134594
5T90 038616	Problem Gambling	\$ 335,000	\$ 335,000		134595
	Services				
TOTAL GSF	General Services Fund	\$ 335,000	\$ 335,000		134596
	Group				
	Federal Special Revenue Fund Group				134597

3G40	038614	Substance Abuse Block Grant	\$	69,000,000	\$	69,000,000	134598
3H80	038609	Demonstration Grants	\$	8,675,580	\$	8,675,580	134599
3J80	038610	Medicaid	\$	69,200,000	\$	0	134600
3N80	038611	Administrative Reimbursement	\$	300,000	\$	300,000	134601
TOTAL FED Federal Special Revenue							134602
Fund Group			\$	147,175,580	\$	77,975,580	134603
State Special Revenue Fund Group							134604
4750	038621	Statewide Treatment and Prevention	\$	16,000,000	\$	14,000,000	134605
5JW0	038615	Board Match Reimbursement	\$	3,000,000	\$	3,000,000	134606
6890	038604	Education and Conferences	\$	75,000	\$	75,000	134607
TOTAL SSR State Special Revenue							134608
Fund Group			\$	19,075,000	\$	17,075,000	134609
TOTAL ALL BUDGET FUND GROUPS			\$	202,638,942	\$	103,275,213	134610
 Section 217.10. ARC ARCHITECTS BOARD							134612
General Services Fund Group							134613
4K90	891609	Operating Expenses	\$	494,459	\$	478,147	134614
TOTAL GSF General Services Fund							134615
Group			\$	494,459	\$	478,147	134616
TOTAL ALL BUDGET FUND GROUPS			\$	494,459	\$	478,147	134617
 Section 219.10. ART OHIO ARTS COUNCIL							134619
General Revenue Fund							134620
GRF	370321	Operating Expenses	\$	1,305,704	\$	1,305,704	134621
GRF	370502	State Program Subsidies	\$	6,000,000	\$	8,000,000	134622
TOTAL GRF General Revenue Fund			\$	7,305,704	\$	9,305,704	134623

General Services Fund Group					134624
4600 370602 Management Expenses	\$	247,000	\$	247,000	134625
and Donations					
4B70 370603 Percent for Art	\$	247,000	\$	247,000	134626
Acquisitions					
TOTAL GSF General Services Fund	\$	494,000	\$	494,000	134627
Group					
Federal Special Revenue Fund Group					134628
3140 370601 Federal Support	\$	1,000,000	\$	1,000,000	134629
TOTAL FED Federal Special Revenue	\$	1,000,000	\$	1,000,000	134630
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	8,799,704	\$	10,799,704	134631
FEDERAL SUPPORT					134632
Notwithstanding any provision of law to the contrary, the					134633
foregoing appropriation item 370601, Federal Support, shall be					134634
used by the Ohio Arts Council for subsidies only, and not for its					134635
administrative costs, unless the Council is required to use a					134636
portion of the funds for administrative costs under conditions of					134637
the federal grant.					134638
Section 221.10. ATH ATHLETIC COMMISSION					134639
General Services Fund Group					134640
4K90 175609 Operating Expenses	\$	281,904	\$	292,509	134641
TOTAL GSF General Services Fund	\$	281,904	\$	292,509	134642
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	281,904	\$	292,509	134643
Section 223.10. AGO ATTORNEY GENERAL					134645
General Revenue Fund					134646
GRF 055321 Operating Expenses	\$	42,514,169	\$	42,514,169	134647
GRF 055405 Law-Related Education	\$	100,000	\$	100,000	134648

GRF	055411	County Sheriffs' Pay Supplement	\$	757,921	\$	757,921	134649
GRF	055415	County Prosecutors' Pay Supplement	\$	831,499	\$	831,499	134650
TOTAL GRF		General Revenue Fund	\$	44,203,589	\$	44,203,589	134651
		General Services Fund Group					134652
1060	055612	General Reimbursement	\$	43,197,968	\$	43,011,277	134653
1950	055660	Workers' Compensation Section	\$	8,415,504	\$	8,415,504	134654
4180	055615	Charitable Foundations	\$	7,286,000	\$	7,286,000	134655
4200	055603	Attorney General Antitrust	\$	1,871,674	\$	1,839,074	134656
4210	055617	Police Officers' Training Academy Fee	\$	2,124,942	\$	2,088,805	134657
4Z20	055609	BCI Asset Forfeiture and Cost Reimbursement	\$	1,529,685	\$	1,521,731	134658
5900	055633	Peace Officer Private Security Fund	\$	98,370	\$	98,370	134659
5A90	055618	Telemarketing Fraud Enforcement	\$	7,500	\$	7,500	134660
5L50	055619	Law Enforcement Assistance Program	\$	300,222	\$	0	134661
6310	055637	Consumer Protection Enforcement	\$	3,799,115	\$	3,718,973	134662
TOTAL GSF		General Services Fund Group	\$	68,630,980	\$	67,987,234	134663
		Federal Special Revenue Fund Group					134664
3060	055620	Medicaid Fraud Control	\$	4,211,235	\$	4,122,399	134665
3810	055611	Civil Rights Legal	\$	402,540	\$	402,540	134666

		Service					
3830	055634	Crime Victims	\$	13,000,000	\$	13,000,000	134668
		Assistance					
3E50	055638	Attorney General	\$	1,223,606	\$	1,222,172	134669
		Pass-Through Funds					
3R60	055613	Attorney General	\$	3,823,251	\$	3,673,251	134670
		Federal Funds					
TOTAL FED Federal Special Revenue							134671
Fund Group			\$	22,660,632	\$	22,420,362	134672
State Special Revenue Fund Group							134673
4020	055616	Victims of Crime	\$	26,000,000	\$	26,000,000	134674
4170	055621	Domestic Violence	\$	25,000	\$	25,000	134675
		Shelter					
4190	055623	Claims Section	\$	44,197,843	\$	41,953,025	134676
4L60	055606	DARE Programs	\$	4,477,962	\$	4,477,962	134677
4Y70	055608	Title Defect Recision	\$	600,000	\$	600,000	134678
6590	055641	Solid and Hazardous	\$	662,227	\$	651,049	134679
		Waste Background					
		Investigations					
TOTAL SSR State Special Revenue							134680
Fund Group			\$	75,963,032	\$	73,707,036	134681
Holding Account Redistribution Fund Group							134682
R004	055631	General Holding	\$	1,000,000	\$	1,000,000	134683
		Account					
R005	055632	Antitrust Settlements	\$	1,000	\$	1,000	134684
R018	055630	Consumer Frauds	\$	750,000	\$	750,000	134685
R042	055601	Organized Crime	\$	25,025	\$	25,025	134686
		Commission					
		Distributions					
R054	055650	Collection Outside	\$	4,500,000	\$	4,500,000	134687
		Counsel Payments					
TOTAL 090 Holding Account							134688

Redistribution Fund Group	\$	6,276,025	\$	6,276,025	134689
Tobacco Master Settlement Agreement Fund Group					134690
J087 055635 Law Enforcement	\$	2,300,000	\$	0	134691
Technology, Training, and Facility Enhancements					
U087 055402 Tobacco Settlement	\$	2,527,992	\$	2,514,690	134692
Oversight, Administration, and Enforcement					
TOTAL TSF Tobacco Master Settlement Agreement Fund Group	\$	4,827,992	\$	2,514,690	134693
TOTAL ALL BUDGET FUND GROUPS	\$	222,562,250	\$	217,108,936	134694
COUNTY SHERIFFS' PAY SUPPLEMENT					134695
The foregoing appropriation item 055411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.					134696 134697 134698 134699
At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055411, County Sheriffs' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.					134700 134701 134702 134703 134704 134705
COUNTY PROSECUTORS' PAY SUPPLEMENT					134706
The foregoing appropriation item 055415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code.					134707 134708 134709 134710
At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from					134711 134712

appropriation item 055321, Operating Expenses, to appropriation 134713
item 055415, County Prosecutors' Pay Supplement. Any appropriation 134714
so transferred shall be used to supplement the annual compensation 134715
of county prosecutors as required by section 325.111 of the 134716
Revised Code. 134717

WORKERS' COMPENSATION SECTION 134718

The Workers' Compensation Fund (Fund 1950) is entitled to 134719
receive payments from the Bureau of Workers' Compensation and the 134720
Ohio Industrial Commission at the beginning of each quarter of 134721
each fiscal year to fund legal services to be provided to the 134722
Bureau of Workers' Compensation and the Ohio Industrial Commission 134723
during the ensuing quarter. The advance payment shall be subject 134724
to adjustment. 134725

In addition, the Bureau of Workers' Compensation shall 134726
transfer payments at the beginning of each quarter for the support 134727
of the Workers' Compensation Fraud Unit. 134728

All amounts shall be mutually agreed upon by the Attorney 134729
General, the Bureau of Workers' Compensation, and the Ohio 134730
Industrial Commission. 134731

ATTORNEY GENERAL PASS-THROUGH FUNDS 134732

The foregoing appropriation item 055638, Attorney General 134733
Pass-Through Funds, shall be used to receive federal grant funds 134734
provided to the Attorney General by other state agencies, 134735
including, but not limited to, the Department of Youth Services 134736
and the Department of Public Safety. 134737

GENERAL HOLDING ACCOUNT 134738

The foregoing appropriation item 055631, General Holding 134739
Account, shall be used to distribute moneys under the terms of 134740
relevant court orders or other settlements received in a variety 134741
of cases involving the Office of the Attorney General. If it is 134742

determined that additional amounts are necessary for this purpose, 134743
the amounts are hereby appropriated. 134744

ANTITRUST SETTLEMENTS 134745

The foregoing appropriation item 055632, Antitrust 134746
Settlements, shall be used to distribute moneys under the terms of 134747
relevant court orders or other out of court settlements in 134748
antitrust cases or antitrust matters involving the Office of the 134749
Attorney General. If it is determined that additional amounts are 134750
necessary for this purpose, the amounts are hereby appropriated. 134751

CONSUMER FRAUDS 134752

The foregoing appropriation item 055630, Consumer Frauds, 134753
shall be used for distribution of moneys from court-ordered 134754
judgments against sellers in actions brought by the Office of 134755
Attorney General under sections 1334.08 and 4549.48 and division 134756
(B) of section 1345.07 of the Revised Code. These moneys shall be 134757
used to provide restitution to consumers victimized by the fraud 134758
that generated the court-ordered judgments. If it is determined 134759
that additional amounts are necessary for this purpose, the 134760
amounts are hereby appropriated. 134761

ORGANIZED CRIME COMMISSION DISTRIBUTIONS 134762

The foregoing appropriation item 055601, Organized Crime 134763
Commission Distributions, shall be used by the Organized Crime 134764
Investigations Commission, as provided by section 177.011 of the 134765
Revised Code, to reimburse political subdivisions for the expenses 134766
the political subdivisions incur when their law enforcement 134767
officers participate in an organized crime task force. If it is 134768
determined that additional amounts are necessary for this purpose, 134769
the amounts are hereby appropriated. 134770

COLLECTION OUTSIDE COUNSEL PAYMENTS 134771

The foregoing appropriation item 055650, Collection Outside 134772

Counsel Payments, shall be used for the purpose of paying 134773
contingency counsel fees for cases where debtors mistakenly paid 134774
the client agencies instead of the Attorney General's Revenue 134775
Recovery/Collections Enforcement Section. If it is determined that 134776
additional amounts are necessary for this purpose, the amounts are 134777
hereby appropriated. 134778

Section 225.10. AUD AUDITOR OF STATE 134779

General Revenue Fund 134780

GRF	070321	Operating Expenses	\$	27,434,452	\$	27,434,452	134781
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GRF	070403	Fiscal	\$	800,000	\$	800,000	134782
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Watch/Emergency
Technical Assistance

TOTAL GRF General Revenue Fund	\$	28,234,452	\$	28,234,452	134783
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Auditor of State Fund Group 134784

1090	070601	Public Audit Expense	\$	9,000,000	\$	8,700,000	134785
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- Intra-State

4220	070602	Public Audit Expense	\$	31,422,959	\$	31,052,999	134786
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- Local Government

5840	070603	Training Program	\$	181,250	\$	181,250	134787
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5JZ0	070606	LEAP Revolving Loans	\$	850,000	\$	650,000	134788
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6750	070605	Uniform Accounting	\$	3,500,000	\$	3,500,000	134789
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Network

TOTAL AUD Auditor of State Fund							134790
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Group	\$	44,954,209	\$	44,084,249	134791
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TOTAL ALL BUDGET FUND GROUPS	\$	73,188,661	\$	72,318,701	134792
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FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE 134793

The foregoing appropriation item 070403, Fiscal 134794

Watch/Emergency Technical Assistance, shall be used for expenses 134795

incurred by the Office of the Auditor of State in its role 134796

relating to fiscal watch or fiscal emergency activities under 134797

Chapters 118. and 3316. of the Revised Code. Expenses include, but 134798

are not limited to, the following: duties related to the 134799
determination or termination of fiscal watch or fiscal emergency 134800
of municipal corporations, counties, townships, or school 134801
districts; development of preliminary accounting reports; 134802
performance of annual forecasts; provision of performance audits; 134803
and supervisory, accounting, or auditing services for the 134804
municipal corporations, counties, townships, or school districts. 134805

An amount equal to the unexpended, unencumbered portion of 134806
appropriation item 070403, Fiscal Watch/Emergency Technical 134807
Assistance, at the end of fiscal year 2012 is hereby 134808
reappropriated for the same purpose in fiscal year 2013. 134809

Section 227.10. BRB BOARD OF BARBER EXAMINERS 134810

General Services Fund Group 134811
4K90 877609 Operating Expenses \$ 656,320 \$ 649,211 134812
TOTAL GSF General Services Fund 134813
Group \$ 656,320 \$ 649,211 134814
TOTAL ALL BUDGET FUND GROUPS \$ 656,320 \$ 649,211 134815

Section 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT 134817

General Revenue Fund 134818
GRF 042321 Budget Development \$ 2,362,025 \$ 2,378,166 134819
and Implementation
GRF 042416 Office of Health \$ 306,285 \$ 0 134820
Transformation
TOTAL GRF General Revenue Fund \$ 2,668,310 \$ 2,378,166 134821
General Services Fund Group 134822
1050 042603 State Accounting and \$ 21,917,230 \$ 22,006,331 134823
Budgeting
5N40 042602 OAKS Project \$ 1,358,000 \$ 1,309,500 134824
Implementation
5Z80 042608 Office of Health \$ 57,752 \$ 0 134825

Transformation			
Administration			
TOTAL GSF General Services Fund	\$	23,332,982	\$ 23,315,831 134826
Group			
Federal Special Revenue Fund Group			134827
3CM0 042606 Office of Health	\$	384,037	\$ 145,500 134828
Transformation -			
Federal			
TOTAL FED Federal Special Revenue	\$	384,037	\$ 145,500 134829
Fund Group			
Agency Fund Group			134830
5EH0 042604 Forgery Recovery	\$	50,000	\$ 50,000 134831
TOTAL AGY Agency Fund Group	\$	50,000	\$ 50,000 134832
TOTAL ALL BUDGET FUND GROUPS	\$	26,435,329	\$ 25,889,497 134833
AUDIT COSTS AND DUES 134834			
All centralized audit costs associated with either Single 134835			
Audit Schedules or financial statements prepared in conformance 134836			
with generally accepted accounting principles for the state shall 134837			
be paid from the foregoing appropriation item 042603, State 134838			
Accounting and Budgeting. 134839			
Costs associated with the audit of the Auditor of State and 134840			
national association dues shall be paid from the foregoing 134841			
appropriation item 042321, Budget Development and Implementation. 134842			
SHARED SERVICES CENTER 134843			
The Director of Budget and Management shall use the OAKS 134844			
Project Implementation Fund (Fund 5N40) and the Accounting and 134845			
Budgeting Fund (Fund 1050) to support a Shared Services Center 134846			
within the Office of Budget and Management for the purpose of 134847			
consolidating statewide business functions and common 134848			
transactional processes. 134849			
The Director of Budget and Management shall include the 134850			

recovery of costs to operate the Shared Services Center in the 134851
accounting and budgeting services payroll rate and through a 134852
direct charge using intrastate transfer vouchers to agencies for 134853
services rendered. The Director of Budget and Management shall 134854
determine the cost recovery methodology. Such cost recovery 134855
revenues shall be deposited to the credit of Fund 1050. 134856

INTERNAL CONTROL AND AUDIT OVERSIGHT 134857

The Director of Budget and Management shall include the 134858
recovery of costs to operate the Internal Control and Audit 134859
Oversight Program in the accounting and budgeting services payroll 134860
rate and through a direct charge using intrastate transfer 134861
vouchers to agencies reviewed by the program. The Director of 134862
Budget and Management, with advice from the Internal Audit 134863
Advisory Council, shall determine the cost recovery methodology. 134864
Such cost recovery revenues shall be deposited to the credit of 134865
the Accounting and Budgeting Fund (Fund 1050). 134866

FORGERY RECOVERY 134867

The foregoing appropriation item 042604, Forgery Recovery, 134868
shall be used to reissue warrants that have been certified as 134869
forgeries by the rightful recipient as determined by the Bureau of 134870
Criminal Identification and Investigation and the Treasurer of 134871
State. Upon receipt of funds to cover the reissuance of the 134872
warrant, the Director of Budget and Management shall reissue a 134873
state warrant of the same amount. 134874

GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND 134875

On July 1 of each fiscal year, or as soon as possible 134876
thereafter, the Director of Budget and Management shall transfer 134877
an amount not to exceed \$1,100,000 in cash from the General 134878
Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40). 134879

Section 231.10. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD 134880

General Revenue Fund					134881
GRF 874100	Personal Services	\$	1,272,017	\$	1,272,017
GRF 874320	Maintenance and	\$	529,391	\$	529,391
	Equipment				
TOTAL GRF	General Revenue Fund	\$	1,801,408	\$	1,801,408
General Services Fund Group					134885
4G50 874603	Capitol Square	\$	15,000	\$	15,000
	Education Center and				
	Arts				
4S70 874602	Statehouse Gift	\$	686,708	\$	686,708
	Shop/Events				
TOTAL GSF	General Services				134888
Fund Group		\$	701,708	\$	701,708
Underground Parking Garage					134890
2080 874601	Underground Parking	\$	3,290,052	\$	3,186,573
	Garage Operations				
TOTAL UPG	Underground Parking				134892
Garage		\$	3,290,052	\$	3,186,573
TOTAL ALL BUDGET FUND GROUPS		\$	5,793,168	\$	5,689,689
WAREHOUSE PAYMENTS					134895
Of the foregoing appropriation item 874601, Underground					134896
Parking Garage Operations, \$48,000 in each fiscal year shall be					134897
used to meet all payments at the times they are required to be					134898
made during the period from July 1, 2011, through June 30, 2013,					134899
to the Ohio Building Authority for bond service charges relating					134900
to the purchase and improvement of a warehouse acquired pursuant					134901
to section 105.41 of the Revised Code, in which to store items of					134902
the Capitol Collection Trust and, whenever necessary, equipment or					134903
other property of the Board.					134904
UNDERGROUND PARKING GARAGE FUND					134905
Notwithstanding division (G) of section 105.41 of the Revised					134906

Code and any other provision to the contrary, moneys in the 134907
 Underground Parking Garage Fund (Fund 2080) may be used for 134908
 personnel and operating costs related to the operations of the 134909
 Statehouse and the Statehouse Underground Parking Garage. 134910

Section 233.10. SCR STATE BOARD OF CAREER COLLEGES AND 134911
 SCHOOLS 134912

General Services Fund Group 134913
 4K90 233601 Operating Expenses \$ 558,658 \$ 579,328 134914
 TOTAL GSF General Services Fund \$ 558,658 \$ 579,328 134915
 Group
 TOTAL ALL BUDGET FUND GROUPS \$ 558,658 \$ 579,328 134916

Section 235.10. CAC CASINO CONTROL COMMISSION 134918

State Special Revenue Fund Group 134919
 5HS0 955321 Casino Control - \$ 8,263,312 \$ 13,121,283 134920
 Operating
 TOTAL SSR State Special Revenue \$ 8,263,312 \$ 13,121,283 134921
 Fund Group
 TOTAL ALL BUDGET FUND GROUPS \$ 8,263,312 \$ 13,121,283 134922

Section 237.10. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD 134924

General Services Fund Group 134925
 4K90 930609 Operating Expenses \$ 433,734 \$ 417,827 134926
 TOTAL GSF General Services Fund \$ 433,734 \$ 417,827 134927
 Group
 TOTAL ALL BUDGET FUND GROUPS \$ 433,734 \$ 417,827 134928

Section 239.10. CHR STATE CHIROPRACTIC BOARD 134930

General Services Fund Group 134931
 4K90 878609 Operating Expenses \$ 592,916 \$ 584,925 134932
 TOTAL GSF General Services Fund \$ 592,916 \$ 584,925 134933

Group

TOTAL ALL BUDGET FUND GROUPS \$ 592,916 \$ 584,925 134934

Section 241.10. CIV OHIO CIVIL RIGHTS COMMISSION 134936

General Revenue Fund 134937

GRF 876321 Operating Expenses \$ 4,725,784 \$ 4,725,784 134938

TOTAL GRF General Revenue Fund \$ 4,725,784 \$ 4,725,784 134939

General Services Fund Group 134940

2170 876604 Operations Support \$ 8,000 \$ 8,000 134941

TOTAL GSF General Services 134942

Fund Group \$ 8,000 \$ 8,000 134943

Federal Special Revenue Fund Group 134944

3340 876601 Federal Programs \$ 2,762,000 \$ 2,762,000 134945

TOTAL FED Federal Special Revenue 134946

Fund Group \$ 2,762,000 \$ 2,762,000 134947

TOTAL ALL BUDGET FUND GROUPS \$ 7,495,784 \$ 7,495,784 134948

Section 243.10. COM DEPARTMENT OF COMMERCE 134950

General Revenue Fund 134951

GRF 800401 Construction \$ 920,000 \$ 920,000 134952

Compliance

TOTAL GRF General Revenue Fund \$ 920,000 \$ 920,000 134953

General Services Fund Group 134954

1630 800620 Division of \$ 6,200,000 \$ 6,200,000 134955

Administration

1630 800637 Information \$ 5,999,892 \$ 6,011,977 134956

Technology

5430 800602 Unclaimed \$ 7,836,107 \$ 7,841,473 134957

Funds-Operating

5430 800625 Unclaimed \$ 69,700,000 \$ 69,800,000 134958

Funds-Claims

5F10 800635 Small Government Fire \$ 300,000 \$ 300,000 134959

Departments			
TOTAL GSF General Services Fund			134960
Group	\$	90,035,999	\$ 90,153,450 134961
Federal Special Revenue Fund Group			134962
3480 800622 Underground Storage	\$	1,129,518	\$ 1,129,518 134963
Tanks			
3480 800624 Leaking Underground	\$	1,556,211	\$ 1,556,211 134964
Storage Tanks			
TOTAL FED Federal Special Revenue			134965
Fund Group	\$	2,685,729	\$ 2,685,729 134966
State Special Revenue Fund Group			134967
4B20 800631 Real Estate Appraisal	\$	35,000	\$ 35,000 134968
Recovery			
4H90 800608 Cemeteries	\$	268,067	\$ 268,293 134969
4X20 800619 Financial Institutions	\$	2,186,271	\$ 1,990,693 134970
5440 800612 Banks	\$	7,242,364	\$ 6,942,336 134971
5450 800613 Savings Institutions	\$	2,257,220	\$ 2,259,536 134972
5460 800610 Fire Marshal	\$	15,400,000	\$ 15,501,562 134973
5460 800639 Fire Department Grants	\$	1,698,802	\$ 1,698,802 134974
5470 800603 Real Estate	\$	125,000	\$ 125,000 134975
Education/Research			
5480 800611 Real Estate Recovery	\$	25,000	\$ 25,000 134976
5490 800614 Real Estate	\$	3,413,708	\$ 3,332,308 134977
5500 800617 Securities	\$	4,312,434	\$ 4,314,613 134978
5520 800604 Credit Union	\$	3,450,390	\$ 3,450,390 134979
5530 800607 Consumer Finance	\$	3,613,016	\$ 3,516,861 134980
5560 800615 Industrial Compliance	\$	27,639,372	\$ 27,664,695 134981
5FW0 800616 Financial Literacy	\$	240,000	\$ 240,000 134982
Education			
5GK0 800609 Securities Investor	\$	1,135,000	\$ 485,000 134983
Education/Enforcement			
5HV0 800641 Cigarette Enforcement	\$	120,000	\$ 120,000 134984

5X60 800623	Video Service	\$	340,299	\$	340,630	134985
6530 800629	UST	\$	1,854,675	\$	1,509,653	134986
	Registration/Permit Fee					
6A40 800630	Real Estate	\$	699,565	\$	648,890	134987
	Appraiser-Operating					
TOTAL SSR State Special Revenue						134988
Fund Group		\$	76,056,183	\$	74,469,262	134989
Liquor Control Fund Group						134990
7043 800601	Merchandising	\$	472,209,274	\$	0	134991
7043 800627	Liquor Control	\$	13,398,274	\$	10,110,479	134992
	Operating					
7043 800633	Development Assistance	\$	51,973,200	\$	0	134993
	Debt Service					
7043 800636	Revitalization Debt	\$	21,129,800	\$	0	134994
	Service					
TOTAL LCF Liquor Control						134995
Fund Group		\$	558,710,548	\$	10,110,479	134996
TOTAL ALL BUDGET FUND GROUPS						134997
	SMALL GOVERNMENT FIRE DEPARTMENTS					134998
	Notwithstanding section 3737.17 of the Revised Code, the					134999
	foregoing appropriation item 800635, Small Government Fire					135000
	Departments, may be used to provide loans to private fire					135001
	departments.					135002
	UNCLAIMED FUNDS PAYMENTS					135003
	The foregoing appropriation item 800625, Unclaimed					135004
	Funds-Claims, shall be used to pay claims under section 169.08 of					135005
	the Revised Code. If it is determined that additional amounts are					135006
	necessary, the amounts are appropriated.					135007
	UNCLAIMED FUNDS TRANSFERS					135008
	Notwithstanding division (A) of section 169.05 of the Revised					135009

Code, on or after June 1, 2012, the Director of Budget and 135010
Management shall request the Director of Commerce to transfer to 135011
the General Revenue Fund up to \$115,000,000 of unclaimed funds 135012
that have been reported by holders of unclaimed funds under 135013
section 169.05 of the Revised Code, irrespective of the allocation 135014
of the unclaimed funds under that section. After such request has 135015
been made, the Director of Commerce shall transfer the funds prior 135016
to June 30, 2012. 135017

Notwithstanding division (A) of section 169.05 of the Revised 135018
Code, on or after June 1, 2013, the Director of Budget and 135019
Management shall request the Director of Commerce to transfer to 135020
the General Revenue Fund up to \$100,000,000 of unclaimed funds 135021
that have been reported by holders of unclaimed funds under 135022
section 169.05 of the Revised Code, irrespective of the allocation 135023
of the unclaimed funds under that section. After such request has 135024
been made, the Director of Commerce shall transfer the funds prior 135025
to June 30, 2013. 135026

FIRE DEPARTMENT GRANTS 135027

Of the foregoing appropriation item 800639, Fire Department 135028
Grants, up to \$1,647,140 in each fiscal year shall be used to make 135029
annual grants to volunteer fire departments, fire departments that 135030
serve one or more small municipalities or small townships, joint 135031
fire districts comprised of fire departments that primarily serve 135032
small municipalities or small townships, local units of government 135033
responsible for such fire departments, and local units of 135034
government responsible for the provision of fire protection 135035
services for small municipalities or small townships. 135036

The grants shall be used by recipients to purchase 135037
firefighting or rescue equipment or gear or similar items, to 135038
provide full or partial reimbursement for the documented costs of 135039
firefighter training, or, at the discretion of the State Fire 135040
Marshal, to cover fire department costs for providing fire 135041

protection services in that grant recipient's jurisdiction. 135042

Grant awards for firefighting or rescue equipment or gear or 135043
for fire department costs of providing fire protection services 135044
shall be up to \$15,000 per fiscal year, or up to \$25,000 per 135045
fiscal year if an eligible entity serves a jurisdiction in which 135046
the Governor declared a natural disaster during the preceding or 135047
current fiscal year in which the grant was awarded. In addition to 135048
any grant funds awarded for rescue equipment or gear, or for fire 135049
department costs associated with the provision of fire protection 135050
services, an eligible entity may receive a grant for up to \$15,000 135051
per fiscal year for full or partial reimbursement of the 135052
documented costs of firefighter training. For each fiscal year, 135053
the State Fire Marshal shall determine the total amounts to be 135054
allocated for each eligible purpose. 135055

The grant program shall be administered by the State Fire 135056
Marshal in accordance with rules the State Fire Marshal adopts as 135057
part of the state fire code adopted pursuant to section 3737.82 of 135058
the Revised Code that are necessary for the administration and 135059
operation of the grant program. The rules may further define the 135060
entities eligible to receive grants and establish criteria for the 135061
awarding and expenditure of grant funds, including methods the 135062
State Fire Marshal may use to verify the proper use of grant funds 135063
or to obtain reimbursement for or the return of equipment for 135064
improperly used grant funds. Any amounts in appropriation item 135065
800639, Fire Department Grants, in excess of the amount allocated 135066
for these grants may be used for the administration of the grant 135067
program. 135068

CASH TRANSFERS TO THE DIVISION OF SECURITIES INVESTOR 135069
EDUCATION AND ENFORCEMENT EXPENSE FUND 135070

The Director of Budget and Management, upon the request of 135071
the Director of Commerce, shall transfer up to \$485,000 in cash in 135072
each fiscal year from the Division of Securities Fund (Fund 5500) 135073

to the Division of Securities Investor Education and Enforcement 135074
Expense Fund (Fund 5GK0) created in section 1707.37 of the Revised 135075
Code. 135076

CASH TRANSFER TO VIDEO SERVICE AUTHORIZATION FUND 135077

The Director of Budget and Management, upon the request of 135078
the Director of Commerce, shall transfer up to \$340,000 in cash in 135079
each fiscal year from the Division of Administration Fund (Fund 135080
1630) to the Video Service Authorization Fund (Fund 5X60). 135081

INCREASED APPROPRIATION - MERCHANDISING 135082

The foregoing appropriation item 800601, Merchandising, shall 135083
be used under section 4301.12 of the Revised Code. If it is 135084
determined that additional expenditures are necessary, the amounts 135085
are hereby appropriated. 135086

DEVELOPMENT ASSISTANCE DEBT SERVICE 135087

The foregoing appropriation item 800633, Development 135088
Assistance Debt Service, shall be used to pay debt service and 135089
related financing costs at the times they are required to be made 135090
during the period from July 1, 2011, to June 30, 2012, for bond 135091
service charges on obligations issued under Chapter 166. of the 135092
Revised Code. If it is determined that additional appropriations 135093
are necessary for this purpose, such amounts are appropriated, 135094
subject to the limitations set forth in section 166.11 of the 135095
Revised Code. An appropriation for this purpose is not required, 135096
but is made in this form and in this act for record purposes only. 135097

REVITALIZATION DEBT SERVICE 135098

The foregoing appropriation item 800636, Revitalization Debt 135099
Service, shall be used to pay debt service and related financing 135100
costs at the times they are required to be made pursuant to 135101
sections 151.01 and 151.40 of the Revised Code during the period 135102
from July 1, 2011, to June 30, 2012. If it is determined that 135103

additional appropriations are necessary for this purpose, such 135104
amounts are hereby appropriated. The General Assembly acknowledges 135105
the priority of the pledge of a portion of receipts from that 135106
source to obligations issued and to be issued under Chapter 166. 135107
of the Revised Code. 135108

LIQUOR CONTROL FUND TRANSFER 135109

On January 1, 2012, or as soon as possible thereafter, the 135110
Director of Budget and Management may transfer up to \$10,600,000 135111
in cash from the General Revenue Fund to the Liquor Control Fund 135112
(Fund 7043) for the liquor permitting and compliance functions of 135113
the Division of Liquor Control in the Department of Commerce and 135114
for the operations of the Liquor Control Commission and the 135115
Department of Public Safety pursuant to Chapter 4301. of the 135116
Revised Code. 135117

On July 1, 2012, or as soon as possible thereafter, the 135118
Director of Budget and Management may transfer up to \$21,400,000 135119
in cash from the General Revenue Fund to the Liquor Control Fund 135120
(Fund 7043) for the liquor permitting and compliance functions of 135121
the Division of Liquor Control in the Department of Commerce and 135122
for the operations of the Liquor Control Commission and the 135123
Department of Public Safety pursuant to Chapter 4301. of the 135124
Revised Code. 135125

ADMINISTRATIVE ASSESSMENTS 135126

Notwithstanding any other provision of law to the contrary, 135127
the Division of Administration Fund (Fund 1630) is entitled to 135128
receive assessments from all operating funds of the Department in 135129
accordance with procedures prescribed by the Director of Commerce 135130
and approved by the Director of Budget and Management. 135131

Section 245.10. OCC OFFICE OF CONSUMERS' COUNSEL 135132

General Services Fund Group 135133

5F50 053601	Operating Expenses	\$	5,641,093	\$	4,142,070	135134
TOTAL GSF	General Services Fund	\$	5,641,093	\$	4,142,070	135135
Group						
TOTAL ALL BUDGET FUND GROUPS		\$	5,641,093	\$	4,142,070	135136

Section 247.10. CEB CONTROLLING BOARD 135138

General Revenue Fund 135139

GRF 911441	Ballot Advertising	\$	475,000	\$	475,000	135140
Costs						

TOTAL GRF	General Revenue Fund	\$	475,000	\$	475,000	135141
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General Services Fund Group 135142

5KM0 911614	CB Emergency Purposes	\$	10,000,000	\$	10,000,000	135143
TOTAL GSF	General Services Fund	\$	10,000,000	\$	10,000,000	135144

Group

TOTAL ALL BUDGET FUND GROUPS		\$	10,475,000	\$	10,475,000	135145
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FEDERAL SHARE 135146

In transferring appropriations to or from appropriation items 135147
that have federal shares identified in this act, the Controlling 135148
Board shall add or subtract corresponding amounts of federal 135149
matching funds at the percentages indicated by the state and 135150
federal division of the appropriations in this act. Such changes 135151
are hereby appropriated. 135152

DISASTER SERVICES 135153

Pursuant to requests submitted by the Department of Public 135154
Safety, the Controlling Board may approve transfers from the 135155
Disaster Services Fund (5E20) to a fund and appropriation item 135156
used by the Department of Public Safety to provide for assistance 135157
to political subdivisions made necessary by natural disasters or 135158
emergencies. These transfers may be requested and approved prior 135159
to the occurrence of any specific natural disasters or emergencies 135160
in order to facilitate the provision of timely assistance. The 135161

Emergency Management Agency of the Department of Public Safety 135162
shall use the funding to fund the State Disaster Relief Program 135163
for disasters that have been declared by the Governor, and the 135164
State Individual Assistance Program for disasters that have been 135165
declared by the Governor and the federal Small Business 135166
Administration. The Ohio Emergency Management Agency shall publish 135167
and make available application packets outlining procedures for 135168
the State Disaster Relief Program and the State Individual 135169
Assistance Program. 135170

Fund 5E20 shall be used by the Controlling Board, pursuant to 135171
requests submitted by state agencies, to transfer cash and 135172
appropriations to any fund and appropriation item for the payment 135173
of state agency disaster relief program expenses for disasters 135174
declared by the Governor, if the Director of Budget and Management 135175
determines that sufficient funds exist. 135176

BALLOT ADVERTISING COSTS 135177

Pursuant to section 3501.17 of the Revised Code, and upon 135178
requests submitted by the Secretary of State, the Controlling 135179
Board shall approve transfers from the foregoing appropriation 135180
item 911441, Ballot Advertising Costs, to appropriation item 135181
050621, Statewide Ballot Advertising, in order to pay for the cost 135182
of public notices associated with statewide ballot initiatives. 135183

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS 135184
ELIGIBILITY 135185

A state agency director shall request that the Controlling 135186
Board increase the amount of the agency's capital appropriations 135187
if the director determines such an increase is necessary for the 135188
agency to receive and use funds under the federal American 135189
Recovery and Reinvestment Act of 2009. The Controlling Board may 135190
increase the capital appropriations pursuant to the request up to 135191
the exact amount necessary under the federal act if the Board 135192

determines it is necessary for the agency to receive and use those 135193
 federal funds. 135194

Section 249.10. COS STATE BOARD OF COSMETOLOGY 135195

General Services Fund Group 135196

4K90 879609 Operating Expenses \$ 3,439,545 \$ 3,364,030 135197

TOTAL GSF General Services Fund 135198

Group \$ 3,439,545 \$ 3,364,030 135199

TOTAL ALL BUDGET FUND GROUPS \$ 3,439,545 \$ 3,364,030 135200

Section 251.10. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE 135202

AND FAMILY THERAPIST BOARD 135203

General Services Fund Group 135204

4K90 899609 Operating Expenses \$ 1,204,235 \$ 1,234,756 135205

TOTAL GSF General Services Fund 135206

Group \$ 1,204,235 \$ 1,234,756 135207

TOTAL ALL BUDGET FUND GROUPS \$ 1,204,235 \$ 1,234,756 135208

Section 253.10. CLA COURT OF CLAIMS 135210

General Revenue Fund 135211

GRF 015321 Operating Expenses \$ 2,573,508 \$ 2,501,052 135212

TOTAL GRF General Revenue Fund \$ 2,573,508 \$ 2,501,052 135213

State Special Revenue Fund Group 135214

5K20 015603 CLA Victims of Crime \$ 1,582,684 \$ 1,582,684 135215

TOTAL SSR State Special Revenue 135216

Fund Group \$ 1,582,684 \$ 1,582,684 135217

TOTAL ALL BUDGET FUND GROUPS \$ 4,156,192 \$ 4,083,736 135218

Section 255.10. AFC OHIO CULTURAL FACILITIES COMMISSION 135220

General Revenue Fund 135221

GRF 371321 Operating Expenses \$ 98,636 \$ 98,636 135222

GRF 371401	Lease Rental Payments	\$ 27,804,900	\$ 28,465,000	135223
TOTAL GRF	General Revenue Fund	\$ 27,903,536	\$ 28,563,636	135224
State Special Revenue Fund Group				135225
4T80 371601	Riffe Theatre	\$ 80,891	\$ 80,891	135226
	Equipment Maintenance			
4T80 371603	Project	\$ 1,200,000	\$ 1,200,000	135227
	Administration			
	Services			
TOTAL SSR	State Special Revenue	\$ 1,280,891	\$ 1,280,891	135228
Group				
TOTAL ALL BUDGET FUND GROUPS		\$ 29,184,427	\$ 29,844,527	135229
LEASE RENTAL PAYMENTS				135230
The foregoing appropriation item 371401, Lease Rental				135231
Payments, shall be used to meet all payments at the times they are				135232
required to be made during the period from July 1, 2011 through				135233
June 30, 2013, from the Ohio Cultural Facilities Commission under				135234
the primary leases and agreements for those arts and sports				135235
facilities made under Chapters 152. and 154. of the Revised Code.				135236
These appropriations are the source of funds pledged for bond				135237
service charges on related obligations issued under Chapters 152.				135238
and 154. of the Revised Code.				135239
OPERATING EXPENSES				135240
The foregoing appropriation item 371321, Operating Expenses,				135241
shall be used by the Ohio Cultural Facilities Commission to carry				135242
out its responsibilities under this section and Chapter 3383. of				135243
the Revised Code.				135244
The foregoing appropriation item 371603, Project				135245
Administration Services, shall be used by the Ohio Cultural				135246
Facilities Commission in administering Cultural and Sports				135247
Facilities Building Fund (Fund 7030) projects pursuant to Chapter				135248
3383. of the Revised Code.				135249

By the tenth day following each calendar quarter in each 135250
fiscal year, or as soon as possible thereafter, the Director of 135251
Budget and Management shall determine the amount of cash from 135252
interest earnings to be transferred from the Cultural and Sports 135253
Facilities Building Fund (Fund 7030) to the Cultural Facilities 135254
Commission Administration Fund (Fund 4T80). 135255

As soon as possible after each bond issuance made on behalf 135256
of the Cultural Facilities Commission, the Director of Budget and 135257
Management shall determine the amount of cash from any premium 135258
paid on each issuance that is available to be transferred, after 135259
all issuance costs have been paid, from the Cultural and Sports 135260
Facilities Building Fund (Fund 7030) to the Cultural Facilities 135261
Commission Administration Fund (Fund 4T80). 135262

CAPITAL DONATIONS FUND CERTIFICATIONS AND APPROPRIATIONS 135263

The Executive Director of the Cultural Facilities Commission 135264
shall certify to the Director of Budget and Management the amount 135265
of cash receipts and related investment income, irrevocable 135266
letters of credit from a bank, or certification of the 135267
availability of funds that have been received from a county or a 135268
municipal corporation for deposit into the Capital Donations Fund 135269
(Fund 5A10) and that are related to an anticipated project. These 135270
amounts are hereby appropriated to appropriation item C37146, 135271
Capital Donations. Prior to certifying these amounts to the 135272
Director, the Executive Director shall make a written agreement 135273
with the participating entity on the necessary cash flows required 135274
for the anticipated construction or equipment acquisition project. 135275

Section 257.10. DEN STATE DENTAL BOARD 135276

General Services Fund Group 135277
4K90 880609 Operating Expenses \$ 1,574,715 \$ 1,545,684 135278
TOTAL GSF General Services Fund 135279

Group	\$	1,574,715	\$	1,545,684	135280
TOTAL ALL BUDGET FUND GROUPS	\$	1,574,715	\$	1,545,684	135281

Section 259.10. BDP BOARD OF DEPOSIT 135283

General Services Fund Group					135284
4M20 974601 Board of Deposit	\$	1,876,000	\$	1,876,000	135285
TOTAL GSF General Services Fund					135286
Group	\$	1,876,000	\$	1,876,000	135287
TOTAL ALL BUDGET FUND GROUPS	\$	1,876,000	\$	1,876,000	135288

BOARD OF DEPOSIT EXPENSE FUND 135289

Upon receiving certification of expenses from the Treasurer	135290
of State, the Director of Budget and Management shall transfer	135291
cash from the Investment Earnings Redistribution Fund (Fund 6080)	135292
to the Board of Deposit Expense Fund (Fund 4M20). The latter fund	135293
shall be used pursuant to section 135.02 of the Revised Code to	135294
pay for any and all necessary expenses of the Board of Deposit or	135295
for banking charges and fees required for the operation of the	135296
State of Ohio Regular Account.	135297

Section 261.10. DEV DEPARTMENT OF DEVELOPMENT 135298

General Revenue Fund					135299
GRF 195401 Thomas Edison Program	\$	13,820,354	\$	0	135300
GRF 195402 Coal Development	\$	260,983	\$	261,205	135301
Office					
GRF 195404 Small Business	\$	1,565,770	\$	0	135302
Development					
GRF 195405 Minority Business	\$	1,118,528	\$	0	135303
Enterprise Division					
GRF 195407 Travel and Tourism	\$	5,000,000	\$	0	135304
GRF 195412 Rapid Outreach Grants	\$	9,000,000	\$	0	135305
GRF 195415 Strategic Business	\$	4,500,000	\$	0	135306
Investment Division					

		and Regional Offices				
GRF	195416	Governor's Office of Appalachia	\$	3,700,000	\$	3,700,000 135307
GRF	195422	Technology Action	\$	547,341	\$	0 135308
GRF	195426	Clean Ohio Implementation	\$	468,365	\$	0 135309
GRF	195432	Global Markets	\$	3,500,000	\$	0 135310
GRF	195434	Industrial Training Grants	\$	10,000,000	\$	0 135311
GRF	195497	CDBG Operating Match	\$	1,015,000	\$	0 135312
GRF	195501	Appalachian Local Development Districts	\$	391,482	\$	391,482 135313
GRF	195502	Appalachian Regional Commission Dues	\$	195,000	\$	195,000 135314
GRF	195528	Economic Development Projects	\$	0	\$	25,943,518 135315
GRF	195901	Coal Research & Development General Obligation Debt Service	\$	7,861,100	\$	5,577,700 135316
GRF	195905	Third Frontier Research & Development General Obligation Debt Service	\$	29,323,300	\$	63,640,300 135317
GRF	195912	Job Ready Site Development General Obligation Debt Service	\$	9,859,200	\$	15,680,500 135318
TOTAL GRF		General Revenue Fund	\$	102,126,423	\$	115,389,705 135319
		General Services Fund Group				135320
1350	195684	Supportive Services	\$	11,700,000	\$	11,700,000 135321
4W10	195646	Minority Business	\$	2,500,000	\$	2,500,000 135322

		Enterprise Loan					
5AD0	195633	Legacy Projects	\$	15,000,000	\$	15,000,000	135323
5AD0	195677	Economic Development	\$	10,000,000	\$	0	135324
		Contingency					
5W50	195690	Travel and Tourism	\$	50,000	\$	50,000	135325
		Cooperative Projects					
6850	195636	Direct Cost Recovery	\$	750,000	\$	750,000	135326
		Expenditures					
TOTAL	GSF	General Services Fund					135327
Group			\$	40,000,000	\$	30,000,000	135328
		Federal Special Revenue Fund Group					135329
3080	195602	Appalachian Regional	\$	475,000	\$	475,000	135330
		Commission					
3080	195603	Housing and Urban	\$	6,000,000	\$	6,000,000	135331
		Development					
3080	195605	Federal Projects	\$	85,028,606	\$	85,470,106	135332
3080	195609	Small Business	\$	6,438,143	\$	5,511,381	135333
		Administration					
3080	195618	Energy Federal Grants	\$	38,000,000	\$	3,400,000	135334
3350	195610	Energy Conservation	\$	1,100,000	\$	1,100,000	135335
		and Emerging					
		Technology					
3AE0	195643	Workforce Development	\$	16,300,000	\$	16,300,000	135336
		Initiatives					
3DB0	195642	Federal Stimulus -	\$	3,000,000	\$	42,485	135337
		Energy Efficiency &					
		Conservation Block					
		Grants					
3EG0	195608	Federal Energy	\$	5,000,000	\$	1,344,056	135338
		Training					
3K80	195613	Community Development	\$	76,795,818	\$	65,210,000	135339
		Block Grant					
3K90	195611	Home Energy	\$	115,743,608	\$	115,743,608	135340

		Assistance Block					
		Grant					
3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000	135341
3L00	195612	Community Services	\$	27,240,217	\$	27,240,217	135342
		Block Grant					
3V10	195601	HOME Program	\$	40,000,000	\$	40,000,000	135343
TOTAL FED		Federal Special Revenue					135344
Fund Group			\$	443,121,392	\$	389,836,853	135345
State Special Revenue Fund Group							135346
4500	195624	Minority Business	\$	160,110	\$	159,069	135347
		Bonding Program					
		Administration					
4510	195625	Economic Development	\$	3,000,000	\$	3,000,000	135348
		Financing Operating					
4F20	195639	State Special	\$	180,437	\$	180,436	135349
		Projects					
4F20	195676	Marketing	\$	5,000,000	\$	0	135350
		Initiatives					
4F20	195699	Utility Provided	\$	500,000	\$	500,000	135351
		Funds					
4S00	195630	Tax Incentive	\$	650,800	\$	650,800	135352
		Programs					
5CG0	195679	Alterative Fuel	\$	750,000	\$	750,000	135353
		Transportation					
5HJ0	195604	Motion Picture Tax	\$	50,000	\$	50,000	135354
		Credit Program					
5HR0	195526	Ohio Workforce Job	\$	20,000,000	\$	30,000,000	135355
		Training					
5JR0	195656	New Market Tax	\$	50,000	\$	50,000	135356
		Credit Program					
5KD0	195621	Brownfield	\$	50,000	\$	50,000	135357
		Stormwater Loan					
5M40	195659	Low Income Energy	\$	245,000,000	\$	245,000,000	135358

		Assistance				
5M50	195660	Advanced Energy	\$	8,000,000	\$	0 135359
		Programs				
5W60	195691	International Trade	\$	160,000	\$	160,000 135360
		Cooperative Projects				
6170	195654	Volume Cap	\$	94,397	\$	92,768 135361
		Administration				
6460	195638	Low- and Moderate-	\$	53,000,000	\$	53,000,000 135362
		Income Housing Trust				
		Fund				
TOTAL SSR State Special Revenue						135363
Fund Group			\$	336,645,744	\$	333,643,073 135364
Facilities Establishment Fund Group						135365
5S90	195628	Capital Access Loan	\$	1,500,000	\$	1,500,000 135366
		Program				
7009	195664	Innovation Ohio	\$	15,000,000	\$	15,000,000 135367
7010	195665	Research and	\$	22,000,000	\$	22,000,000 135368
		Development				
7037	195615	Facilities	\$	55,000,000	\$	55,000,000 135369
		Establishment				
TOTAL 037 Facilities						135370
Establishment Fund Group			\$	93,500,000	\$	93,500,000 135371
Clean Ohio Revitalization Fund						135372
7003	195663	Clean Ohio Operating	\$	950,000	\$	950,000 135373
TOTAL 7003 Clean Ohio			\$	950,000	\$	950,000 135374
Revitalization Fund						
Third Frontier Research & Development Fund Group						135375
7011	195686	Third Frontier	\$	1,149,750	\$	1,149,750 135376
		Operating				
7011	195687	Third Frontier	\$	183,850,250	\$	133,850,250 135377
		Research &				
		Development Projects				

7014	195620	Third Frontier Operating - Tax	\$	1,700,000	\$	1,700,000	135378
7014	195692	Research & Development Taxable Bond Projects	\$	38,300,000	\$	38,300,000	135379
TOTAL	011	Third Frontier Research & Development Fund Group	\$	225,000,000	\$	175,000,000	135380
		Job Ready Site Development Fund Group					135381
7012	195688	Job Ready Site Operating	\$	800,000	\$	800,000	135382
TOTAL	012	Job Ready Site Development Fund Group	\$	800,000	\$	800,000	135383
		Tobacco Master Settlement Agreement Fund Group					135384
M087	195435	Biomedical Research and Technology Transfer	\$	1,999,224	\$	1,999,224	135385
TOTAL	TSF	Tobacco Master Settlement Agreement Fund Group	\$	1,999,224	\$	1,999,224	135386
TOTAL	ALL	BUDGET FUND GROUPS	\$	1,244,142,783	\$	1,141,118,855	135387

Section 261.10.10. THOMAS EDISON PROGRAM 135389

The foregoing appropriation item 195401, Thomas Edison 135390
Program, shall be used for the purposes of sections 122.28 to 135391
122.38 of the Revised Code. Of the foregoing appropriation item 135392
195401, Thomas Edison Program, not more than ten per cent in each 135393
fiscal year shall be used for operating expenditures in 135394
administering the programs of the Technology and Innovation 135395
Division. 135396

Section 261.10.20. SMALL BUSINESS DEVELOPMENT 135397

The foregoing appropriation item 195404, Small Business 135398
Development, shall be used as matching funds for grants from the 135399

United States Small Business Administration and other federal 135400
agencies, pursuant to Pub. L. No. 96-302 (1980) as amended by Pub. 135401
L. No. 98-395 (1984), and regulations and policy guidelines for 135402
the programs pursuant thereto. This appropriation item also may be 135403
used to provide grants to local organizations to support the 135404
operation of small business development centers and other local 135405
economic development activities that promote small business 135406
development and entrepreneurship. 135407

Section 261.10.30. RAPID OUTREACH GRANTS 135408

Appropriation item 195412, Rapid Outreach Grants, shall be 135409
used as an incentive for attracting, expanding, and retaining 135410
business opportunities for the state in accordance with Chapter 135411
166. of the Revised Code. Of the amount appropriated, no more than 135412
five per cent in each fiscal year shall be used for administrative 135413
costs of the Rapid Outreach Program. 135414

The department shall award funds directly to business 135415
entities considering Ohio for their expansion or new site location 135416
opportunities. Rapid Outreach grants shall be used by recipients 135417
to purchase equipment, make infrastructure improvements, make real 135418
property improvements, or fund other fixed assets. To meet the 135419
particular needs of economic development in a region, the 135420
department may elect to award funds directly to a political 135421
subdivision to assist with making on- or off-site infrastructure 135422
improvements to water and sewage treatment facilities, electric or 135423
gas service connections, fiber optic access, rail facilities, site 135424
preparation, and parking facilities. The Director of Development 135425
may recommend that the funds be used for alternative purposes when 135426
considered appropriate to satisfy an economic development 135427
opportunity or need deemed extraordinary in nature by the Director 135428
including, but not limited to, construction, rehabilitation, and 135429
acquisition projects for rail freight assistance as requested by 135430

the Department of Transportation. The Director of Transportation 135431
shall submit the proposed projects to the Director of Development 135432
for an evaluation of potential economic benefit. 135433

Moneys awarded directly to business entities from the 135434
foregoing appropriation item 195412, Rapid Outreach Grants, may be 135435
expended only after the submission of a request to the Controlling 135436
Board by the Department of Development outlining the planned use 135437
of the funds, and the subsequent approval of the request by the 135438
Controlling Board. 135439

Section 261.10.40. STRATEGIC BUSINESS INVESTMENT DIVISION AND 135440
REGIONAL OFFICES 135441

The foregoing appropriation item 195415, Strategic Business 135442
Investment Division and Regional Offices, shall be used for the 135443
operating expenses of the Strategic Business Investment Division 135444
and the regional economic development offices and for grants for 135445
cooperative economic development ventures. 135446

Section 261.10.50. GOVERNOR'S OFFICE OF APPALACHIA 135447

The foregoing appropriation item 195416, Governor's Office of 135448
Appalachia, may be used for the administrative costs of planning 135449
and liaison activities for the Governor's Office of Appalachia, to 135450
provide financial assistance to projects in Ohio's Appalachian 135451
counties, and to match federal funds from the Appalachian Regional 135452
Commission. 135453

Section 261.10.60. TECHNOLOGY ACTION 135454

The foregoing appropriation item 195422, Technology Action, 135455
shall be used for operating expenses the Department of Development 135456
incurs for administering sections 184.10 to 184.20 of the Revised 135457
Code. If the appropriation is insufficient to cover the operating 135458
expenses, the Department may request Controlling Board approval to 135459

appropriate the additional amount needed in appropriation item 135460
195686, Third Frontier Operating. The Department shall not request 135461
an amount in excess of the amount needed. 135462

Section 261.10.70. CLEAN OHIO IMPLEMENTATION 135463

The foregoing appropriation item 195426, Clean Ohio 135464
Implementation, shall be used to fund the costs of administering 135465
the Clean Ohio Revitalization program and other urban 135466
revitalization programs that may be implemented by the Department 135467
of Development. 135468

Section 261.10.80. GLOBAL MARKETS 135469

The foregoing appropriation item 195432, Global Markets, 135470
shall be used to administer Ohio's foreign trade and investment 135471
programs, including operation and maintenance of Ohio's 135472
out-of-state trade and investment offices. This appropriation item 135473
also shall be used to fund the Global Markets Division and to 135474
assist Ohio manufacturers, agricultural producers, and service 135475
providers in exporting to foreign countries and to assist in the 135476
attraction of foreign direct investment. 135477

Section 261.10.90. OHIO WORKFORCE GUARANTEE PROGRAM 135478

The foregoing appropriation item 195434, Industrial Training 135479
Grants, may be used for the Ohio Workforce Guarantee Program to 135480
promote training through grants to businesses and, in the case of 135481
a business consortium, training and education providers for the 135482
reimbursement of eligible training expenses. 135483

Section 261.20.10. ECONOMIC DEVELOPMENT PROJECTS 135484

The foregoing appropriation item 195528, Economic Development 135485
Projects, may be used for the purposes of Chapter 122. of the 135486
Revised Code. This appropriation item is made in anticipation of 135487

the evaluation of all powers, functions, and duties of the 135488
Department of Development by the Director of Development, as 135489
prescribed in Section 187.05 of the Revised Code. It is the intent 135490
of the General Assembly that the appropriations in the 135491
appropriation item be reallocated upon completion of the 135492
evaluation. 135493

Section 261.20.20. OHIO FILM OFFICE 135494

The Ohio Film Office shall promote media productions in the 135495
state and help the industry optimize its production experience in 135496
the state by enhancing local economies through increased 135497
employment and tax revenues and ensuring an accurate portrayal of 135498
Ohio. The Office shall serve as an informational clearinghouse and 135499
provide technical assistance to the media production industry and 135500
business entities engaged in media production in the state. The 135501
Office shall promote Ohio as the ideal site for media production 135502
and help those in the industry benefit from their experience in 135503
the state. 135504

The primary objective of the Office shall be to encourage 135505
development of a strong capital base for electronic media 135506
production in order to achieve an independent, self-supporting 135507
industry in Ohio. Other objectives shall include: 135508

(A) Attracting private investment for the electronic media 135509
production industry; 135510

(B) Developing a tax infrastructure that encourages private 135511
investment; and 135512

(C) Encouraging increased employment opportunities within 135513
this sector and increased competition with other states. 135514

Section 261.20.30. COAL RESEARCH AND DEVELOPMENT GENERAL 135515
OBLIGATION DEBT SERVICE 135516

The foregoing appropriation line item 195901, Coal Research and Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period July 1, 2011, through June 30, 2013 for obligations issued under sections 151.01 and 151.07 of the Revised Code.

THIRD FRONTIER RESEARCH & DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195905, Third Frontier Research & Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, on obligations issued for research and development purposes under sections 151.01 and 151.10 of the Revised Code.

JOB READY SITE DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195912, Job Ready Site Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, on obligations issued for job ready site development purposes under sections 151.01 and 151.11 of the Revised Code.

Section 261.20.40. SUPPORTIVE SERVICES

The Director of Development may assess divisions of the department for the cost of central service operations. An assessment shall contain the characteristics of administrative ease and uniform application. A division's payments shall be credited to the Supportive Services Fund (Fund 1350) using an intrastate transfer voucher.

ECONOMIC DEVELOPMENT CONTINGENCY

The foregoing appropriation item 195677, Economic Development Contingency, may be used to award funds directly to either (1)

business entities considering Ohio for expansion or new site 135547
location opportunities or (2) political subdivisions to assist 135548
with necessary costs involved in attracting a business entity. In 135549
addition, the Director of Development may award funds for 135550
alternative purposes when appropriate to satisfy an economic 135551
development opportunity or need deemed extraordinary in nature by 135552
the Director. 135553

DIRECT COST RECOVERY EXPENDITURES 135554

The foregoing appropriation item 195636, Direct Cost Recovery 135555
Expenditures, shall be used for reimbursable costs. Revenues to 135556
the General Reimbursement Fund (Fund 6850) shall consist of moneys 135557
charged for administrative costs that are not central service 135558
costs. 135559

Section 261.20.50. HEAP WEATHERIZATION 135560

Up to fifteen per cent of the federal funds deposited to the 135561
credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) 135562
may be expended from appropriation item 195614, HEAP 135563
Weatherization, to provide home weatherization services in the 135564
state as determined by the Director of Development. Any transfers 135565
or increases in appropriation for the foregoing appropriation 135566
items 195614, HEAP Weatherization, or 195611, Home Energy 135567
Assistance Block Grant, shall be subject to approval by the 135568
Controlling Board. 135569

Section 261.20.60. STATE SPECIAL PROJECTS 135570

The State Special Projects Fund (Fund 4F20), may be used for 135571
the deposit of private-sector funds from utility companies and for 135572
the deposit of other miscellaneous state funds. State moneys so 135573
deposited shall be used to match federal housing grants for the 135574
homeless and to market economic development opportunities in the 135575
state. Private-sector moneys shall be deposited for use in 135576

appropriation item 195699, Utility Provided Funds, and shall be 135577
used to (1) pay the expenses of verifying the income-eligibility 135578
of HEAP applicants, (2) leverage additional federal funds, (3) 135579
fund special projects to assist homeless individuals, (4) fund 135580
special projects to assist with the energy efficiency of 135581
households eligible to participate in the Percentage of Income 135582
Payment Plan, and (5) assist with training programs for agencies 135583
that administer low-income customer assistance programs. 135584

Section 261.20.70. TAX INCENTIVE PROGRAMS OPERATING 135585

The foregoing appropriation item 195630, Tax Incentive 135586
Programs, shall be used for the operating costs of the Office of 135587
Grants and Tax Incentives. 135588

Section 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN 135589

All repayments from the Minority Development Financing 135590
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 135591
Program shall be deposited in the State Treasury to the credit of 135592
the Minority Business Enterprise Loan Fund (Fund 4W10). Operating 135593
costs of administering the Minority Business Enterprise Loan Fund 135594
may be paid from the Minority Business Enterprise Loan Fund (Fund 135595
4W10). 135596

MINORITY BUSINESS BONDING FUND 135597

Notwithstanding Chapters 122., 169., and 175. of the Revised 135598
Code, the Director of Development may, upon the recommendation of 135599
the Minority Development Financing Advisory Board, pledge up to 135600
\$10,000,000 in the fiscal year 2012-fiscal year 2013 biennium of 135601
unclaimed funds administered by the Director of Commerce and 135602
allocated to the Minority Business Bonding Program under section 135603
169.05 of the Revised Code. The transfer of any cash by the 135604
Director of Budget and Management from the Department of 135605
Commerce's Unclaimed Funds Fund (Fund 5430) to the Department of 135606

Development's Minority Business Bonding Fund (Fund 4490) shall 135607
occur, if requested by the Director of Development, only if such 135608
funds are needed for payment of losses arising from the Minority 135609
Business Bonding Program, and only after proceeds of the initial 135610
transfer of \$2,700,000 by the Controlling Board to the Minority 135611
Business Bonding Program has been used for that purpose. Moneys 135612
transferred by the Director of Budget and Management from the 135613
Department of Commerce for this purpose may be moneys in custodial 135614
funds held by the Treasurer of State. If expenditures are required 135615
for payment of losses arising from the Minority Business Bonding 135616
Program, such expenditures shall be made from appropriation item 135617
195623, Minority Business Bonding Contingency in the Minority 135618
Business Bonding Fund, and such amounts are hereby appropriated. 135619

Section 261.20.90. OHIO INCUMBENT WORKFORCE TRAINING VOUCHERS 135620

(A) On July 1, 2011, or as soon as possible thereafter, the 135621
Director of Budget and Management shall transfer up to \$20,000,000 135622
from the Economic Development Programs Fund (Fund 5JC0) used by 135623
the Board of Regents to the Ohio Incumbent Workforce Job Training 135624
Fund (Fund 5HR0) used by the Department of Development. 135625

On July 1, 2012, or as soon as possible thereafter, the 135626
Director of Budget and Management shall transfer up to \$30,000,000 135627
from the Economic Development Programs Fund (Fund 5JC0) used by 135628
the Board of Regents to the Ohio Incumbent Workforce Job Training 135629
Fund (Fund 5HR0) used by the Department of Development. 135630

(B) Of the foregoing appropriation item 195526, Ohio 135631
Workforce Job Training, up to \$20,000,000 in fiscal year 2012 and 135632
up to \$30,000,000 in fiscal year 2013 shall be used to support the 135633
Ohio Incumbent Workforce Training Voucher Program. The Director of 135634
Development and the Chief Investment Officer of JobsOhio may enter 135635
into an agreement to operate the program pursuant to the contract 135636
between the Department of Development and JobsOhio under section 135637

187.04 of the Revised Code. The agreement may include a provision 135638
for granting, loaning, or transferring funds from appropriation 135639
item 195526, Ohio Incumbent Workforce Job Training, to JobsOhio to 135640
provide training for incumbent workers. 135641

(C) Regardless of any agreement between the Director and the 135642
Chief Investment Officer under division (B) of this section, the 135643
Ohio Incumbent Workforce Training Voucher Program shall conform to 135644
guidelines for the operation of the program, including, but not 135645
limited to, the following: 135646

(1) A requirement that a training voucher under the program 135647
shall not exceed \$6,000 per worker per year; 135648

(2) A provision for an employer of an eligible employee to 135649
apply for a voucher on behalf of the eligible employee; 135650

(3) A provision for an eligible employee to apply directly 135651
for a training voucher with the pre-approval of the employee's 135652
employer; and 135653

(4) A requirement that an employee participating in the 135654
program, or the employee's employer, shall pay for not less than 135655
thirty-three per cent of the training costs under the program. 135656

Section 261.30.10. ADVANCED ENERGY FUND 135657

The foregoing appropriation item 195660, Advanced Energy 135658
Programs, shall be used to provide financial assistance to 135659
customers for eligible advanced energy projects for residential, 135660
commercial, and industrial business, local government, educational 135661
institution, nonprofit, and agriculture customers, and to pay for 135662
the program's administrative costs as provided in sections 4928.61 135663
to 4928.63 of the Revised Code and rules adopted by the Director 135664
of Development. 135665

On July 1 of each fiscal year, or as soon as possible 135666
thereafter, the Director of Budget and Management shall transfer 135667

\$750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the 135668
Alternative Fuel Transportation Grant Fund (Fund 5CG0). 135669

VOLUME CAP ADMINISTRATION 135670

The foregoing appropriation item 195654, Volume Cap 135671
Administration, shall be used for expenses related to the 135672
administration of the Volume Cap Program. Revenues received by the 135673
Volume Cap Administration Fund (Fund 6170) shall consist of 135674
application fees, forfeited deposits, and interest earned from the 135675
custodial account held by the Treasurer of State. 135676

Section 261.30.20. INNOVATION OHIO LOAN FUND 135677

The foregoing appropriation item 195664, Innovation Ohio, 135678
shall be used to provide for innovation Ohio purposes, including 135679
loan guarantees and loans under Chapter 166. and particularly 135680
sections 166.12 to 166.16 of the Revised Code. 135681

RESEARCH AND DEVELOPMENT 135682

The foregoing appropriation item 195665, Research and 135683
Development, shall be used to provide for research and development 135684
purposes, including loans, under Chapter 166. and particularly 135685
sections 166.17 to 166.21 of the Revised Code. 135686

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE 135687

Appropriation item 195698, Logistics and Distribution 135688
Infrastructure, shall be used for eligible logistics and 135689
distribution infrastructure projects as defined in section 166.01 135690
of the Revised Code. Any unexpended and unencumbered portion of 135691
the appropriation item at the end of fiscal year 2011 is hereby 135692
reappropriated for the same purpose in fiscal year 2012, and any 135693
unexpended and unencumbered portion of the appropriation item at 135694
the end of fiscal year 2012 is hereby reappropriated for the same 135695
purpose in fiscal year 2013. 135696

After all encumbrances have been paid, the Director of Budget 135697

and Management shall transfer the remaining cash balance in the 135698
Logistics and Distribution Infrastructure Fund (Fund 7008) to the 135699
Facilities Establishment Fund (Fund 7037). 135700

FACILITIES ESTABLISHMENT FUND 135701

The foregoing appropriation item 195615, Facilities 135702
Establishment (Fund 7037), shall be used for the purposes of the 135703
Facilities Establishment Fund under Chapter 166. of the Revised 135704
Code. 135705

Notwithstanding Chapter 166. of the Revised Code, an amount 135706
not to exceed \$1,000,000 in cash in fiscal year 2012 may be 135707
transferred from the Facilities Establishment Fund (Fund 7037) to 135708
the Economic Development Financing Operating Fund (Fund 4510). The 135709
transfer is subject to Controlling Board approval under division 135710
(B) of section 166.03 of the Revised Code. 135711

Notwithstanding Chapter 166. of the Revised Code, the 135712
Director of Budget and Management may transfer an amount not to 135713
exceed \$2,500,000 in cash in each fiscal year from the Facilities 135714
Establishment Fund (Fund 7037) to the Minority Business Enterprise 135715
Loan Fund (Fund 4W10). 135716

On July 1, 2011, or as soon as possible thereafter, the 135717
Director of Budget and Management shall transfer the unexpended 135718
and unencumbered cash balance in the Urban Development Loans Fund 135719
(Fund 5D20) to the Facilities Establishment Fund (Fund 7037). 135720

On July 1, 2011, or as soon as possible thereafter, the 135721
Director of Budget and Management shall transfer the unexpended 135722
and unencumbered cash balance in the Rural Industrial Park Loan 135723
Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037). 135724

CAPITAL ACCESS LOAN PROGRAM 135725

The foregoing appropriation item 195628, Capital Access Loan 135726
Program, shall be used for operating, program, and administrative 135727

expenses of the program. Funds of the Capital Access Loan Program 135728
shall be used to assist participating financial institutions in 135729
making program loans to eligible businesses that face barriers in 135730
accessing working capital and obtaining fixed-asset financing. 135731

Section 261.30.30. CLEAN OHIO OPERATING EXPENSES 135732

The foregoing appropriation item 195663, Clean Ohio 135733
Operating, shall be used by the Department of Development in 135734
administering Clean Ohio Revitalization Fund (Fund 7003) projects 135735
pursuant to sections 122.65 to 122.658 of the Revised Code. 135736

Section 261.30.40. THIRD FRONTIER OPERATING 135737

The foregoing appropriation items 195686, Third Frontier 135738
Operating, and 195620, Third Frontier Operating - Tax, shall be 135739
used for operating expenses incurred by the Department of 135740
Development in administering projects pursuant to sections 184.10 135741
to 184.20 of the Revised Code. Operating expenses paid from item 135742
195686 shall be limited to the administration of projects funded 135743
from the Third Frontier Research & Development Fund (Fund 7011) 135744
and operating expenses paid from item 195620 shall be limited to 135745
the administration of projects funded from the Third Frontier 135746
Research & Development Taxable Bond Project Fund (Fund 7014). 135747

Section 261.30.50. THIRD FRONTIER RESEARCH AND DEVELOPMENT 135748
PROJECTS AND RESEARCH AND DEVELOPMENT TAXABLE BOND PROJECTS 135749

The foregoing appropriation items 195687, Third Frontier 135750
Research & Development Projects, 195692, Research & Development 135751
Taxable Bond Projects, and 195620, Third Frontier Operating - Tax, 135752
shall be used by the Department of Development to fund selected 135753
projects. Eligible costs are those costs of research and 135754
development projects to which the proceeds of the Third Frontier 135755
Research & Development Fund (Fund 7011) and the Research & 135756

Development Taxable Bond Project Fund (Fund 7014) are to be 135757
applied. 135758

TRANSFERS OF THIRD FRONTIER APPROPRIATIONS 135759

The Director of Budget and Management may approve written 135760
requests from the Director of Development for the transfer of 135761
appropriations between appropriation items 195687, Third Frontier 135762
Research & Development Projects, and 195692, Research & 135763
Development Taxable Bond Projects, based upon awards recommended 135764
by the Third Frontier Commission. The transfers are subject to 135765
approval by the Controlling Board. 135766

On or before June 30, 2012, any unexpended and unencumbered 135767
portions of the foregoing appropriation items 195687, Third 135768
Frontier Research & Development Projects, and 195692, Research & 135769
Development Taxable Bond Projects, for fiscal year 2012 are hereby 135770
reappropriated to the Department of Development for the same 135771
purposes for fiscal year 2013. 135772

AUTHORITY TO ISSUE AND SELL ORIGINAL OBLIGATIONS 135773

The Ohio Public Facilities Commission, upon request of the 135774
Department of Development, is hereby authorized to issue and sell, 135775
in accordance with Section 2p of Article VIII, Ohio Constitution, 135776
and particularly sections 151.01 and 151.10 of the Revised Code, 135777
original obligations of the State of Ohio in an aggregate amount 135778
not to exceed \$400,000,000 in addition to the original issuance of 135779
obligations authorized by prior acts of the General Assembly. The 135780
authorized obligations shall be issued and sold from time to time 135781
and in amounts necessary to ensure sufficient moneys to the credit 135782
of the Third Frontier Research and Development Fund (Fund 7011) to 135783
pay costs of research and development projects. 135784

Section 261.30.60. JOB READY SITE OPERATING 135785

The foregoing appropriation item 195688, Job Ready Site 135786

Operating, shall be used for operating expenses incurred by the 135787
Department of Development in administering Job Ready Site 135788
Development Fund (Fund 7012) projects pursuant to sections 122.085 135789
to 122.0820 of the Revised Code. Operating expenses include, but 135790
are not limited to, certain qualified expenses of the District 135791
Public Works Integrating Committees, as applicable, engineering 135792
review of submitted applications by the State Architect or a third 135793
party engineering firm, audit and accountability activities, and 135794
costs associated with formal certifications verifying that site 135795
infrastructure is in place and is functional. 135796

Section 261.30.70. OHIO COAL DEVELOPMENT OFFICE 135797

On July 1, 2011, or as soon as possible thereafter, the 135798
Director of Budget and Management shall transfer any unexpended 135799
and unencumbered portion of appropriation item 898604, Coal 135800
Research and Development Fund, used by the Ohio Air Quality 135801
Development Authority, to a new capital appropriation item in the 135802
Department of Development, to be determined by the Director. The 135803
Director also shall cancel all outstanding encumbrances against 135804
appropriation item 898604, Coal Research and Development Fund, and 135805
reestablish them against the foregoing new capital appropriation 135806
item. The amounts of the transfer and the reestablished 135807
encumbrances, plus \$2,283,264, are hereby appropriated for fiscal 135808
year 2012 in the foregoing new appropriation item and shall be 135809
used to provide funding for coal research and development 135810
purposes. 135811

Section 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND 135812
COMMERCIALIZATION SUPPORT 135813

The General Assembly and the Governor recognize the role that 135814
the biomedical industry has in job creation, innovation, and 135815
economic development throughout Ohio. It is the intent of the 135816

General Assembly, the Governor, the Director of Development, and 135817
the Director of Budget and Management to work together in 135818
continuing to provide comprehensive state support for the 135819
biomedical industry. 135820

Section 261.30.90. UNCLAIMED FUNDS TRANSFER 135821

(A) Notwithstanding division (A) of section 169.05 of the 135822
Revised Code, upon the request of the Director of Budget and 135823
Management, the Director of Commerce, before June 30, 2012, shall 135824
transfer to the Job Development Initiatives Fund (Fund 5AD0) an 135825
amount not to exceed \$25,000,000 in cash of the unclaimed funds 135826
that have been reported by the holders of unclaimed funds under 135827
section 169.05 of the Revised Code, regardless of the allocation 135828
of the unclaimed funds described under that section. 135829

Notwithstanding division (A) of section 169.05 of the Revised 135830
Code, upon the request of the Director of Budget and Management, 135831
the Director of Commerce, before June 30, 2013, shall transfer to 135832
the Job Development Initiatives Fund (Fund 5AD0) an amount not to 135833
exceed \$15,000,000 in cash of the unclaimed funds that have been 135834
reported by the holders of unclaimed funds under section 169.05 of 135835
the Revised Code, regardless of the allocation of the unclaimed 135836
funds described under that section. 135837

(B) Notwithstanding division (A) of section 169.05 of the 135838
Revised Code, upon the request of the Director of Budget and 135839
Management, the Director of Commerce, before June 30, 2012, shall 135840
transfer to the State Special Projects Fund (Fund 4F20) an amount 135841
not to exceed \$5,000,000 in cash of the unclaimed funds that have 135842
been reported by the holders of unclaimed funds under section 135843
169.05 of the Revised Code, regardless of the allocation of the 135844
unclaimed funds described under that section. 135845

Section 261.40.10. WORKFORCE DEVELOPMENT 135846

The Director of Development and the Director of Job and Family Services may enter into one or more interagency agreements between the two departments and take other actions the directors consider appropriate to further integrate workforce development into a larger economic development strategy, to implement the recommendations of the Workforce Policy Board, and to complete activities related to the transition of the administration of employment programs identified by the board. Subject to the approval of the Director of Budget and Management, the Department of Development and the Department of Job and Family Services may expend moneys to support the recommendations of the Workforce Policy Board in the area of integration of employment functions as described in this paragraph and to complete implementation and transition activities from the appropriations to those departments.

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Section 263.10. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES 135862

General Revenue Fund 135863

GRF	320321	Central	\$	4,422,794	\$	4,422,794	135864
		Administration					
GRF	320412	Protective Services	\$	2,174,826	\$	1,957,343	135865
GRF	320415	Lease-Rental Payments	\$	18,394,250	\$	19,907,900	135866
GRF	322407	Medicaid State Match	\$	218,034,162	\$	214,902,506	135867
GRF	322451	Family Support	\$	5,932,758	\$	5,932,758	135868
		Services					
GRF	322501	County Boards	\$	40,906,365	\$	44,449,280	135869
		Subsidies					
GRF	322503	Tax Equity	\$	14,000,000	\$	14,000,000	135870
TOTAL GRF		General Revenue Fund	\$	303,865,155	\$	305,572,581	135871

General Services Fund Group 135872

1520	323609	Developmental Center	\$	3,414,317	\$	3,414,317	135873
		and Residential					

Operating Services				
TOTAL GSF	General Services Fund		\$ 3,414,317	\$ 3,414,317 135874
Group				
Federal Special Revenue Fund Group				135875
3A50	320613	DD Council	\$ 3,341,572	\$ 3,341,572 135876
3250	322612	Community Social	\$ 11,017,754	\$ 10,604,896 135877
Service Programs				
3DZ0	322648	Enhanced Medicaid - Federal	\$ 10,000,000	\$ 0 135878
3G60	322639	Medicaid Waiver - Federal	\$ 866,566,007	\$ 985,566,007 135879
3M70	322650	CAFS Medicaid	\$ 29,349,502	\$ 29,349,502 135880
3A40	323605	Developmental Center and Residential Facility Services and Support	\$ 180,266,029	\$ 179,384,881 135881
TOTAL FED	Federal Special Revenue		\$ 1,100,540,864	\$ 1,208,246,858 135882
Fund Group				
State Special Revenue Fund Group				135883
5GE0	320606	Operating and Services	\$ 7,406,609	\$ 7,407,297 135884
2210	322620	Supplement Service Trust	\$ 150,000	\$ 150,000 135885
4K80	322604	Medicaid Waiver - State Match	\$ 12,000,000	\$ 12,000,000 135886
5CT0	322632	Intensive Behavioral Needs	\$ 1,000,000	\$ 1,000,000 135887
5DJ0	322625	Targeted Case Management Match	\$ 21,000,000	\$ 24,000,000 135888
5DJ0	322626	Targeted Case Management Services	\$ 57,307,357	\$ 66,000,000 135889
5DK0	322629	Capital Replacement	\$ 750,000	\$ 750,000 135890

		Facilities				
5EVO	322627	Program Fees	\$	685,000	\$	685,000 135891
5H00	322619	Medicaid Repayment	\$	160,000	\$	160,000 135892
5JX0	322651	Interagency Workgroup	\$	45,000		45,000 135893
		- Autism				
5Z10	322624	County Board Waiver	\$	235,000,000	\$	290,000,000 135894
		Match				
4890	323632	Developmental Center	\$	16,497,170	\$	16,497,169 135895
		Direct Care Support				
5S20	590622	Medicaid	\$	20,875,567	\$	21,727,540 135896
		Administration &				
		Oversight				
TOTAL SSR	State Special Revenue		\$	372,876,703	\$	440,422,006 135897
	Fund Group					
TOTAL ALL BUDGET FUND GROUPS			\$	1,780,697,039	\$	1,957,655,762 135898

Section 263.10.10. LEASE-RENTAL PAYMENTS 135900

The foregoing appropriation item 320415, Lease-Rental 135901
 Payments, shall be used to meet all payments at the times they are 135902
 required to be made during the period from July 1, 2011, through 135903
 June 30, 2013, by the Department of Developmental Disabilities 135904
 under leases and agreements made under section 154.20 of the 135905
 Revised Code. These appropriations are the source of funds pledged 135906
 for bond service charges or obligations issued pursuant to Chapter 135907
 154. of the Revised Code. 135908

Section 263.10.20. MEDICAID - STATE MATCH (GRF) 135909

Except as otherwise provided in section 5123.0416 of the 135910
 Revised Code, the purposes for which the foregoing appropriation 135911
 item 322407, Medicaid State Match, shall be used include the 135912
 following: 135913

(A) Home and community-based waiver services under Title XIX 135914

of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 135915
as amended. 135916

(B) To pay the nonfederal share of the cost of one or more 135917
new intermediate care facilities for the mentally retarded 135918
certified beds, if the Director of Developmental Disabilities is 135919
required by this act to transfer cash from funds used by the 135920
Department to any fund used by the Department of Job and Family 135921
Services to pay such nonfederal share. 135922

(C) To implement the requirements of the agreement settling 135923
the consent decree in *Sermak v. Manuel*, Case No. C-2-80-220, 135924
United States District Court for the Southern District of Ohio, 135925
Eastern Division. 135926

(D) To implement the requirements of the agreement settling 135927
the consent decree in the *Martin v. Strickland*, Case No. 135928
89-CV-00362, United States District Court for the Southern 135929
District of Ohio, Eastern Division. 135930

(E) Developmental center and residential facilities services. 135931

(F) Other programs as identified by the Director of 135932
Developmental Disabilities. 135933

Section 263.10.30. FAMILY SUPPORT SERVICES SUBSIDY 135934

(A) The foregoing appropriation item 322451, Family Support 135935
Services, may be used as follows in fiscal year 2012 and fiscal 135936
year 2013: 135937

(1) The appropriation item may be used to provide a subsidy 135938
to county boards of developmental disabilities for family support 135939
services provided under section 5126.11 of the Revised Code. The 135940
subsidy shall be paid in quarterly installments and allocated to 135941
county boards according to a formula the Director of Developmental 135942
Disabilities shall develop in consultation with representatives of 135943
county boards. A county board shall use not more than seven per 135944

cent of its subsidy for administrative costs. 135945

(2) The appropriation item may be used to distribute funds to 135946
county boards for the purpose of addressing economic hardships and 135947
to promote efficiency of operations. In consultation with 135948
representatives of county boards, the Director shall determine the 135949
amount of funds to distribute for these purposes and the criteria 135950
for distributing the funds. 135951

(B) Each county board shall submit reports to the Department 135952
of Developmental Disabilities on the use of funds received under 135953
this section. The reports shall be submitted at the times and in 135954
the manner specified in rules the Director shall adopt in 135955
accordance with Chapter 119. of the Revised Code. 135956

Section 263.10.40. STATE SUBSIDY TO COUNTY DD BOARDS 135957

(A) Except as otherwise provided in the section of this act 135958
titled "Nonfederal Share of New ICF/MR Beds," the foregoing 135959
appropriation item 322501, County Boards Subsidies, shall be used 135960
for the following purposes: 135961

(1) To provide a subsidy to county boards of developmental 135962
disabilities in quarterly installments and allocated according to 135963
a formula developed by the Director of Developmental Disabilities 135964
in consultation with representatives of county boards. Except as 135965
otherwise provided in section 5126.0511 of the Revised Code, or in 135966
division (B) of this section, county boards shall use the subsidy 135967
for early childhood services and adult services provided under 135968
section 5126.05 of the Revised Code, service and support 135969
administration provided under section 5126.15 of the Revised Code, 135970
or supported living as defined in section 5126.01 of the Revised 135971
Code. 135972

(2) To provide funding, as determined necessary by the 135973
Director of Developmental Disabilities, for residential services, 135974

including room and board, and support service programs that enable 135975
individuals with developmental disabilities to live in the 135976
community. 135977

(3) To distribute funds to county boards of developmental 135978
disabilities to address economic hardships and promote efficiency 135979
of operations. The Director shall determine, in consultation with 135980
representatives of county boards, the amount of funds to 135981
distribute for these purposes and the criteria for distributing 135982
the funds. 135983

(B) In collaboration with the county's family and children 135984
first council, a county board of developmental disabilities may 135985
transfer portions of funds received under this section, to a 135986
flexible funding pool in accordance with the section titled FAMILY 135987
AND CHILDREN FIRST FLEXIBLE FUNDING POOL. 135988

Section 263.10.50. COUNTY BOARD SHARE OF WAIVER SERVICES 135989

As used in this section, "home and community-based services" 135990
has the same meaning as in section 5123.01 of the Revised Code. 135991

The Director of Developmental Disabilities shall establish a 135992
methodology to be used in fiscal year 2012 and fiscal year 2013 to 135993
estimate the quarterly amount each county board of developmental 135994
disabilities is to pay of the nonfederal share of home and 135995
community-based services that section 5126.0510 of the Revised 135996
Code requires county boards to pay. Each quarter, the Director 135997
shall submit to a county board written notice of the amount the 135998
county board is to pay for that quarter. The notice shall specify 135999
when the payment is due. 136000

Section 263.10.60. TAX EQUITY 136001

Notwithstanding section 5126.18 of the Revised Code, the 136002
foregoing appropriation item 322503, Tax Equity, may be used to 136003
distribute funds to county boards of developmental disabilities to 136004

address economic hardships and promote efficiency of operations. 136005
The Director shall determine, in consultation with representatives 136006
of county boards, the amount of funds to distribute for these 136007
purposes and the criteria for distributing the funds. 136008

Section 263.10.70. MEDICAID WAIVER - STATE MATCH 136009

The foregoing appropriation item 322604, Medicaid Waiver - 136010
State Match (Fund 4K80), shall be used as state matching funds for 136011
home and community-based waivers. 136012

Section 263.10.80. ICF/MR CONVERSION 136013

(A) As used in this section, "home and community-based 136014
services" has the same meaning as in section 5123.01 of the 136015
Revised Code. 136016

(B) For each quarter of the biennium, the Director of 136017
Developmental Disabilities shall certify to the Director of Budget 136018
and Management the estimated amount needed to fund the provision 136019
of home and community-based services made available by the slots 136020
sought under section 5111.877 of the Revised Code. On receipt of 136021
certification, the Director of Budget and Management shall 136022
transfer the estimated amount in cash from the General Revenue 136023
Fund to the Home and Community-Based Services Fund (Fund 4K80), 136024
used by the Department of Developmental Disabilities. Upon 136025
completion of the transfer, appropriation item 600525, Health 136026
Care/Medicaid, is hereby reduced by the amount transferred under 136027
this section plus the corresponding federal share. The amount 136028
transferred to Fund 4K80 is hereby appropriated to appropriation 136029
item 322604, Medicaid Waiver - State Match. 136030

(C) If receipts credited to the Medicaid Waiver Fund (Fund 136031
3G60) exceed the amounts appropriated from the fund, the Director 136032
of Developmental Disabilities may request the Director of Budget 136033
and Management to authorize expenditures from the fund in excess 136034

of the amounts appropriated. Upon the approval of the Director of 136035
Budget and Management, the additional amounts are hereby 136036
appropriated. 136037

(D) If receipts credited to the Interagency Reimbursement 136038
Fund (Fund 3G50) exceed the amounts appropriated from the fund, 136039
the Director of Job and Family Services may request the Director 136040
of Budget and Management to authorize expenditures from the fund 136041
in excess of the amounts appropriated. Upon approval of the 136042
Director of Budget and Management, the additional amounts are 136043
hereby appropriated. 136044

Section 263.10.90. TARGETED CASE MANAGEMENT SERVICES 136045

County boards of developmental disabilities shall pay the 136046
nonfederal portion of targeted case management costs to the 136047
Department of Developmental Disabilities. 136048

The Directors of Developmental Disabilities and Job and 136049
Family Services may enter into an interagency agreement under 136050
which the Department of Developmental Disabilities shall transfer 136051
cash from the Targeted Case Management Fund (Fund 5DJ0) to the 136052
Medicaid Program Support - State Fund (Fund 5C90) used by the 136053
Department of Job and Family Services in an amount equal to the 136054
nonfederal portion of the cost of targeted case management 136055
services paid by county boards, and the Department of Job and 136056
Family Services shall pay the total cost of targeted case 136057
management claims. The transfer shall be made using an intrastate 136058
transfer voucher. 136059

Section 263.20.10. WITHHOLDING OF FUNDS OWED THE DEPARTMENT 136060

If a county board of developmental disabilities does not 136061
fully pay any amount owed to the Department of Developmental 136062
Disabilities by the due date established by the Department, the 136063
Director of Developmental Disabilities may withhold the amount the 136064

county board did not pay from any amounts due to the county board. 136065
The Director may use any appropriation item or fund used by the 136066
Department to transfer cash to any other fund used by the 136067
Department in an amount equal to the amount owed the Department 136068
that the county board did not pay. Transfers under this section 136069
shall be made using an intrastate transfer voucher. 136070

Section 263.20.20. TRANSFER TO MEDICAID REPAYMENT FUND 136071

On July 1, 2011, or as soon as possible thereafter, the 136072
Director of Developmental Disabilities shall request that the 136073
Director of Budget and Management transfer the cash balance in the 136074
Purchase of Service Fund (Fund 4880) to the Medicaid Repayment 136075
Fund (Fund 5H00). Upon completion of the transfer, Fund 4880 is 136076
hereby abolished. The Director of Developmental Disabilities shall 136077
cancel any existing encumbrances against appropriation item 136078
322603, Provider Audit Refunds, and re-establish them against 136079
appropriation item 322619, Medicaid Repayment. The re-established 136080
encumbrances are hereby appropriated. 136081

Section 263.20.30. DEVELOPMENTAL CENTER BILLING FOR SERVICES 136082

Developmental centers of the Department of Developmental 136083
Disabilities may provide services to persons with mental 136084
retardation or developmental disabilities living in the community 136085
or to providers of services to these persons. The Department may 136086
develop a method for recovery of all costs associated with the 136087
provisions of these services. 136088

Section 263.20.40. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER 136089
PHARMACY PROGRAMS 136090

The Director of Developmental Disabilities shall quarterly 136091
transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the 136092
Medicaid Program Support - State Fund (Fund 5C90) used by the 136093

Department of Job and Family Services, in an amount equal to the 136094
nonfederal share of Medicaid prescription drug claim costs for all 136095
developmental centers paid by the Department of Job and Family 136096
Services. The quarterly transfer shall be made using an intrastate 136097
transfer voucher. 136098

Section 263.20.50. NONFEDERAL MATCH FOR ACTIVE TREATMENT 136099
SERVICES 136100

Any county funds received by the Department of Developmental 136101
Disabilities from county boards for active treatment shall be 136102
deposited in the Developmental Disabilities Operating Fund (Fund 136103
4890). 136104

Section 263.20.60. NONFEDERAL SHARE OF NEW ICF/MR BEDS 136105

(A) As used in this section, "intermediate care facility for 136106
the mentally retarded" has the same meaning as in section 5111.20 136107
of the Revised Code. 136108

(B) If the Department of Developmental Disabilities is 136109
required by section 5111.211 of the Revised Code to pay the 136110
nonfederal share of claims submitted for services that are covered 136111
by the Medicaid program and provided to an eligible Medicaid 136112
recipient by an intermediate care facility for the mentally 136113
retarded, the Director of Developmental Disabilities shall 136114
transfer cash to the Department of Job and Family Services to pay 136115
the nonfederal share of the claims. The transfer shall be made 136116
using an intrastate transfer voucher. Except as otherwise provided 136117
in section 5123.0416 of the Revised Code, the Director shall use 136118
only the following appropriation items for the transfer: 136119

(1) Appropriation item 322407, Medicaid State Match; 136120

(2) Appropriation item 322501, County Boards Subsidies. 136121

(C) If the intermediate care facility for the mentally 136122

retarded is located in a county served by a county board of 136123
developmental disabilities that initiates or supports the 136124
facility's certification as an intermediate care facility for the 136125
mentally retarded by the Director of Health, the cash that the 136126
Director transfers under division (B) of this section shall be 136127
moneys that the Director has allocated to the county board serving 136128
the county in which the facility is located unless the amount of 136129
the allocation is insufficient to pay the entire nonfederal share 136130
of the claims submitted by the facility. If the allocation is 136131
insufficient, the Director shall use as much of such moneys 136132
allocated to other counties as is needed to make up the 136133
difference. 136134

Section 263.20.70. RATE INCREASE FOR WAIVER PROVIDERS SERVING 136135
FORMER RESIDENTS OF DEVELOPMENTAL CENTERS 136136

Subject to approval by the Centers for Medicare and Medicaid 136137
Services, the Department of Job and Family Services shall increase 136138
the rate paid to a provider under the Individual Options Waiver by 136139
fifty-two cents for each fifteen minutes of routine 136140
homemaker/personal care provided to an individual for up to a year 136141
if all of the following apply: 136142

(A) The individual was a resident of a developmental center 136143
immediately prior to enrollment in the waiver; 136144

(B) The provider begins serving the individual on or after 136145
July 1, 2011; 136146

(C) The Director of Developmental Disabilities determines 136147
that the increased rate is warranted by the individual's special 136148
circumstances, including the individual's diagnosis, service 136149
needs, or length of stay at the developmental center, and that 136150
serving the individual through the Individual Options Waiver is 136151
fiscally prudent for the Medicaid program. 136152

Section 263.20.80. ODODD INNOVATIVE PILOT PROJECTS 136153

(A) In fiscal year 2012 and fiscal year 2013, the Director of 136154
Developmental Disabilities may authorize the implementation of one 136155
or more innovative pilot projects that, in the judgment of the 136156
Director, are likely to assist in promoting the objectives of 136157
Chapter 5123. or 5126. of the Revised Code. Subject to division 136158
(B) of this section and notwithstanding any provision of Chapters 136159
5123. and 5126. of the Revised Code and any rule adopted under 136160
either chapter, a pilot project authorized by the Director may be 136161
implemented in a manner inconsistent with one or more provisions 136162
of Chapter 5123. or 5126. of the Revised Code or one or more rules 136163
adopted under either chapter. Before authorizing a pilot program, 136164
the Director shall consult with entities interested in the issue 136165
of developmental disabilities, including the Ohio Provider 136166
Resource Association, the Ohio Association of County Boards of 136167
Developmental Disabilities, and the ARC of Ohio. 136168

(B) The Director may not authorize a pilot project to be 136169
implemented in a manner that would cause the state to be out of 136170
compliance with any requirements for a program funded in whole or 136171
in part with federal funds. 136172

Section 263.20.90. OHIO DEVELOPMENTAL DISABILITIES COUNCIL 136173
REMOTE ATTENDANCE PILOT PROGRAM 136174

(A) The Ohio Developmental Disabilities Council may establish 136175
a pilot program to allow Council members to attend a public 136176
Council meeting by teleconference or video conference in lieu of 136177
physically attending the meeting. If the pilot program is 136178
established, it shall be operated until five years after the 136179
effective date of this section. 136180

A member who attends a Council meeting by teleconference or 136181
video conference shall be counted for purposes of determining 136182

whether a quorum is present for the transaction of business. The 136183
member shall be permitted to vote at the meeting. 136184

At each Council meeting that includes members in attendance 136185
by teleconference or video conference, at least three Council 136186
members shall be physically present. Any Council meeting may be 136187
held with members in attendance by teleconference or video 136188
conference, except that the Council shall hold at least one 136189
meeting during each year of the pilot program at which members are 136190
not permitted to attend by teleconference or video conference. 136191

(B)(1) If the pilot program is established, the Council shall 136192
submit a report to the General Assembly not later than four years 136193
after the effective date of this section to assist the recipients 136194
in determining whether legislation establishing remote attendance 136195
by teleconference or video conference for the meetings of other 136196
public bodies would be beneficial. The report shall be submitted 136197
in accordance with section 101.68 of the Revised Code. The report 136198
shall include all of the following: 136199

(a) A description of the effect of teleconferencing or video 136200
conferencing on the operation of the Council meetings; 136201

(b) An accounting of any costs incurred or savings realized 136202
by the Council through the use of teleconferencing or video 136203
conferencing; 136204

(c) For each Council meeting held during the pilot program, 136205
all of the following: 136206

(i) The notice of each meeting; 136207

(ii) Attendance records for all Council members; 136208

(iii) A description of public and media attendance; 136209

(iv) A summary or copy of any comments made by the public or 136210
media regarding the use of teleconferencing or video conferencing; 136211

(v) A copy of the minutes for each meeting; 136212

(vi) An accounting of the costs incurred for each meeting;	136213
(vii) A description of any local media coverage of a teleconference or video conference meeting.	136214 136215
(2) Upon submission of the report under division (B)(1) of this section, the pilot program shall cease to exist.	136216 136217
(C) The Ohio Developmental Disabilities Council may adopt any rules the Council considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.	136218 136219 136220 136221
At a minimum, the rules shall do the following:	136222
(1) Allow Council members to remotely attend a public Council meeting by teleconference or video conference in lieu of physically attending the meeting;	136223 136224 136225
(2) Establish a method for verifying the identity of a member who remotely attends a meeting by teleconference or video conference;	136226 136227 136228
(3) Establish a policy for distributing and circulating necessary documents to Council members, the public, and the media in advance of a meeting where members attend by teleconference or video conference.	136229 136230 136231 136232
Section 265.10. OBD OHIO BOARD OF DIETETICS	136233
General Services Fund Group	136234
4K90 860609 Operating Expenses \$ 355,789 \$ 330,592	136235
TOTAL GSF General Services Fund	136236
Group \$ 355,789 \$ 330,592	136237
TOTAL ALL BUDGET FUND GROUPS \$ 355,789 \$ 330,592	136238
Section 267.10. EDU DEPARTMENT OF EDUCATION	136240
General Revenue Fund	136241

GRF 200100	Personal Services	\$	8,579,178	\$	8,579,178	136242
GRF 200320	Maintenance and Equipment	\$	2,830,407	\$	2,830,407	136243
GRF 200408	Early Childhood Education	\$	23,268,341	\$	23,268,341	136244
GRF 200416	Career-Technical Education Match	\$	2,233,195	\$	2,233,195	136245
GRF 200420	Computer/Application/ Network Development	\$	4,241,296	\$	4,241,296	136246
GRF 200421	Alternative Education Programs	\$	7,403,998	\$	7,403,998	136247
GRF 200422	School Management Assistance	\$	2,842,812	\$	3,000,000	136248
GRF 200424	Policy Analysis	\$	328,558	\$	328,558	136249
GRF 200425	Tech Prep Consortia Support	\$	260,542	\$	260,542	136250
GRF 200426	Ohio Educational Computer Network	\$	17,974,489	\$	17,974,489	136251
GRF 200427	Academic Standards	\$	4,346,060	\$	3,700,000	136252
GRF 200437	Student Assessment	\$	55,002,167	\$	55,002,167	136253
GRF 200439	Accountability/Report Cards	\$	3,579,279	\$	3,579,279	136254
GRF 200442	Child Care Licensing	\$	827,140	\$	827,140	136255
GRF 200446	Education Management Information System	\$	6,833,070	\$	6,833,070	136256
GRF 200447	GED Testing	\$	879,551	\$	879,551	136257
GRF 200448	Educator Preparation	\$	786,737	\$	786,737	136258
GRF 200455	Community Schools and Choice Programs	\$	2,200,000	\$	2,200,000	136259
GRF 200502	Pupil Transportation	\$	438,248,936	\$	442,113,527	136260
GRF 200505	School Lunch Match	\$	9,100,000	\$	9,100,000	136261
GRF 200511	Auxiliary Services	\$	124,194,099	\$	126,194,099	136262
GRF 200532	Nonpublic	\$	56,164,384	\$	57,006,850	136263

		Administrative Cost				
		Reimbursement				
GRF 200540	Special Education	\$ 135,820,668	\$ 135,820,668			136264
	Enhancements					
GRF 200545	Career-Technical	\$ 8,802,699	\$ 8,802,699			136265
	Education Enhancements					
GRF 200550	Foundation Funding	\$ 5,536,347,861	\$ 5,610,117,686			136266
GRF 200901	Property Tax	\$ 1,086,500,000	\$ 1,095,000,000			136267
	Allocation - Education					
TOTAL GRF	General Revenue Fund	\$ 7,539,595,467	\$ 7,628,083,477			136268
	General Services Fund Group					136269
1380 200606	Computer	\$ 7,600,090	\$ 7,600,090			136270
	Services-Operational					
	Support					
4520 200638	Miscellaneous	\$ 300,000	\$ 300,000			136271
	Educational Services					
4L20 200681	Teacher Certification	\$ 8,147,756	\$ 8,147,756			136272
	and Licensure					
5960 200656	Ohio Career	\$ 529,761	\$ 529,761			136273
	Information System					
5H30 200687	School District	\$ 25,000,000	\$ 25,000,000			136274
	Solvency Assistance					
TOTAL GSF	General Services					136275
	Fund Group	\$ 41,577,607	\$ 41,577,607			136276
	Federal Special Revenue Fund Group					136277
3090 200601	Neglected and	\$ 2,168,642	\$ 2,168,642			136278
	Delinquent Education					
3670 200607	School Food Services	\$ 6,803,472	\$ 6,959,906			136279
3690 200616	Career-Technical	\$ 5,000,000	\$ 5,000,000			136280
	Education Federal					
	Enhancement					
3700 200624	Education of	\$ 1,905,000	\$ 0			136281

		Exceptional Children					
3780	200660	Learn and Serve	\$	619,211	\$	619,211	136282
3AF0	200603	Schools Medicaid	\$	639,000	\$	639,000	136283
		Administrative Claims					
3AN0	200671	School Improvement	\$	20,400,000	\$	20,400,000	136284
		Grants					
3AX0	200698	Improving Health and	\$	630,954	\$	630,954	136285
		Educational Outcomes					
		of Young People					
3BK0	200628	Longitudinal Data	\$	500,000	\$	250,000	136286
		Systems					
3C50	200661	Early Childhood	\$	14,554,749	\$	14,554,749	136287
		Education					
3CG0	200646	Teacher Incentive	\$	1,925,881	\$	0	136288
		Fund					
3D10	200664	Drug Free Schools	\$	1,500,000	\$	0	136289
3D20	200667	Math Science	\$	9,500,001	\$	9,500,001	136290
		Partnerships					
3DG0	200630	Federal Stimulus -	\$	330,512	\$	0	136291
		McKinney Vento Grants					
3DJ0	200699	IDEA Part B - Federal	\$	21,886,803	\$	0	136292
		Stimulus					
3DK0	200642	Title 1A - Federal	\$	18,633,673	\$	0	136293
		Stimulus					
3DL0	200650	IDEA Preschool -	\$	670,000	\$	0	136294
		Federal Stimulus					
3DM0	200651	Title IID Technology	\$	1,195,100	\$	0	136295
		- Federal Stimulus					
3DP0	200652	Title I School	\$	48,500,000	\$	30,000,000	136296
		Improvement - Federal					
		Stimulus					
3EC0	200653	Teacher Incentive -	\$	7,500,000	\$	7,500,000	136297
		Federal Stimulus					

3EH0	200620	Migrant Education	\$	2,645,905	\$	2,645,905	136298
3EJ0	200622	Homeless Children Education	\$	1,759,782	\$	1,759,782	136299
3EN0	200655	State Data Systems - Federal Stimulus	\$	2,500,000	\$	2,500,000	136300
3ES0	200657	General Supervisory Enhancement Grant	\$	500,000	\$	500,000	136301
3ET0	200658	Education Jobs Fund	\$	300,000,000	\$	50,000,000	136302
3FD0	200665	Race to the Top	\$	100,000,000	\$	100,000,000	136303
3FE0	200669	Striving Readers	\$	180,000	\$	100,000	136304
3H90	200605	Head Start Collaboration Project	\$	225,000	\$	225,000	136305
3L60	200617	Federal School Lunch	\$	327,516,539	\$	337,323,792	136306
3L70	200618	Federal School Breakfast	\$	87,596,850	\$	90,224,756	136307
3L80	200619	Child/Adult Food Programs	\$	100,850,833	\$	103,876,359	136308
3L90	200621	Career-Technical Education Basic Grant	\$	48,466,864	\$	48,466,864	136309
3M00	200623	ESEA Title 1A	\$	530,010,000	\$	530,010,000	136310
3M20	200680	Individuals with Disabilities Education Act	\$	443,170,050	\$	443,170,050	136311
3S20	200641	Education Technology	\$	9,487,397	\$	9,487,397	136312
3T40	200613	Public Charter Schools	\$	14,291,353	\$	14,291,353	136313
3Y20	200688	21st Century Community Learning Centers	\$	43,720,462	\$	45,906,485	136314
3Y60	200635	Improving Teacher Quality	\$	101,900,000	\$	101,900,000	136315
3Y70	200689	English Language Acquisition	\$	8,373,995	\$	8,373,995	136316

3Y80	200639	Rural and Low Income Technical Assistance	\$	1,500,000	\$	1,500,000	136317
3Z20	200690	State Assessments	\$	11,882,258	\$	11,882,258	136318
3Z30	200645	Consolidated Federal Grant Administration	\$	8,949,280	\$	8,949,280	136319
TOTAL FED Federal Special							136320
Revenue Fund Group			\$	2,310,389,566	\$	2,011,315,739	136321
State Special Revenue Fund Group							136322
4540	200610	Guidance and Testing	\$	1,050,000	\$	1,050,000	136323
4550	200608	Commodity Foods	\$	24,000,000	\$	24,000,000	136324
4R70	200695	Indirect Operational Support	\$	6,500,000	\$	6,600,000	136325
4V70	200633	Interagency Operational Support	\$	1,117,725	\$	1,117,725	136326
5980	200659	Auxiliary Services Reimbursement	\$	1,328,910	\$	1,328,910	136327
5BB0	200696	State Action for Education Leadership	\$	231,300	\$	0	136328
5BJ0	200626	Half-Mill Maintenance Equalization	\$	17,300,000	\$	18,000,000	136329
5U20	200685	National Education Statistics	\$	300,000	\$	300,000	136330
6200	200615	Educational Improvement Grants	\$	3,000,000	\$	3,000,000	136331
TOTAL SSR State Special Revenue							136332
Fund Group			\$	54,827,935	\$	55,396,635	136333
Lottery Profits Education Fund Group							136334
7017	200612	Foundation Funding	\$	717,500,000	\$	680,500,000	136335
TOTAL LPE Lottery Profits							136336
Education Fund Group			\$	717,500,000	\$	680,500,000	136337
Revenue Distribution Fund Group							136338
7047	200909	School District	\$	722,000,000	\$	475,000,000	136339

	Property Tax				
	Replacement-Business				
7053 200900	School District	\$ 34,000,000	\$ 30,000,000		136340
	Property Tax				
	Replacement-Utility				
	TOTAL RDF Revenue Distribution				136341
	Fund Group	\$ 756,000,000	\$ 505,000,000		136342
	TOTAL ALL BUDGET FUND GROUPS	\$11,419,890,575	\$10,921,873,458		136343

Section 267.10.10. EARLY CHILDHOOD EDUCATION 136345

The Department of Education shall distribute the foregoing 136346
appropriation item 200408, Early Childhood Education, to pay the 136347
costs of early childhood education programs. 136348

(A) As used in this section: 136349

(1) "Provider" means a city, local, exempted village, or 136350
joint vocational school district, or an educational service 136351
center. 136352

(2) In the case of a city, local, or exempted village school 136353
district, "new eligible provider" means a district that did not 136354
receive state funding for Early Childhood Education in the 136355
previous fiscal year or demonstrates a need for early childhood 136356
programs as defined in division (D) of this section. 136357

(3) "Eligible child" means a child who is at least three 136358
years of age as of the district entry date for kindergarten, is 136359
not of the age to be eligible for kindergarten, and whose family 136360
earns not more than two hundred per cent of the federal poverty 136361
guidelines as defined in division (A)(3) of section 5101.46 of the 136362
Revised Code. Children with an Individualized Education Program 136363
and where the Early Childhood Education program is the least 136364
restrictive environment may be enrolled on their third birthday. 136365

(B) In each fiscal year, up to two per cent of the total 136366

appropriation may be used by the Department for program support 136367
and technical assistance. The Department shall distribute the 136368
remainder of the appropriation in each fiscal year to serve 136369
eligible children. 136370

(C) The Department shall provide an annual report to the 136371
Governor, the Speaker of the House of Representatives, and the 136372
President of the Senate and post the report to the Department's 136373
web site, regarding early childhood education programs operated 136374
under this section and the early learning program guidelines. 136375

(D) After setting aside the amounts to make payments due from 136376
the previous fiscal year, in fiscal year 2012, the Department 136377
shall distribute funds first to recipients of funds for early 136378
childhood education programs under Section 265.10.20 of Am. Sub. 136379
H.B. 1 of the 128th General Assembly in the previous fiscal year 136380
and the balance to new eligible providers of early childhood 136381
education programs under this section or to existing providers to 136382
serve more eligible children or for purposes of program expansion, 136383
improvement, or special projects to promote quality and 136384
innovation. 136385

After setting aside the amounts to make payments due from the 136386
previous fiscal year, in fiscal year 2013, the Department shall 136387
distribute funds first to providers of early childhood education 136388
programs under this section in the previous fiscal year and the 136389
balance to new eligible providers or to existing providers to 136390
serve more eligible children or for purposes of program expansion, 136391
improvement, or special projects to promote quality and 136392
innovation. 136393

Awards under this section shall be distributed on a per-pupil 136394
basis, and in accordance with division (H) of this section. The 136395
Department may adjust the per-pupil amount so that the per-pupil 136396
amount multiplied by the number of eligible children enrolled and 136397
receiving services on the first day of December or the business 136398

day closest to that date equals the amount allocated under this 136399
section. 136400

(E) Costs for developing and administering an early childhood 136401
education program may not exceed fifteen per cent of the total 136402
approved costs of the program. 136403

All providers shall maintain such fiscal control and 136404
accounting procedures as may be necessary to ensure the 136405
disbursement of, and accounting for, these funds. The control of 136406
funds provided in this program, and title to property obtained, 136407
shall be under the authority of the approved provider for purposes 136408
provided in the program unless, as described in division (J) of 136409
this section, the program waives its right for funding or a 136410
program's funding is eliminated or reduced due to its inability to 136411
meet financial or early learning program guidelines. The approved 136412
provider shall administer and use such property and funds for the 136413
purposes specified. 136414

(F) The Department may examine a provider's financial and 136415
program records. If the financial practices of the program are not 136416
in accordance with standard accounting principles or do not meet 136417
financial standards outlined under division (E) of this section, 136418
or if the program fails to substantially meet the early learning 136419
program guidelines or exhibits below average performance as 136420
measured against the guidelines, the early childhood education 136421
program shall propose and implement a corrective action plan that 136422
has been approved by the Department. The approved corrective 136423
action plan shall be signed by the chief executive officer and the 136424
executive of the official governing body of the provider. The 136425
corrective action plan shall include a schedule for monitoring by 136426
the Department. Such monitoring may include monthly reports, 136427
inspections, a timeline for correction of deficiencies, and 136428
technical assistance to be provided by the Department or obtained 136429
by the early childhood education program. The Department may 136430

withhold funding pending corrective action. If an early childhood 136431
education program fails to satisfactorily complete a corrective 136432
action plan, the Department may deny expansion funding to the 136433
program or withdraw all or part of the funding to the program and 136434
establish a new eligible provider through a selection process 136435
established by the Department. 136436

(G) Each early childhood education program shall do all of 136437
the following: 136438

(1) Meet teacher qualification requirements prescribed by 136439
section 3301.311 of the Revised Code; 136440

(2) Align curriculum to the early learning content standards 136441
developed by the Department; 136442

(3) Meet any child or program assessment requirements 136443
prescribed by the Department; 136444

(4) Require teachers, except teachers enrolled and working to 136445
obtain a degree pursuant to section 3301.311 of the Revised Code, 136446
to attend a minimum of twenty hours every two years of 136447
professional development as prescribed by the Department; 136448

(5) Document and report child progress as prescribed by the 136449
Department; 136450

(6) Meet and report compliance with the early learning 136451
program guidelines as prescribed by the Department. 136452

(H) Per-pupil funding for programs subject to this section 136453
shall be sufficient to provide eligible children with services for 136454
a standard early childhood schedule which shall be defined in this 136455
section as a minimum of twelve and one-half hours per school week 136456
as defined in section 3313.62 of the Revised Code for the minimum 136457
school year as defined in sections 3313.48, 3313.481, and 3313.482 136458
of the Revised Code. Nothing in this section shall be construed to 136459
prohibit program providers from utilizing other funds to serve 136460

eligible children in programs that exceed the twelve and one-half 136461
hours per week or that exceed the minimum school year. For any 136462
provider for which a standard early childhood education schedule 136463
creates a hardship or for which the provider shows evidence that 136464
the provider is working in collaboration with a preschool special 136465
education program, the provider may submit a waiver to the 136466
Department requesting an alternate schedule. If the Department 136467
approves a waiver for an alternate schedule that provides services 136468
for less time than the standard early childhood education 136469
schedule, the Department may reduce the provider's annual 136470
allocation proportionately. Under no circumstances shall an annual 136471
allocation be increased because of the approval of an alternate 136472
schedule. 136473

(I) Each provider shall develop a sliding fee scale based on 136474
family incomes and shall charge families who earn more than two 136475
hundred per cent of the federal poverty guidelines, as defined in 136476
division (A)(3) of section 5101.46 of the Revised Code, for the 136477
early childhood education program. 136478

The Department shall conduct an annual survey of each 136479
provider to determine whether the provider charges families 136480
tuition or fees, the amount families are charged relative to 136481
family income levels, and the number of families and students 136482
charged tuition and fees for the early childhood program. 136483

(J) If an early childhood education program voluntarily 136484
waives its right for funding, or has its funding eliminated for 136485
not meeting financial standards or the early learning program 136486
guidelines, the provider shall transfer control of title to 136487
property, equipment, and remaining supplies obtained through the 136488
program to providers designated by the Department and return any 136489
unexpended funds to the Department along with any reports 136490
prescribed by the Department. The funding made available from a 136491
program that waives its right for funding or has its funding 136492

eliminated or reduced may be used by the Department for new grant 136493
awards or expansion grants. The Department may award new grants or 136494
expansion grants to eligible providers who apply. The eligible 136495
providers who apply must do so in accordance with the selection 136496
process established by the Department. 136497

(K) As used in this section, "early learning program 136498
guidelines" means the guidelines established by the Department 136499
pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 136500
66 of the 126th General Assembly. 136501

(L) Eligible expenditures for the Early Childhood Education 136502
program shall be claimed each fiscal year to help meet the state's 136503
TANF maintenance of effort requirement. The Superintendent of 136504
Public Instruction and the Director of Job and Family Services 136505
shall enter into an interagency agreement to carry out the 136506
requirements under this division, which shall include developing 136507
reporting guidelines for these expenditures. 136508

Section 267.10.20. CAREER-TECHNICAL EDUCATION MATCH 136509

The foregoing appropriation item 200416, Career-Technical 136510
Education Match, shall be used by the Department of Education to 136511
provide vocational administration matching funds under 20 U.S.C. 136512
2311. 136513

COMPUTER/APPLICATION/NETWORK DEVELOPMENT 136514

The foregoing appropriation item 200420, 136515
Computer/Application/Network Development, shall be used to support 136516
the development and implementation of information technology 136517
solutions designed to improve the performance and services of the 136518
Department of Education. Funds may be used for personnel, 136519
maintenance, and equipment costs related to the development and 136520
implementation of these technical system projects. Implementation 136521
of these systems shall allow the Department to provide greater 136522

levels of assistance to school districts and to provide more 136523
timely information to the public, including school districts, 136524
administrators, and legislators. Funds may also be used to support 136525
data-driven decision-making and differentiated instruction, as 136526
well as to communicate academic content standards and curriculum 136527
models to schools through web-based applications. 136528

Section 267.10.30. ALTERNATIVE EDUCATION PROGRAMS 136529

The foregoing appropriation item 200421, Alternative 136530
Education Programs, shall be used for the renewal of successful 136531
implementation grants and for competitive matching grants to 136532
school districts for alternative educational programs for existing 136533
and new at-risk and delinquent youth. Programs shall be focused on 136534
youth in one or more of the following categories: those who have 136535
been expelled or suspended, those who have dropped out of school 136536
or who are at risk of dropping out of school, those who are 136537
habitually truant or disruptive, or those on probation or on 136538
parole from a Department of Youth Services facility. Grants shall 136539
be awarded according to the criteria established by the 136540
Alternative Education Advisory Council in 1999. Grants shall be 136541
awarded only to programs in which the grant will not serve as the 136542
program's primary source of funding. These grants shall be 136543
administered by the Department of Education. 136544

The Department of Education may waive compliance with any 136545
minimum education standard established under section 3301.07 of 136546
the Revised Code for any alternative school that receives a grant 136547
under this section on the grounds that the waiver will enable the 136548
program to more effectively educate students enrolled in the 136549
alternative school. 136550

Of the foregoing appropriation item 200421, Alternative 136551
Education Programs, a portion may be used for program 136552
administration, monitoring, technical assistance, support, 136553

research, and evaluation. 136554

Section 267.10.40. SCHOOL MANAGEMENT ASSISTANCE 136555

Of the foregoing appropriation item 200422, School Management 136556
Assistance, \$1,000,000 in fiscal year 2012 and \$1,300,000 in 136557
fiscal year 2013 shall be used by the Auditor of State in 136558
consultation with the Department of Education for expenses 136559
incurred in the Auditor of State's role relating to fiscal 136560
caution, fiscal watch, and fiscal emergency activities as defined 136561
in Chapter 3316. of the Revised Code and may also be used by the 136562
Auditor of State to conduct performance audits of other school 136563
districts with priority given to districts in fiscal distress. 136564
Districts in fiscal distress shall be determined by the Auditor of 136565
State and shall include districts that the Auditor of State, in 136566
consultation with the Department of Education, determines are 136567
employing fiscal practices or experiencing budgetary conditions 136568
that could produce a state of fiscal watch or fiscal emergency. 136569

The remainder of appropriation item 200422, School Management 136570
Assistance, shall be used by the Department of Education to 136571
provide fiscal technical assistance and inservice education for 136572
school district management personnel and to administer, monitor, 136573
and implement the fiscal caution, fiscal watch, and fiscal 136574
emergency provisions under Chapter 3316. of the Revised Code. 136575

Section 267.10.50. POLICY ANALYSIS 136576

The foregoing appropriation item 200424, Policy Analysis, 136577
shall be used by the Department of Education to support a system 136578
of administrative, statistical, and legislative education 136579
information to be used for policy analysis. Staff supported by 136580
this appropriation shall administer the development of reports, 136581
analyses, and briefings to inform education policymakers of 136582
current trends in education practice, efficient and effective use 136583

of resources, and evaluation of programs to improve education 136584
results. The database shall be kept current at all times. These 136585
research efforts shall be used to supply information and analysis 136586
of data to the General Assembly and other state policymakers, 136587
including the Office of Budget and Management, the Governor's 136588
Office of 21st Century Education, and the Legislative Service 136589
Commission. 136590

The Department of Education may use funding from this 136591
appropriation item to purchase or contract for the development of 136592
software systems or contract for policy studies that will assist 136593
in the provision and analysis of policy-related information. 136594
Funding from this appropriation item also may be used to monitor 136595
and enhance quality assurance for research-based policy analysis 136596
and program evaluation to enhance the effective use of education 136597
information to inform education policymakers. 136598

A portion of the foregoing appropriation item 200424, Policy 136599
Analysis, may be used in conjunction with appropriation item 136600
200439, Accountability/Report Cards, to support a fiscal reporting 136601
dimension that shall contain fiscal data reported for the prior 136602
fiscal year. The fiscal information contained therein shall be 136603
updated and reported annually in a form and in a manner as 136604
determined by the Department. 136605

TECH PREP CONSORTIA SUPPORT 136606

The foregoing appropriation item 200425, Tech Prep Consortia 136607
Support, shall be used by the Department of Education to support 136608
state-level activities designed to support, promote, and expand 136609
tech prep programs. Use of these funds shall include, but not be 136610
limited to, administration of grants, program evaluation, 136611
professional development, curriculum development, assessment 136612
development, program promotion, communications, and statewide 136613
coordination of tech prep consortia. 136614

Section 267.10.60. OHIO EDUCATIONAL COMPUTER NETWORK 136615

The foregoing appropriation item 200426, Ohio Educational 136616
Computer Network, shall be used by the Department of Education to 136617
maintain a system of information technology throughout Ohio and to 136618
provide technical assistance for such a system in support of the 136619
P-16 State Education Technology Plan developed under section 136620
3353.09 of the Revised Code. 136621

Of the foregoing appropriation item 200426, Ohio Educational 136622
Computer Network, up to \$10,705,569 in each fiscal year shall be 136623
used by the Department of Education to support connection of all 136624
public school buildings and participating chartered nonpublic 136625
schools to the state's education network, to each other, and to 136626
the Internet. In each fiscal year the Department of Education 136627
shall use these funds to assist information technology centers or 136628
school districts with the operational costs associated with this 136629
connectivity. The Department of Education shall develop a formula 136630
and guidelines for the distribution of these funds to information 136631
technology centers or individual school districts. As used in this 136632
section, "public school building" means a school building of any 136633
city, local, exempted village, or joint vocational school 136634
district, any community school established under Chapter 3314. of 136635
the Revised Code, any STEM school established under Chapter 3326. 136636
of the Revised Code, any educational service center building used 136637
for instructional purposes, the Ohio School for the Deaf and the 136638
Ohio School for the Blind, high schools chartered by the Ohio 136639
Department of Youth Services, or high schools operated by Ohio 136640
Department of Rehabilitation and Corrections' Ohio Central School 136641
System. 136642

Of the foregoing appropriation item 200426, Ohio Educational 136643
Computer Network, up to \$1,440,000 in each fiscal year shall be 136644
used for the Union Catalog and InfOhio Network and to support the 136645

provision of electronic resources with priority given to resources 136646
that support the teaching of state academic content standards in 136647
all public schools. Consideration shall be given by the Department 136648
of Education to coordinating the allocation of these moneys with 136649
the efforts of Libraries Connect Ohio, whose members include 136650
OhioLINK, the Ohio Public Information Network, and the State 136651
Library of Ohio. 136652

Of the foregoing appropriation item 200426, Ohio Educational 136653
Computer Network, up to \$5,220,000 in each fiscal year shall be 136654
used, through a formula and guidelines devised by the Department, 136655
to subsidize the activities of designated information technology 136656
centers, as defined by State Board of Education rules, to provide 136657
school districts and chartered nonpublic schools with 136658
computer-based student and teacher instructional and 136659
administrative information services, including approved 136660
computerized financial accounting, and to ensure the effective 136661
operation of local automated administrative and instructional 136662
systems. 136663

The remainder of appropriation item 200426, Ohio Educational 136664
Computer Network, shall be used to support the work of the College 136665
of Education and Human Ecology at the Ohio State University in 136666
reviewing and assessing the alignment of courses offered through 136667
the distance learning clearinghouse established in sections 136668
3333.81 to 3333.88 of the Revised Code with the academic content 136669
standards adopted under division (A) of section 3301.079 of the 136670
Revised Code. 136671

Section 267.10.70. ACADEMIC STANDARDS 136672

The foregoing appropriation item 200427, Academic Standards, 136673
shall be used by the Department of Education to develop, revise, 136674
and communicate to school districts academic content standards and 136675
curriculum models. 136676

Section 267.10.80. STUDENT ASSESSMENT 136677

Of the foregoing appropriation item 200437, Student 136678
Assessment, up to \$95,000 in each fiscal year may be used to 136679
support the assessments required under section 3301.0715 of the 136680
Revised Code. 136681

The remainder of appropriation item 200437, Student 136682
Assessment, shall be used to develop, field test, print, 136683
distribute, score, report results, and support other associated 136684
costs for the tests required under sections 3301.0710, 3301.0711, 136685
and 3301.0712 of the Revised Code and for similar purposes as 136686
required by section 3301.27 of the Revised Code. If funds remain 136687
in this appropriation after these purposes have been fulfilled, 136688
the Department may use the remainder of the appropriation to 136689
develop end-of-course exams. 136690

DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT 136691
ASSESSMENT 136692

In fiscal year 2012 and fiscal year 2013, if the 136693
Superintendent of Public Instruction determines that additional 136694
funds are needed to fully fund the requirements of sections 136695
3301.0710, 3301.0711, and 3301.27 of the Revised Code and this act 136696
for assessments of student performance, the Superintendent of 136697
Public Instruction may recommend the reallocation of unexpended 136698
and unencumbered General Revenue Fund appropriations within the 136699
Department of Education to appropriation item 200437, Student 136700
Assessment, to the Director of Budget and Management. If the 136701
Director of Budget and Management determines that such a 136702
reallocation is required, the Director of Budget and Management 136703
may transfer unexpended and unencumbered appropriations within the 136704
Department of Education as necessary to appropriation item 200437, 136705
Student Assessment. If these transferred appropriations are not 136706
sufficient to fully fund the assessment requirements in fiscal 136707

year 2012 or fiscal year 2013, the Superintendent of Public 136708
Instruction may request that the Controlling Board transfer up to 136709
\$9,000,000 cash from the Lottery Profits Education Reserve Fund 136710
(Fund 7018) to the General Revenue Fund. Upon approval of the 136711
Controlling Board, the Director of Budget and Management shall 136712
transfer the cash. These transferred funds are hereby appropriated 136713
for the same purpose as appropriation item 200437, Student 136714
Assessment. 136715

Section 267.10.90. (A) Notwithstanding anything to the 136716
contrary in section 3301.0710, 3301.0711, 3301.0715 or 3313.608 of 136717
the Revised Code, the administration of the English language arts 136718
assessments for elementary grades as a replacement for the 136719
separate reading and writing assessments prescribed by sections 136720
3301.0710 and 3301.0711 of the Revised Code, as those sections 136721
were amended by Am. Sub. H.B. 1 of the 128th General Assembly, 136722
shall not be required until a date prescribed by rule of the State 136723
Board of Education. Until that date, the Department of Education 136724
and school districts and schools shall continue to administer 136725
separate reading assessments for elementary grades, as prescribed 136726
by the versions of sections 3301.0710 and 3301.0711 of the Revised 136727
Code that were in effect prior to the effective date of Section 136728
265.20.15 of Am. Sub. H.B. 1 of the 128th General Assembly. The 136729
intent for delaying implementation of the replacement English 136730
language arts assessment is to provide adequate time for the 136731
complete development of the new assessment. 136732

(B) Notwithstanding anything to the contrary in section 136733
3301.0710 of the Revised Code, the State Board shall not prescribe 136734
the three ranges of scores for the assessments prescribed by 136735
division (A)(2) of section 3301.0710 of the Revised Code, as 136736
amended by Am. Sub. H.B. 1 of the 128th General Assembly, until 136737
the Board adopts the rule required by division (A) of this 136738
section. Until that date, the Board shall continue to prescribe 136739

the five ranges of scores required by the version of section 136740
3301.0710 of the Revised Code in effect prior to the effective 136741
date of Section 265.20.15 of Am. Sub. H.B. 1 of the 128th General 136742
Assembly, and the following apply: 136743

(1) The range of scores designated by the State Board as a 136744
proficient level of skill remains the passing score on the Ohio 136745
Graduation Tests for purposes of sections 3313.61, 3313.611, 136746
3313.612, and 3325.08 of the Revised Code; 136747

(2) The range of scores designated as a limited level of 136748
skill remains the standard for applying the third-grade reading 136749
guarantee under division (A) of section 3313.608 of the Revised 136750
Code; 136751

(3) The range of scores designated by the State Board as a 136752
proficient level of skill remains the standard for the summer 136753
remediation requirement of division (B)(2) of section 3313.608 of 136754
the Revised Code. 136755

(C) This section is not subject to expiration after June 30, 136756
2013, under Section 809.10 of this act. 136757

Section 267.20.10. Notwithstanding anything to the contrary 136758
in sections 3301.0710 and 3301.0711 of the Revised Code, in the 136759
2011-2012 and 2012-2013 school years, the Department of Education 136760
shall not furnish, and school districts and schools shall not 136761
administer, the elementary writing and social studies achievement 136762
assessments prescribed by section 3301.0710 of the Revised Code, 136763
unless the Superintendent of Public Instruction determines the 136764
Department has sufficient funds to pay the costs of furnishing and 136765
scoring those assessments. 136766

Section 267.20.20. ACCOUNTABILITY/REPORT CARDS 136767

Of the foregoing appropriation item 200439, 136768
Accountability/Report Cards, a portion in each fiscal year may be 136769

used to train district and regional specialists and district 136770
educators in the use of the value-added progress dimension and in 136771
the use of data as it relates to improving student achievement. 136772
This training may include teacher and administrator professional 136773
development in the use of data to improve instruction and student 136774
learning, and teacher and administrator training in understanding 136775
teacher value-added reports and how they can be used as a 136776
component in measuring teacher and administrator effectiveness. A 136777
portion of this funding may be provided to a credible nonprofit 136778
organization with expertise in value-added progress dimensions. 136779

The remainder of appropriation item 200439, 136780
Accountability/Report Cards, shall be used by the Department to 136781
incorporate a statewide value-added progress dimension into 136782
performance ratings for school districts and for the development 136783
of an accountability system that includes the preparation and 136784
distribution of school report cards and funding and expenditure 136785
accountability reports under sections 3302.03 and 3302.031 of the 136786
Revised Code. 136787

CHILD CARE LICENSING 136788

The foregoing appropriation item 200442, Child Care 136789
Licensing, shall be used by the Department of Education to license 136790
and to inspect preschool and school-age child care programs under 136791
sections 3301.52 to 3301.59 of the Revised Code. 136792

Section 267.20.30. EDUCATION MANAGEMENT INFORMATION SYSTEM 136793

The foregoing appropriation item 200446, Education Management 136794
Information System, shall be used by the Department of Education 136795
to improve the Education Management Information System (EMIS). 136796

Of the foregoing appropriation item 200446, Education 136797
Management Information System, up to \$729,000 in each fiscal year 136798
shall be distributed to designated information technology centers 136799

for costs relating to processing, storing, and transferring data 136800
for the effective operation of the EMIS. These costs may include, 136801
but are not limited to, personnel, hardware, software development, 136802
communications connectivity, professional development, and support 136803
services, and to provide services to participate in the State 136804
Education Technology Plan developed under section 3353.09 of the 136805
Revised Code. 136806

The remainder of appropriation item 200446, Education 136807
Management Information System, shall be used to develop and 136808
support a common core of data definitions and standards as adopted 136809
by the Education Management Information System Advisory Board, 136810
including the ongoing development and maintenance of the data 136811
dictionary and data warehouse. In addition, such funds shall be 136812
used to support the development and implementation of data 136813
standards and the design, development, and implementation of a new 136814
data exchange system. 136815

Any provider of software meeting the standards approved by 136816
the Education Management Information System Advisory Board shall 136817
be designated as an approved vendor and may enter into contracts 136818
with local school districts, community schools, STEMS schools, 136819
information technology centers, or other educational entities for 136820
the purpose of collecting and managing data required under Ohio's 136821
education management information system (EMIS) laws. On an annual 136822
basis, the Department of Education shall convene an advisory group 136823
of school districts, community schools, and other 136824
education-related entities to review the Education Management 136825
Information System data definitions and data format standards. The 136826
advisory group shall recommend changes and enhancements based upon 136827
surveys of its members, education agencies in other states, and 136828
current industry practices, to reflect best practices, align with 136829
federal initiatives, and meet the needs of school districts. 136830

School districts, STEMS schools, and community schools not 136831

implementing a common and uniform set of data definitions and data 136832
format standards for Education Management Information System 136833
purposes shall have all EMIS funding withheld until they are in 136834
compliance. 136835

Section 267.20.40. GED TESTING 136836

The foregoing appropriation item 200447, GED Testing, shall 136837
be used to provide General Educational Development (GED) testing 136838
under rules adopted by the State Board of Education. 136839

Section 267.20.50. EDUCATOR PREPARATION 136840

Of the foregoing appropriation item 200448, Educator 136841
Preparation, up to \$150,000 in each fiscal year may be used by the 136842
Department of Education to monitor and support Ohio's State System 136843
of Support in accordance with the "No Child Left Behind Act of 136844
2011," 20 U.S.C. 6317. 136845

The remainder of appropriation item 200448, Educator 136846
Preparation, may be used by the Department to support the Educator 136847
Standards Board under section 3319.61 of the Revised Code and 136848
reforms under sections 3302.042, 3302.06 through 3302.068, 136849
3302.12, 3302.20 through 3302.22, and 3319.58 of the Revised Code. 136850

Section 267.20.60. COMMUNITY SCHOOLS AND CHOICE PROGRAMS 136851

The foregoing appropriation item 200455, Community Schools 136852
and Choice Programs, may be used by the Department of Education 136853
for additional services and responsibilities under section 3314.11 136854
of the Revised Code and for operation of the school choice 136855
programs. 136856

Of the foregoing appropriation item 200455, Community Schools 136857
and Choice Programs, a portion in each fiscal year may be used by 136858
the Department of Education for developing and conducting training 136859
sessions for community schools and sponsors and prospective 136860

sponsors of community schools as prescribed in division (A)(1) of 136861
section 3314.015 of the Revised Code, and other schools 136862
participating in school choice programs. In developing the 136863
community school training sessions, the Department shall collect 136864
and disseminate examples of best practices used by sponsors of 136865
independent charter schools in Ohio and other states. 136866

Section 267.20.70. PUPIL TRANSPORTATION 136867

Of the foregoing appropriation item 200502, Pupil 136868
Transportation, up to \$838,930 in each fiscal year may be used by 136869
the Department of Education for training prospective and 136870
experienced school bus drivers in accordance with training 136871
programs prescribed by the Department. Up to \$60,469,220 in each 136872
fiscal year may be used by the Department of Education for special 136873
education transportation reimbursements to school districts and 136874
county DD boards for transportation operating costs as provided in 136875
division (J) of section 3317.024 of the Revised Code. Up to 136876
\$650,000 in each fiscal year may be used to partially reimburse 136877
school districts for costs of providing transportation services to 136878
nontraditional schools when those schools are open on a day the 136879
traditional school district is not scheduled to open. Up to 136880
\$5,000,000 in each fiscal year may be used by the Department of 136881
Education to reimburse school districts that make payments to 136882
parents in lieu of transportation under section 3327.02 of the 136883
Revised Code and whose transportation is not funded under division 136884
(C) of section 3317.024 of the Revised Code. 136885

The remainder of appropriation item 200502, Pupil 136886
Transportation, shall be used to distribute the amounts calculated 136887
for formula aid under Section 267.30.50 of this act. 136888

Section 267.20.80. SCHOOL LUNCH MATCH 136889

The foregoing appropriation item 200505, School Lunch Match, 136890

shall be used to provide matching funds to obtain federal funds 136891
for the school lunch program. 136892

Any remaining appropriation after providing matching funds 136893
for the school lunch program may be used to partially reimburse 136894
school buildings within school districts that are required to have 136895
a school breakfast program under section 3313.813 of the Revised 136896
Code, at a rate decided by the Department. 136897

Section 267.20.90. AUXILIARY SERVICES 136898

The foregoing appropriation item 200511, Auxiliary Services, 136899
shall be used by the Department of Education for the purpose of 136900
implementing section 3317.06 of the Revised Code. Of the 136901
appropriation, up to \$1,789,943 in each fiscal year may be used 136902
for payment of the Post-Secondary Enrollment Options Program for 136903
nonpublic students. Notwithstanding section 3365.10 of the Revised 136904
Code, the Department shall distribute funding according to rules 136905
adopted by the Department in accordance with Chapter 119. of the 136906
Revised Code. 136907

Section 267.30.10. NONPUBLIC ADMINISTRATIVE COST 136908
REIMBURSEMENT 136909

The foregoing appropriation item 200532, Nonpublic 136910
Administrative Cost Reimbursement, shall be used by the Department 136911
of Education for the purpose of implementing section 3317.063 of 136912
the Revised Code. 136913

Section 267.30.20. SPECIAL EDUCATION ENHANCEMENTS 136914

Of the foregoing appropriation item 200540, Special Education 136915
Enhancements, up to \$2,206,875 in each fiscal year shall be used 136916
for home instruction for children with disabilities. 136917

Of the foregoing appropriation item 200540, Special Education 136918
Enhancements, up to \$45,282,959 in each fiscal year shall be used 136919

to fund special education and related services at county boards of 136920
developmental disabilities for eligible students under section 136921
3317.20 of the Revised Code and at institutions for eligible 136922
students under section 3317.201 of the Revised Code. 136923
Notwithstanding the distribution formulas under sections 3317.20 136924
and 3317.201 of the Revised Code, funding for DD boards and 136925
institutions for fiscal year 2012 and fiscal year 2013 shall be 136926
determined by providing the per pupil amount received by each DD 136927
board and institution for the prior fiscal year for each student 136928
served in the current fiscal year. 136929

Of the foregoing appropriation item 200540, Special Education 136930
Enhancements, up to \$1,333,468 in each fiscal year shall be used 136931
for parent mentoring programs. 136932

Of the foregoing appropriation item 200540, Special Education 136933
Enhancements, up to \$2,537,824 in each fiscal year may be used for 136934
school psychology interns. 136935

The remainder of appropriation item 200540, Special Education 136936
Enhancements, shall be distributed by the Department of Education 136937
to county boards of developmental disabilities, educational 136938
service centers, and school districts for preschool special 136939
education units and preschool supervisory units under section 136940
3317.052 of the Revised Code. To the greatest extent possible, the 136941
Department of Education shall allocate these units to school 136942
districts and educational service centers. 136943

The Department may reimburse county DD boards, educational 136944
service centers, and school districts for services provided by 136945
instructional assistants, related services as defined in rule 136946
3301-51-11 of the Administrative Code, physical therapy services 136947
provided by a licensed physical therapist or physical therapist 136948
assistant under the supervision of a licensed physical therapist 136949
as required under Chapter 4755. of the Revised Code and Chapter 136950
4755-27 of the Administrative Code and occupational therapy 136951

services provided by a licensed occupational therapist or 136952
occupational therapy assistant under the supervision of a licensed 136953
occupational therapist as required under Chapter 4755. of the 136954
Revised Code and Chapter 4755-7 of the Administrative Code. 136955
Nothing in this section authorizes occupational therapy assistants 136956
or physical therapist assistants to generate or manage their own 136957
caseloads. 136958

The Department of Education shall require school districts, 136959
educational service centers, and county DD boards serving 136960
preschool children with disabilities to adhere to Ohio's Early 136961
Learning Program Guidelines and document child progress using 136962
research-based indicators prescribed by the Department and report 136963
results annually. The reporting dates and method shall be 136964
determined by the Department. 136965

Section 267.30.30. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 136966

Of the foregoing appropriation item 200545, Career-Technical 136967
Education Enhancements, up to \$2,563,568 in each fiscal year shall 136968
be used to fund secondary career-technical education at 136969
institutions using a grant-based methodology, notwithstanding 136970
sections 3317.05, 3317.052, and 3317.053 of the Revised Code. 136971

Of the foregoing appropriation item 200545, Career-Technical 136972
Education Enhancements, up to \$2,838,281 in each fiscal year shall 136973
be used by the Department of Education to fund competitive grants 136974
to tech prep consortia that expand the number of students enrolled 136975
in tech prep programs. These grant funds shall be used to directly 136976
support expanded tech prep programs provided to students enrolled 136977
in school districts, including joint vocational school districts, 136978
and affiliated higher education institutions. This support may 136979
include the purchase of equipment. 136980

Of the foregoing appropriation item 200545, Career-Technical 136981
Education Enhancements, up to \$3,100,850 in each fiscal year shall 136982

be used by the Department of Education to support existing High 136983
Schools That Work (HSTW) sites, develop and support new sites, 136984
fund technical assistance, and support regional centers and middle 136985
school programs. The purpose of HSTW is to combine challenging 136986
academic courses and modern career-technical studies to raise the 136987
academic achievement of students. HSTW provides intensive 136988
technical assistance, focused staff development, targeted 136989
assessment services, and ongoing communications and networking 136990
opportunities. 136991

Of the foregoing appropriation item 200545, Career-Technical 136992
Education Enhancements, up to \$300,000 in each fiscal year shall 136993
be used by the Department of Education to enable students in 136994
agricultural programs to enroll in a fifth quarter of instruction 136995
based on the agricultural education model of delivering work-based 136996
learning through supervised agricultural experience. The 136997
Department of Education shall determine eligibility criteria and 136998
the reporting process for the Agriculture 5th Quarter Project and 136999
shall fund as many programs as possible given the set aside. 137000

Section 267.30.40. FOUNDATION FUNDING 137001

Of the foregoing appropriation item 200550, Foundation 137002
Funding, up to \$250,000 in each fiscal year may be used by the 137003
Department to fund a shared services pilot project involving at 137004
least two educational service centers. The pilot project shall 137005
focus on the design, implementation, and evaluation of a shared 137006
service delivery model. The educational service centers 137007
participating in the pilot project shall submit a report not later 137008
than September 1, 2013, to the Governor, members of the General 137009
Assembly, and members of the State Board of Education, reviewing 137010
the opportunities and challenges of implementing shared services 137011
initiatives as well as any real or projected cost efficiencies 137012
achieved through the pilot project. 137013

Of the foregoing appropriation item 200550, Foundation 137014
Funding, up to \$425,000 shall be expended in each fiscal year for 137015
court payments under section 2151.362 of the Revised Code. 137016

Of the foregoing appropriation item 200550, Foundation 137017
Funding, up to \$8,100,000 in each fiscal year shall be used to 137018
fund gifted education at educational service centers. The 137019
Department shall distribute the funding through the unit-based 137020
funding methodology in place under division (L) of section 137021
3317.024, division (E) of section 3317.05, and divisions (A), (B), 137022
and (C) of section 3317.053 of the Revised Code as they existed 137023
prior to fiscal year 2010. Any remaining funds shall be used as an 137024
additional supplement to each city, exempted village, and local 137025
school district for identifying gifted students under Chapter 137026
3324. of the Revised Code. 137027

Of the foregoing appropriation item 200550, Foundation 137028
Funding, up to \$10,000,000 in each fiscal year shall be used to 137029
provide additional state aid to school districts, joint vocational 137030
school districts, and community schools for special education 137031
students under division (C)(3) of section 3317.022 of the Revised 137032
Code, except that the Controlling Board may increase these amounts 137033
if presented with such a request from the Department of Education 137034
at the final meeting of the fiscal year; and up to \$2,000,000 in 137035
each fiscal year shall be reserved for Youth Services tuition 137036
payments under section 3317.024 of the Revised Code. 137037

Of the foregoing appropriation item 200550, Foundation 137038
Funding, up to \$41,760,000 in fiscal year 2012 and up to 137039
\$35,323,000 in fiscal year 2013 shall be reserved to fund the 137040
state reimbursement of educational service centers under section 137041
3317.11 of the Revised Code and the section of this act entitled 137042
"EDUCATIONAL SERVICE CENTERS FUNDING;" and up to \$3,545,752 in 137043
each fiscal year shall be distributed to educational service 137044
centers for School Improvement Initiatives. Educational service 137045

centers shall be required to support districts in the development 137046
and implementation of their continuous improvement plans as 137047
required in section 3302.04 of the Revised Code and to provide 137048
technical assistance and support in accordance with Title I of the 137049
"No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 137050
6317. 137051

Of the foregoing appropriation item 200550, Foundation 137052
Funding, up to \$1,000,000 in each fiscal year shall be used by the 137053
Department of Education for a program to pay for educational 137054
services for youth who have been assigned by a juvenile court or 137055
other authorized agency to any of the facilities described in 137056
division (A) of the section of this act entitled "PRIVATE 137057
TREATMENT FACILITY PROJECT." 137058

Of the foregoing appropriation item 200550, Foundation 137059
Funding, up to \$12,522,860 in each fiscal year shall be used to 137060
support the Cleveland school choice program. 137061

Of the portion of the funds distributed to the Cleveland 137062
Municipal School District under this section, up to \$11,901,887 in 137063
each fiscal year shall be used to operate the school choice 137064
program in the Cleveland Municipal School District under sections 137065
3313.974 to 3313.979 of the Revised Code. Notwithstanding 137066
divisions (B) and (C) of section 3313.978 and division (C) of 137067
section 3313.979 of the Revised Code, up to \$1,000,000 in each 137068
fiscal year of this amount shall be used by the Cleveland 137069
Municipal School District to provide tutorial assistance as 137070
provided in division (H) of section 3313.974 of the Revised Code. 137071
The Cleveland Municipal School District shall report the use of 137072
these funds in the district's three-year continuous improvement 137073
plan as described in section 3302.04 of the Revised Code in a 137074
manner approved by the Department of Education. 137075

Of the foregoing appropriation item 200550, Foundation 137076
Funding, an amount shall be available in each fiscal year to be 137077

paid to joint vocational school districts in accordance with the 137078
section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL 137079
DISTRICTS." 137080

Of the foregoing appropriation item 200550, Foundation 137081
Funding, a portion in each fiscal year shall be paid to city, 137082
exempted village, and local school districts in accordance with 137083
the section of this act entitled "SUPPLEMENTAL SCHOOL DISTRICT 137084
FUNDING." 137085

Of the foregoing appropriation item 200550, Foundation 137086
Funding, a portion in each fiscal year shall be paid to city, 137087
exempted village, and local school districts in accordance with 137088
the section of this act entitled "SUBSIDY FOR HIGH PERFORMING 137089
SCHOOL DISTRICTS." 137090

The remainder of appropriation item 200550, Foundation 137091
Funding, shall be used to distribute the amounts calculated for 137092
formula aid under Section 267.30.50 of this act. 137093

Appropriation items 200502, Pupil Transportation, 200540, 137094
Special Education Enhancements, and 200550, Foundation Funding, 137095
other than specific set-asides, are collectively used in each 137096
fiscal year to pay state formula aid obligations for school 137097
districts, community schools, STEM schools, and joint vocational 137098
school districts under this act. The first priority of these 137099
appropriation items, with the exception of specific set-asides, is 137100
to fund state formula aid obligations. It may be necessary to 137101
reallocate funds among these appropriation items or use excess 137102
funds from other general revenue fund appropriation items in the 137103
Department of Education's budget in each fiscal year, in order to 137104
meet state formula aid obligations. If it is determined that it is 137105
necessary to transfer funds among these appropriation items or to 137106
transfer funds from other General Revenue Fund appropriations in 137107
the Department of Education's budget to meet state formula aid 137108
obligations, the Department of Education shall seek approval from 137109

the Controlling Board to transfer funds as needed. 137110

Section 267.30.50. FUNDING FOR CITY, EXEMPTED VILLAGE, AND 137111
LOCAL SCHOOL DISTRICTS 137112

(A) For each of fiscal years 2012 and 2013, the Department of 137113
Education shall compute and pay operating funding for each city, 137114
exempted village, and local school district according to the 137115
following formula: 137116

[(The final amount computed for fiscal year 2011 under 137117
the line on the district's PASS form entitled "State 137118
Resources for the Foundation Funding Program" / the district's 137119
recalculated fiscal year 2011 formula ADM) X the district's 137120
current year formula ADM] - the district's adjustment amount 137121

Where: 137122

(1) "PASS form" means the form for calculating operating 137123
payments to school districts as prescribed by former section 137124
3306.012 of the Revised Code. 137125

(2) "Recalculated fiscal year 2011 formula ADM" means the 137126
district's average daily membership reported in October 2010 under 137127
division (A) of section 3317.03 of the Revised Code, as verified 137128
by the Superintendent of Public Instruction and adjusted if so 137129
ordered under division (K) of that section, and as further 137130
adjusted by the Department, as follows: 137131

(a) Count only twenty per cent of the number of joint 137132
vocational school district students counted under division (A)(3) 137133
of section 3317.03 of the Revised Code; 137134

(b) Add twenty per cent of the number of students who are 137135
entitled to attend school in the district under section 3313.64 or 137136
3313.65 of the Revised Code and are enrolled in another school 137137
district under a career-technical educational compact. 137138

(3) "Current year formula ADM" means the district's formula 137139

ADM for the current fiscal year as defined in section 3317.02 of the Revised Code. 137140
137141

(4) "The district's adjustment amount" means the amount computed under division (B)(5) of this section. 137142
137143

If the computation made under division (A) of this section results in a negative number, the district's funding under this section shall be zero. 137144
137145
137146

(B) To make the computation required by division (A) of this section, the Department shall determine all of the following: 137147
137148

(1) Each district's charge-off valuation per pupil, which shall be the valuation used to determine the district's state share of the adequacy amount for fiscal year 2011, under former section 3306.13 of the Revised Code, divided by the district's recalculated fiscal year 2011 formula ADM; 137149
137150
137151
137152
137153

(2) The statewide median charge-off valuation per pupil; 137154

(3) Each district's charge-off valuation index, which shall be the district's charge-off valuation per pupil divided by the statewide median charge-off valuation per pupil; 137155
137156
137157

(4) The statewide per pupil adjustment amount. The Department shall determine that amount so that the total statewide formula aid obligation for school districts does not exceed the aggregate amount appropriated for formula aid under line items 200502, 200550, and 200612. 137158
137159
137160
137161
137162

(5) Each district's adjustment amount, which shall be the district's charge-off valuation index multiplied by the statewide per pupil adjustment amount multiplied by the district's current year formula ADM. 137163
137164
137165
137166

(C) On the form that the Department uses to compute funding for a school district in accordance with this section, the Department also shall indicate the amount of that funding 137167
137168
137169

allocated to special education and related services, the amount 137170
allocated to career-technical education, and the amount allocated 137171
to gifted education. The amounts allocated for special education 137172
and career-technical education shall be the amounts indicated on 137173
the PASS form for fiscal year 2011. Each school district that 137174
receives an allocation for career-technical education shall spend 137175
the funds only for purposes the Department of Education designates 137176
as approved for career-technical education expenses. 137177
Career-technical education expenses approved by the Department 137178
shall include only expenses connected to the delivery of 137179
career-technical programming to students enrolled in 137180
state-approved career-technical programs. If a school district 137181
informs the Department that it is unable to spend the full 137182
allocation on approved career-technical education expenses, the 137183
Department may reallocate the district's unexpended amount of the 137184
career-technical education allocation to other school districts. 137185
The overall funding levels calculated under division (A) of this 137186
section for districts affected by a reallocation under this 137187
division shall be adjusted accordingly. The Department shall first 137188
allocate the funds to school districts within the original school 137189
district's vocational education planning district that have growth 137190
in career-technical enrollment from the previous fiscal year. If 137191
there are no such districts, the Department shall allocate the 137192
funds to other school districts, with priority given to districts 137193
according to each district's growth in career-technical enrollment 137194
from the previous fiscal year. The amounts allocated to gifted 137195
education shall be the amounts districts received for gifted unit 137196
funding and supplemental identification funds in fiscal year 2009, 137197
either directly or through funds allocated to educational service 137198
centers. The Department shall require each school district to 137199
report data annually so that the Department may monitor and 137200
enforce the district's compliance with the requirements regarding 137201
the manner in which allocations for career-technical education and 137202

gifted education may be spent. 137203

(D) For fiscal years 2012 and 2013, wherever a provision of 137204
law refers to payments or adjustments for a school district made 137205
in accordance with any section of Chapter 3317. of the Revised 137206
Code, that reference shall be construed to include payments or 137207
adjustments made under this section. 137208

Section 267.30.53. SUPPLEMENTAL SCHOOL DISTRICT FUNDING 137209

(A) For each of fiscal years 2012 and 2013, the Department of 137210
Education shall compute and pay supplemental operating funding for 137211
each city, exempted village, and local school district according 137212
to the following formula: 137213

(The final amount computed for fiscal year 2011 under the 137214
line on the district's PASS form entitled "State Resources for the 137215
Foundation Funding Program" minus the portion of that amount paid 137216
from funds received under the American Recovery and Reinvestment 137217
Act State Fiscal Stabilization Fund) minus the amount computed for 137218
the district for the current fiscal year under Section 267.30.50 137219
of this act. 137220

(B) If the computation made under division (A) of this 137221
section results in a negative number, the district's funding under 137222
that division shall be zero. 137223

Section 267.30.56. SUBSIDY FOR HIGH PERFORMING SCHOOL 137224
DISTRICTS 137225

In addition to any other payments made under Sections 137226
267.30.50 and 267.30.53 of this act or under Chapter 3317. of the 137227
Revised Code, for each of fiscal years 2012 and 2013, the 137228
Department of Education shall pay to each qualifying school 137229
district the applicable amount prescribed by this section. 137230

The Department shall pay an amount equal to \$17 times the 137231

district's current-year formula ADM to each district that is rated 137232
as "excellent with distinction" or "excellent" on the report card 137233
issued for the district under section 3302.03 of the Revised Code 137234
for the prior school year. 137235

Section 267.30.60. FUNDING FOR JOINT VOCATIONAL SCHOOL 137236
DISTRICTS 137237

The Department of Education shall distribute funds within 137238
appropriation item 200550, Foundation Funding, for joint 137239
vocational funding in each fiscal year to each joint vocational 137240
school district that received joint vocational funding in fiscal 137241
year 2011. The Department shall distribute to each such district 137242
joint vocational funding in an amount equal to the district's 137243
total state foundation aid as reported on the final JVS payment 137244
report produced by the Department for the previous fiscal year. 137245

The joint vocational funding for each fiscal year for each 137246
district is the amount specified in this section less any general 137247
revenue fund spending reductions ordered by the Governor under 137248
section 126.05 of the Revised Code. 137249

Section 267.30.70. PROPERTY TAX ALLOCATION - EDUCATION 137250

The Superintendent of Public Instruction shall not request, 137251
and the Controlling Board shall not approve, the transfer of 137252
appropriation from appropriation item 200901, Property Tax 137253
Allocation - Education, to any other appropriation item. 137254

The appropriation item 200901, Property Tax Allocation - 137255
Education, is appropriated to pay for the state's costs incurred 137256
because of the homestead exemption, the property tax rollback, and 137257
payments required under division (C) of section 5705.2110 of the 137258
Revised Code. In cooperation with the Department of Taxation, the 137259
Department of Education shall distribute these funds directly to 137260
the appropriate school districts of the state, notwithstanding 137261

sections 321.24 and 323.156 of the Revised Code, which provide for 137262
payment of the homestead exemption and property tax rollback by 137263
the Tax Commissioner to the appropriate county treasurer and the 137264
subsequent redistribution of these funds to the appropriate local 137265
taxing districts by the county auditor. 137266

Upon receipt of these amounts, each school district shall 137267
distribute the amount among the proper funds as if it had been 137268
paid as real or tangible personal property taxes. Payments for the 137269
costs of administration shall continue to be paid to the county 137270
treasurer and county auditor as provided for in sections 319.54, 137271
321.26, and 323.156 of the Revised Code. 137272

Any sums, in addition to the amount specifically appropriated 137273
in appropriation items 200901, Property Tax Allocation - 137274
Education, for the homestead exemption and the property tax 137275
rollback payments, and payments required under division (C) of 137276
section 5705.2110 of the Revised Code, which are determined to be 137277
necessary for these purposes, are hereby appropriated. 137278

Section 267.30.80. TEACHER CERTIFICATION AND LICENSURE 137279

The foregoing appropriation item 200681, Teacher 137280
Certification and Licensure, shall be used by the Department of 137281
Education in each year of the biennium to administer and support 137282
teacher certification and licensure activities. 137283

SCHOOL DISTRICT SOLVENCY ASSISTANCE 137284

(A) Of the foregoing appropriation item 200687, School 137285
District Solvency Assistance, \$20,000,000 in each fiscal year 137286
shall be allocated to the School District Shared Resource Account 137287
and \$5,000,000 in each fiscal year shall be allocated to the 137288
Catastrophic Expenditures Account. These funds shall be used to 137289
provide assistance and grants to school districts to enable them 137290
to remain solvent under section 3316.20 of the Revised Code. 137291

Assistance and grants shall be subject to approval by the 137292
Controlling Board. Except as provided under division (C) of this 137293
section, any required reimbursements from school districts for 137294
solvency assistance shall be made to the appropriate account in 137295
the School District Solvency Assistance Fund (Fund 5H30). 137296

(B) Notwithstanding any provision of law to the contrary, 137297
upon the request of the Superintendent of Public Instruction, the 137298
Director of Budget and Management may make transfers to the School 137299
District Solvency Assistance Fund (Fund 5H30) from any fund used 137300
by the Department of Education or the General Revenue Fund to 137301
maintain sufficient cash balances in Fund 5H30 in fiscal years 137302
2012 and 2013. Any cash transferred is hereby appropriated. The 137303
transferred cash may be used by the Department of Education to 137304
provide assistance and grants to school districts to enable them 137305
to remain solvent and to pay unforeseeable expenses of a temporary 137306
or emergency nature that the school district is unable to pay from 137307
existing resources. The Director of Budget and Management shall 137308
notify the members of the Controlling Board of any such transfers. 137309

(C) If the cash balance of the School District Solvency 137310
Assistance Fund (Fund 5H30) is insufficient to pay solvency 137311
assistance in fiscal years 2012 and 2013, at the request of the 137312
Superintendent of Public Instruction, and with the approval of the 137313
Controlling Board, the Director of Budget and Management may 137314
transfer cash from the Lottery Profits Education Reserve Fund 137315
(Fund 7018) to Fund 5H30 to provide assistance and grants to 137316
school districts to enable them to remain solvent and to pay 137317
unforeseeable expenses of a temporary nature that they are unable 137318
to pay from existing resources under section 3316.20 of the 137319
Revised Code. Such transfers are hereby appropriated to 137320
appropriation item 200670, School District Solvency Assistance - 137321
Lottery. Any required reimbursements from school districts for 137322
solvency assistance granted from appropriation item 200670, School 137323

District Solvency Assistance - Lottery, shall be made to Fund 137324
7018. 137325

Section 267.30.90. SCHOOLS MEDICAID ADMINISTRATIVE CLAIMS 137326

Upon the request of the Superintendent of Public Instruction, 137327
the Director of Budget and Management may transfer up to \$639,000 137328
cash in each fiscal year from the General Revenue Fund to the 137329
Schools Medicaid Administrative Claims Fund (Fund 3AF0). The 137330
transferred cash is to be used by the Department of Education to 137331
pay the expenses the Department incurs in administering the 137332
Medicaid School Component of the Medicaid program established 137333
under sections 5111.71 to 5111.715 of the Revised Code. On June 1 137334
of each fiscal year, or as soon as possible thereafter, the 137335
Director of Budget and Management shall transfer cash from Fund 137336
3AF0 back to the General Revenue Fund in an amount equal to the 137337
total amount transferred to Fund 3AF0 in that fiscal year. 137338

The money deposited into Fund 3AF0 under division (B) of 137339
section 5111.714 of the Revised Code is hereby appropriated for 137340
fiscal years 2012 and 2013 and shall be used in accordance with 137341
division (D) of section 5111.714 of the Revised Code. 137342

Section 267.40.10. HALF-MILL MAINTENANCE EQUALIZATION 137343

The foregoing appropriation item 200626, Half-Mill 137344
Maintenance Equalization, shall be used to make payments pursuant 137345
to section 3318.18 of the Revised Code. 137346

Section 267.40.20. AUXILIARY SERVICES REIMBURSEMENT 137347

Notwithstanding section 3317.064 of the Revised Code, if the 137348
unexpended, unencumbered cash balance is sufficient, the Treasurer 137349
of State shall transfer \$1,500,000 in fiscal year 2012 within 137350
thirty days after the effective date of this section, and 137351
\$1,500,000 in fiscal year 2013 by August 1, 2012, from the 137352

Auxiliary Services Personnel Unemployment Compensation Fund to the 137353
Auxiliary Services Reimbursement Fund (Fund 5980) used by the 137354
Department of Education. 137355

Section 267.40.30. LOTTERY PROFITS EDUCATION FUND 137356

Appropriation item 200612, Foundation Funding (Fund 7017), 137357
shall be used in conjunction with appropriation item 200550, 137358
Foundation Funding (GRF), to provide state foundation payments to 137359
school districts. 137360

The Department of Education, with the approval of the 137361
Director of Budget and Management, shall determine the monthly 137362
distribution schedules of appropriation item 200550, Foundation 137363
Funding (GRF), and appropriation item 200612, Foundation Funding 137364
(Fund 7017). If adjustments to the monthly distribution schedule 137365
are necessary, the Department of Education shall make such 137366
adjustments with the approval of the Director of Budget and 137367
Management. 137368

Section 267.40.40. LOTTERY PROFITS EDUCATION RESERVE FUND 137369

(A) There is hereby created the Lottery Profits Education 137370
Reserve Fund (Fund 7018) in the State Treasury. Investment 137371
earnings of the Lottery Profits Education Reserve Fund shall be 137372
credited to the fund. 137373

(B) Notwithstanding any other provision of law to the 137374
contrary, the Director of Budget and Management may transfer cash 137375
from Fund 7018 to the Lottery Profits Education Fund (Fund 7017) 137376
in fiscal year 2012 and fiscal year 2013. Amounts transferred 137377
under this section are hereby appropriated. 137378

(C) On July 15, 2011, or as soon as possible thereafter, the 137379
Director of the Ohio Lottery Commission shall certify to the 137380
Director of Budget and Management the amount by which lottery 137381
profit transfers received by Fund 7017 exceeded \$711,000,000 in 137382

fiscal year 2011. The Director of Budget and Management may 137383
transfer the amount so certified, plus the cash balance in Fund 137384
7017, to Fund 7018. 137385

(D) On July 15, 2012, or as soon as possible thereafter, the 137386
Director of the Ohio Lottery Commission shall certify to the 137387
Director of Budget and Management the amount by which lottery 137388
profit transfers received by Fund 7017 exceeded \$717,500,000 in 137389
fiscal year 2012. The Director of Budget and Management may 137390
transfer the amount so certified, plus the cash balance in Fund 137391
7017, to Fund 7018. 137392

Section 267.40.50. GENERAL REVENUE FUND TRANSFERS TO SCHOOL 137393
DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 7047) 137394

Notwithstanding any provision of law to the contrary, in 137395
fiscal year 2012 and fiscal year 2013 the Director of Budget and 137396
Management may make temporary transfers between the General 137397
Revenue Fund and the School District Property Tax Replacement - 137398
Business Fund (Fund 7047) in the Department of Education to ensure 137399
sufficient balances in Fund 7047 and to replenish the General 137400
Revenue Fund for such transfers. 137401

Section 267.40.60. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - 137402
BUSINESS 137403

The foregoing appropriation item 200909, School District 137404
Property Tax Replacement - Business, shall be used by the 137405
Department of Education, in consultation with the Department of 137406
Taxation, to make payments to school districts and joint 137407
vocational school districts under section 5751.21 of the Revised 137408
Code. If it is determined by the Director of Budget and Management 137409
that additional appropriations are necessary for this purpose, 137410
such amounts are hereby appropriated. 137411

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY 137412

The foregoing appropriation item 200900, School District
Property Tax Replacement-Utility, shall be used by the Department
of Education, in consultation with the Department of Taxation, to
make payments to school districts and joint vocational school
districts under section 5727.85 of the Revised Code. If it is
determined by the Director of Budget and Management that
additional appropriations are necessary for this purpose, such
amounts are hereby appropriated.

DISTRIBUTION FORMULAS

The Department of Education shall report the following to the
Director of Budget and Management and the Legislative Service
Commission:

(A) Changes in formulas for distributing state
appropriations, including administratively defined formula
factors;

(B) Discretionary changes in formulas for distributing
federal appropriations;

(C) Federally mandated changes in formulas for distributing
federal appropriations.

Any such changes shall be reported two weeks prior to the
effective date of the change.

Section 267.40.70. EDUCATIONAL SERVICE CENTERS FUNDING

In fiscal year 2012, each Educational Service Center shall
receive funding equal to ninety per cent of the amount received in
fiscal year 2011 under section 3317.11 of the Revised Code and
Section 265.50.10 of Am. Sub. H.B. 1 of the 128th General
Assembly.

In fiscal year 2013, each Educational Service Center shall
receive funding equal to eighty-five per cent of the amount
received in fiscal year 2012 under this section.

Notwithstanding any provision of law to the contrary, the Department of Education shall modify the payments under this section as follows:

(A) If an educational service center ceases operation, the Department shall redistribute that center's funding, as calculated under this section, to the remaining centers in proportion to each center's service center ADM as defined in section 3317.11 of the Revised Code.

(B) If two or more educational service centers merge operations to create a single service center, the Department shall distribute the sum of the original service centers' funding, as calculated under this section, to the new service center.

Section 267.40.80. PRIVATE TREATMENT FACILITY PROJECT

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2012 or fiscal year 2013 or both, the Department pays through appropriation item 470401, RECLAIM Ohio;

(b) Abraxas, in Shelby;

(c) Paint Creek, in Bainbridge;

(d) F.I.R.S.T., in Mansfield.

(2) "Education program" means an elementary or secondary education program or a special education program and related services.

(3) "Served child" means any child receiving an education

program pursuant to division (B) of this section. 137472

(4) "School district responsible for tuition" means a city, 137473
exempted village, or local school district that, if tuition 137474
payment for a child by a school district is required under law 137475
that existed in fiscal year 1998, is the school district required 137476
to pay that tuition. 137477

(5) "Residential child" means a child who resides in a 137478
participating residential treatment center and who is receiving an 137479
educational program under division (B) of this section. 137480

(B) A youth who is a resident of the state and has been 137481
assigned by a juvenile court or other authorized agency to a 137482
residential treatment facility specified in division (A) of this 137483
section shall be enrolled in an approved educational program 137484
located in or near the facility. Approval of the educational 137485
program shall be contingent upon compliance with the criteria 137486
established for such programs by the Department of Education. The 137487
educational program shall be provided by a school district or 137488
educational service center, or by the residential facility itself. 137489
Maximum flexibility shall be given to the residential treatment 137490
facility to determine the provider. In the event that a voluntary 137491
agreement cannot be reached and the residential facility does not 137492
choose to provide the educational program, the educational service 137493
center in the county in which the facility is located shall 137494
provide the educational program at the treatment center to 137495
children under twenty-two years of age residing in the treatment 137496
center. 137497

(C) Any school district responsible for tuition for a 137498
residential child shall, notwithstanding any conflicting provision 137499
of the Revised Code regarding tuition payment, pay tuition for the 137500
child for fiscal year 2012 and fiscal year 2013 to the education 137501
program provider and in the amount specified in this division. If 137502
there is no school district responsible for tuition for a 137503

residential child and if the participating residential treatment 137504
center to which the child is assigned is located in the city, 137505
exempted village, or local school district that, if the child were 137506
not a resident of that treatment center, would be the school 137507
district where the child is entitled to attend school under 137508
sections 3313.64 and 3313.65 of the Revised Code, that school 137509
district, notwithstanding any conflicting provision of the Revised 137510
Code, shall pay tuition for the child for fiscal year 2012 and 137511
fiscal year 2013 under this division unless that school district 137512
is providing the educational program to the child under division 137513
(B) of this section. 137514

A tuition payment under this division shall be made to the 137515
school district, educational service center, or residential 137516
treatment facility providing the educational program to the child. 137517

The amount of tuition paid shall be: 137518

(1) The amount of tuition determined for the district under 137519
division (A) of section 3317.08 of the Revised Code; 137520

(2) In addition, for any student receiving special education 137521
pursuant to an individualized education program as defined in 137522
section 3323.01 of the Revised Code, a payment for excess costs. 137523
This payment shall equal the actual cost to the school district, 137524
educational service center, or residential treatment facility of 137525
providing special education and related services to the student 137526
pursuant to the student's individualized education program, minus 137527
the tuition paid for the child under division (C)(1) of this 137528
section. 137529

A school district paying tuition under this division shall 137530
not include the child for whom tuition is paid in the district's 137531
average daily membership certified under division (A) of section 137532
3317.03 of the Revised Code. 137533

(D) In each of fiscal years 2012 and 2013, the Department of 137534

Education shall reimburse, from appropriations made for the 137535
purpose, a school district, educational service center, or 137536
residential treatment facility, whichever is providing the 137537
service, that has demonstrated that it is in compliance with the 137538
funding criteria for each served child for whom a school district 137539
must pay tuition under division (C) of this section. The amount of 137540
the reimbursement shall be the amount appropriated for this 137541
purpose divided by the full-time equivalent number of children for 137542
whom reimbursement is to be made. 137543

(E) Funds provided to a school district, educational service 137544
center, or residential treatment facility under this section shall 137545
be used to supplement, not supplant, funds from other public 137546
sources for which the school district, service center, or 137547
residential treatment facility is entitled or eligible. 137548

(F) The Department of Education shall track the utilization 137549
of funds provided to school districts, educational service 137550
centers, and residential treatment facilities under this section 137551
and monitor the effect of the funding on the educational programs 137552
they provide in participating residential treatment facilities. 137553
The Department shall monitor the programs for educational 137554
accountability. 137555

Section 267.40.90. SCHOOL DISTRICT PARTICIPATION IN NATIONAL 137556
ASSESSMENT OF EDUCATION PROGRESS 137557

The General Assembly intends for the Superintendent of Public 137558
Instruction to provide for school district participation in the 137559
administration of the National Assessment of Education Progress in 137560
accordance with section 3301.27 of the Revised Code. Each school 137561
and school district selected for participation by the 137562
Superintendent of Public Instruction shall participate. 137563

Section 267.50.10. COMMUNITY SCHOOL FUNDING GUARANTEE FOR SBH 137564

STUDENTS	137565
(A) As used in this section:	137566
(1) "IEP" has the same meaning as in section 3323.01 of the Revised Code.	137567 137568
(2) "SBH student" means a student receiving special education and related services for severe behavior disabilities pursuant to an IEP.	137569 137570 137571
(B) This section applies only to a community school established under Chapter 3314. of the Revised Code that in each of fiscal years 2012 and 2013 enrolls a number of SBH students equal to at least fifty per cent of the total number of students enrolled in the school in the applicable fiscal year.	137572 137573 137574 137575 137576
(C) In addition to any state foundation payments made, in each of fiscal years 2012 and 2013, the Department of Education shall pay to a community school to which this section applies a subsidy equal to the difference between the aggregate amount calculated and paid in that fiscal year to the community school for special education and related services additional weighted costs for the SBH students enrolled in the school and the aggregate amount that would have been calculated for the school for special education and related services additional weighted costs for those same students in fiscal year 2001. If the difference is a negative number, the amount of the subsidy shall be zero.	137577 137578 137579 137580 137581 137582 137583 137584 137585 137586 137587 137588
(D) The amount of any subsidy paid to a community school under this section shall not be deducted from the school district in which any of the students enrolled in the community school are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. The amount of any subsidy paid to a community school under this section shall be paid from funds appropriated to the Department of Education in appropriation item 200550, Foundation	137589 137590 137591 137592 137593 137594 137595

Funding. 137596

Section 267.50.20. EARMARK ACCOUNTABILITY 137597

At the request of the Superintendent of Public Instruction, 137598
any entity that receives a budget earmark under the Department of 137599
Education shall submit annually to the chairpersons of the 137600
committees of the House of Representatives and the Senate 137601
primarily concerned with education and to the Department of 137602
Education a report that includes a description of the services 137603
supported by the funds, a description of the results achieved by 137604
those services, an analysis of the effectiveness of the program, 137605
and an opinion as to the program's applicability to other school 137606
districts. For an earmarked entity that received state funds from 137607
an earmark in the prior fiscal year, no funds shall be provided by 137608
the Department of Education to an earmarked entity for a fiscal 137609
year until its report for the prior fiscal year has been 137610
submitted. 137611

Section 267.50.30. PROHIBITION FROM OPERATING FROM HOME 137612

No community school established under Chapter 3314. of the 137613
Revised Code that was not open for operation as of May 1, 2005, 137614
shall operate from a home, as defined in section 3313.64 of the 137615
Revised Code. 137616

Section 267.50.40. EARLY COLLEGE START UP COMMUNITY SCHOOL 137617

(A) As used in this section: 137618

(1) "Big eight school district" has the same meaning as in 137619
section 3314.02 of the Revised Code. 137620

(2) "Early college high school" means a high school that 137621
provides students with a personalized learning plan based on an 137622
accelerated curriculum combining high school and college-level 137623
coursework. 137624

(B) Any early college high school that is operated by a big eight school district in partnership with a private university may operate as a new start-up community school under Chapter 3314. of the Revised Code beginning in the 2007-2008 school year, if all of the following conditions are met:

(1) The governing authority and sponsor of the school enter into a contract in accordance with section 3314.03 of the Revised Code and, notwithstanding division (D) of section 3314.02 of the Revised Code, both parties adopt and sign the contract by July 9, 2007.

(2) Notwithstanding division (A) of former section 3314.016 of the Revised Code, the school's governing authority enters into a contract with the private university under which the university will be the school's operator.

(3) The school provides the same educational program the school provided while part of the big eight school district.

Section 267.50.50. USE OF VOLUNTEERS

The Department of Education may utilize the services of volunteers to accomplish any of the purposes of the Department. The Superintendent of Public Instruction shall approve for what purposes volunteers may be used and for these purposes may recruit, train, and oversee the services of volunteers. The Superintendent may reimburse volunteers for necessary and appropriate expenses in accordance with state guidelines and may designate volunteers as state employees for the purpose of motor vehicle accident liability insurance under section 9.83 of the Revised Code, for immunity under section 9.86 of the Revised Code, and for indemnification from liability incurred in the performance of their duties under section 9.87 of the Revised Code.

Section 267.50.60. RESTRICTION OF LIABILITY FOR CERTAIN

REIMBURSEMENTS	137655
(A) Except as expressly required under a court judgment not subject to further appeals, or a settlement agreement with a school district executed on or before June 1, 2009, in the case of a school district for which the formula ADM for fiscal year 2005, as reported for that fiscal year under division (A) of section 3317.03 of the Revised Code, was reduced based on enrollment reports for community schools, made under section 3314.08 of the Revised Code, regarding students entitled to attend school in the district, which reduction of formula ADM resulted in a reduction of foundation funding or transitional aid funding for fiscal year 2005, 2006, or 2007, no school district, except a district named in the court's judgment or the settlement agreement, shall have a legal claim for reimbursement of the amount of such reduction in foundation funding or transitional aid funding, and the state shall not have liability for reimbursement of the amount of such reduction in foundation funding or transitional aid funding.	137656 137657 137658 137659 137660 137661 137662 137663 137664 137665 137666 137667 137668 137669 137670 137671
(B) As used in this section:	137672
(1) "Community school" means a community school established under Chapter 3314. of the Revised Code.	137673 137674
(2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.	137675 137676 137677
(3) "Foundation funding" means payments calculated for the respective fiscal year under Chapter 3317. of the Revised Code.	137678 137679
(4) "Transitional aid funding" means payments calculated for the respective fiscal year under Section 41.37 of Am. Sub. H.B. 95 of the 125th General Assembly, as subsequently amended; Section 206.09.39 of Am. Sub. H.B. 66 of the 126th General Assembly, as subsequently amended; and Section 269.30.80 of Am. Sub. H.B. 119	137680 137681 137682 137683 137684

of the 127th General Assembly. 137685

Section 267.50.70. UNAUDITABLE COMMUNITY SCHOOL 137686

(A) If the Auditor of State or a public accountant, pursuant 137687
to section 117.41 of the Revised Code, declares a community school 137688
established under Chapter 3314. of the Revised Code to be 137689
unauditable, the Auditor of State shall provide written 137690
notification of that declaration to the school, the school's 137691
sponsor, and the Department of Education. The Auditor of State 137692
also shall post the notification on the Auditor of State's web 137693
site. 137694

(B) Notwithstanding any provision to the contrary in Chapter 137695
3314. of the Revised Code or any other provision of law, a sponsor 137696
of a community school that is notified by the Auditor of State 137697
under division (A) of this section that a community school it 137698
sponsors is unauditabile shall not enter into contracts with any 137699
additional community schools under section 3314.03 of the Revised 137700
Code until the Auditor of State or a public accountant has 137701
completed a financial audit of that school. 137702

(C) Not later than forty-five days after receiving 137703
notification by the Auditor of State under division (A) of this 137704
section that a community school is unauditabile, the sponsor of the 137705
school shall provide a written response to the Auditor of State. 137706
The response shall include the following: 137707

(1) An overview of the process the sponsor will use to review 137708
and understand the circumstances that led to the community school 137709
becoming unauditabile; 137710

(2) A plan for providing the Auditor of State with the 137711
documentation necessary to complete an audit of the community 137712
school and for ensuring that all financial documents are available 137713
in the future; 137714

(3) The actions the sponsor will take to ensure that the plan described in division (C)(2) of this section is implemented.

(D) If a community school fails to make reasonable efforts and continuing progress to bring its accounts, records, files, or reports into an auditable condition within ninety days after being declared unauditale, the Auditor of State, in addition to requesting legal action under sections 117.41 and 117.42 of the Revised Code, shall notify the Department of the school's failure. If the Auditor of State or a public accountant subsequently is able to complete a financial audit of the school, the Auditor of State shall notify the Department that the audit has been completed.

(E) Notwithstanding any provision to the contrary in Chapter 3314. of the Revised Code or any other provision of law, upon notification by the Auditor of State under division (D) of this section that a community school has failed to make reasonable efforts and continuing progress to bring its accounts, records, files, or reports into an auditable condition following a declaration that the school is unauditale, the Department shall immediately cease all payments to the school under Chapter 3314. of the Revised Code and any other provision of law. Upon subsequent notification from the Auditor of State under that division that the Auditor of State or a public accountant was able to complete a financial audit of the community school, the Department shall release all funds withheld from the school under this section.

Section 267.50.80. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN

In collaboration with the County Family and Children First Council, a city, local, or exempted village school district, community school, STEM school, joint vocational school district,

educational service center, or county board of developmental 137746
disabilities that receives allocations from the Department of 137747
Education from appropriation item 200550, Foundation Funding, or 137748
appropriation item 200540, Special Education Enhancements, may 137749
transfer portions of those allocations to a flexible funding pool 137750
authorized by the Section of this act entitled "FAMILY AND 137751
CHILDREN FIRST FLEXIBLE FUNDING POOL." Allocations used for 137752
maintenance of effort or for federal or state funding matching 137753
requirements shall not be transferred unless the allocation may 137754
still be used to meet such requirements. 137755

Section 267.50.90. EDUCATIONAL SHARED SERVICES MODEL/P-16 137756
COUNCILS 137757

The Governor's Director of 21st Century Education shall 137758
develop a plan for the integration and consolidation of the 137759
publicly supported regional shared services organizations serving 137760
Ohio's public and chartered nonpublic schools and develop a plan 137761
to encourage communities and school districts to create regional 137762
P-16 councils to better organize and share existing community 137763
resources to improve student achievement. The Director shall 137764
include recommendations for implementation of the plans beginning 137765
July 1, 2012. 137766

In preparing the shared services plan, the Director shall 137767
recommend educational support organizations to be integrated into 137768
the regional shared service center system. The organizations to be 137769
integrated shall include, but shall not be limited to, educational 137770
service centers, education technology centers, information 137771
technology centers, area media centers, Ohio's statewide system of 137772
support, the education regional service system, regional advisory 137773
boards, and regional staff from the Department of Education 137774
providing direct support to school districts. 137775

In preparing the recommendations of the shared services plan, 137776

the Director shall include an examination of services offered to 137777
public and chartered nonpublic schools and recommendations for 137778
integration of services into a shared services model. Services to 137779
be considered shall include, but shall not be limited to, general 137780
instruction, special education, gifted education, academic 137781
leadership, technology, fiscal management, transportation, food 137782
services, human resources, employee benefits, pooled purchasing, 137783
professional development, and noninstructional support. 137784

Not later than October 15, 2011, the Director shall conduct a 137785
shared services survey of Ohio's school districts, community 137786
schools, STEM schools, chartered nonpublic schools, joint 137787
vocational school districts, and other educational service 137788
providers and local political subdivisions to gather baseline data 137789
on the current status of shared services and to determine where 137790
opportunities for additional shared services exist. 137791

In preparing the P-16 plan, the Director shall develop a set 137792
of model criteria that encourages and permits communities and 137793
school districts to create local P-16 councils. Members of the 137794
councils shall include, but not be limited to, local community 137795
leaders in primary and secondary education, higher education, 137796
early childhood education, and representatives of business, 137797
nonprofit, and social service agencies. 137798

In preparing the recommendations for the P-16 plan, the 137799
Director shall include an examination of existing P-16 councils in 137800
Ohio and identify for inclusion in the model criteria their 137801
success in setting short and long-term student achievement and 137802
growth targets in their communities, leading cross-sector 137803
strategies to improve student-level outcomes, effectively using 137804
data to inform decisions around funding, providing intervention 137805
strategies for students, and achieving greater systems alignment. 137806

Not later than January 1, 2012, the Director shall submit to 137807
the Governor and the General Assembly, in accordance with section 137808

101.68 of the Revised Code, legislative recommendations for 137809
implementation of the plans. 137810

Section 267.60.10. If there are unencumbered moneys remaining 137811
on July 1, 2011, in a school district's textbook and instructional 137812
materials fund, as required by former section 3315.17 of the 137813
Revised Code, the district board of education may transfer those 137814
moneys to the district's general fund and may use such moneys for 137815
any purpose authorized for general fund moneys. 137816

Section 267.60.20. A new conversion community school 137817
established under division (B) of section 3314.02 of the Revised 137818
Code may open for operation in the 2011-2012 school year, 137819
notwithstanding the deadlines prescribed by division (D) of 137820
section 3314.02 of the Revised Code for adoption and signing of 137821
the contract under section 3314.03 of the Revised Code, but those 137822
parties shall adopt and sign the contract, and file a copy of it 137823
with the Superintendent of Public Instruction, prior to the 137824
school's opening. 137825

Section 267.60.30. The State Board of Education shall 137826
initiate rulemaking procedures for the rules for the Special 137827
Education Scholarship Program, required under section 3310.64 of 137828
the Revised Code, as enacted by this act, so that those rules are 137829
in effect not later than one hundred twenty days after the 137830
effective date of this section. 137831

Section 267.60.31. The Department of Education shall conduct 137832
a formative evaluation of the Special Education Scholarship 137833
Program established under sections 3310.51 to 3310.64 of the 137834
Revised Code, using both quantitative and qualitative analyses, 137835
and shall report its findings to the General Assembly, in 137836
accordance with section 101.68 of the Revised Code, not later than 137837

December 31, 2014.	137838
The study shall include an assessment of:	137839
(A) The level of the participating student's satisfaction with the program;	137840 137841
(B) The level of the participating parent's satisfaction with the program;	137842 137843
(C) The fiscal impact to the state and resident school districts affected by the program.	137844 137845
In conducting the evaluation, the Department shall to the extent possible gather comments from parents who have been awarded scholarships under the program, school district officials, representatives of registered private providers, educators, and representatives of educational organizations for inclusion in the report required under this section.	137846 137847 137848 137849 137850 137851
The Department may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct this study. The Department may accept grants to assist in funding this study.	137852 137853 137854 137855
Section 269.10. ELC OHIO ELECTIONS COMMISSION	137856
General Revenue Fund	137857
GRF 051321 Operating Expenses \$ 333,117 \$ 333,117	137858
TOTAL GRF General Revenue Fund \$ 333,117 \$ 333,117	137859
General Services Fund Group	137860
4P20 051601 Ohio Elections \$ 225,000 \$ 225,000	137861
Commission Fund	
TOTAL GSF General Services Fund \$ 225,000 \$ 225,000	137862
Group	
TOTAL ALL BUDGET FUND GROUPS \$ 558,117 \$ 558,117	137863
Section 271.10. FUN STATE BOARD OF EMBALMERS AND FUNERAL	137865

DIRECTORS				137866
General Services Fund Group				137867
4K90 881609 Operating Expenses	\$	561,494	\$ 551,958	137868
TOTAL GSF General Services				137869
Fund Group	\$	561,494	\$ 551,958	137870
TOTAL ALL BUDGET FUND GROUPS	\$	561,494	\$ 551,958	137871
Section 273.10. PAY EMPLOYEE BENEFITS FUNDS				137873
Accrued Leave Liability Fund Group				137874
8060 995666 Accrued Leave Fund	\$	72,053,178	\$ 71,828,986	137875
8070 995667 Disability Fund	\$	27,616,583	\$ 26,593,747	137876
TOTAL ALF Accrued Leave Liability				137877
Fund Group	\$	99,669,761	\$ 98,422,733	137878
Agency Fund Group				137879
1240 995673 Payroll Deductions	\$	855,456,678	\$ 840,248,559	137880
8080 995668 State Employee Health	\$	590,265,468	\$ 649,292,014	137881
Benefit Fund				
8090 995669 Dependent Care	\$	2,881,273	\$ 2,967,711	137882
Spending Account				
8100 995670 Life Insurance	\$	2,080,634	\$ 2,143,053	137883
Investment Fund				
8110 995671 Parental Leave	\$	3,484,737	\$ 3,355,673	137884
Benefit Fund				
8130 995672 Health Care Spending	\$	8,588,262	\$ 9,447,088	137885
Account				
8140 995674 Cost Savings Days	\$	50,000,000	\$ 0	137886
TOTAL AGY Agency Fund Group	\$	1,512,757,052	\$ 1,507,454,098	137887
				137888
TOTAL ALL BUDGET FUND GROUPS	\$	1,612,426,813	\$ 1,605,876,831	137889
ACCRUED LEAVE LIABILITY FUND				137890
The foregoing appropriation item 995666, Accrued Leave Fund,				137891

shall be used to make payments from the Accrued Leave Liability Fund (Fund 8060) pursuant to section 125.211 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND

The foregoing appropriation item 995667, Disability Fund, shall be used to make payments from the State Employee Disability Leave Benefit Fund (Fund 8070) pursuant to section 124.83 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

PAYROLL WITHHOLDING FUND

The foregoing appropriation item 995673, Payroll Deductions, shall be used to make payments from the Payroll Withholding Fund (Fund 1240). If it is determined by the Director of Budget and Management that additional appropriation amounts are necessary, the amounts are hereby appropriated.

STATE EMPLOYEE HEALTH BENEFIT FUND

The foregoing appropriation item 995668, State Employee Health Benefit Fund, shall be used to make payments from the State Employee Health Benefit Fund (Fund 8080) pursuant to section 124.87 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

DEPENDENT CARE SPENDING FUND

The foregoing appropriation item 995669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Fund (Fund 8090) to employees eligible for dependent care expenses. If it is determined by the Director of

Budget and Management that additional amounts are necessary, the 137922
amounts are hereby appropriated. 137923

LIFE INSURANCE INVESTMENT FUND 137924

The foregoing appropriation item 995670, Life Insurance 137925
Investment Fund, shall be used to make payments from the Life 137926
Insurance Investment Fund (Fund 8100) for the costs and expenses 137927
of the state's life insurance benefit program pursuant to section 137928
125.212 of the Revised Code. If it is determined by the Director 137929
of Budget and Management that additional amounts are necessary, 137930
the amounts are hereby appropriated. 137931

PARENTAL LEAVE BENEFIT FUND 137932

The foregoing appropriation item 995671, Parental Leave 137933
Benefit Fund, shall be used to make payments from the Parental 137934
Leave Benefit Fund (Fund 8110) to employees eligible for parental 137935
leave benefits pursuant to section 124.137 of the Revised Code. If 137936
it is determined by the Director of Budget and Management that 137937
additional amounts are necessary, the amounts are hereby 137938
appropriated. 137939

HEALTH CARE SPENDING ACCOUNT FUND 137940

The foregoing appropriation item 995672, Health Care Spending 137941
Account, shall be used to make payments from the Health Care 137942
Spending Account Fund (Fund 8130) for payments pursuant to state 137943
employees' participation in a flexible spending account for 137944
non-reimbursed health care expenses and section 124.821 of the 137945
Revised Code. If it is determined by the Director of 137946
Administrative Services that additional appropriation amounts are 137947
necessary, the Director of Administrative Services may request 137948
that the Director of Budget and Management increase such amounts. 137949
Such amounts are hereby appropriated. 137950

At the request of the Director of Administrative Services, 137951
the Director of Budget and Management may transfer up to \$600,000 137952

annually from the General Revenue Fund to the Health Care Spending 137953
Account Fund during fiscal years 2012 and 2013. This cash shall be 137954
transferred as needed to provide adequate cash flow for the Health 137955
Care Spending Account Fund during fiscal year 2012 and fiscal year 137956
2013. If funds are available at the end of fiscal years 2012 and 137957
2013, the Director of Budget and Management shall transfer cash up 137958
to the amount previously transferred in the respective year, plus 137959
interest income, from the Health Care Spending Account (Fund 8130) 137960
to the General Revenue Fund. 137961

COST SAVINGS DAYS 137962

The foregoing appropriation item, 995674, Cost Savings Days, 137963
shall be used by the Director of Budget and Management in 137964
accordance with division (E) of section 124.392 of the Revised 137965
Code to pay employees who participated in a mandatory cost savings 137966
program, or to reimburse employees who did not fully participate 137967
in a mandatory cost savings program. Notwithstanding any provision 137968
of law to the contrary, in fiscal year 2012 and fiscal year 2013, 137969
the Director may transfer agency savings achieved from the use of 137970
a mandatory cost savings program to the General Revenue Fund or 137971
any other fund as deemed necessary by the Director. The Director 137972
may make temporary transfers from the General Revenue Fund to 137973
ensure sufficient balances in the Cost Savings Fund and may 137974
reimburse the General Revenue Fund for such transfers. If the 137975
Director determines that additional amounts are necessary for 137976
these purposes, the amounts are hereby appropriated. 137977

Section 273.20. CASH TRANSFER TO PAYROLL WITHHOLDING FUND 137978

The Director of Budget and Management may transfer \$561,897 137979
in cash from the Health Care Spending Account Fund (Fund 8130) to 137980
the Payroll Withholding Fund (Fund 1240) to correct payments made 137981
from the Payroll Withholding Fund that should have been made from 137982
the Health Care Spending Account Fund. 137983

Section 275.10. ERB STATE EMPLOYMENT RELATIONS BOARD				137984
General Revenue Fund				137985
GRF 125321	Operating Expenses	\$ 3,758,869	\$ 3,761,457	137986
TOTAL GRF General Revenue Fund				137987
General Services Fund Group				137988
5720 125603	Training and Publications	\$ 87,075	\$ 87,075	137989
TOTAL GSF General Services Fund Group				137990
Fund Group				137991
TOTAL ALL BUDGET FUND GROUPS				137992
 Section 277.10. ENG STATE BOARD OF ENGINEERS AND SURVEYORS				137994
General Services Fund Group				137995
4K90 892609	Operating Expenses	\$ 934,264	\$ 921,778	137996
TOTAL GSF General Services Fund Group				137997
Fund Group				137998
TOTAL ALL BUDGET FUND GROUPS				137999
 Section 279.10. EPA ENVIRONMENTAL PROTECTION AGENCY				138001
General Services Fund Group				138002
1990 715602	Laboratory Services	\$ 402,295	\$ 408,560	138003
2190 715604	Central Support Indirect	\$ 8,594,348	\$ 8,555,680	138004
4A10 715640	Operating Expenses	\$ 2,304,267	\$ 2,093,039	138005
TOTAL GSF General Services Fund Group				138006
Fund Group				138007
Federal Special Revenue Fund Group				138008
3530 715612	Public Water Supply	\$ 2,941,282	\$ 2,941,282	138009
3540 715614	Hazardous Waste Management - Federal	\$ 4,193,000	\$ 4,193,000	138010
3570 715619	Air Pollution Control	\$ 6,310,203	\$ 6,310,203	138011

		- Federal					
3620	715605	Underground Injection Control - Federal	\$	111,874	\$	111,874	138012
3BU0	715684	Water Quality Protection	\$	8,100,000	\$	6,785,000	138013
3CS0	715688	Federal NRD Settlements	\$	100,000	\$	100,000	138014
3F20	715630	Revolving Loan Fund - Operating	\$	907,543	\$	907,543	138015
3F30	715632	Federally Supported Cleanup and Response	\$	3,344,746	\$	3,290,405	138016
3F50	715641	Nonpoint Source Pollution Management	\$	6,265,000	\$	6,260,000	138017
3T30	715669	Drinking Water State Revolving Fund	\$	2,273,323	\$	2,273,323	138018
3V70	715606	Agencywide Grants	\$	600,000	\$	600,000	138019
TOTAL FED		Federal Special Revenue					138020
Fund Group			\$	35,146,971	\$	33,772,630	138021
State Special Revenue Fund Group							138022
4J00	715638	Underground Injection Control	\$	445,234	\$	445,571	138023
4K20	715648	Clean Air - Non Title V	\$	3,152,306	\$	2,906,267	138024
4K30	715649	Solid Waste	\$	16,742,551	\$	16,414,654	138025
4K40	715650	Surface Water Protection	\$	7,642,625	\$	6,672,246	138026
4K40	715686	Environmental Lab Service	\$	2,096,007	\$	2,096,007	138027
4K50	715651	Drinking Water Protection	\$	7,410,118	\$	7,405,428	138028
4P50	715654	Cozart Landfill	\$	100,000	\$	100,000	138029
4R50	715656	Scrap Tire Management	\$	1,368,610	\$	1,376,742	138030
4R90	715658	Voluntary Action	\$	999,503	\$	997,425	138031

		Program				
4T30	715659	Clean Air - Title V Permit Program	\$	16,349,471	\$	16,241,822 138032
4U70	715660	Construction and Demolition Debris	\$	425,913	\$	433,591 138033
5000	715608	Immediate Removal Special Account	\$	633,832	\$	634,033 138034
5030	715621	Hazardous Waste Facility Management	\$	10,241,107	\$	9,789,620 138035
5050	715623	Hazardous Waste Cleanup	\$	12,511,234	\$	12,331,272 138036
5050	715674	Clean Ohio Environmental Review	\$	108,104	\$	108,104 138037
5410	715670	Site Specific Cleanup	\$	2,048,101	\$	2,048,101 138038
5420	715671	Risk Management Reporting	\$	132,636	\$	132,636 138039
5920	715627	Anti Tampering Settlement	\$	2,285	\$	2,285 138040
5BC0	715617	Clean Ohio	\$	611,455	\$	611,455 138041
5BC0	715622	Local Air Pollution Control	\$	2,297,980	\$	2,297,980 138042
5BC0	715624	Surface Water	\$	8,970,181	\$	9,114,974 138043
5BC0	715672	Air Pollution Control	\$	4,438,629	\$	4,534,758 138044
5BC0	715673	Drinking and Ground Water	\$	4,317,527	\$	4,323,521 138045
5BC0	715675	Hazardous Waste	\$	95,266	\$	95,266 138046
5BC0	715676	Assistance and Prevention	\$	640,179	\$	645,069 138047
5BC0	715677	Laboratory	\$	939,717	\$	958,586 138048
5BC0	715678	Corrective Actions	\$	31,765	\$	105,423 138049
5BC0	715687	Areawide Planning Agencies	\$	450,000	\$	450,000 138050
5BC0	715692	Administration	\$	8,562,476	\$	8,212,627 138051

5BT0	715679	C&DD Groundwater Monitoring	\$	203,800	\$	203,800	138052
5BY0	715681	Auto Emissions Test	\$	13,029,952	\$	13,242,762	138053
5CD0	715682	Clean Diesel School Buses	\$	600,000	\$	600,000	138054
5H40	715664	Groundwater Support	\$	77,508	\$	78,212	138055
5N20	715613	Dredge and Fill	\$	29,250	\$	29,250	138056
5Y30	715685	Surface Water Improvement	\$	2,800,000	\$	2,800,000	138057
6440	715631	ER Radiological Safety	\$	279,838	\$	279,966	138058
6600	715629	Infectious Waste Management	\$	91,573	\$	88,764	138059
6760	715642	Water Pollution Control Loan Administration	\$	4,317,376	\$	4,321,605	138060
6780	715635	Air Toxic Release	\$	138,669	\$	138,669	138061
6790	715636	Emergency Planning	\$	2,623,192	\$	2,623,252	138062
6960	715643	Air Pollution Control Administration	\$	1,100,000	\$	1,100,000	138063
6990	715644	Water Pollution Control Administration	\$	220,000	\$	220,000	138064
6A10	715645	Environmental Education	\$	1,488,260	\$	1,488,718	138065
TOTAL SSR		State Special Revenue	\$	140,764,230	\$	138,700,461	138066
Fund Group							
Clean Ohio Conservation Fund Group							138067
5S10	715607	Clean Ohio - Operating	\$	284,083	\$	284,124	138068
TOTAL CLF		Clean Ohio Conservation	\$	284,083	\$	284,124	138069
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	187,496,194	\$	183,814,494	138070
AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT							138071

On July 1 of each fiscal year, or as soon as possible 138072
thereafter, the Director of Budget and Management may transfer up 138073
to \$13,029,952 in cash in fiscal year 2012, and up to \$13,242,762 138074
in cash in fiscal year 2013 from the General Revenue Fund to the 138075
Auto Emissions Test Fund (Fund 5BY0) for the operation and 138076
oversight of the auto emissions testing program. 138077

AREAWIDE PLANNING AGENCIES 138078

The Director of Environmental Protection Agency may award 138079
grants from appropriation item 715687, Areawide Planning Agencies, 138080
to areawide planning agencies engaged in areawide water quality 138081
management and planning activities in accordance with Section 208 138082
of the "Federal Clean Water Act," 33 U.S.C. 1288. 138083

CORRECTIVE CASH TRANSFERS 138084

On July 1, 2011, or as soon as possible thereafter, the 138085
Director of Budget and Management shall transfer \$376,891.85 in 138086
cash that was mistakenly deposited in the Clean Air Non Title V 138087
Fund (Fund 4K20) to the Clean Air Title V Permit Fund (Fund 4T30). 138088

On July 1, 2011, or as soon as possible thereafter, the 138089
Director of Budget and Management shall transfer \$133,026.63 in 138090
cash that was mistakenly deposited in the Scrap Tire Management 138091
Fund (Fund 4R50) to the Site Specific Cleanup Fund (Fund 5410). 138092

Section 281.10. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION 138093

General Revenue Fund 138094

GRF 172321 Operating Expenses	\$	580,145	\$	545,530	138095
TOTAL GRF General Revenue Fund	\$	580,145	\$	545,530	138096
TOTAL ALL BUDGET FUND GROUPS	\$	580,145	\$	545,530	138097

Section 283.10. ETC ETECH OHIO 138099

General Revenue Fund 138100

GRF 935401 Statehouse News	\$	215,561	\$	215,561	138101
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		Bureau					
GRF	935402	Ohio Government	\$	702,089	\$	702,089	138102
		Telecommunications					
		Services					
GRF	935408	General Operations	\$	1,251,789	\$	1,254,193	138103
GRF	935409	Technology Operations	\$	2,092,432	\$	2,091,823	138104
GRF	935410	Content Development,	\$	2,607,094	\$	2,607,094	138105
		Acquisition, and					
		Distribution					
GRF	935411	Technology	\$	4,251,185	\$	4,252,671	138106
		Integration and					
		Professional					
		Development					
GRF	935412	Information	\$	829,340	\$	829,963	138107
		Technology					
TOTAL GRF		General Revenue Fund	\$	11,949,490	\$	11,953,394	138108
		General Services Fund Group					138109
4F30	935603	Affiliate Services	\$	50,000	\$	50,000	138110
4T20	935605	Government	\$	25,000	\$	25,000	138111
		Television/Telecommunications					
		Operating					
TOTAL GSF		General Services Fund	\$	75,000	\$	75,000	138112
		Group					
		State Special Revenue Fund Group					138113
4W90	935630	Telecommunity	\$	25,000	\$	25,000	138114
4X10	935634	Distance Learning	\$	24,150	\$	24,150	138115
5D40	935640	Conference/Special	\$	2,100,000	\$	2,100,000	138116
		Purposes					
5FK0	935608	Media Services	\$	637,601	\$	637,956	138117
5JU0	935611	Information	\$	1,455,000	\$	1,455,000	138118
		Technology Services					
5T30	935607	Gates Foundation	\$	200,000	\$	171,112	138119

Grants

TOTAL SSR State Special Revenue	\$	4,441,751	\$	4,413,218	138120
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	16,466,241	\$	16,441,612	138121

Section 283.20. STATEHOUSE NEWS BUREAU 138123

The foregoing appropriation item 935401, Statehouse News 138124
Bureau, shall be used solely to support the operations of the Ohio 138125
Statehouse News Bureau. 138126

OHIO GOVERNMENT TELECOMMUNICATIONS SERVICES 138127

The foregoing appropriation item 935402, Ohio Government 138128
Telecommunications Services, shall be used solely to support the 138129
operations of Ohio Government Telecommunications Services which 138130
include providing multimedia support to the state government and 138131
its affiliated organizations and broadcasting the activities of 138132
the legislative, judicial, and executive branches of state 138133
government, among its other functions. 138134

TECHNOLOGY OPERATIONS 138135

The foregoing appropriation item 935409, Technology 138136
Operations, shall be used by eTech Ohio to pay expenses of eTech 138137
Ohio's network infrastructure, which includes the television and 138138
radio transmission infrastructure and infrastructure that shall 138139
link all public K-12 classrooms to each other and to the Internet, 138140
and provide access to voice, video, other communication services, 138141
and data educational resources for students and teachers. The 138142
foregoing appropriation item 935409, Technology Operations, may 138143
also be used to cover student costs for taking advanced placement 138144
courses and courses that the Chancellor of the Board of Regents 138145
has determined to be eligible for postsecondary credit through the 138146
Ohio Learns Gateway. To the extent that funds remain available for 138147
this purpose, public school students taking advanced placement or 138148
postsecondary courses through the OhioLearns Gateway shall be 138149

eligible to receive a fee waiver to cover the cost of 138150
participating in one course. The fee waivers shall be distributed 138151
until the funds appropriated to support the waivers have been 138152
exhausted. 138153

CONTENT DEVELOPMENT, ACQUISITION, AND DISTRIBUTION 138154

The foregoing appropriation item 935410, Content Development, 138155
Acquisition, and Distribution, shall be used for the development, 138156
acquisition, and distribution of information resources by public 138157
media and radio reading services and for educational use in the 138158
classroom and online. 138159

Of the foregoing appropriation item 935410, Content 138160
Development, Acquisition, and Distribution, up to \$658,099 in each 138161
fiscal year shall be allocated equally among the 12 Ohio 138162
educational television stations and used with the advice and 138163
approval of eTech Ohio. Funds shall be used for the production of 138164
interactive instructional programming series with priority given 138165
to resources aligned with state academic content standards in 138166
consultation with the Ohio Department of Education and for 138167
teleconferences to support eTech Ohio. The programming shall be 138168
targeted to the needs of the poorest two hundred school districts 138169
as determined by the district's adjusted valuation per pupil as 138170
defined in former section 3317.0213 of the Revised Code as that 138171
section existed prior to June 30, 2005. 138172

Of the foregoing appropriation item 935410, Content 138173
Development, Acquisition, and Distribution, up to \$1,749,283 in 138174
each fiscal year shall be distributed by eTech Ohio to Ohio's 138175
qualified public educational television stations and educational 138176
radio stations to support their operations. The funds shall be 138177
distributed pursuant to an allocation formula used by the Ohio 138178
Educational Telecommunications Network Commission unless a 138179
substitute formula is developed by eTech Ohio in consultation with 138180
Ohio's qualified public educational television stations and 138181

educational radio stations. 138182

Of the foregoing appropriation item 935410, Content 138183
Development, Acquisition, and Distribution, up to \$199,712 in each 138184
fiscal year shall be distributed by eTech Ohio to Ohio's qualified 138185
radio reading services to support their operations. The funds 138186
shall be distributed pursuant to an allocation formula used by the 138187
Ohio Educational Telecommunications Network Commission unless a 138188
substitute formula is developed by eTech Ohio in consultation with 138189
Ohio's qualified radio reading services. 138190

**Section 283.30. TECHNOLOGY INTEGRATION AND PROFESSIONAL 138191
DEVELOPMENT 138192**

The foregoing appropriation item 935411, Technology 138193
Integration and Professional Development, shall be used by eTech 138194
Ohio for the provision of staff development, hardware, software, 138195
telecommunications services, and information resources to support 138196
educational uses of technology in the classroom and at a distance 138197
and for professional development for teachers, administrators, and 138198
technology staff on the use of educational technology in 138199
qualifying public schools, including the State School for the 138200
Blind, the State School for the Deaf, and the Department of Youth 138201
Services. 138202

Of the foregoing appropriation item 935411, Technology 138203
Integration and Professional Development, up to \$1,691,701 in each 138204
fiscal year shall be used by eTech Ohio to contract with 138205
educational television to provide Ohio public schools with 138206
instructional resources and services with priority given to 138207
resources and services aligned with state academic content 138208
standards and such resources and services shall be based upon the 138209
advice and approval of eTech Ohio, based on a formula used by the 138210
Ohio SchoolNet Commission unless and until a substitute formula is 138211
developed by eTech Ohio in consultation with Ohio's educational 138212

technology agencies and noncommercial educational television 138213
stations. 138214

Section 283.40. TELECOMMUNITY 138215

The foregoing appropriation item 935630, Telecommunity, shall 138216
be distributed by eTech Ohio on a grant basis to eligible school 138217
districts to establish "distance learning" through interactive 138218
video technologies in the school district. Per agreements with 138219
eight Ohio local telephone companies, ALLTEL Ohio, CENTURY 138220
Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell 138221
Telephone Company, Orwell Telephone Company, Sprint North Central 138222
Telephone, VERIZON, and Western Reserve Telephone Company, school 138223
districts are eligible for funds if they are within one of the 138224
listed telephone company service areas. Funds to administer the 138225
program shall be expended by eTech Ohio up to the amount specified 138226
in the agreements with the listed telephone companies. 138227

Within thirty days after the effective date of this section, 138228
the Director of Budget and Management shall transfer to Fund 4W90 138229
in the State Special Revenue Fund Group any investment earnings 138230
from moneys paid by any telephone company as part of any 138231
settlement agreement between the listed companies and the Public 138232
Utilities Commission in fiscal years 1996 and beyond. 138233

DISTANCE LEARNING 138234

The foregoing appropriation item 935634, Distance Learning, 138235
shall be distributed by eTech Ohio on a grant basis to eligible 138236
school districts to establish "distance learning" in the school 138237
district. Per an agreement with Ameritech, school districts are 138238
eligible for funds if they are within an Ameritech service area. 138239
Funds to administer the program shall be expended by eTech Ohio up 138240
to the amount specified in the agreement with Ameritech. 138241

Within thirty days after the effective date of this section, 138242

the Director of Budget and Management shall transfer to Fund 4X10 138243
in the State Special Revenue Fund Group any investment earnings 138244
from moneys paid by any telephone company as part of a settlement 138245
agreement between the company and the Public Utilities Commission 138246
in fiscal year 1995. 138247

GATES FOUNDATION GRANTS 138248

The foregoing appropriation item 935607, Gates Foundation 138249
Grants, shall be used by eTech Ohio to provide professional 138250
development to school district principals, superintendents, and 138251
other administrative staff on the use of education technology. 138252

Section 285.10. ETH OHIO ETHICS COMMISSION 138253

General Revenue Fund 138254

GRF 146321	Operating Expenses	\$	1,409,751	\$	1,409,751	138255
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TOTAL GRF	General Revenue Fund	\$	1,409,751	\$	1,409,751	138256
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General Services Fund Group 138257

4M60 146601	Operating Expenses	\$	827,393	\$	827,393	138258
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TOTAL GSF	General Services					138259
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Fund Group		\$	827,393	\$	827,393	138260
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TOTAL ALL BUDGET FUND GROUPS		\$	2,237,144	\$	2,237,144	138261
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ETHICS COMMISSION CASINO-RELATED ACTIVITIES 138262

On July 1, 2011, or as soon as possible thereafter, an amount 138263
equal to the unexpended and unencumbered balance of appropriation 138264
item 146602, Casino Investigations, at the end of fiscal year 2011 138265
is hereby reappropriated to the same appropriation item for fiscal 138266
year 2012, to be used for the performance of the Ohio Ethics 138267
Commission's casino-related duties. 138268

Section 287.10. EXP OHIO EXPOSITIONS COMMISSION 138269

General Revenue Fund 138270

GRF 723403	Junior Fair Subsidy	\$	250,000	\$	250,000	138271
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TOTAL GRF General Revenue Fund	\$	250,000	\$	250,000	138272
State Special Revenue Fund Group					138273
4N20 723602 Ohio State Fair	\$	400,000	\$	400,000	138274
Harness Racing					
5060 723601 Operating Expenses	\$	12,991,000	\$	12,894,000	138275
TOTAL SSR State Special Revenue					138276
Fund Group	\$	13,391,000	\$	13,294,000	138277
TOTAL ALL BUDGET FUND GROUPS	\$	13,641,000	\$	13,544,000	138278
STATE FAIR RESERVE					
The General Manager of the Expositions Commission may submit					
a request to the Controlling Board to use available amounts in the					
State Fair Reserve Fund (Fund 6400) if the following conditions					
apply:					
(A) Admissions receipts for the 2011 or 2012 Ohio State Fair					
are less than \$1,982,000 because of inclement weather or					
extraordinary circumstances;					
(B) The Ohio Expositions Commission declares a state of					
fiscal exigency; and					
(C) The request contains a plan describing how the					
Expositions Commission will eliminate the cash shortage causing					
the request.					
The amount approved by the Controlling Board is hereby					
appropriated.					
Section 289.10. GOV OFFICE OF THE GOVERNOR					
General Revenue Fund					
GRF 040321 Operating Expenses	\$	3,001,806	\$	2,851,552	138296
TOTAL GRF General Revenue Fund	\$	3,001,806	\$	2,851,552	138297
General Services Fund Group					
5AK0 040607 Government Relations	\$	365,149	\$	365,149	138299

TOTAL GSF General Services Fund	\$	365,149	\$	365,149	138300
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	3,366,955	\$	3,216,701	138301
GOVERNMENT RELATIONS					138302
A portion of the foregoing appropriation item 040607,					138303
Government Relations, may be used to support Ohio's membership in					138304
national or regional associations.					138305
The Office of the Governor may charge any state agency of the					138306
executive branch using an intrastate transfer voucher such amounts					138307
necessary to defray the costs incurred for the conduct of					138308
governmental relations associated with issues that can be					138309
attributed to the agency. Amounts collected shall be deposited in					138310
the Government Relations Fund (Fund 5AK0).					138311
Section 291.10. DOH DEPARTMENT OF HEALTH					138312
General Revenue Fund					138313
GRF 440412 Cancer Incidence	\$	600,000	\$	600,000	138314
Surveillance System					
GRF 440413 Local Health	\$	2,302,788	\$	2,303,061	138315
Department Support					
GRF 440416 Mothers and Children	\$	4,227,842	\$	4,228,015	138316
Safety Net Services					
GRF 440418 Immunizations	\$	6,430,538	\$	8,930,829	138317
GRF 440431 Free Clinics Safety	\$	437,326	\$	437,326	138318
Net Services					
GRF 440438 Breast and Cervical	\$	823,217	\$	823,217	138319
Cancer Screening					
GRF 440444 AIDS Prevention and	\$	5,842,315	\$	5,842,315	138320
Treatment					
GRF 440451 Public Health	\$	3,654,348	\$	3,655,449	138321
Laboratory					
GRF 440452 Child and Family	\$	630,390	\$	630,444	138322

	Health Services Match				
GRF 440453	Health Care Quality Assurance	\$	8,170,694	\$	8,174,361 138323
GRF 440454	Local Environmental Health	\$	1,135,141	\$	1,135,362 138324
GRF 440459	Help Me Grow	\$	33,673,545	\$	33,673,987 138325
GRF 440465	Federally Qualified Health Centers	\$	458,688	\$	2,686,688 138326
GRF 440467	Access to Dental Care	\$	540,484	\$	540,484 138327
GRF 440468	Chronic Disease and Injury Prevention	\$	2,577,251	\$	2,577,251 138328
GRF 440472	Alcohol Testing	\$	550,000	\$	1,100,000 138329
GRF 440505	Medically Handicapped Children	\$	7,512,451	\$	7,512,451 138330
GRF 440507	Targeted Health Care Services Over 21	\$	1,045,414	\$	1,045,414 138331
TOTAL GRF	General Revenue Fund	\$	80,612,432	\$	85,896,654 138332
	State Highway Safety Fund Group				138333
4T40 440603	Child Highway Safety	\$	233,894	\$	233,894 138334
TOTAL HSF	State Highway Safety Fund Group	\$	233,894	\$	233,894 138335
	General Services Fund Group				138337
1420 440646	Agency Health Services	\$	8,825,788	\$	8,826,146 138338
2110 440613	Central Support Indirect Costs	\$	28,900,000	\$	29,000,000 138339
4730 440622	Lab Operating Expenses	\$	5,000,000	\$	5,000,000 138340
5HB0 440470	Breast and Cervical Cancer Screening	\$	1,000,000	\$	0 138341
6830 440633	Employee Assistance Program	\$	1,100,000	\$	1,100,000 138342

6980	440634	Nurse Aide Training	\$	99,239	\$	99,265	138343
TOTAL GSF General Services							138344
Fund Group			\$	44,925,027	\$	44,025,411	138345
Federal Special Revenue Fund Group							138346
3200	440601	Maternal Child Health	\$	27,068,886	\$	27,068,886	138347
Block Grant							
3870	440602	Preventive Health	\$	7,826,659	\$	7,826,659	138348
Block Grant							
3890	440604	Women, Infants, and	\$	308,672,689	\$	308,672,689	138349
Children							
3910	440606	Medicaid/Medicare	\$	29,625,467	\$	29,257,457	138350
3920	440618	Federal Public Health	\$	137,976,988	\$	137,976,988	138351
Programs							
TOTAL FED Federal Special Revenue							138352
Fund Group			\$	511,170,689	\$	510,802,679	138353
State Special Revenue Fund Group							138354
4700	440647	Fee Supported	\$	24,503,065	\$	24,513,973	138355
Programs							
4710	440619	Certificate of Need	\$	878,145	\$	878,433	138356
4770	440627	Medically Handicapped	\$	3,692,704	\$	3,692,703	138357
Children Audit							
4D60	440608	Genetics Services	\$	3,310,953	\$	3,311,039	138358
4F90	440610	Sickle Cell Disease	\$	1,032,754	\$	1,032,824	138359
Control							
4G00	440636	Heirloom Birth	\$	5,000	\$	5,000	138360
Certificate							
4G00	440637	Birth Certificate	\$	5,000	\$	5,000	138361
Surcharge							
4L30	440609	Miscellaneous	\$	3,333,164	\$	3,333,164	138362
Expenses							
4P40	440628	Ohio Physician Loan	\$	476,870	\$	476,870	138363
Repayment							

4V60	440641	Save Our Sight	\$	2,255,760	\$	2,255,789	138364
5B50	440616	Quality, Monitoring, and Inspection	\$	878,638	\$	878,997	138365
5C00	440615	Alcohol Testing and Permit	\$	551,018	\$	0	138366
5CN0	440645	Choose Life	\$	75,000	\$	75,000	138367
5D60	440620	Second Chance Trust	\$	1,151,815	\$	1,151,902	138368
5ED0	440651	Smoke Free Indoor Air	\$	190,452	\$	190,452	138369
5G40	440639	Adoption Services	\$	20,000	\$	20,000	138370
5L10	440623	Nursing Facility Technical Assistance Program	\$	687,500	\$	687,528	138371
5Z70	440624	Ohio Dentist Loan Repayment	\$	140,000	\$	140,000	138372
6100	440626	Radiation Emergency Response	\$	930,525	\$	930,576	138373
6660	440607	Medically Handicapped Children - County Assessments	\$	19,738,286	\$	19,739,617	138374
TOTAL SSR State Special Revenue							138375
Fund Group			\$	63,856,649	\$	63,318,867	138376
Holding Account Redistribution Fund Group							138377
R014	440631	Vital Statistics	\$	44,986	\$	44,986	138378
R048	440625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,000	\$	20,000	138379
TOTAL 090 Holding Account							138380
Redistribution Fund Group			\$	64,986	\$	64,986	138381
Tobacco Master Settlement Agreement Fund Group							138382
5BX0	440656	Tobacco Use Prevention	\$	1,000,000	\$	0	138383
TOTAL TSF Tobacco Master Settlement			\$	1,000,000	\$	0	138384

Agreement Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 701,863,677 \$ 704,342,491 138385

Section 291.20. IMMUNIZATIONS 138387

Of the foregoing appropriation item 440418, Immunizations, 138388
\$2,500,000 in fiscal year 2013 shall be used to purchase 138389
pneumococcal conjugate vaccines. 138390

HIV/AIDS PREVENTION/TREATMENT 138391

The foregoing appropriation item 440444, AIDS Prevention and 138392
Treatment, shall be used to assist persons with HIV/AIDS in 138393
acquiring HIV-related medications and to administer educational 138394
prevention initiatives. 138395

PUBLIC HEALTH LABORATORY 138396

A portion of the foregoing appropriation item 440451, Public 138397
Health Laboratory, shall be used for coordination and management 138398
of prevention program operations and the purchase of drugs for 138399
sexually transmitted diseases. 138400

HELP ME GROW 138401

The foregoing appropriation item 440459, Help Me Grow, shall 138402
be used by the Department of Health to implement the Help Me Grow 138403
Program. Funds shall be distributed to counties through contracts, 138404
grants, or subsidies in accordance with section 3701.61 of the 138405
Revised Code. Appropriation item 440459, Help Me Grow, may be used 138406
in conjunction with Early Intervention funding from the Department 138407
of Developmental Disabilities, and in conjunction with other early 138408
childhood funds and services to promote the optimal development of 138409
young children and family-centered programs and services that 138410
acknowledge and support the social, emotional, cognitive, 138411
intellectual, and physical development of children and the vital 138412
role of families in ensuring the well-being and success of 138413
children. The Department of Health shall enter into an interagency 138414

agreement with the Department of Education, Department of 138415
Developmental Disabilities, Department of Job and Family Services, 138416
and Department of Mental Health to ensure that all early childhood 138417
programs and initiatives are coordinated and school linked. 138418

Of the foregoing appropriation item 440459, Help Me Grow, if 138419
a county Family and Children First Council selects home-visiting 138420
programs, the home-visiting program shall only be eligible for 138421
funding if it serves pregnant women, or parents or other primary 138422
caregivers and the parent or other primary caregiver's child or 138423
children under three years of age, through quality programs of 138424
early childhood home visitation and if the home visitations are 138425
performed by nurses, social workers, child development specialists 138426
or other well-trained and competent staff, as demonstrated by 138427
education or training and the provision of ongoing specific 138428
training and supervision in the model of service being delivered. 138429
The home-visiting program also shall be required to have outcome 138430
and research standards that demonstrate ongoing positive outcomes 138431
for children, parents, and other primary caregivers that enhance 138432
child health and development, and conform to a clear consistent 138433
home visitation model that has been in existence for at least 138434
three years. The home visitation model shall be research-based; 138435
grounded in relevant, empirically based knowledge; linked to 138436
program-determined outcomes; associated with a national 138437
organization or institution of higher education that has 138438
comprehensive home visitation program standards that ensure high 138439
quality service delivery and continuous program improvement; and 138440
have demonstrated significant positive outcomes when evaluated 138441
using well-designed and rigorous randomized, controlled, or 138442
quasi-experimental research designs, and the evaluation results 138443
have been published in a peer-reviewed journal. 138444

For fiscal year 2012, the Department of Health shall support 138445
a county's need for a transition period to meet expected service 138446

levels for the Help Me Grow Home Visiting Program and the Part C 138447
Program by distributing funds for home visiting through a subsidy 138448
agreement that allows the county Family and Children First Council 138449
discretion to use a percentage of those funds for Part C services, 138450
so long as the services are provided in accordance with the 138451
"Individuals with Disability Education Act," 118 Stat. 2744 138452
(2004), 20 U.S.C. 1431 et seq. and section 3701.61 of the Revised 138453
Code. The county Family and Children First council may use up to 138454
one hundred per cent of the funds allocated for the first quarter, 138455
with decreasing percentages determined by the Department of Health 138456
for the remaining quarters of fiscal year 2012, for Part C 138457
services. 138458

The foregoing appropriation item 440459, Help Me Grow, may 138459
also be used for the Developmental Autism and Screening Program. 138460

FEDERALLY QUALIFIED HEALTH CENTERS 138461

For fiscal year 2012, any undisbursed funds previously 138462
provided under subsidy agreements between the Department of Health 138463
and the Ohio Association of Community Health Centers, or its 138464
predecessor organization, pursuant to section 183.18 of the 138465
Revised Code, shall be available to federally qualified health 138466
centers in the same manner as those funds in appropriation item 138467
440465, Federally Qualified Health Centers. 138468

TARGETED HEALTH CARE SERVICES OVER 21 138469

The foregoing appropriation item 440507, Targeted Health Care 138470
Services Over 21, shall be used to administer the Cystic Fibrosis 138471
Program and to implement the Hemophilia Insurance Premium Payment 138472
Program. 138473

The foregoing appropriation item 440507, Targeted Health Care 138474
Services Over 21, shall also be used to provide essential 138475
medications and to pay the copayments for drugs approved by the 138476
Department of Health and covered by Medicare Part D that are 138477

dispensed to Bureau for Children with Medical Handicaps (BCM)	138478
participants for the Cystic Fibrosis Program.	138479
The Department shall expend all of these funds.	138480
GENETICS SERVICES	138481
The foregoing appropriation item 440608, Genetics Services	138482
(Fund 4D60), shall be used by the Department of Health to	138483
administer programs authorized by sections 3701.501 and 3701.502	138484
of the Revised Code. None of these funds shall be used to counsel	138485
or refer for abortion, except in the case of a medical emergency.	138486
MEDICALLY HANDICAPPED CHILDREN AUDIT	138487
The Medically Handicapped Children Audit Fund (Fund 4770)	138488
shall receive revenue from audits of hospitals and recoveries from	138489
third-party payers. Moneys may be expended for payment of audit	138490
settlements and for costs directly related to obtaining recoveries	138491
from third-party payers and for encouraging Medically Handicapped	138492
Children's Program recipients to apply for third-party benefits.	138493
Moneys also may be expended for payments for diagnostic and	138494
treatment services on behalf of medically handicapped children, as	138495
defined in division (A) of section 3701.022 of the Revised Code,	138496
and Ohio residents who are twenty-one or more years of age and who	138497
are suffering from cystic fibrosis or hemophilia. Moneys may also	138498
be expended for administrative expenses incurred in operating the	138499
Medically Handicapped Children's Program.	138500
CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND	138501
PERMIT FUND	138502
The Director of Budget and Management may transfer up to	138503
\$551,018 in cash from the Liquor Control Fund (Fund 7043) to the	138504
Alcohol Testing and Permit Fund (Fund 5C00) in fiscal year 2012 to	138505
meet the operating needs of the Alcohol Testing and Permit	138506
Program.	138507

The Director of Budget and Management may transfer up to 138508
\$551,018 in cash in fiscal year 2012 to the Alcohol Testing and 138509
Permit Fund (Fund 5C00) from the Liquor Control Fund (Fund 7043) 138510
created in section 4301.12 of the Revised Code determined by a 138511
transfer schedule set by the Department of Health. 138512

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 138513

The foregoing appropriation item 440607, Medically 138514
Handicapped Children - County Assessments (Fund 6660), shall be 138515
used to make payments under division (E) of section 3701.023 of 138516
the Revised Code. 138517

NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM 138518

On July 1, 2011, or as soon as possible thereafter, the 138519
Director of Budget and Management may transfer, cash from the 138520
Resident Protection Fund (Fund 4E30), which is used by the Ohio 138521
Department of Job and Family Services, to the Nursing Facility 138522
Technical Assistance Program Fund (Fund 5L10), which is used by 138523
the Ohio Department of Health, to be used under section 3721.026 138524
of the Revised Code. The transfers shall be up to \$698,595 in each 138525
fiscal year of the biennium. 138526

Section 291.30. EARLY INTERVENTION WORKGROUP 138527

(A) The Department of Health shall convene a workgroup to 138528
develop recommendations for eligibility criteria for early 138529
intervention services to be provided pursuant to Part C of the 138530
"Individuals with Disability Education Act," 118 Stat. 2744 138531
(2004), 20 U.S.C. 1431 et seq. The recommendations shall be based 138532
on available funds and national data related to the identification 138533
of infants and toddlers who have developmental delays or are most 138534
at risk for developmental delays and, in either case, would 138535
benefit from early intervention services. 138536

(B) The workgroup shall be facilitated by the Department and 138537

shall be composed of all of the following members:	138538
(1) A representative from the Department of Developmental Disabilities;	138539 138540
(2) A representative from the Department of Education;	138541
(3) A representative from the Department of Mental Health;	138542
(4) A representative from the Help Me Grow Advisory Council;	138543
(5) A parent member of the Help Me Grow Advisory Council;	138544
(6) A representative from the Ohio Family and Children First Cabinet Council;	138545 138546
(7) A representative from the Ohio Family and Children First Association;	138547 138548
(8) A county Help Me Grow project director;	138549
(9) A representative from the Ohio Council of Behavioral Health and Family Services Providers;	138550 138551
(10) A representative from the Ohio Association for Infant Mental Health;	138552 138553
(11) A representative from the Ohio Association of County Boards of Developmental Disabilities;	138554 138555
(12) A representative from the Ohio Superintendents of County Boards of Developmental Disabilities;	138556 138557
(13) A representative from the Ohio chapter of the American Academy of Pediatrics;	138558 138559
(14) A public health nurse from a board of health of a city or general health district, or an authority having the duties of a board of health;	138560 138561 138562
(15) A representative from the Department of Job and Family Services;	138563 138564
(16) The executive director of the Ohio Developmental	138565

Disabilities Council or the director's designee;	138566
(17) A representative of the County Commissioners Association of Ohio.	138567 138568
(C) The Department shall convene the workgroup not later than July 15, 2011. The workgroup shall present to the Director of Health its recommendations for eligibility criteria for Part C early intervention services not later than October 1, 2011. After the recommendations are submitted, the Director may accept the recommendations in whole or in part and implement eligibility criteria accordingly.	138569 138570 138571 138572 138573 138574 138575
Section 291.40. CERTIFICATE OF NEED FOR NEW NURSING HOME	138576
(A) As used in this section:	138577
"Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.	138578 138579
"Population" means that shown by the 2000 regular federal census.	138580 138581
(B) The Director of Health shall accept, for review under section 3702.52 of the Revised Code, a certificate of need application for the establishment, development, and construction of a new nursing home if all of the following conditions are met:	138582 138583 138584 138585
(1) The application is submitted to the Director not later than one hundred eighty days after the effective date of this section.	138586 138587 138588
(2) The new nursing home is to be located in a county that has a population of at least thirty thousand persons and not more than forty-one thousand persons.	138589 138590 138591
(3) The new nursing home is to be located on a campus that has been in operation for at least twelve years and both of the following are also located on the campus on the effective date of	138592 138593 138594

this section:	138595
(a) At least one existing residential care facility with at least twenty-five residents;	138596 138597
(b) At least one existing independent living dwelling for seniors with at least seventy-five residents.	138598 138599
(4) The new nursing home is to have not more than thirty beds to which both of the following apply:	138600 138601
(a) All of the beds are to be transferred from an existing nursing home in the state.	138602 138603
(b) All of the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code.	138604 138605
(C) In reviewing certificate of need applications accepted under this section, the Director shall neither deny an application on the grounds that the new nursing home is to have less than fifty beds nor require an applicant to obtain a waiver of the minimum fifty-bed requirement established by division (I) of rule 3701-12-23 of the Administrative Code.	138606 138607 138608 138609 138610 138611
Section 291.50. EXEMPTION FROM CERTIFICATE OF NEED REQUIREMENT	138612 138613
(A) As used in this section:	138614
"2010 bed need determination" means the determination of each county's bed need that the Director of Health made in calendar year 2010.	138615 138616 138617
"Bed need" means the number of long-term care beds that a county needs as determined by the Director of Health pursuant to division (B)(3) of section 3702.593 of the Revised Code.	138618 138619 138620
"Bed need excess" means that a county's bed need is such that one or more long-term care beds could be relocated from the county according to the 2010 bed need determination and regardless of any	138621 138622 138623

subsequent bed need determination. 138624

"Bed need shortage" means that a county's bed need is such 138625
that one or more long-term care beds could be relocated into the 138626
county according to the 2010 bed need determination and regardless 138627
of any subsequent bed need determination. 138628

"Bed need shortage quantity" means the number of long-term 138629
care beds that could be relocated into a county with a bed need 138630
shortage according to the 2010 bed need determination and 138631
regardless of any subsequent bed need determination. 138632

"Existing bed" means a county home bed that is used, or 138633
available for use, for skilled nursing care by a resident of the 138634
county home on the effective date of this section. 138635

"Skilled nursing care" has the same meaning as in section 138636
3721.01 of the Revised Code. 138637

(B) Notwithstanding sections 3702.51 to 3702.62 of the 138638
Revised Code and until January 1, 2014, a county home is not 138639
required to obtain a certificate of need to obtain Medicare or 138640
Medicaid certification for one or more of the county home's 138641
existing beds if all of the following apply: 138642

(1) The county home is located in a county that has a bed 138643
need shortage. 138644

(2) No county that borders the county in which the county 138645
home is located has a bed need excess or bed need shortage. 138646

(3) The number of the county home's existing beds for which 138647
Medicare or Medicaid certification is sought does not exceed the 138648
bed need shortage quantity of the county in which the county home 138649
is located and the county home obtains Medicare or Medicaid 138650
certification for those existing beds not later than December 31, 138651
2013. 138652

Section 293.10. HEF HIGHER EDUCATIONAL FACILITY COMMISSION 138653

Agency Fund Group				138654
4610 372601 Operating Expenses	\$	12,500	\$ 12,500	138655
TOTAL AGY Agency Fund Group	\$	12,500	\$ 12,500	138656
TOTAL ALL BUDGET FUND GROUPS	\$	12,500	\$ 12,500	138657

Section 295.10. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS 138659

General Revenue Fund				138660
GRF 148100 Personal Services	\$	230,000	\$ 230,000	138661
GRF 148200 Maintenance	\$	50,000	\$ 50,000	138662
GRF 148402 Community Projects	\$	37,005	\$ 44,922	138663
TOTAL GRF General Revenue Fund	\$	317,005	\$ 324,922	138664
General Services Fund Group				138665
6010 148602 Gifts and	\$	4,558	\$ 4,558	138666
Miscellaneous				
TOTAL GSF General Services				138667
Fund Group	\$	4,558	\$ 4,558	138668
TOTAL ALL BUDGET FUND GROUPS	\$	321,563	\$ 329,480	138669

Section 297.10. OHS OHIO HISTORICAL SOCIETY 138671

General Revenue Fund				138672
GRF 360501 Education and	\$	2,368,997	\$ 2,368,997	138673
Collections				
GRF 360502 Site and Museum	\$	3,926,288	\$ 3,926,288	138674
Operations				
GRF 360504 Ohio Preservation	\$	290,000	\$ 290,000	138675
Office				
GRF 360505 National	\$	414,798	\$ 414,798	138676
Afro-American Museum				
GRF 360506 Hayes Presidential	\$	281,043	\$ 281,043	138677
Center				
GRF 360508 State Historical	\$	390,570	\$ 390,570	138678
Grants				

GRF 360509 Outreach and Partnership	\$	90,395	\$	90,395	138679
TOTAL GRF General Revenue Fund	\$	7,762,091	\$	7,762,091	138680
TOTAL ALL BUDGET FUND GROUPS	\$	7,762,091	\$	7,762,091	138681

SUBSIDY APPROPRIATION 138682

Upon approval by the Director of Budget and Management, the 138683
foregoing appropriation items shall be released to the Ohio 138684
Historical Society in quarterly amounts that in total do not 138685
exceed the annual appropriations. The funds and fiscal records of 138686
the society for fiscal year 2012 and fiscal year 2013 shall be 138687
examined by independent certified public accountants approved by 138688
the Auditor of State, and a copy of the audited financial 138689
statements shall be filed with the Office of Budget and 138690
Management. The society shall prepare and submit to the Office of 138691
Budget and Management the following: 138692

(A) An estimated operating budget for each fiscal year of the 138693
biennium. The operating budget shall be submitted at or near the 138694
beginning of each calendar year. 138695

(B) Financial reports, indicating actual receipts and 138696
expenditures for the fiscal year to date. These reports shall be 138697
filed at least semiannually during the fiscal biennium. 138698

The foregoing appropriations shall be considered to be the 138699
contractual consideration provided by the state to support the 138700
state's offer to contract with the Ohio Historical Society under 138701
section 149.30 of the Revised Code. 138702

HAYES PRESIDENTIAL CENTER 138703

If a United States government agency, including, but not 138704
limited to, the National Park Service, chooses to take over the 138705
operations or maintenance of the Hayes Presidential Center, in 138706
whole or in part, the Ohio Historical Society shall make 138707
arrangements with the National Park Service or other United States 138708

government agency for the efficient transfer of operations or 138709
maintenance. 138710

STATE HISTORICAL GRANTS 138711

Of the foregoing appropriation item 360508, State Historical 138712
Grants, \$195,285 in each fiscal year shall be granted to the 138713
Cincinnati Museum Center, and \$195,285 in each fiscal year shall 138714
be granted to the Western Reserve Historical Society. 138715

Section 299.10. REP OHIO HOUSE OF REPRESENTATIVES 138716

General Revenue Fund 138717

GRF 025321 Operating Expenses \$ 18,517,093 \$ 18,517,093 138718

TOTAL GRF General Revenue Fund \$ 18,517,093 \$ 18,517,093 138719

General Services Fund Group 138720

1030 025601 House Reimbursement \$ 1,433,664 \$ 1,433,664 138721

4A40 025602 Miscellaneous Sales \$ 37,849 \$ 37,849 138722

TOTAL GSF General Services 138723

Fund Group \$ 1,471,513 \$ 1,471,513 138724

TOTAL ALL BUDGET FUND GROUPS \$ 19,988,606 \$ 19,988,606 138725

OPERATING EXPENSES 138726

On July 1, 2011, or as soon as possible thereafter, the Clerk 138727
of the House of Representatives may certify to the Director of 138728
Budget and Management the amount of the unexpended, unencumbered 138729
balance of the foregoing appropriation item 025321, Operating 138730
Expenses, at the end of fiscal year 2011 to be reappropriated to 138731
fiscal year 2012. The amount certified is hereby reappropriated to 138732
the same appropriation item for fiscal year 2012. 138733

On July 1, 2012, or as soon as possible thereafter, the Clerk 138734
of the House of Representatives may certify to the Director of 138735
Budget and Management the amount of the unexpended, unencumbered 138736
balance of the foregoing appropriation item 025321, Operating 138737
Expenses, at the end of fiscal year 2012 to be reappropriated to 138738

fiscal year 2013. The amount certified is hereby reappropriated to 138739
the same appropriation item for fiscal year 2013. 138740

Section 303.10. HFA OHIO HOUSING FINANCE AGENCY 138741

Agency Fund Group 138742

5AZ0 997601 Housing Finance Agency \$ 9,800,000 \$ 9,800,000 138743

Personal Services

TOTAL AGY Agency Fund Group \$ 9,800,000 \$ 9,800,000 138744

TOTAL ALL BUDGET FUND GROUPS \$ 9,800,000 \$ 9,800,000 138745

Section 305.10. IGO OFFICE OF THE INSPECTOR GENERAL 138747

General Revenue Fund 138748

GRF 965321 Operating Expenses \$ 1,124,663 \$ 1,125,598 138749

TOTAL GRF General Revenue Fund \$ 1,124,663 \$ 1,125,598 138750

General Services Fund Group 138751

5FA0 965603 Deputy Inspector \$ 400,000 \$ 400,000 138752

General for ODOT

5FT0 965604 Deputy Inspector \$ 425,000 \$ 425,000 138753

General for BWC/OIC

5GI0 965605 Deputy Inspector \$ 520,837 \$ 521,535 138754

General for ARRA

TOTAL GSF General Services Fund \$ 1,345,837 \$ 1,346,535 138755

Group

TOTAL ALL BUDGET FUND GROUPS \$ 2,470,500 \$ 2,472,133 138756

IGO CASINO-RELATED ACTIVITIES 138757

On July 1, 2011, or as soon as possible thereafter, an amount 138758

equal to the unexpended, unencumbered balance of appropriation 138759

item 965609, Casino Investigations, at the end of fiscal year 2011 138760

is hereby reappropriated to the same appropriation item for fiscal 138761

year 2012, to be used for the performance of the Inspector 138762

General's casino-related duties. 138763

DEPUTY INSPECTOR GENERAL FOR FUNDS RECEIVED THROUGH THE 138764
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 138765

On July 1, 2011, and on January 1, 2012, or as soon as 138766
possible thereafter, the Director of Budget and Management shall 138767
transfer \$225,000 in cash, for each period, from the General 138768
Revenue Fund to the Deputy Inspector General for Funds Received 138769
through the American Recovery and Reinvestment Act of 2009 Fund 138770
(Fund 5GI0), which is created in section 121.53 of the Revised 138771
Code. 138772

On July 1, 2012, and on January 1, 2013, or as soon as 138773
possible thereafter, the Director of Budget and Management shall 138774
transfer \$225,000 in cash, for each period, from the General 138775
Revenue Fund to the Deputy Inspector General for Funds Received 138776
through the American Recovery and Reinvestment Act of 2009 Fund 138777
(Fund 5GI0). 138778

Section 307.10. INS DEPARTMENT OF INSURANCE 138779

Federal Special Revenue Fund Group 138780

3EV0 820610 Health Insurance \$ 1,000,000 \$ 1,000,000 138781
Premium Review

3EW0 820611 Health Exchange \$ 1,000,000 \$ 1,000,000 138782
Planning

3U50 820602 OSHIIP Operating \$ 2,270,726 \$ 2,270,725 138783
Grant

TOTAL FED Federal Special 138784

Revenue Fund Group \$ 4,270,726 \$ 4,270,725 138785

State Special Revenue Fund Group 138786

5540 820601 Operating Expenses - \$ 190,000 \$ 180,000 138787
OSHIIP

5540 820606 Operating Expenses \$ 22,745,538 \$ 22,288,550 138788

5550 820605 Examination \$ 9,065,684 \$ 8,934,065 138789

TOTAL SSR State Special Revenue				138790	
Fund Group	\$	32,001,222	\$	31,402,615	138791
TOTAL ALL BUDGET FUND GROUPS	\$	36,271,948	\$	35,673,340	138792
MARKET CONDUCT EXAMINATION				138793	
When conducting a market conduct examination of any insurer				138794	
doing business in this state, the Superintendent of Insurance may				138795	
assess the costs of the examination against the insurer. The				138796	
superintendent may enter into consent agreements to impose				138797	
administrative assessments or fines for conduct discovered that				138798	
may be violations of statutes or rules administered by the				138799	
superintendent. All costs, assessments, or fines collected shall				138800	
be deposited to the credit of the Department of Insurance				138801	
Operating Fund (Fund 5540).				138802	
EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES				138803	
The Director of Budget and Management, at the request of the				138804	
Superintendent of Insurance, may transfer funds from the				138805	
Department of Insurance Operating Fund (Fund 5540), established by				138806	
section 3901.021 of the Revised Code, to the Superintendent's				138807	
Examination Fund (Fund 5550), established by section 3901.071 of				138808	
the Revised Code, only for expenses incurred in examining domestic				138809	
fraternal benefit societies as required by section 3921.28 of the				138810	
Revised Code.				138811	
TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND				138812	
Not later than the thirty-first day of July each fiscal year,				138813	
the Director of Budget and Management shall transfer \$5,000,000				138814	
from the Department of Insurance Operating Fund (Fund 5540) to the				138815	
General Revenue Fund.				138816	
Section 309.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES				138817	
General Revenue Fund				138818	
GRF 600321 Support Services				138819	

	State	\$	34,801,760	\$	31,932,117	138820
	Federal	\$	9,322,222	\$	9,207,441	138821
	Support Services Total	\$	44,123,982	\$	41,139,558	138822
GRF 600410	TANF State	\$	151,386,934	\$	151,386,934	138823
GRF 600413	Child Care	\$	84,732,730	\$	84,732,730	138824
	Match/Maintenance of Effort					
GRF 600416	Computer Projects					138825
	State	\$	67,955,340	\$	69,263,506	138826
	Federal	\$	13,105,167	\$	12,937,222	138827
	Computer Projects Total	\$	81,060,507	\$	82,200,728	138828
GRF 600417	Medicaid Provider Audits	\$	1,312,992	\$	1,312,992	138829
GRF 600420	Child Support Administration	\$	6,163,534	\$	6,065,588	138830
GRF 600421	Office of Family Stability	\$	3,768,929	\$	3,757,493	138831
GRF 600423	Office of Children and Families	\$	5,123,406	\$	4,978,756	138832
GRF 600425	Office of Ohio Health Plans					138833
	State	\$	13,149,582	\$	15,740,987	138834
	Federal	\$	12,556,921	\$	12,286,234	138835
	Office of Ohio Health Plans Total	\$	25,706,503	\$	28,027,221	138836
GRF 600502	Administration - Local	\$	23,814,103	\$	23,814,103	138837
GRF 600511	Disability Financial Assistance	\$	26,599,666	\$	27,108,734	138838
GRF 600521	Entitlement Administration - Local	\$	72,200,721	\$	72,200,721	138839
GRF 600523	Children and Families Services	\$	53,105,323	\$	53,105,323	138840
GRF 600525	Health Care/Medicaid					138841

	State	\$ 4,297,666,947	\$ 4,671,520,882	138842
	Federal	\$ 7,507,443,548	\$ 8,404,313,207	138843
	Health Care Total	\$11,805,110,495	\$13,075,834,089	138844
GRF 600526	Medicare Part D	\$ 275,154,963	\$ 300,140,824	138845
GRF 600528	Adoption Services			138846
	State	\$ 29,257,932	\$ 29,257,932	138847
	Federal	\$ 41,085,169	\$ 41,085,169	138848
	Adoption Services Total	\$ 70,343,101	\$ 70,343,101	138849
GRF 600533	Child, Family, and Adult Community & Protective Services	\$ 13,500,000	\$ 13,500,000	138850
GRF 600534	Adult Protective Services	\$ 366,003	\$ 366,003	138851
GRF 600535	Early Care and Education	\$ 123,596,474	\$ 123,596,474	138852
GRF 600537	Children's Hospital	\$ 6,000,000	\$ 6,000,000	138853
GRF 600540	Second Harvest Food Banks	\$ 4,000,000	\$ 4,000,000	138854
GRF 600541	Kinship Permanency Incentive Program	\$ 2,500,000	\$ 3,500,000	138855
TOTAL GRF	General Revenue Fund			138856
	State	\$ 5,296,157,339	\$ 5,697,282,099	138857
	Federal	\$ 7,583,513,027	\$ 8,479,829,273	138858
	GRF Total	\$12,879,670,366	\$14,177,111,372	138859
	General Services Fund Group			138860
4A80 600658	Public Assistance Activities	\$ 34,000,000	\$ 34,000,000	138861
5C90 600671	Medicaid Program Support	\$ 85,800,878	\$ 82,839,266	138862
5DL0 600639	Medicaid Revenue and Collections	\$ 89,256,974	\$ 84,156,974	138863
5DM0 600633	Administration & Operating	\$ 20,392,173	\$ 19,858,928	138864

5FX0	600638	Medicaid Payment Withholding	\$	5,000,000	\$	6,000,000	138865
5HL0	600602	State and County Shared services	\$	3,020,000	\$	3,020,000	138866
5P50	600692	Prescription Drug Rebate - State	\$	220,600,000	\$	242,600,000	138867
6130	600645	Training Activities	\$	500,000	\$	500,000	138868
TOTAL GSF General Services							138869
Fund Group			\$	458,570,025	\$	472,975,168	138870
Federal Special Revenue Fund Group							138871
3270	600606	Child Welfare	\$	29,769,865	\$	29,769,866	138872
3310	600686	Federal Operating	\$	49,128,140	\$	48,203,023	138873
3840	600610	Food Assistance and State Administration	\$	180,381,394	\$	180,381,394	138874
3850	600614	Refugee Services	\$	11,582,440	\$	12,564,952	138875
3950	600616	Special Activities/Child and Family Services	\$	2,259,264	\$	2,259,264	138876
3960	600620	Social Services Block Grant	\$	64,999,999	\$	64,999,998	138877
3970	600626	Child Support	\$	255,812,837	\$	255,813,528	138878
3980	600627	Adoption Maintenance/ Administration	\$	352,183,862	\$	352,184,253	138879
3A20	600641	Emergency Food Distribution	\$	5,000,000	\$	5,000,000	138880
3AW0	600675	Faith Based Initiatives	\$	544,140	\$	544,140	138881
3D30	600648	Children's Trust Fund Federal	\$	2,040,524	\$	2,040,524	138882
3ER0	600603	Health Information Technology	\$	411,661,286	\$	416,395,286	138883
3F00	600623	Health Care Federal	\$	2,637,061,505	\$	2,720,724,869	138884
3F00	600650	Hospital Care	\$	372,784,046	\$	380,645,627	138885

		Assurance Match				
3FA0	600680	Ohio Health Care	\$	9,405,000	\$	20,000,000 138886
		Grants				
3G50	600655	Interagency	\$	1,621,305,787	\$	1,380,391,478 138887
		Reimbursement				
3H70	600617	Child Care Federal	\$	208,290,036	\$	204,813,731 138888
3N00	600628	IV-E Foster Care	\$	133,963,142	\$	133,963,142 138889
		Maintenance				
3S50	600622	Child Support Projects	\$	534,050	\$	534,050 138890
3V00	600688	Workforce Investment	\$	176,496,250	\$	172,805,562 138891
		Act				
3V40	600678	Federal Unemployment	\$	188,680,096	\$	186,723,415 138892
		Programs				
3V40	600679	Unemployment	\$	4,166,988	\$	4,068,758 138893
		Compensation Review				
		Commission - Federal				
3V60	600689	TANF Block Grant	\$	727,968,260	\$	727,968,260 138894
TOTAL FED		Federal Special Revenue				138895
Fund Group			\$	7,446,018,911	\$	7,302,795,120 138896
State Special Revenue		Fund Group				138897
1980	600647	Children's Trust Fund	\$	5,873,637	\$	5,873,848 138898
4A90	600607	Unemployment	\$	21,924,998	\$	21,424,998 138899
		Compensation				
		Administration Fund				
4A90	600694	Unemployment	\$	2,873,167	\$	2,817,031 138900
		Compensation Review				
		Commission				
4E30	600605	Nursing Home	\$	2,878,320	\$	2,878,319 138901
		Assessments				
4E70	600604	Child and Family	\$	400,000	\$	400,000 138902
		Services Collections				
4F10	600609	Children and Family	\$	683,359	\$	683,549 138903
		Services Activities				

4K10	600621	ICF/MR Bed Assessments	\$	41,405,596	\$	44,372,874	138904
4Z10	600625	HealthCare Compliance	\$	11,551,076	\$	14,582,000	138905
5AJ0	600631	Money Follows the Person	\$	5,483,080	\$	4,733,080	138906
5DB0	600637	Military Injury Grants	\$	2,000,000	\$	2,000,000	138907
5DP0	600634	Adoption Assistance Loan	\$	500,000	\$	500,000	138908
5ES0	600630	Food Assistance	\$	500,000	\$	500,000	138909
5GF0	600656	Medicaid - Hospital	\$	436,000,000	\$	436,000,000	138910
5KC0	600682	Health Care Special Activities	\$	10,000,000	\$	10,000,000	138911
5R20	600608	Medicaid-Nursing Facilities	\$	402,489,308	\$	407,100,746	138912
5S30	600629	MR/DD Medicaid Administration and Oversight	\$	9,252,738	\$	9,147,791	138913
5U30	600654	Health Care Services Administration	\$	24,400,000	\$	24,400,000	138914
5U60	600663	Children and Family Support	\$	4,000,000	\$	4,000,000	138915
6510	600649	Hospital Care Assurance Program Fund	\$	212,526,123	\$	217,008,050	138916
TOTAL SSR	State Special Revenue						138917
Fund Group			\$	1,194,741,402	\$	1,208,422,286	138918
Agency Fund Group							138919
1920	600646	Support Intercept - Federal	\$	130,000,000	\$	130,000,000	138920
5830	600642	Support Intercept - State	\$	16,000,000	\$	16,000,000	138921
5B60	600601	Food Assistance Intercept	\$	2,000,000	\$	2,000,000	138922
TOTAL AGY	Agency Fund Group		\$	148,000,000	\$	148,000,000	138923
Holding Account	Redistribution Fund Group						138924

R012 600643	Refunds and Audit	\$	2,200,000	\$	2,200,000	138925
	Settlements					
R013 600644	Forgery Collections	\$	10,000	\$	10,000	138926
TOTAL 090 Holding Account		\$	2,210,000	\$	2,210,000	138927
Redistribution Fund Group						
TOTAL ALL BUDGET FUND GROUPS			\$22,129,210,704	\$23,311,513,946		138928

Section 309.20. SUPPORT SERVICES 138930

Section 309.20.10. ADMINISTRATION AND OPERATING 138931

On July 1, 2011, or as soon as possible thereafter, the 138932
Director of Budget and Management may transfer up to \$535,300 cash 138933
from the TANF Quality Control Reinvestments Fund (Fund 5Z90) to 138934
the Administration and Operating Fund (Fund 5DM0). Upon completion 138935
of the transfer, Fund 5Z90 is abolished. 138936

Of the foregoing appropriation item 600633, Administration 138937
and Operating, the Department of Job and Family Services shall use 138938
up to \$535,300 to pay for one-time contract expenses. 138939

Section 309.20.20. TRANSFER TO STATE AND COUNTY SHARED 138940
SERVICES FUND 138941

Within thirty days of the effective date of this act, or as 138942
soon as possible thereafter, the Director of Budget and Management 138943
shall transfer the unencumbered cash balance in the County 138944
Technologies Fund (Fund 5N10) to the State and County Shared 138945
Services Fund (Fund 5HL0). The transferred cash is hereby 138946
appropriated. 138947

Section 309.20.30. AGENCY FUND GROUP 138948

The Agency Fund Group and Holding Account Redistribution Fund 138949
Group shall be used to hold revenues until the appropriate fund is 138950
determined or until the revenues are directed to the appropriate 138951

governmental agency other than the Department of Job and Family Services. If receipts credited to the Support Intercept - Federal Fund (Fund 1920), the Support Intercept - State Fund (Fund 5830), the Food Stamp Offset Fund (Fund 5B60), the Refunds and Audit Settlements Fund (Fund R012), or the Forgery Collections Fund (Fund R013) exceed the amounts appropriated from the fund, the Director of Job and Family Services may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

Section 309.30. MEDICAID

Section 309.30.10. HEALTH CARE/MEDICAID

The foregoing appropriation item 600525, Health Care/Medicaid, shall not be limited by section 131.33 of the Revised Code.

Section 309.30.20. UNIFIED LONG TERM CARE

The foregoing appropriation item 600525, Health Care/Medicaid, may be used to provide the preadmission screening and resident review (PASRR), which includes screening, assessments, and determinations made under sections 5111.204, 5119.061, and 5123.021 of the Revised Code.

The foregoing appropriation item 600525, Health Care/Medicaid, may be used to assess and provide long-term care consultations under section 173.42 of the Revised Code to clients regardless of Medicaid eligibility.

The foregoing appropriation item 600525, Health Care/Medicaid, may be used to provide nonwaiver funded PASSPORT and assisted living services to persons who the state department

has determined to be eligible to participate in the nonwaiver 138981
funded PASSPORT and assisted living programs, who applied for but 138982
have not yet been determined to be financially eligible to 138983
participate in the Medicaid waiver component of the PASSPORT Home 138984
Care Program or the Assisted Living Program by a county department 138985
of job and family services, and to persons who are not eligible 138986
for Medicaid but were enrolled in the PASSPORT Program prior to 138987
July 1, 1990. 138988

The foregoing appropriation item 600525, Health 138989
Care/Medicaid, shall be used to provide the required state match 138990
for federal Medicaid funds supporting the Medicaid waiver-funded 138991
PASSPORT Home Care Program, the Choices Program, the Assisted 138992
Living Program, and the PACE Program. 138993

The foregoing appropriation item 600525, Health 138994
Care/Medicaid, shall be used to provide the federal matching share 138995
of program costs determined by the Department of Job and Family 138996
Services to be eligible for Medicaid reimbursement for the 138997
Medicaid waiver-funded PASSPORT Home Care Program, the Choices 138998
Program, the Assisted Living Program, and the PACE Program. 138999

Of the foregoing appropriation item 600525, Health 139000
Care/Medicaid, \$27,808,676 in fiscal year 2012 and \$55,788,006 in 139001
fiscal year 2013 shall be used to provide supplemental funding to 139002
the Medicaid waiver-funded PASSPORT Home Care Program. 139003

Section 309.30.30. REDUCTION IN MEDICAID PAYMENT RATES 139004

(A) For fiscal year 2012 and fiscal year 2013, the Director 139005
of Job and Family Services shall implement purchasing strategies 139006
and rate reductions for certain Medicaid-covered services, as 139007
determined by the Director, that result in payment rates for those 139008
services being at least two per cent less than the respective 139009
payment rates for fiscal year 2011. The Director shall consider 139010
the following when implementing purchasing strategies and rate 139011

reductions under this section:	139012
(1) Modernizing hospital inpatient and outpatient reimbursement methodologies by doing the following:	139013
(a) Modifying the inpatient hospital capital reimbursement methodology;	139014
(b) Implementing relative weights for diagnosis-related groups or establishing new diagnosis-related groups;	139015
(c) Implementing other changes the Director considers appropriate.	139016
(2) Establishing selective contracting and prior authorization requirements for types of medical assistance the Director identifies.	139017
(B) In the case of any purchasing strategies and rate reductions that reduce administrative rate payments made to managed care organizations under contract with the Department of Job and Family Services pursuant to section 5111.17 of the Revised Code, the Department shall ensure that no managed care organization passes the administrative rate payment reductions onto providers under contract with the organization.	139018
(C) The Director shall adopt rules under section 5111.02 and 5111.85 of the Revised Code as necessary to implement this section.	139019
(D) This section does not apply to nursing facility and intermediate care facility for the mentally retarded services provided under the Medicaid program.	139020
Section 309.30.31. FISCAL YEAR 2012 MEDICARE COPAYMENT FOR DIALYSIS SERVICES PROVIDED TO MEDICAID RECIPIENTS	139021
(A) As used in this section, "dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social	139022
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Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B). 139041

(B) In fiscal year 2012, for dialysis services provided to a 139042
dual eligible individual, the Department of Job and Family 139043
Services shall pay under the Medicaid program an amount equal to 139044
the Medicare copayment amount that applies to the service, as that 139045
amount was paid by the Department immediately prior to the 139046
effective date of this section. 139047

Section 309.30.32. FISCAL YEAR 2013 MEDICAID RATE FOR 139048
DIALYSIS SERVICES 139049

Notwithstanding any conflicting provision of section 5111.021 139050
of the Revised Code or any other conflicting provision of the 139051
Revised Code or this act, in fiscal year 2013, the Department of 139052
Job and Family Services may adjust the Medicaid rates that are 139053
paid for dialysis services by an amount sufficient to achieve 139054
aggregate savings of not more than \$9 million in state share 139055
expenditures under the Medicaid program. 139056

Section 309.30.33. HOSPITAL INPATIENT AND OUTPATIENT 139057
SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM; MEDICAID MANAGED CARE 139058
HOSPITAL INCENTIVE PAYMENT PROGRAM 139059

(A) As used in this section: 139060

(1) "Hospital" has the same meaning as in section 5112.40 of 139061
the Revised Code. 139062

(2) "Hospital Assessment Fund" means the fund created under 139063
section 5112.45 of the Revised Code. 139064

(3) "Medicaid managed care organization" means an entity 139065
under contract pursuant to section 5111.17 of the Revised Code to 139066
provide or arrange services for Medicaid recipients who are 139067
required or permitted to participate in the Medicaid care 139068
management system. 139069

(B) The Department of Job and Family Services shall submit to the United States Secretary of Health and Human Services a Medicaid state plan amendment to do both of the following:

(1) Continue the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program that was established pursuant to Section 309.30.17 of Am. Sub. H.B. 1 of the 128th General Assembly, with any modifications necessary to implement the program as described under division (D) of this section;

(2) Create the Medicaid Managed Care Hospital Incentive Payment Program, as described under division (E) of this section.

(C) Of the amounts deposited into the Hospital Assessment Fund in fiscal year 2012 and fiscal year 2013:

(1) Up to \$432,432,725 (state and federal) in fiscal year 2012 and up to \$415,162,388 (state and federal) in fiscal year 2013 shall be used for the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program;

(2) Up to \$162,000,000 (state and federal) in each fiscal year shall be used for the Medicaid Managed Care Hospital Incentive Payment Program;

(3) Up to \$176,021,111 (state and federal) in fiscal year 2012 and up to \$195,158,394 (state and federal) in fiscal year 2013 shall be used for the program authorized by the section of this act titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES."

(D)(1) If the Medicaid state plan amendment submitted under division (B)(1) of this section is approved, the Department shall implement the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program during fiscal year 2012 and fiscal year 2013. Under the Program, subject to division (D)(2) of this section, supplemental Medicaid payments shall be made to hospitals for Medicaid-covered inpatient and outpatient services. The

Department shall make the payments through amounts that are made 139101
available for the Program under division (C) of this section and 139102
any federal financial participation available for the Program. 139103

(2) The Department shall take all actions necessary to cease 139104
implementation of the Program if the United States Secretary 139105
determines that the assessment imposed under section 5112.41 of 139106
the Revised Code is an impermissible healthcare-related tax under 139107
section 1903(w) of the "Social Security Act," 105 Stat. 1793 139108
(1991), 42 U.S.C. 1396b(w), as amended. 139109

(E)(1) If the Medicaid state plan amendment submitted under 139110
division (B)(2) of this section is approved, the Department shall 139111
implement the Medicaid Managed Care Hospital Incentive Payment 139112
Program. The purpose of the Program is to increase access to 139113
hospital services for Medicaid recipients who are enrolled in 139114
Medicaid managed care organizations. 139115

Under the Program, subject to division (E)(3) of this 139116
section, funds shall be provided to Medicaid managed care 139117
organizations, which shall use the funds to increase payments to 139118
hospitals for providing services to Medicaid recipients who are 139119
enrolled in the organizations. The Department shall provide the 139120
funds through amounts that are made available for the Program 139121
under division (C) of this section and any federal financial 139122
participation available for the Program. 139123

(2) Not later than July 1, 2012, the Department shall select 139124
an actuary to conduct a study of the contracted reimbursement 139125
rates between Medicaid managed care organizations and hospitals. 139126
The actuary shall determine if a reduction in the capitation rates 139127
paid to Medicaid managed care organizations in fiscal year 2013 is 139128
appropriate as a result of the contracted reimbursement rates 139129
between the organizations and hospitals. The actuary shall notify 139130
the Department of its determination. 139131

If the actuary determines that a reduction in the capitation rates paid to Medicaid managed care organizations in fiscal year 2013 will not achieve \$22 million in state savings in fiscal year 2013, the state shall receive the difference between what the actuary determines the state will save and \$22 million. The Department, in consultation with the Ohio Association of Health Plans and the Ohio Hospital Association, shall establish a methodology under which the difference is paid equally by Medicaid managed care organizations and hospitals in this state.

Notwithstanding anything to the contrary specified in division (E)(3)(b) or (c) of this section, the Medicaid managed care organizations and hospitals shall pay the amounts determined under the methodology, unless the Department waives the requirement to make the payments. The requirement may be waived if spending for the Medicaid program in fiscal year 2013 is less than the amount that is budgeted for that fiscal year. If payments are made, the amount received by the Department shall be deposited into the state treasury to the credit of the Health Care Compliance Fund created under section 5111.171 of the Revised Code.

(3)(a) The Department shall not provide funds to Medicaid managed care organizations under the Program unless an actuary selected by the Department certifies that the Program would not violate the actuarial soundness of the capitation rates paid to Medicaid managed care organizations.

(b) The Department shall not implement the Program in a manner that causes a hospital to receive less money from the Hospital Assessment Fund than the hospital would have received if the Program were not implemented.

(c) The Department shall not implement the Program in a manner that causes a Medicaid managed care organization to receive a lower capitation payment rate solely because funds are made

available to the organization under the Program. 139164

(d) The Department shall take all necessary actions to cease 139165
implementation of the Program if the United States Secretary 139166
determines that the assessment imposed under section 5112.41 of 139167
the Revised Code is an impermissible healthcare-related tax under 139168
section 1903(w) of the "Social Security Act," 105 Stat. 1793 139169
(1991), 42 U.S.C. 1396b(w), as amended. 139170

(F) The Director of Budget and Management may authorize 139171
additional expenditures from appropriation item 600623, Health 139172
Care Federal, and appropriation item 600656, Medicaid-Hospital, in 139173
order to implement the programs authorized by this section. Any 139174
amounts authorized are hereby appropriated. 139175

(G) Nothing in this section reduces payments authorized under 139176
appropriation line item 600537 for children's hospitals. 139177

Section 309.30.35. CONTINUATION OF MEDICAID RATES FOR 139178
HOSPITAL INPATIENT AND OUTPATIENT SERVICES 139179

The Director of Job and Family Services shall amend rules 139180
adopted under section 5111.02 of the Revised Code as necessary to 139181
continue, for the period beginning July 1, 2011, through June 30, 139182
2013, the Medicaid reimbursement rates in effect from October 1, 139183
2009, through June 30, 2011, for Medicaid-covered hospital 139184
inpatient services and hospital outpatient services that are paid 139185
under the prospective payment system established in those rules. 139186
The rates shall continue to be in effect, notwithstanding any 139187
policies or rules the Director adopts or amends pursuant to the 139188
section of this act titled "Reduction of Medicaid Expenditures." 139189

Section 309.30.40. MANAGED CARE PERFORMANCE PAYMENT PROGRAM 139190

At the beginning of each quarter, or as soon as possible 139191
thereafter, the Director of Job and Family Services shall certify 139192
to the Director of Budget and Management the amount withheld in 139193

accordance with section 5111.1711 of the Revised Code for purposes 139194
of the Managed Care Performance Payment Program. Upon receiving 139195
certification, the Director of Budget and Management shall 139196
transfer cash in the amount certified from the General Revenue 139197
Fund to the Managed Care Performance Payment Fund. The transferred 139198
cash is hereby appropriated. Appropriation item 600525, Health 139199
Care/Medicaid, is hereby reduced by the amount of the transfer. 139200

**Section 309.30.50. COORDINATION OF CARE FOR COVERED FAMILIES 139201
AND CHILDREN PENDING MEDICAID MANAGED CARE ENROLLMENT 139202**

(A) As used in this section, "Medicaid managed care" means 139203
the care management system established under section 5111.16 of 139204
the Revised Code. 139205

(B) The departments of Job and Family Services and Health 139206
shall work together on the issue of achieving efficiencies in the 139207
delivery of medical assistance provided under Medicaid to families 139208
and children. 139209

(C) As part of their work under division (B) of this section, 139210
the departments shall develop a proposal for coordinating medical 139211
assistance provided to families and children under Medicaid while 139212
they wait to be enrolled in Medicaid managed care. In developing 139213
the proposal, the departments may do the following: 139214

(1) Conduct research on the status of families and children 139215
waiting to be enrolled in Medicaid managed care, including 139216
research on the reasons for the wait and the utilization of 139217
medical assistance during the waiting period; 139218

(2) Conduct a review of ways to help families and children 139219
receive medical assistance in the most appropriate setting while 139220
they wait to be enrolled in Medicaid managed care; 139221

(3) Develop recommendations for a coordinated, cost-effective 139222
system of helping families and children waiting to be enrolled in 139223

Medicaid managed care find the medical assistance they need during 139224
the waiting period; 139225

(4) For the purpose of reducing the waiting period for 139226
enrollment in Medicaid managed care, develop recommendations for 139227
improving the enrollment processes. 139228

(D) As part of the work that is done under division (B) of 139229
this section, the Department of Job and Family Services may submit 139230
to the United States Secretary of Health and Human Services a 139231
request for a Medicaid state plan amendment to authorize payment 139232
for Medicaid-reimbursable targeted case management services that 139233
are provided in connection with the Help Me Grow Program and for 139234
services provided under the Program. Each quarter during fiscal 139235
year 2012 and fiscal year 2013 following approval of the Medicaid 139236
state plan amendment, the Department of Job and Family Services 139237
shall certify to the Director of Budget and Management the state 139238
and federal share of the amount the Department of Job and Family 139239
Services has expended that quarter for services under this 139240
section. On receipt of each quarterly certification to the 139241
Director of Budget and Management shall decrease appropriation 139242
from appropriation item 440459, Help Me Grow, an amount equal to 139243
the state share of the certified expenditures and increase 139244
appropriation item 600525, Health Care/Medicaid by an equal amount 139245
and adjust the Federal share accordingly. This transfer is not 139246
intended to reduce General Revenue Funds appropriated for the Help 139247
Me Grow Program, but is done solely for the purpose of drawing 139248
down the federal share of Medicaid reimbursement. 139249

Section 309.30.60. FISCAL YEAR 2012 MEDICAID REIMBURSEMENT 139250
SYSTEM FOR NURSING FACILITIES 139251

(A) As used in this section: 139252

"Franchise permit fee," "Medicaid days," "nursing facility," 139253
and "provider" have the same meanings as in section 5111.20 of the 139254

Revised Code. 139255

"Nursing facility services" means nursing facility services 139256
covered by the Medicaid program that a nursing facility provides 139257
to a resident of the nursing facility who is a Medicaid recipient 139258
eligible for Medicaid-covered nursing facility services. 139259

(B) Except as otherwise provided by this section, the 139260
provider of a nursing facility that has a valid Medicaid provider 139261
agreement on June 30, 2011, and a valid Medicaid provider 139262
agreement during fiscal year 2012 shall be paid, for nursing 139263
facility services the nursing facility provides during fiscal year 139264
2012, the rate calculated for the nursing facility under sections 139265
5111.20 to 5111.33 of the Revised Code with the following 139266
adjustments: 139267

(1) The cost per case mix-unit calculated under section 139268
5111.231 of the Revised Code, the rate for ancillary and support 139269
costs calculated under section 5111.24 of the Revised Code, the 139270
rate for tax costs calculated under section 5111.242 of the 139271
Revised Code, and the rate for capital costs calculated under 139272
section 5111.25 of the Revised Code shall each be increased by 139273
five and eight hundredths per cent; 139274

(2) The mean payment used in the calculation of the quality 139275
incentive payment made under section 5111.244 of the Revised Code 139276
shall be, weighted by Medicaid days, fourteen dollars and 139277
forty-one cents per Medicaid day. 139278

(C) If the franchise permit fee must be reduced or eliminated 139279
to comply with federal law, the Department of Job and Family 139280
Services shall reduce the amount it pays providers of nursing 139281
facility services under this section as necessary to reflect the 139282
loss to the state of the revenue and federal financial 139283
participation generated from the franchise permit fee. 139284

(D) The Department of Job and Family Services shall follow 139285

this section in determining the rate to be paid to the provider of 139286
a nursing facility that has a valid Medicaid provider agreement on 139287
June 30, 2011, and a valid Medicaid provider agreement during 139288
fiscal year 2012 notwithstanding anything to the contrary in 139289
sections 5111.20 to 5111.33 of the Revised Code. 139290

Section 309.30.70. FISCAL YEAR 2013 MEDICAID REIMBURSEMENT 139291
SYSTEM FOR NURSING FACILITIES 139292

(A) As used in this section: 139293

"Franchise permit fee," "Medicaid days," "nursing facility," 139294
and "provider" have the same meanings as in section 5111.20 of the 139295
Revised Code. 139296

"Nursing facility services" means nursing facility services 139297
covered by the Medicaid program that a nursing facility provides 139298
to a resident of the nursing facility who is a Medicaid recipient 139299
eligible for Medicaid-covered nursing facility services. 139300

(B) Except as otherwise provided by this section, the 139301
provider of a nursing facility that has a valid Medicaid provider 139302
agreement on June 30, 2012, and a valid Medicaid provider 139303
agreement during fiscal year 2013 shall be paid, for nursing 139304
facility services the nursing facility provides during fiscal year 139305
2013, the rate calculated for the nursing facility under sections 139306
5111.20 to 5111.33 of the Revised Code with the following 139307
adjustments: 139308

(1) The cost per case mix-unit calculated under section 139309
5111.231 of the Revised Code, the rate for ancillary and support 139310
costs calculated under section 5111.24 of the Revised Code, the 139311
rate for tax costs calculated under section 5111.242 of the 139312
Revised Code, and the rate for capital costs calculated under 139313
section 5111.25 of the Revised Code shall each be increased by 139314
five and eight hundredths per cent; 139315

(2) Unless, pursuant to division (D) of section 5111.244 of the Revised Code, no quality incentive payment is to be made for fiscal year 2013, the mean payment used in the calculation of the quality incentive payment made under section 5111.244 of the Revised Code shall be, weighted by Medicaid days, fourteen dollars and sixty-three cents per Medicaid day.

(C) If the franchise permit fee must be reduced or eliminated to comply with federal law, the Department of Job and Family Services shall reduce the amount it pays providers of nursing facility services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(D) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2012, and a valid Medicaid provider agreement during fiscal year 2013 notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code.

Section 309.30.73. NURSING FACILITY CAPACITY COUNCIL

(A) As used in this section, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) There is hereby created the Nursing Facility Capacity Council. The Council shall consist of the following members, each of whom shall be appointed not later than sixty days after the effective date of this section:

(1) One or more members of the Ohio Health Care Association, appointed by the executive director or chief administrative officer of the Association;

(2) One or more members of the Ohio Academy of Nursing Homes, appointed by the executive director or chief administrative

officer of the Academy;	139346
(3) One or more members of LeadingAge Ohio, appointed by the executive director or chief administrative officer of that organization;	139347 139348 139349
(4) One or more employees of the Department of Job and Family Services, appointed by the Director of Job and Family Services;	139350 139351
(5) One or more employees of the Department of Aging, appointed by the Director of Aging;	139352 139353
(6) One or more employees of the Department of Health, appointed by the Director of Health;	139354 139355
(7) One or more employees of the Governor's Office of Health Transformation, appointed by the director of the Office.	139356 139357
Each member of the Council shall serve at the pleasure of the member's appointing authority. A member shall serve without compensation, except to the extent that serving on the Council is considered part of the member's regular duties of employment.	139358 139359 139360 139361
(C)(1) The Council shall examine the current and future capacity of nursing facilities in Ohio and the configuration of that capacity.	139362 139363 139364
(2) If excess capacity in nursing facilities is identified pursuant to the examination conducted under division (C)(1) of this section, the Council shall determine the potential effects of the excess capacity and recommend actions the state or private industry may take to address the excess capacity. For each action recommended, the Council shall consider and explain the impact of the action on all of the following:	139365 139366 139367 139368 139369 139370 139371
(a) The excess capacity;	139372
(b) The nursing facilities that would be affected by the action;	139373 139374
(c) State revenues and expenditures.	139375

(D) Not later than June 30, 2012, submit a written report of 139376
its findings and recommendations to the Governor and, in 139377
accordance with section 101.68 of the Revised Code, the General 139378
Assembly. On submission of the report, the Council shall cease to 139379
exist. 139380

Section 309.30.80. STUDY OF ICF/MR ISSUES 139381

(A) As used in this section: 139382

"Home and community-based services" has the same meaning as 139383
in section 5123.01 of the Revised Code. 139384

"ICF/MR" means an intermediate care facility for the mentally 139385
retarded as defined in section 5111.20 of the Revised Code. 139386

"ICF/MR services" means services covered by the Medicaid 139387
program that an ICF/MR provides to a Medicaid recipient eligible 139388
for the services. 139389

(B) The Departments of Job and Family Services and 139390
Developmental Disabilities shall study issues regarding the 139391
administration of, and Medicaid reimbursement for, ICF/MR 139392
services. In conducting the study, the Departments shall examine 139393
the following: 139394

(1) Revising the Individual Assessment Form Answer Sheet in a 139395
manner that provides a more accurate assessment of the acuity and 139396
care needs of individuals who need ICF/MR services, especially the 139397
acuity and care needs of such individuals who have intensive 139398
behavioral or medical needs; 139399

(2) Revising the Medicaid reimbursement formula for ICF/MR 139400
services to accomplish the following: 139401

(a) Ensure that reimbursement for capital costs is adequate 139402
for maintaining the capital assets of ICFs/MR in a manner that 139403
promotes the well being of the residents; 139404

(b) Provide capital incentives for reducing the capacity of ICFs/MR as necessary to achieve goals regarding the optimal capacity of ICFs/MR;	139405 139406 139407
(c) Ensure that wages paid individuals who provide direct care services to ICF/MR residents are sufficient for ICFs/MR to meet staffing and quality requirements;	139408 139409 139410
(d) Provide incentives for high quality services;	139411
(e) Achieve other goals developed for the purpose of improving the appropriateness and sufficiency of Medicaid reimbursements for ICF/MR services.	139412 139413 139414
(3) Transferring the powers and duties regarding ICF/MR services from the Department of Job and Family Services to the Department of Developmental Disabilities.	139415 139416 139417
(C) The Departments shall examine the issue of revising the Individual Assessment Form Answer Sheet before examining the issue of revising the Medicaid reimbursement formula for ICF/MR services. Not later than October 1, 2011, the Departments shall prepare a report of the study conducted under this section and submit the report to the Governor and, in accordance with section 101.68 of the Revised Code, the General Assembly.	139418 139419 139420 139421 139422 139423 139424
(D) At the same time that the Departments conduct the study under this section, they shall work with the Governor's Office of Health Transformation and persons interested in the issue of ICF/MR services to develop recommendations regarding the following:	139425 139426 139427 139428 139429
(1) Goals regarding the ratio of home and community-based services and ICF/MR services provided under the Medicaid program that take into account goals regarding the optimal capacity of ICFs/MR;	139430 139431 139432 139433
(2) The roles and responsibilities of both of the following:	139434

(a) ICFs/MR owned and operated by the Department of Developmental Disabilities;	139435 139436
(b) Providers of home and community-based services.	139437
(3) Simplifying and eliminating duplicate regulations regarding ICFs/MR in a manner that lowers the cost of ICF/MR services.	139438 139439 139440
(E) The powers and duties regarding ICF/MR services shall not be transferred from the Department of Job and Family Services to the Department of Developmental Disabilities unless a state law is enacted that expressly authorizes the transfer.	139441 139442 139443 139444
Section 309.30.90. FISCAL YEAR 2012 MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR	139445 139446
(A) As used in this section:	139447
(1) "Change of operator," "entering operator," and "exiting operator" have the same meanings as in section 5111.65 of the Revised Code.	139448 139449 139450
(2) "Continuing ICF/MR" means an ICF/MR to which either of the following apply:	139451 139452
(a) The provider has a valid Medicaid provider agreement for the ICF/MR on June 30, 2011, and a valid Medicaid provider agreement for the ICF/MR during fiscal year 2012.	139453 139454 139455
(b) The ICF/MR undergoes a change of operator that takes effect during fiscal year 2012, the exiting operator has a valid Medicaid provider agreement for the ICF/MR on June 30, 2011, and the entering operator has a valid Medicaid provider agreement for the ICF/MR for at least part of fiscal year 2012 after the change of operator takes effect.	139456 139457 139458 139459 139460 139461
(3) "Franchise permit fee" and "provider" have the same meanings as in section 5111.20 of the Revised Code.	139462 139463

(4) "ICF/MR" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code. 139464
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(5) "ICF/MR services" means services covered by the Medicaid program that an ICF/MR provides to a Medicaid recipient eligible for the services. 139467
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(6) "Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in an ICF/MR that is included in the ICF/MR's Medicaid-certified capacity. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the ICF/MR's per resident per day rate paid for those days. 139470
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(7) "New ICF/MR" means an ICF/MR to which section 5111.255 of the Revised Code applies for fiscal year 2012. 139477
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(8) "Per diem rate" means the per diem rate calculated pursuant to sections 5111.20 to 5111.33 of the Revised Code. 139479
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(B) If the mean total per diem rate for all ICFs/MR in this state for fiscal year 2012, weighted by May 2011 Medicaid days and calculated as of July 1, 2011, exceeds \$279.81, the Department of Job and Family Services shall reduce, for fiscal year 2012, the total per diem rate for each continuing ICF/MR by a percentage that is equal to the percentage by which the mean total per diem rate exceeds \$279.81. 139481
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(C) The provider of a new ICF/MR shall be paid, for ICF/MR services the ICF/MR provides during fiscal year 2012, the rate calculated for the ICF/MR under section 5111.255 of the Revised Code reduced by the same percentage that the rate for a continuing ICF/MR is reduced under division (B) of this section. 139488
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(D) The rate of an ICF/MR set pursuant to this section shall not be subject to any adjustments authorized by sections 5111.20 139493
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to 5111.33 of the Revised Code, or any rule authorized by those sections, during the remainder of fiscal year 2012.

(E) If the franchise permit fee must be reduced or eliminated to comply with federal law, the Department of Job and Family Services shall reduce the amount it pays providers of ICF/MR services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(F) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of a continuing ICF/MR or new ICF/MR for ICF/MR services provided during fiscal year 2012 notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code, except sections 5111.258 and 5111.291 of the Revised Code.

Section 309.33.10. FISCAL YEAR 2013 MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR

(A) As used in this section:

(1) "Change of operator," "entering operator," and "exiting operator" have the same meanings as in section 5111.65 of the Revised Code.

(2) "Continuing ICF/MR" means an ICF/MR to which either of the following apply:

(a) The provider has a valid Medicaid provider agreement for the ICF/MR on June 30, 2012, and a valid Medicaid provider agreement for the ICF/MR during fiscal year 2013.

(b) The ICF/MR undergoes a change of operator that takes effect during fiscal year 2013, the exiting operator has a valid Medicaid provider agreement for the ICF/MR on June 30, 2012, and the entering operator has a valid Medicaid provider agreement for the ICF/MR for at least part of fiscal year 2013 after the change

of operator takes effect. 139525

(3) "Franchise permit fee" and "provider" have the same 139526
meanings as in section 5111.20 of the Revised Code. 139527

(4) "ICF/MR" means an intermediate care facility for the 139528
mentally retarded as defined in section 5111.20 of the Revised 139529
Code. 139530

(5) "ICF/MR services" means services covered by the Medicaid 139531
program that an ICF/MR provides to a Medicaid recipient eligible 139532
for the services. 139533

(6) "Medicaid days" means all days during which a resident 139534
who is a Medicaid recipient occupies a bed in an ICF/MR that is 139535
included in the ICF/MR's Medicaid-certified capacity. Therapeutic 139536
or hospital leave days for which payment is made under section 139537
5111.33 of the Revised Code are considered Medicaid days 139538
proportionate to the percentage of the ICF/MR's per resident per 139539
day rate paid for those days. 139540

(7) "New ICF/MR" means an ICF/MR to which section 5111.255 of 139541
the Revised Code applies for fiscal year 2013. 139542

(8) "Per diem rate" means the per diem rate calculated 139543
pursuant to sections 5111.20 to 5111.33 of the Revised Code. 139544

(B) If the mean total per diem rate for all ICFs/MR in this 139545
state for fiscal year 2013, weighted by May 2012 Medicaid days and 139546
calculated as of July 1, 2012, exceeds \$280.14, the Department of 139547
Job and Family Services shall reduce, for fiscal year 2013, the 139548
total per diem rate for each continuing ICF/MR by a percentage 139549
that is equal to the percentage by which the mean total per diem 139550
rate exceeds \$280.14. 139551

(C) The provider of a new ICF/MR shall be paid, for ICF/MR 139552
services the ICF/MR provides during fiscal year 2013, the rate 139553
calculated for the ICF/MR under section 5111.255 of the Revised 139554

Code reduced by the same percentage that the rate for a continuing ICF/MR is reduced under division (B) of this section. 139555
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(D) The rate of an ICF/MR set pursuant to this section shall not be subject to any adjustments authorized by sections 5111.20 to 5111.33 of the Revised Code, or any rule authorized by those sections, during the remainder of fiscal year 2013. 139557
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(E) If the franchise permit fee must be reduced or eliminated to comply with federal law, the Department of Job and Family Services shall reduce the amount it pays providers of ICF/MR services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee. 139561
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(F) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of a continuing ICF/MR or new ICF/MR for ICF/MR services provided during fiscal year 2013 notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code, except sections 5111.258 and 5111.291 of the Revised Code. 139567
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Section 309.33.20. WAIVER SERVICES TRANSFERRED TO DEPARTMENT OF DEVELOPMENTAL DISABILITIES 139573
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The Director of Budget and Management shall establish line items for use by the Department of Developmental Disabilities for purposes regarding the Department's assumption of powers and duties under section 5111.871 of the Revised Code regarding the Medicaid waiver component known as the Transitions Developmental Disabilities Waiver. The Department of Developmental Disabilities shall certify to the Director of Budget and Management and the Director of Job and Family Services the appropriation amounts, in fiscal year 2012 and fiscal year 2013, necessary for the Department of Developmental Disabilities to fulfill its obligations regarding the new powers and duties without 139575
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duplicating administration or services that remain with the Department of Job and Family Services. The Department of Job and Family Services shall certify to the Director of Budget and Management that there is an equal reduction in the Department of Job and Family Services' administration and services as is being certified by the Department of Developmental Disabilities.

Once all certifications required under this section have been submitted and approved by the Director of Budget and Management, the appropriation items established under this section are hereby appropriated in the amounts approved by the Director of Budget and Management. The appropriations to the Department of Developmental Disabilities in each fiscal year shall not exceed the aggregate amount of expenditures that the Department of Job and Family Services made in fiscal year 2011 for services provided under the Transitions Developmental Disabilities Waiver and related administrative costs. Appropriation item 600525, Health Care/Medicaid, is hereby reduced by the corresponding state and federal share of the amounts appropriated under this section to the Department of Developmental Disabilities in each fiscal year.

Section 309.33.30. ADMINISTRATIVE ISSUES RELATED TO TERMINATION OF MEDICAID WAIVER PROGRAMS

(A) As used in this section, "ODJFS or ODA Medicaid waiver component" means the following:

(1) The Medicaid waiver component of the PASSPORT program created under section 173.40 of the Revised Code;

(2) The Choices program created under section 173.403 of the Revised Code;

(3) The Ohio Home Care program created under section 5111.861 of the Revised Code;

(4) The Ohio Transitions II Aging Carve-Out program created

under section 5111.863 of the Revised Code; 139616

(5) The Medicaid waiver component of the Assisted Living 139617
program created under section 5111.89 of the Revised Code. 139618

(B) If an ODJFS or ODA Medicaid waiver component is 139619
terminated under section 173.40, 173.403, 5111.861, 5111.863, or 139620
5111.89 of the Revised Code, all of the following apply: 139621

(1) All applicable statutes, and all applicable rules, 139622
standards, guidelines, or orders issued by the Director or 139623
Department of Job and Family Services or Director or Department of 139624
Aging before the component is terminated, shall remain in full 139625
force and effect on and after that date, but solely for purposes 139626
of concluding the component's operations, including fulfilling the 139627
Departments' legal obligations for claims arising from the 139628
component relating to eligibility determinations, covered medical 139629
assistance provided to eligible persons, and recovering erroneous 139630
overpayments. 139631

(2) Notwithstanding the termination of the component, the 139632
right of subrogation for the cost of medical assistance given 139633
under section 5101.58 of the Revised Code to the Department of Job 139634
and Family Services and an assignment of the right to medical 139635
assistance given under section 5101.59 of the Revised Code to the 139636
Department continue to apply with respect to the component and 139637
remain in force to the full extent provided under those sections. 139638

(3) The Departments of Job and Family Services and Aging may 139639
use appropriated funds to satisfy any claims or contingent claims 139640
for medical assistance provided under the component before the 139641
component's termination. 139642

(4) Neither department has liability under the component to 139643
reimburse any provider or other person for claims for medical 139644
assistance rendered under the component after it is terminated. 139645

(C) The Directors of Job and Family Services and Aging may 139646

adopt rules in accordance with Chapter 119. of the Revised Code to 139647
implement this section. 139648

Section 309.33.40. BEACON QUALITY IMPROVEMENT INITIATIVES 139649

Building on the quality improvement work of the Best Evidence 139650
for Advancing Child Health in Ohio Now (BEACON) Council, the 139651
Departments of Health, Mental Health, and Job and Family Services, 139652
in conjunction with the Governor's Office of Health 139653
Transformation, may seek assistance from, and work with, the 139654
BEACON Council and hospitals and other provider groups to identify 139655
specific targets and initiatives to reduce the cost, and improve 139656
the quality, of medical assistance provided under the Medicaid 139657
program to children. At a minimum, the targets and initiatives 139658
shall focus on reducing all of the following: 139659

- (A) Avoidable hospitalizations; 139660
- (B) Inappropriate emergency room utilization; 139661
- (C) Use of multiple medications when not medically indicated; 139662
- (D) The state's rate of premature births; 139663
- (E) The state's rate of elective, preterm births. 139664

If the Departments of Health, Mental Health, and Job and 139665
Family Services identify initiatives under this section, they 139666
shall make the initiatives available on their internet web sites. 139667
The Departments shall also make a list of hospitals and other 139668
provider groups involved in the initiatives available on their 139669
internet web sites. 139670

Section 309.33.50. EXPANSION AND EVALUATION OF PACE PROGRAM 139671

(A) In order to effectively administer and manage growth 139672
within the PACE Program, the Director of Aging, in consultation 139673
with the Director of Job and Family Services, may expand the PACE 139674
Program to regions of the state beyond those currently served by 139675

the PACE Program if all of the following apply:	139676
(1) Funding is available for the expansion.	139677
(2) The Directors of Aging and Job and Family Services mutually determine, taking into consideration the results of the evaluation conducted under division (B) of this section, that the PACE Program is a cost effective alternative to nursing home care.	139678 139679 139680 139681
(3) The United States Centers for Medicare and Medicaid Services agrees to share with the state any savings to the Medicare program resulting from an expansion of the PACE Program.	139682 139683 139684
(B) The Director of Aging shall contract with Miami University's Scripps Gerontology Center for an evaluation of the PACE program.	139685 139686 139687
(C) If the PACE Program is expanded, the Director of Aging may not decrease the number of individuals in Cuyahoga and Hamilton counties and parts of Butler, Clermont, and Warren counties who are participants in the PACE Program below the number of individuals in those counties and parts of counties who were participants in the PACE Program on July 1, 2011.	139688 139689 139690 139691 139692 139693
Section 309.33.60. REPEAL OF THE CHILDREN'S BUY-IN PROGRAM	139694
(A) Notwithstanding sections 5101.5211 to 5101.5216 of the Revised Code and all references in the Revised Code to those sections or the Children's Buy-In Program, no person may enroll in the Program on or after the effective date of this section.	139695 139696 139697 139698
Notwithstanding this act's repeal on October 1, 2011, of the statutes under which the Program is operated, persons enrolled in the Program immediately prior to that date may continue to receive services under the Program, as if those statutes were not repealed. Such persons may receive the services through December 31, 2011, as long as they remain eligible for the Program.	139699 139700 139701 139702 139703 139704
(B) Commencing on the effective date of this section, the	139705

Director of Job and Family Services shall take steps as necessary 139706
to transition persons enrolled in the Program to other health 139707
coverage options and otherwise conclude Program operations. 139708

All Program-related rules, standards, guidelines, or orders 139709
issued by the Director or Department of Job and Family Services 139710
prior to October 1, 2011, shall remain in full force and effect on 139711
and after that date, but solely for purposes of concluding the 139712
Program's operations. Such purposes include permitting eligible 139713
persons to receive services under the Program through December 31, 139714
2011, as authorized by this section, and fulfilling the 139715
Department's legal obligations for claims arising from the Program 139716
relating to eligibility determinations, covered medical services 139717
rendered to eligible persons, and recovering erroneous 139718
overpayments. 139719

(C) Notwithstanding this act's repeal of the statutes 139720
authorizing the Program, the right of subrogation for the cost of 139721
medical services and care given under section 5101.58 of the 139722
Revised Code to the Department and an assignment of the right to 139723
medical support given under section 5101.59 of the Revised Code to 139724
the Department continue to apply with respect to the Program and 139725
remain in force to the full extent provided under those sections. 139726

(D) The Department may use appropriated funds to satisfy any 139727
claims or contingent claims for services rendered to Program 139728
participants prior to October 1, 2011, and to eligible persons who 139729
receive services under the Program through December 31, 2011, as 139730
authorized by this section. The Department has no liability under 139731
the Program to reimburse any provider or other person for claims 139732
for services rendered on or after January 1, 2012. 139733

(E) The Department may adopt rules in accordance with section 139734
111.15 of the Revised Code to implement this section. 139735

Section 309.33.70. CONTINUATION OF DISPENSING FEE FOR 139736

NONCOMPOUNDED DRUGS 139737

The Medicaid dispensing fee for each noncompounded drug 139738
covered by the Medicaid program shall be \$1.80 for the period 139739
beginning July 1, 2011, and ending on the effective date of a 139740
rule, or an amendment to a rule, changing the amount of the fee 139741
that the Director of Job and Family Services adopts or amends 139742
under section 5111.02 of the Revised Code. 139743

Section 309.33.80. MONEY FOLLOWS THE PERSON ENHANCED 139744
REIMBURSEMENT FUND 139745

The Money Follows the Person Enhanced Reimbursement Fund, 139746
created by Section 751.20 of Am. Sub. H.B. 562 of the 127th 139747
General Assembly, shall continue to exist in the state treasury 139748
for fiscal year 2012 and fiscal year 2013. The federal payments 139749
made to the state under subsection (e) of section 6071 of the 139750
"Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, 139751
shall be deposited into the fund. The Department of Job and Family 139752
Services shall continue to use money deposited into the fund for 139753
system reform activities related to the Money Follows the Person 139754
demonstration project. 139755

Section 309.33.90. MEDICARE PART D 139756

The foregoing appropriation item 600526, Medicare Part D, may 139757
be used by the Department of Job and Family Services for the 139758
implementation and operation of the Medicare Part D requirements 139759
contained in the "Medicare Prescription Drug, Improvement, and 139760
Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon 139761
the request of the Department of Job and Family Services, the 139762
Director of Budget and Management may transfer the state share of 139763
appropriations between appropriation item 600525, Health 139764
Care/Medicaid, or appropriation item 600526, Medicare Part D. If 139765
the state share of appropriation item 600525, Health 139766

Care/Medicaid, is adjusted, the Director of Budget and Management 139767
shall adjust the federal share accordingly. The Department of Job 139768
and Family Services shall provide notification to the Controlling 139769
Board of any transfers at the next scheduled Controlling Board 139770
meeting. 139771

Section 309.35.10. REBALANCING LONG-TERM CARE 139772

(A) As used in this section: 139773

"Balancing Incentive Payments Program" means the program 139774
established under section 10202 of the Patient Protection and 139775
Affordable Care Act. 139776

"Long-term services and supports" has the same meaning as in 139777
section 10202(f)(1) of the Patient Protection and Affordable Care 139778
Act. 139779

"Non-institutionally-based long-term services and supports" 139780
has the same meaning as in section 10202(f)(1)(B) of the Patient 139781
Protection and Affordable Care Act. 139782

"Patient Protection and Affordable Care Act" means Public Law 139783
111-148. 139784

(B) The Departments of Job and Family Services, Aging, and 139785
Developmental Disabilities shall continue efforts to achieve a 139786
sustainable and balanced delivery system for long-term services 139787
and supports. In so doing, the Departments shall strive to realize 139788
the following goals by June 30, 2013: 139789

(1) Having at least fifty per cent of Medicaid recipients who 139790
are sixty years of age or older and need long-term services and 139791
supports utilize non-institutionally-based long-term services and 139792
supports; 139793

(2) Having at least sixty per cent of Medicaid recipients who 139794
are less than sixty years of age and have cognitive or physical 139795
disabilities for which long-term services and supports are needed 139796

utilize non-institutionally-based long-term services and supports. 139797

(C) If the Department of Job and Family Services determines 139798
that participating in the Balancing Incentive Payments Program 139799
will assist in achieving the goals specified in division (B) of 139800
this section, the Department may apply to the United States 139801
Secretary of Health and Human Services to participate in the 139802
program. Any funds the state receives as the result of the 139803
enhanced federal financial participation provided to states 139804
participating in the Balancing Incentive Payments Program shall be 139805
deposited into the Balancing Incentive Payments Program Fund, 139806
which is hereby created in the state treasury. The Department of 139807
Job and Family Services shall use the money in the fund in 139808
accordance with section 10202(c)(4) of the Patient Protection and 139809
Affordable Care Act. 139810

Section 309.35.20. BALANCING INCENTIVE PAYMENTS PROGRAM FUND 139811

The Director of Job and Family Services may seek Controlling 139812
Board approval to make expenditures from the Balancing Incentive 139813
Payments Program Fund. 139814

Section 309.35.30. DUAL ELIGIBLE INTEGRATED CARE 139815
DEMONSTRATION PROJECT 139816

The Director of Job and Family Services may seek Controlling 139817
Board approval to make expenditures from the Integrated Care 139818
Delivery Systems Fund. 139819

Section 390.35.33. RESIDENTIAL STATE SUPPLEMENT PROGRAM 139820

On July 1 of each fiscal year, or as soon as possible 139821
thereafter, the Director of Budget and Management shall transfer 139822
\$2.8 million cash from the General Revenue Fund to the Nursing 139823
Home Franchise Permit Fee Fund (Fund 5R20) to be used for the 139824
Residential State Supplement program. The transferred cash is 139825

hereby appropriated. 139826

Section 309.35.40. OHIO ACCESS SUCCESS PROJECT AND 139827
IDENTIFICATION OF OVERPAYMENTS 139828

(A) Notwithstanding any limitations in sections 3721.51 and 139829
3721.56 of the Revised Code, in each fiscal year, cash from the 139830
Nursing Home Franchise Permit Fee Fund (Fund 5R20) may be used by 139831
the Department of Job and Family Services for the following 139832
purposes: 139833

(1) Up to \$3,000,000 in each fiscal year to fund the state 139834
share of audits or limited reviews of Medicaid providers; 139835

(2) Up to \$450,000 in each fiscal year to provide one-time 139836
transitional benefits under the Ohio Access Success Project that 139837
the Director of Job and Family Services may establish under 139838
section 5111.97 of the Revised Code. 139839

(B) On July 1, 2011, or as soon as possible thereafter, the 139840
Director of Budget and Management shall transfer the cash balance 139841
in the Home and Community-Based Services for the Aged Fund (Fund 139842
4J50) to the Nursing Home Franchise Permit Fee Fund (Fund 5R20). 139843
The transferred cash is hereby appropriated. Upon completion of 139844
the transfer, Fund 4J50 is abolished. The Director shall cancel 139845
any existing encumbrances against appropriation item 600613, 139846
Nursing Facility Bed Assessments, and appropriation item 600618, 139847
Residential State Supplement Payments, and reestablish them 139848
against appropriation item 600608, Medicaid - Nursing Facilities. 139849

Section 309.35.50. PROVIDER FRANCHISE FEE OFFSETS 139850

(A) At least quarterly, the Director of Job and Family 139851
Services shall certify to the Director of Budget and Management 139852
both of the following: 139853

(1) The amount of offsets withheld under section 3721.541 of 139854

the Revised Code from payments made from the General Revenue Fund.	139855
(2) The amount of offsets withheld under section 5112.341 of the Revised Code from payments made from the General Revenue Fund.	139856
(B) The Director of Budget and Management may transfer cash from the General Revenue Fund to all of the following:	139858
(1) The Nursing Home Franchise Permit Fee Fund (Fund 5R20), in accordance with section 3721.56 of the Revised Code;	139859
(2) The ICF/MR Bed Assessments Fund (Fund 4K10).	139860
(C) Amounts transferred pursuant to this section are hereby appropriated.	139861
Section 309.35.60. TRANSFER OF FUNDS TO THE DEPARTMENT OF DEVELOPMENTAL DISABILITIES	139862
The Department of Job and Family Services may transfer cash in each fiscal year from the ICF/MR Bed Assessments Fund (Fund 4K10) to the Home and Community-Based Services Fund (Fund 4K80), used by the Department of Developmental Disabilities. The amount to be transferred shall be agreed to by both departments. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both departments. The transfer may be made using an intrastate transfer voucher.	139863
Section 309.35.70. HOSPITAL CARE ASSURANCE MATCH	139864
The foregoing appropriation item 600650, Hospital Care Assurance Match, shall be used by the Department of Job and Family Services solely for distributing funds to hospitals under section 5112.08 of the Revised Code.	139865
Section 309.35.73. HEALTHCARE COMPLIANCE APPROPRIATION	139866
Notwithstanding the provisions of section 5111.171 of the Revised Code specifying the uses of the HealthCare Compliance	139867

Fund, appropriations in appropriation item 600625, HealthCare 139883
Compliance, may be used for expenses incurred in implementation or 139884
operation of Health Home programs and for the creation, 139885
modification, or replacement of any federally funded Medicaid 139886
healthcare systems in fiscal year 2012 and fiscal year 2013. 139887

Section 309.35.80. HEALTH CARE SERVICES ADMINISTRATION FUND 139888

Of the amount received by the Department of Job and Family 139889
Services during fiscal year 2012 and fiscal year 2013 from the 139890
first installment of assessments paid under section 5112.06 of the 139891
Revised Code and intergovernmental transfers made under section 139892
5112.07 of the Revised Code, the Director of Job and Family 139893
Services shall deposit \$350,000 in each fiscal year into the state 139894
treasury to the credit of the Health Care Services Administration 139895
Fund (Fund 5U30). 139896

Section 309.35.90. TRANSFERS OF OFFSETS TO THE HEALTH CARE 139897
SERVICES ADMINISTRATION FUND 139898

(A) As used in this section: 139899

"Hospital offset" means an offset from a hospital's Medicaid 139900
payment authorized by section 5112.991 of the Revised Code. 139901

"Vendor offset" means a reduction of a Medicaid payment to a 139902
Medicaid provider to correct a previous, incorrect Medicaid 139903
payment. 139904

(B) At least quarterly during fiscal year 2012 and fiscal 139905
year 2013, the Director of Job and Family Services shall certify 139906
to the Director of Budget and Management the amount of hospital 139907
offsets and vendor offsets for the period covered by the 139908
certification and the particular funds that would have been used 139909
to make the extra payments to providers if not for the offsets. 139910
The certification shall specify how much extra would have been 139911
taken from each of the funds if not for the hospital offsets and 139912

vendor offsets. 139913

(C) On receipt of a certification under division (B) of this 139914
section, the Director of Budget and Management shall transfer cash 139915
from the funds identified in the certification to the Health Care 139916
Services Administration Fund (Fund 5U30). The amount transferred 139917
from a fund shall equal the amount that would have been taken from 139918
the fund if not for the hospital offsets and vendor offsets as 139919
specified in the certification. The transferred cash is hereby 139920
appropriated. 139921

Section 309.37.10. PROVIDER APPLICATION FEES 139922

If receipts credited to the Health Care Services 139923
Administration Fund (Fund 5U30) exceed the amounts appropriated 139924
from the fund, the Director of Job and Family Services may seek 139925
Controlling Board approval to increase the appropriations in 139926
appropriation item 600654, Health Care Services Administration. 139927

Section 309.37.20. INTERAGENCY REIMBURSEMENT 139928

The Director of Job and Family Services may request the 139929
Director of Budget and Management to increase appropriation item 139930
600655, Interagency Reimbursement. Upon the approval of the 139931
Director of Budget and Management, the additional amounts are 139932
hereby appropriated. 139933

Section 309.37.30. MEDICAID PROGRAM SUPPORT FUND - STATE 139934

The foregoing appropriation item 600671, Medicaid Program 139935
Support, shall be used by the Department of Job and Family 139936
Services to pay for Medicaid services and contracts. The 139937
Department may also deposit to the Medicaid Program Support Fund 139938
(Fund 5C90) revenues received from other state agencies for 139939
Medicaid services under the terms of interagency agreements 139940
between the Department and other state agencies. 139941

Section 309.37.40. TRANSFERS OF IMD/DSH CASH TO THE 139942
DEPARTMENT OF MENTAL HEALTH 139943

The Department of Job and Family Services shall transfer cash 139944
from the Medicaid Program Support Fund (Fund 5C90), to the 139945
Behavioral Health Medicaid Services Fund (Fund 4X50), used by the 139946
Department of Mental Health, in accordance with an interagency 139947
agreement that delegates authority from the Department of Job and 139948
Family Services to the Department of Mental Health to administer 139949
specified Medicaid services. The transfer shall be made using an 139950
intrastate transfer voucher. 139951

Section 309.37.50. PRESCRIPTION DRUG COVERAGE UNDER MEDICAID 139952
MANAGED CARE 139953

(A) Not later than October 1, 2011, the Department of Job and 139954
Family Services shall enter into new contracts or amend existing 139955
contracts with health insuring corporations, pursuant to section 139956
5111.17 of the Revised Code, as the Department considers necessary 139957
to require, in accordance with section 5111.172 of the Revised 139958
Code, as amended by this act, that each health insuring 139959
corporation participating in the Medicaid care management system 139960
include coverage of prescription drugs for the Medicaid recipients 139961
who are enrolled in the health insuring corporation. 139962

(B) For a period of one hundred twenty days immediately 139963
following the effective date of the inclusion of prescription drug 139964
coverage under a new or amended contract with a health insuring 139965
corporation pursuant to division (A) of this section, both of the 139966
following apply: 139967

(1) If, immediately prior to the effective date of the 139968
coverage, a Medicaid recipient enrolled in the health insuring 139969
corporation was being treated with an antidepressant or 139970
antipsychotic described in division (B)(2) of section 5111.172 of 139971

the Revised Code, as amended by this act, the health insuring 139972
corporation shall provide coverage of the drug without imposing a 139973
prior authorization requirement. 139974

(2) Notwithstanding division (B)(3) of section 5111.172 of 139975
the Revised Code, as amended by this act, the health insuring 139976
corporation shall permit the health professional who was 139977
prescribing the drug to continue prescribing the drug for the 139978
Medicaid recipient, regardless of whether the prescriber is a 139979
psychiatrist as described in division (B)(3)(a) or (b) of that 139980
section. 139981

Section 309.40. FAMILY STABILITY 139982

Section 309.40.10. FOOD STAMPS TRANSFER 139983

On July 1, 2011, or as soon as possible thereafter, the 139984
Director of Budget and Management may transfer up to \$1,000,000 139985
cash from the Food Stamp Program Fund (Fund 3840), to the Food 139986
Assistance Fund (Fund 5ES0). 139987

Section 309.40.20. NAME OF FOOD STAMP PROGRAM 139988

The Director of Job and Family Services is not required to 139989
amend rules regarding the Food Stamp Program to change the name of 139990
the program to the Supplemental Nutrition Assistance Program. The 139991
Director may refer to the program as the Food Stamp Program or the 139992
Food Assistance Program in rules and documents of the Department 139993
of Job and Family Services. 139994

**Section 309.40.30. OHIO ASSOCIATION OF SECOND HARVEST FOOD 139995
BANKS** 139996

The foregoing appropriation item 600540, Second Harvest Food 139997
Banks, shall be used to provide funds to the Ohio Association of 139998
Second Harvest Food Banks to purchase and distribute food 139999

products. 140000

Notwithstanding section 5101.46 of the Revised Code and any 140001
other provision in this bill, in addition to funds designated for 140002
the Ohio Association of Second Harvest Food Banks in this section, 140003
in fiscal year 2012 and fiscal year 2013, the Director of Job and 140004
Family Services shall provide assistance from eligible funds to 140005
the Ohio Association of Second Harvest Food Banks in an amount up 140006
to or equal to the assistance provided in state fiscal year 2011 140007
from all funds used by the Department, except the General Revenue 140008
Fund. 140009

Eligible nonfederal expenditures made by member food banks of 140010
the Association shall be counted by the Department of Job and 140011
Family Services toward the TANF maintenance of effort requirements 140012
of 42 U.S.C. 609(a)(7). The Director of Job and Family Services 140013
shall enter into an agreement with the Ohio Association of Second 140014
Harvest Food Banks, in accordance with sections 5101.80 and 140015
5101.801 of the Revised Code, to carry out the requirements under 140016
this section. 140017

Section 309.40.40. PUBLIC ASSISTANCE ACTIVITIES/TANF MOE 140018

The foregoing appropriation item 600658, Public Assistance 140019
Activities, shall be used by the Department of Job and Family 140020
Services to meet the TANF maintenance of effort requirements of 42 140021
U.S.C. 609(a)(7). When the state is assured that it will meet the 140022
maintenance of effort requirement, the Department of Job and 140023
Family Services may use funds from appropriation item 600658, 140024
Public Assistance Activities, to support public assistance 140025
activities. 140026

Section 309.40.50. INDEPENDENT LIVING INITIATIVE 140027

Of the foregoing appropriation item 600689, TANF Block Grant, 140028
up to \$2,000,000 in each fiscal year shall be used, in accordance 140029

with sections 5101.80 and 5101.801 of the Revised Code, to support 140030
the Independent Living Initiative, including life skills training 140031
and work supports for older children in foster care and those who 140032
have recently aged out of foster care. 140033

Section 309.40.60. KINSHIP PERMANENCY INCENTIVE PROGRAM 140034

Of the foregoing appropriation item 600689, TANF Block Grant, 140035
\$1,200,000 in each fiscal year shall be used to support the 140036
activities of the Kinship Permanency Incentive Program established 140037
in section 5101.802 of the Revised Code. 140038

Section 309.40.70. SWIPE CARD PILOT PROGRAM 140039

During fiscal year 2012 and fiscal year 2013, if the 140040
Department of Job and Family Services implements a program that 140041
utilizes a swipe card system and point of service device to verify 140042
enrollment and attendance and for payment for publicly funded 140043
child care, both of the following apply: 140044

(A) If a child care provider participating in the program 140045
engages in fraud with respect to reporting a child's enrollment or 140046
attendance, the fraud constitutes a reason for which the 140047
provider's license or certification must be revoked. 140048

(B) If a caretaker parent participating in the program 140049
engages in fraud with respect to reporting a child's enrollment or 140050
attendance, the caretaker parent shall lose eligibility for 140051
publicly funded child care. 140052

Section 309.50. CHILD WELFARE 140053

Section 309.50.10. DIFFERENTIAL RESPONSE 140054

In accordance with an independent evaluation of the Ohio 140055
Alternative Response Pilot Program that recommended statewide 140056
implementation, the Department of Job and Family Services shall 140057

plan the statewide expansion of the Ohio Alternative Response 140058
Pilot Program on a county by county basis, through a schedule 140059
determined by the Department. The program shall be known as the 140060
"differential response" approach as defined in section 2151.011 of 140061
the Revised Code. Notwithstanding provisions of Chapter 2151. of 140062
the Revised Code that refer to "differential response," 140063
"traditional response," and "alternative response," those 140064
provisions shall become effective on the scheduled date of 140065
expansion of the differential response approach to that county. 140066
Prior to statewide implementation, the Department may adopt rules 140067
in accordance with Chapter 119. of the Revised Code as necessary 140068
to carry out the purposes of this section. 140069

Section 309.50.20. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN 140070

In collaboration with the county family and children first 140071
council, a county department of job and family services or public 140072
children services agency that receives an allocation from the 140073
Department of Job and Family Services from the foregoing 140074
appropriation item 600523, Children and Families Services, or 140075
600533, Child, Family, and Adult Community & Protective Services, 140076
may transfer a portion of either or both allocations to a flexible 140077
funding pool as authorized by the section titled FAMILY AND 140078
CHILDREN FIRST FLEXIBLE FUNDING POOL. 140079

Section 309.50.30. CHILD, FAMILY, AND ADULT COMMUNITY AND 140080
PROTECTIVE SERVICES 140081

(A) The foregoing appropriation item 600533, Child, Family, 140082
and Adult Community & Protective Services, shall be distributed to 140083
each county department of job and family services using the 140084
formula the Department of Job and Family Services uses when 140085
distributing Title XX funds to county departments of job and 140086
family services under section 5101.46 of the Revised Code. County 140087

departments shall use the funds distributed to them under this 140088
section as follows, in accordance with the written plan of 140089
cooperation entered into under section 307.983 of the Revised 140090
Code: 140091

(1) To assist individuals achieve or maintain 140092
self-sufficiency, including by reducing or preventing dependency 140093
among individuals with family income not exceeding two hundred per 140094
cent of the federal poverty guidelines; 140095

(2) Subject to division (B) of this section, to respond to 140096
reports of abuse, neglect, or exploitation of children and adults, 140097
including through the differential response approach program 140098
developed under Section 309.50.10 of this act; 140099

(3) To provide outreach and referral services regarding home 140100
and community-based services to individuals at risk of placement 140101
in a group home or institution, regardless of the individuals' 140102
family income and without need for a written application; 140103

(4) To provide outreach, referral, application assistance, 140104
and other services to assist individuals receive assistance, 140105
benefits, or services under Medicaid; Title IV-A programs, as 140106
defined in section 5101.80 of the Revised Code; the Supplemental 140107
Nutrition Assistance Program; and other public assistance 140108
programs. 140109

(B) Protective services may be provided to a child or adult 140110
as part of a response, under division (A)(2) of this section, to a 140111
report of abuse, neglect, or exploitation without regard to a 140112
child or adult's family income and without need for a written 140113
application. The protective services may be provided if the case 140114
record documents circumstances of actual or potential abuse, 140115
neglect, or exploitation. 140116

Section 309.50.33. CHILDREN AND FAMILY SERVICES ACTIVITIES 140117

The foregoing appropriation item 600609, Children and Family Services Activities, shall be used to expend miscellaneous foundation funds and grants to support children and family services activities.

Section 309.50.40. ADOPTION ASSISTANCE LOAN 140122

Of the foregoing appropriation item 600634, Adoption Assistance Loan, the Department of Job and Family Services may use up to ten per cent for administration of adoption assistance loans pursuant to section 3107.018 of the Revised Code.

Section 309.60. UNEMPLOYMENT COMPENSATION 140127

Section 309.60.10. FEDERAL UNEMPLOYMENT PROGRAMS 140128

All unexpended funds remaining at the end of fiscal year 2011 that were appropriated and made available to the state under section 903(d) of the Social Security Act, as amended, in the foregoing appropriation item 600678, Federal Unemployment Programs (Fund 3V40), are hereby appropriated to the Department of Job and Family Services. Upon the request of the Director of Job and Family Services, the Director of Budget and Management may increase the appropriation for fiscal year 2012 by the amount remaining unspent from the fiscal year 2011 appropriation and may increase the appropriation for fiscal year 2013 by the amount remaining unspent from the fiscal year 2012 appropriation. The appropriation shall be used under the direction of the Department of Job and Family Services to pay for administrative activities for the Unemployment Insurance Program, employment services, and other allowable expenditures under section 903(d) of the Social Security Act, as amended.

The amounts obligated pursuant to this section shall not exceed at any time the amount by which the aggregate of the

amounts transferred to the account of the state under section 140147
903(d) of the Social Security Act, as amended, exceeds the 140148
aggregate of the amounts obligated for administration and paid out 140149
for benefits and required by law to be charged against the amounts 140150
transferred to the account of the state. 140151

Section 311.10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW 140152

General Revenue Fund 140153

GRF 029321 Operating Expenses \$ 435,168 \$ 435,168 140154

TOTAL GRF General Revenue Fund \$ 435,168 \$ 435,168 140155

TOTAL ALL BUDGET FUND GROUPS \$ 435,168 \$ 435,168 140156

OPERATING GUIDANCE 140157

The Chief Administrative Officer of the House of 140158
Representatives and the Clerk of the Senate shall determine, by 140159
mutual agreement, which of them shall act as fiscal agent for the 140160
Joint Committee on Agency Rule Review. Members of the Committee 140161
shall be paid in accordance with section 101.35 of the Revised 140162
Code. 140163

OPERATING EXPENSES 140164

On July 1, 2011, or as soon as possible thereafter, the 140165
Executive Director of the Joint Committee on Agency Rule Review 140166
may certify to the Director of Budget and Management the amount of 140167
the unexpended, unencumbered balance of the foregoing 140168
appropriation item 029321, Operating Expenses, at the end of 140169
fiscal year 2011 to be reappropriated to fiscal year 2012. The 140170
amount certified is hereby reappropriated to the same 140171
appropriation item for fiscal year 2012. 140172

On July 1, 2012, or as soon as possible thereafter, the 140173
Executive Director of the Joint Committee on Agency Rule Review 140174
may certify to the Director of Budget and Management the amount of 140175
the unexpended, unencumbered balance of the foregoing 140176

appropriation item 029321, Operating Expenses, at the end of 140177
fiscal year 2012 to be reappropriated to fiscal year 2013. The 140178
amount certified is hereby reappropriated to the same 140179
appropriation item for fiscal year 2013. 140180

Section 313.10. JCO JUDICIAL CONFERENCE OF OHIO 140181

General Revenue Fund 140182

GRF 018321 Operating Expenses \$ 720,000 \$ 720,000 140183

TOTAL GRF General Revenue Fund \$ 720,000 \$ 720,000 140184

General Services Fund Group 140185

4030 018601 Ohio Jury \$ 350,000 \$ 350,000 140186

Instructions

TOTAL GSF General Services Fund \$ 350,000 \$ 350,000 140187

Group

TOTAL ALL BUDGET FUND GROUPS \$ 1,070,000 \$ 1,070,000 140188

OHIO JURY INSTRUCTIONS FUND 140189

The Ohio Jury Instructions Fund (Fund 4030) shall consist of 140190
grants, royalties, dues, conference fees, bequests, devises, and 140191
other gifts received for the purpose of supporting costs incurred 140192
by the Judicial Conference of Ohio in its activities as a part of 140193
the judicial system of the state as determined by the Judicial 140194
Conference Executive Committee. Fund 4030 shall be used by the 140195
Judicial Conference of Ohio to pay expenses incurred in its 140196
activities as a part of the judicial system of the state as 140197
determined by the Judicial Conference Executive Committee. All 140198
moneys accruing to Fund 4030 in excess of \$350,000 in fiscal year 140199
2012 and in excess of \$350,000 in fiscal year 2013 are hereby 140200
appropriated for the purposes authorized. 140201

No money in Fund 4030 shall be transferred to any other fund 140202
by the Director of Budget and Management or the Controlling Board. 140203

Section 315.10. JSC THE JUDICIARY/SUPREME COURT 140204

General Revenue Fund				140205
GRF	005321	Operating Expenses -	\$ 133,704,620 \$ 132,565,410	140206
Judiciary/Supreme Court				
GRF	005406	Law Related Education	\$ 236,172 \$ 236,172	140207
GRF	005409	Ohio Courts	\$ 2,150,000 \$ 2,150,000	140208
Technology Initiative				
TOTAL GRF	General Revenue Fund		\$ 136,090,792 \$ 134,951,582	140209
General Services Fund Group				140210
6720	005601	Continuing Judicial Education	\$ 172,142 \$ 169,420	140211
TOTAL GSF	General Services Fund Group		\$ 172,142 \$ 169,420	140212
Federal Special Revenue Fund Group				140213
3J00	005603	Federal Grants	\$ 1,653,317 \$ 1,605,717	140214
TOTAL FED	Federal Special Revenue Fund Group		\$ 1,653,317 \$ 1,605,717	140215
State Special Revenue Fund Group				140216
4C80	005605	Attorney Services	\$ 3,718,328 \$ 3,695,192	140217
5HT0	005617	Court Interpreter Certification	\$ 39,000 \$ 39,000	140218
5T80	005609	Grants and Awards	\$ 50,000 \$ 50,000	140219
6A80	005606	Supreme Court Admissions	\$ 1,223,340 \$ 1,205,056	140220
TOTAL SSR	State Special Revenue Fund Group		\$ 5,030,668 \$ 4,989,248	140221
TOTAL ALL BUDGET FUND GROUPS			\$ 142,946,919 \$ 141,715,967	140222
LAW-RELATED EDUCATION				140223
The foregoing appropriation item 005406, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing				140224 140225 140226

citizenship education activities to primary and secondary 140227
students, expanding delinquency prevention programs, increasing 140228
activities for at-risk youth, and accessing additional public and 140229
private money for new programs. 140230

OHIO COURTS TECHNOLOGY INITIATIVE 140231

The foregoing appropriation item 005409, Ohio Courts 140232
Technology Initiative, shall be used to fund an initiative by the 140233
Supreme Court to facilitate the exchange of information and 140234
warehousing of data by and between Ohio courts and other justice 140235
system partners through the creation of an Ohio Courts Network, 140236
the delivery of technology services to courts throughout the 140237
state, including the provision of hardware, software, and the 140238
development and implementation of educational and training 140239
programs for judges and court personnel, and operation of the 140240
Commission on Technology and the Courts by the Supreme Court for 140241
the promulgation of statewide rules, policies, and uniform 140242
standards, and to aid in the orderly adoption and comprehensive 140243
use of technology in Ohio courts. 140244

CONTINUING JUDICIAL EDUCATION 140245

The Continuing Judicial Education Fund (Fund 6720) shall 140246
consist of fees paid by judges and court personnel for attending 140247
continuing education courses and other gifts and grants received 140248
for the purpose of continuing judicial education. The foregoing 140249
appropriation item 005601, Continuing Judicial Education, shall be 140250
used to pay expenses for continuing education courses for judges 140251
and court personnel. If it is determined by the Administrative 140252
Director of the Supreme Court that additional appropriations are 140253
necessary, the amounts are hereby appropriated. 140254

No money in Fund 6720 shall be transferred to any other fund 140255
by the Director of Budget and Management or the Controlling Board. 140256
Interest earned on money in Fund 6720 shall be credited to the 140257

fund. 140258

FEDERAL GRANTS 140259

The Federal Grants Fund (Fund 3J00) shall consist of grants 140260
and other moneys awarded to the Supreme Court (The Judiciary) by 140261
the United States Government or other entities that receive the 140262
moneys directly from the United States Government and distribute 140263
those moneys to the Supreme Court (The Judiciary). The foregoing 140264
appropriation item 005603, Federal Grants, shall be used in a 140265
manner consistent with the purpose of the grant or award. If it is 140266
determined by the Administrative Director of the Supreme Court 140267
that additional appropriations are necessary, the amounts are 140268
hereby appropriated. 140269

No money in Fund 3J00 shall be transferred to any other fund 140270
by the Director of Budget and Management or the Controlling Board. 140271
However, interest earned on money in Fund 3J00 shall be credited 140272
or transferred to the General Revenue Fund. 140273

ATTORNEY SERVICES 140274

The Attorney Services Fund (Fund 4C80), formerly known as the 140275
Attorney Registration Fund, shall consist of money received by the 140276
Supreme Court (The Judiciary) pursuant to the Rules for the 140277
Government of the Bar of Ohio. In addition to funding other 140278
activities considered appropriate by the Supreme Court, the 140279
foregoing appropriation item 005605, Attorney Services, may be 140280
used to compensate employees and to fund appropriate activities of 140281
the following offices established by the Supreme Court: the Office 140282
of Disciplinary Counsel, the Board of Commissioners on Grievances 140283
and Discipline, the Clients' Security Fund, and the Attorney 140284
Services Division. If it is determined by the Administrative 140285
Director of the Supreme Court that additional appropriations are 140286
necessary, the amounts are hereby appropriated. 140287

No money in Fund 4C80 shall be transferred to any other fund 140288

by the Director of Budget and Management or the Controlling Board. 140289
Interest earned on money in Fund 4C80 shall be credited to the 140290
fund. 140291

COURT INTERPRETER CERTIFICATION 140292

The Court Interpreter Certification Fund (Fund 5HT0) shall 140293
consist of money received by the Supreme Court (The Judiciary) 140294
pursuant to Rules 80 through 87 of the Rules of Superintendence 140295
for the Courts of Ohio. The foregoing appropriation item 005617, 140296
Court Interpreter Certification, shall be used to provide 140297
training, to provide the written examination, and to pay language 140298
experts to rate, or grade, the oral examinations of those applying 140299
to become certified court interpreters. If it is determined by the 140300
Administrative Director that additional appropriations are 140301
necessary, the amounts are hereby appropriated. 140302

No money in Fund 5HT0 shall be transferred to any other fund 140303
by the Director of Budget and Management or the Controlling Board. 140304
Interest earned on money in Fund 5HT0 shall be credited to the 140305
fund. 140306

GRANTS AND AWARDS 140307

The Grants and Awards Fund (Fund 5T80) shall consist of 140308
grants and other money awarded to the Supreme Court (The 140309
Judiciary) by the State Justice Institute, the Division of 140310
Criminal Justice Services, or other entities. The foregoing 140311
appropriation item 005609, Grants and Awards, shall be used in a 140312
manner consistent with the purpose of the grant or award. If it is 140313
determined by the Administrative Director of the Supreme Court 140314
that additional appropriations are necessary, the amounts are 140315
hereby appropriated. 140316

No money in Fund 5T80 shall be transferred to any other fund 140317
by the Director of Budget and Management or the Controlling Board. 140318
However, interest earned on money in Fund 5T80 shall be credited 140319

or transferred to the General Revenue Fund.				140320
SUPREME COURT ADMISSIONS				140321
The foregoing appropriation item 005606, Supreme Court				140322
Admissions, shall be used to compensate Supreme Court employees				140323
who are primarily responsible for administering the attorney				140324
admissions program under the Rules for the Government of the Bar				140325
of Ohio, and to fund any other activities considered appropriate				140326
by the court. Moneys shall be deposited into the Supreme Court				140327
Admissions Fund (Fund 6A80) under the Supreme Court Rules for the				140328
Government of the Bar of Ohio. If it is determined by the				140329
Administrative Director of the Supreme Court that additional				140330
appropriations are necessary, the amounts are hereby appropriated.				140331
No money in Fund 6A80 shall be transferred to any other fund				140332
by the Director of Budget and Management or the Controlling Board.				140333
Interest earned on money in Fund 6A80 shall be credited to the				140334
fund.				140335
Section 317.10. LEC LAKE ERIE COMMISSION				140336
Federal Special Revenue Fund Group				140337
3EP0 780603 Lake Erie Federal	\$	95,750	\$ 95,750	140338
Grants				
TOTAL FED Federal Special Revenue	\$	95,750	\$ 95,750	140339
Fund Group				
State Special Revenue Fund Group				140340
4C00 780601 Lake Erie Protection	\$	400,000	\$ 400,000	140341
Fund				
5D80 780602 Lake Erie Resources	\$	261,783	\$ 250,143	140342
Fund				
TOTAL SSR State Special Revenue				140343
Fund Group	\$	661,783	\$ 650,143	140344
TOTAL ALL BUDGET FUND GROUPS	\$	757,533	\$ 745,893	140345

Section 319.10. LRS LEGAL RIGHTS SERVICE				140347
General Revenue Fund				140348
GRF	054321	Support Services	\$ 97,255 \$	24,314 140349
GRF	054401	Ombudsman	\$ 142,003 \$	35,750 140350
TOTAL GRF General Revenue Fund			\$ 239,258 \$	60,064 140351
General Services Fund Group				140352
5M00	054610	Settlements	\$ 181,352 \$	32,839 140353
TOTAL GSF General Services				140354
Fund Group			\$ 181,352 \$	32,839 140355
Federal Special Revenue Fund Group				140356
3050	054602	Protection and Advocacy - Developmentally Disabled	\$ 1,662,991 \$	415,748 140357
3AG0	054613	Protection and Advocacy - Voter Accessibility	\$ 135,000 \$	33,752 140358
3B80	054603	Protection and Advocacy - Mentally Ill	\$ 1,152,677 \$	288,170 140359
3CA0	054615	Work Incentives Planning and Assistance	\$ 355,000 \$	88,752 140360
3N30	054606	Protection and Advocacy - Individual Rights	\$ 591,112 \$	147,779 140361
3N90	054607	Assistive Technology	\$ 135,000 \$	33,751 140362
3R90	054616	Developmental Disability Publications	\$ 130,000 \$	32,500 140363
3T20	054609	Client Assistance	\$ 435,000 \$	108,752 140364

	Program				
3X10 054611	Protection and Advocacy - Beneficiaries of Social Security	\$	235,000	\$	58,752 140365
3Z60 054612	Protection and Advocacy - Traumatic Brain Injury	\$	151,624	\$	37,907 140366
TOTAL FED	Federal Special Revenue				140367
Fund Group		\$	4,983,404	\$	1,245,863 140368
State Special Revenue	Fund Group				140369
5AE0 054614	Grants and Contracts	\$	74,600	\$	18,652 140370
TOTAL SSR	State Special Revenue	\$	74,600	\$	18,652 140371
Fund Group					
TOTAL ALL BUDGET FUND GROUPS		\$	5,478,614	\$	1,357,418 140372

Section 319.20. CONVERSION OF LEGAL RIGHTS SERVICE TO A NONPROFIT ENTITY 140374
140375

(A) Not later than December 31, 2011, the administrator of the Legal Rights Service, in consultation with the Legal Rights Service Commission, shall establish a nonprofit entity to provide advocacy services and a client assistance program for people with disabilities. The Legal Rights Service may subcontract with the nonprofit entity to perform any functions that the Legal Rights Service is permitted or required to perform. 140376
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(B)(1) Not later than September 30, 2012, and subject to division (B)(2) of this section, the Governor shall designate the nonprofit entity established under division (A) of this section to serve as the state's protection and advocacy system, as provided under 42 U.S.C. 15001, and as the state's client assistance program, as provided under 29 U.S.C. 732. On October 1, 2012, pursuant to section 5123.60 of the Revised Code, as enacted by 140383
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this act, the nonprofit entity is the Ohio Protection and Advocacy System. 140390
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(2) The Governor shall make the designation only if the nonprofit entity complies with all federal law regarding a protection and advocacy system and client assistance program. 140392
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140394

(C) Effective October 1, 2012, the Legal Rights Service, the Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service are abolished. 140395
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Any aspect of the function of the Legal Rights Service, Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service commenced, but not completed on October 1, 2012 shall be completed by the nonprofit entity in the same manner, and with the same effect, as if completed by the Legal Rights Service, Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service as they existed immediately prior to October 1, 2012. No validation, cure, right, privilege, remedy, obligation, or liability pertaining to the Legal Rights Service, Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service is lost or impaired by reason of the abolishment of the Legal Rights Service, Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service. Each such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the nonprofit entity established under division (A) of this section. 140398
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Any action or proceeding that is related to the functions or duties of the Legal Rights Service, Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service pending on September 30, 2012, is not affected by the abolishment of the Legal Rights Service, the Legal Rights Service Commission, and the Ombudsperson Section of the Legal Rights Service and shall be prosecuted or defended in the name of the 140415
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nonprofit entity. In all such actions and proceedings the 140422
 nonprofit entity, on application to the court, shall be 140423
 substituted as a party. 140424

(D) The foregoing appropriation items 054321, Support 140425
 Services, and 054401, Ombudsman, may be used to support the costs 140426
 of transitioning the Ohio Legal Rights Service into a nonprofit 140427
 entity. 140428

Section 321.10. JLE JOINT LEGISLATIVE ETHICS COMMITTEE 140429

General Revenue Fund 140430

GRF 028321 Legislative Ethics \$ 550,000 \$ 550,000 140431
 Committee

TOTAL GRF General Revenue Fund \$ 550,000 \$ 550,000 140432

General Services Fund Group 140433

4G70 028601 Joint Legislative \$ 100,000 \$ 100,000 140434
 Ethics Committee

TOTAL GSF General Services Fund \$ 100,000 \$ 100,000 140435

Group

TOTAL ALL BUDGET FUND GROUPS \$ 650,000 \$ 650,000 140436

Section 323.10. LSC LEGISLATIVE SERVICE COMMISSION 140437

General Revenue Fund 140438

GRF 035321 Operating Expenses \$ 15,117,700 \$ 15,117,700 140439

GRF 035402 Legislative Fellows \$ 1,022,120 \$ 1,022,120 140440

GRF 035405 Correctional \$ 438,900 \$ 438,900 140441
 Institution

Inspection Committee

GRF 035407 Legislative Task \$ 750,000 \$ 750,000 140442

Force on

Redistricting

GRF 035409 National Associations \$ 460,560 \$ 460,560 140443

GRF 035410 Legislative \$ 3,661,250 \$ 3,661,250 140444

Information Systems			
TOTAL GRF General Revenue Fund	\$	21,450,530	\$ 21,450,530 140445
General Services Fund Group			140446
4100 035601 Sale of Publications	\$	10,000	\$ 10,000 140447
4F60 035603 Legislative Budget	\$	200,000	\$ 200,000 140448
Services			
5EF0 035607 Legislative Agency	\$	30,000	\$ 30,000 140449
Telephone Usage			
TOTAL GSF General Services			140450
Fund Group	\$	240,000	\$ 240,000 140451
TOTAL ALL BUDGET FUND GROUPS	\$	21,690,530	\$ 21,690,530 140452
LEGISLATIVE TASK FORCE ON REDISTRICTING			140453
An amount equal to the unexpended, unencumbered portion of			140454
the foregoing appropriation item 035407, Legislative Task Force on			140455
Redistricting, at the end of fiscal year 2011 is hereby			140456
reappropriated to the Legislative Service Commission for the same			140457
purpose for fiscal year 2012.			140458
Section 325.10. LIB STATE LIBRARY BOARD			140459
General Revenue Fund			140460
GRF 350321 Operating Expenses	\$	5,057,312	\$ 5,057,364 140461
GRF 350401 Ohioana Rental	\$	124,437	\$ 124,437 140462
Payments			
GRF 350502 Regional Library	\$	582,469	\$ 582,469 140463
Systems			
TOTAL GRF General Revenue Fund	\$	5,764,218	\$ 5,764,270 140464
General Services Fund Group			140465
1390 350602 Intra-Agency Service	\$	9,000	\$ 9,000 140466
Charges			
4590 350603 Library Service	\$	2,986,424	\$ 2,986,180 140467
Charges			

4S40	350604	Ohio Public Library	\$	5,689,401	\$	5,689,788	140468
		Information Network					
5GB0	350605	Library for the Blind	\$	1,274,194	\$	1,274,194	140469
5GG0	350606	Gates Foundation	\$	6,000	\$	0	140470
		Grants					
TOTAL GSF General Services							140471
Fund Group			\$	9,965,019	\$	9,959,162	140472
Federal Special Revenue Fund Group							140473
3130	350601	LSTA Federal	\$	5,879,314	\$	5,879,314	140474
TOTAL FED Federal Special Revenue							140475
Fund Group			\$	5,879,314	\$	5,879,314	140476
TOTAL ALL BUDGET FUND GROUPS							140477
OHIOANA RENTAL PAYMENTS							140478
The foregoing appropriation item 350401, Ohioana Rental							140479
Payments, shall be used to pay the rental expenses of the Martha							140480
Kinney Cooper Ohioana Library Association under section 3375.61 of							140481
the Revised Code.							140482
REGIONAL LIBRARY SYSTEMS							140483
The foregoing appropriation item 350502, Regional Library							140484
Systems, shall be used to support regional library systems							140485
eligible for funding under sections 3375.83 and 3375.90 of the							140486
Revised Code.							140487
OHIO PUBLIC LIBRARY INFORMATION NETWORK							140488
(A) The foregoing appropriation item 350604, Ohio Public							140489
Library Information Network, shall be used for an information							140490
telecommunications network linking public libraries in the state							140491
and such others as may participate in the Ohio Public Library							140492
Information Network (OPLIN).							140493
The Ohio Public Library Information Network Board of Trustees							140494
created under section 3375.65 of the Revised Code may make							140495
decisions regarding use of the foregoing appropriation item							140496

350604, Ohio Public Library Information Network. 140497

(B) Of the foregoing appropriation item 350604, Ohio Public 140498
Library Information Network, up to \$81,000 in each fiscal year 140499
shall be used to help local libraries use filters to screen out 140500
obscene and illegal internet materials. 140501

The OPLIN Board shall research and assist or advise local 140502
libraries with regard to emerging technologies and methods that 140503
may be effective means to control access to obscene and illegal 140504
materials. The OPLIN Director shall provide written reports upon 140505
request within ten days to the Governor, the Speaker and Minority 140506
Leader of the House of Representatives, and the President and 140507
Minority Leader of the Senate on any steps being taken by OPLIN 140508
and public libraries in the state to limit and control such 140509
improper usage as well as information on technological, legal, and 140510
law enforcement trends nationally and internationally affecting 140511
this area of public access and service. 140512

(C) The Ohio Public Library Information Network, INFOhio, and 140513
OhioLINK shall, to the extent feasible, coordinate and cooperate 140514
in their purchase or other acquisition of the use of electronic 140515
databases for their respective users and shall contribute funds in 140516
an equitable manner to such effort. 140517

LIBRARY FOR THE BLIND 140518

The foregoing appropriation item 350605, Library for the 140519
Blind, shall be used for the statewide Talking Book Program to 140520
assist the blind and disabled. 140521

TRANSFER TO OPLIN TECHNOLOGY FUND 140522

Notwithstanding sections 5747.03 and 5747.47 of the Revised 140523
Code and any other provision of law to the contrary, in accordance 140524
with a schedule established by the Director of Budget and 140525
Management, the Director of Budget and Management shall transfer 140526
\$3,689,401 in cash in fiscal year 2012 and \$3,689,788 in cash in 140527

fiscal year 2013 from the Public Library Fund (Fund 7065) to the 140528
 OPLIN Technology Fund (Fund 4S40). 140529

TRANSFER TO LIBRARY FOR THE BLIND FUND 140530

Notwithstanding sections 5747.03 and 5747.47 of the Revised 140531
 Code and any other provision of law to the contrary, in accordance 140532
 with a schedule established by the Director of Budget and 140533
 Management, the Director of Budget and Management shall transfer 140534
 \$1,274,194 cash in each fiscal year from the Public Library Fund 140535
 (Fund 7065) to the Library for the Blind Fund (Fund 5GB0). 140536

Section 327.10. LCO LIQUOR CONTROL COMMISSION 140537

Liquor Control Fund Group 140538

7043 970321	Operating Expenses	\$	753,933	\$	754,146	140539
TOTAL LCF Liquor Control Fund Group		\$	753,933	\$	754,146	140540
TOTAL ALL BUDGET FUND GROUPS		\$	753,933	\$	754,146	140541

Section 329.10. LOT STATE LOTTERY COMMISSION 140543

State Lottery Fund Group 140544

2310 950604	Charitable Gaming	\$	1,946,000	\$	1,946,000	140545
Oversight						
7044 950100	Personal Services	\$	26,000,000	\$	26,000,000	140546
7044 950200	Maintenance	\$	13,558,000	\$	13,266,150	140547
7044 950300	Equipment	\$	4,810,440	\$	4,465,690	140548
7044 950402	Advertising Contracts	\$	21,756,000	\$	21,756,000	140549
7044 950403	Gaming Contracts	\$	46,476,608	\$	47,359,732	140550
7044 950500	Problem Gambling	\$	350,000	\$	350,000	140551
Subsidy						
7044 950601	Direct Prize Payments	\$	131,995,700	\$	133,263,456	140552
8710 950602	Annuity Prizes	\$	77,206,258	\$	77,641,283	140553
TOTAL SLF State Lottery Fund						140554
Group		\$	324,099,006	\$	326,048,311	140555
TOTAL ALL BUDGET FUND GROUPS		\$	324,099,006	\$	326,048,311	140556

OPERATING EXPENSES	140557
Notwithstanding sections 127.14 and 131.35 of the Revised Code, the Controlling Board may, at the request of the State Lottery Commission, authorize expenditures from the State Lottery Fund in excess of the amounts appropriated, up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets. Upon the approval of the Controlling Board, the additional amounts are hereby appropriated.	140558 140559 140560 140561 140562 140563 140564
DIRECT PRIZE PAYMENTS	140565
Any amounts, in addition to the amounts appropriated in appropriation item 950601, Direct Prize Payments, that the Director of the State Lottery Commission determines to be necessary to fund prizes are hereby appropriated.	140566 140567 140568 140569
ANNUITY PRIZES	140570
Upon request of the State Lottery Commission, the Director of Budget and Management may transfer cash from the State Lottery Fund (Fund 7044) to the Deferred Prizes Trust Fund (Fund 8710) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 8710) the pro rata share of interest earned by the Treasurer of State on invested balances.	140571 140572 140573 140574 140575 140576 140577
Any amounts, in addition to the amounts appropriated in appropriation item 950602, Annuity Prizes, that the Director of the State Lottery Commission determines to be necessary to fund deferred prizes and interest earnings are hereby appropriated.	140578 140579 140580 140581
TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND	140582
The Director of Budget and Management shall transfer an amount greater than or equal to \$717,500,000 in fiscal year 2012 and \$680,500,000 in fiscal year 2013 from the State Lottery Fund to the Lottery Profits Education Fund (Fund 7017). Transfers from	140583 140584 140585 140586

the State Lottery Fund to the Lottery Profits Education Fund shall 140587
represent the estimated net income from operations for the 140588
Commission in fiscal year 2012 and fiscal year 2013. Transfers by 140589
the Director of Budget and Management to the Lottery Profits 140590
Education Fund shall be administered as the statutes direct. 140591

Section 331.10. MHC MANUFACTURED HOMES COMMISSION 140592

General Services Fund Group 140593
4K90 996609 Operating Expenses \$ 652,922 \$ 642,267 140594
TOTAL GSF General Services 140595
Fund Group \$ 652,922 \$ 642,267 140596
TOTAL ALL BUDGET FUND GROUPS \$ 652,922 \$ 642,267 140597

Section 333.10. MED STATE MEDICAL BOARD 140599

General Services Fund Group 140600
5C60 883609 Operating Expenses \$ 9,292,393 \$ 9,172,062 140601
TOTAL GSF General Services 140602
Fund Group \$ 9,292,393 \$ 9,172,062 140603
TOTAL ALL BUDGET FUND GROUPS \$ 9,292,393 \$ 9,172,062 140604

Section 335.10. AMB OHIO MEDICAL TRANSPORTATION BOARD 140606

General Services Fund Group 140607
4K90 915604 Operating Expenses \$ 493,641 \$ 493,856 140608
TOTAL GSF General Services 140609
Fund Group \$ 493,641 \$ 493,856 140610
TOTAL ALL BUDGET FUND GROUPS \$ 493,641 \$ 493,856 140611

Section 337.10. DMH DEPARTMENT OF MENTAL HEALTH 140613

General Revenue Fund 140614
GRF 332401 Forensic Services \$ 3,244,251 \$ 3,244,251 140615
GRF 333321 Central \$ 16,000,000 \$ 16,000,000 140616
Administration

GRF	333402	Resident Trainees	\$	450,000	\$	450,000	140617
GRF	333403	Pre-Admission Screening Expenses	\$	486,119	\$	486,119	140618
GRF	333415	Lease-Rental Payments	\$	18,394,250	\$	19,907,900	140619
GRF	333416	Research Program Evaluation	\$	421,724	\$	421,998	140620
GRF	334412	Hospital Services	\$	194,918,888	\$	192,051,209	140621
GRF	334506	Court Costs	\$	584,210	\$	584,210	140622
GRF	335405	Family & Children First	\$	1,386,000	\$	1,386,000	140623
GRF	335419	Community Medication Subsidy	\$	8,963,818	\$	8,963,818	140624
GRF	335501	Mental Health Medicaid Match	\$	186,400,000	\$	0	140625
GRF	335505	Local Mental Health Systems of Care	\$	44,963,776	\$	54,087,955	140626
GRF	335506	Residential State Supplement	\$	4,702,875	\$	4,702,875	140627
TOTAL GRF	General Revenue Fund		\$	480,915,911	\$	302,286,335	140628
General Services Fund Group							140629
1490	333609	Central Office Operating	\$	1,343,190	\$	1,343,190	140630
1490	334609	Hospital - Operating Expenses	\$	28,190,000	\$	28,190,000	140631
1500	334620	Special Education	\$	150,000	\$	150,000	140632
4P90	335604	Community Mental Health Projects	\$	4,061,100	\$	250,000	140633
1510	336601	Office of Support Services	\$	129,770,770	\$	129,779,822	140634
TOTAL GSF	General Services Fund Group		\$	163,515,060	\$	159,713,012	140635
Federal Special Revenue Fund Group							140636

3240	333605	Medicaid/Medicare	\$	154,500	\$	154,500	140637
3A60	333608	Community and Hospital Services	\$	140,000	\$	140,000	140638
3A70	333612	Social Services Block Grant	\$	50,000	\$	50,000	140639
3A80	333613	Federal Grant - Administration	\$	4,717,000	\$	4,717,000	140640
3A90	333614	Mental Health Block Grant - Administration	\$	748,470	\$	748,470	140641
3B10	333635	Community Medicaid Expansion	\$	13,691,682	\$	13,691,682	140642
3240	334605	Medicaid/Medicare	\$	28,200,000	\$	28,200,000	140643
3A60	334608	Federal Miscellaneous	\$	200,000	\$	200,000	140644
3A80	334613	Federal Letter of Credit	\$	200,000	\$	200,000	140645
3A60	335608	Federal Miscellaneous	\$	2,170,000	\$	2,170,000	140646
3A70	335612	Social Services Block Grant	\$	8,400,000	\$	8,400,000	140647
3A80	335613	Federal Grant - Community Mental Health Board Subsidy	\$	2,500,000	\$	2,500,000	140648
3A90	335614	Mental Health Block Grant	\$	14,200,000	\$	14,200,000	140649
3B10	335635	Community Medicaid Expansion	\$	346,200,000	\$	0	140650
TOTAL FED Federal Special Revenue Fund Group			\$	421,571,652	\$	75,371,652	140651
State Special Revenue Fund Group							140652
2320	333621	Family and Children First Administration	\$	448,286	\$	432,197	140653
4850	333632	Mental Health Operating	\$	134,233	\$	134,233	140654

4X50	333607	Behavioral Health Medicaid Services	\$	3,000,624	\$	3,000,624	140655
5V20	333611	Non-Federal Miscellaneous	\$	100,000	\$	100,000	140656
4850	334632	Mental Health Operating	\$	2,477,500	\$	2,477,500	140657
5AU0	335615	Behavioral Healthcare	\$	6,690,000	\$	6,690,000	140658
6320	335616	Community Capital Replacement	\$	350,000	\$	350,000	140659
TOTAL SSR	State Special Revenue		\$	13,200,643	\$	13,184,554	140660
Fund Group							
TOTAL ALL BUDGET	FUND GROUPS		\$	1,079,203,266	\$	550,555,553	140661

Section 337.10.10. FORENSIC SERVICES 140663

The foregoing appropriation item 332401, Forensic Services, 140664
shall be used to provide forensic psychiatric evaluations to 140665
courts of common pleas and to conduct evaluations of patients of 140666
forensic status in facilities operated or designated by the 140667
Department of Mental Health prior to conditional release to the 140668
community. A portion of this appropriation may be allocated 140669
through community mental health boards to certified community 140670
agencies in accordance with a distribution methodology as 140671
determined by the Director of Mental Health. 140672

In addition, appropriation item 332401, Forensic Services, 140673
may be used to provide forensic monitoring and tracking of 140674
individuals on conditional release and forensic training, and to 140675
support projects that assist courts and law enforcement to 140676
identify and develop appropriate alternative services to 140677
incarceration for nonviolent mentally ill offenders, and to 140678
provide specialized re-entry services to offenders leaving prisons 140679
and jails. 140680

Section 337.20.10. RESIDENCY TRAINEESHIP PROGRAMS 140681

The foregoing appropriation item 333402, Resident Trainees, 140682
shall be used to fund training agreements entered into by the 140683
Director of Mental Health for the development of curricula and the 140684
provision of training programs to support public mental health 140685
services. 140686

Section 337.20.20. PRE-ADMISSION SCREENING EXPENSES 140687

The foregoing appropriation item 333403, Pre-Admission 140688
Screening Expenses, shall be used to ensure that uniform statewide 140689
methods for pre-admission screening are in place for persons who 140690
have severe mental illness and are referred for long-term Medicaid 140691
certified nursing facility placement. Pre-admission screening 140692
includes the following activities: pre-admission assessment, 140693
consideration of continued stay requests, discharge planning and 140694
referral, and adjudication of appeals and grievance procedures. 140695

Section 337.20.30. LEASE-RENTAL PAYMENTS 140696

The foregoing appropriation item 333415, Lease-Rental 140697
Payments, shall be used to meet all payments at the times they are 140698
required to be made during the period from July 1, 2011, through 140699
June 30, 2013, by the Department of Mental Health under leases and 140700
agreements made under section 154.20 of the Revised Code. These 140701
appropriations are the source of funds pledged for bond service 140702
charges on obligations issued pursuant to Chapter 154. of the 140703
Revised Code. 140704

Section 337.20.50. HOSPITAL SERVICES 140705

The foregoing appropriation item 334412, Hospital Services, 140706
shall be used for the operation of the Department of Mental Health 140707
State Regional Psychiatric Hospitals, including, but not limited 140708
to, all aspects involving civil and forensic commitment, 140709
treatment, and discharge as determined by the Director of Mental 140710

Health. A portion of this appropriation may be used by the 140711
Department of Mental Health to create, purchase, or contract for 140712
the custody, supervision, control, and treatment of persons 140713
committed to the Department of Mental Health in other clinically 140714
appropriate environments, consistent with public safety. 140715

Section 337.20.60. FISCAL YEARS 2012 AND 2013 ALLOCATIONS OF 140716
STATE HOSPITAL FUNDS TO ADAMHS BOARDS 140717

(A) As used in this section: 140718

"Bed day" means a day for which a person receives inpatient 140719
hospitalization services in a state regional psychiatric hospital. 140720

"State regional psychiatric hospital" means a hospital that 140721
the Department of Mental Health maintains, operates, manages, and 140722
governs under section 5119.02 of the Revised Code for the care and 140723
treatment of mentally ill persons. 140724

(B) For fiscal years 2012 and 2013 and notwithstanding 140725
section 5119.62 of the Revised Code, the Director of Mental Health 140726
shall allocate a portion of the foregoing appropriation item 140727
334412, Hospital Services, to boards of alcohol, drug addiction, 140728
and mental health services. In consultation with the boards, the 140729
Director shall establish a methodology to be used in allocating 140730
the funds to boards. The allocation methodology shall include as 140731
factors at least the per diem cost of inpatient hospitalization 140732
services at state regional psychiatric hospitals and the estimated 140733
number of bed days that each board will incur in fiscal years 2012 140734
and 2013 in carrying out their duties under division (A)(11) of 140735
section 340.03 of the Revised Code. The Director may require each 140736
board to provide the Director with an estimate of the number of 140737
bed days the board will incur in fiscal years 2012 and 2013 for 140738
such purpose. 140739

(C) All of the following apply to the funds allocated to a 140740

board under this section: 140741

(1) Subject to divisions (C)(2) and (3) of this section, the 140742
board shall use the funds to pay for expenditures the board incurs 140743
in fiscal years 2012 and 2013 under division (A)(11) of section 140744
340.03 of the Revised Code in paying for inpatient hospitalization 140745
services provided by state regional psychiatric hospitals to 140746
persons involuntarily committed to the board pursuant to Chapter 140747
5122. of the Revised Code. 140748

(2) If the amount of the funds allocated to the board and 140749
used for the purpose specified in division (C)(1) of this section 140750
exceeds the amount that the board needs to pay for its 140751
expenditures identified in division (C)(1) of this section, the 140752
Director may permit the board to use the excess funds for the 140753
board's community mental health plan developed under division 140754
(A)(1)(c) of section 340.03 of the Revised Code. 140755

(3) If the Director approves, the board may have a portion of 140756
the funds deposited into the Department of Mental Health Risk 140757
Fund. 140758

(D) Notwithstanding the amendment by this act to section 140759
5119.62 of the Revised Code, the Department of Mental Health Risk 140760
Fund shall continue to exist in the state treasury for the purpose 140761
of this section until it is no longer needed. In addition to the 140762
money that is in the fund on the effective date of this section, 140763
the fund shall consist of money deposited into it pursuant to 140764
division (C)(3) of this section and all the fund's investment 140765
earnings. Money in the fund shall be used in accordance with 140766
guidelines that the Director shall develop in consultation with 140767
representatives of the boards. 140768

Section 337.30.20. COMMUNITY MEDICATION SUBSIDY 140769

The foregoing appropriation item 335419, Community Medication 140770

Subsidy, shall be used to provide subsidized support for 140771
psychotropic medication needs of indigent citizens in the 140772
community to reduce unnecessary hospitalization because of lack of 140773
medication and to provide subsidized support for methadone costs. 140774
This appropriation may be allocated to community mental health 140775
boards in accordance with a distribution methodology determined by 140776
the Director of Mental Health. 140777

Section 337.30.30. MENTAL HEALTH MEDICAID MATCH 140778

(A) As used in this section, "community mental health 140779
Medicaid services" means services provided under the component, or 140780
aspect of the component, of the Medicaid program that the 140781
Department of Mental Health administers pursuant to a contract 140782
entered into with the Department of Job and Family Services under 140783
section 5111.91 of the Revised Code. 140784

(B) Subject to division (C) of this section, the foregoing 140785
appropriation item 335501, Mental Health Medicaid Match, shall be 140786
used by the Department of Mental Health to make payments for 140787
community mental health Medicaid services. 140788

(C) For state fiscal year 2012, the Department shall allocate 140789
foregoing appropriation item 335501, Mental Health Medicaid Match, 140790
to boards of alcohol, drug addiction, and mental health services 140791
in accordance with a distribution methodology the Department shall 140792
establish. Notwithstanding sections 5111.911 and 5111.912 of the 140793
Revised Code, the boards shall use the funds allocated to them 140794
under this section to pay claims for community mental health 140795
Medicaid services provided during fiscal year 2012. The boards 140796
shall use all federal financial participation that the Department 140797
of Mental Health receives for claims paid for community mental 140798
health Medicaid services provided during fiscal year 2012 as the 140799
first payment source to pay claims for community mental health 140800
Medicaid services provided during fiscal year 2012. No board is 140801

required to use any funds other than the funds allocated to them 140802
under this section and the federal financial participation 140803
received for claims for community mental health Medicaid services 140804
provided during fiscal year 2012 to pay for such claims. 140805

(D) The Department shall enter into an agreement with each 140806
board regarding the issue of paying claims that are for community 140807
mental health Medicaid services provided before July 1, 2011, and 140808
submitted for payment on or after that date. Such claims shall be 140809
paid in accordance with the agreements. A board shall receive the 140810
federal financial participation received for claims for community 140811
mental health Medicaid services that were provided before July 1, 140812
2011, and paid by the board. 140813

Section 337.30.40. LOCAL MENTAL HEALTH SYSTEMS OF CARE 140814

The foregoing appropriation item 335505, Local Mental Health 140815
Systems of Care, shall be used by community mental health boards 140816
to purchase mental health services permitted under Chapter 340. of 140817
the Revised Code. 140818

Section 337.30.50. RESIDENTIAL STATE SUPPLEMENT 140819

(A)(1) On July 1, 2011, the Residential State Supplement 140820
Program is transferred from the Department of Aging to the 140821
Department of Mental Health. The transferred program is thereupon 140822
and thereafter successor to, assumes the obligations of, and 140823
otherwise constitutes the continuation of the program as it was 140824
operated immediately prior to July 1, 2011. The transfer shall not 140825
affect persons receiving payments under the program on July 1, 140826
2011. 140827

(2) Any business of the program commenced but not completed 140828
before July 1, 2011 shall be completed by the Department of Mental 140829
Health. The business shall be completed in the same manner, and 140830
with the same effect, as if completed by the Department of Aging 140831

immediately prior to July 1, 2011. No validation, cure, right, 140832
privilege, remedy, obligation, or liability pertaining to the 140833
program is lost or impaired by reason of the program's transfer to 140834
the Department of Mental Health. Each such validation, cure, 140835
right, privilege, remedy, obligation, or liability shall be 140836
administered by the Department of Mental Health pursuant to 140837
sections 5119.69, 5119.691, and 5119.692 of the Revised Code. 140838

(3) All rules, orders, and determinations pertaining to the 140839
program as it was operated immediately prior to July 1, 2011 140840
continue in effect as rules, orders, and determinations of the 140841
Department of Mental Health until modified or rescinded by the 140842
Department of Mental Health. If necessary to ensure the integrity 140843
of the numbering system of the Administrative Code, the Director 140844
of the Legislative Service Commission shall renumber the rules to 140845
reflect the transfer of the Residential State Supplement Program 140846
from the Department of Aging to the Department of Mental Health. 140847

(4) Any action or proceeding that is related to the functions 140848
or duties of the Residential State Supplement Program pending on 140849
July 1, 2011 is not affected by the transfer of the program and 140850
shall be prosecuted or defended in the name of the Department of 140851
Mental Health. In all such actions and proceedings, the Department 140852
of Mental Health, on application to the court, shall be 140853
substituted as a party. 140854

(B) The foregoing appropriation item 335506, Residential 140855
State Supplement, may be used by the Department of Mental Health 140856
to provide training for adult care facilities serving residents 140857
with mental illness, to transfer cash to the Nursing Home 140858
Franchise Permit Fee Fund (Fund 5R20) used by the Department of 140859
Job and Family Services, and to make benefit payments to 140860
residential state supplement recipients. Under the Residential 140861
State Supplement Program, the amount used to determine whether a 140862
resident is eligible for payment, and for determining the amount 140863

per month the eligible resident will receive, shall be as follows: 140864

(1) \$927 for a residential care facility, as defined in 140865
section 3721.01 of the Revised Code; 140866

(2) \$927 for an adult group home, as defined in section 140867
5119.70 of the Revised Code; 140868

(3) \$824 for an adult foster home, as defined in section 140869
5119.692 of the Revised Code; 140870

(4) \$824 for an adult family home, as defined in section 140871
5119.70 of the Revised Code; 140872

(5) \$824 for a residential facility, as identified in 140873
division (C)(1)(c) of section 5119.69 of the Revised Code; and 140874

(6) \$618 for community mental health housing services, as 140875
identified in division (C)(1)(d) of section 5119.69 of the Revised 140876
Code. 140877

The Department of Mental Health shall reflect these amounts 140878
in any applicable rules the Department adopts under section 140879
5119.69 of the Revised Code. 140880

Section 337.30.60. BEHAVIORAL HEALTH MEDICAID SERVICES 140881

The Department of Mental Health shall administer specified 140882
Medicaid services as delegated by the Department of Job and Family 140883
Services in an interagency agreement. The foregoing appropriation 140884
item 333607, Behavioral Health Medicaid Services, may be used to 140885
make payments for free-standing psychiatric hospital inpatient 140886
services as defined in an interagency agreement with the 140887
Department of Job and Family Services. 140888

Section 337.30.70. FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING 140889
POOL 140890

A county family and children first council may establish and 140891

operate a flexible funding pool in order to assure access to 140892
needed services by families, children, and older adults in need of 140893
protective services. The operation of the flexible funding pools 140894
shall be subject to the following restrictions: 140895

(A) The county council shall establish and operate the 140896
flexible funding pool in accordance with formal guidance issued by 140897
the Family and Children First Cabinet Council; 140898

(B) The county council shall produce an annual report on its 140899
use of the pooled funds. The annual report shall conform to a 140900
format prescribed in the formal guidance issued by the Family and 140901
Children First Cabinet Council; 140902

(C) Unless otherwise restricted, funds transferred to the 140903
flexible funding pool may include state general revenues allocated 140904
to local entities to support the provision of services to families 140905
and children; 140906

(D) The amounts transferred to the flexible funding pool 140907
shall be limited to amounts that can be redirected without 140908
impairing the achievement of the objectives for which the initial 140909
allocation is designated; and 140910

(E) Each amount transferred to the flexible funding pool from 140911
a specific allocation shall be approved for transfer by the 140912
director of the local agency that was the original recipient of 140913
the allocation. 140914

**Section 337.30.75. TRANSITION FOR CURRENTLY CERTIFIED ADULT 140915
FOSTER HOMES 140916**

On July 1, 2011, the certification of adult foster homes is 140917
transferred from the Department of Aging to the Department of 140918
Mental Health. A certification that was issued by the Director of 140919
Aging to an adult foster home under former section 175.36 of the 140920
Revised Code and that is current and valid on the effective date 140921

of section 5119.692 of the Revised Code, as enacted by this act, 140922
is deemed to be a certificate issued by the Director of Mental 140923
Health under those sections. 140924

Any business regarding the certification of adult foster 140925
homes commenced but not completed before July 1, 2011 shall be 140926
completed by the Department of Mental Health. The business shall 140927
be completed in the same manner, and with the same effect, as if 140928
completed by the Department of Aging immediately prior to July 1, 140929
2011. 140930

No validation, cure, right, privilege, remedy, obligation, or 140931
liability is lost or impaired by reason of this act's transfer of 140932
responsibility to the Department of Mental Health, from the 140933
Department of Aging, for the certification of adult foster homes. 140934

Each such validation, cure, right, privilege, remedy, 140935
obligation, or liability shall be administered by the Department 140936
of Mental Health pursuant to section 5119.692 of the Revised Code. 140937

All rules, orders, and determinations pertaining to the 140938
certification of adult foster homes as it was operated immediately 140939
prior to July 1, 2011 shall continue in effect as rules, orders, 140940
and determinations of the Department of Mental Health until 140941
modified or rescinded by the Department of Mental Health. If 140942
necessary to ensure the integrity of the numbering system of the 140943
Administrative Code, the Director of the Legislative Service 140944
Commission shall renumber the rules to reflect the transfer of the 140945
certification of adult foster homes from the Department of Aging 140946
to the Department of Mental Health. 140947

Any action or proceeding that is related to the functions or 140948
duties of the certification of adult foster homes pending on July 140949
1, 2011 is not affected by the transfer of the certification and 140950
shall be prosecuted or defended in the name of the Department of 140951
Mental Health. In all such actions and proceedings, the Department 140952

of Mental Health, on application to the court, shall be 140953
substituted as a party. 140954

Section 337.30.80. TRANSITION FOR CURRENTLY LICENSED ADULT 140955
CARE FACILITIES 140956

On July 1, 2011, the licensing of adult care facilities is 140957
transferred from the Department of Health to the Department of 140958
Mental Health. A license that was issued by the Director of Health 140959
to an adult care facility under former Chapter 3722. of the 140960
Revised Code and that is current and valid on the effective date 140961
of sections 5119.70 to 5119.88 of the Revised Code, as enacted by 140962
this act, is deemed to be a license issued by the Director of 140963
Mental Health under those sections. 140964

Any business regarding the licensing of adult care facilities 140965
commenced but not completed before July 1, 2011 shall be completed 140966
by the Department of Mental Health. The business shall be 140967
completed in the same manner, and with the same effect, as if 140968
completed by the Department of Health immediately prior to July 1, 140969
2011. 140970

No validation, cure, right, privilege, remedy, obligation, or 140971
liability is lost or impaired by reason of this act's transfer of 140972
responsibility to the Department of Mental Health, from the 140973
Department of Health, for the licensing of adult care facilities. 140974
Each such validation, cure, right, privilege, remedy, obligation, 140975
or liability shall be administered by the Department of Mental 140976
Health pursuant to sections 5119.70 to 5119.88 of the Revised 140977
Code. 140978

All rules, orders, and determinations pertaining to the 140979
licensing of adult care facilities as it was operated immediately 140980
prior to July 1, 2011 shall continue in effect as rules, orders, 140981
and determinations of the Department of Mental Health until 140982
modified or rescinded by the Department of Mental Health. If 140983

necessary to ensure the integrity of the numbering system of the 140984
Administrative Code, the Director of the Legislative Service 140985
Commission shall renumber the rules to reflect the transfer of the 140986
licensing of adult care facilities from the Department of Health 140987
to the Department of Mental Health. 140988

Any action or proceeding that is related to the functions or 140989
duties of the licensing of adult care facilities pending on July 140990
1, 2011 is not affected by the transfer of the licensing and shall 140991
be prosecuted or defended in the name of the Department of Mental 140992
Health. In all such actions and proceedings, the Department of 140993
Mental Health, on application to the court, shall be substituted 140994
as a party. 140995

Section 339.10. MIH COMMISSION ON MINORITY HEALTH 140996

General Revenue Fund 140997

GRF 149321	Operating Expenses	\$	423,588	\$	408,990	140998
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GRF 149501	Minority Health	\$	1,061,600	\$	1,061,600	140999
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Grants

GRF 149502	Lupus Program	\$	110,047	\$	110,047	141000
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TOTAL GRF	General Revenue Fund	\$	1,595,235	\$	1,580,637	141001
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Federal Special Revenue Fund Group 141002

3J90 149602	Federal Grants	\$	140,000	\$	140,000	141003
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TOTAL FED	Federal Special Revenue					141004
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Fund Group		\$	140,000	\$	140,000	141005
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State Special Revenue Fund Group 141006

4C20 149601	Minority Health	\$	25,000	\$	25,000	141007
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Conference

TOTAL SSR	State Special Revenue					141008
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Fund Group		\$	25,000	\$	25,000	141009
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TOTAL ALL BUDGET FUND GROUPS		\$	1,760,235	\$	1,745,637	141010
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Section 341.10. CRB MOTOR VEHICLE COLLISION REPAIR 141012

REGISTRATION BOARD				141013
General Services Fund Group				141014
4K90 865601 Operating Expenses	\$	331,841	\$ 324,292	141015
TOTAL GSF General Services				141016
Fund Group	\$	331,841	\$ 324,292	141017
TOTAL ALL BUDGET FUND GROUPS	\$	331,841	\$ 324,292	141018
Section 343.10. DNR DEPARTMENT OF NATURAL RESOURCES				141020
General Revenue Fund				141021
GRF 725401 Wildlife-GRF Central	\$	1,800,000	\$ 1,800,000	141022
Support				
GRF 725413 Lease Rental Payments	\$	20,568,600	\$ 19,734,700	141023
GRF 725456 Canal Lands	\$	135,000	\$ 135,000	141024
GRF 725502 Soil and Water	\$	2,900,000	\$ 2,900,000	141025
Districts				
GRF 725903 Natural Resources	\$	5,375,300	\$ 25,209,100	141026
General Obligation				
Debt Service				
GRF 727321 Division of Forestry	\$	4,878,338	\$ 4,880,000	141027
GRF 729321 Office of Information	\$	194,118	\$ 197,117	141028
Technology				
GRF 730321 Division of Parks and	\$	30,000,000	\$ 30,000,000	141029
Recreation				
GRF 736321 Division of	\$	3,024,459	\$ 3,025,078	141030
Engineering				
GRF 737321 Division of Soil and	\$	4,982,961	\$ 4,983,356	141031
Water Resources				
TOTAL GRF General Revenue Fund	\$	73,858,776	\$ 92,864,351	141032
General Services Fund Group				141033
1550 725601 Departmental Projects	\$	3,365,651	\$ 2,725,484	141034
1570 725651 Central Support	\$	5,854,167	\$ 5,857,800	141035
Indirect				

2040	725687	Information Services	\$	4,659,276	\$	4,643,835	141036
2070	725690	Real Estate Services	\$	50,000	\$	50,000	141037
2230	725665	Law Enforcement Administration	\$	2,106,776	\$	2,126,432	141038
2270	725406	Parks Projects Personnel	\$	436,500	\$	436,500	141039
4300	725671	Canal Lands	\$	907,618	\$	907,879	141040
4D50	725618	Recycled Materials	\$	50,000	\$	50,000	141041
4S90	725622	NatureWorks Personnel	\$	400,358	\$	400,358	141042
4X80	725662	Water Resources Council	\$	138,011	\$	138,005	141043
5100	725631	Maintenance - State-owned Residences	\$	303,611	\$	303,611	141044
5160	725620	Water Management	\$	2,541,565	\$	2,559,292	141045
6350	725664	Fountain Square Facilities Management	\$	3,544,623	\$	3,548,445	141046
6970	725670	Submerged Lands	\$	836,162	\$	848,546	141047
TOTAL GSF General Services							141048
Fund Group			\$	25,194,318	\$	24,596,187	141049
Federal Special Revenue Fund Group							141050
3320	725669	Federal Mine Safety Grant	\$	258,102	\$	258,102	141051
3B30	725640	Federal Forest Pass-Thru	\$	600,000	\$	600,000	141052
3B40	725641	Federal Flood Pass-Thru	\$	600,000	\$	600,000	141053
3B50	725645	Federal Abandoned Mine Lands	\$	21,007,667	\$	21,207,667	141054
3B60	725653	Federal Land and Water Conservation Grants	\$	1,150,000	\$	1,150,000	141055
3B70	725654	Reclamation -	\$	3,200,000	\$	3,200,000	141056

		Regulatory					
3P10	725632	Geological Survey -	\$	692,401	\$	692,401	141057
		Federal					
3P20	725642	Oil and Gas-Federal	\$	234,509	\$	234,509	141058
3P30	725650	Coastal Management -	\$	3,290,633	\$	3,290,633	141059
		Federal					
3P40	725660	Federal - Soil and	\$	1,213,048	\$	1,209,957	141060
		Water Resources					
3R50	725673	Acid Mine Drainage	\$	2,025,001	\$	2,025,001	141061
		Abatement/Treatment					
3Z50	725657	Federal Recreation	\$	1,850,000	\$	1,850,000	141062
		and Trails					
TOTAL FED		Federal Special Revenue					141063
Fund Group			\$	36,121,361	\$	36,318,270	141064
State Special Revenue Fund Group							141065
4J20	725628	Injection Well Review	\$	130,899	\$	128,466	141066
4M70	725686	Wildfire Suppression	\$	100,000	\$	100,000	141067
4U60	725668	Scenic Rivers	\$	100,000	\$	100,000	141068
		Protection					
5090	725602	State Forest	\$	7,891,747	\$	7,058,793	141069
5110	725646	Ohio Geological	\$	704,777	\$	705,130	141070
		Mapping					
5120	725605	State Parks Operations	\$	32,284,117	\$	31,550,444	141071
5140	725606	Lake Erie Shoreline	\$	1,502,654	\$	1,505,983	141072
5180	725643	Oil and Gas Permit	\$	5,821,970	\$	5,623,645	141073
		Fees					
5180	725677	Oil and Gas Well	\$	800,000	\$	800,000	141074
		Plugging					
5210	725627	Off-Road Vehicle	\$	143,490	\$	143,490	141075
		Trails					
5220	725656	Natural Areas and	\$	546,580	\$	546,639	141076
		Preserves					
5260	725610	Strip Mining	\$	2,000,000	\$	2,000,000	141077

5P20	725634	Wildlife Boater Angler Administration	\$	4,000,000	\$	4,000,000	141100
7015	740401	Division of Wildlife Conservation	\$	52,721,044	\$	51,669,158	141101
8150	725636	Cooperative Management Projects	\$	120,449	\$	120,449	141102
8160	725649	Wetlands Habitat	\$	966,885	\$	966,885	141103
8170	725655	Wildlife Conservation Checkoff Fund	\$	3,240,000	\$	3,240,000	141104
8180	725629	Cooperative Fisheries Research	\$	1,500,000	\$	1,500,000	141105
8190	725685	Ohio River Management	\$	128,584	\$	128,584	141106
TOTAL WLF Wildlife Fund Group			\$	62,676,962	\$	61,625,076	141107
Waterways Safety Fund Group							141108
7086	725414	Waterways Improvement	\$	5,692,601	\$	5,693,671	141109
7086	725418	Buoy Placement	\$	52,182	\$	52,182	141110
7086	725501	Waterway Safety Grants	\$	120,000	\$	120,000	141111
7086	725506	Watercraft Marine Patrol	\$	576,153	\$	576,153	141112
7086	725513	Watercraft Educational Grants	\$	366,643	\$	366,643	141113
7086	725693	Grand Lake St. Marys Mitigation	\$	4,000,000	\$	0	141114
7086	739401	Division of Watercraft	\$	18,040,593	\$	17,552,370	141115
TOTAL WSF Waterways Safety Fund Group			\$	28,848,172	\$	24,361,019	141116
Accrued Leave Liability Fund Group							141118
4M80	725675	FOP Contract	\$	20,219	\$	20,219	141119
TOTAL ALF Accrued Leave Liability Fund Group			\$	20,219	\$	20,219	141121

Holding Account Redistribution Fund Group				141122
R017 725659 Performance Cash Bond	\$	296,263	\$ 296,263	141123
Refunds				
R043 725624 Forestry	\$	2,000,000	\$ 2,154,750	141124
TOTAL 090 Holding Account				141125
Redistribution Fund Group	\$	2,296,263	\$ 2,451,013	141126
TOTAL ALL BUDGET FUND GROUPS	\$	305,390,591	\$ 316,833,095	141127

Section 343.20. CENTRAL SUPPORT INDIRECT 141129

With the exception of the Division of Wildlife, whose direct 141130
and indirect central support charges shall be paid out of the 141131
General Revenue Fund from the foregoing appropriation item 725401, 141132
Wildlife-GRF Central Support, the Department of Natural Resources, 141133
with approval of the Director of Budget and Management, shall 141134
utilize a methodology for determining each division's payments 141135
into the Central Support Indirect Fund (Fund 1570). The 141136
methodology used shall contain the characteristics of 141137
administrative ease and uniform application in compliance with 141138
federal grant requirements. It may include direct cost charges for 141139
specific services provided. Payments to Fund 1570 shall be made 141140
using an intrastate transfer voucher. 141141

Section 343.30. WELL LOG FILING FEES 141142

The Chief of the Division of Soil and Water Resources shall 141143
deposit fees forwarded to the Division pursuant to section 1521.05 141144
of the Revised Code into the Departmental Services - Intrastate 141145
Fund (Fund 1550) for the purposes described in that section. 141146

Section 343.40. LEASE RENTAL PAYMENTS 141147

The foregoing appropriation item 725413, Lease Rental 141148
Payments, shall be used to meet all payments at the times they are 141149
required to be made during the period from July 1, 2011, through 141150

June 30, 2013, by the Department of Natural Resources pursuant to 141151
leases and agreements made under section 154.22 of the Revised 141152
Code. These appropriations are the source of funds pledged for 141153
bond service charges or obligations issued pursuant to Chapter 141154
154. of the Revised Code. 141155

CANAL LANDS 141156

The foregoing appropriation item 725456, Canal Lands, shall 141157
be used to transfer funds to the Canal Lands Fund (Fund 4300) to 141158
provide operating expenses for the State Canal Lands Program. The 141159
transfer shall be made using an intrastate transfer voucher and 141160
shall be subject to the approval of the Director of Budget and 141161
Management. 141162

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 141163

The foregoing appropriation item 725903, Natural Resources 141164
General Obligation Debt Service, shall be used to pay all debt 141165
service and related financing costs during the period July 1, 141166
2011, through June 30, 2013, on obligations issued under sections 141167
151.01 and 151.05 of the Revised Code. 141168

Section 343.40.10. LAW ENFORCEMENT ADMINISTRATION 141169

The foregoing appropriation item 725665, Law Enforcement 141170
Administration, shall be used to cover the cost of support, 141171
coordination, and oversight of the Department of Natural 141172
Resources' law enforcement functions. The Law Enforcement 141173
Administration Fund (Fund 2230) shall consist of cash transferred 141174
to it via intrastate transfer voucher from other funds as 141175
determined by the Director of Natural Resources and the Director 141176
of Budget and Management. 141177

Section 343.40.20. FOUNTAIN SQUARE 141178

The foregoing appropriation item 725664, Fountain Square 141179

Facilities Management, shall be used for payment of repairs, 141180
renovation, utilities, property management, and building 141181
maintenance expenses for the Fountain Square complex. Cash 141182
transferred by intrastate transfer vouchers from various 141183
department funds and rental income received by the Department of 141184
Natural Resources shall be deposited into the Fountain Square 141185
Facilities Management Fund (Fund 6350). 141186

Section 343.40.30. SOIL AND WATER DISTRICTS 141187

In addition to state payments to soil and water conservation 141188
districts authorized by section 1515.10 of the Revised Code, the 141189
Department of Natural Resources may use appropriation item 725683, 141190
Soil and Water Districts, to pay any soil and water conservation 141191
district an annual amount not to exceed \$40,000, upon receipt of a 141192
request and justification from the district and approval by the 141193
Ohio Soil and Water Conservation Commission. The county auditor 141194
shall credit the payments to the special fund established under 141195
section 1515.10 of the Revised Code for the local soil and water 141196
conservation district. Moneys received by each district shall be 141197
expended for the purposes of the district. 141198

TRANSFER OF FUNDS FOR OIL AND GAS DIVISION OPERATIONS 141199

During fiscal years 2012 and 2013, the Director of Budget and 141200
Management may, in consultation with the Director of Natural 141201
Resources, transfer such cash as necessary from the General 141202
Revenue Fund to the Oil and Gas Well Fund (Fund 5180) for handling 141203
the increased regulatory work related to the expansion of oil and 141204
gas drilling that will occur before receipts from this activity 141205
are deposited into Fund 5180. Once funds from severance taxes, 141206
application and permitting fees, and other sources have accrued to 141207
Fund 5180 in such amounts as are deemed sufficient to sustain 141208
expanded operations, the Director of Budget and Management, in 141209
consultation with the Director of Natural Resources, shall 141210

establish a schedule for repaying the transferred funds from Fund 141211
5180 to the General Revenue Fund. 141212

OIL AND GAS WELL PLUGGING 141213

The foregoing appropriation item 725677, Oil and Gas Well 141214
Plugging, shall be used exclusively for the purposes of plugging 141215
wells and to properly restore the land surface of idle and orphan 141216
oil and gas wells pursuant to section 1509.071 of the Revised 141217
Code. No funds from the appropriation item shall be used for 141218
salaries, maintenance, equipment, or other administrative 141219
purposes, except for those costs directly attributed to the 141220
plugging of an idle or orphan well. This appropriation item shall 141221
not be used to transfer cash to any other fund or appropriation 141222
item. 141223

LITTER CONTROL AND RECYCLING 141224

Of the foregoing appropriation item 725644, Litter Control 141225
and Recycling, up to \$1,500,000 may be used in each fiscal year 141226
for the administration of the Recycling and Litter Prevention 141227
Program. 141228

Section 343.40.40. CLEAN OHIO OPERATING EXPENSES 141229

The foregoing appropriation item 725405, Clean Ohio 141230
Operating, shall be used by the Department of Natural Resources in 141231
administering Clean Ohio Trail Fund (Fund 7061) projects pursuant 141232
to section 1519.05 of the Revised Code. 141233

Section 343.40.50. WATERCRAFT MARINE PATROL 141234

Of the foregoing appropriation item 739401, Division of 141235
Watercraft, up to \$200,000 in each fiscal year shall be expended 141236
for the purchase of equipment for marine patrols qualifying for 141237
funding from the Department of Natural Resources pursuant to 141238
section 1547.67 of the Revised Code. Proposals for equipment shall 141239

accompany the submission of documentation for receipt of a marine 141240
patrol subsidy pursuant to section 1547.67 of the Revised Code and 141241
shall be loaned to eligible marine patrols pursuant to a 141242
cooperative agreement between the Department of Natural Resources 141243
and the eligible marine patrol. 141244

Section 343.40.60. TRANSFER FOR GRAND LAKE ST. MARYS 141245
MITIGATION 141246

On July 1, 2011, or as soon as possible thereafter, the 141247
Director of Natural Resources may request the Director of Budget 141248
and Management to transfer up to \$4,000,000 in cash from the 141249
Watercraft Revolving Loan Fund (Fund 5AW0) to the Waterways Safety 141250
Fund (Fund 7086) to support toxic algae mitigation activities at 141251
Grand Lake St. Marys State Park. The amount transferred is hereby 141252
appropriated to appropriation item 725693, Grand Lake St. Marys 141253
Mitigation. 141254

Section 343.50. PARKS CAPITAL EXPENSES FUND 141255

The Director of Natural Resources shall submit to the 141256
Director of Budget and Management the estimated design, 141257
engineering, and planning costs of capital-related work to be done 141258
by Department of Natural Resources staff for parks projects within 141259
the Ohio Parks and Recreation Improvement Fund (Fund 7035). If the 141260
Director of Budget and Management approves the estimated costs, 141261
the Director may release appropriations from appropriation item 141262
C725E6, Project Planning, Fund 7035, for those purposes. Upon 141263
release of the appropriations, the Department of Natural Resources 141264
shall pay for these expenses from the Parks Capital Expenses Fund 141265
(Fund 2270). Expenses paid from Fund 2270 shall be reimbursed by 141266
Fund 7035 using an intrastate transfer voucher. 141267

NATUREWORKS CAPITAL EXPENSES FUND 141268

The Department of Natural Resources shall periodically 141269

prepare and submit to the Director of Budget and Management the 141270
 estimated design, planning, and engineering costs of 141271
 capital-related work to be done by Department of Natural Resources 141272
 staff for each capital improvement project within the Ohio Parks 141273
 and Natural Resources Fund (Fund 7031). If the Director of Budget 141274
 and Management approves the estimated costs, the Director may 141275
 release appropriations from appropriation item C725E5, Project 141276
 Planning, in Fund 7031, for those purposes. Upon release of the 141277
 appropriations, the Department of Natural Resources shall pay for 141278
 these expenses from the Capital Expenses Fund (Fund 4S90). 141279
 Expenses paid from Fund 4S90 shall be reimbursed by Fund 7031 by 141280
 using an intrastate transfer voucher. 141281

Section 345.10. NUR STATE BOARD OF NURSING 141282

General Services Fund Group 141283
 4K90 884609 Operating Expenses \$ 6,943,322 \$ 6,680,896 141284
 5AC0 884602 Nurse Education Grant \$ 1,373,506 \$ 1,373,506 141285
 Program
 5P80 884601 Nursing Special \$ 5,000 \$ 5,000 141286
 Issues
 TOTAL GSF General Services 141287
 Fund Group \$ 8,321,828 \$ 8,059,402 141288
 TOTAL ALL BUDGET FUND GROUPS \$ 8,321,828 \$ 8,059,402 141289

Section 347.10. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, 141291
AND ATHLETIC TRAINERS BOARD 141292

General Services Fund Group 141293
 4K90 890609 Operating Expenses \$ 874,087 \$ 866,169 141294
 TOTAL GSF General Services Fund \$ 874,087 \$ 866,169 141295
 Group
 TOTAL ALL BUDGET FUND GROUPS \$ 874,087 \$ 866,169 141296

Section 349.10. OLA OHIOANA LIBRARY ASSOCIATION 141298

General Revenue Fund				141299
GRF 355501 Library Subsidy	\$	120,000	\$ 120,000	141300
TOTAL GRF General Revenue Fund	\$	120,000	\$ 120,000	141301
TOTAL ALL BUDGET FUND GROUPS	\$	120,000	\$ 120,000	141302

Section 351.10. ODB OHIO OPTICAL DISPENSERS BOARD 141304

General Services Fund Group				141305
4K90 894609 Operating Expenses	\$	357,039	\$ 347,300	141306
TOTAL GSF General Services				141307
Fund Group	\$	357,039	\$ 347,300	141308
TOTAL ALL BUDGET FUND GROUPS	\$	357,039	\$ 347,300	141309

Section 353.10. OPT STATE BOARD OF OPTOMETRY 141311

General Services Fund Group				141312
4K90 885609 Operating Expenses	\$	356,914	\$ 347,278	141313
TOTAL GSF General Services				141314
Fund Group	\$	356,914	\$ 347,278	141315
TOTAL ALL BUDGET FUND GROUPS	\$	356,914	\$ 347,278	141316

Section 355.10. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS,
AND PEDORTHICS 141318
141319

General Services Fund Group				141320
4K90 973609 Operating Expenses	\$	126,340	\$ 114,218	141321
TOTAL GSF General Services				141322
Fund Group	\$	126,340	\$ 114,218	141323
TOTAL ALL BUDGET FUND GROUPS	\$	126,340	\$ 114,218	141324

Section 357.10. UST PETROLEUM UNDERGROUND STORAGE TANK 141325
RELEASE COMPENSATION BOARD 141326

Agency Fund Group				141327
6910 810632 PUSTRCB Staff	\$	1,162,179	\$ 1,123,014	141328
TOTAL AGY Agency Fund Group	\$	1,162,179	\$ 1,123,014	141329

TOTAL ALL BUDGET FUND GROUPS		\$	1,162,179	\$	1,123,014	141330
Section 359.10. PRX STATE BOARD OF PHARMACY						141332
General Services Fund Group						141333
4A50 887605 Drug Law Enforcement		\$	150,000	\$	150,000	141334
4K90 887609 Operating Expenses		\$	6,608,498	\$	6,701,285	141335
TOTAL GSF General Services Fund Group		\$	6,758,498	\$	6,851,285	141336
Federal Special Revenue Fund Group						141337
3CT0 887606 2008		\$	70,775	\$	0	141338
Developing/Enhancing PMP						
3DV0 887607 Enhancing Ohio's PMP		\$	169,888	\$	2,379	141339
3EY0 887603 Administration of PMIX Hub		\$	320,637	\$	66,335	141340
3EZ0 887610 NASPER 10		\$	164,459		27,710	141341
TOTAL FED Federal Special Revenue Fund Group		\$	725,759	\$	96,424	141342
TOTAL ALL BUDGET FUND GROUPS		\$	7,484,257	\$	6,947,709	141343
Section 361.10. PSY STATE BOARD OF PSYCHOLOGY						141345
General Services Fund Group						141346
4K90 882609 Operating Expenses		\$	525,394	\$	535,406	141347
TOTAL GSF General Services Fund Group		\$	525,394	\$	535,406	141348
TOTAL ALL BUDGET FUND GROUPS		\$	525,394	\$	535,406	141350
Section 363.10. PUB OHIO PUBLIC DEFENDER COMMISSION						141352
General Revenue Fund						141353
GRF 019401 State Legal Defense Services		\$	2,610,272	\$	3,020,855	141354
GRF 019403 Multi-County: State		\$	338,931	\$	406,626	141355

		Share				
GRF	019404	Trumbull County -	\$	99,321	\$	119,158 141356
		State Share				
GRF	019405	Training Account	\$	50,000	\$	50,000 141357
GRF	019501	County Reimbursement	\$	2,565,398	\$	3,077,786 141358
TOTAL GRF		General Revenue Fund	\$	5,663,922	\$	6,674,425 141359
		General Services Fund Group				141360
4070	019604	County Representation	\$	231,076	\$	231,754 141361
4080	019605	Client Payments	\$	1,052,919	\$	953,492 141362
5CX0	019617	Civil Case Filing Fee	\$	708,654	\$	705,713 141363
TOTAL GSF		General Services				141364
		Fund Group	\$	1,992,649	\$	1,890,959 141365
		Federal Special Revenue Fund Group				141366
3S80	019608	Federal	\$	341,733	\$	263,431 141367
		Representation				
TOTAL FED		Federal Special Revenue				141368
		Fund Group	\$	341,733	\$	263,431 141369
		State Special Revenue Fund Group				141370
4C70	019601	Multi-County: County	\$	3,324,009	\$	3,333,014 141371
		Share				
4N90	019613	Gifts and Grants	\$	35,000	\$	35,000 141372
4X70	019610	Trumbull County -	\$	974,069	\$	976,612 141373
		County Share				
5740	019606	Civil Legal Aid	\$	24,000,000	\$	27,000,000 141374
5DY0	019618	Indigent Defense	\$	42,195,000	\$	43,125,000 141375
		Support - County				
		Share				
5DY0	019619	Indigent Defense	\$	6,521,723	\$	6,096,759 141376
		Support Fund - State				
		Office				
TOTAL SSR		State Special Revenue				141377
		Fund Group	\$	77,049,801	\$	80,566,385 141378

TOTAL ALL BUDGET FUND GROUPS	\$	85,048,105	\$	89,395,200	141379
INDIGENT DEFENSE OFFICE					141380
The foregoing appropriation items 019404, Trumbull County -					141381
State Share, and 019610, Trumbull County - County Share, shall be					141382
used to support an indigent defense office for Trumbull County.					141383
MULTI-COUNTY OFFICE					141384
The foregoing appropriation items 019403, Multi-County: State					141385
Share, and 019601, Multi-County: County Share, shall be used to					141386
support the Office of the Ohio Public Defender's Multi-County					141387
Branch Office Program.					141388
TRAINING ACCOUNT					141389
The foregoing appropriation item 019405, Training Account,					141390
shall be used by the Ohio Public Defender to provide legal					141391
training programs at no cost for private appointed counsel who					141392
represent at least one indigent defendant at no cost and for state					141393
and county public defenders and attorneys who contract with the					141394
Ohio Public Defender to provide indigent defense services.					141395
FEDERAL REPRESENTATION					141396
The foregoing appropriation item 019608, Federal					141397
Representation, shall be used to receive reimbursements from the					141398
federal courts when the Ohio Public Defender provides					141399
representation in federal court cases and to support					141400
representation in such cases.					141401
Section 365.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO					141402
General Services Fund Group					141403
5F60 870622 Utility and Railroad	\$	30,637,234	\$	31,638,708	141404
Regulation					
5F60 870624 NARUC/NRRI Subsidy	\$	158,000	\$	158,000	141405
5F60 870625 Motor Transportation	\$	4,976,641	\$	5,971,218	141406

		Regulation				
5Q50	870626	Telecommunications	\$	5,000,000	\$	5,000,000 141407
		Relay Service				
TOTAL GSF General Services						141408
Fund Group			\$	40,771,875	\$	42,767,926 141409
Federal Special Revenue Fund Group						141410
3330	870601	Gas Pipeline Safety	\$	597,959	\$	597,959 141411
3500	870608	Motor Carrier Safety	\$	7,351,660	\$	7,351,660 141412
3CU0	870627	Electric Market	\$	91,183	\$	0 141413
		Modeling				
3EA0	870630	Energy Assurance	\$	384,000	\$	384,000 141414
		Planning				
3ED0	870631	State Regulators	\$	231,824	\$	231,824 141415
		Assistance				
3V30	870604	Commercial Vehicle	\$	100,000	\$	100,000 141416
		Information				
		Systems/Networks				
TOTAL FED Federal Special Revenue						141417
Fund Group			\$	8,756,626	\$	8,665,443 141418
State Special Revenue Fund Group						141419
4A30	870614	Grade Crossing	\$	1,347,357	\$	1,347,357 141420
		Protection				
		Devices-State				
4L80	870617	Pipeline Safety-State	\$	181,992	\$	181,992 141421
4S60	870618	Hazardous Material	\$	450,395	\$	450,395 141422
		Registration				
4S60	870621	Hazardous Materials	\$	373,346	\$	373,346 141423
		Base State				
		Registration				
4U80	870620	Civil Forfeitures	\$	277,347	\$	277,496 141424
5590	870605	Public Utilities	\$	3,880	\$	3,880 141425
		Territorial				

		Administration				
5600	870607	Special Assessment	\$	97,000	\$	97,000 141426
5610	870606	Power Siting Board	\$	631,508	\$	631,618 141427
5BP0	870623	Wireless 9-1-1	\$	36,440,000	\$	18,220,000 141428
		Administration				
5HD0	870629	Radioactive Waste	\$	98,800	\$	98,800 141429
		Transportation				
6380	870611	Biofuels/Municipal	\$	570	\$	0 141430
		Waste Technology				
6610	870612	Hazardous Materials	\$	898,800	\$	898,800 141431
		Transportation				
TOTAL SSR		State Special Revenue				141432
Fund Group			\$	40,800,995	\$	22,580,684 141433
TOTAL ALL BUDGET FUND GROUPS			\$	90,329,496	\$	74,014,053 141434
		Section 367.10. PWC PUBLIC WORKS COMMISSION				141436
		General Revenue Fund				141437
GRF	150904	Conservation General	\$	21,953,000	\$	29,297,300 141438
		Obligation Debt				
		Service				
GRF	150907	State Capital	\$	106,770,600	\$	215,571,100 141439
		Improvements				
		General Obligation				141440
		Debt Service				
TOTAL GRF		General Revenue Fund	\$	128,723,600	\$	244,868,400 141441
		Clean Ohio Conservation Fund Group				141442
7056	150403	Clean Ohio Operating	\$	300,000	\$	288,980 141443
		Expenses				
TOTAL 056		Clean Ohio Conservation	\$	300,000	\$	288,980 141444
Fund Group						
TOTAL ALL BUDGET FUND GROUPS			\$	129,023,600	\$	245,157,380 141445
		CONSERVATION GENERAL OBLIGATION DEBT SERVICE				141446

The foregoing appropriation item 150904, Conservation General
Obligation Debt Service, shall be used to pay all debt service and
related financing costs during the period from July 1, 2011,
through June 30, 2013, at the times they are required to be made
for obligations issued under sections 151.01 and 151.09 of the
Revised Code.

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 141453

The foregoing appropriation item 150907, State Capital
Improvements General Obligation Debt Service, shall be used to pay
all debt service and related financing costs during the period
from July 1, 2011, through June 30, 2013, at the times they are
required to be made for obligations issued under sections 151.01
and 151.08 of the Revised Code.

CLEAN OHIO OPERATING EXPENSES 141460

The foregoing appropriation item 150403, Clean Ohio Operating
Expenses, shall be used by the Ohio Public Works Commission in
administering Clean Ohio Conservation Fund (Fund 7056) projects
pursuant to sections 164.20 to 164.27 of the Revised Code.

REIMBURSEMENT TO THE GENERAL REVENUE FUND 141465

(A) On or before July 15, 2013, the Director of the Public
Works Commission shall certify to the Director of Budget and
Management the following:

(1) The total amount disbursed from appropriation item
700409, Farmland Preservation, during the FY 2012-FY 2013
biennium; and

(2) The amount of interest earnings that have been credited
to the Clean Ohio Conservation Fund (Fund 7056) that are in excess
of the amount needed for other purposes as calculated by the
Director of the Public Works Commission.

(B) If the Director of Budget and Management determines under

division (A)(2) of this section that there are excess interest 141477
earnings, the Director of Budget and Management shall, on or 141478
before July 15, 2013, transfer the excess interest earnings to the 141479
General Revenue Fund in an amount equal to the total amount 141480
disbursed under division (A)(1) of this section from the Clean 141481
Ohio Conservation Fund (Fund 7056). 141482

Section 369.10. RAC STATE RACING COMMISSION 141483

State Special Revenue Fund Group 141484

5620 875601 Thoroughbred Race \$ 1,796,328 \$ 1,696,456 141485
Fund

5630 875602 Standardbred \$ 1,697,418 \$ 1,697,452 141486
Development Fund

5640 875603 Quarter Horse \$ 1,000 \$ 1,000 141487
Development Fund

5650 875604 Racing Commission \$ 3,095,331 \$ 2,934,178 141488
Operating

5C40 875607 Simulcast Horse \$ 12,000,000 \$ 12,000,000 141489
Racing Purse

TOTAL SSR State Special Revenue 141490

Fund Group \$ 18,590,078 \$ 18,329,087 141491

Holding Account Redistribution Fund Group 141492

R021 875605 Bond Reimbursements \$ 100,000 \$ 100,000 141493

TOTAL 090 Holding Account 141494

Redistribution

Fund Group \$ 100,000 \$ 100,000 141495

TOTAL ALL BUDGET FUND GROUPS \$ 18,690,078 \$ 18,429,087 141496

Section 371.10. BOR BOARD OF REGENTS 141498

General Revenue Fund 141499

GRF 235321 Operating Expenses \$ 2,300,000 \$ 2,300,000 141500

GRF 235401 Lease Rental Payments \$ 83,151,600 \$ 57,634,400 141501

GRF 235402	Sea Grants	\$	285,000	\$	285,000	141502
GRF 235406	Articulation and Transfer	\$	2,000,000	\$	2,000,000	141503
GRF 235408	Midwest Higher Education Compact	\$	95,000	\$	95,000	141504
GRF 235409	Information System	\$	800,000	\$	800,000	141505
GRF 235414	State Grants and Scholarship Administration	\$	1,230,000	\$	1,230,000	141506
GRF 235417	Ohio Learning Network	\$	2,532,688	\$	2,532,688	141507
GRF 235428	Appalachian New Economy Partnership	\$	737,366	\$	737,366	141508
GRF 235433	Economic Growth Challenge	\$	440,000	\$	440,000	141509
GRF 235438	Choose Ohio First Scholarship	\$	15,750,085	\$	15,750,085	141510
GRF 235443	Adult Basic and Literacy Education - State	\$	7,302,416	\$	7,302,416	141511
GRF 235444	Post-Secondary Adult Career-Technical Education	\$	15,317,547	\$	15,317,547	141512
GRF 235474	Area Health Education Centers Program Support	\$	900,000	\$	900,000	141513
GRF 235501	State Share of Instruction	\$	1,735,530,031	\$	1,751,225,497	141514
GRF 235502	Student Support Services	\$	632,974	\$	632,974	141515
GRF 235504	War Orphans Scholarships	\$	4,787,833	\$	4,787,833	141516
GRF 235507	OhioLINK	\$	6,100,000	\$	6,100,000	141517
GRF 235508	Air Force Institute of	\$	1,740,803	\$	1,740,803	141518

	Technology				
GRF 235510	Ohio Supercomputer Center	\$	3,347,418	\$	3,347,418 141519
GRF 235511	Cooperative Extension Service	\$	22,220,910	\$	22,220,910 141520
GRF 235514	Central State Supplement	\$	11,503,651	\$	10,928,468 141521
GRF 235515	Case Western Reserve University School of Medicine	\$	2,146,253	\$	2,146,253 141522
GRF 235519	Family Practice	\$	3,166,185	\$	3,166,185 141523
GRF 235520	Shawnee State Supplement	\$	2,448,523	\$	2,326,097 141524
GRF 235524	Police and Fire Protection	\$	107,814	\$	107,814 141525
GRF 235525	Geriatric Medicine	\$	522,151	\$	522,151 141526
GRF 235526	Primary Care Residencies	\$	1,500,000	\$	1,500,000 141527
GRF 235535	Ohio Agricultural Research and Development Center	\$	33,100,000	\$	33,100,000 141528
GRF 235536	The Ohio State University Clinical Teaching	\$	9,668,941	\$	9,668,941 141529
GRF 235537	University of Cincinnati Clinical Teaching	\$	7,952,573	\$	7,952,573 141530
GRF 235538	University of Toledo Clinical Teaching	\$	6,198,600	\$	6,198,600 141531
GRF 235539	Wright State University Clinical Teaching	\$	3,011,400	\$	3,011,400 141532
GRF 235540	Ohio University	\$	2,911,212	\$	2,911,212 141533

	Clinical Teaching				
GRF 235541	Northeast Ohio Medical University Clinical Teaching	\$	2,994,178	\$	2,994,178 141534
GRF 235552	Capital Component	\$	20,638,274	\$	20,638,274 141535
GRF 235555	Library Depositories	\$	1,440,342	\$	1,440,342 141536
GRF 235556	Ohio Academic Resources Network	\$	3,172,519	\$	3,172,519 141537
GRF 235558	Long-term Care Research	\$	195,300	\$	195,300 141538
GRF 235563	Ohio College Opportunity Grant	\$	80,284,265	\$	80,284,265 141539
GRF 235572	The Ohio State University Clinic Support	\$	766,533	\$	766,533 141540
GRF 235599	National Guard Scholarship Program	\$	16,912,271	\$	16,912,271 141541
GRF 235909	Higher Education General Obligation Debt Service	\$	108,262,500	\$	201,555,000 141542
TOTAL GRF	General Revenue Fund	\$	2,226,105,156	\$	2,308,878,313 141543
	General Services Fund Group				141544
2200 235614	Program Approval and Reauthorization	\$	1,311,567	\$	1,457,959 141545
4560 235603	Sales and Services	\$	199,250	\$	199,250 141546
5JC0 235649	Co-op Internship Program	\$	14,000,000		14,000,000 141547
5JC0 235667	Ohio College Opportunity Grant-Proprietary	\$	6,000,000	\$	6,000,000 141548
TOTAL GSF	General Services Fund Group				141549
		\$	21,510,817	\$	21,657,209 141550
	Federal Special Revenue Fund Group				141551

3120	235609	Tech Prep	\$	183,850	\$	183,850	141552
3120	235611	Gear-up Grant	\$	3,900,000	\$	3,900,000	141553
3120	235612	Carl D. Perkins Grant/Plan Administration	\$	912,961	\$	912,961	141554
3120	235617	Improving Teacher Quality Grant	\$	3,200,000	\$	3,200,000	141555
3120	235641	Adult Basic and Literacy Education - Federal	\$	14,835,671	\$	14,835,671	141556
3120	235659	Race to the Top Scholarship Program	\$	2,400,000	\$	3,780,000	141557
3120	235660	Race to the Top Educator Preparation Reform Initiative	\$	448,000	\$	1,120,000	141558
3120	235661	Americorps Grant	\$	260,000	\$	260,000	141559
3H20	235608	Human Services Project	\$	3,500,000	\$	3,500,000	141560
3N60	235638	College Access Challenge Grant	\$	4,381,431	\$	4,381,431	141561
TOTAL FED Federal Special Revenue							141562
Fund Group			\$	34,021,913	\$	36,073,913	141563
State Special Revenue Fund Group							141564
4E80	235602	Higher Educational Facility Commission Administration	\$	29,100	\$	29,100	141565
5FR0	235640	Joyce Foundation Grant	\$	919,719	\$	919,719	141566
5FR0	235647	Developmental Education Initiatives	\$	135,000	\$	135,000	141567
5FR0	235657	Win-Win Grant	\$	37,000	\$	15,000	141568
5P30	235663	Variable Savings Plan	\$	8,946,994	\$	9,072,136	141569
6450	235664	Guaranteed Savings Plan	\$	900,293	\$	907,514	141570

6820 235606 Nursing Loan Program	\$	891,320	\$	891,320	141571
TOTAL SSR State Special Revenue					141572
Fund Group	\$	11,859,426	\$	11,969,789	141573
Third Frontier Research & Development Fund Group					141574
7011 235634 Research Incentive	\$	8,000,000	\$	8,000,000	141575
Third Frontier Fund					
TOTAL 011 Third Frontier Research & Development Fund Group	\$	8,000,000	\$	8,000,000	141576
TOTAL ALL BUDGET FUND GROUPS	\$	2,301,497,312	\$	2,386,579,224	141577

Section 371.10.10. LEASE RENTAL PAYMENTS 141579

The foregoing appropriation item 235401, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Chancellor of the Board of Regents under leases and agreements made under section 154.21 of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 154. of the Revised Code. 141580
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Section 371.10.20. SEA GRANTS 141588

The foregoing appropriation item 235402, Sea Grants, shall be used as required matching Funds by The Ohio State University's Sea Grant program to enhance the economic value, public utilization, and responsible management of Lake Erie and Ohio's coastal resources. 141589
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141593

Section 371.10.30. ARTICULATION AND TRANSFER 141594

The foregoing appropriation item 235406, Articulation and Transfer, shall be used by the Chancellor of the Board of Regents to maintain and expand the work of the Articulation and Transfer Council to develop a system of transfer policies to ensure that 141595
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141598

students at state institutions of higher education can transfer 141599
and have coursework apply to their majors and degrees at any other 141600
state institution of higher education without unnecessary 141601
duplication or institutional barriers under sections 3333.16, 141602
3333.161, and 3333.162 of the Revised Code. 141603

Section 371.10.40. MIDWEST HIGHER EDUCATION COMPACT 141604

The foregoing appropriation item 235408, Midwest Higher 141605
Education Compact, shall be distributed by the Chancellor of the 141606
Board of Regents under section 3333.40 of the Revised Code. 141607

Section 371.10.50. INFORMATION SYSTEM 141608

The foregoing appropriation item 235409, Information System, 141609
shall be used by the Chancellor of the Board of Regents to support 141610
the development and implementation of information technology 141611
solutions designed to improve the performance and services of the 141612
Chancellor of the Board of Regents and the University System of 141613
Ohio. Information technology solutions shall be provided by the 141614
Ohio Academic Research Network (OARnet). 141615

Section 371.10.60. STATE GRANTS AND SCHOLARSHIP 141616

ADMINISTRATION 141617

The foregoing appropriation item 235414, State Grants and 141618
Scholarship Administration, shall be used by the Chancellor of the 141619
Board of Regents to administer the following student financial aid 141620
programs: Ohio College Opportunity Grant, Ohio War Orphans' 141621
Scholarship, Nurse Education Assistance Loan Program, Ohio Safety 141622
Officers College Memorial Fund, and any other student financial 141623
aid programs created by the General Assembly. The appropriation 141624
item also shall be used to support all state financial aid audits 141625
and student financial aid programs created by Congress, and to 141626
provide fiscal services for the Ohio National Guard Scholarship 141627

Program. 141628

Section 371.10.70. OHIO LEARNING NETWORK 141629

The foregoing appropriation item 235417, Ohio Learning 141630
Network, shall be used by the Chancellor of the Board of Regents 141631
to support the continued implementation of the Ohio Learning 141632
Network, a consortium organized under division (U) of section 141633
3333.04 of the Revised Code to expand access to dual enrollment 141634
opportunities for high school students, as well as adult and 141635
higher education opportunities through technology. The funds shall 141636
be used by the Ohio Learning Network to develop and promote 141637
learning and assessment through the use of technology, to test and 141638
provide advice on emerging learning-directed technologies, and to 141639
facilitate cost-effectiveness through shared educational 141640
technology investments. 141641

Of the foregoing appropriation item 235417, Ohio Learning 141642
Network, up to \$250,000 in each fiscal year shall be used by the 141643
Chancellor of the Board of Regents to fund staff support and 141644
operations of the Ohio Digital Learning Task Force established in 141645
Section 371.60.80 of this act. 141646

Section 371.10.80. APPALACHIAN NEW ECONOMY PARTNERSHIP 141647

The foregoing appropriation item 235428, Appalachian New 141648
Economy Partnership, shall be distributed to Ohio University to 141649
continue a multi-campus and multi-agency coordinated effort to 141650
link Appalachia to the new economy. Ohio University shall use 141651
these funds to provide leadership in the development and 141652
implementation of initiatives in the areas of entrepreneurship, 141653
management, education, and technology. 141654

Section 371.10.90. ECONOMIC GROWTH CHALLENGE 141655

The foregoing appropriation item 235433, Economic Growth 141656

Challenge, shall be used for administrative expenses of the 141657
Research Incentive Program and other economic advancement 141658
initiatives undertaken by the Chancellor of the Board of Regents. 141659

The Chancellor of the Board of Regents shall use any 141660
appropriation transfer to the foregoing appropriation item 235433, 141661
Economic Growth Challenge, to enhance the basic research 141662
capabilities of public colleges and universities and accredited 141663
Ohio institutions of higher education holding certificates of 141664
authorization issued under section 1713.02 of the Revised Code, in 141665
order to strengthen academic research for pursuing Ohio's economic 141666
development goals. 141667

Section 371.20.10. CHOOSE OHIO FIRST SCHOLARSHIP 141668

The foregoing appropriation item 235438, Choose Ohio First 141669
Scholarship, shall be used to operate the program prescribed in 141670
sections 3333.60 to 3333.70 of the Revised Code. 141671

An amount equal to the unexpended, unencumbered portion of 141672
the foregoing appropriation item 235438, Choose Ohio First 141673
Scholarship, at the end of fiscal year 2012 is hereby 141674
reappropriated to the Board of Regents for the same purpose for 141675
fiscal year 2013. 141676

Section 371.20.20. ADULT BASIC AND LITERACY EDUCATION 141677

The foregoing appropriation item 235443, Adult Basic and 141678
Literacy Education - State, shall be used to support the adult 141679
basic and literacy education instructional grant program and state 141680
leadership program. The supported programs shall satisfy the state 141681
match and maintenance of effort requirements for the 141682
state-administered grant program. 141683

Section 371.20.30. POST-SECONDARY ADULT CAREER-TECHNICAL 141684
EDUCATION 141685

The foregoing appropriation item 235444, Post-Secondary Adult Career-Technical Education, shall be used by the Chancellor of the Board of Regents in each fiscal year to provide post-secondary adult career-technical education under sections 3313.52 and 3313.53 of the Revised Code.

Section 371.20.40. AREA HEALTH EDUCATION CENTERS 141691

The foregoing appropriation item 235474, Area Health Education Centers Program Support, shall be used by the Chancellor of the Board of Regents to support the medical school regional area health education centers' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center Program.

Section 371.20.50. STATE SHARE OF INSTRUCTION FORMULAS 141699

The Chancellor of the Board of Regents shall establish procedures to allocate the foregoing appropriation item 235501, State Share of Instruction, based on the formulas, enrollment, course completion, degree attainment, and student achievement factors in the instructional models set out in this section.

(A) FULL-TIME EQUIVALENT (FTE) ENROLLMENTS AND COMPLETIONS 141705

(1) As soon as possible during each fiscal year of the biennium ending June 30, 2013, in accordance with instructions of the Board of Regents, each state-assisted institution of higher education shall report its actual enrollment, consistent with the definitions in the Higher Education Information (HEI) system's enrollment files, to the Chancellor of the Board of Regents.

(2) In defining the number of full-time equivalent students for state subsidy purposes, the Chancellor of the Board of Regents shall exclude all undergraduate students who are not residents of Ohio, except those charged in-state fees in accordance with

reciprocity agreements made under section 3333.17 of the Revised Code or employer contracts entered into under section 3333.32 of the Revised Code. 141716
141717
141718

(3) In calculating the core subsidy entitlements for university branch and main campuses, the Chancellor of the Board of Regents shall use the following count of FTE students: 141719
141720
141721

(a) The subsidy eligible enrollments by model shall equal only those FTE students who successfully complete the course as defined and reported through the Higher Education Information (HEI) system course enrollment file; 141722
141723
141724
141725

(b) For those undergraduate FTE students with successful course completions, identified in division (A)(3)(a) of this section, that had an expected family contribution less than 2190 or were determined to have been in need of remedial education shall be defined as at-risk students and shall have their eligible completions weighted by the following: 141726
141727
141728
141729
141730
141731

(i) Campus-specific course completion rates by model; 141732

(ii) Campus-specific course completion indexes, where the indexes are calculated based upon the number of at-risk students enrolled during the 2009-2010 academic year; and 141733
141734
141735

(iii) A statewide average at-risk course completion weight determined for each subsidy model. The statewide average at-risk course completion weight shall be determined by calculating the difference between the percentage of traditional students who complete a course and the percentage of at-risk students who complete the same course. 141736
141737
141738
141739
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(4) In calculating the core subsidy entitlements for Medical II models only, students repeating terms may be no more than five per cent of current year enrollment. 141742
141743
141744

(B) TOTAL COSTS PER FULL-TIME EQUIVALENT STUDENT 141745

For purposes of calculating state share of instruction			141746
allocations, the total instructional costs per full-time			141747
equivalent student shall be:			141748
Model	Fiscal	Fiscal	141749
	Year 2012	Year 2013	
ARTS AND HUMANITIES 1	\$8,000	\$8,207	141750
ARTS AND HUMANITIES 2	\$10,757	\$11,036	141751
ARTS AND HUMANITIES 3	\$13,853	\$14,212	141752
ARTS AND HUMANITIES 4	\$20,228	\$20,751	141753
ARTS AND HUMANITIES 5	\$32,605	\$33,449	141754
ARTS AND HUMANITIES 6	\$38,027	\$39,011	141755
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	\$7,124	\$7,308	141756
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	\$8,164	\$8,376	141757
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	\$10,430	\$10,700	141758
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	\$12,406	\$12,727	141759
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	\$19,267	\$19,765	141760
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	\$22,684	\$23,272	141761
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	\$29,426	\$30,188	141762
MEDICAL 1	\$51,214	\$52,539	141763
MEDICAL 2	\$46,876	\$48,089	141764
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$7,306	\$7,495	141765
MEDICINE 1			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$10,242	\$10,507	141766
MEDICINE 2			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$12,242	\$12,559	141767
MEDICINE 3			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$15,592	\$15,995	141768
MEDICINE 4			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$20,250	\$20,774	141769
MEDICINE 5			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$22,357	\$22,935	141770
MEDICINE 6			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$28,000	\$28,724	141771

MEDICINE 7			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$37,731	\$38,707	141772
MEDICINE 8			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$52,676	\$54,039	141773
MEDICINE 9			
Doctoral I and Doctoral II models shall be allocated in			141774
accordance with division (D)(2) of this section.			141775
(C) SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICAL,			141776
AND GRADUATE WEIGHTS			141777
For the purpose of implementing the recommendations of the			141778
State Share of Instruction Consultation and the Higher Education			141779
Funding Study Council that priority be given to maintaining state			141780
support for science, technology, engineering, mathematics,			141781
medicine, and graduate programs, the costs in division (B) of this			141782
section shall be weighted by the amounts provided below:			141783
Model	Fiscal	Fiscal	141784
	Year 2012	Year 2013	
ARTS AND HUMANITIES 1	1.0000	1.0000	141785
ARTS AND HUMANITIES 2	1.0000	1.0000	141786
ARTS AND HUMANITIES 3	1.0000	1.0000	141787
ARTS AND HUMANITIES 4	1.0000	1.0000	141788
ARTS AND HUMANITIES 5	1.0425	1.0425	141789
ARTS AND HUMANITIES 6	1.0425	1.0425	141790
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	1.0000	1.0000	141791
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	1.0000	1.0000	141792
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	1.0000	1.0000	141793
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	1.0000	1.0000	141794
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	1.0425	1.0425	141795
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	1.0425	1.0425	141796
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	1.0425	1.0425	141797
MEDICAL 1	1.6456	1.6456	141798
MEDICAL 2	1.7462	1.7462	141799

SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 1	1.0000	1.0000	141800
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 2	1.0017	1.0017	141801
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 3	1.6150	1.6150	141802
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 4	1.6920	1.6920	141803
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 5	1.4222	1.4222	141804
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 6	1.8798	1.8798	141805
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 7	1.4380	1.4380	141806
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 8	1.5675	1.5675	141807
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 9	1.1361	1.1361	141808
(D) CALCULATION OF STATE SHARE OF INSTRUCTION FORMULA			141809
ENTITLEMENTS AND ADJUSTMENTS			141810
(1) Of the foregoing appropriation item 235501, State Share			141811
of Instruction, 7.5 per cent of the fiscal year 2012 appropriation			141812
and 10 per cent of the fiscal year 2013 appropriation for			141813
state-supported community colleges, state community colleges, and			141814
technical colleges shall be allocated to colleges in proportion to			141815
their share of college student success factors as adopted by the			141816
Chancellor of the Board of Regents in formal communication to the			141817
Controlling Board on August 30, 2010.			141818
(2) Of the foregoing appropriation item 235501, State Share			141819
of Instruction, up to 12.89 per cent of the appropriation for			141820
university main campuses in each fiscal year shall be reserved for			141821
support of doctoral programs to implement the funding			141822

recommendations made by representatives of the universities. The 141823
amount so reserved shall be referred to as the doctoral set-aside. 141824

The doctoral set-aside shall be allocated to universities as 141825
follows: 141826

(a) 70 per cent of the doctoral set-aside in fiscal year 2012 141827
and 60 per cent of the doctoral set-aside in fiscal year 2013 141828
shall be allocated to universities in proportion to their share of 141829
the total number of Doctoral I equivalent FTEs as calculated on an 141830
institutional basis using the greater of the two-year or five-year 141831
FTEs for the period fiscal year 1994 through fiscal year 1998 with 141832
annualized FTEs for fiscal years 1994 through 1997 and all-term 141833
FTEs for fiscal year 1998 as adjusted to reflect the effects of 141834
doctoral review and subsequent changes in Doctoral I equivalent 141835
enrollments. For the purposes of this calculation, Doctoral I 141836
equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 141837
times the sum of Doctoral II FTEs. 141838

(b) 15 per cent of the doctoral set-aside in fiscal year 2012 141839
and 20 per cent of the doctoral set-aside in fiscal year 2013 141840
shall be allocated to universities in proportion to each campus's 141841
share of the total statewide doctoral degrees, weighted by the 141842
cost of the doctoral discipline. In calculating each campus's 141843
doctoral degrees the Chancellor of the Board of Regents shall use 141844
the three-year average doctoral degrees awarded for the three-year 141845
period ending in the prior year. 141846

(c) 7.5 per cent of the doctoral set-aside in fiscal year 141847
2012 and 10 per cent of the doctoral set-aside in fiscal year 2013 141848
shall be allocated to universities in proportion to their share of 141849
research grant activity, using a data collection method that is 141850
reviewed and approved by the presidents of Ohio's doctoral degree 141851
granting universities. In the event that the data collection 141852
method is not available, funding for this component shall be 141853
allocated to universities in proportion to their share of research 141854

grant activity published by the National Science Foundation. Grant 141855
awards from the Department of Health and Human Services shall be 141856
weighted at 50 per cent. 141857

(d) 7.5 per cent of the doctoral set-aside in fiscal year 141858
2012 and 10 per cent of the doctoral set-aside in fiscal year 2013 141859
shall be allocated to universities based on other quality measures 141860
that contribute to the advancement of quality doctoral programs. 141861
These other quality measures shall be identified by the Chancellor 141862
in consultation with universities. If for any reason metrics for 141863
distributing the quality component of the doctoral set-aside are 141864
not identified prior to the fiscal year allocation process, this 141865
portion of the doctoral set-aside funds shall be allocated to 141866
universities based on division (D)(2)(a) of this section. 141867

(3) Of the foregoing appropriation item 235501, State Share 141868
of Instruction, 7.01 per cent of the appropriation for university 141869
main campuses in each fiscal year shall be reserved for support of 141870
Medical II FTEs. The amount so reserved shall be referred to as 141871
the medical II set-aside. 141872

The medical II set-aside shall be allocated to universities 141873
in proportion to their share of the total number of Medical II 141874
FTEs as calculated in division (A) of this section, weighted by 141875
model cost. 141876

The Northeast Ohio Medical University may use funds from the 141877
addition of 35 medical students resulting from its partnership 141878
with Cleveland State University to establish the Northeast Ohio 141879
Medical University academic campus at Cleveland State University 141880
to enable 50 per cent or more of the medical curriculum to be 141881
based in Cleveland at Cleveland State University, local hospitals, 141882
and community- and neighborhood-based primary care clinics. 141883
Cleveland State University shall not receive state capital 141884
appropriations to pay for facilities for the academic campus. 141885

(4) Of the foregoing appropriation item 235501, State Share 141886
of Instruction, 1.61 per cent of the appropriation for university 141887
main campuses in each fiscal year shall be reserved for support of 141888
Medical I FTEs. The amount so reserved shall be referred to as the 141889
medical I set-aside. 141890

The medical I set-aside shall be allocated to universities in 141891
proportion to their share of the total number of Medical I FTEs as 141892
calculated in division (A) of this section. 141893

(5) Of the foregoing appropriation item 235501, State Share 141894
of Instruction, 15 per cent of the fiscal year 2012 appropriation 141895
for university main campuses and 20 per cent of the fiscal year 141896
2013 appropriation for university main campuses shall be reserved 141897
for support of associate, baccalaureate, master's, and 141898
professional level degree attainment. 141899

The degree attainment funding shall be allocated to 141900
universities in proportion to each campus's share of the total 141901
statewide degrees granted, weighted by the cost of the degree 141902
programs. 141903

In calculating the subsidy entitlements for degree attainment 141904
at university main campuses, the Chancellor of the Board of 141905
Regents shall use the following count of degrees and degree costs: 141906

(a) For those associate degrees awarded by a state-supported 141907
university, the subsidy eligible degrees granted are defined as 141908
only those earned by students attending a university that received 141909
funding under GRF appropriation item 235418, Access Challenge, in 141910
fiscal year 2009. 141911

(b) For professional law and legal studies degrees awarded by 141912
a state-supported university, the subsidy-eligible degrees at each 141913
institution shall equal no more than the following: 141914

University of Akron	132	141915
University of Cincinnati	90	141916

Cleveland State University	192	141917
The Ohio State University	149	141918
University of Toledo	134	141919

(c) In calculating each campus's count of degrees, the
Chancellor of the Board of Regents shall use the three-year
average associate, baccalaureate, master's, and professional
degrees awarded for the three-year period ending in the prior
year.

(d) Eligible associate degrees defined in division (D)(5)(a)
of this section and all bachelor's degrees earned by a student
that either had an expected family contribution less than 2190,
was determined to have been in need of remedial education, is
Native American, African American, or Hispanic, or is at least age
26 at the time of graduation, shall be defined as degrees earned
by an at-risk student and shall be weighted by the following:

(i) A campus-specific degree completion index, where the
index is calculated based on the number of at-risk students
enrolled during a two-year degree cohort beginning in fiscal year
2000 or 2001 and earning a degree in eight years or less; and

(ii) A statewide average at-risk completion weight determined
by calculating the difference between the percentage of
traditional students who earned a degree and the percentage of
at-risk students who earned a degree during the same time period.

(6) Each campus's state share of instruction base formula
earnings shall be determined as follows:

(a) For each campus in each fiscal year, the instructional
costs shall be determined by multiplying the amounts listed above
in divisions (B) and (C) of this section by (i) average
subsidy-eligible FTEs for the two-year period ending in the prior
year for all models except Doctoral I and Doctoral II; and (ii)
average subsidy-eligible FTEs for the five-year period ending in

the prior year for all models except Doctoral I and Doctoral II. 141948

(b) The Chancellor of the Board of Regents shall compute the 141949
two calculations listed in division (D)(6)(a) of this section and 141950
use the greater amount as each campus's instructional costs. 141951

(c) The Chancellor of the Board of Regents shall compute a 141952
uniform state share of instructional costs for each sector. 141953

(i) For the state-supported community colleges, state 141954
community colleges, and technical colleges, the Chancellor of the 141955
Board of Regents shall compute the uniform state share of 141956
instructional costs by dividing the sector level appropriation 141957
total as determined by the Chancellor in division (A)(1) of 141958
Section 371.20.60 of this act and adjusted pursuant to divisions 141959
(B) and (C) of Section 371.20.60 of this act, less the student 141960
college success allocation as described in division (D)(1) of this 141961
section, by the sum of all eligible campuses' instructional costs 141962
as calculated in division (D)(6)(b) of this section. 141963

(ii) For the state-supported university branch campuses, the 141964
Chancellor of the Board of Regents shall compute the uniform state 141965
share of instructional costs by dividing the sector level 141966
appropriation, as determined by the Chancellor in division (A)(2) 141967
of Section 371.20.60 of this act and adjusted pursuant to division 141968
(B) of Section 371.20.60 of this act by the sum of all campuses' 141969
instructional costs as calculated in division (D)(6)(b) of this 141970
section. 141971

(iii) For the state-supported university main campuses, the 141972
Chancellor of the Board of Regents shall compute the uniform state 141973
share of instructional costs by dividing the sector level 141974
appropriation, as determined by the Chancellor in division (A)(3) 141975
of Section 371.20.60 of this act and adjusted pursuant to division 141976
(B) of Section 371.20.60 of this act, less the doctoral set-aside, 141977
less the medical I set-aside, less the medical II set-aside, and 141978

less the degree attainment funding as calculated in divisions 141979
(D)(2) to (5) of this section, by the sum of all campuses' 141980
instructional costs as calculated in division (D)(6)(b) of this 141981
section. 141982

(d) The formula entitlement for each sector's campuses shall 141983
be determined by multiplying the uniform state share of 141984
instructional costs calculated in division (D)(6)(c) of this 141985
section by the campus's instructional cost determined in division 141986
(D)(6)(b) of this section. 141987

(7) In addition to the student success allocation, doctoral 141988
set-aside, medical I set-aside, medical II set-aside, and the 141989
degree attainment allocation determined in divisions (D)(1) to (5) 141990
of this section and the formula entitlement determined in division 141991
(D)(6) of this section, an allocation based on facility-based 141992
plant operations and maintenance (POM) subsidy shall be made. For 141993
each eligible campus, the amount of the POM allocation in each 141994
fiscal year shall be distributed based on what each campus 141995
received in the fiscal year 2009 POM allocation. 141996

Any POM allocations required by this division shall be funded 141997
by proportionately reducing formula entitlement earnings, 141998
including the POM allocations, for all campuses in that sector. 141999

(8) STABILITY IN STATE SHARE OF INSTRUCTION FUNDING 142000

(a) In addition to and after the adjustments noted above, in 142001
fiscal year 2012, no campus shall receive a state share of 142002
instruction allocation that is less than the lesser of the 142003
following two amounts, net of funding for the medical II 142004
set-aside: 142005

(i) The prior year's state share of instruction amount 142006
reduced by 3 per cent, or 142007

(ii) The prior year's state share of instruction amount 142008
reduced by a percentage equal to the percentage change from the 142009

prior year in the campus's sector's state share of instruction 142010
funding minus three percentage points. Funds shall be made 142011
available to support this allocation by proportionately reducing 142012
formula entitlement earnings from those campuses, within each 142013
sector, that are not receiving stability funding. 142014

(b) In fiscal year 2013, in addition to and after the 142015
adjustments noted above, no campus shall receive a state share of 142016
instruction allocation that is less than the lesser of the 142017
following two amounts, net of funding for the medical II 142018
set-aside: 142019

(i) The prior year's state share of instruction amount 142020
reduced by 4 per cent, or 142021

(ii) The prior year's state share of instruction amount 142022
reduced by a percentage equal to the percentage change from the 142023
prior year in the campus's sector's state share of instruction 142024
funding minus four percentage points. Funds shall be made 142025
available to support this allocation by proportionately reducing 142026
formula entitlement earnings from those campuses, within each 142027
sector, that are not receiving stability funding. 142028

(c) For main campus universities that operate a medical 142029
school, in fiscal year 2012 no campus shall receive an allocation 142030
for the medical II set-aside that is less than the lesser of the 142031
following amounts: 142032

(i) The prior year's allocation for the medical II set-aside 142033
reduced by 2 per cent, or 142034

(ii) The prior year's allocation for the medical II set-aside 142035
reduced by a percentage equal to the percentage change from the 142036
prior year in the total medical II set-aside minus two percentage 142037
points. Funds shall be made available to support this allocation 142038
by proportionately reducing formula entitlement earnings from 142039
public medical schools, within each sector, that are not receiving 142040

stability funding. 142041

(d) In fiscal year 2013, no main campus university that 142042
operates a medical school shall receive an allocation for the 142043
medical II set-aside that is less than 97 per cent of the prior 142044
year's allocation for the medical II set-aside. Funds shall be 142045
made available to support this allocation by proportionately 142046
reducing formula entitlement earnings from public medical schools, 142047
within each sector, that are not receiving stability funding. 142048

(9) CAPITAL COMPONENT DEDUCTION 142049

After all other adjustments have been made, state share of 142050
instruction earnings shall be reduced for each campus by the 142051
amount, if any, by which debt service charged in Am. H.B. 748 of 142052
the 121st General Assembly, Am. Sub. H.B. 850 of the 122nd General 142053
Assembly, Am. Sub. H.B. 640 of the 123rd General Assembly, H.B. 142054
675 of the 124th General Assembly, Am. Sub. H.B. 16 of the 126th 142055
General Assembly, Am. Sub. H.B. 699 of the 126th General Assembly, 142056
Am. Sub. H.B. 496 of the 127th General Assembly, and Am. Sub. H.B. 142057
562 of the 127th General Assembly for that campus exceeds that 142058
campus's capital component earnings. The sum of the amounts 142059
deducted shall be transferred to appropriation item 235552, 142060
Capital Component, in each fiscal year. 142061

(E) EXCEPTIONAL CIRCUMSTANCES 142062

Adjustments may be made to the state share of instruction 142063
payments and other subsidies distributed by the Chancellor of the 142064
Board of Regents to state-assisted colleges and universities for 142065
exceptional circumstances. No adjustments for exceptional 142066
circumstances may be made without the recommendation of the 142067
Chancellor and the approval of the Controlling Board. 142068

(F) APPROPRIATION REDUCTIONS TO THE STATE SHARE OF 142069
INSTRUCTION 142070

The standard provisions of the state share of instruction 142071

calculation as described in the preceding sections of temporary law shall apply to any reductions made to appropriation item 235501, State Share of Instruction, before the Chancellor of the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year.

Any reductions made to appropriation item 235501, State Share of Instruction, after the Chancellor of the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year, shall be uniformly applied to each campus in proportion to its share of the final allocation.

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION

The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the first six months of the fiscal year shall be based upon the state share of instruction appropriation estimates made for the various institutions of higher education according to the Chancellor of the Board of Regents enrollment estimates. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Chancellor.

Section 371.20.60. STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2012 AND 2013

(A) The foregoing appropriation item 235501, State Share of Instruction, shall be distributed according to the section of this act entitled "STATE SHARE OF INSTRUCTION FORMULAS."

(1) Of the foregoing appropriation item 235501, State Share of Instruction, \$400,039,672 in fiscal year 2012 and \$403,657,477 in fiscal year 2013 shall be distributed to state-supported

community colleges, state community colleges, and technical colleges. 142102
142103

(2) Of the foregoing appropriation item 235501, State Share of Instruction, \$115,139,824 in fiscal year 2012 and \$116,181,104 in fiscal year 2013 shall be distributed to state-supported university branch campuses. 142104
142105
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142107

(3) Of the foregoing appropriation item 235501, State Share of Instruction, \$1,220,350,535 in fiscal year 2012 and \$1,231,386,916 in fiscal year 2013 shall be distributed to state-supported university main campuses. 142108
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142110
142111

(B) Of the amounts earmarked in division (A) of this section, \$60,996,059 in each fiscal year shall be distributed to eligible colleges and universities based on each campus's share of the appropriation item 235418, Access Challenge, in fiscal year 2009. 142112
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(C) Of the amount earmarked in division (A)(1) of this section, \$10,323,056 in each fiscal year shall be distributed among state-supported community colleges, state community colleges, and technical colleges in an amount equal to the amount each institution received in fiscal year 2009 from the supplemental tuition subsidy earmarked under Section 375.30.25 of H.B. 119 of the 127th General Assembly. 142116
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(D) The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Chancellor of the Board of Regents. 142123
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Section 371.20.65. TRANSFER OF INSTRUCTIONAL SUBSIDIES BETWEEN UNIVERSITIES 142130
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Notwithstanding any provision of law to the contrary, in 142132
consultation with the Chancellor of the Board of Regents, a 142133
state-supported university may request to transfer state share of 142134
instruction subsidy allocations of the foregoing appropriation 142135
item 235501, State Share of Instruction, between a university main 142136
campus and any university branch campus for which the university 142137
main campus is affiliated to best accomplish institutional goals 142138
and objectives. At the request of the Chancellor of the Board of 142139
Regents, the Director of Budget and Management may transfer the 142140
requested amounts of state share of instruction appropriation 142141
allocations between affiliated university branch campuses and 142142
university main campuses. 142143

Section 371.20.70. RESTRICTION ON FEE INCREASES 142144

The boards of trustees of state-assisted institutions of 142145
higher education shall restrain increases in in-state 142146
undergraduate instructional and general fees. Each state 142147
university, university branch, and the Northeast Ohio Medical 142148
University shall not increase its in-state undergraduate 142149
instructional and general fees more than 3.5 per cent over what 142150
the institution charged for the preceding academic year. 142151

Each community college, state community college, and 142152
technical college shall not increase its in-state undergraduate 142153
instructional and general fees by more than \$200 more than the 142154
institution charged for the preceding academic year. 142155

These limitations shall not apply to increases required to 142156
comply with institutional covenants related to their obligations 142157
or to meet unfunded legal mandates or legally binding obligations 142158
incurred or commitments made prior to the effective date of this 142159
section with respect to which the institution had identified such 142160
fee increases as the source of funds. Any increase required by 142161
such covenants and any such mandates, obligations, or commitments 142162

shall be reported by the Chancellor of the Board of Regents to the Controlling Board. These limitations may also be modified by the Chancellor of the Board of Regents, with the approval of the Controlling Board, to respond to exceptional circumstances as identified by the Chancellor of the Board of Regents.

Section 371.20.80. HIGHER EDUCATION - BOARD OF TRUSTEES

(A) Funds appropriated for instructional subsidies at colleges and universities may be used to provide such branch or other off-campus undergraduate courses of study and such master's degree courses of study as may be approved by the Chancellor of the Board of Regents.

(B) In providing instructional and other services to students, boards of trustees of state-assisted institutions of higher education shall supplement state subsidies with income from charges to students. Except as otherwise provided in this act, each board shall establish the fees to be charged to all students, including an instructional fee for educational and associated operational support of the institution and a general fee for noninstructional services, including locally financed student services facilities used for the benefit of enrolled students. The instructional fee and the general fee shall encompass all charges for services assessed uniformly to all enrolled students. Each board may also establish special purpose fees, service charges, and fines as required; such special purpose fees and service charges shall be for services or benefits furnished individual students or specific categories of students and shall not be applied uniformly to all enrolled students. A tuition surcharge shall be paid by all students who are not residents of Ohio.

The board of trustees of a state-assisted institution of higher education shall not authorize a waiver or nonpayment of instructional fees or general fees for any particular student or

any class of students other than waivers specifically authorized 142194
by law or approved by the Chancellor. This prohibition is not 142195
intended to limit the authority of boards of trustees to provide 142196
for payments to students for services rendered the institution, 142197
nor to prohibit the budgeting of income for staff benefits or for 142198
student assistance in the form of payment of such instructional 142199
and general fees. 142200

Each state-assisted institution of higher education in its 142201
statement of charges to students shall separately identify the 142202
instructional fee, the general fee, the tuition charge, and the 142203
tuition surcharge. Fee charges to students for instruction shall 142204
not be considered to be a price of service but shall be considered 142205
to be an integral part of the state government financing program 142206
in support of higher educational opportunity for students. 142207

(C) The boards of trustees of state-assisted institutions of 142208
higher education shall ensure that faculty members devote a proper 142209
and judicious part of their work week to the actual instruction of 142210
students. Total class credit hours of production per academic term 142211
per full-time faculty member is expected to meet the standards set 142212
forth in the budget data submitted by the Chancellor of the Board 142213
of Regents. 142214

(D) The authority of government vested by law in the boards 142215
of trustees of state-assisted institutions of higher education 142216
shall in fact be exercised by those boards. Boards of trustees may 142217
consult extensively with appropriate student and faculty groups. 142218
Administrative decisions about the utilization of available 142219
resources, about organizational structure, about disciplinary 142220
procedure, about the operation and staffing of all auxiliary 142221
facilities, and about administrative personnel shall be the 142222
exclusive prerogative of boards of trustees. Any delegation of 142223
authority by a board of trustees in other areas of responsibility 142224
shall be accompanied by appropriate standards of guidance 142225

concerning expected objectives in the exercise of such delegated authority and shall be accompanied by periodic review of the exercise of this delegated authority to the end that the public interest, in contrast to any institutional or special interest, shall be served.

Section 371.20.90. STUDENT SUPPORT SERVICES

The foregoing appropriation item 235502, Student Support Services, shall be distributed by the Chancellor of the Board of Regents to Ohio's state-assisted colleges and universities that incur disproportionate costs in the provision of support services to disabled students.

Section 371.30.10. WAR ORPHANS SCHOLARSHIPS

The foregoing appropriation item 235504, War Orphans Scholarships, shall be used to reimburse state-assisted institutions of higher education for waivers of instructional fees and general fees provided by them, to provide grants to institutions that have received a certificate of authorization from the Chancellor of the Board of Regents under Chapter 1713. of the Revised Code, in accordance with the provisions of section 5910.04 of the Revised Code, and to fund additional scholarship benefits provided by section 5910.032 of the Revised Code.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 235504, War Orphans Scholarships, at the end of fiscal year 2012 is hereby reappropriated to the Board of Regents for the same purpose for fiscal year 2013.

Section 371.30.20. OHIOLINK

The foregoing appropriation item 235507, OhioLINK, shall be used by the Chancellor of the Board of Regents to support OhioLINK, a consortium organized under division (U) of section

3333.04 of the Revised Code to serve as the state's electronic 142255
library information and retrieval system, which provides access 142256
statewide to an extensive set of electronic databases and 142257
resources and the library holdings of Ohio's public and 142258
participating private nonprofit colleges and universities, and the 142259
State Library of Ohio. 142260

Section 371.30.30. AIR FORCE INSTITUTE OF TECHNOLOGY 142261

The foregoing appropriation item 235508, Air Force Institute 142262
of Technology, shall be used by the director of the Air Force 142263
Institute to: (A) strengthen the research and educational linkages 142264
between the Wright Patterson Air Force Base and institutions of 142265
higher education in Ohio; and (B) support the Dayton Area Graduate 142266
Studies Institute, an engineering graduate consortium of Wright 142267
State University, the University of Dayton, and the Air Force 142268
Institute of Technology, with the participation of the University 142269
of Cincinnati and The Ohio State University. 142270

Section 371.30.40. OHIO SUPERCOMPUTER CENTER 142271

The foregoing appropriation item 235510, Ohio Supercomputer 142272
Center, shall be used by the Chancellor of the Board of Regents to 142273
support the operation of the Ohio Supercomputer Center, a 142274
consortium organized under division (U) of section 3333.04 of the 142275
Revised Code, located at The Ohio State University. The Ohio 142276
Supercomputer Center is a statewide resource available to Ohio 142277
research universities both public and private. It is also intended 142278
that the center be made accessible to private industry as 142279
appropriate. 142280

Funds shall be used, in part, to support the Ohio 142281
Supercomputer Center's Computational Science Initiative, which 142282
includes its industrial outreach program, Blue Collar Computing, 142283
and its School of Computational Science. These collaborations 142284

between the Ohio Supercomputer Center and Ohio's colleges and 142285
universities shall be aimed at making Ohio a leader in using 142286
computer modeling to promote economic development. 142287

Section 371.30.50. COOPERATIVE EXTENSION SERVICE 142288

The foregoing appropriation item 235511, Cooperative 142289
Extension Service, shall be disbursed through the Chancellor of 142290
the Board of Regents to The Ohio State University in monthly 142291
payments, unless otherwise determined by the Director of Budget 142292
and Management under section 126.09 of the Revised Code. 142293

Section 371.30.60. CENTRAL STATE SUPPLEMENT 142294

The Chancellor of the Board of Regents shall, in consultation 142295
with Central State University, develop a plan whereby the 142296
foregoing appropriation item 235514, Central State Supplement, 142297
shall be used in a manner consistent with the goals of increasing 142298
enrollment, improving course completion, and increasing the number 142299
of degrees conferred. The Chancellor shall submit a summary of the 142300
plan to the Speaker of the House of Representatives, the President 142301
of the Senate, and the Governor by December 31, 2011. 142302

The foregoing appropriation item 235514, Central State 142303
Supplement, shall be disbursed by the Chancellor of the Board of 142304
Regents to Central State University. The first two disbursements 142305
in fiscal year 2012 shall be made on a quarterly basis. Beginning 142306
January 1, 2012, the funds shall be disbursed to Central State 142307
University in accordance with the plan developed by the Chancellor 142308
under this section. 142309

The Chancellor shall monitor the implementation of the plan 142310
and the use of funds. Central State University shall provide any 142311
information requested by the Chancellor related to the 142312
implementation of the plan. If the Chancellor determines that 142313
Central State University's use of supplemental funds is not in 142314

accordance with the plan or if the plan is not having the desired 142315
effect, the Chancellor may notify Central State University that 142316
the plan is suspended. Upon receiving such notice, Central State 142317
University shall avoid all unnecessary expenditures under the 142318
plan. The Chancellor shall notify the Controlling Board of the 142319
suspension of the plan and within sixty days prepare a new plan 142320
for the use of any remaining funds. 142321

Section 371.30.70. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 142322
MEDICINE 142323

The foregoing appropriation item 235515, Case Western Reserve 142324
University School of Medicine, shall be disbursed to Case Western 142325
Reserve University through the Chancellor of the Board of Regents 142326
in accordance with agreements entered into under section 3333.10 142327
of the Revised Code, provided that the state support per full-time 142328
medical student shall not exceed that provided to full-time 142329
medical students at state universities. 142330

Section 371.30.80. FAMILY PRACTICE 142331

The Chancellor of the Ohio Board of Regents shall develop 142332
plans consistent with existing criteria and guidelines as may be 142333
required for the distribution of appropriation item 235519, Family 142334
Practice. 142335

Section 371.30.90. SHAWNEE STATE SUPPLEMENT 142336

The Chancellor of the Board of Regents shall, in consultation 142337
with Shawnee State University, develop a plan whereby the 142338
foregoing appropriation item 235520, Shawnee State Supplement, 142339
shall be used in a manner consistent with the goals of improving 142340
course completion, increasing the number of degrees conferred, and 142341
furthering the university's mission of service to the Appalachian 142342
region. The Chancellor shall submit a summary of the plan to the 142343

Speaker of the House of Representatives, the President of the Senate, and the Governor by December 31, 2011.

The foregoing appropriation item 235520, Shawnee State Supplement, shall be disbursed by the Chancellor of the Board of Regents to Shawnee State University. The first two disbursements in fiscal year 2012 shall be made on a quarterly basis. Beginning January 1, 2012, the funds shall be disbursed to Shawnee State University in accordance with the plan developed by the Chancellor under this section.

The Chancellor shall monitor the implementation of the plan and the use of funds. Shawnee State University shall provide any information requested by the Chancellor related to the implementation of the plan. If the Chancellor determines that Shawnee State University's use of supplemental funds is not in accordance with the plan or if the plan is not having the desired effect, the Chancellor may notify Shawnee State University that the plan is suspended. Upon receiving such notice, Shawnee State University shall avoid all unnecessary expenditures under the plan. The Chancellor shall notify the Controlling Board of the suspension of the plan and within sixty days prepare a new plan for the use of any remaining funds.

Section 371.40.10. POLICE AND FIRE PROTECTION

The foregoing appropriation item 235524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), Rootstown Township, and the City of Nelsonville that may be used to assist these local governments in providing police and fire protection for the central campus of the state-affiliated university located therein.

Section 371.40.20. GERIATRIC MEDICINE

The Chancellor of the Board of Regents shall develop plans 142374
consistent with existing criteria and guidelines as may be 142375
required for the distribution of appropriation item 235525, 142376
Geriatric Medicine. 142377

Section 371.40.30. PRIMARY CARE RESIDENCIES 142378

The Chancellor of the Board of Regents shall develop plans 142379
consistent with existing criteria and guidelines as may be 142380
required for the distribution of appropriation item 235526, 142381
Primary Care Residencies. 142382

The foregoing appropriation item 235526, Primary Care 142383
Residencies, shall be distributed in each fiscal year of the 142384
biennium, based on whether or not the institution has submitted 142385
and gained approval for a plan. If the institution does not have 142386
an approved plan, it shall receive five per cent less funding per 142387
student than it would have received from its annual allocation. 142388
The remaining funding shall be distributed among those 142389
institutions that meet or exceed their targets. 142390

Section 371.40.40. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT 142391
CENTER 142392

The foregoing appropriation item 235535, Ohio Agricultural 142393
Research and Development Center, shall be disbursed through the 142394
Chancellor of the Board of Regents to The Ohio State University in 142395
monthly payments, unless otherwise determined by the Director of 142396
Budget and Management under section 126.09 of the Revised Code. 142397
The Ohio Agricultural Research and Development Center shall not be 142398
required to remit payment to The Ohio State University during the 142399
biennium ending June 30, 2013, for cost reallocation assessments. 142400
The cost reallocation assessments include, but are not limited to, 142401
any assessment on state appropriations to the Center. 142402

The Ohio Agricultural Research and Development Center, an 142403

entity of the College of Food, Agricultural, and Environmental 142404
Sciences of The Ohio State University, shall further its mission 142405
of enhancing Ohio's economic development and job creation by 142406
continuing to internally allocate on a competitive basis 142407
appropriated funding of programs based on demonstrated 142408
performance. Academic units, faculty, and faculty-driven programs 142409
shall be evaluated and rewarded consistent with agreed-upon 142410
performance expectations as called for in the College's 142411
Expectations and Criteria for Performance Assessment. 142412

Section 371.40.50. STATE UNIVERSITY CLINICAL TEACHING 142413

The foregoing appropriation items 235536, The Ohio State 142414
University Clinical Teaching; 235537, University of Cincinnati 142415
Clinical Teaching; 235538, University of Toledo Clinical Teaching; 142416
235539, Wright State University Clinical Teaching; 235540, Ohio 142417
University Clinical Teaching; and 235541, Northeast Ohio Medical 142418
University Clinical Teaching, shall be distributed through the 142419
Chancellor of the Board of Regents. 142420

Section 371.40.60. CAPITAL COMPONENT 142421

The foregoing appropriation item 235552, Capital Component, 142422
shall be used by the Chancellor of the Board of Regents to 142423
implement the capital funding policy for state-assisted colleges 142424
and universities established in Am. H.B. 748 of the 121st General 142425
Assembly. Appropriations from this item shall be distributed to 142426
all campuses for which the estimated campus debt service 142427
attributable to new qualifying capital projects is less than the 142428
campus's formula-determined capital component allocation. Campus 142429
allocations shall be determined by subtracting the estimated 142430
campus debt service attributable to new qualifying capital 142431
projects from the campus's formula-determined capital component 142432
allocation. Moneys distributed from this appropriation item shall 142433

be restricted to capital-related purposes. 142434

Any campus for which the estimated campus debt service 142435
attributable to qualifying capital projects is greater than the 142436
campus's formula-determined capital component allocation shall 142437
have the difference subtracted from its State Share of Instruction 142438
allocation in each fiscal year. Appropriation equal to the sum of 142439
all such amounts except that of the Ohio Agricultural Research and 142440
Development Center shall be transferred from appropriation item 142441
235501, State Share of Instruction, to appropriation item 235552, 142442
Capital Component. Appropriation equal to any estimated Ohio 142443
Agricultural Research and Development Center debt service 142444
attributable to qualifying capital projects that is greater than 142445
the Center's formula-determined capital component allocation shall 142446
be transferred from appropriation item 235535, Ohio Agricultural 142447
Research and Development Center, to appropriation item 235552, 142448
Capital Component. 142449

Section 371.40.70. LIBRARY DEPOSITORIES 142450

The foregoing appropriation item, 235555, Library 142451
Depositories, shall be distributed to the state's five regional 142452
depository libraries for the cost-effective storage of and access 142453
to lesser-used materials in university library collections. The 142454
depositories shall be administrated by the Chancellor of the Board 142455
of Regents, or by OhioLINK at the discretion of the Chancellor. 142456

Section 371.40.80. OHIO ACADEMIC RESOURCES NETWORK (OARNET) 142457

The foregoing appropriation item 235556, Ohio Academic 142458
Resources Network, shall be used by the Chancellor of the Board of 142459
Regents to support the operations of the Ohio Academic Resources 142460
Network, a consortium organized under division (U) of section 142461
3333.04 of the Revised Code, which shall include support for 142462
Ohio's colleges and universities in maintaining and enhancing 142463

network connections, using new network technologies to improve 142464
research, education, and economic development programs, and 142465
sharing information technology services. To the extent network 142466
capacity is available, OARnet shall support allocating bandwidth 142467
to eligible programs directly supporting Ohio's economic 142468
development. 142469

Section 371.40.90. LONG-TERM CARE RESEARCH 142470

The foregoing appropriation item 235558, Long-term Care 142471
Research, shall be disbursed to Miami University for long-term 142472
care research. 142473

Section 371.50.10. OHIO COLLEGE OPPORTUNITY GRANT 142474

(A) Except as provided in division (C) of this section: 142475

Of the foregoing appropriation item 235563, Ohio College 142476
Opportunity Grant, \$37,000,000 in each fiscal year shall be used 142477
by the Chancellor of the Board of Regents to award need-based 142478
financial aid to students enrolled in eligible four-year public 142479
institutions of higher education, excluding early college high 142480
school and post-secondary enrollment option participants. 142481

Of the foregoing appropriation item 235563, Ohio College 142482
Opportunity Grant, \$41,000,000 in each fiscal year shall be used 142483
by the Chancellor of the Board of Regents to award need-based 142484
financial aid to students enrolled in eligible four-year private 142485
nonprofit institutions of higher education, excluding early 142486
college high school and post-secondary enrollment option 142487
participants. 142488

The remainder of the foregoing appropriation item 235563, 142489
Ohio College Opportunity Grant, shall be used by the Chancellor of 142490
the Board of Regents to award needs-based financial aid to 142491
students enrolled in eligible private for-profit career colleges 142492
and schools. 142493

An amount equal to the unexpended, unencumbered portion of 142494
the foregoing appropriation item 235563, Ohio College Opportunity 142495
Grant, at the end of fiscal year 2012 is hereby reappropriated to 142496
the Board of Regents for the same purpose for fiscal year 2013. 142497

(B)(1) As used in this section: 142498

(a) "Eligible institution" means any institution described in 142499
divisions (B)(2)(a) to (c) of section 3333.122 of the Revised 142500
Code. 142501

(b) The three "sectors" of institutions of higher education 142502
consist of the following: 142503

(i) State colleges and universities, community colleges, 142504
state community colleges, university branches, and technical 142505
colleges; 142506

(ii) Eligible private nonprofit institutions of higher 142507
education; 142508

(iii) Eligible private for-profit career colleges and 142509
schools. 142510

(2) If the Chancellor determines that the amounts 142511
appropriated for support of the Ohio College Opportunity Grant 142512
program are inadequate to provide grants to all eligible students 142513
as calculated under division (D) of section 3333.122 of the 142514
Revised Code, the Chancellor may create a distribution formula for 142515
fiscal year 2012 and fiscal year 2013 based on the formula used in 142516
fiscal year 2011, or may follow methods established in division 142517
(C)(1)(a) or (b) of section 3333.122 of the Revised Code. The 142518
Chancellor shall notify the Controlling Board of the distribution 142519
method. Any formula calculated under this division shall be 142520
complete and established to coincide with the start of the 142521
2011-2012 academic year. 142522

(C) Prior to determining the amount of funds available to 142523

award under this section and section 3333.122 of the Revised Code, 142524
the Chancellor shall use the foregoing appropriation item 235563, 142525
Ohio College Opportunity Grant, to pay for renewals or partial 142526
renewals of scholarships students receive under the Ohio Academic 142527
Scholarship Program under sections 3333.21 and 3333.22 of the 142528
Revised Code. In paying for scholarships under this division, the 142529
Chancellor shall deduct funds from the allocations made under 142530
division (A) of this section. Deductions shall be proportionate to 142531
the amounts allocated to each sector from the total amounts 142532
appropriated for each sector under the foregoing appropriation 142533
item 235563, Ohio College Opportunity Grant, and the foregoing 142534
appropriation item 235667, Ohio College Opportunity Grant - 142535
Proprietary. 142536

In each fiscal year, the Chancellor shall not distribute or 142537
obligate or commit to be distributed an amount greater than what 142538
is appropriated under the foregoing appropriation item 235563, 142539
Ohio College Opportunity Grant. 142540

(D) The Chancellor shall establish, and post on the Ohio 142541
Board of Regents' web site, award tables based on any formulas 142542
created under division (B) of this section. The Chancellor shall 142543
notify students and institutions of any reductions in awards under 142544
this section. 142545

On or before August 31, 2011, the Chancellor of the Board of 142546
Regents shall submit award tables to the Controlling Board for the 142547
2011-2012 academic year and allocations of Ohio College 142548
Opportunity Grant awards not already specified in section 3333.122 142549
of the Revised Code. 142550

(E) Notwithstanding section 3333.122 of the Revised Code, no 142551
student shall be eligible to receive an Ohio College Opportunity 142552
Grant for more than ten semesters, fifteen quarters, or the 142553
equivalent of five academic years, less the number of semesters or 142554
quarters in which the student received an Ohio Instructional 142555

Grant. 142556

Section 371.50.20. THE OHIO STATE UNIVERSITY CLINIC SUPPORT 142557

The foregoing appropriation item 235572, The Ohio State 142558
University Clinic Support, shall be distributed through the 142559
Chancellor of the Board of Regents to The Ohio State University 142560
for support of dental and veterinary medicine clinics. 142561

Section 371.50.30. NATIONAL GUARD SCHOLARSHIP PROGRAM 142562

The Chancellor of the Board of Regents shall disburse funds 142563
from appropriation item 235599, National Guard Scholarship 142564
Program, at the direction of the Adjutant General. During each 142565
fiscal year, the Chancellor of the Board of Regents, within ten 142566
days of cancellation, may certify to the Director of Budget and 142567
Management the amount of canceled prior-year encumbrances in 142568
appropriation item 235599, National Guard Scholarship Program. 142569
Upon receipt of the certification, the Director of Budget and 142570
Management may transfer cash in an amount up to the amount 142571
certified from the General Revenue Fund to the National Guard 142572
Scholarship Reserve Fund (Fund 5BM0). Upon the request of the 142573
Adjutant General, the Chancellor of the Board of Regents shall 142574
seek Controlling Board approval to authorize additional 142575
expenditures for appropriation item 235623, National Guard 142576
Scholarship Reserve Fund. Upon approval of the Controlling Board, 142577
the additional amounts are hereby appropriated. The Chancellor of 142578
the Board of Regents shall disburse funds from appropriation item 142579
235623, National Guard Scholarship Reserve Fund, at the direction 142580
of the Adjutant General. 142581

In each fiscal year, the Adjutant General, in consultation 142582
with the Chancellor of the Board of Regents and the Director of 142583
Budget and Management, shall determine if the amounts appropriated 142584
in appropriation item 235599, National Guard Scholarship Program, 142585

are adequate to provide scholarships equal to one hundred per cent 142586
of tuition charges to all eligible applicants attending a state 142587
institution of higher education. 142588

Notwithstanding divisions (C) and (D)(1)(a) of section 142589
5919.34 of the Revised Code, if amounts appropriated are 142590
determined to be inadequate in any fiscal year, the Adjutant 142591
General shall accommodate available funds by proportionally 142592
reducing the amount of each scholarship awarded to a student 142593
attending a state institution of higher education. The Adjutant 142594
General shall then notify each state institution of higher 142595
education of the percentage that scholarship amounts were reduced. 142596
Each state institution of higher education shall then provide a 142597
matching award to each scholarship recipient in an amount equal to 142598
the amount that recipient's scholarship was reduced. 142599

Section 371.50.40. PLEDGE OF FEES 142600

Any new pledge of fees, or new agreement for adjustment of 142601
fees, made in the biennium ending June 30, 2013, to secure bonds 142602
or notes of a state-assisted institution of higher education for a 142603
project for which bonds or notes were not outstanding on the 142604
effective date of this section shall be effective only after 142605
approval by the Chancellor of the Board of Regents, unless 142606
approved in a previous biennium. 142607

Section 371.50.50. HIGHER EDUCATION GENERAL OBLIGATION DEBT 142608
SERVICE 142609

The foregoing appropriation item 235909, Higher Education 142610
General Obligation Debt Service, shall be used to pay all debt 142611
service and related financing costs at the times they are required 142612
to be made during the period from July 1, 2011, through June 30, 142613
2013, for obligations issued under sections 151.01 and 151.04 of 142614
the Revised Code. 142615

Section 371.50.60. SALES AND SERVICES 142616

The Chancellor of the Board of Regents is authorized to 142617
charge and accept payment for the provision of goods and services. 142618
Such charges shall be reasonably related to the cost of producing 142619
the goods and services. Except as otherwise provided by law, no 142620
charges may be levied for goods or services that are produced as 142621
part of the routine responsibilities or duties of the Chancellor. 142622
All revenues received by the Chancellor of the Board of Regents 142623
shall be deposited into Fund 4560, and may be used by the 142624
Chancellor of the Board of Regents to pay for the costs of 142625
producing the goods and services. 142626

Section 371.50.63. OHIO COLLEGE OPPORTUNITY GRANT - 142627
PROPRIETARY 142628

The foregoing appropriation item 235667, Ohio College 142629
Opportunity Grant - Proprietary, shall be used by the Chancellor 142630
of the Board of Regents to award needs-based financial aid to 142631
students enrolled in eligible private for-profit career colleges 142632
and schools, pursuant to section 3333.122 of the Revised Code and 142633
section 371.50.10 of this act. 142634

An amount equal to the unexpended, unencumbered portion of 142635
the foregoing appropriation item 235667, Ohio College Opportunity 142636
Grant - Proprietary, at the end of fiscal year 2012 is hereby 142637
reappropriated to the Board of Regents for the same purpose for 142638
fiscal year 2013. 142639

In each fiscal year, the Chancellor shall not distribute or 142640
obligate or commit to be distributed an amount greater than what 142641
is appropriated under the foregoing appropriation item 235667, 142642
Ohio College Opportunity Grant - Proprietary. 142643

Section 371.50.70. HIGHER EDUCATIONAL FACILITY COMMISSION 142644

ADMINISTRATION 142645

The foregoing appropriation item 235602, Higher Educational Facility Commission Administration, shall be used by the Chancellor of the Board of Regents for operating expenses related to the Chancellor of the Board of Regents' support of the activities of the Ohio Higher Educational Facility Commission. Upon the request of the Chancellor, the Director of Budget and Management shall transfer up to \$29,100 cash in fiscal year 2012 and up to \$29,100 cash in fiscal year 2013 from the HEFC Operating Expenses Fund (Fund 4610) to the HEFC Administration Fund (Fund 4E80).

Section 371.50.80. NURSING LOAN PROGRAM 142656

The foregoing appropriation item 235606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to \$167,580 in each fiscal year may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval.

Section 371.50.90. VETERANS PREFERENCES 142663

The Chancellor of the Board of Regents shall work with the Department of Veterans Services to develop specific veterans preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans preference laws.

Section 371.60.10. STATE NEED-BASED FINANCIAL AID 142670

RECONCILIATION 142671

By the first day of August in each fiscal year, or as soon as possible thereafter, the Chancellor of the Board of Regents shall

certify to the Director of Budget and Management the amount 142674
necessary to pay any outstanding prior year obligations to higher 142675
education institutions for the state's need-based financial aid 142676
programs. The amounts certified are hereby appropriated to 142677
appropriation item 235618, State Need-based Financial Aid 142678
Reconciliation, from revenues received in the State Need-based 142679
Financial Aid Reconciliation Fund (Fund 5Y50). 142680

Section 371.60.20. (A) As used in this section: 142681

(1) "Board of trustees" includes the managing authority of a 142682
university branch district. 142683

(2) "State institution of higher education" has the same 142684
meaning as in section 3345.011 of the Revised Code. 142685

(B) The board of trustees of any state institution of higher 142686
education, notwithstanding any rule of the institution to the 142687
contrary, may adopt a policy providing for mandatory furloughs of 142688
employees, including faculty, to achieve spending reductions 142689
necessitated by institutional budget deficits. 142690

Section 371.60.23. SHARED SERVICES 142691

(A) Except as otherwise provided in this section, any state 142692
institution of higher education with total FTE enrollment under 142693
5,000 shall enter into strategic partnerships for shared services 142694
with other institutions of higher education, school districts, 142695
local government entities, or regional shared services centers. 142696

The strategic partnerships entered into pursuant to this 142697
section shall be comprehensive and shall include but not be 142698
limited to services for accounting, business and finance, 142699
conferences, development, enrollment management, financial aid, 142700
testing, career services, human resources, employee prescription 142701
drug benefits, marketing and public relations, purchasing, 142702
technology services, and telecommunications. Co-located campuses 142703

shall also enter into partnerships to share costs for building and 142704
grounds maintenance, executive office operations, security and law 142705
enforcement, food service, and student activities such as 142706
performing arts and sports. 142707

Each state institution may seek a waiver from the Chancellor 142708
of the Board of Regents in one or more of the above areas. In 142709
seeking a waiver from the Chancellor, the institution must 142710
demonstrate the efficiency of its individual operation or a 142711
strategic partnership with another entity that achieves similar 142712
results. If the Chancellor determines that the institution fails 142713
to demonstrate the efficiency of its operation, the Chancellor 142714
shall report the institution's failure to the Governor and members 142715
of the General Assembly. 142716

Each state institution of higher education shall report to 142717
the Chancellor by December 31, 2011, and annually thereafter, 142718
regarding its strategic partnerships. Reports shall document the 142719
amount saved through the partnerships. 142720

(B) Any institution that provides employee prescription drug 142721
benefits through the Rx Ohio Collaborative shall be deemed to have 142722
demonstrated maximum cost savings in this area. 142723

Section 371.60.40. EFFICIENCY ADVISORY COMMITTEE 142724

The Chancellor of the Board of Regents shall establish an 142725
efficiency advisory committee for the purpose of generating 142726
optimal efficiency plans for campuses, identifying shared services 142727
opportunities, and sharing best practices. The efficiency advisory 142728
committee shall also attempt to reduce the cost of textbooks and 142729
other education resource materials. The committee shall meet at 142730
the call of the Chancellor or the Chancellor's designee, but at 142731
least quarterly. Each state institution of higher education shall 142732
designate an employee to serve as its efficiency officer 142733
responsible for the evaluation and improvement of operational 142734

efficiencies on campus. Each efficiency officer shall serve on the 142735
efficiency advisory committee. 142736

Section 371.60.50. TEXTBOOK AFFORDABILITY 142737

Each state institution of higher education shall submit to 142738
the Chancellor of the Board of Regents by December 31, 2011, a 142739
plan to reduce the cost to students of textbooks and other 142740
education resource materials. 142741

Section 371.60.60. TUITION TRUST AUTHORITY APPROPRIATION LINE 142742
ITEM TRANSFER 142743

On July 1, 2011, or as soon as possible thereafter, the 142744
Director of Budget and Management, upon request by the Chancellor 142745
of the Board of Regents, shall cancel any existing encumbrances 142746
against appropriation item 095602, Variable Savings Plans, and 142747
re-establish them against appropriation item 235663, Variable 142748
Savings Plans. The re-established encumbrance amounts are hereby 142749
appropriated. 142750

On July 1, 2011, or as soon as possible thereafter, the 142751
Director of Budget and Management, upon request by the Chancellor 142752
of the Board of Regents, shall cancel any existing encumbrances 142753
against appropriation item 095601, Guaranteed Savings Plan, and 142754
re-establish them against appropriation item 235664, Guaranteed 142755
Savings Plan. The re-established encumbrance amounts are hereby 142756
appropriated. 142757

Section 371.60.70. (A) Notwithstanding anything to the 142758
contrary in sections 3333.81 to 3333.88 of the Revised Code, the 142759
distance learning clearinghouse required to be established under 142760
those sections shall be located at the Ohio Resource Center for 142761
Mathematics, Science, and Reading administered by the College of 142762
Education and Human Ecology at The Ohio State University. The 142763

College shall provide access to its online repository of 142764
educational content to offer courses from multiple providers at 142765
competitive prices for Ohio students in grades kindergarten to 142766
twelve. 142767

(B) The College shall review the content of each course 142768
offered to assess the course's alignment with the academic 142769
standards adopted under division (A) of section 3301.079 of the 142770
Revised Code and shall publish its determination about the degree 142771
of alignment. 142772

(C) The College shall indicate, for each course offered, the 142773
academic credit that a student may reasonably expect to earn upon 142774
successful completion of the course. However, in accordance with 142775
section 3333.85 of the Revised Code, the school district or school 142776
in which the student is enrolled retains full authority to 142777
determine the credit awarded to the student. 142778

(D) As prescribed by section 3333.84 of the Revised Code, the 142779
fee charged for a course shall be set by the course provider. The 142780
College may retain a percentage of the fee to offset the cost of 142781
maintaining the course repository. 142782

(E) The College may establish policies to protect the 142783
proprietary interest in or intellectual property of the 142784
educational content and courses that are housed in the course 142785
repository. The College may require end users to agree to the 142786
terms of any such policies prior to accessing the repository. 142787

Section 371.60.80. (A) The Ohio Digital Learning Task Force 142788
is hereby established to develop a strategy for the expansion of 142789
digital learning that enables students to customize their 142790
education, produces cost savings, and meets the needs of Ohio's 142791
economy. The Task Force shall consist of the following members: 142792

(1) The Chancellor of the Ohio Board of Regents or the 142793

Chancellor's designee;	142794
(2) The Superintendent of Public Instruction or the Superintendent's designee;	142795 142796
(3) The Director of the Governor's Office of 21st Century Education or the Director's designee;	142797 142798
(4) Up to six members appointed by the Governor, who shall be representatives of school districts or community schools, established under Chapter 3314. of the Revised Code, that are high-performing of their type and have demonstrated the ability to incorporate technology into the classroom successfully;	142799 142800 142801 142802 142803
(5) A member appointed by the President of the Senate;	142804
(6) A member appointed by the Speaker of the House of Representatives.	142805 142806
(B) Members of the Task Force shall be appointed not later than sixty days after the effective date of this section. Vacancies on the Task Force shall be filled in the same manner as the original appointments. Members shall serve without compensation.	142807 142808 142809 142810 142811
(C) The Governor shall designate the chairperson of the Task Force. All meetings of the Task Force shall be held at the call of the chairperson.	142812 142813 142814
(D) The Task Force shall do all of the following:	142815
(1) Request information from textbook publishers about the development of digital textbooks and other new digital content distribution methods for use by primary, secondary, and post-secondary schools and institutions and examine that information;	142816 142817 142818 142819 142820
(2) Examine potential cost savings and efficiency of utilizing digital textbooks and other new digital content distribution methods in primary, secondary, and post-secondary	142821 142822 142823

schools and institutions;	142824
(3) Examine potential academic benefits of utilizing digital textbooks and other new digital content distribution methods, including, but not limited to, the ability to individualize content to specific student learning styles, accessibility for individuals with disabilities, and the integration of formative and other online assessments;	142825 142826 142827 142828 142829 142830
(4) Examine digital content pilot programs and initiatives currently operating at primary, secondary, and post-secondary schools and institutions in Ohio, including, but not limited to, those financed in part with federal funds;	142831 142832 142833 142834
(5) Examine any state-level initiatives to provide or facilitate use of digital content in primary, secondary, and post-secondary schools and institutions in Ohio.	142835 142836 142837
(E) The Task Force shall make recommendations regarding all of the following:	142838 142839
(1) The creation of high quality digital content and instruction in grades kindergarten to twelve for free access by public and nonpublic schools and students receiving home instruction;	142840 142841 142842 142843
(2) High quality professional development for teachers and principals providing online instruction or blended learning programs;	142844 142845 142846
(3) Funding strategies that create incentives for high performance, innovation, and options in course providers and delivery;	142847 142848 142849
(4) Student assessment and accountability;	142850
(5) Infrastructure to support digital learning;	142851
(6) Mobile learning and mobile learning applications;	142852
(7) The clearinghouse established under section 3333.82 of	142853

the Revised Code;	142854
(8) Ways to align the resources and digital learning initiatives of state agencies and offices;	142855 142856
(9) Methods for removing redundancy and inefficiency in, and for providing coordination, of all digital learning programs, including the provision of free online instruction to public and nonpublic schools on a statewide basis;	142857 142858 142859 142860
(10) Methods of addressing future changes in technology and learning.	142861 142862
(E) Not later than March 1, 2012, the Task Force shall issue a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Upon issuance of its report, the Task Force shall cease to exist.	142863 142864 142865 142866 142867
Section 371.60.90. Not later than six months after the effective date of this section, the Chancellor of the Ohio Board of Regents shall do both of the following:	142868 142869 142870
(A) Take steps to facilitate full implementation of any digital textbook and digital content pilot programs currently planned at any state institutions of higher education in Ohio;	142871 142872 142873
(B) Take steps to ensure that those pilot programs examine the potential cost savings and efficiencies of digital content and the potential academic benefits, including, but not limited to, the ability to individualize content to specific student learning styles, accessibility for individuals with disabilities, and the integration of formative and other online assessments.	142874 142875 142876 142877 142878 142879
Section 371.70.10. On July 1, 2011, or as soon as possible thereafter, the Chancellor of the Board of Regents shall pay to The Ohio State University an amount equal to the cash balance in	142880 142881 142882

the OSU Highway/Transportation Research Fund (Fund 6490). The 142883
amount of the payment is hereby appropriated from Fund 6490. Upon 142884
completion of the payment, Fund 6490 is hereby abolished and the 142885
Chancellor of the Board of Regents shall cancel any existing 142886
encumbrances against appropriation item 235607, The Ohio State 142887
University Highway/Transportation Research. 142888

Section 373.10. DRC DEPARTMENT OF REHABILITATION AND				142889
CORRECTION				142890
General Revenue Fund				142891
GRF 501321	Institutional	\$ 909,547,156	\$ 866,592,589	142892
	Operations			
GRF 501403	Prisoner Compensation	\$ 8,599,255	\$ 8,599,255	142893
GRF 501405	Halfway House	\$ 43,637,069	\$ 43,622,104	142894
GRF 501406	Lease Rental Payments	\$ 42,863,100	\$ 104,301,500	142895
GRF 501407	Community	\$ 25,859,382	\$ 25,839,390	142896
	Nonresidential			
	Programs			
GRF 501408	Community Misdemeanor	\$ 14,906,800	\$ 14,906,800	142897
	Programs			
GRF 501501	Community Residential	\$ 62,692,785	\$ 62,477,785	142898
	Programs - CBCF			
GRF 502321	Mental Health Services	\$ 58,525,816	\$ 51,778,513	142899
GRF 503321	Parole and Community	\$ 68,197,272	\$ 63,783,848	142900
	Operations			
GRF 504321	Administrative	\$ 21,996,504	\$ 20,085,474	142901
	Operations			
GRF 505321	Institution Medical	\$ 209,231,014	\$ 195,241,961	142902
	Services			
GRF 506321	Institution Education	\$ 20,237,576	\$ 18,086,492	142903
	Services			
GRF 507321	Institution Recovery	\$ 5,786,109	\$ 5,375,737	142904

Services				
TOTAL GRF General Revenue Fund		\$ 1,492,079,838	\$ 1,480,691,448	142905
General Services Fund Group				142906
1480 501602	Services and	\$ 3,579,250	\$ 3,584,263	142907
	Agricultural			
2000 501607	Ohio Penal Industries	\$ 38,000,000	\$ 38,000,000	142908
4830 501605	Property Receipts	\$ 182,723	\$ 182,086	142909
4B00 501601	Sewer Treatment	\$ 2,145,630	\$ 2,157,682	142910
	Services			
4D40 501603	Prisoner Programs	\$ 14,900,000	\$ 14,900,000	142911
4L40 501604	Transitional Control	\$ 1,168,843	\$ 1,213,120	142912
4S50 501608	Education Services	\$ 2,376,041	\$ 2,359,775	142913
5710 501606	Training Academy	\$ 125,000	\$ 125,000	142914
	Receipts			
5930 501618	Laboratory Services	\$ 6,665,137	\$ 6,664,729	142915
5AF0 501609	State and Non-Federal	\$ 1,440,000	\$ 1,440,000	142916
	Awards			
5H80 501617	Offender Financial	\$ 2,000,000	\$ 2,000,000	142917
	Responsibility			
5L60 501611	Information	\$ 600,000	\$ 600,000	142918
	Technology Services			
TOTAL GSF General Services Fund		\$ 73,182,624	\$ 73,226,655	142919
Group				
Federal Special Revenue Fund Group				142920
3230 501619	Federal Grants	\$ 9,013,558	\$ 9,180,703	142921
TOTAL FED Federal Special Revenue				142922
Fund Group		\$ 9,013,558	\$ 9,180,703	142923
TOTAL ALL BUDGET FUND GROUPS		\$ 1,574,276,020	\$ 1,563,098,806	142924
TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL				142925
SENTENCING REFORMS				142926
For the purposes of implementing criminal sentencing reforms,				142927
and notwithstanding any other provision of law to the contrary,				142928

the Director of Budget and Management, at the request of the 142929
Director of Rehabilitation and Correction, may transfer up to 142930
\$14,000,000 in appropriations, in each of fiscal years 2012 and 142931
2013, from appropriation item 501321, Institutional Operations, to 142932
any combination of appropriation items 501405, Halfway House; 142933
501407, Community Residential Programs; 501408, Community 142934
Misdemeanor Programs; and 501501, Community Residential Programs - 142935
CBCF. 142936

OHIO BUILDING AUTHORITY LEASE PAYMENTS 142937

The foregoing appropriation item 501406, Lease Rental 142938
Payments, shall be used to meet all payments at the times they are 142939
required to be made during the period from July 1, 2011, through 142940
June 30, 2013, by the Department of Rehabilitation and Correction 142941
to the Ohio Building Authority under the primary leases and 142942
agreements for those buildings made under Chapter 152. of the 142943
Revised Code. These appropriations are the source of funds pledged 142944
for bond service charges or obligations issued pursuant to Chapter 142945
152. of the Revised Code. 142946

OSU MEDICAL CHARGES 142947

Notwithstanding section 341.192 of the Revised Code, at the 142948
request of the Department of Rehabilitation and Correction, The 142949
Ohio State University Medical Center, including the James Cancer 142950
Hospital and Solove Research Institute and the Richard M. Ross 142951
Heart Hospital, shall provide necessary care to persons who are 142952
confined in state adult correctional facilities. The provision of 142953
necessary care shall be billed to the Department at a rate not to 142954
exceed the authorized reimbursement rate for the same service 142955
established by the Department of Job and Family Services under the 142956
Medical Assistance Program. 142957

Section 375.10. RSC REHABILITATION SERVICES COMMISSION 142958

General Revenue Fund				142959
GRF	415402	Independent Living Council	\$ 252,000 \$	252,000 142960
GRF	415406	Assistive Technology	\$ 26,618 \$	26,618 142961
GRF	415431	Office for People with Brain Injury	\$ 126,567 \$	126,567 142962
GRF	415506	Services for People with Disabilities	\$ 12,777,884 \$	12,777,884 142963
GRF	415508	Services for the Deaf	\$ 28,000 \$	28,000 142964
TOTAL GRF General Revenue Fund			\$ 13,211,069 \$	13,211,069 142965
General Services Fund Group				142966
4670	415609	Business Enterprise Operating Expenses	\$ 1,308,431 \$	1,303,090 142967
TOTAL GSF General Services Fund Group				142968 \$ 1,308,431 \$ 1,303,090 142969
Federal Special Revenue Fund Group				142970
3170	415620	Disability Determination	\$ 97,579,095 \$	97,579,095 142971
3790	415616	Federal - Vocational Rehabilitation	\$ 103,160,426 \$	103,150,102 142972
3L10	415601	Social Security Personal Care Assistance	\$ 3,370,000 \$	3,370,000 142973
3L10	415605	Social Security Community Centers for the Deaf	\$ 772,000 \$	772,000 142974
3L10	415608	Social Security Special Programs/Assistance	\$ 1,521,406 \$	1,520,184 142975
3L40	415612	Federal Independent Living Centers or Services	\$ 652,222 \$	652,222 142976

3L40	415615	Federal - Supported Employment	\$	929,755	\$	929,755	142977
3L40	415617	Independent Living/Vocational Rehabilitation Programs	\$	2,137,338	\$	2,137,338	142978
TOTAL FED Federal Special							142979
Revenue Fund Group			\$	210,122,242	\$	210,110,696	142980
State Special Revenue Fund Group							142981
4680	415618	Third Party Funding	\$	10,802,589	\$	10,802,589	142982
4L10	415619	Services for Rehabilitation	\$	3,700,000	\$	3,700,000	142983
4W50	415606	Program Management Expenses	\$	11,636,730	\$	11,587,201	142984
TOTAL SSR State Special							142985
Revenue Fund Group			\$	26,139,319	\$	26,089,790	142986
TOTAL ALL BUDGET FUND GROUPS			\$	250,781,061	\$	250,714,645	142987
INDEPENDENT LIVING COUNCIL							142988
The foregoing appropriation item 415402, Independent Living							142989
Council, shall be used to fund the operations of the State							142990
Independent Living Council and to support state independent living							142991
centers and independent living services under Title VII of the							142992
Independent Living Services and Centers for Independent Living of							142993
the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29							142994
U.S.C. 796d.							142995
Of the foregoing appropriation item 415402, Independent							142996
Living Council, \$67,662 in each fiscal year shall be used as state							142997
matching funds for vocational rehabilitation innovation and							142998
expansion activities.							142999
ASSISTIVE TECHNOLOGY							143000
The total amount of the foregoing appropriation item 415406,							143001

Assistive Technology, shall be provided to Assistive Technology of 143002
Ohio to provide grants and assistive technology services for 143003
people with disabilities in the State of Ohio. 143004

OFFICE FOR PEOPLE WITH BRAIN INJURY 143005

The foregoing appropriation item 415431, Office for People 143006
with Brain Injury, shall be used to plan and coordinate 143007
head-injury-related services provided by state agencies and other 143008
government or private entities, to assess the needs for such 143009
services, and to set priorities in this area. 143010

Of the foregoing appropriation item 415431, Office for People 143011
with Brain Injury, \$44,067 in each fiscal year shall be used as 143012
state matching funds to provide vocational rehabilitation services 143013
to eligible consumers. 143014

VOCATIONAL REHABILITATION SERVICES 143015

The foregoing appropriation item 415506, Services for People 143016
with Disabilities, shall be used as state matching funds to 143017
provide vocational rehabilitation services to eligible consumers. 143018

At the request of the Chancellor of the Board of Regents, the 143019
Director of Budget and Management may transfer any unexpended, 143020
unencumbered appropriation in fiscal year 2012 or fiscal year 2013 143021
from appropriation item 235502, Student Support Services, to 143022
appropriation item 415506, Services for People with Disabilities. 143023
Any appropriation so transferred shall be used by the Ohio 143024
Rehabilitation Services Commission to obtain additional federal 143025
matching funds to serve disabled students. 143026

SERVICES FOR THE DEAF 143027

The foregoing appropriation item 415508, Services for the 143028
Deaf, shall be used to provide grants to community centers for the 143029
deaf. 143030

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 143031

The foregoing appropriation item 415617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs.	143032 143033 143034
SOCIAL SECURITY REIMBURSEMENT FUNDS	143035
Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be expended from the Social Security Reimbursement Fund (Fund 3L10), to the extent funds are available, as follows:	143036 143037 143038 143039 143040 143041
(A) Appropriation item 415601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;	143042 143043 143044
(B) Appropriation item 415605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments; and	143045 143046 143047 143048
(C) Appropriation item 415608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item shall also be used to pay a portion of indirect costs of the Personal Care Assistance Program and the Independent Living Programs as mandated by federal OMB Circular A-87.	143049 143050 143051 143052 143053 143054 143055 143056
PROGRAM MANAGEMENT EXPENSES	143057
The foregoing appropriation item 415606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.	143058 143059 143060 143061 143062

Section 377.10. RCB RESPIRATORY CARE BOARD				143063
General Services Fund Group				143064
4K90 872609	Operating Expenses	\$ 528,624	\$ 523,013	143065
TOTAL GSF General Services				143066
Fund Group		\$ 528,624	\$ 523,013	143067
TOTAL ALL BUDGET FUND GROUPS				143068
 Section 379.10. RDF REVENUE DISTRIBUTION FUNDS				143070
Volunteer Firefighters' Dependents Fund				143071
7085 800985	Volunteer Firemen's	\$ 300,000	\$ 300,000	143072
Dependents Fund				
TOTAL 085 Volunteer Firefighters'				143073
Dependents Fund				\$ 300,000 \$ 300,000 143074
Agency Fund Group				143075
4P80 001698	Cash Management	\$ 3,100,000	\$ 3,100,000	143076
Improvement Fund				
5JG0 110633	Gross Casino Revenue	\$ 5,778,617	\$ 138,882,294	143077
County Fund				
5JH0 110634	Gross Casino Revenue	\$ 3,852,412	\$ 92,588,196	143078
County Student Fund				
5JJ0 110636	Gross Casino Revenue	\$ 566,531	\$ 13,615,911	143079
Host City Fund				
5JK0 875610	Ohio State Racing	\$ 339,919	\$ 8,169,547	143080
Commission Fund				
5JL0 038629	Problem Casino	\$ 226,612	\$ 5,446,364	143081
Gambling and				
Addictions Fund				
5JN0 055654	Ohio Law Enforcement	\$ 226,612	\$ 5,446,364	143082
Training Fund				
6080 001699	Investment Earnings	\$ 50,000,000	\$ 150,000,000	143083
7062 110962	Resort Area Excise	\$ 1,000,000	\$ 1,000,000	143084

		Tax			
7063	110963	Permissive Tax	\$ 1,904,500,000	\$ 1,980,700,000	143085
		Distribution			
7067	110967	School District	\$ 317,000,000	\$ 330,000,000	143086
		Income Tax			
TOTAL AGY	Agency Fund Group		\$ 2,286,590,703	\$ 2,728,948,676	143087
	Holding Account Redistribution				143088
R045	110617	International Fuel	\$ 40,000,000	\$ 40,000,000	143089
		Tax Distribution			
TOTAL 090	Holding Account				143090
	Redistribution Fund				
	Revenue Distribution Fund Group		\$ 40,000,000	\$ 40,000,000	143091
7049	038900	Indigent Drivers	\$ 2,200,000	\$ 2,200,000	143092
		Alcohol Treatment			
7050	762900	International	\$ 30,000,000	\$ 30,000,000	143093
		Registration Plan			
		Distribution			
7051	762901	Auto Registration	\$ 539,000,000	\$ 539,000,000	143094
		Distribution			
7054	110954	Local Government	\$ 16,000,000	\$ 11,000,000	143095
		Property Tax			
		Replacement - Utility			
7060	110960	Gasoline Excise Tax	\$ 393,000,000	\$ 395,000,000	143096
		Fund			
7065	110965	Public Library Fund	\$ 354,000,000	\$ 345,000,000	143097
7066	800966	Undivided Liquor	\$ 14,100,000	\$ 14,100,000	143098
		Permits			
7068	110968	State and Local	\$ 193,000,000	\$ 196,000,000	143099
		Government Highway			
		Distribution			
7069	110969	Local Government Fund	\$ 577,000,000	\$ 391,000,000	143100
7081	110981	Local Government	\$ 291,000,000	\$ 181,000,000	143101
		Property Tax			

	Replacement-Business				
7082	110982	Horse Racing Tax	\$	100,000	\$ 100,000 143102
7083	700900	Ohio Fairs Fund	\$	1,400,000	\$ 1,400,000 143103
TOTAL RDF Revenue Distribution					143104
Fund Group			\$	2,410,800,000	\$ 2,105,800,000 143105
TOTAL ALL BUDGET FUND GROUPS			\$	4,737,690,703	\$ 4,875,048,676 143106
ADDITIONAL APPROPRIATIONS					143107
Appropriation items in this section shall be used for the					143108
purpose of administering and distributing the designated revenue					143109
distribution funds according to the Revised Code. If it is					143110
determined that additional appropriations are necessary for this					143111
purpose, such amounts are hereby appropriated.					143112
GENERAL REVENUE FUND TRANSFERS					143113
Notwithstanding any provision of law to the contrary, in					143114
fiscal year 2012 and fiscal year 2013, the Director of Budget and					143115
Management may transfer from the General Revenue Fund to the Local					143116
Government Tangible Property Tax Replacement Fund (Fund 7081) in					143117
the Revenue Distribution Fund Group, those amounts necessary to					143118
reimburse local taxing units under section 5751.22 of the Revised					143119
Code. Also, in fiscal year 2012 and fiscal year 2013, the Director					143120
of Budget and Management may make temporary transfers from the					143121
General Revenue Fund to ensure sufficient balances in the Local					143122
Government Tangible Property Tax Replacement Fund (Fund 7081) and					143123
to replenish the General Revenue Fund for such transfers.					143124
Section 381.10. SAN BOARD OF SANITARIAN REGISTRATION					143125
General Services Fund Group					143126
4K90	893609	Operating Expenses	\$	141,839	\$ 126,850 143127
TOTAL GSF General Services					143128
Fund Group			\$	141,839	\$ 126,850 143129
TOTAL ALL BUDGET FUND GROUPS			\$	141,839	\$ 126,850 143130

Section 383.10. OSB OHIO STATE SCHOOL FOR THE BLIND				143132
General Revenue Fund				143133
GRF 226100	Personal Services	\$ 6,593,546	\$ 6,593,546	143134
GRF 226200	Maintenance	\$ 619,528	\$ 619,528	143135
GRF 226300	Equipment	\$ 65,505	\$ 65,505	143136
TOTAL GRF General Revenue Fund				143137
General Services Fund Group				143138
4H80 226602	Education Reform	\$ 60,086	\$ 60,086	143139
Grants				
TOTAL GSF General Services				143140
Fund Group				143141
Federal Special Revenue Fund Group				143142
3100 226626	Coordinating Unit	\$ 2,527,104	\$ 2,527,104	143143
3DT0 226621	Ohio Transition	\$ 1,800,000	\$ 1,800,000	143144
Collaborative				
3P50 226643	Medicaid Professional	\$ 50,000	\$ 50,000	143145
Services				
Reimbursement				
TOTAL FED Federal Special				143146
Revenue Fund Group				143147
State Special Revenue Fund Group				143148
4M50 226601	Work Study and	\$ 698,521	\$ 698,521	143149
Technology Investment				
TOTAL SSR State Special Revenue				143150
Fund Group				143151
TOTAL ALL BUDGET FUND GROUPS				143152
Section 385.10. OSD OHIO SCHOOL FOR THE DEAF				143154
General Revenue Fund				143155
GRF 221100	Personal Services	\$ 7,842,339	\$ 7,842,339	143156
GRF 221200	Maintenance	\$ 814,532	\$ 814,532	143157

GRF 221300	Equipment	\$	70,786	\$	70,786	143158
TOTAL GRF	General Revenue Fund	\$	8,727,657	\$	8,727,657	143159
	General Services Fund Group					143160
4M10 221602	Education Reform	\$	74,903	\$	74,903	143161
	Grants					
TOTAL GSF	General Services					143162
Fund Group		\$	74,903	\$	74,903	143163
	Federal Special Revenue Fund Group					143164
3110 221625	Coordinating Unit	\$	2,460,135	\$	2,460,135	143165
3R00 221684	Medicaid Professional	\$	35,000	\$	35,000	143166
	Services					
	Reimbursement					
3Y10 221686	Early Childhood Grant	\$	300,000	\$	300,000	143167
TOTAL FED	Federal Special					143168
Revenue Fund Group		\$	2,795,135	\$	2,795,135	143169
	State Special Revenue Fund Group					143170
4M00 221601	Educational Program	\$	190,000	\$	190,000	143171
	Expenses					
5H60 221609	Even Start Fees and	\$	126,750	\$	126,750	143172
	Gifts					
TOTAL SSR	State Special Revenue					143173
Fund Group		\$	316,750	\$	316,750	143174
TOTAL ALL BUDGET FUND GROUPS		\$	11,914,445	\$	11,914,445	143175
	Section 387.10. SFC SCHOOL FACILITIES COMMISSION					143177
	General Revenue Fund					143178
GRF 230908	Common Schools	\$	150,604,900	\$	341,919,400	143179
	General Obligation					
	Debt Service					
TOTAL GRF	General Revenue Fund	\$	150,604,900	\$	341,919,400	143180
	State Special Revenue Fund Group					143181

5E30 230644 Operating Expenses	\$	8,950,000	\$	8,550,000	143182
TOTAL SSR State Special Revenue					143183
Fund Group	\$	8,950,000	\$	8,550,000	143184
TOTAL ALL BUDGET FUND GROUPS	\$	159,554,900	\$	350,469,400	143185

Section 387.20. COMMON SCHOOLS GENERAL OBLIGATION DEBT 143187

SERVICE 143188

The foregoing appropriation item 230908, Common Schools 143189
General Obligation Debt Service, shall be used to pay all debt 143190
service and related financing costs at the times they are required 143191
to be made during the period from July 1, 2011, through June 30, 143192
2013, for obligations issued under sections 151.01 and 151.03 of 143193
the Revised Code. 143194

OPERATING EXPENSES 143195

The foregoing appropriation item 230644, Operating Expenses, 143196
shall be used by the Ohio School Facilities Commission to carry 143197
out its responsibilities under this section and Chapter 3318. of 143198
the Revised Code. 143199

In both fiscal years 2012 and 2013, the Executive Director of 143200
the Ohio School Facilities Commission shall certify on a quarterly 143201
basis to the Director of Budget and Management the amount of cash 143202
from interest earnings to be transferred from the School Building 143203
Assistance Fund (Fund 7032), the Public School Building Fund (Fund 143204
7021), and the Educational Facilities Trust Fund (Fund N087) to 143205
the Ohio School Facilities Commission Fund (Fund 5E30). The amount 143206
transferred from the School Building Assistance Fund (Fund 7032) 143207
may not exceed investment earnings credited to the fund, less any 143208
amount required to be paid for federal arbitrage rebate purposes. 143209

If the Executive Director of the Ohio School Facilities 143210
Commission determines that transferring cash from interest 143211
earnings is insufficient to support operations and carry out its 143212
responsibilities under this section and Chapter 3318. of the 143213

Revised Code, the Commission may, with the approval of the 143214
Controlling Board, transfer cash not generated from interest from 143215
the Public School Building Fund (Fund 7021) and the Educational 143216
Trust Fund (Fund N087) to the Ohio School Facilities Commission 143217
Fund (Fund 5E30). 143218

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 143219

At the request of the Executive Director of the Ohio School 143220
Facilities Commission, the Director of Budget and Management may 143221
cancel encumbrances for school district projects from a previous 143222
biennium if the district has not raised its local share of project 143223
costs within thirteen months of receiving Controlling Board 143224
approval under section 3318.05 or 3318.41 of the Revised Code. The 143225
Executive Director of the Ohio School Facilities Commission shall 143226
certify the amounts of the canceled encumbrances to the Director 143227
of Budget and Management on a quarterly basis. The amounts of the 143228
canceled encumbrances are hereby appropriated. 143229

Section 387.30. AMENDMENT TO PROJECT AGREEMENT FOR 143230
MAINTENANCE LEVY 143231

The Ohio School Facilities Commission shall amend the project 143232
agreement between the Commission and a school district that is 143233
participating in the Accelerated Urban School Building Assistance 143234
Program on the effective date of this section, if the Commission 143235
determines that it is necessary to do so in order to comply with 143236
division (B)(3)(c) of section 3318.38 of the Revised Code. 143237

Section 387.40. CANTON CITY SCHOOL DISTRICT PROJECT 143238

(A) The Ohio School Facilities Commission may commit up to 143239
thirty-five million dollars to the Canton City School District for 143240
construction of a facility described in this section, in lieu of a 143241
high school that would otherwise be authorized under Chapter 3318. 143242
of the Revised Code. The Commission shall not commit funds under 143243

this section unless all of the following conditions are met: 143244

(1) The District has entered into a cooperative agreement 143245
with a state-assisted technical college; 143246

(2) The District has received an irrevocable commitment of 143247
additional funding from nonpublic sources; and 143248

(3) The facility is intended to serve both secondary and 143249
postsecondary instructional purposes. 143250

(B) The Commission shall enter into an agreement with the 143251
District for the construction of the facility authorized under 143252
this section that is separate from and in addition to the 143253
agreement required for the District's participation in the 143254
Classroom Facilities Assistance Program under section 3318.08 of 143255
the Revised Code. Notwithstanding that section and sections 143256
3318.03, 3318.04, and 3318.083 of the Revised Code, the additional 143257
agreement shall provide, but not be limited to, the following: 143258

(1) The Commission shall not have any oversight 143259
responsibilities over the construction of the facility. 143260

(2) The facility need not comply with the specifications for 143261
plans and materials for high schools adopted by the Commission. 143262

(3) The Commission may decrease the basic project cost that 143263
would otherwise be calculated for a high school under Chapter 143264
3318. of the Revised Code. 143265

(4) The state shall not share in any increases in the basic 143266
project cost for the facility above the amount authorized under 143267
this section. 143268

All other provisions of Chapter 3318. of the Revised Code 143269
apply to the approval and construction of a facility authorized 143270
under this section. 143271

The state funds committed to the facility authorized by this 143272
section shall be part of the total amount the state commits to the 143273

Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code.

Section 387.50. Notwithstanding any other provision of law to the contrary, the Ohio School Facilities Commission may determine the amount of funding available for disbursement in a given fiscal year for any project approved under sections 3318.01 to 3318.20 of the Revised Code in order to keep aggregate state capital spending within approved limits and may take actions including, but not limited to, determining the schedule for design or bidding of approved projects, to ensure appropriate and supportable cash flow.

Section 387.60. Notwithstanding division (B) of section 3318.40 of the Revised Code, the Ohio School Facilities Commission may provide assistance to at least one joint vocational school district each fiscal year for the acquisition of classroom facilities in accordance with sections 3318.40 to 3318.45 of the Revised Code.

Section 387.70. (A) As used in this section, "equity list" means the school district percentile rankings calculated under section 3318.011 of the Revised Code.

(B) Not later than thirty days after the effective date of this section, the Department of Education shall create an alternate equity list for fiscal year 2011, for use in funding projects for fiscal year 2012, by recalculating each school district's percentile ranking under section 3318.011 of the Revised Code and shall certify the alternate equity list to the Ohio School Facilities Commission. For this purpose, the Department shall recalculate each school district's percentile

ranking using the district's "average taxable value" as that term 143304
is defined in the version of section 3318.011 of the Revised Code, 143305
as it results from the amendments to that section enacted by this 143306
act. 143307

(C) The Commission shall use the alternate equity list 143308
certified under division (B) of this section to determine the 143309
priority for assistance under sections 3318.01 to 3318.20 of the 143310
Revised Code for fiscal year 2012 for each school district that 143311
has not previously been offered funding under those sections. 143312
However, no district that already has been offered assistance 143313
under those sections for fiscal year 2011 prior to the 143314
Commission's receipt of the alternate equity list shall be denied 143315
the opportunity for assistance under those sections for that 143316
fiscal year. 143317

(D) Notwithstanding any provision of Chapter 3318. of the 143318
Revised Code to the contrary, for each school district that 143319
receives the Commission's conditional approval of the district's 143320
project under sections 3318.01 to 3318.20 of the Revised Code for 143321
fiscal year 2012, the district's portion of the basic project cost 143322
shall be the lesser of the following: 143323

(1) The amount required under section 3318.032 of the Revised 143324
Code calculated using the percentile in which the district ranks 143325
on the alternate equity list certified under division (B) of this 143326
section; 143327

(2) The amount required under section 3318.032 of the Revised 143328
Code calculated using the percentile in which the district ranks 143329
on the original equity list for fiscal year 2011. 143330

Section 389.10. SOS SECRETARY OF STATE 143331

General Revenue Fund 143332

GRF 050321 Operating Expenses \$ 2,144,030 \$ 2,144,030 143333

GRF 050407	Pollworkers Training	\$	234,196	\$	234,196	143334
TOTAL GRF	General Revenue Fund	\$	2,378,226	\$	2,378,226	143335
General Services Fund Group						143336
4120 050609	Notary Commission	\$	475,000	\$	475,000	143337
4130 050601	Information Systems	\$	49,000	\$	49,000	143338
4140 050602	Citizen Education	\$	25,000	\$	25,000	143339
Fund						
4S80 050610	Board of Voting	\$	7,200	\$	7,200	143340
Machine Examiners						
5FG0 050620	BOE Reimbursement and	\$	100,000	\$	100,000	143341
Education						
TOTAL General Services	Fund Group	\$	656,200	\$	656,200	143342
Federal Special Revenue Fund Group						143343
3AH0 050614	Election	\$	800,000	\$	800,000	143344
Reform/Health and						
Human Services						
3AS0 050616	Help America Vote Act	\$	3,000,000	\$	3,000,000	143345
(HAVA)						
TOTAL FED	Federal Special Revenue					143346
Fund Group		\$	3,800,000	\$	3,800,000	143347
State Special Revenue Fund Group						143348
5990 050603	Business Services	\$	14,385,400	\$	14,385,400	143349
Operating Expenses						
TOTAL SSR	State Special Revenue					143350
Fund Group		\$	14,385,400	\$	14,385,400	143351
Holding Account Redistribution Fund Group						143352
R001 050605	Uniform Commercial	\$	30,000	\$	30,000	143353
Code Refunds						
R002 050606	Corporate/Business	\$	85,000	\$	85,000	143354
Filing Refunds						
TOTAL 090	Holding Account					143355
Redistribution	Fund Group	\$	115,000	\$	115,000	143356

TOTAL ALL BUDGET FUND GROUPS	\$	21,334,826	\$	21,334,826	143357
POLLWORKER TRAINING					143358
The foregoing appropriation item 050407, Pollworkers					143359
Training, shall be used to reimburse county boards of elections					143360
for pollworker training pursuant to section 3501.27 of the Revised					143361
Code. At the end of fiscal year 2012, an amount equal to the					143362
unexpended, unencumbered portion of appropriation item 050407,					143363
Pollworkers Training, is hereby reappropriated in fiscal year 2013					143364
for the same purpose.					143365
BOARD OF VOTING MACHINE EXAMINERS					143366
The foregoing appropriation item 050610, Board of Voting					143367
Machine Examiners, shall be used to pay for the services and					143368
expenses of the members of the Board of Voting Machine Examiners,					143369
and for other expenses that are authorized to be paid from the					143370
Board of Voting Machine Examiners Fund, which is created in					143371
section 3506.05 of the Revised Code. Moneys not used shall be					143372
returned to the person or entity submitting equipment for					143373
examination. If it is determined that additional appropriations					143374
are necessary, such amounts are hereby appropriated.					143375
HAVA FUNDS					143376
An amount equal to the unexpended, unencumbered portion of					143377
appropriation item 050616, Help America Vote Act (HAVA) Voting					143378
Machines, at the end of fiscal year 2012 is reappropriated for the					143379
same purpose in fiscal year 2013.					143380
An amount equal to the unexpended, unencumbered portion of					143381
appropriation item 050614, Election Reform/Health and Human					143382
Services, at the end of fiscal year 2012 is reappropriated for the					143383
same purpose in fiscal year 2013.					143384
The Director of Budget and Management shall credit the					143385
ongoing interest earnings from the Election Reform/Health and					143386
Human Services Fund (Fund 3AH0), the Help America Vote Act (HAVA)					143387

Voting Machines Fund (Fund 3AS0), and the Election Data Collection Grant Fund (Fund 3AC0) to the respective funds and distribute these earnings in accordance with the terms of the grant under which the money is received.

HOLDING ACCOUNT REDISTRIBUTION GROUP

The foregoing appropriation items 050605, Uniform Commercial Code Refunds, and 050606, Corporate/Business Filing Refunds, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

ABOLITION OF THE TECHNOLOGY IMPROVEMENTS FUND

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Technology Improvements Fund (Fund 5N90) to the Business Services Operating Expenses Fund (Fund 5990). The Director shall cancel any existing encumbrances against appropriation item 050607, Technology Improvements, and re-establish them against appropriation item 050603, Business Services Operating Expenses. The re-established encumbered amounts are hereby appropriated. Upon completion of the transfer, Fund 5N90 is abolished.

Section 391.10. SEN THE OHIO SENATE

General Revenue Fund
GRF 020321 Operating Expenses \$ 10,911,095 \$ 10,911,095
TOTAL GRF General Revenue Fund \$ 10,911,095 \$ 10,911,095
General Services Fund Group
1020 020602 Senate Reimbursement \$ 852,001 \$ 852,001
4090 020601 Miscellaneous Sales \$ 34,497 \$ 34,497
TOTAL GSF General Services Fund Group \$ 886,498 \$ 886,498

TOTAL ALL BUDGET FUND GROUPS	\$	11,797,593	\$	11,797,593	143418
OPERATING EXPENSES					143419
On July 1, 2011, or as soon as possible thereafter, the Clerk					143420
of the Senate may certify to the Director of Budget and Management					143421
the amount of the unexpended, unencumbered balance of the					143422
foregoing appropriation item 020321, Operating Expenses, at the					143423
end of fiscal year 2011 to be reappropriated to fiscal year 2012.					143424
The amount certified is hereby reappropriated to the same					143425
appropriation item for fiscal year 2012.					143426
On July 1, 2012, or as soon as possible thereafter, the Clerk					143427
of the Senate may certify to the Director of Budget and Management					143428
the amount of the unexpended, unencumbered balance of the					143429
foregoing appropriation item 020321, Operating Expenses, at the					143430
end of fiscal year 2012 to be reappropriated to fiscal year 2013.					143431
The amount certified is hereby reappropriated to the same					143432
appropriation item for fiscal year 2013.					143433
Section 393.10. CSV COMMISSION ON SERVICE AND VOLUNTEERISM					143434
General Revenue Fund					143435
GRF 866321 CSV Operations	\$	129,998	\$	126,664	143436
TOTAL GRF General Revenue Fund	\$	129,998	\$	126,664	143437
General Services Fund					143438
5GN0 866605 Serve Ohio Support	\$	67,500	\$	67,500	143439
TOTAL GSF General Services Fund	\$	67,500	\$	67,500	143440
Federal Special Revenue Fund Group					143441
3R70 866617 AmeriCorps Programs	\$	8,279,290	\$	8,272,110	143442
TOTAL FED Federal Special Revenue					143443
Fund Group	\$	8,279,290	\$	8,272,110	143444
State Special Revenue Fund Group					143445
6240 866604 Volunteer Contracts	\$	49,130	\$	47,870	143446
and Services					

TOTAL SSR State Special Revenue				143447
Fund Group	\$	49,130	\$ 47,870	143448
TOTAL ALL BUDGET FUND GROUPS	\$	8,525,918	\$ 8,514,144	143449
 Section 395.10. CSF COMMISSIONERS OF THE SINKING FUND				143451
Debt Service Fund Group				143452
7070155905 Third Frontier	\$	29,323,300	\$ 63,640,300	143453
Research and				
Development Bond				
Retirement Fund				
7072155902 Highway Capital	\$	143,176,000	\$ 150,789,300	143454
Improvement Bond				
Retirement Fund				
7073155903 Natural Resources Bond	\$	5,375,300	\$ 25,209,100	143455
Retirement Fund				
7074155904 Conservation Projects	\$	24,556,800	\$ 29,297,300	143456
Bond Retirement Fund				
7076155906 Coal Research and	\$	7,861,100	\$ 5,577,700	143457
Development Bond				
Retirement Fund				
7077155907 State Capital	\$	113,306,600	\$ 215,571,100	143458
Improvement Bond				
Retirement Fund				
7078155908 Common Schools Bond	\$	150,604,900	\$ 341,919,400	143459
Retirement Fund				
7079155909 Higher Education Bond	\$	108,262,500	\$ 201,555,000	143460
Retirement Fund				
7080155901 Persian Gulf,	\$	5,497,700	\$ 10,112,100	143461
Afghanistan, and Iraq				
Conflicts Bond				
Retirement Fund				
7090155912 Job Ready Site	\$	9,859,200	\$ 15,680,500	143462
Development Bond				

Retirement Fund

TOTAL DSF Debt Service Fund Group	\$	597,823,400	\$	1,059,351,800	143463
TOTAL ALL BUDGET FUND GROUPS	\$	597,823,400	\$	1,059,351,800	143464

ADDITIONAL APPROPRIATIONS 143465

Appropriation items in this section are for the purpose of 143466
 paying debt service and financing costs on bonds or notes of the 143467
 state issued under the Ohio Constitution and acts of the General 143468
 Assembly. If it is determined that additional amounts are 143469
 necessary for this purpose, such amounts are hereby appropriated. 143470

Section 397.10. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY 143471
 DEVELOPMENT FOUNDATION 143472

Tobacco Master Settlement Agreement Fund Group					143473
5M90 945601 Operating Expenses	\$	436,500	\$	426,800	143474
TOTAL TMF Tobacco Master Settlement Agreement Fund Group	\$	436,500	\$	426,800	143475
TOTAL ALL BUDGET FUND GROUPS	\$	436,500	\$	426,800	143476

Section 399.10. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & 143478
 AUDIOLOGY 143479

General Services Fund Group					143480
4K90 886609 Operating Expenses	\$	477,490	\$	472,260	143481
TOTAL GSF General Services Fund Group	\$	477,490	\$	472,260	143482
TOTAL ALL BUDGET FUND GROUPS	\$	477,490	\$	472,260	143484

Section 401.10. BTA BOARD OF TAX APPEALS 143486

General Revenue Fund					143487
GRF 116321 Operating Expenses	\$	1,600,000	\$	1,700,000	143488
TOTAL GRF General Revenue Fund	\$	1,600,000	\$	1,700,000	143489
TOTAL ALL BUDGET FUND GROUPS	\$	1,600,000	\$	1,700,000	143490

Section 403.10. TAX DEPARTMENT OF TAXATION				143492
General Revenue Fund				143493
GRF 110321	Operating Expenses	\$ 73,500,000	\$ 73,550,000	143494
GRF 110404	Tobacco Settlement	\$ 200,000	\$ 200,000	143495
Enforcement				
GRF 110412	Child Support	\$ 15,804	\$ 15,804	143496
Administration				
GRF 110901	Property Tax	\$ 610,900,000	\$ 616,000,000	143497
Allocation - Taxation				
TOTAL GRF	General Revenue Fund	\$ 684,615,804	\$ 689,765,804	143498
General Services Fund Group				143499
2280 110628	Tax Reform System	\$ 13,638,008	\$ 13,642,176	143500
Implementation				
4330 110602	Tape File Account	\$ 197,802	\$ 197,878	143501
5AP0 110632	Discovery Project	\$ 2,445,799	\$ 2,445,657	143502
5BW0 110630	Tax Amnesty Promotion	\$ 2,500,000	\$ 0	143503
and Administration				
5CZ0 110631	Vendor's License	\$ 250,000	\$ 250,000	143504
Application				
5N50 110605	Municipal Income Tax	\$ 339,798	\$ 339,975	143505
Administration				
5N60 110618	Kilowatt Hour Tax	\$ 150,000	\$ 150,000	143506
Administration				
5V80 110623	Property Tax	\$ 12,195,733	\$ 12,099,303	143507
Administration				
5W40 110625	Centralized Tax	\$ 200,000	\$ 200,000	143508
Filing and Payment				
5W70 110627	Exempt Facility	\$ 50,000	\$ 50,000	143509
Administration				
TOTAL GSF	General Services			143510
Fund Group		\$ 31,967,140	\$ 29,374,989	143511

State Special Revenue Fund Group					143512	
4350 110607	Local Tax	\$	19,028,339	\$	19,225,941	143513
	Administration					
4360 110608	Motor Vehicle Audit	\$	1,474,081	\$	1,474,353	143514
4370 110606	Litter/Natural	\$	20,000	\$	20,000	143515
	Resource Tax					
	Administration					
4380 110609	School District Income	\$	5,859,041	\$	5,860,650	143516
	Tax					
4C60 110616	International	\$	689,296	\$	689,308	143517
	Registration Plan					
4R60 110610	Tire Tax	\$	245,462	\$	246,660	143518
	Administration					
5V70 110622	Motor Fuel Tax	\$	5,384,254	\$	5,086,236	143519
	Administration					
6390 110614	Cigarette Tax	\$	1,384,217	\$	1,384,314	143520
	Enforcement					
6420 110613	Ohio Political Party	\$	500,000	\$	500,000	143521
	Distributions					
6880 110615	Local Excise Tax	\$	782,630	\$	782,843	143522
	Administration					
TOTAL SSR State Special Revenue						143523
Fund Group		\$	35,367,320	\$	35,270,305	143524
Agency Fund Group						143525
4250 110635	Tax Refunds	\$	1,546,800,000	\$	1,546,800,000	143526
7095 110995	Municipal Income Tax	\$	21,000,000	\$	21,000,000	143527
TOTAL AGY Agency Fund Group		\$	1,567,800,000	\$	1,567,800,000	143528
Holding Account Redistribution Fund Group						143529
R010 110611	Tax Distributions	\$	50,000	\$	50,000	143530
R011 110612	Miscellaneous Income	\$	50,000	\$	50,000	143531
	Tax Receipts					
TOTAL 090 Holding Account						143532

Redistribution Fund Group	\$	100,000	\$	100,000	143533
TOTAL ALL BUDGET FUND GROUPS	\$	2,319,850,264	\$	2,322,311,098	143534

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK 143535

The foregoing appropriation item 110901, Property Tax Allocation - Taxation, is hereby appropriated to pay for the state's costs incurred due to the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Upon receipt of these amounts, each local taxing district shall distribute the amount among the proper funds as if it had been paid as real property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation item 110901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, which are determined to be necessary for these purposes, are hereby appropriated.

TAX AMNESTY PROMOTION AND ADMINISTRATION 143561

The foregoing appropriation item 110630, Tax Amnesty Promotion and Administration, shall be used to pay expenses

incurred to promote and administer the tax amnesty program to be 143564
conducted from May 1, 2012, through June 15, 2012, by the 143565
Department of Taxation pursuant to Section 757.40 of this act. 143566

MUNICIPAL INCOME TAX 143567

The foregoing appropriation item 110995, Municipal Income 143568
Tax, shall be used to make payments to municipal corporations 143569
under section 5745.05 of the Revised Code. If it is determined 143570
that additional appropriations are necessary to make such 143571
payments, such amounts are hereby appropriated. 143572

TAX REFUNDS 143573

The foregoing appropriation item 110635, Tax Refunds, shall 143574
be used to pay refunds under section 5703.052 of the Revised Code. 143575
If it is determined that additional appropriations are necessary 143576
for this purpose, such amounts are hereby appropriated. 143577

INTERNATIONAL REGISTRATION PLAN AUDIT 143578

The foregoing appropriation item 110616, International 143579
Registration Plan, shall be used under section 5703.12 of the 143580
Revised Code for audits of persons with vehicles registered under 143581
the International Registration Plan. 143582

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT 143583

Of the foregoing appropriation item 110607, Local Tax 143584
Administration, the Tax Commissioner may disburse funds, if 143585
available, for the purposes of paying travel expenses incurred by 143586
members of Ohio's delegation to the Streamlined Sales Tax Project, 143587
as appointed under section 5740.02 of the Revised Code. Any travel 143588
expense reimbursement paid for by the Department of Taxation shall 143589
be done in accordance with applicable state laws and guidelines. 143590

CENTRALIZED TAX FILING AND PAYMENT FUND 143591

The Director of Budget and Management, under a plan submitted 143592
by the Tax Commissioner, or as otherwise determined by the 143593

Director of Budget and Management, shall set a schedule to 143594
transfer cash from the General Revenue Fund to the credit of the 143595
Centralized Tax Filing and Payment Fund (Fund 5W40). The transfers 143596
of cash shall not exceed \$400,000 in the biennium. 143597

TOBACCO SETTLEMENT ENFORCEMENT 143598

The foregoing appropriation item 110404, Tobacco Settlement 143599
Enforcement, shall be used by the Tax Commissioner to pay costs 143600
incurred in the enforcement of divisions (F) and (G) of section 143601
5743.03 of the Revised Code. 143602

Section 403.20. FUND TRANSFERS TO TAX AMNESTY PROGRAM 143603

Notwithstanding any provision of law to the contrary, not 143604
later than thirty days following the effective date of this 143605
section, the Director of Budget and Management shall transfer 143606
\$2,500,000 from the General Revenue Fund to the Tax Amnesty 143607
Promotion and Administration Fund (5BW0), which is hereby created 143608
in the state treasury. The funds shall be used by the Department 143609
of Taxation to pay expenses incurred in promoting and 143610
administering the tax amnesty program that is to be conducted from 143611
May 1, 2012, through June 15, 2012, pursuant to section 757.40 of 143612
this act. 143613

Section 405.10. DOT DEPARTMENT OF TRANSPORTATION 143614

General Revenue Fund 143615

GRF	775451	Public Transportation	\$	7,300,000	\$	7,300,000	143616
		- State					

GRF	776465	Ohio Rail Development	\$	2,000,000	\$	2,000,000	143617
		Commission					

GRF	777471	Airport Improvements	\$	750,000	\$	750,000	143618
		- State					

TOTAL GRF	General Revenue Fund	\$	10,050,000	\$	10,050,000	143619
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TOTAL ALL BUDGET FUND GROUPS	\$	10,050,000	\$	10,050,000	143620
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Section 407.10. TOS TREASURER OF STATE				143622
General Revenue Fund				143623
GRF 090321	Operating Expenses	\$ 7,743,553	\$ 7,743,553	143624
GRF 090401	Office of the Sinking Fund	\$ 502,304	\$ 502,304	143625
GRF 090402	Continuing Education	\$ 377,702	\$ 377,702	143626
GRF 090524	Police and Fire Disability Pension Fund	\$ 7,900	\$ 7,900	143627
GRF 090534	Police and Fire Ad Hoc Cost of Living	\$ 87,000	\$ 87,000	143628
GRF 090554	Police and Fire Survivor Benefits	\$ 600,000	\$ 600,000	143629
GRF 090575	Police and Fire Death Benefits	\$ 20,000,000	\$ 20,000,000	143630
TOTAL GRF General Revenue Fund		\$ 29,318,459	\$ 29,318,459	143631
General Services Fund Group				143632
4E90 090603	Securities Lending Income	\$ 4,829,441	\$ 4,829,441	143633
5770 090605	Investment Pool Reimbursement	\$ 550,000	\$ 550,000	143634
5C50 090602	County Treasurer Education	\$ 170,057	\$ 170,057	143635
6050 090609	Treasurer of State Administrative Fund	\$ 135,000	\$ 135,000	143636
TOTAL GSF General Services Fund Group		\$ 5,684,498	\$ 5,684,498	143637 143638
Agency Fund Group				143639
4250 090635	Tax Refunds	\$ 6,000,000	\$ 6,000,000	143640
TOTAL Agency Fund Group		\$ 6,000,000	\$ 6,000,000	143641
TOTAL ALL BUDGET FUND GROUPS		\$ 41,002,957	\$ 41,002,957	143642

Section 407.20. OFFICE OF THE SINKING FUND 143644

The foregoing appropriation item 090401, Office of the 143645
Sinking Fund, shall be used for costs incurred by or on behalf of 143646
the Commissioners of the Sinking Fund and the Ohio Public 143647
Facilities Commission with respect to State of Ohio general 143648
obligation bonds or notes, and the Treasurer of State with respect 143649
to State of Ohio general obligation and special obligation bonds 143650
or notes, including, but not limited to, printing, advertising, 143651
delivery, rating fees and the procurement of ratings, professional 143652
publications, membership in professional organizations, and other 143653
services referred to in division (D) of section 151.01 of the 143654
Revised Code. The General Revenue Fund shall be reimbursed for 143655
such costs relating to the issuance and administration of Highway 143656
Capital Improvement bonds or notes authorized under Ohio 143657
Constitution, Article VIII, Section 2m and Chapter 151. of the 143658
Revised Code. That reimbursement shall be made from appropriation 143659
item 155902, Highway Capital Improvement Bond Retirement Fund, by 143660
intrastate transfer voucher pursuant to a certification by the 143661
Office of the Sinking Fund of the actual amounts used. The amounts 143662
necessary to make such a reimbursement are hereby appropriated 143663
from the Highway Capital Improvement Bond Retirement Fund created 143664
in section 151.06 of the Revised Code. 143665

POLICE AND FIRE DEATH BENEFIT FUND 143666

The foregoing appropriation item 090575, Police and Fire 143667
Death Benefits, shall be disbursed quarterly by the Treasurer of 143668
State at the beginning of each quarter of each fiscal year to the 143669
Board of Trustees of the Ohio Police and Fire Pension Fund. The 143670
Treasurer of State shall certify such amounts quarterly to the 143671
Director of Budget and Management. By the twentieth day of June of 143672
each fiscal year, the Board of Trustees of the Ohio Police and 143673
Fire Pension Fund shall certify to the Treasurer of State the 143674

amount disbursed in the current fiscal year to make the payments 143675
required by section 742.63 of the Revised Code and shall return to 143676
the Treasurer of State moneys received from this appropriation 143677
item but not disbursed. 143678

TAX REFUNDS 143679

The foregoing appropriation item 090635, Tax Refunds, shall 143680
be used to pay refunds under section 5703.052 of the Revised Code. 143681
If the Director of Budget and Management determines that 143682
additional amounts are necessary for this purpose, such amounts 143683
are hereby appropriated. 143684

Section 409.10. VTO VETERANS' ORGANIZATIONS 143685

General Revenue Fund 143686

VAP AMERICAN EX-PRISONERS OF WAR 143687

GRF 743501 State Support \$ 28,910 \$ 28,910 143688

VAN ARMY AND NAVY UNION, USA, INC. 143689

GRF 746501 State Support \$ 63,539 \$ 63,539 143690

VKW KOREAN WAR VETERANS 143691

GRF 747501 State Support \$ 57,118 \$ 57,118 143692

VJW JEWISH WAR VETERANS 143693

GRF 748501 State Support \$ 34,321 \$ 34,321 143694

VCW CATHOLIC WAR VETERANS 143695

GRF 749501 State Support \$ 66,978 \$ 66,978 143696

VPH MILITARY ORDER OF THE PURPLE HEART 143697

GRF 750501 State Support \$ 65,116 \$ 65,116 143698

VVV VIETNAM VETERANS OF AMERICA 143699

GRF 751501 State Support \$ 214,776 \$ 214,776 143700

VAL AMERICAN LEGION OF OHIO 143701

GRF 752501 State Support \$ 349,189 \$ 349,189 143702

VII AMVETS 143703

GRF 753501 State Support \$ 332,547 \$ 332,547 143704

VAV DISABLED AMERICAN VETERANS 143705

GRF 754501	State Support	\$ 249,836	\$ 249,836	143706
	VMC MARINE CORPS LEAGUE			143707
GRF 756501	State Support	\$ 133,947	\$ 133,947	143708
	V37 37TH DIVISION VETERANS' ASSOCIATION			143709
GRF 757501	State Support	\$ 6,868	\$ 6,868	143710
	VFW VETERANS OF FOREIGN WARS			143711
GRF 758501	State Support	\$ 284,841	\$ 284,841	143712
TOTAL GRF	General Revenue Fund	\$ 1,887,986	\$ 1,887,986	143713
TOTAL ALL BUDGET FUND GROUPS		\$ 1,887,986	\$ 1,887,986	143714
	RELEASE OF FUNDS			143715
	The Director of Budget and Management may release the			143716
	foregoing appropriation items 743501, 746501, 747501, 748501,			143717
	749501, 750501, 751501, 752501, 753501, 754501, 756501, 757501,			143718
	and 758501, State Support.			143719
	Section 411.10. DVS DEPARTMENT OF VETERANS SERVICES			143720
	General Revenue Fund			143721
GRF 900321	Veterans' Homes	\$ 27,369,946	\$ 27,369,946	143722
GRF 900402	Hall of Fame	\$ 107,075	\$ 107,075	143723
GRF 900408	Department of Veterans Services	\$ 1,901,823	\$ 1,901,823	143724
GRF 900901	Persian Gulf, Afghanistan, and Iraq Compensation Debt Service	\$ 5,486,600	\$ 10,112,100	143725
TOTAL GRF	General Revenue Fund	\$ 34,865,444	\$ 39,490,944	143726
	General Services Fund Group			143727
4840 900603	Veterans' Homes Services	\$ 305,806	\$ 312,458	143728
TOTAL GSF	General Services Fund Group	\$ 305,806	\$ 312,458	143729
	Federal Special Revenue Fund Group			143730

3680	900614	Veterans Training	\$	769,500	\$	754,377	143731
3740	900606	Troops to Teachers	\$	136,786	\$	133,461	143732
3BX0	900609	Medicare Services	\$	2,500,000	\$	2,490,169	143733
3L20	900601	Veterans' Homes	\$	23,455,379	\$	23,476,269	143734
		Operations - Federal					
TOTAL FED		Federal Special Revenue					143735
Fund Group			\$	26,861,665	\$	26,854,276	143736
State Special Revenue		Fund Group					143737
4E20	900602	Veterans' Homes	\$	10,117,680	\$	10,319,078	143738
		Operating					
6040	900604	Veterans' Homes	\$	347,598	\$	398,731	143739
		Improvement					
TOTAL SSR		State Special Revenue					143740
Fund Group			\$	10,465,278	\$	10,717,809	143741
Persian Gulf, Afghanistan, and Iraq		Compensation Fund Group					143742
7041	900615	Veteran Bonus Program	\$	1,605,410	\$	1,147,703	143743
		- Administration					
7041	900641	Persian Gulf,	\$	25,425,000	\$	24,300,000	143744
		Afghanistan, and Iraq					
		Compensation					
TOTAL 041		Persian Gulf,					143745
Afghanistan, and Iraq							143746
Compensation Fund Group			\$	27,030,410	\$	25,447,703	143747
TOTAL ALL BUDGET FUND GROUPS			\$	99,528,603	\$	102,823,190	143748
		PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION GENERAL					143749
		OBLIGATION DEBT SERVICE					143750
		The foregoing appropriation item 900901, Persian Gulf,					143751
		Afghanistan and Iraq Compensation Debt Service, shall be used to					143752
		pay all debt service and related financing costs during the period					143753
		from July 1, 2011, through June 30, 2013, on obligations issued					143754
		for Persian Gulf, Afghanistan and Iraq Conflicts Compensation					143755
		purposes under sections 151.01 and 151.12 of the Revised Code.					143756

Section 413.10. DVM STATE VETERINARY MEDICAL BOARD				143757
General Services Fund Group				143758
4K90	888609	Operating Expenses	\$ 322,375 \$ 319,857	143759
5BV0	888602	Veterinary Student	\$ 30,000 \$ 30,000	143760
Loan Program				
TOTAL GSF General Services				143761
Fund Group				\$ 352,375 \$ 349,857 143762
TOTAL ALL BUDGET FUND GROUPS				\$ 352,375 \$ 349,857 143763
 Section 415.10. DYS DEPARTMENT OF YOUTH SERVICES				143765
General Revenue Fund				143766
GRF	470401	RECLAIM Ohio	\$ 168,716,967 \$ 162,362,228	143767
GRF	470412	Lease Rental Payments	\$ 10,221,800 \$ 27,230,100	143768
GRF	470510	Youth Services	\$ 16,702,728 \$ 16,702,728	143769
GRF	472321	Parole Operations	\$ 10,830,019 \$ 10,583,118	143770
GRF	477321	Administrative	\$ 12,222,051 \$ 11,855,389	143771
Operations				
TOTAL GRF General Revenue Fund				\$ 218,693,565 \$ 228,733,563 143772
General Services Fund Group				143773
1750	470613	Education	\$ 8,160,277 \$ 8,151,056	143774
Reimbursement				
4790	470609	Employee Food Service	\$ 150,000 \$ 150,000	143775
4A20	470602	Child Support	\$ 450,000 \$ 400,000	143776
4G60	470605	General Operational	\$ 125,000 \$ 125,000	143777
Funds				
5BN0	470629	E-Rate Program	\$ 535,000 \$ 535,000	143778
TOTAL GSF General Services				143779
Fund Group				\$ 9,420,277 \$ 9,361,056 143780
Federal Special Revenue Fund Group				143781
3210	470601	Education	\$ 1,774,469 \$ 1,517,840	143782
3210	470603	Juvenile Justice	\$ 300,000 \$ 300,000	143783

		Prevention					
3210	470606	Nutrition	\$	1,747,432	\$	1,704,022	143784
3210	470610	Rehabilitation	\$	36,000	\$	36,000	143785
		Programs					
3210	470614	Title IV-E	\$	6,000,000	\$	6,000,000	143786
		Reimbursements					
3BY0	470635	Federal Juvenile	\$	56,471	\$	2,000	143787
		Programs FFY 07					
3BZ0	470636	Federal Juvenile	\$	82,000	\$	1,618	143788
		Programs FFY 08					
3CP0	470638	Federal Juvenile	\$	500,000	\$	300,730	143789
		Programs FFY 09					
3CR0	470639	Federal Juvenile	\$	800,000	\$	479,900	143790
		Programs FFY 10					
3FB0	470641	Federal Juvenile	\$	135,000	\$	600,000	143791
		Programs FFY 11					
3FC0	470642	Federal Juvenile	\$	0	\$	135,000	143792
		Programs FFY 12					
3V50	470604	Juvenile	\$	2,010,000	\$	2,000,000	143793
		Justice/Delinquency					
		Prevention					
TOTAL FED		Federal Special Revenue					143794
Fund Group			\$	13,441,372	\$	13,077,110	143795
		State Special Revenue Fund Group					143796
1470	470612	Vocational Education	\$	762,126	\$	758,210	143797
TOTAL SSR		State Special Revenue					143798
Fund Group			\$	762,126	\$	758,210	143799
TOTAL ALL BUDGET FUND GROUPS			\$	242,317,340	\$	251,929,939	143800
		COMMUNITY PROGRAMS					143801
		Of the foregoing appropriation item 470401, RECLAIM Ohio, an					143802
		amount equal to forty-five per cent of the unexpended,					143803
		unencumbered balance used for the purpose of funding juvenile					143804

correctional facilities, at the end of each fiscal year, is hereby 143805
reappropriated to the next fiscal year, and shall be used for the 143806
purpose of expanding Targeted RECLAIM, the Behavioral Health 143807
Juvenile Justice Initiative, and other evidence-based community 143808
programs. 143809

OHIO BUILDING AUTHORITY LEASE PAYMENTS 143810

The foregoing appropriation item 470412, Lease Rental 143811
Payments, shall be used to meet all payments at the times they are 143812
required to be made for the period from July 1, 2011, through June 143813
30, 2013, by the Department of Youth Services to the Ohio Building 143814
Authority under the leases and agreements for facilities made 143815
under Chapter 152. of the Revised Code. This appropriation is the 143816
source of funds pledged for bond service charges on related 143817
obligations issued pursuant to Chapter 152. of the Revised Code. 143818

EDUCATION REIMBURSEMENT 143819

The foregoing appropriation item 470613, Education 143820
Reimbursement, shall be used to fund the operating expenses of 143821
providing educational services to youth supervised by the 143822
Department of Youth Services. Operating expenses include, but are 143823
not limited to, teachers' salaries, maintenance costs, and 143824
educational equipment. This appropriation item may be used for 143825
capital expenses related to the education program. 143826

EMPLOYEE FOOD SERVICE AND EQUIPMENT 143827

Notwithstanding section 125.14 of the Revised Code, the 143828
foregoing appropriation item 470609, Employee Food Service, may be 143829
used to purchase any food operational items with funds received 143830
into the fund from reimbursements for state surplus property. 143831

FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES 143832

In collaboration with the county family and children first 143833
council, the juvenile court of that county that receives 143834

allocations from one or both of the foregoing appropriation items 143835
470401, RECLAIM Ohio, and 470510, Youth Services, may transfer 143836
portions of those allocations to a flexible funding pool as 143837
authorized by the section titled FAMILY AND CHILDREN FIRST 143838
FLEXIBLE FUNDING POOL, of this act. 143839

Section 501.10. All items set forth in this section are 143840
hereby appropriated for fiscal year 2012 out of any moneys in the 143841
state treasury to the credit of the Administrative Building Fund 143842
(Fund 7026) that are not otherwise appropriated. 143843

CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD 143844
C87416 Statehouse Boiler Replacement \$ 900,000 143845
Total Capitol Square Review and Advisory Board \$ 900,000 143846
TOTAL Administrative Building Fund \$ 900,000 143847

Section 503.20. All items set forth in this section are 143849
hereby appropriated for fiscal year 2012 out of any moneys in the 143850
state treasury to the credit of the Parks and Recreation 143851
Improvement Fund (Fund 7035) that are not otherwise appropriated. 143852

DNR DEPARTMENT OF NATURAL RESOURCES 143853
C725S3 Caesar Creek Marina \$ 4,000,000 143854
Total Department of Natural Resources \$ 4,000,000 143855
TOTAL Parks and Recreation Improvement Fund \$ 4,000,000 143856

Section 503.10. PERSONAL SERVICE EXPENSES 143858

Unless otherwise prohibited by law, any appropriation from 143859
which personal service expenses are paid shall bear the employer's 143860
share of public employees' retirement, workers' compensation, 143861
disabled workers' relief, and insurance programs; and the costs of 143862
centralized financial services, centralized payroll processing, 143863
and related reports and services; centralized human resources 143864
services, including affirmative action and equal employment 143865
opportunity programs; the Office of Collective Bargaining; the 143866

Employee Assistance Program; centralized information technology 143867
management services; administering the enterprise resource 143868
planning system; and administering the state employee merit system 143869
as required by section 124.07 of the Revised Code. These costs 143870
shall be determined in conformity with the appropriate sections of 143871
law and paid in accordance with procedures specified by the Office 143872
of Budget and Management. Expenditures from appropriation item 143873
070601, Public Audit Expense - Intra-State, may be exempted from 143874
the requirements of this section. 143875

Section 503.20. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 143876
AGAINST THE STATE 143877

Except as otherwise provided in this section, an 143878
appropriation in this act or any other act may be used for the 143879
purpose of satisfying judgments, settlements, or administrative 143880
awards ordered or approved by the Court of Claims or by any other 143881
court of competent jurisdiction in connection with civil actions 143882
against the state. This authorization does not apply to 143883
appropriations to be applied to or used for payment of guarantees 143884
by or on behalf of the state, or for payments under lease 143885
agreements relating to, or debt service on, bonds, notes, or other 143886
obligations of the state. Notwithstanding any other statute to the 143887
contrary, this authorization includes appropriations from funds 143888
into which proceeds of direct obligations of the state are 143889
deposited only to the extent that the judgment, settlement, or 143890
administrative award is for, or represents, capital costs for 143891
which the appropriation may otherwise be used and is consistent 143892
with the purpose for which any related obligations were issued or 143893
entered into. Nothing contained in this section is intended to 143894
subject the state to suit in any forum in which it is not 143895
otherwise subject to suit, and is not intended to waive or 143896
compromise any defense or right available to the state in any suit 143897
against it. 143898

Section 503.30. CAPITAL PROJECT SETTLEMENTS 143899

This section specifies an additional and supplemental 143900
procedure to provide for payments of judgments and settlements if 143901
the Director of Budget and Management determines, pursuant to 143902
division (C)(4) of section 2743.19 of the Revised Code, that 143903
sufficient unencumbered moneys do not exist in the fund to support 143904
a particular appropriation to pay the amount of a final judgment 143905
rendered against the state or a state agency, including the 143906
settlement of a claim approved by a court, in an action upon and 143907
arising out of a contractual obligation for the construction or 143908
improvement of a capital facility if the costs under the contract 143909
were payable in whole or in part from a state capital projects 143910
appropriation. In such a case, the Director may either proceed 143911
pursuant to division (C)(4) of section 2743.19 of the Revised Code 143912
or apply to the Controlling Board to increase an appropriation or 143913
create an appropriation out of any unencumbered moneys in the 143914
state treasury to the credit of the capital projects fund from 143915
which the initial state appropriation was made. The amount of an 143916
increase in appropriation or new appropriation approved by the 143917
Controlling Board is hereby appropriated from the applicable 143918
capital projects fund and made available for the payment of the 143919
judgment or settlement. 143920

If the Director does not make the application authorized by 143921
this section or the Controlling Board disapproves the application, 143922
and the Director does not make application under division (C)(4) 143923
of section 2743.19 of the Revised Code, the Director shall for the 143924
purpose of making that payment make a request to the General 143925
Assembly as provided for in division (C)(5) of that section. 143926

Section 503.40. RE-ISSUANCE OF VOIDED WARRANTS 143927

In order to provide funds for the reissuance of voided 143928

warrants under section 126.37 of the Revised Code, there is hereby 143929
appropriated, out of moneys in the state treasury from the fund 143930
credited as provided in section 126.37 of the Revised Code, that 143931
amount sufficient to pay such warrants when approved by the Office 143932
of Budget and Management. 143933

Section 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 143934
BALANCES OF OPERATING APPROPRIATIONS 143935

(A) An unexpended balance of an operating appropriation or 143936
reappropriation that a state agency lawfully encumbered prior to 143937
the close of a fiscal year is hereby reappropriated on the first 143938
day of July of the following fiscal year from the fund from which 143939
it was originally appropriated or reappropriated for the following 143940
period and shall remain available only for the purpose of 143941
discharging the encumbrance: 143942

(1) For an encumbrance for personal services, maintenance, 143943
equipment, or items for resale, other than an encumbrance for an 143944
item of special order manufacture not available on term contract 143945
or in the open market or for reclamation of land or oil and gas 143946
wells, for a period of not more than five months from the end of 143947
the fiscal year; 143948

(2) For an encumbrance for an item of special order 143949
manufacture not available on term contract or in the open market, 143950
for a period of not more than five months from the end of the 143951
fiscal year or, with the written approval of the Director of 143952
Budget and Management, for a period of not more than twelve months 143953
from the end of the fiscal year; 143954

(3) For an encumbrance for reclamation of land or oil and gas 143955
wells, for a period ending when the encumbered appropriation is 143956
expended or for a period of two years, whichever is less; 143957

(4) For an encumbrance for any other expense, for such period 143958

as the Director approves, provided such period does not exceed two 143959
years. 143960

(B) Any operating appropriations for which unexpended 143961
balances are reappropriated beyond a five-month period from the 143962
end of the fiscal year by division (A)(2) of this section shall be 143963
reported to the Controlling Board by the Director of Budget and 143964
Management by the thirty-first day of December of each year. The 143965
report on each such item shall include the item, the cost of the 143966
item, and the name of the vendor. The report shall be updated on a 143967
quarterly basis for encumbrances remaining open. 143968

(C) Upon the expiration of the reappropriation period set out 143969
in division (A) of this section, a reappropriation made by this 143970
section lapses, and the Director of Budget and Management shall 143971
cancel the encumbrance of the unexpended reappropriation not later 143972
than the end of the weekend following the expiration of the 143973
reappropriation period. 143974

(D) Notwithstanding division (C) of this section, with the 143975
approval of the Director of Budget and Management, an unexpended 143976
balance of an encumbrance that was reappropriated on the first day 143977
of July by this section for a period specified in division (A)(3) 143978
or (4) of this section and that remains encumbered at the close of 143979
the fiscal biennium is hereby reappropriated on the first day of 143980
July of the following fiscal biennium from the fund from which it 143981
was originally appropriated or reappropriated for the applicable 143982
period specified in division (A)(3) or (4) of this section and 143983
shall remain available only for the purpose of discharging the 143984
encumbrance. 143985

(E) The Director of Budget and Management may correct 143986
accounting errors committed by the staff of the Office of Budget 143987
and Management, such as re-establishing encumbrances or 143988
appropriations cancelled in error, during the cancellation of 143989
operating encumbrances in November and of nonoperating 143990

encumbrances in December.	143991
(F) If the Controlling Board approved a purchase, that	143992
approval remains in effect so long as the appropriation used to	143993
make that purchase remains encumbered.	143994
Section 503.60. APPROPRIATIONS RELATED TO CASH TRANSFERS AND	143995
RE-ESTABLISHMENT OF ENCUMBRANCES	143996
Any cash transferred by the Director of Budget and Management	143997
under section 126.15 of the Revised Code is hereby appropriated.	143998
Any amounts necessary to re-establish appropriations or	143999
encumbrances under section 126.15 of the Revised Code are hereby	144000
appropriated.	144001
Section 503.70. INCOME TAX DISTRIBUTION TO COUNTIES	144002
There are hereby appropriated out of any moneys in the state	144003
treasury to the credit of the General Revenue Fund, which are not	144004
otherwise appropriated, funds sufficient to make any payment	144005
required by division (B)(2) of section 5747.03 of the Revised	144006
Code.	144007
Section 503.80. EXPENDITURES AND APPROPRIATION INCREASES	144008
APPROVED BY THE CONTROLLING BOARD	144009
Any money that the Controlling Board approves for expenditure	144010
or any increase in appropriation that the Controlling Board	144011
approves under sections 127.14, 131.35, and 131.39 of the Revised	144012
Code or any other provision of law is hereby appropriated for the	144013
period ending June 30, 2013.	144014
Section 503.90. FUNDS RECEIVED FOR USE OF GOVERNOR'S	144015
RESIDENCE	144016
If the Governor's Residence Fund (Fund 4H20) receives payment	144017
for use of the residence pursuant to section 107.40 of the Revised	144018

Code, the amounts so received are hereby appropriated to 144019
appropriation item 100604, Governor's Residence Gift. 144020

Section 503.93. PENSION SHIFT REPLACEMENT 144021

The Director of Budget and Management may authorize 144022
additional expenditures from various General Revenue Fund and 144023
non-General Revenue Fund appropriation items in order to fully 144024
fund the employer's share of public retirement system 144025
contributions for state employees who are paid directly by warrant 144026
of the Director of Budget and Management. Any additional 144027
expenditures authorized by the Director of Budget and Management 144028
under this paragraph are hereby appropriated. 144029

Section 506.10. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 144030

Unless the agency and nuclear electric utility mutually agree 144031
to a higher amount by contract, the maximum amounts that may be 144032
assessed against nuclear electric utilities under division (B)(2) 144033
of section 4937.05 of the Revised Code and deposited into the 144034
specified funds are as follows: 144035

<u>Fund</u>	<u>User</u>		<u>FY 2012</u>	<u>FY 2013</u>	
Utility Radiological Safety Fund (Fund 4E40)	Department of Agriculture	\$	131,785	\$	131,785
Radiation Emergency Response Fund (Fund 6100)	Department of Health	\$	930,525	\$	930,576
ER Radiological Safety Fund (Fund 6440)	Environmental Protection Agency	\$	279,838	\$	279,966
Emergency Response Plan Fund (Fund 6570)	Department of Public Safety	\$	1,415,945	\$	1,415,945

Section 512.10. TRANSFERS TO THE GENERAL REVENUE FUND OF 144041
INTEREST EARNED 144042

Notwithstanding any provision of law to the contrary, the 144043
Director of Budget and Management, through June 30, 2013, may 144044
transfer interest earned by any state fund to the General Revenue 144045
Fund. This section does not apply to funds whose source of revenue 144046
is restricted or protected by the Ohio Constitution, federal tax 144047
law, or the "Cash Management Improvement Act of 1990," 104 Stat. 144048
1058 (1990), 31 U.S.C. 6501 et seq., as amended. 144049

Section 512.30. CASH TRANSFERS TO THE GENERAL REVENUE FUND 144050
FROM NON-GRF FUNDS 144051

Notwithstanding any provision of law to the contrary, during 144052
fiscal years 2012 and 2013, the Director of Budget and Management 144053
may transfer up to \$60,000,000 in cash from non-General Revenue 144054
Funds that are not constitutionally restricted to the General 144055
Revenue Fund in order to ensure that available General Revenue 144056
Fund receipts and balances are sufficient to support General 144057
Revenue Fund appropriations in each fiscal year. The Director 144058
shall not make transfers from any non-General Revenue Fund if more 144059
than thirty per cent of the total fund value consists of cash from 144060
donations. 144061

Section 512.40. FISCAL YEAR 2011 GENERAL REVENUE FUND ENDING 144062
BALANCE 144063

Notwithstanding divisions (B) and (C) of section 131.44 of 144064
the Revised Code, the Director of Budget and Management shall 144065
determine the surplus General Revenue Fund revenue that existed on 144066
June 30, 2011, in excess of the amount required under division 144067
(A)(3) of section 131.44 of the Revised Code, and transfer from 144068
the General Revenue Fund, to the extent of the amount so 144069
determined, the following: 144070

(A) To the Disaster Services Fund (Fund 5E20), a cash amount 144071
up to \$25,000,000; 144072

(B) To the Controlling Board Emergency Purposes Fund (Fund 5KM0), a cash amount of up to \$20,000,000. 144073
144074

Section 512.60. NATURAL RESOURCES PUBLICATIONS 144075

On July 1, 2011, or as soon as possible thereafter, the 144076
Director of Budget and Management, at the request of the Director 144077
of Natural Resources, shall transfer the remaining cash balance in 144078
the Natural Resources Publications and Promotional Materials Fund 144079
(Fund 5080) to the Departmental Projects Fund (Fund 1550) and the 144080
Geological Mapping Fund (Fund 5110) in such amounts as determined 144081
by the Director of Budget and Management after consultation with 144082
the Director of Natural Resources. The Director of Budget and 144083
Management shall cancel all existing encumbrances against 144084
appropriation item 725684, Natural Resources Publications, and 144085
reestablish them against appropriation item 725601, Departmental 144086
Projects, and appropriation item 725646, Ohio Geological Mapping. 144087
Upon completion of the transfer, the Natural Resources 144088
Publications and Promotional Materials Fund is hereby abolished. 144089
Beginning July 1, 2011, all moneys from the sale of books, 144090
bulletins, maps, or other publications and promotional materials 144091
shall be credited to the Departmental Projects Fund (Fund 1550) or 144092
the Geological Mapping Fund (Fund 5110) as determined by the 144093
Director of Natural Resources. 144094

Section 512.70. On July 1, 2011, or as soon as possible 144095
thereafter, the Director of Budget and Management shall transfer 144096
the cash balance in the Penalty Enforcement Fund (Fund 5K70) to 144097
the Labor Operating Fund (Fund 5560). The Director shall cancel 144098
any existing encumbrances against appropriation item 800621, 144099
Penalty Enforcement, and re-establish them against appropriation 144100
item 800615, Industrial Compliance. The re-established encumbrance 144101
amounts are hereby appropriated. Upon completion of the transfer, 144102
Fund 5K70 is abolished. 144103

Section 512.80. ABOLISHMENT OF PASSPORT FUND 144104

On July 1, 2011, or as soon as possible thereafter, the 144105
Director of Budget and Management shall transfer the cash balance 144106
in the PASSPORT Fund (Fund 4U90) to the Nursing Home Franchise 144107
Permit Fee Fund (Fund 5R20). Upon completion of the transfer, Fund 144108
4U90 is abolished. The Director shall cancel any existing 144109
encumbrances against appropriation item 490602, PASSPORT Fund, and 144110
reestablish them against appropriation item 600613, Nursing 144111
Facility Bed Assessments. The reestablished encumbrance amounts 144112
are hereby appropriated. 144113

Section 512.90. DIESEL EMISSIONS REDUCTION GRANT PROGRAM 144114

There is established in the Highway Operating Fund (Fund 144115
7002) in the Department of Transportation a Diesel Emissions 144116
Reduction Grant Program. The Director of Environmental Protection 144117
shall administer the program and shall solicit, evaluate, score, 144118
and select projects submitted by public and private entities that 144119
are eligible for the federal Congestion Mitigation and Air Quality 144120
(CMAQ) Program. The Director of Transportation shall process 144121
Federal Highway Administration-approved projects as recommended by 144122
the Director of Environmental Protection. 144123

In addition to the allowable expenditures set forth in 144124
section 122.861 of the Revised Code, Diesel Emissions Reduction 144125
Grant Program funds also may be used to fund projects involving 144126
the purchase or use of hybrid and alternative fuel vehicles that 144127
are allowed under guidance developed by the Federal Highway 144128
Administration for the CMAQ Program. 144129

Public entities eligible to receive funds under section 144130
122.861 of the Revised Code and CMAQ shall be reimbursed from the 144131
Department of Transportation's Diesel Emissions Reduction Grant 144132
Program. 144133

Private entities eligible to receive funds under section 144134
122.861 of the Revised Code and CMAQ shall be reimbursed through 144135
transfers of cash from the Department of Transportation's Diesel 144136
Emissions Reduction Grant Program to the Diesel Emissions 144137
Reduction Fund (Fund 3FH0), which is hereby created and to be used 144138
by the Environmental Protection Agency. 144139

Appropriation item 715693, Diesel Emissions Reduction Grants, 144140
is established with an appropriation of \$10,000,000 in FY 2012 and 144141
\$10,000,000 in FY 2013. Total expenditures between both the 144142
Environmental Protection Agency and the Department of 144143
Transportation shall not exceed the amounts appropriated in this 144144
section. 144145

On or before June 30, 2012, any unencumbered balance of the 144146
foregoing appropriation item 715693, Diesel Emissions Reduction 144147
Grants, for fiscal year 2012 is appropriated for the same purposes 144148
in fiscal year 2013. 144149

Any cash transfers or allocations under this section 144150
represent CMAQ program moneys within the Department of 144151
Transportation for use by the Diesel Emissions Reduction Grant 144152
Program by the Environmental Protection Agency. These allocations 144153
shall not reduce the amount of such moneys designated for 144154
metropolitan planning organizations. 144155

The Director of Environmental Protection, in consultation 144156
with the Directors of Development and Transportation, shall 144157
develop guidance for the distribution of funds and for the 144158
administration of the Diesel Emissions Reduction Grant Program. 144159
The guidance shall include a method of prioritization for 144160
projects, acceptable technologies, and procedures for awarding 144161
grants. 144162

Section 515.20. (A) On the effective date of the amendment of 144163
the statutes creating the Division of Oil and Gas Resources 144164

Management in the Department of Natural Resources by this act, the 144165
functions, assets, and liabilities of the Division of Mineral 144166
Resources Management in the Department of Natural Resources with 144167
respect to oil and gas are transferred to the Division of Oil and 144168
Gas Resources Management. The Division of Oil and Gas Resources 144169
Management is successor to, assumes the obligations and authority 144170
of, and otherwise continues the Division of Mineral Resources 144171
Management with respect to oil and gas. No right, privilege, or 144172
remedy, and no duty, liability, or obligation, accrued under the 144173
Division of Mineral Resources Management with respect to oil and 144174
gas is impaired or lost by reason of the transfer and shall be 144175
recognized, administered, performed, or enforced by the Division 144176
of Oil and Gas Resources Management. 144177

(B) Business commenced but not completed by the Division of 144178
Mineral Resources Management or by the Chief of the Division of 144179
Mineral Resources Management with respect to oil and gas shall be 144180
completed by the Division of Oil and Gas Resources Management or 144181
the Chief of the Division of Oil and Gas Resources Management in 144182
the same manner, and with the same effect, as if completed by the 144183
Division of Mineral Resources Management or by the Chief of the 144184
Division of Mineral Resources Management. 144185

(C) All of the Division of Mineral Resources Management's 144186
rules, orders, and determinations with respect to oil and gas 144187
continue in effect as rules, orders, and determinations of the 144188
Division of Oil and Gas Resources Management until modified or 144189
rescinded by the Division of Oil and Gas Resources Management. If 144190
necessary to ensure the integrity of the numbering of the 144191
Administrative Code, the Director of the Legislative Service 144192
Commission shall renumber the Division of Mineral Resources 144193
Management's rules with respect to oil and gas to reflect their 144194
transfer to the Division of Oil and Gas Resources Management. 144195

(D) The Director of Budget and Management shall determine the amount of unexpended balances in the appropriation accounts that pertain to the Division of Mineral Resources Management with respect to oil and gas and shall recommend to the Controlling Board their transfer to the appropriation accounts that pertain to the Division of Oil and Gas Resources Management. The Chief of the Division of Mineral Resources Management shall provide full and timely information to the Controlling Board to facilitate the transfer.

(E) Whenever the Division of Mineral Resources Management or the Chief of the Division of Mineral Resources Management is referred to in a statute, contract, or other instrument with respect to oil and gas, the reference is deemed to refer to the Division of Oil and Gas Resources Management or to the Chief of the Division of Oil and Gas Resources Management, whichever is appropriate in context.

(F) No pending action or proceeding being prosecuted or defended in court or before an agency with respect to oil and gas by the Division of Mineral Resources Management or the Chief of the Division of Mineral Resources Management is affected by the transfer and shall be prosecuted or defended in the name of the Division of Oil and Gas Resources Management or the Chief of the Division of Oil and Gas Resources Management, whichever is appropriate. Upon application to the court or agency, the Division of Oil and Gas Resources Management or the Chief of the Division of Oil and Gas Resources Management shall be substituted as a party.

Section 515.23. On the effective date of the amendments to section 1517.03 of the Revised Code by this act, the terms of office of members appointed to the Ohio Natural Areas Council under section 1517.03 of the Revised Code prior to its amendment

by this act are terminated. 144227

Section 515.30. (A) On the effective date of the amendment of 144228
the statutes governing the Ohio Coal Development Office by this 144229
act, the Ohio Coal Development Office and all of its functions, 144230
together with its assets and liabilities, are transferred from 144231
within the Ohio Air Quality Development Authority to within the 144232
Department of Development. The Ohio Coal Development Office in the 144233
Department of Development assumes the obligations of and otherwise 144234
constitutes the continuation of the Ohio Coal Development Office 144235
in the Ohio Air Quality Development Authority. 144236

(B) Any business commenced but not completed by the Ohio Coal 144237
Development Office in the Ohio Air Quality Development Authority 144238
or the Director of that office on the effective date of the 144239
amendment of the statutes governing that Office by this act shall 144240
be completed by the Ohio Coal Development Office in the Department 144241
of Development or the Director of that Office in the same manner, 144242
and with the same effect, as if completed by the Ohio Coal 144243
Development Office in the Ohio Air Quality Development Authority 144244
or the Director of that Office. Any validation, cure, right, 144245
privilege, remedy, obligation, or liability is not lost or 144246
impaired by reason of the transfer required by this section and 144247
shall be administered by the Ohio Coal Development Office in the 144248
Department of Development. 144249

(C) All of the rules, orders, and determinations of the Ohio 144250
Coal Development Office in the Ohio Air Quality Development 144251
Authority or of the Ohio Air Quality Development Authority in 144252
relation to that Office continue in effect as rules, orders, and 144253
determinations of the Ohio Coal Development Office in the 144254
Department of Development until modified or rescinded by that 144255
Office or by the Department of Development in relation to that 144256
Office. If necessary to ensure the integrity of the numbering of 144257

the Administrative Code, the Director of the Legislative Service Commission shall renumber rules of the Ohio Air Quality Development Authority in relation to the Ohio Coal Development Office in the Ohio Air Quality Development Authority to reflect the transfer to the Department of Development.

(D) Subject to the lay-off provisions of sections 124.321 to 124.328 of the Revised Code, all of the employees of the Ohio Coal Development Office in the Ohio Air Quality Development Authority are transferred to the Ohio Coal Development Office in the Department of Development and retain their positions and all the benefits accruing thereto.

(E) Whenever the Ohio Coal Development Office in the Ohio Air Quality Development Office or the Authority in relation to that Office is referred to in any law, contract, or other document, the reference shall be deemed to refer to the Ohio Coal Development Office in the Department of Development or the Director of Development in relation to that Office, whichever is appropriate in context.

(F) Any action or proceeding pending on the effective date of the amendment of the statutes governing the Ohio Coal Development Office by this act is not affected by the transfer of that Office and shall be prosecuted or defended in the name of the Department of Development or the Ohio Coal Development Office in that Department. In all such actions and proceedings, the Department of Development or the Ohio Coal Development Office in that Department, upon application to the court, shall be substituted as a party.

Section 515.40. (A) On the effective date of this section, the building and facility operations and management functions of the Ohio Building Authority (OBA) under Chapter 152. of the Revised Code, and the related functions, assets, and liabilities,

including, but not limited to, funds, accounts, records, 144289
regardless of form or medium, leases, agreements, and contracts of 144290
the OBA are transferred to the Department of Administrative 144291
Services. Notwithstanding Chapters 123., 124., 125., 126., and 144292
153. of the Revised Code, the Department is thereupon and 144293
thereafter successor to, assumes the powers and obligations of, 144294
and otherwise constitutes the continuation of the building and 144295
facilities operations and management functions of the OBA as 144296
provided in the applicable sections of Chapter 152. of the Revised 144297
Code or in any agreements relating to building and facility 144298
operation and management functions to which the Ohio Building 144299
Authority is a party, including the invoicing and collection of 144300
rent from local government tenants in state office buildings. All 144301
statutory references to OBA with regard to building and facility 144302
operations and management functions are deemed to be references to 144303
the Department of Administrative Services. 144304

(B) Any business relating to its building and facility 144305
operations and management functions commenced but not completed by 144306
the OBA by the date of transfer shall be completed by the 144307
Department of Administrative Services, in the same manner, and 144308
with the same effect, as if completed by the OBA. No validation, 144309
cure, right, privilege, remedy, obligation, or liability is lost 144310
or impaired by reason of the transfer and shall be administered by 144311
the Department of Administrative Services. All of the OBA's rules, 144312
orders, and determinations related to building and facility 144313
operations and management functions continue in effect as rules, 144314
orders, and determinations of the Department of Administrative 144315
Services, until modified or rescinded by the Department of 144316
Administrative Services. If necessary to ensure the integrity of 144317
the Administrative Code rule numbering system, the Director of the 144318
Legislative Service Commission shall renumber the OBA's rules 144319
related to the OBA's building and facility operations and 144320

management functions to reflect their transfer to the Department 144321
of Administrative Services. 144322

(C) Employees of the OBA designated as building and facility 144323
operations and management staff may be transferred to the 144324
Department of Administrative Services as the Department determines 144325
to be necessary for successful implementation of this section, to 144326
the extent possible, with no loss of service credit. 144327

(D) No judicial or administrative action or proceeding to 144328
which the OBA is a party that is pending on the effective date of 144329
this section or such later date as may be established by an 144330
authorized officer of the OBA and the Director of Administrative 144331
Services, and related to its building and facility operations and 144332
management functions, is affected by the transfer of functions. 144333
Any such action or proceeding shall be prosecuted or defended in 144334
the name of the Director of Administrative Services. On 144335
application to the court or agency, the Director of Administrative 144336
Services shall be substituted for the OBA or an authorized officer 144337
of the OBA as a party to the action or proceeding. 144338

(E) On and after the effective date of this section, 144339
notwithstanding any provision of the law to the contrary, if 144340
requested by the Director of Administrative Services, the Director 144341
of Budget and Management shall make the budget changes made 144342
necessary by the transfer, if any, including administrative 144343
reorganization, program transfers, the creation of new funds, and 144344
the consolidation of funds as authorized by this section. The 144345
Director of Budget and Management may, if necessary, establish 144346
encumbrances or parts of encumbrances as needed in fiscal year 144347
2012 in the appropriate fund and appropriation item for the same 144348
purpose and for payment to the same vendor. The established 144349
encumbrances plus any additional amounts determined to be 144350
necessary for the Department of Administrative Services to perform 144351
the building and facility operation and management functions of 144352

the Ohio Building Authority are hereby appropriated. 144353

(F) Not later than thirty days after the transfer of the 144354
building and facility operation and management functions of the 144355
Ohio Building Authority to the Department of Administrative 144356
Services, an authorized officer of the Ohio Building Authority 144357
shall certify to the Director of Administrative Services the 144358
unexpended balance and location of any funds and accounts 144359
designated for building and facility operation and management 144360
functions and custody of such funds and accounts shall be 144361
transferred to the Department of Administrative Services. 144362

(G) Notwithstanding any other provisions of this section, the 144363
Ohio Building Authority may, subsequent to the effective date of 144364
this section, meet for the purpose of better accomplishing the 144365
transfer of the building and facility operation and management 144366
functions described in this section. At any such meeting, the Ohio 144367
Building Authority may take necessary or appropriate actions to 144368
effect an orderly transition relating to the transfer of such 144369
functions. 144370

(H) Not later than August 1, 2011, employees of the Ohio 144371
Building Authority designated as building and facility operation 144372
and management staff shall be eligible to participate in group 144373
health plans offered to state employees pursuant to sections 144374
124.81 or 124.82 of the Revised Code. 144375

Section 515.50. (A) On the effective date of this section, 144376
the Construction Compliance Section of the Equal Employment 144377
Opportunity Office of the Department of Administrative Services 144378
and all of its functions, together with its assets and 144379
liabilities, are transferred from the Department of Administrative 144380
Services to the Department of Commerce. The Construction 144381
Compliance Section of the Department of Commerce assumes the 144382
obligations of and otherwise constitutes the continuation of the 144383

Construction Compliance Section of the Equal Employment	144384
Opportunity Office of the Department of Administrative Services.	144385
(B) Any business commenced, but not completed by the	144386
Construction Compliance Section of the Equal Employment	144387
Opportunity Office of the Department of Administrative Services or	144388
the Director of Administrative Services in relation to the Section	144389
shall be completed by the Construction Compliance Section of the	144390
Department of Commerce or the Director of Commerce in the same	144391
manner, and with the same effect, as if completed by the	144392
Construction Compliance Section of the Equal Employment	144393
Opportunity Office of the Department of Administrative Services or	144394
the Director of Administrative Services. Any validation, cure,	144395
right, privilege, remedy, obligation, or liability is not lost or	144396
impaired by reason of the transfer, and shall be administered by	144397
the Construction Compliance Section of the Department of Commerce.	144398
(C) All of the rules, orders, and determinations of the	144399
Construction Compliance Section of the Equal Employment	144400
Opportunity Office of the Department of Administrative Services or	144401
of the Department of Administrative Services in relation to the	144402
Construction Compliance Section continue in effect as rules,	144403
orders, and determinations of the Construction Compliance Section	144404
of the Department of Commerce until modified or rescinded by the	144405
Construction Compliance Section of the Department of Commerce. If	144406
necessary to ensure the integrity of the numbering of the	144407
Administrative Code, the Director of the Legislative Service	144408
Commission shall renumber rules of the Department of	144409
Administrative Services in relation to the Construction Compliance	144410
Section of the Equal Employment Opportunity Office of the	144411
Department of Administrative Services to reflect the transfer to	144412
the Department of Commerce.	144413
(D) Subject to the lay-off provisions of sections 124.321 to	144414

124.328 of the Revised Code, all of the employees of the 144415
Construction Compliance Section of the Equal Employment 144416
Opportunity Office of the Department of Administrative Services 144417
are transferred to the Construction Compliance Section of the 144418
Department of Commerce and retain their positions and all the 144419
benefits accruing thereto. 144420

(E) Whenever the Construction Compliance Section of the Equal 144421
Employment Opportunity Office of the Department of Administrative 144422
Services or the Department of Administrative Services in relation 144423
to the Section is referred to in any law, contract, or other 144424
document, the reference shall be deemed to refer to the 144425
Construction Compliance Section in the Department of Commerce or 144426
the Director of Commerce in relation to the Section, whichever is 144427
appropriate in context. 144428

(F) Any action or proceeding pending on the effective date of 144429
this section is not affected by the transfer of the Construction 144430
Compliance Section of the Equal Employment Opportunity Office of 144431
the Department of Administrative Services and shall be prosecuted 144432
or defended in the name of the Department of Commerce or the 144433
Construction Compliance Section of the Department of Commerce. In 144434
all such actions and proceedings, the Department of Commerce or 144435
the Construction Compliance Section of the Department of Commerce, 144436
upon application to the court or agency, shall be substituted as a 144437
party. 144438

Section 515.60. Effective July 1, 2011, the School Employees 144439
Health Care Board is abolished. All equipment, assets, and records 144440
of the Board are transferred to the Department of Administrative 144441
Services. The Department of Administrative Services shall 144442
designate the positions, if any, to be transferred to the 144443
Department of Administrative Services. 144444

The Department of Administrative Services and the Department 144445

of Education shall enter into an interagency agreement to transfer 144446
to the Department of Administrative Services any designated 144447
positions and all equipment, assets, and records of the Board by 144448
July 1, 2011, or as soon as possible thereafter. The interagency 144449
agreement may include provisions to transfer property and any 144450
other provisions necessary for the continued administration of 144451
Board activities under section 9.901 of the Revised Code. 144452

Any positions of the Board that the Department of 144453
Administrative Services designates for transfer, and any equipment 144454
assigned to those positions, are transferred to the Department of 144455
Administrative Services. Any employees of the Board in positions 144456
so transferred retain the rights specified in sections 124.321 to 144457
124.328 of the Revised Code, and any employee transferred to the 144458
Department of Administrative Services retains the employee's 144459
respective classification, but the Department of Administrative 144460
Services may reassign and reclassify the employee's position and 144461
compensation as the Department determines to be in the interest of 144462
office administration. 144463

Effective July 1, 2011, the Director of Budget and Management 144464
shall cancel any existing encumbrances against appropriation item 144465
200458, School Employees Health Care Board, and re-establish them 144466
against appropriation item 100403, Public Employees Health Care 144467
Program. The re-established encumbrance amounts are hereby 144468
appropriated. Any business commenced but not completed under 144469
appropriation item 200458, School Employees Health Care Board, by 144470
July 1, 2011, shall be completed under appropriation item 100403, 144471
Public Employees Health Care Program, in the same manner, and with 144472
the same effect, as if completed with regard to appropriation item 144473
200458, School Employees Health Care Board. All of the rules, 144474
orders, and determinations associated with the Board continue in 144475
effect as rules, orders, and determinations associated with the 144476
Department of Administrative Services until modified or rescinded 144477

by the Director of Administrative Services. If necessary to ensure 144478
the integrity of the Administrative Code rule numbering system, 144479
the Director of the Legislative Service Commission shall renumber 144480
the rules relating to the Board to reflect their transfer to the 144481
Department of Administrative Services. No validation, cure, right, 144482
privilege, remedy, obligation, or liability is lost or impaired by 144483
reason of the transfer and shall be administered with regard to 144484
appropriation item 100403, Public Employees Health Care Program. 144485
On and after July 1, 2011, if the School Employees Health Care 144486
Board is referred to in any statute, rule, contract, grant, or 144487
other document, the reference is deemed to refer to the Department 144488
of Administrative Services. 144489

Section 518.10. GENERAL OBLIGATION DEBT SERVICE PAYMENTS 144490

Certain appropriations are in this act for the purpose of 144491
paying debt service and financing costs on general obligation 144492
bonds or notes of the state issued pursuant to the Ohio 144493
Constitution and acts of the General Assembly. If it is determined 144494
that additional appropriations are necessary for this purpose, 144495
such amounts are hereby appropriated. 144496

Section 518.20. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF 144497
STATE 144498

Certain appropriations are in this act for the purpose of 144499
making lease rental payments pursuant to leases and agreements 144500
relating to bonds or notes issued by the Ohio Building Authority 144501
or the Treasurer of State, or previously by the Ohio Public 144502
Facilities Commission, pursuant to the Ohio Constitution and acts 144503
of the General Assembly. If it is determined that additional 144504
appropriations are necessary for this purpose, such amounts are 144505
hereby appropriated. 144506

Section 518.30. AUTHORIZATION FOR TREASURER OF STATE AND OBM 144507

TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 144508

The Office of Budget and Management shall process payments 144509
from general obligation and lease rental payment appropriation 144510
items during the period from July 1, 2011, through June 30, 2013, 144511
relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m, 144512
2n, 2o, 2p, 2q, 2r, and 15 of Article VIII, Ohio Constitution, and 144513
Chapters 151. and 154. of the Revised Code. Payments shall be made 144514
upon certification by the Treasurer of State of the dates and the 144515
amounts due on those dates. 144516

Section 518.40. AUTHORIZATION FOR OHIO BUILDING AUTHORITY AND 144517
OBM TO EFFECTUATE CERTAIN LEASE RENTAL PAYMENTS 144518

The Office of Budget and Management shall process payments 144519
from lease rental payment appropriation items during the period 144520
from July 1, 2011, through June 30, 2013, pursuant to the lease 144521
agreements entered into relating to bonds or notes issued under 144522
Section 2i of Article VIII, Ohio Constitution, and Chapter 152. of 144523
the Revised Code. Payments shall be made upon certification by the 144524
Ohio Building Authority of the dates and the amounts due on those 144525
dates. 144526

Section 521.10. STATE AND LOCAL REBATE AUTHORIZATION 144527

There is hereby appropriated, from those funds designated by 144528
or pursuant to the applicable proceedings authorizing the issuance 144529
of state obligations, amounts computed at the time to represent 144530
the portion of investment income to be rebated or amounts in lieu 144531
of or in addition to any rebate amount to be paid to the federal 144532
government in order to maintain the exclusion from gross income 144533
for federal income tax purposes of interest on those state 144534
obligations under section 148(f) of the Internal Revenue Code. 144535

Rebate payments shall be approved and vouchered by the Office 144536
of Budget and Management. 144537

Section 521.20. STATEWIDE INDIRECT COST RECOVERY 144538

Whenever the Director of Budget and Management determines 144539
that an appropriation made to a state agency from a fund of the 144540
state is insufficient to provide for the recovery of statewide 144541
indirect costs under section 126.12 of the Revised Code, the 144542
amount required for such purpose is hereby appropriated from the 144543
available receipts of such fund. 144544

Section 521.30. TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT 144545
COST ALLOCATION PLAN 144546

The total transfers made from the General Revenue Fund by the 144547
Director of Budget and Management under this section shall not 144548
exceed the amounts transferred into the General Revenue Fund under 144549
section 126.12 of the Revised Code. 144550

The director of an agency may certify to the Director of 144551
Budget and Management the amount of expenses not allowed to be 144552
included in the Statewide Indirect Cost Allocation Plan under 144553
federal regulations, from any fund included in the Statewide 144554
Indirect Cost Allocation Plan, prepared as required by section 144555
126.12 of the Revised Code. 144556

Upon determining that no alternative source of funding is 144557
available to pay for such expenses, the Director of Budget and 144558
Management may transfer from the General Revenue Fund into the 144559
fund for which the certification is made, up to the amount of the 144560
certification. The director of the agency receiving such funds 144561
shall include, as part of the next budget submission prepared 144562
under section 126.02 of the Revised Code, a request for funding 144563
for such activities from an alternative source such that further 144564
federal disallowances would not be required. 144565

The director of an agency may certify to the Director of 144566
Budget and Management the amount of expenses paid in error from a 144567

fund included in the Statewide Indirect Cost Allocation Plan. The 144568
Director of Budget and Management may transfer cash from the fund 144569
from which the expenditure should have been made into the fund 144570
from which the expenses were erroneously paid, up to the amount of 144571
the certification. 144572

Section 521.30.10. OGRIP FUNDS TRANSFER TO THE GENERAL 144573
REVENUE FUND 144574

On July 1, 2011, or as soon as possible thereafter, the 144575
Director of Budget and Management may transfer cash in the amount 144576
of \$15,072.03 from the Federal Grants OGRIP Fund (Fund 3H60) to 144577
the General Revenue Fund. This amount represents residual funds 144578
from old federal grants for the state's OGRIP program that have 144579
been closed by the federal awarding agency. 144580

Section 521.30.20. TRANSFER OF FEDERAL FUNDS 144581

On July 1, 2011, or as soon as possible thereafter, the 144582
Director of Environmental Protection shall certify to the Director 144583
of Budget and Management the cash balance in the DOE Monitoring 144584
and Oversight Fund (Fund 3N40). The Director of Budget and 144585
Management shall transfer the certified amount from Fund 3N40 to 144586
the Federally Supported Response Fund (Fund 3F30). Upon completion 144587
of the transfer, Fund 3N40 is abolished. The Director shall cancel 144588
any existing encumbrances against appropriation item 715657, DOE 144589
Monitoring and Oversight, and re-establish them against 144590
appropriation item 715632, Federally Supported Response. The 144591
re-established encumbrance amounts are hereby appropriated. 144592

On July 1, 2011, or as soon as possible thereafter, the 144593
Director of Environmental Protection shall certify to the Director 144594
of Budget and Management the cash balance in the DOD Monitoring 144595
and Oversight Fund (Fund 3K40). The Director of Budget and 144596
Management shall transfer the certified amount from Fund 3K40 to 144597

the Federally Supported Response Fund (Fund 3F30). Upon completion 144598
of the transfer, Fund 3K40 is abolished. The Director shall cancel 144599
any existing encumbrances against appropriation item 715634, DOD 144600
Monitoring and Oversight, and re-establish them against 144601
appropriation item 715632, Federally Supported Response. The 144602
re-established encumbrance amounts are hereby appropriated. 144603

Section 521.40. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 144604

Notwithstanding any provision of law to the contrary, on or 144605
before the first day of September of each fiscal year, the 144606
Director of Budget and Management, in order to reduce the payment 144607
of adjustments to the federal government, as determined by the 144608
plan prepared under division (A) of section 126.12 of the Revised 144609
Code, may designate such funds as the Director considers necessary 144610
to retain their own interest earnings. 144611

Section 521.50. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 144612

Pursuant to the plan for compliance with the Federal Cash 144613
Management Improvement Act required by section 131.36 of the 144614
Revised Code, the Director of Budget and Management may cancel and 144615
re-establish all or part of encumbrances in like amounts within 144616
the funds identified by the plan. The amounts necessary to 144617
re-establish all or part of encumbrances are hereby appropriated. 144618

Section 521.60. FISCAL STABILIZATION AND RECOVERY 144619

To ensure the level of accountability and transparency 144620
required by federal law, the Director of Budget and Management may 144621
issue guidelines to any agency applying for federal money made 144622
available to this state for fiscal stabilization and recovery 144623
purposes, and may prescribe the process by which agencies are to 144624
comply with any reporting requirements established by the federal 144625
government. 144626

Section 521.70. OVERSIGHT OF FEDERAL STIMULUS FUNDS 144627

(A) The Office of Internal Auditing within the Office of 144628
Budget and Management shall, in connection with its duties under 144629
sections 126.45 to 126.48 of the Revised Code, monitor and measure 144630
the effectiveness of funds allocated to the state as part of the 144631
federal American Recovery and Reinvestment Act of 2009. As such, 144632
the Office of Internal Auditing shall review how funds allocated 144633
to each state agency are spent. For purposes of this section, 144634
"state agency" has the same meaning as in division (A) of section 144635
126.45 of the Revised Code. 144636

In addition to the reports required under section 126.47 of 144637
the Revised Code, the Office of Internal Auditing shall submit a 144638
report of its findings to the President of the Senate, Minority 144639
Leader of the Senate, Speaker of the House of Representatives, 144640
Minority Leader of the House of Representatives, and the Chairs of 144641
the committees in the Senate and House of Representatives handling 144642
finance and appropriations. The report shall be submitted every 144643
six months at the following intervals: 144644

(1) For the six-month period ending December 31, 2011, not 144645
later than February 1, 2012; 144646

(2) For the six-month period ending June 30, 2012, not later 144647
than August 1, 2012; 144648

(3) For the six-month period ending December 31, 2012, not 144649
later than February 1, 2013; 144650

(4) For the six-month period ending June 30, 2013, not later 144651
than August 1, 2013. 144652

(B) When, as part of its compliance with the federal American 144653
Recovery and Reinvestment Act of 2009 requirements to monitor and 144654
measure the effectiveness of funds for which the state of Ohio is 144655
the prime recipient, and for which reporting authority has not 144656

been delegated to a sub-recipient, the Office of Budget and Management submits quarterly reports to the federal government, the Office of Budget and Management shall also submit those reports to the President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, and Chairs and ranking members of the committees in the Senate and House of Representatives handling finance and appropriations. The Office of Budget and Management shall continue to submit quarterly reports to the legislature for the duration of the period in which the state of Ohio is required to make reports to the federal government concerning Ohio's use of the federal American Recovery and Reinvestment Act of 2009 funds.

Section 521.80. FEDERAL FUNDS FOR HISTORIC PRESERVATION LOAN GUARANTEE

(A) As used in this section:

(1) "Approved historic rehabilitation project" means a rehabilitation of a historic building that the Director of Development has approved for a rehabilitation tax credit under section 149.311 of the Revised Code.

(2) "Federal funds" means federal money available to states under the American Recovery and Reinvestment Act of 2009 or any other source of federal money available to the states, that may lawfully be used for the purposes of this section.

(3) "Owner" and "qualified rehabilitation expenditures" have the same meanings as in section 149.311 of the Revised Code.

(B) There is hereby created in the state treasury the Ohio Historic Preservation Tax Credit Fund. The fund shall consist of money obtained by the Director of Development under division (C) of this section. Money in the fund shall be used to secure and pay guarantees of loans for approved historic rehabilitation projects

as provided in this section. 144687

(C) The Director of Development may undertake to secure 144688
\$75,000,000 of federal funds for crediting to the Ohio Historic 144689
Preservation Tax Credit Fund. If the Director secures such funds, 144690
the Director, for the purpose of creating new jobs or preserving 144691
existing jobs and employment opportunities and improving the 144692
economic welfare of the people of this state, shall enter into 144693
loan guarantee contracts under section 166.06 of the Revised Code 144694
in connection with approved historic rehabilitation projects, 144695
except that the guarantees shall be secured solely by and be 144696
payable solely from the Ohio Historic Preservation Tax Credit 144697
Fund. Money deposited into the Ohio Historic Preservation Tax 144698
Credit Fund shall be prioritized by providing loan guarantees for 144699
approved historic rehabilitation projects from the first funding 144700
round of the Ohio Historic Preservation Tax Credit Program before 144701
being used to provide loan guarantees for approved historic 144702
rehabilitation projects approved in subsequent funding rounds. The 144703
amount of a loan guarantee provided under this section shall not 144704
exceed the amount of the credit to be awarded for the approved 144705
historic rehabilitation project. References to the loan guarantee 144706
fund in divisions (C) and (F) of section 166.06 of the Revised 144707
Code shall be construed as references to the Ohio Historic 144708
Preservation Tax Credit Fund for the purposes of loan guarantees 144709
authorized by this section, except that no transfer shall be made 144710
to the Ohio Historic Preservation Tax Credit Fund from the 144711
facilities establishment fund as may otherwise be required by that 144712
section. 144713

(D) Nothing in this section is a determination by the General 144714
Assembly that federal funds are currently available for the 144715
purposes of this section. Rather, this section evidences a 144716
determination by the General Assembly that public purposes will be 144717
advanced by the use of current or future federal funds for the 144718

purposes of this section. 144719

Section 610.10. That Section 205.10 of Am. Sub. H.B. 114 of 144720
the 129th General Assembly be amended to read as follows: 144721

Sec. 205.10. DPS DEPARTMENT OF PUBLIC SAFETY 144722

State Highway Safety Fund Group 144723

4W40 762321 Operating Expense - \$ 80,003,146 \$ 82,403,240 144724
BMV

4W40 762410 Registrations \$ 28,945,176 \$ 29,813,532 144725
Supplement

5V10 762682 License Plate \$ 2,100,000 \$ 2,100,000 144726
Contributions

7036 761321 Operating Expense - \$ 7,124,366 \$ 7,338,097 144727
Information and
Education

7036 761401 Lease Rental Payments \$ 9,978,300 \$ 2,315,700 144728

7036 764033 Minor Capital \$ 1,250,000 \$ 1,250,000 144729
Projects

7036 764321 Operating Expense - \$ 260,744,934 \$ 258,365,903 144730
Highway Patrol

7036 764605 Motor Carrier \$ 2,860,000 \$ 2,860,000 144731
Enforcement Expenses

8300 761603 Salvage and Exchange \$ 19,469 \$ 20,053 144732
- Administration

8310 761610 Information and \$ 422,084 \$ 434,746 144733
Education - Federal

8310 764610 Patrol - Federal \$ 2,209,936 \$ 2,276,234 144734

8310 764659 Transportation \$ 5,519,333 \$ 5,684,913 144735
Enforcement - Federal

8310 765610 EMS - Federal \$ 532,007 \$ 532,007 144736

8310 769610 Food Stamp \$ 1,546,319 \$ 1,546,319 144737

		Trafficking Enforcement - Federal				
8310	769631	Homeland Security - Federal	\$	2,184,000	\$	2,184,000 144738
8320	761612	Traffic Safety - Federal	\$	16,577,565	\$	16,577,565 144739
8350	762616	Financial Responsibility Compliance	\$	5,457,240	\$	5,549,068 144740
8370	764602	Turnpike Policing	\$	11,553,959	\$	11,553,959 144741
8380	764606	Patrol Reimbursement	\$	50,000	\$	50,000 144742
83C0	764630	Contraband, Forfeiture, Other	\$	622,894	\$	622,894 144743
83F0	764657	Law Enforcement Automated Data System	\$	9,053,266	\$	9,053,266 144744
83G0	764633	OMVI Enforcement/Education	\$	623,230	\$	641,927 144745
83J0	764693	Highway Patrol Justice Contraband	\$	2,100,000	\$	2,100,000 144746
83M0	765624	Operating Expense - Trauma and EMS	\$	2,632,106	\$	2,711,069 144747
83N0	761611	Elementary School Seat Belt Program	\$	305,600	\$	305,600 144748
83P0	765637	EMS Grants	\$	4,106,621	\$	4,229,819 144749
83R0	762639	Local Immobilization Reimbursement	\$	450,000	\$	450,000 144750
83T0	764694	Highway Patrol Treasury Contraband	\$	21,000	\$	21,000 144751
8400	764607	State Fair Security	\$	1,256,655	\$	1,294,354 144752
8400	764617	Security and Investigations	\$	6,432,686	\$	6,432,686 144753
8400	764626	State Fairgrounds Police Force	\$	849,883	\$	849,883 144754

8400	769632	Homeland Security - Operating	\$	737,791	\$	737,791	144755
8410	764603	Salvage and Exchange - Highway Patrol	\$	1,339,399	\$	1,339,399	144756
8460	761625	Motorcycle Safety Education	\$	3,185,013	\$	3,280,563	144757
8490	762627	Automated Title Processing Board	\$	17,316,755	\$	14,335,513	144758
TOTAL HSF State Highway Safety Fund Group			\$	490,110,733	\$	481,261,100	144759
General Services Fund Group							144760
4P60	768601	Justice Program Services	\$	998,104	\$	1,028,047	144761
4S30	766661	Hilltop Utility Reimbursement	\$	540,800	\$	540,800	144762
5ET0	768625	Drug Law Enforcement	\$	3,780,000	\$	3,893,400	144763
5Y10	764695	Highway Patrol Continuing Professional Training	\$	170,000	\$	170,000	144764
5Y10	767696	Investigative Unit Continuing Professional Training	\$	15,000	\$	15,000	144765
TOTAL GSF General Services Fund Group			\$	5,503,904	\$	5,647,247	144766
Federal Special Revenue Fund Group							144767
3290	763645	Federal Mitigation Program	\$	10,110,332	\$	10,413,642	144768
3370	763609	Federal Disaster Relief	\$	27,707,636	\$	27,707,636	144769
3390	763647	Emergency Management Assistance and Training	\$	75,664,821	\$	77,934,765	144770

3CB0	768691	Federal Justice Grants - FFY06	\$	200,000	\$	50,000	144771
3CC0	768609	Justice Assistance Grants - FFY07	\$	583,222	\$	310,000	144772
3CD0	768610	Justice Assistance Grants - FFY08	\$	310,000	\$	150,000	144773
3CE0	768611	Justice Assistance Grants - FFY09	\$	865,000	\$	1,200,000	144774
3CV0	768697	Justice Assistance Grants Supplement - FFY08	\$	2,000	\$	0	144775
3DE0	768612	Federal Stimulus - Justice Assistance Grants	\$	1,015,000	\$	1,015,000	144776
3DH0	768613	Federal Stimulus - Justice Programs	\$	150,000	\$	150,000	144777
3DU0	762628	BMV Grants	\$	1,525,000	\$	1,580,000	144778
3EU0	768614	Justice Assistance Grants - FFY10	\$	650,000	\$	920,000	144779
3L50	768604	Justice Program	\$	11,400,000	\$	11,400,000	144780
3N50	763644	U.S. Department of Energy Agreement	\$	31,672	\$	31,672	144781
TOTAL FED	Federal Special Revenue Fund Group		\$	130,214,683	\$	132,862,715	144782
	State Special Revenue Fund Group						144783
4V30	763662	EMA Service and Reimbursement	\$	4,368,369	\$	4,499,420	144784
5390	762614	Motor Vehicle Dealers Board	\$	180,000	\$	185,400	144785
5B90	766632	Private Investigator and Security Guard Provider	\$	1,562,637	\$	1,562,637	144786
5BK0	768687	Criminal Justice	\$	400,000	\$	400,000	144787

		Services - Operating					
5BK0	768689	Family Violence	\$	750,000	\$	750,000	144788
		Shelter Programs					
5CM0	767691	Federal Investigative	\$	300,000	\$	300,000	144789
		Seizure					
5DS0	769630	Homeland Security	\$	1,414,384	\$	1,414,384	144790
5FF0	762621	Indigent Interlock	\$	2,000,000	\$	2,000,000	144791
		and Alcohol					
		Monitoring					
5FL0	769634	Investigations	\$	899,300	\$	899,300	144792
6220	767615	Investigative	\$	375,000	\$	375,000	144793
		Contraband and					
		Forfeiture					
6570	763652	Utility Radiological	\$	1,415,945	\$	1,415,945	144794
		Safety					
6810	763653	SARA Title III HAZMAT	\$	262,438	\$	262,438	144795
		Planning					
8500	767628	Investigative Unit	\$	90,000	\$	92,700	144796
		Salvage					
TOTAL SSR		State Special Revenue	\$	14,018,073	\$	14,157,224	144797
		Fund Group					
		Liquor Control Fund Group					144798
7043	767321	Liquor Enforcement -	\$	11,897,178	\$	11,897,178	144799
		Operating		<u>10,450,000</u>		<u>10,600,000</u>	
TOTAL LCF		Liquor Control Fund Group	\$	11,897,178	\$	11,897,178	144800
				<u>10,450,000</u>		<u>10,600,000</u>	
		Agency Fund Group					144801
5J90	761678	Federal Salvage/GSA	\$	1,500,000	\$	1,500,000	144802
TOTAL AGY		Agency Fund Group	\$	1,500,000	\$	1,500,000	144803
		Holding Account Redistribution Fund Group					144804
R024	762619	Unidentified Motor	\$	1,885,000	\$	1,885,000	144805
		Vehicle Receipts					

R052 762623	Security Deposits	\$	350,000	\$	350,000	144806
TOTAL 090	Holding Account	\$	2,235,000	\$	2,235,000	144807
Redistribution Fund Group						
TOTAL ALL BUDGET FUND GROUPS		\$	655,479,571	\$	649,560,464	144808
			<u>654,032,393</u>		<u>648,263,286</u>	

MOTOR VEHICLE REGISTRATION 144809

The Registrar of Motor Vehicles may deposit revenues to meet 144810
the cash needs of the State Bureau of Motor Vehicles Fund (Fund 144811
4W40) established in section 4501.25 of the Revised Code, obtained 144812
under sections 4503.02 and 4504.02 of the Revised Code, less all 144813
other available cash. Revenue deposited pursuant to this paragraph 144814
shall support, in part, appropriations for operating expenses and 144815
defray the cost of manufacturing and distributing license plates 144816
and license plate stickers and enforcing the law relative to the 144817
operation and registration of motor vehicles. Notwithstanding 144818
section 4501.03 of the Revised Code, the revenues shall be paid 144819
into Fund 4W40 before any revenues obtained pursuant to sections 144820
4503.02 and 4504.02 of the Revised Code are paid into any other 144821
fund. The deposit of revenues to meet the aforementioned cash 144822
needs shall be in approximately equal amounts on a monthly basis 144823
or as otherwise determined by the Director of Budget and 144824
Management pursuant to a plan submitted by the Registrar of Motor 144825
Vehicles. 144826

CAPITAL PROJECTS 144827

The Registrar of Motor Vehicles may transfer cash from the 144828
State Bureau of Motor Vehicles Fund (Fund 4W40) to the State 144829
Highway Safety Fund (Fund 7036) to meet its obligations for 144830
capital projects CIR-047, Department of Public Safety Office 144831
Building and CIR-049, Warehouse Facility. 144832

OBA BOND AUTHORITY/LEASE RENTAL PAYMENTS 144833

The foregoing appropriation item 761401, Lease Rental 144834

Payments, shall be used for payments to the Ohio Building Authority for the period July 1, 2011, to June 30, 2013, under the primary leases and agreements for public safety related buildings financed by obligations issued under Chapter 152. of the Revised Code. Notwithstanding section 152.24 of the Revised Code, the Ohio Building Authority may, with approval of the Director of Budget and Management, lease capital facilities to the Department of Public Safety.

HILLTOP TRANSFER

The Director of Public Safety shall determine, per an agreement with the Director of Transportation, the share of each debt service payment made out of appropriation item 761401, Lease Rental Payments, that relates to the Department of Transportation's portion of the Hilltop Building Project, and shall certify to the Director of Budget and Management the amounts of this share. The Director of Budget and Management shall transfer the amounts of such shares from the Highway Operating Fund (Fund 7002) to the State Highway Safety Fund (Fund 7036).

CASH TRANSFERS TO TRAUMA AND EMERGENCY MEDICAL SERVICES FUND

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unexpended and unencumbered cash balance in the Seat Belt Education Fund (Fund 8440) to the Trauma and Emergency Medical Services Fund (Fund 83M0). Upon completion of the transfer, Fund 8440 is abolished. The Director shall cancel any existing encumbrances against appropriation item 761613, Seat Belt Education Program, and reestablish them against appropriation item 765624, Operating Expense - Trauma and EMS. The reestablished encumbrance amounts are hereby appropriated.

CASH TRANSFERS BETWEEN FUNDS

Notwithstanding any provision of law to the contrary, the

Director of Budget and Management, upon the written request of the 144866
Director of Public Safety, may approve the transfer of cash 144867
between the following six funds: the Trauma and Emergency Medical 144868
Services Fund (Fund 83M0), the Homeland Security Fund (Fund 5DS0), 144869
the Investigations Fund (Fund 5FL0), the Emergency Management 144870
Agency Service and Reimbursement Fund (Fund 4V30), the Justice 144871
Program Services Fund (Fund 4P60), and the State Bureau of Motor 144872
Vehicles Fund (Fund 4W40). 144873

CASH TRANSFERS TO SECURITY, INVESTIGATIONS, AND POLICING FUND 144874

Notwithstanding any provision of law to the contrary, the 144875
Director of Budget and Management, upon the written request of the 144876
Director of Public Safety, may approve the transfer of cash from 144877
the Continuing Professional Training Fund (Fund 5Y10), the State 144878
Highway Patrol Contraband, Forfeiture, and Other Fund (Fund 83C0), 144879
and the Highway Safety Salvage and Exchange Highway Patrol Fund 144880
(Fund 8410) to the Security, Investigations, and Policing Fund 144881
(Fund 8400). 144882

CASH TRANSFERS OF SEAT BELT FINE REVENUES 144883

Notwithstanding any provision of law to the contrary, the 144884
Controlling Board, upon request of the Director of Public Safety, 144885
may approve the transfer of cash between the following four funds 144886
that receive fine revenues from enforcement of the mandatory seat 144887
belt law: the Trauma and Emergency Medical Services Fund (Fund 144888
83M0), the Elementary School Program Fund (Fund 83N0), and the 144889
Trauma and Emergency Medical Services Grants Fund (Fund 83P0). 144890

STATE DISASTER RELIEF 144891

The State Disaster Relief Fund (Fund 5330) may accept 144892
transfers of cash and appropriations from Controlling Board 144893
appropriation items for Ohio Emergency Management Agency disaster 144894
response costs and disaster program management costs, and may also 144895
be used for the following purposes: 144896

(A) To accept transfers of cash and appropriations from	144897
Controlling Board appropriation items for Ohio Emergency	144898
Management Agency public assistance and mitigation program match	144899
costs to reimburse eligible local governments and private	144900
nonprofit organizations for costs related to disasters;	144901
(B) To accept and transfer cash to reimburse the costs	144902
associated with Emergency Management Assistance Compact (EMAC)	144903
deployments;	144904
(C) To accept disaster related reimbursement from federal,	144905
state, and local governments. The Director of Budget and	144906
Management may transfer cash from reimbursements received by this	144907
fund to other funds of the state from which transfers were	144908
originally approved by the Controlling Board.	144909
(D) To accept transfers of cash and appropriations from	144910
Controlling Board appropriation items to fund the State Disaster	144911
Relief Program, for disasters that have been declared by the	144912
Governor, and the State Individual Assistance Program for	144913
disasters that have been declared by the Governor and the federal	144914
Small Business Administration. The Ohio Emergency Management	144915
Agency shall publish and make available application packets	144916
outlining procedures for the State Disaster Relief Program and the	144917
State Individual Assistance Program.	144918
JUSTICE ASSISTANCE GRANT FUND	144919
The federal payments made to the state for the Byrne Justice	144920
Assistance Grants Program under Title II of Division A of the	144921
American Recovery and Reinvestment Act of 2009 shall be deposited	144922
to the credit of the Justice Assistance Grant Fund (Fund 3DE0),	144923
which is hereby created in the state treasury. All investment	144924
earnings of the fund shall be credited to the fund.	144925
FEDERAL STIMULUS - JUSTICE PROGRAMS	144926
The federal payments made to the state for the Violence	144927

Against Women Formula Grant under Title II of Division A of the 144928
American Recovery and Reinvestment Act of 2009 shall be deposited 144929
to the credit of the Federal Stimulus - Justice Programs Fund 144930
(Fund 3DH0). 144931

TRANSFER FROM STATE FIRE MARSHAL FUND TO EMERGENCY MANAGEMENT 144932
AGENCY SERVICE AND REIMBURSEMENT FUND 144933

On July 1 of each fiscal year, or as soon as possible 144934
thereafter, the Director of Budget and Management shall transfer 144935
\$200,000 in cash from the State Fire Marshal Fund (Fund 5460) to 144936
the Emergency Management Agency Service and Reimbursement Fund 144937
(Fund 4V30) to be distributed to the Ohio Task Force One - Urban 144938
Search and Rescue Unit and other urban search and rescue programs 144939
around the state. 144940

FAMILY VIOLENCE PREVENTION FUND 144941

Notwithstanding any provision of law to the contrary, in each 144942
of fiscal years 2012 and 2013, the first \$750,000 received to the 144943
credit of the Family Violence Prevention Fund (Fund 5BK0) shall be 144944
appropriated to appropriation item 768689, Family Violence Shelter 144945
Programs, and the next \$400,000 received to the credit of Fund 144946
5BK0 in each of those fiscal years shall be appropriated to 144947
appropriation item 768687, Criminal Justice Services - Operating. 144948
Any moneys received to the credit of Fund 5BK0 in excess of the 144949
aforementioned appropriated amounts in each fiscal year shall, 144950
upon the approval of the Controlling Board, be used to provide 144951
grants to family violence shelters in Ohio. 144952

SARA TITLE III HAZMAT PLANNING 144953

The SARA Title III HAZMAT Planning Fund (Fund 6810) is 144954
entitled to receive grant funds from the Emergency Response 144955
Commission to implement the Emergency Management Agency's 144956
responsibilities under Chapter 3750. of the Revised Code. 144957

COLLECTIVE BARGAINING INCREASES 144958

Notwithstanding division (D) of section 127.14 and division 144959
(B) of section 131.35 of the Revised Code, except for the General 144960
Revenue Fund, the Controlling Board may, upon the request of 144961
either the Director of Budget and Management, or the Department of 144962
Public Safety with the approval of the Director of Budget and 144963
Management, increase appropriations for any fund, as necessary for 144964
the Department of Public Safety, to assist in paying the costs of 144965
increases in employee compensation that have occurred pursuant to 144966
collective bargaining agreements under Chapter 4117. of the 144967
Revised Code and, for exempt employees, under section 124.152 of 144968
the Revised Code. 144969

CASH BALANCE FUND REVIEW 144970

Not later than the first day of April in each fiscal year of 144971
the biennium, the Director of Budget and Management shall review 144972
the cash balances for each fund, except the State Highway Safety 144973
Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 144974
4W40), in the State Highway Safety Fund Group, and shall recommend 144975
to the Controlling Board an amount to be transferred to the credit 144976
of Fund 7036 or Fund 4W40, as appropriate. 144977

Section 610.11. That existing Section 205.10 of Am. Sub. H.B. 144978
114 of the 129th General Assembly is hereby repealed. 144979

Section 610.20. That Section 211 of Sub. H.B. 123 of the 144980
129th General Assembly be amended to read as follows: 144981

Sec. 211.	WCC WORKERS' COMPENSATION COUNCIL			144982
5FV0 321600	Remuneration Expenses	\$	471,200	\$ 471,200 144983
TOTAL 5FV0 Workers' Compensation		\$	471,200	\$ 471,200 144984
	Council Remuneration Fund			
TOTAL ALL BUDGET FUND GROUPS		\$	471,200	\$ 471,200 144985
	WORKERS' COMPENSATION COUNCIL			144986

~~The foregoing appropriation item 321600, Remuneration Expenses, shall be used to pay the payroll and fringe benefit costs for employees of the Workers' Compensation Council.~~

Upon the effective date of this section, or as soon as possible thereafter, the Workers' Compensation Council shall wind up its affairs. All of the records of the Council shall be transferred to the Legislative Service Commission, and all of its other assets and liabilities shall be transferred to the Bureau of Workers' Compensation. The Bureau of Workers' Compensation is thereupon and thereafter successor to, and assumes the obligations of, the Council.

Any business commenced, but not completed by the Council or the Director of the Council on the effective date of this section shall be completed by the Administrator of Workers' Compensation in the same manner, and with the same effect, as if completed by the Council or the Director of the Council. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer required by this section and shall be administered by the Administrator.

All employees of the Council cease to hold their positions of employment on the effective date of this section, or as soon as possible thereafter.

Once the Workers' Compensation Council is abolished, the Director of Budget and Management shall transfer the unexpended and unencumbered cash balance in the Workers' Compensation Council Remuneration Fund (Fund 5FV0) to the State Insurance Fund (Fund 7023). Upon completion of the transfer, the Workers' Compensation Council Remuneration Fund is abolished. The Director shall cancel any existing encumbrances against appropriation item 321600, Remuneration Expenses, and reestablish them against appropriation item 855409, Administrative Expenses. The amounts of the reestablished encumbrances are hereby appropriated.

Once the Workers' Compensation Council is abolished, the 145019
Treasurer of State shall transfer the unexpended and unencumbered 145020
cash balance in the Workers' Compensation Council Fund to the 145021
State Insurance Fund. Upon completion of the transfer, the fund is 145022
abolished. 145023

Wherever the Director or the Council is referred to in any 145024
law, contract, or other document, the reference shall be deemed to 145025
refer to the Administrator or the Bureau of Workers' Compensation, 145026
whichever is appropriate. 145027

No action or proceeding pending on the effective date of this 145028
section is affected by the transfer, and shall be prosecuted or 145029
defended in the name of the Administrator or the Bureau. In all 145030
such actions and proceedings, the Administrator or the Bureau, 145031
upon application to the court, shall be substituted as a party. 145032

Section 610.21. That existing Section 211 of Sub. H.B. 123 of 145033
the 129th General Assembly is hereby repealed. 145034

Section 620.10. That Section 125.10 of Am. Sub. H.B. 1 of the 145035
128th General Assembly be amended to read as follows: 145036

Sec. 125.10. Sections 5112.40, 5112.41, 5112.42, 5112.43, 145037
5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised 145038
Code are hereby repealed, effective October 1, ~~2011~~ 2013. 145039

Section 620.11. That existing Section 125.10 of Am. Sub. H.B. 145040
1 of the 128th General Assembly is hereby repealed. 145041

Section 620.12. The seventh paragraph of Section 812.20 of 145042
Am. Sub. H.B. 1 of the 128th General Assembly, which refers to the 145043
taking effect of a repeal of sections 5112.40 to 5112.48 of the 145044
Revised Code, is repealed. 145045

Section 620.13. The intent of Sections 620.10 to 620.12 of 145046
this act is to further delay the repeal of sections 5112.40, 145047
5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 145048
5112.48 of the Revised Code from October 1, 2011, until October 1, 145049
2013. 145050

Section 620.20. That Section 753.60 of Am. Sub. H.B. 1 of the 145051
128th General Assembly be amended to read as follows: 145052

Sec. 753.60. (A) The Governor is authorized to execute a 145053
Governor's Deed in the name of the state conveying to the Dayton 145054
Public School District/Dayton Board of Education, ("grantee"), and 145055
its successors and assigns, all of the state's right, title, and 145056
interest in the following described real estate: 145057

STATE OF OHIO TO BOARD OF EDUCATION 45.3599 Acres 145058

Situated in Section 26, Township 2, Range 7 of the Miami 145059
River Survey, the City of Dayton, the County of Montgomery, the 145060
State of Ohio, being a 2.2361 acre portion of a 15 acres 30 rods 145061
tract conveyed to the State of Ohio as recorded in Deed Book U-2, 145062
Page 40, and being a 22.5673 acre portion of a 24.36 acre tract of 145063
land conveyed to the Trustees of the Southern Ohio Lunatic Asylum 145064
as recorded in Deed Book N-3, Page 233, being an 4.6813 acre 145065
portion of a 21.25 acre tract of land conveyed to the State of 145066
Ohio as recorded in Deed Book 169, Page 583, and being an 8.6742 145067
acre portion of a 33.5 acre tract as conveyed to the State of Ohio 145068
as recorded in Deed Book 169, Page 585, being an 7.2010 acre 145069
portion of a 10.544 acre tract of land as conveyed to the State of 145070
Ohio as recorded in Deed Book 138, Page 125 and being a portion of 145071
City of Dayton Lot Number 61376 and all of Lot Number 61377 of the 145072
revised and consecutive numbers of lots on the plat of the City of 145073
Dayton and more particularly bounded and described as follows: 145074

Beginning at a capped 5/8" Iron Pin found stamped "Woolpert" 145075

at the Southeast corner of a 2.881 acre tract being Parcel 2 of 145076
the Wilmington Woods Plat as recorded in Plat Book 134, Page 3A, 145077
said point also being the northeast corner of an 8.338 acre tract 145078
of land conveyed to the Barry K. Humphries as recorded in 145079
Microfiche 01-0590A04 and the TRUE POINT OF BEGINNING; 145080

Thence with the east line of said 2.881 acre tract being 145081
Parcel 2 and the West line of a 24.36 acre tract of land conveyed 145082
to the Trustees of the Southern Ohio Lunatic Asylum as recorded in 145083
Deed Book N-3, Page 233, North 00°32' 15" East a distance of 145084
459.39 feet to a RR Spike set in the centerline of Wayne Avenue, 145085
passing a 5/8 inch iron pin set at the northeast corner of said 145086
2.881 acre tract and the south right of way of Wayne Avenue at 145087
429.39 feet; 145088

Thence with the centerline of Wayne Ave and the north lines 145089
of said 24.36 acre tract and said 21.25 acre tract, South 145090
89°18'28" East a distance of 790.80 feet to a RR spike set at the 145091
northwest corner of a 1.056 acre tract of land conveyed to the City 145092
of Dayton as recorded in M.F. No. 90-424 E09; 145093

Thence with the west line of said 1.056 acre tract and the 145094
east line of said 21.25 acre tract, South 01°17'05" West a 145095
distance of 230.89 feet to a 5/8 inch iron pin stamped "Riancho", 145096
passing a 5/8 inch iron set at the south right of way of Wayne 145097
Avenue at 30.00 feet; 145098

Thence with the south line of said 1.056 acre tract and the 145099
south line of a 1.056 acre tract of land conveyed to the City of 145100
Dayton as recorded in M.F. No. 78-725 B08, South 89°27' 55" East a 145101
distance of 400.00 feet to a found 5/8" iron pin and passing a 5/8 145102
inch iron pin found stamped "Riancho" at 200.00 feet; 145103

Thence with the east line of said 1.056 acre tract and the 145104
west line of said 33.5 acre tract as conveyed to the State of Ohio 145105
as recorded in Deed Book 169 Page 585, North 1°17'05" East a 145106

distance of 229.79 feet to a RR spike set, passing a 5/8 inch iron 145107
pin set at the south right of way of Wayne Avenue at 199.79 feet; 145108

Thence with the centerline of Wayne Avenue and the north line 145109
of said 33.5 acre tract, South 89°18'28" East a distance of 270.78 145110
feet to a RR spike set at the Intersection of the centerlines of 145111
Watervliet Avenue and Wayne Avenue; 145112

Thence with the centerline of Watervliet Avenue and with the 145113
northerly line of said 33.5 acre tract, South 55°21'16" East a 145114
distance of 231.10 feet to a RR spike set; 145115

Thence with the east line of said 33.5 acre tract and the 145116
west line of a 13.00 acre tract conveyed to the Board of Education 145117
of the Dayton City School District as recorded in Deed Book 1522, 145118
Page 341, South 00°48' 28" West a distance of 709.51 feet to a 5/8 145119
inch iron pin set; 145120

Thence with a new division line, North 89°11'12" West, a 145121
distance of 468.08 feet to a 5/8 inch iron pin set, in the west 145122
line of said 33.5 acre tract and the east line of said 21.25 acre 145123
tract, to a 5/8 inch iron pin set; 145124

Thence with the west line of said 33.5 acre tract and the 145125
east line of said 21.25 acre tract, North 01°07'55" East a 145126
distance of 141.74 feet to a 5/8 inch iron pin set; 145127

Thence with a new division line, North 89°15'53" West, 145128
passing the west line of said 21.25 acre tract and the east line 145129
of said 24.36 acre tract conveyed to The Trustees of the Southern 145130
Ohio Lunatic Asylum as recorded in Deed Book N-3, Page 233 at a 145131
distance of 425.35 feet, for a total distance of 507.35 feet to a 145132
5/8 inch iron pin set; 145133

Thence with a new division line South 01°07'00" West passing 145134
the south line of 24.36 acre tract conveyed to The Trustees of the 145135
Southern Ohio Lunatic Asylum as recorded in Deed Book N-3, Page 145136
233 and the north line of said 10.544 acre tract at a distance of 145137

627.92 feet, for a total distance of 1,013.05 feet to a 5/8 inch 145138
iron pin set in the south line of said 10.544 acre tract; 145139

Thence with the south line of said 10.544 acre tract and the 145140
north line a 20.3 acre tract conveyed to the State of Ohio 145141
Department of Public Works for the use of the Department of Public 145142
Welfare, Dayton State Hospital as recorded in Deed Book 1326, Page 145143
247, North 88°52'07" West a distance of 808.89 feet to a 5/8 inch 145144
iron pin set in the east line of a 11.579 acre tract of land 145145
conveyed to the Hospice of Dayton as recorded in Microfiche 145146
94-0448C08; 145147

Thence with the east line of said 11.579 acre tract of land, 145148
the east line of said 8.338 acre tract as conveyed to Barry K. 145149
Humphries as recorded in M.F. number 01-0590 A04, the west line of 145150
said 10.544 acre tract, and the west line of said 2.36 acre tract, 145151
North 03°24 '08" West a distance of 956.68 feet to a 5/8 inch iron 145152
pin set; 145153

Thence with an easterly line of said 8.338 acre tract, the 145154
westerly line of said 24.36 acre tract, and the north line of said 145155
2.36 acre tract, North 49°49'38" East a distance of 275.99 feet to 145156
a capped 5/8 inch Iron Pin found stamped "LJB"; 145157

Thence with the east line of said 8.338 acre tract and the 145158
west line of a 24.36 acre tract, North 00°32'15" East a distance 145159
of 108.09 feet to a capped 5/8" Iron Pin stamped "Woolpert" and 145160
the TRUE POINT OF BEGINNING, containing 45.3599 acres more or 145161
less. Subject to all easements, agreements and right of ways of 145162
record. 145163

The basis of bearings for this description is the easterly 145164
line of Parcel 2, South 00°32'15 West, as recorded in the 145165
Wilmington Woods Plat as recorded in Plat Book 134, Page 3A; 145166

All iron pins set in the above boundary description are 5/8" 145167
(O.D.) 30" long with a plastic cap stamped "LJB" 145168

(B)(1) Consideration for conveyance of the real estate 145169
described in division (A) of this section is the transfer to the 145170
state at no cost of 8.9874 acres adjacent to the remaining Twin 145171
Valley Behavioral Healthcare/Dayton Campus, subject to the 145172
following conditions: 145173

(a) Within one hundred eighty days after conveyance of the 145174
real estate described in division (A) of this section, grantee at 145175
its own cost shall complete construction of a new western 145176
extension off of Mapleview Avenue to provide a new entrance 145177
roadway to the remaining Twin Valley Behavioral Healthcare/Dayton 145178
Campus and provide an easement to the state for full utilization 145179
of the roadway for the benefit of the remaining Twin Valley 145180
Behavioral Healthcare/Dayton Campus until the property described 145181
in division (B)(1) of this section is transferred to the state. 145182

(b) Within three hundred forty days after the occupancy of 145183
the New Belmont High School, grantee shall demolish and 145184
environmentally restore the 8.9874 acres being transferred to the 145185
state. 145186

(2) In lieu of the transfer of the 8.9874 acres, if the 145187
Director of Mental Health determines that the grantee has 145188
insufficiently performed its construction, demolition, and 145189
environmental restoration obligations specified in division (B)(1) 145190
of this section, the grantee, as consideration, shall pay a 145191
purchase price of \$1,175,000.00 to the state, which is the 145192
appraised value of the 45.3599 acres described in division (A) of 145193
the section less the cost of demolition, site, and utility work. 145194

(C) The real estate described in division (A) of this section 145195
shall be conveyed as an entire tract and not in parcels. 145196

(D) Upon transfer of the 8.9874 acres to the state or payment 145197
of the purchase price, the Auditor of State, with the assistance 145198
of the Attorney General, shall prepare a deed to the real estate 145199

described in division (A) of this section. The deed shall state 145200
the consideration and shall be executed by the Governor in the 145201
name of the state, countersigned by the Secretary of State, sealed 145202
with the Great Seal of the State, presented in the Office of the 145203
Auditor of State for recording, and delivered to the grantee. The 145204
grantee shall present the deed for recording in the Office of the 145205
Montgomery County Recorder. 145206

(E) The grantee shall pay all costs associated with 145207
conveyance of the real estate described in division (A) of this 145208
section, including recordation costs of the deed. 145209

(F) If the payment of \$1,175,000.00 is made in lieu of the 145210
transfer of the 8.9874 acres to the state, the proceeds of the 145211
conveyance of the real estate described in division (A) of this 145212
section shall be deposited into the state treasury to the credit 145213
of the Department of Mental Health Trust Fund created by section 145214
5119.18 of the Revised Code and the easement described in division 145215
(B)(1)(a) of this section shall become a permanent easement. 145216

(G) The grantee shall not, during any period that any bonds 145217
issued by the state to finance or refinance all or a portion of 145218
the real estate described in division (A) of this section are 145219
outstanding, use any portion of the real estate for a private 145220
business use without the prior written consent of the state. 145221

As used in this division: 145222

"Private business use" means use, directly or indirectly, in 145223
a trade or business carried on by any private person other than 145224
use as a member of, and on the same basis as, the general public. 145225
Any activity carried on by a private person who is not a natural 145226
person shall be presumed to be a trade or business. 145227

"Private person" means any natural person or any artificial 145228
person, including a corporation, partnership, limited liability 145229
company, trust, or other entity and including the United States or 145230

any agency or instrumentality of the United States, but excluding 145231
any state, territory, or possession of the United States, the 145232
District of Columbia, or any political subdivision thereof that is 145233
referred to as a "State or local governmental unit" in Treasury 145234
Regulation § 1.103-1(a) and any person that is acting solely and 145235
directly as an officer or employee of or on behalf of any such 145236
governmental unit. 145237

(H) This section expires ~~two years after its effective date~~ 145238
on October 16, 2013. 145239

Section 620.21. That existing Section 753.60 of Am. Sub. H.B. 145240
1 of the 128th General Assembly is hereby repealed. 145241

Section 620.30. That Section 105.20 of Sub. H.B. 462 of the 145242
128th General Assembly be amended to read as follows: 145243

Sec. 105.20. All items set forth in this section are hereby 145244
appropriated out of any moneys in the state treasury to the credit 145245
of the School Building Program Assistance Fund (Fund 7032) that 145246
are not otherwise appropriated: 145247

		Reappropriations	
SFC SCHOOL FACILITIES COMMISSION			145248
C23002	School Building Program Assistance	\$ 523,091,925	145249
C23005	Exceptional Needs	\$ 3,009,397	145250
C23010	Vocation Facilities Assistance Program	\$ 12,203,057	145251
C23011	Corrective Action Grants	\$ 23,336,491	145252
C23012	School for the Blind/Deaf	\$ 12,321,269	145253
Total School Facilities Commission		\$ 573,962,139	145254
TOTAL School Building Program Assistance Fund		\$ 573,962,139	145255

CONSTRUCTION OF NEW BLIND AND DEAF SCHOOLS 145256

Notwithstanding sections 123.01 and 123.15 of the Revised 145257
Code and in addition to its powers under Chapter 3318. of the 145258

Revised Code, the Ohio School Facilities Commission shall 145259
administer the project appropriated in C23012, School for the 145260
Blind/Deaf, pursuant to the memorandum of understanding that the 145261
Ohio State School for the Blind, the Ohio School for the Deaf, and 145262
the Ohio School Facilities Commission signed on October 31, 2007. 145263
The project shall comply to the fullest extent possible with the 145264
specifications and policies set forth in the Ohio School 145265
Facilities Design Manual and shall not be considered a part of any 145266
program created under Chapter 3318. of the Revised Code. Upon 145267
issuance by the Commission of a certificate of completion of the 145268
project, the Commission's participation in the project shall end. 145269

The Executive Director of the Ohio School Facilities 145270
Commission shall comply with the procedures and guidelines 145271
established in Chapter 153. of the Revised Code. Upon the release 145272
of funds for the project by the Controlling Board or the Director 145273
of Budget and Management, the Commission may administer the 145274
project without the supervision, control, or approval of the 145275
Director of Administrative Services. Any references to the 145276
Director of Administrative Services in the Revised Code, with 145277
respect to the administration of the project, shall be read as if 145278
they referred to the Director of the Ohio School Facilities 145279
Commission. 145280

CORRECTIVE ACTION GRANTS 145281

The foregoing appropriation item C23011, Corrective Action 145282
Grants, for fiscal year 2011, may be used to provide funding to 145283
bring facilities up to Ohio School Design Manual standards for a 145284
project funded pursuant to sections 3318.01 to 3318.20 or 3318.40 145285
to 3318.45 of the Revised Code for the correction of work found 145286
during or after project close-out to be defective, or for the 145287
remediation of work found during or after project close-out to be 145288
omitted. Funding shall only be provided for work if the impacted 145289
school district notifies the Executive Director of the Ohio School 145290

Facilities Commission within five years of project close-out. The 145291
Commission may provide funding assistance necessary to take 145292
corrective measures after evaluating defective or omitted work. If 145293
the work to be corrected or remediated is part of a project not 145294
yet completed, the Commission may amend the project agreement to 145295
increase the project budget and use corrective action funding to 145296
provide the local share of the amendment. If the work to be 145297
corrected or remediated was part of a completed project and funds 145298
were retained or transferred pursuant to division (C) of section 145299
3318.12 of the Revised Code, the Commission may enter into a new 145300
agreement to address the necessary corrective action. The 145301
Commission shall assess responsibility for the defective or 145302
omitted work and seek cost recovery from responsible parties, if 145303
applicable. Any funds recovered shall be deposited into the School 145304
Building Program Assistance Fund (Fund 7032). 145305

The foregoing appropriation item C23011, Corrective Action 145306
Grants, for fiscal year 2012, may be used to provide funding to 145307
school districts under the Corrective Action Program in accordance 145308
with section 3318.49 of the Revised Code. 145309

Section 620.31. That existing Section 105.20 of Sub. H.B. 462 145310
of the 128th General Assembly is hereby repealed. 145311

Section 620.40. That Section 105.45.70 of Sub. H.B. 462 of 145312
the 128th General Assembly, as amended by Am. Sub. H.B. 114 of the 145313
129th General Assembly, be amended to read as follows: 145314

Reappropriations

Sec. 105.45.70. CCC CUYAHOGA COMMUNITY COLLEGE 145315

C37800	Basic Renovations	\$	4,406,772	145316
C37803	Technology Learning Center - Western	\$	43,096	145317
C37807	Cleveland Art Museum - Improvements	\$	3,100,000	145318
C37812	Building A Expansion Module - Western	\$	124,332	145319

C37816	College-Wide Wayfinding Signage System	\$	145,893	145320
C37817	College-Wide Asset Protection & Building	\$	631,205	145321
C37818	Healthcare Technology Building - Eastern	\$	13,464,866	145322
C37821	Hospitality Management Program	\$	2,452,728	145323
C37822	Theater Renovations	\$	2,243,769	145324
C37824	Rock and Roll Hall of Fame Archive	\$	18,000	145325
C37826	CW Roof Replacement	\$	190,735	145326
C37829	College of Podiatric Medicine	\$	250,000	145327
C37830	Auto Lab Improvements	\$	240	145328
C37831	Visiting Nurse Association	\$	150,000	145329
C37832	Western Reserve Hospice Center	\$	1,500	145330
C37833	Cleveland Zoological Society	\$	150,000	145331
C37834	Museum of Contemporary Art Cleveland	\$	450,000	145332
C37835	Western Reserve Historical Society	\$	2,800,000	145333
Total Cuyahoga Community College		\$	30,623,136	145334
			<u>27,823,136</u>	

An amount equal to the unexpended portion of appropriation 145335
item C371A9, Western Reserve Historical Society, at the end of 145336
fiscal year 2011 is hereby reappropriated to appropriation item 145337
C37835, Western Reserve Historical Society. 145338

On July 1, 2011, or as soon as possible thereafter, the 145339
Director of Budget and Management shall cancel any existing 145340
encumbrances against appropriation item C371A9, Western Reserve 145341
Historical Society, and reestablish them against ~~the foregoing~~ 145342
appropriation item C37835, Western Reserve Historical Society. 145343

Section 620.41. That existing Section 105.45.70 of Sub. H.B. 145344
462 of the 128th General Assembly, as amended by Am. Sub. H.B. 114 145345
of the 129th General Assembly, is hereby repealed. 145346

Section 630.10. That Section 5 of Sub. H.B. 125 of the 127th 145347
General Assembly, as most recently amended by Sub. H.B. 198 of the 145348
128th General Assembly, be amended to read as follows: 145349

Sec. 5. (A) As used in this section and Section 6 of Sub. 145350
H.B. 125 of the 127th General Assembly: 145351

(1) "Most favored nation clause" means a provision in a 145352
health care contract that does any of the following: 145353

(a) Prohibits, or grants a contracting entity an option to 145354
prohibit, the participating provider from contracting with another 145355
contracting entity to provide health care services at a lower 145356
price than the payment specified in the contract; 145357

(b) Requires, or grants a contracting entity an option to 145358
require, the participating provider to accept a lower payment in 145359
the event the participating provider agrees to provide health care 145360
services to any other contracting entity at a lower price; 145361

(c) Requires, or grants a contracting entity an option to 145362
require, termination or renegotiation of the existing health care 145363
contract in the event the participating provider agrees to provide 145364
health care services to any other contracting entity at a lower 145365
price; 145366

(d) Requires the participating provider to disclose the 145367
participating provider's contractual reimbursement rates with 145368
other contracting entities. 145369

(2) "Contracting entity," "health care contract," "health 145370
care services," "participating provider," and "provider" have the 145371
same meanings as in section 3963.01 of the Revised Code, as 145372
enacted by Sub. H.B. 125 of the 127th General Assembly. 145373

(B) ~~With respect to a contracting entity and a provider other 145374
than a hospital, no~~ No health care contract ~~that includes shall~~ 145375
contain a most favored nation clause ~~shall be entered into, and no~~ 145376
~~health care contract at the instance of a contracting entity shall~~ 145377
~~be amended or renewed to include a most favored nation clause, for~~ 145378
~~a period of three years after the effective date of Sub. H.B. 125~~ 145379

~~of the 127th General Assembly.~~ 145380

~~(C) With respect to a contracting entity and a hospital, no health care contract that includes a most favored nation clause shall be entered into, and no health care contract at the instance of a contracting entity shall be amended or renewed to include a most favored nation clause, for a period of three years after the effective date of Sub. H.B. 125 of the 127th General Assembly, subject to extension as provided in Section 6 of Sub. H.B. 125 of the 127th General Assembly.~~ 145381
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~~(D) This section does not apply to and does not prohibit the continued use of a most favored nation clause in a health care contract that is between a contracting entity and a hospital and that is in existence on the effective date of Sub. H.B. 125 of the 127th General Assembly even if the health care contract is materially amended with respect to any provision of the health care contract other than the most favored nation clause during the two year period specified in this section or during any extended period of time as provided in Section 6 of Sub. H.B. 125 of the 127th General Assembly. This section applies to such contract if that contract is amended, or to any extension or renewal of that contract.~~ 145389
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Section 630.11. That existing Section 5 of Sub. H.B. 125 of the 127th General Assembly, as most recently amended by Sub. H.B. 198 of the 128th General Assembly, is hereby repealed. 145401
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145403

Section 630.12. That Section 5 of Sub. H.B. 2 of the 127th General Assembly is hereby repealed. 145404
145405

Section 640.10. That Section 6 of Am. Sub. S.B. 124 of the 128th General Assembly be amended to read as follows: 145406
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Sec. 6. A prosecuting attorney or treasurer of a county with 145408

a population greater than eight hundred thousand but less than 145409
nine hundred thousand may determine that the amount of money 145410
appropriated to the respective office from the county Delinquent 145411
Tax and Assessment Collection Fund under division (A) of section 145412
321.261 of the Revised Code exceeds the amount required to be used 145413
by that office as prescribed by division (A)(1) of that section. 145414
If a prosecuting attorney or treasurer of a county with that 145415
population makes such a determination, the prosecuting attorney or 145416
treasurer may expend up to fifty per cent of the excess so 145417
determined to pay the expenses of operating the respective office 145418
that otherwise would be payable from appropriations from the 145419
county general fund, notwithstanding section 321.261 of the 145420
Revised Code. 145421

This section expires December 31, ~~2011~~ 2012. 145422

Section 640.11. That existing Section 6 of Am. Sub. S.B. 124 145423
of the 128th General Assembly is hereby repealed. 145424

Section 690.10. That Section 153 of Am. Sub. H.B. 117 of the 145425
121st General Assembly, as most recently amended by Am. Sub. H.B. 145426
1 of the 128th General Assembly, be amended to read as follows: 145427

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 145428
5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 145429
5112.19, 5112.21, and 5112.99 of the Revised Code are hereby 145430
repealed, effective October 16, ~~2011~~ 2013. 145431

(B) Any money remaining in the Legislative Budget Services 145432
Fund on October 16, ~~2011~~ 2013, the date that section 5112.19 of 145433
the Revised Code is repealed by division (A) of this section, 145434
shall be used solely for the purposes stated in then former 145435
section 5112.19 of the Revised Code. When all money in the 145436
Legislative Budget Services Fund has been spent after then former 145437

section 5112.19 of the Revised Code is repealed under division (A) 145438
of this section, the fund shall cease to exist. 145439

Section 690.11. That existing Section 153 of Am. Sub. H.B. 145440
117 of the 121st General Assembly, as most recently amended by Am. 145441
Sub. H.B. 1 of the 128th General Assembly, is hereby repealed. 145442

Section 690.20. It is not the intent of the General Assembly, 145443
in amending section 101.01 of the Revised Code in Section 1 of 145444
this act, to supersede the suspension of the repeal and delayed 145445
effective date of that repeal as described in Section 4 of Sub. 145446
H.B. 495 of the 128th General Assembly. 145447

Section 701.10. The Department of Administrative Services 145448
shall post on the Department's Internet web site the form for the 145449
contract documents that a public authority contracting for 145450
services with a construction manager at risk or a design-build 145451
firm must use on and after the date of the posting and until the 145452
rules adopted under section 153.503 of the Revised Code are 145453
implemented. 145454

Section 701.13. (A) The Director of Administrative Services 145455
shall adopt rules in accordance with Chapter 119. of the Revised 145456
Code to establish guidelines for the provision of surety bonds by 145457
construction managers at risk, as required under section 9.333 of 145458
the Revised Code, and design-build firms, as required under 145459
section 153.70 of the Revised Code. 145460

(B) The amendment or enactment of sections 9.312, 9.33, 145461
9.331, 9.332, 9.333, 9.334, 9.335, 9.336, 123.011, 126.141, 145462
153.01, 153.012, 153.03, 153.07, 153.08, 153.50, 153.501, 153.502, 145463
153.503, 153.504, 153.51, 153.52, 153.53, 153.54, 153.55, 153.56, 145464
153.57, 153.581, 153.65, 153.66, 153.67, 153.69, 153.692, 153.693, 145465
153.694, 153.695, 153.70, 153.71, 153.72, 153.73, 153.80, 3313.46, 145466

3353.04, 3354.16, 3357.16, 4113.61, 5540.03, and 6115.20 of the Revised Code and Section 701.10 of this act modifying the laws governing the permissible methods of construction delivery for the construction of public improvements shall apply only to public improvement projects commencing on or after the date the rules adopted under division (A) of this section become effective.

Section 701.20. Not later than July 1, 2012, the Department of Administrative Services shall submit a report to the General Assembly, in accordance with section 101.68 of the Revised Code, on the feasibility of all of the following regarding health care plans to cover persons employed by political subdivisions, public school districts, as defined in section 9.901 of the Revised Code, and state institutions of higher education, as defined in section 3345.011 of the Revised Code:

(A) Designing multiple health care plans that achieve an optimal combination of coverage, cost, choice, and stability, which plans include both state and regional preferred provider plans, set employee and employer premiums, and set employee plan copayments, deductibles, exclusions, limitations, formularies, and other responsibilities;

(B) Maintaining reserves, reinsurance, and other measures to insure the long-term stability and solvency of the health care plans;

(C) Providing appropriate health care information, wellness programs, and other preventive health care measures to health care plan beneficiaries;

(D) Coordinating contracts for services related to the health care plans;

(E) Voluntary and mandatory participation by political subdivisions, public school districts, and institutions of higher

education; 145497

(F) The potential impacts of any changes to the existing 145498
purchasing structure on existing health care pooling and 145499
consortiums; 145500

(G) Removing barriers to competition and access to health 145501
care pooling. 145502

No action shall be taken regarding health care coverage for 145503
employees of political subdivisions, public school districts, and 145504
state institutions of higher education without the enactment of 145505
law by the General Assembly. 145506

Section 701.30. EXEMPT EMPLOYEE CONSENT TO CERTAIN DUTIES 145507

As used in this section, "appointing authority" has the same 145508
meaning as in section 124.01 of the Revised Code, and "exempt 145509
employee" has the same meaning as in section 124.152 of the 145510
Revised Code. 145511

Notwithstanding section 124.181 of the Revised Code, in cases 145512
where no vacancy exists, an appointing authority may, with the 145513
written consent of an exempt employee, assign duties of a higher 145514
classification to that exempt employee for a period of time not to 145515
exceed two years, and that exempt employee shall receive 145516
compensation at a rate commensurate with the duties of the higher 145517
classification. 145518

Section 701.40. (A) There is hereby created the Ohio Housing 145519
Study Committee with the purpose of formulating a comprehensive 145520
review of the policies and results of the Ohio Housing Finance 145521
Agency, its programs and its working relationships to ensure that 145522
all Agency programs are evaluated by an objective process to 145523
ensure all Ohioans receive optimal and measurable benefits 145524
afforded to them through the authority of the Agency. 145525

- (B) The Committee shall do all of the following: 145526
- (1) Perform a comprehensive review of Chapter 175. of the 145527
Revised Code to determine the relevance of the chapter and 145528
determine whether it should be formally reviewed or amended by the 145529
General Assembly, up to and including appropriate legislative 145530
oversight and accountability; 145531
- (2) Review the Agency's relationships to ensure an equitable 145532
and level playing field regarding its single- and multi-family 145533
housing programs; 145534
- (3) Review the Agency's policy leadership and the measurable 145535
economic impact and other effects of its programs; 145536
- (4) Review the Agency's Qualified Allocation Plan development 145537
process and underlying policies to understand whether objective 145538
and measurable results are achieved to fulfill clearly articulated 145539
public policy goals; 145540
- (5) Create a quantitative report measuring the economic 145541
benefits of the Agency's single- and multi-family programming over 145542
the last ten years; 145543
- (6) Evaluate the possible efficiencies of combining existing 145544
Ohio Department of Development housing-related programming with 145545
those of the Agency. 145546
- The Chairperson of the Committee may include other relevant 145547
areas of study as necessary. 145548
- (C) The Committee shall commence on the effective date of 145549
this act and shall provide a report expressing its findings and 145550
financial, policy, or legislative recommendations to the Governor, 145551
the Speaker of the House of Representatives, and the President of 145552
the Senate on or before March 31, 2012. 145553
- (D) The Committee shall be comprised of the Auditor of State, 145554
or the Auditor's designee, the Director of Commerce, or the 145555

Director's designee, the Director of Development, or the 145556
Director's designee, and four members of the General Assembly. Two 145557
members shall be appointed by the Speaker of the House of 145558
Representatives and two members shall be appointed by the 145559
President of the Senate. 145560

The Governor, Speaker of the House of Representatives, and 145561
the President of the Senate shall determine the chairperson of the 145562
Committee. 145563

(E) The Committee shall meet on a reasonable basis at the 145564
discretion of the chairperson. 145565

(F) All reasonable expenses incurred by the Committee in 145566
carrying out its responsibilities shall be paid by Ohio Housing 145567
Finance Agency funds. In addition to reasonable expenses, the 145568
Committee shall have the discretion to allocation Agency funds to 145569
contract with the Auditor of State for services rendered in 145570
relation to the Committee carrying out its responsibilities, 145571
including financial- and performance-based audits and other 145572
services. The Auditor of State may contract with an independent 145573
auditor. 145574

The Committee may also contract with other independent 145575
entities for services rendered in relation to the Committee 145576
carrying out its responsibilities. Expenditures to pay for the 145577
services of the Auditor of State, independent auditor, or other 145578
services shall not exceed two hundred thousand dollars. 145579

No entity contracting with the Committee for services 145580
rendered shall have a financial or vested interest in the Ohio 145581
Housing Finance Agency, its affiliates, or its nonprofit partners. 145582

Section 701.50. (A) Except as otherwise provided in section 145583
154.24 or 154.25 of the Revised Code, as enacted by this act, with 145584
respect to the functions of the Ohio Public Facilities Commission, 145585

the Treasurer of State shall, on the effective date of this 145586
section and as provided for in this section, supersede and replace 145587
the Ohio Building Authority (referred to in this section as the 145588
"Authority") as the issuing authority in all matters relating to 145589
the issuance of obligations for the financing of capital 145590
facilities for housing branches and agencies of state government 145591
as provided for in section 154.24 of the Revised Code or for 145592
community or technical colleges as provided for in section 154.25 145593
of the Revised Code (together referred to in this section as 145594
"facilities for capital purposes"), as enacted by this act (all 145595
referred to in this section as "superseded matters"). 145596

(B)(1) With respect to superseded matters and facilities for 145597
capital purposes, the Treasurer of State shall: 145598

(a) Succeed to and have and perform all of the duties, 145599
powers, obligations, and functions of the Authority and its 145600
members and officers provided for by law or rule relating to the 145601
issuance of bonds, notes, or other obligations for the purpose of 145602
paying costs of facilities for capital purposes; 145603

(b) Succeed to and have and perform all of the duties, 145604
powers, obligations, and functions, and have all of the rights of, 145605
the Authority and its members and officers provided for in or 145606
pursuant to resolutions, rules, agreements, trust agreements, and 145607
supplemental trust agreements (all referred to collectively in 145608
this section as "basic instruments"), and bonds, notes, and other 145609
obligations (all referred to collectively in this section as 145610
"financing obligations"), previously authorized, entered into, or 145611
issued by the Authority for facilities for capital purposes, which 145612
financing obligations shall be, or shall be deemed to be, 145613
obligations issued by and of the Treasurer of State; and 145614

(c) Be bound by all agreements and covenants of the 145615
Authority, and basic instruments, relating to financing 145616
obligations. 145617

(2) The transfer of superseded matters to the Treasurer of State pursuant to this section does not affect the validity of any agreement or covenant, basic instrument, or financing obligation, or any related document, authorized, entered into, or issued by the Authority under Chapter 152. of the Revised Code or other laws, and nothing in this section shall be applied or considered as impairing the obligations or rights under them.

(3) The Treasurer of State shall not issue any additional financing obligations pursuant to any basic instrument of the Authority, including financing obligations to refund financing obligations previously issued by the Authority.

(C) With respect to proceedings relating to superseded matters affected by this section:

(1) This section applies to any proceedings that are commenced after the effective date of this section, and to any proceedings that are pending, in progress, or completed on that date, notwithstanding the applicable law previously in effect or any provision to the contrary in a prior basic instrument, notice, or other proceeding.

(2) Any proceedings of the Authority that are pending on the effective date of this section shall be pursued and completed by and in the name of the Treasurer of State, and any financing obligations that are sold, issued, and delivered pursuant to those proceedings shall be deemed to have been authorized, sold, issued, and delivered in conformity with this section.

(3) Notwithstanding divisions (C)(1) and (2) of this section, the Authority may, subsequent to the effective date of this section, meet for the purpose of better accomplishing the transfer of superseded matters. At any such meeting the Authority may take necessary or appropriate actions to effect an orderly transition relating to the issuance of financing obligations, such that all

duties, powers, obligations, and functions of the Authority and 145649
its members and officers with respect to the superseded matters or 145650
under any leases and agreements between the Authority and a state 145651
agency for facilities for capital purposes shall terminate and be 145652
of no further force and effect as to the Authority. 145653

(D) Notwithstanding any other provision of this section, this 145654
section shall not apply to the Authority's interests in or 145655
responsibilities for the operation and maintenance, or any lease 145656
or agreement relating to the operation and maintenance of, the 145657
James A. Rhodes State Office Tower (30 East Broad Street, 145658
Columbus), the Vern Riffe Center for Government and the Arts (77 145659
South High Street, Columbus), the Frank J. Lausche State Office 145660
Building (615 West Superior Avenue, Cleveland), the Michael V. 145661
DiSalle Government Center (One Government Center, Toledo), the 145662
Oliver R. Ocasek Government Office Building (161 South High 145663
Street, Akron), and the State of Ohio Computer Center (1320 Arthur 145664
E. Adams Drive, Columbus). 145665

(E) The Authority and the Treasurer of State shall prepare 145666
any necessary amendments of or supplements to documents or basic 145667
instruments pertaining to the duties, powers, obligations, 145668
functions, and rights relating to superseded matters to which the 145669
Treasurer of State succeeds pursuant to this section. The 145670
authorization by the Authority in its basic instruments relating 145671
to superseded matters for its officers to act in any manner on 145672
behalf of the Authority shall, on and after the effective date of 145673
this section, be authorization for the Treasurer of State, or the 145674
Treasurer of State's staff or employees to whom the Treasurer of 145675
State may delegate the function, to act in the circumstances, 145676
without necessity for amendment of or supplement to any such 145677
documents or basic instruments. 145678

(F) No pending judicial or administrative action or 145679
proceeding in which the Authority, or its members or officers as 145680

such, are a party that pertains to superseded matters shall be 145681
affected by their transfer, but shall be prosecuted or defended in 145682
the name of the Treasurer of State and in any such action or 145683
proceeding the Treasurer of State, upon application to the court, 145684
shall be substituted as a party. 145685

(G) In connection with the duties, powers, obligations, 145686
functions, and rights relating to superseded matters and provided 145687
for in this section, on the effective date of this section: 145688

(1) Copies of all basic instruments, documents, books, 145689
papers, and records of the Authority shall be transferred to the 145690
Treasurer of State upon request, without necessity for assignment, 145691
conveyance, or other action by the Authority. 145692

(2) All appropriations previously made to or for the 145693
Authority for the purposes of the performance of the duties, 145694
powers, obligations, functions, and exercise of rights relating to 145695
superseded matters, to the extent of remaining unexpended or 145696
unencumbered balances, are hereby transferred to and made 145697
available for use and expenditure by the Treasurer of State for 145698
performing the same duties, powers, obligations, and functions and 145699
exercising the same rights for which originally appropriated, and 145700
payments for administrative expenses previously incurred in 145701
connection with them shall be made from the applicable 145702
administrative service fund on vouchers approved by the Treasurer 145703
of State. 145704

(3) All leases and agreements between the Authority and a 145705
state agency for facilities for capital purposes made under 145706
Chapter 152. of the Revised Code shall, and shall be considered 145707
to, continue to bind that state agency. Nothing in this act shall 145708
be considered as impairing the obligations of any state agency 145709
under those leases and agreements. 145710

(4) Any lease, grant, or conveyance made to the Authority 145711

pursuant to section 152.06 of the Revised Code shall be, and shall 145712
be deemed to be, made to the Ohio Public Facilities Commission 145713
pursuant to section 154.16 of the Revised Code, and the Ohio 145714
Public Facilities Commission shall succeed to and have and perform 145715
all of the duties, powers, obligations, and functions, and have 145716
all of the rights, of the Authority and its members and officers 145717
provided for in or pursuant to that lease, grant, or conveyance. 145718

(H) Whenever the Authority, or any of its members or 145719
officers, is referred to in any contract or other document 145720
relating to those outstanding financing obligations, the reference 145721
shall be considered to be, as applicable, to the Ohio Public 145722
Facilities Commission or its appropriate officers or to the 145723
Treasurer of State or the appropriate staff of the Treasurer of 145724
State. 145725

Section 715.10. (A) The Ohio Soil and Water Conservation 145726
Commission that is created in section 1515.02 of the Revised Code 145727
shall establish a Conservation Program Delivery Task Force to 145728
provide recommendations to the Director of Natural Resources 145729
regarding how soil and water conservation districts established 145730
under section 1515.03 of the Revised Code may advance effective 145731
and efficient operations while continuing to provide local program 145732
leadership. The Task Force shall examine methods for improving 145733
services and removing impediments to organizational management and 145734
explore opportunities for sharing services across all levels of 145735
government. 145736

(B) The chairperson of the Commission in consultation with 145737
the Director shall appoint no more than nine members to the Task 145738
Force. The Task Force shall include members of the boards of 145739
supervisors of soil and water conservation districts and other 145740
individuals who represent diverse geographic areas of the state 145741
and may include members from the Ohio Federation of Soil and Water 145742

Conservation Districts, the Natural Resources Conservation Service 145743
in the United States Department of Agriculture, the County 145744
Commissioners' Association of Ohio, the Ohio Municipal League, and 145745
the Ohio Township Association. The Task Force may consult with 145746
those organizations and agencies. 145747

(C) The chairperson of the Commission or another member of 145748
the Commission who is designated by the chairperson shall serve as 145749
chairperson of the Task Force. 145750

(D) Members appointed to the Task Force shall serve without 145751
compensation and shall not be reimbursed for expenses. The 145752
Division of Soil and Water Resources shall provide technical and 145753
administrative support as needed by the Task Force. 145754

(E) The Task Force shall hold its first meeting no later than 145755
September 1, 2011, and shall submit a final report of 145756
recommendations to the Director and the Commission no later than 145757
December 31, 2011. Upon submission of the final report, the Task 145758
Force shall cease to exist. 145759

Section 733.10. (A) The Department of Education shall conduct 145760
and publicize a second Educational Choice Scholarship application 145761
period for the 2011-2012 school year to award for that year 145762
scholarships newly authorized by sections 3310.02 and 3310.03 of 145763
the Revised Code, as amended by this act. The second application 145764
period shall commence on the effective date of this section and 145765
shall end at the close of business on the first business day that 145766
is at least forty-five days after the effective date of this 145767
section. 145768

(B) Not later than ten days after the effective date of this 145769
section, the Department shall do both of the following: 145770

(1) Mail, to each person who applied for a scholarship during 145771
the first application period for the 2011-2012 school year but did 145772

not receive a scholarship, a notice announcing the second application period, the opportunity to re-apply, and the application deadline;

(2) Post prominently on its web site a list of school district-operated buildings that meet both of the following criteria:

(a) For at least two of the three school years from 2007-2008 through 2009-2010, ranked in the lowest ten per cent of school district buildings according to performance index score reported under section 3302.03 of the Revised Code;

(b) Were not declared to be excellent or effective under that section for the 2009-2010 school year.

(C) The Department shall award scholarships for the 2011-2012 school year from applications submitted during the second application period according to the order of priority listed in division (B) of section 3310.02 of the Revised Code, as amended by this act. The Department shall base its award determinations on the applicant students' status during the 2010-2011 school year.

(D) Notwithstanding any provision of sections 3310.01 to 3310.17 of the Revised Code, any rule of the State Board of Education, or any policy of the Department to the contrary, the Department shall not deny a scholarship to a student for whom an application is submitted during the second application period solely because the student already has been admitted to a chartered nonpublic school for the 2011-2012 school year, if both of the following apply:

(1) A timely application was submitted on the student's behalf during the first application period for the 2011-2012 school year and the student was denied a scholarship solely because the number of applications exceeded the number of available scholarships.

(2) The student either: 145804

(a) Was enrolled, through the final day of scheduled classes 145805
for the 2010-2011 school year, in the district school or community 145806
school indicated on the student's first application for the 145807
2011-2012 school year; 145808

(b) Is eligible to enroll in kindergarten for the 2011-2012 145809
school year and was not enrolled in kindergarten in a nonpublic 145810
school in the 2010-2011 school year. 145811

(E)(1) For purposes of determining eligibility under division 145812
(B) of section 3310.03 of the Revised Code for scholarships 145813
awarded for the 2012-2013 school year, the Department shall post 145814
prominently on its web site a list of school district buildings 145815
that meet both of the following criteria: 145816

(a) For at least two of the three school years from 2008-2009 145817
through 2010-2011, ranked in the lowest ten per cent of school 145818
district buildings according to performance index score; 145819

(b) Were not declared to be excellent or effective under 145820
section 3302.03 of the Revised Code for the 2010-2011 school year. 145821

(2) For purposes of determining eligibility under division 145822
(B) of section 3310.03 of the Revised Code for scholarships 145823
awarded for the 2013-2014 school year, the Department shall post 145824
prominently on its web site a list of school district buildings 145825
that meet both of the following criteria: 145826

(a) For at least two of the three school years from 2009-2010 145827
through 2011-2012, ranked in the lowest ten per cent of school 145828
district buildings according to performance index score; 145829

(b) Were not declared to be excellent or effective under 145830
section 3302.03 of the Revised Code for the 2011-2012 school year. 145831

(3) For purposes of determining eligibility under division 145832
(B) of section 3310.03 of the Revised Code for scholarships 145833

awarded for the 2014-2015 school year, the Department shall post 145834
prominently on its web site a list of school district buildings 145835
that meet both of the following criteria: 145836

(a) For at least two of the three school years from 2010-2011 145837
through 2012-2013, ranked in the lowest ten per cent of school 145838
district buildings according to performance index score; 145839

(b) Were not declared to be excellent or effective under 145840
section 3302.03 of the Revised Code for the 2012-2013 school year. 145841

(F) As used in this section, "enrolled" has the same meaning 145842
as in division (E) of section 3317.03 of the Revised Code. 145843

Section 733.20. (A)(1) Notwithstanding section 3305.03 of the 145844
Revised Code or any other provision of Chapter 3305. of the 145845
Revised Code, an alternative retirement plan established by a 145846
public institution of higher education prior to July 1, 2000, that 145847
is a qualified trust under section 401(a) of the Internal Revenue 145848
Code is hereby designated a provider for purposes of Chapter 3305. 145849
of the Revised Code. 145850

(2) Other than the contributions required under division (D) 145851
of section 3305.06 of the Revised Code and interest on those 145852
contributions at a rate determined by the State Teachers 145853
Retirement Board, a public institution of higher education is not 145854
required to pay any contributions or interest due the State 145855
Teachers Retirement System for an employee who prior to July 1, 145856
2000, made an election to participate in an alternative retirement 145857
plan designated under this section, from the date of the election 145858
as long as participation by the employee continues. 145859

(B) Notwithstanding division (C) of section 3305.05 of the 145860
Revised Code, a public institution of higher education that failed 145861
to timely file with the State Teachers Retirement System a copy of 145862
an election of an employee described in division (A)(2) of this 145863

section may file the election not later than ninety days after the 145864
effective date of this section. The system shall accept the filing 145865
as though made in compliance with section 3305.05 of the Revised 145866
Code. 145867

Section 733.30. Notwithstanding the dates prescribed by 145868
division (D) of section 3311.054 of the Revised Code, not later 145869
than July 1, 2012, the governing board of an educational service 145870
center established under that section shall redistrict the 145871
educational service center's territory into a number of 145872
subdistricts equal to the number of board members designated under 145873
division (B)(1) of that section, based on the results of the 2010 145874
decennial census. At the regular municipal election held in 145875
November 2013, all elected governing board members shall again be 145876
elected from the subdistricts created under this section. 145877

If a governing board fails to redistrict the territory of its 145878
educational service center in accordance with this section, the 145879
superintendent of public instruction shall redistrict the service 145880
center not later than August 1, 2012. 145881

Section 737.11. (A) Twelve months after the effective date of 145882
this section, the Public Health Council shall rescind the rules 145883
adopted under former section 3733.42 of the Revised Code as 145884
repealed by this act. 145885

(B) If an agricultural labor camp is located within the 145886
jurisdiction of a board of health, the board of health may adopt 145887
rules under section 3733.42 of the Revised Code as enacted by this 145888
act. After adopting the rules, the board of health immediately 145889
shall notify the Director of Health. 145890

(C)(1) The rules governing agricultural labor camps adopted 145891
by the Public Health Council under former section 3733.42 of the 145892
Revised Code as repealed by this act shall remain in effect in a 145893

health district until the board of health of that district adopts 145894
rules under section 3733.42 of the Revised Code as enacted by this 145895
act or until twelve months after the effective date of this 145896
section, whichever occurs first. 145897

(2) On the effective date of rules adopted by a board of 145898
health under section 3733.42 of the Revised Code as enacted by 145899
this act, the Public Health Council rules adopted under former 145900
section 3733.42 of the Revised Code as repealed by this act cease 145901
to be effective within the jurisdiction of that board of health 145902
unless the Public Health Council has already rescinded the rules 145903
under division (A) of this section. 145904

(D) As used in this section: 145905

(1) "Agricultural labor camp" and "board of health" have the 145906
same meanings as in section 3733.41 of the Revised Code. 145907

(2) "Health district" has the same meaning as in section 145908
3733.21 of the Revised Code. 145909

(3) "Public Health Council" means the Public Health Council 145910
created by section 3701.33 of the Revised Code. 145911

Section 737.15. (A) Twelve months after the effective date of 145912
this section, the Public Health Council shall rescind the rules 145913
adopted under former section 3733.22 of the Revised Code as 145914
repealed by this act. 145915

(B) If a marina is located within the jurisdiction of a board 145916
of health, the board of health may adopt rules under section 145917
3733.21 of the Revised Code as amended by this act. After adopting 145918
the rules, the board of health immediately shall notify the 145919
Director of Health. 145920

(C)(1) The rules governing marinas adopted by the Public 145921
Health Council under former section 3733.22 of the Revised Code as 145922
repealed by this act shall remain in effect in a health district 145923

until the board of health of that district adopts rules under 145924
section 3733.21 of the Revised Code as amended by this act or 145925
until twelve months after the effective date of this section, 145926
whichever occurs first. 145927

(2) On the effective date of rules adopted by a board of 145928
health under section 3733.21 of the Revised Code as amended by 145929
this act, the Public Health Council rules adopted under former 145930
section 3733.22 of the Revised Code as repealed by this act cease 145931
to be effective within the jurisdiction of that board of health 145932
unless the Public Health Council has already rescinded the rules 145933
under division (A) of this section. 145934

(D) As used in this section: 145935

(1) "Board of health," "health district," and "marina" have 145936
the same meanings as in section 3733.21 of the Revised Code. 145937

(2) "Public Health Council" means the Public Health Council 145938
created by section 3701.33 of the Revised Code. 145939

Section 737.30. (A) The Manufactured Homes Commission shall 145940
adopt the rules required by section 4781.26 of the Revised Code as 145941
amended by this act not later than December 1, 2011. After 145942
adopting the rules, the Commission immediately shall notify the 145943
Director of Health. 145944

(B)(1) The rules governing manufactured home parks adopted by 145945
the Public Health Council under former section 3733.02 of the 145946
Revised Code as amended by this act shall remain in effect in a 145947
health district until the Commission adopts rules under section 145948
4781.26 of the Revised Code as amended by this act. 145949

(2) On the effective date of the rules adopted by the 145950
Commission as required by section 4781.26 of the Revised Code as 145951
amended by this act, the Public Health Council rules adopted under 145952
former section 3733.02 of the Revised Code as amended by this act 145953

cease to be effective within the jurisdiction of that board of health. 145954
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(C) No board of health of a city or general health district shall invoice or collect manufactured home park licensing fees for calendar year 2012. 145956
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(D) As used in this section: 145959

(1) "Manufactured home park," "board of health," and "health district" have the same meanings as in section 3733.01 of the Revised Code. 145960
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(2) "Public Health Council" means the Public Health Council created by section 3701.33 of the Revised Code. 145963
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Any manufactured home park license and inspection fees collected pursuant to section 3733.04 of the Revised Code by a board of health prior to the transition of the annual license and inspection program to the Manufactured Homes Commission as required under this act in the amount of two thousand dollars or less may be transferred to the health fund of the city or general health district. Any of those funds in excess of two thousand dollars shall be transferred to the Manufactured Homes Commission and deposited in the Manufactured Homes Commission Regulatory Fund created in section 4781.54 of the Revised Code as enacted by this act. 145965
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Section 747.20. Notwithstanding the original term of the appointment, the term of the Manufactured Homes Commission member who was appointed by the Governor as a representative of the Department of Health pursuant to division (B)(2)(b) of section 4781.02 of the Revised Code shall end on the effective date of that section as amended by this act. The initial term of the registered sanitarian appointed to the Manufactured Homes Commission pursuant to section 4781.02 of the Revised Code, as 145976
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amended by this act, shall expire on the date when the 145984
representative of the Department of Health's term would have 145985
expired, but for this section. 145986

Section 747.30. (A) There is hereby created the Auctioneer 145987
Study Commission consisting of the following members: 145988

(1) A representative of the Department of Taxation appointed 145989
by the Tax Commissioner; 145990

(2) A representative of the Bureau of Motor Vehicles 145991
appointed by the Registrar of Motor Vehicles; 145992

(3) A representative of the Office of the Attorney General 145993
appointed by the Attorney General; 145994

(4) A representative of the Department of Agriculture 145995
appointed by the Director of Agriculture; 145996

(5) A representative of the State Auctioneers Commission 145997
appointed by the Commission; 145998

(6) One member appointed by the Ohio Automobile Dealers 145999
Association; 146000

(7) One member appointed by the Ohio Automobile Auction 146001
Coalition; 146002

(8) One member representing equipment auctioneers; 146003

(9) One member representing consignment facility auctioneers; 146004

(10) Two members of the House of Representatives appointed by the 146005
Speaker of the House of Representatives; 146006

(11) Two members of the Senate appointed by the President of 146007
the Senate. 146008

(B) All appointments shall be made to the Commission not 146009
later than ten days after the effective date of this section. The 146010
member representing the Department of Agriculture shall serve as 146011

the chairperson. The Commission shall hold its first meeting 146012
thirty days after the effective date of this section and shall 146013
hold regular meetings as necessary after the initial meeting. 146014

(C) The Commission shall examine the scope of practices for 146015
the auctioneer profession and shall make recommendations to the 146016
General Assembly regarding those practices. 146017

(D) Not later than January 1, 2012, the Commission shall 146018
submit a report of its findings and recommendations to the 146019
Governor, the Speaker of the House of Representatives, the 146020
Minority Leader of the House of Representatives, the President of 146021
the Senate, and the Minority Leader of the Senate. Upon submission 146022
of the report, the Commission ceases to exist. 146023

Section 753.10. (A) As used in this section, "contractor" and 146024
"facility" have the same meanings as in section 9.06 of the 146025
Revised Code, as amended by Sections 101.01 and 101.02 of this 146026
act. 146027

(B)(1) The Director of Administrative Services and the 146028
Director of Rehabilitation and Correction are hereby authorized to 146029
award one or more contracts through requests for proposals for the 146030
operation and management by a contractor of one or more of the 146031
facilities described in divisions (C) to (G) of this section, 146032
pursuant to section 9.06 of the Revised Code, and for the transfer 146033
of the state's right, title, and interest in the real property on 146034
which the facility is situated and any surrounding land as 146035
described in those divisions. 146036

(2) If the Director of Administrative Services and the 146037
Director of Rehabilitation and Correction award a contract of the 146038
type described in division (B)(1) of this section to a contractor 146039
regarding a facility described in division (C), (D), (E), (F), or 146040
(G) of this section, in addition to the requirements, statements, 146041
and authorizations that must be included in the contract pursuant 146042

to division (B) of section 9.06 of the Revised Code, the contract 146043
shall include all of the following regarding the facility that is 146044
the subject of the contract: 146045

(a) An agreement for the sale to the contractor of the 146046
state's right, title, and interest in the facility, the land 146047
situated thereon, and specified surrounding land; 146048

(b) A requirement that the contractor provide preferential 146049
hiring treatment to employees of the Department of Rehabilitation 146050
and Correction in order to retain staff displaced as a result of 146051
the transition of the operation and management of the facility and 146052
to meet the administrative, programmatic, maintenance, and 146053
security needs of the facility; 146054

(c) Notwithstanding any provision of the Revised Code, 146055
authorization for the transfer to the contractor of any supplies, 146056
equipment, furnishings, fixtures, or other assets considered 146057
necessary by the Director of Rehabilitation and Correction and the 146058
Director of Administrative Services for the continued operation 146059
and management of the facility; 146060

(d) A binding commitment that does all of the following: 146061

(i) Provides that, before the contractor, or the contractor's 146062
successor in title, may resell or otherwise transfer the facility 146063
and the real property on which it is situated, any surrounding 146064
land that is to be transferred under the contract, or both the 146065
facility and real property on which it is situated plus the 146066
surrounding land that is to be transferred under the contract, the 146067
contractor or successor first must offer the state the opportunity 146068
to repurchase the facility, real property, and surrounding land 146069
that is to be resold or transferred for a price not greater than 146070
the purchase price paid to the state for that facility, real 146071
property, or surrounding land, less depreciation from the time of 146072
the conveyance of that facility, real property, or surrounding 146073

land to the contractor, plus the depreciated value of any capital 146074
improvements to that facility, real property, or surrounding land 146075
that were made to it and funded by anyone other than the state 146076
subsequent to the conveyance to the contractor; 146077

(ii) Specifies that the opportunity described in division 146078
(B)(2)(d)(i) of this section must be offered to the state at least 146079
one hundred twenty days before the contractor intends to resell or 146080
otherwise transfer the facility, real property, or surrounding 146081
land that is to be resold or transferred; 146082

(iii) Irrevocably grants to the state the right to repurchase 146083
the facility, real property, and surrounding land that is to be 146084
resold or otherwise transferred for the price described in 146085
division (B)(2)(d)(i) of this section. 146086

(3)(a) If the Director of Administrative Services and the 146087
Director of Rehabilitation and Correction award a contract of the 146088
type described in division (B)(1) of this section to a contractor 146089
regarding a facility described in division (C), (D), (E), (F), or 146090
(G) of this section, notwithstanding any provision of the Revised 146091
Code and subject to division (B)(3)(b) of this section, the state 146092
may transfer to the contractor in accordance with the contract any 146093
supplies, equipment, furnishings, fixtures, or other assets 146094
considered necessary by the Director of Rehabilitation and 146095
Correction and the Director of Administrative Services for the 146096
continued operation and management of the facility. For purposes 146097
of this paragraph and the transfer authorized under this 146098
paragraph, any such supplies, equipment, furnishings, fixtures, or 146099
other assets shall not be considered supplies, excess supplies, or 146100
surplus supplies as defined in section 125.12 of the Revised Code 146101
and may be disposed of as part of the transfer of the facility to 146102
the contractor. 146103

(b) If the Director of Administrative Services and the 146104
Director of Rehabilitation and Correction award a contract of the 146105

type described in division (B)(1) of this section to a contractor 146106
regarding the facility described in division (D) of this section, 146107
the Director of Rehabilitation and Correction may transfer to 146108
another state correctional institution to be determined by the 146109
Director of Rehabilitation and Correction the Braille printing 146110
press and related accessories located at the facility described in 146111
division (D) of this section and all programs associated with the 146112
Braille printing press. 146113

(4) Nothing in divisions (B)(1) to (3) or divisions (C) to 146114
(G) of this section restricts the department of rehabilitation and 146115
correction from contracting for only the private operation and 146116
management of any of the facilities described in divisions (C) to 146117
(G) of this section. 146118

(C)(1) As used in division (C) of this section, "grantee" 146119
means an entity that has contracted under section 9.06 of the 146120
Revised Code to privately operate the Lake Erie Correctional 146121
Facility, if the contract includes the clauses described in 146122
division (B)(2) of this section for the purchase of that Facility. 146123

(2) The Governor is authorized to execute a deed in the name 146124
of the state conveying to the grantee, its successors and assigns, 146125
all of the right, title, and interest of the state in the Lake 146126
Erie Correctional Facility, in the City of Conneaut, County of 146127
Ashtabula, State of Ohio, the land situated thereon, and any 146128
surrounding land, which totals approximately 119 acres. 146129

In preparing the deed, the Auditor of State, with the 146130
assistance of the Attorney General, shall develop a legal 146131
description of the property in conformity with the actual bounds 146132
of the real estate. 146133

(3) Consideration for conveyance of the real estate shall be 146134
set forth in the contract awarded to the grantee and shall be paid 146135
in accordance with the terms of the contract. 146136

(4)(a) The deed may contain any restriction that the Director of Administrative Services and the Director of Rehabilitation and Correction determine is reasonably necessary to protect the state's interest in neighboring state-owned land.

(b) The deed also shall contain restrictions prohibiting the grantee from using, developing, or selling the real estate, or the correctional facility thereon, except in conformance with the restriction, or if the use, development, or sale will interfere with the quiet enjoyment of the neighboring state-owned land.

(5) The real estate shall be sold as an entire tract and not in parcels.

(6) Upon payment of the purchase price as set forth in the contract awarded to the grantee, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Ashtabula County Recorder.

(7) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

(8) The proceeds of the conveyance of the real estate shall be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund and shall be used to redeem or defease bonds in accordance with section 5120.092 of the Revised Code, and any remaining moneys after such redemption or defeasance shall be transferred in accordance with that section to the General Revenue Fund.

(9) Division (C) of this section does not restrict the Department of Rehabilitation and Correction from contracting, not for the sale of, but only for the private operation and management of the Lake Erie Correctional Facility.

(10) Division (C) of this section expires two years after its effective date.

(D)(1) As used in division (D) of this section, "grantee" means an entity that has contracted under section 9.06 of the Revised Code to privately operate the Grafton Correctional Institution, if the contract includes the clauses described in division (B)(2) of this section for the purchase of that Institution.

(2) The Governor is authorized to execute a deed in the name of the state conveying to the grantee, its successors and assigns, all of the right, title, and interest of the state in the Grafton Correctional Institution, in the City of Grafton, County of Lorain, State of Ohio, the land situated thereon, and any surrounding land, which totals approximately 148 acres.

In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the property in conformity with the actual bounds of the real estate.

(3) Consideration for conveyance of the real estate shall be set forth in the contract awarded to the grantee and shall be paid in accordance with the terms of the contract.

(4)(a) The deed may contain any restriction that the Director of Administrative Services and the Director of Rehabilitation and Correction determine is reasonably necessary to protect the state's interest in neighboring state-owned land.

(b) The deed also shall contain restrictions prohibiting the grantee from using, developing, or selling the real estate, or the

correctional facility thereon, except in conformance with the 146199
restriction, or if the use, development, or sale will interfere 146200
with the quiet enjoyment of the neighboring state-owned land. 146201

(5) The real estate shall be sold as an entire tract and not 146202
in parcels. 146203

(6) Upon payment of the purchase price as set forth in the 146204
contract awarded to the grantee, the Auditor of State, with the 146205
assistance of the Attorney General, shall prepare a deed to the 146206
real estate. The deed shall state the consideration and 146207
restrictions and shall be executed by the Governor in the name of 146208
the state, countersigned by the Secretary of State, sealed with 146209
the Great Seal of the State, presented in the Office of the 146210
Auditor of State for recording, and delivered to the grantee. The 146211
grantee shall present the deed for recording in the Office of the 146212
Lorain County Recorder. 146213

(7) The grantee shall pay all costs associated with the 146214
purchase and conveyance of the real estate, including recordation 146215
costs of the deed. 146216

(8) The proceeds of the conveyance of the real estate shall 146217
be deposited into the state treasury to the credit of the Adult 146218
and Juvenile Correctional Facilities Bond Retirement Fund and 146219
shall be used to redeem or defease bonds in accordance with 146220
section 5120.092 of the Revised Code, and any remaining moneys 146221
after such redemption or defeasance shall be transferred in 146222
accordance with that section to the General Revenue Fund. 146223

(9) Division (D) of this section does not restrict the 146224
Department of Rehabilitation and Correction from contracting, not 146225
for the sale of, but only for the private operation and management 146226
of the Grafton Correctional Institution. 146227

(10) Division (D) of this section expires two years after its 146228
effective date. 146229

(E)(1) As used in division (E) of this section, "grantee" 146230
means an entity that has contracted under section 9.06 of the 146231
Revised Code to privately operate the North Coast Correctional 146232
Treatment Facility, if the contract includes the clauses described 146233
in division (B)(2) of this section for the purchase of that 146234
Facility. 146235

(2) The Governor is authorized to execute a deed in the name 146236
of the state conveying to the grantee, its successors and assigns, 146237
all of the right, title, and interest of the state in the North 146238
Coast Correctional Treatment Facility, in the City of Grafton, 146239
County of Lorain, State of Ohio, the land situated thereon, and 146240
any surrounding land, which totals approximately 171 acres. 146241

In preparing the deed, the Auditor of State, with the 146242
assistance of the Attorney General, shall develop a legal 146243
description of the property in conformity with the actual bounds 146244
of the real estate. 146245

(3) Consideration for conveyance of the real estate shall be 146246
set forth in the contract awarded to the grantee and shall be paid 146247
in accordance with the terms of the contract. 146248

(4)(a) The deed may contain any restriction that the Director 146249
of Administrative Services and the Director of Rehabilitation and 146250
Correction determine is reasonably necessary to protect the 146251
state's interest in neighboring state-owned land. 146252

(b) The deed also shall contain restrictions prohibiting the 146253
grantee from using, developing, or selling the real estate, or the 146254
correctional facility thereon, except in conformance with the 146255
restriction, or if the use, development, or sale will interfere 146256
with the quiet enjoyment of the neighboring state-owned land. 146257

(5) The real estate shall be sold as an entire tract and not 146258
in parcels. 146259

(6) Upon payment of the purchase price as set forth in the 146260

contract awarded to the grantee, the Auditor of State, with the 146261
assistance of the Attorney General, shall prepare a deed to the 146262
real estate. The deed shall state the consideration and 146263
restrictions and shall be executed by the Governor in the name of 146264
the state, countersigned by the Secretary of State, sealed with 146265
the Great Seal of the State, presented in the Office of the 146266
Auditor of State for recording, and delivered to the grantee. The 146267
grantee shall present the deed for recording in the Office of the 146268
Lorain County Recorder. 146269

(7) The grantee shall pay all costs associated with the 146270
purchase and conveyance of the real estate, including recordation 146271
costs of the deed. 146272

(8) The proceeds of the conveyance of the real estate shall 146273
be deposited into the state treasury to the credit of the Adult 146274
and Juvenile Correctional Facilities Bond Retirement Fund and 146275
shall be used to redeem or defease bonds in accordance with 146276
section 5120.092 of the Revised Code, and any remaining moneys 146277
after such redemption or defeasance shall be transferred in 146278
accordance with that section to the General Revenue Fund. 146279

(9) Division (E) of this section does not restrict the 146280
Department of Rehabilitation and Correction from contracting, not 146281
for the sale of, but only for the private operation and management 146282
of the North Coast Correctional Treatment Facility. 146283

(10) Division (E) of this section expires two years after its 146284
effective date. 146285

(F)(1) As used in division (F) of this section, "grantee" 146286
means an entity that has contracted under section 9.06 of the 146287
Revised Code to privately operate the North Central Correctional 146288
Institution, if the contract includes the clauses described in 146289
division (B)(2) of this section for the purchase of that 146290
Institution. 146291

(2) The Governor is authorized to execute a deed in the name 146292
of the state conveying to the grantee, its successors and assigns, 146293
all of the right, title, and interest of the state in the North 146294
Central Correctional Institution, in the City of Marion, County of 146295
Marion, State of Ohio, the land situated thereon, and any 146296
surrounding land, which totals approximately 152 acres. 146297

In preparing the deed, the Auditor of State, with the 146298
assistance of the Attorney General, shall develop a legal 146299
description of the property in conformity with the actual bounds 146300
of the real estate. 146301

(3) Consideration for conveyance of the real estate shall be 146302
set forth in the contract awarded to the grantee and shall be paid 146303
in accordance with the terms of the contract. 146304

(4)(a) The deed may contain any restriction that the Director 146305
of Administrative Services and the Director of Rehabilitation and 146306
Correction determine is reasonably necessary to protect the 146307
state's interest in neighboring state-owned land. 146308

(b) The deed also shall contain restrictions prohibiting the 146309
grantee from using, developing, or selling the real estate, or the 146310
correctional facility thereon, except in conformance with the 146311
restriction, or if the use, development, or sale will interfere 146312
with the quiet enjoyment of the neighboring state-owned land. 146313

(5) The real estate shall be sold as an entire tract and not 146314
in parcels. 146315

(6) Upon payment of the purchase price as set forth in the 146316
contract awarded to the grantee, the Auditor of State, with the 146317
assistance of the Attorney General, shall prepare a deed to the 146318
real estate. The deed shall state the consideration and 146319
restrictions and shall be executed by the Governor in the name of 146320
the state, countersigned by the Secretary of State, sealed with 146321
the Great Seal of the State, presented in the Office of the 146322

Auditor of State for recording, and delivered to the grantee. The 146323
grantee shall present the deed for recording in the Office of the 146324
Marion County Recorder. 146325

(7) The grantee shall pay all costs associated with the 146326
purchase and conveyance of the real estate, including recordation 146327
costs of the deed. 146328

(8) The proceeds of the conveyance of the real estate shall 146329
be deposited into the state treasury to the credit of the Adult 146330
and Juvenile Correctional Facilities Bond Retirement Fund and 146331
shall be used to redeem or defease bonds in accordance with 146332
section 5120.092 of the Revised Code, and any remaining moneys 146333
after such redemption or defeasance shall be transferred in 146334
accordance with that section to the General Revenue Fund. 146335

(9) Division (F) of this section does not restrict the 146336
Department of Rehabilitation and Correction from contracting, not 146337
for the sale of, but only for the private operation and management 146338
of the North Central Correctional Institution. 146339

(10) Division (F) of this section expires two years after its 146340
effective date. 146341

(G)(1)(a) As used in division (G) of this section, "grantee" 146342
means an entity that has contracted under section 9.06 of the 146343
Revised Code to privately operate a facility at the North Central 146344
Correctional Institution Camp, if the contract includes the 146345
clauses described in division (B)(2) of this section for the 146346
purchase of that facility. 146347

(b) Jurisdiction of the facility described in division 146348
(G)(1)(a) of this section, which is a vacated facility previously 146349
operated by the Department of Youth Services adjacent to the North 146350
Central Correctional Institution, is hereby transferred from the 146351
Department of Youth Services to the Department of Rehabilitation 146352
and Correction. The transfer of jurisdiction of that facility is 146353

hereby ratified and approved. 146354

(2) The Governor is authorized to execute a deed in the name 146355
of the state conveying to the grantee, its successors and assigns, 146356
all of the right, title, and interest of the state in the North 146357
Central Correctional Institution Camp, in the City of Marion, 146358
County of Marion, State of Ohio, the land situated thereon, and 146359
any surrounding land, which totals approximately 106 acres. 146360

In preparing the deed, the Auditor of State, with the 146361
assistance of the Attorney General, shall develop a legal 146362
description of the property in conformity with the actual bounds 146363
of the real estate. 146364

(3) Consideration for conveyance of the real estate shall be 146365
set forth in the contract awarded to the grantee and shall be paid 146366
in accordance with the terms of the contract. 146367

(4)(a) The deed may contain any restriction that the Director 146368
of Administrative Services and the Director of Rehabilitation and 146369
Correction determine is reasonably necessary to protect the 146370
state's interest in neighboring state-owned land. 146371

(b) The deed also shall contain restrictions prohibiting the 146372
grantee from using, developing, or selling the real estate, or the 146373
correctional facility thereon, except in conformance with the 146374
restriction, or if the use, development, or sale will interfere 146375
with the quiet enjoyment of the neighboring state-owned land. 146376

(5) The real estate shall be sold as an entire tract and not 146377
in parcels. 146378

(6) Upon payment of the purchase price as set forth in the 146379
contract awarded to the grantee, the Auditor of State, with the 146380
assistance of the Attorney General, shall prepare a deed to the 146381
real estate. The deed shall state the consideration and 146382
restrictions and shall be executed by the Governor in the name of 146383
the state, countersigned by the Secretary of State, sealed with 146384

the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Marion County Recorder.

(7) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

(8) The proceeds of the conveyance of the real estate shall be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund and shall be used to redeem or defease bonds in accordance with section 5120.092 of the Revised Code, and any remaining moneys after such redemption or defeasance shall be transferred in accordance with that section to the General Revenue Fund.

(9) Division (G) of this section does not restrict the Department of Rehabilitation and Correction from contracting, not for the sale of, but only for the private operation and management of the North Central Correctional Institution Camp.

(10) Division (G) of this section expires two years after its effective date.

Section 753.20. (A) The Governor is authorized to execute a deed in the name of the state conveying to the Ripley Union Lewis Huntington School District, its successors and assigns, all of the state's right, title, and interest in the following described real estate:

I

Starting at a 5/8" iron pin found on the southerly right-of-way line of Outer Drive, the northeasterly line of Edward and Eva K. Farnbach and Michael S. Pfeffer, Trustee at the northwesterly corner of L.J. Germann's Addition as recorded in

Plat Book C-3, page 204, slide 213 in the Brown County, Ohio	146415
Recorder's Office;	146416
Thence with the southerly right-of-way line of said Outer	146417
Drive and with the northerly line of said Farnbach and Pfeffer for	146418
the next four (4) courses;	146419
South 63 degrees 34 minutes 18 seconds West a distance of	146420
24.20 feet;	146421
South 79 degrees 33 minutes 23 seconds West a distance of	146422
92.60 feet;	146423
South 75 degrees 58 minutes 20 seconds West a distance of	146424
347.02 feet;	146425
South 84 degrees 53 minutes 30 seconds West a distance of	146426
10.54 feet;	146427
Thence with a line through the land of said Farnbach and	146428
Pfeffer for the next two (2) courses:	146429
South 21 degrees 11 minutes 23 seconds West a distance of	146430
43.58 feet;	146431
South 0 degrees 25 minutes 20 seconds West a distance of	146432
586.49 feet to a point on the southerly line of said Farnbach and	146433
Pfeffer and on the northerly line of Michael Ray Schwallie;	146434
Thence with a line through the land of said Schwallie for the	146435
next two (2) courses:	146436
South 0 degrees 25 minutes 20 seconds West a distance of	146437
227.62 feet;	146438
South 35 degrees 47 minutes 10 seconds East a distance of	146439
523.46 feet to a point on the southerly line of said Schwallie and	146440
on the northerly line of the State of Ohio;	146441
Thence with a line through the land of said State of Ohio	146442
three (3) courses:	146443

South 35 degrees 47 minutes 10 seconds East a distance of 146444
29.17 feet; 146445

South 6 degrees 22 minutes 58 seconds West a distance of 146446
29.21 feet; 146447

South 51 degrees 22 minutes 58 seconds West a distance of 146448
583.46 feet and *the true point of beginning*; 146449

Thence from said *true point of beginning* and through the land 146450
of said State of Ohio for the next five (5) courses: 146451

On a curve to the left having a radius of 300.00 feet, an 146452
interior angle of 37 degrees 00 minutes 54 seconds, an arc length 146453
of 193.81 feet, a chord bearing of South 76 degrees 58 minutes 37 146454
seconds East for a chord length of 190.46 feet; 146455

South 58 degrees 28 minutes 11 seconds East a distance of 146456
284.98 feet; 146457

On a curve to the left having a radius of 300.00 feet, an 146458
interior angle of 180 degrees 00 minutes 00 seconds, an arc length 146459
of 942.48 feet, a chord bearing of South 31 degrees 31 minutes 49 146460
seconds West for a chord length of 600.00 feet; 146461

North 58 degrees 28 minutes 11 seconds West a distance of 146462
284.98 feet; 146463

On a curve to the right having a radius of 300.00 feet, an 146464
interior angle of 142 degrees 59 minutes 08 seconds, an arc length 146465
of 748.67 feet, a chord bearing of North 13 degrees 01 minutes 23 146466
seconds East for a chord length of 568.97 feet and CONTAINING 146467
3.925 Acres 146468

This description was prepared by Christopher S. Renshaw, 146469
P.S., Ohio Registration No. 8319 on 16 October 2009. 146470

II 146471

Starting at 5/8" iron pin found on the southerly right-of-way 146472
line of Outer Drive, the northeasterly corner of Edward and Eva K. 146473

Farnbach and Michael S. Pfeffer, Trustee at the northwesterly corner of L.J. Germann's Addition as recorded in Plat Book C-3, page 204, slide 213 in the Brown County, Ohio Recorder's Office; 146474
146475
146476

Thence with the southerly right-of-way line of Outer Drive and with the northerly line of Edward and Eva K. Farnbach, etal for the next three (3) courses: 146477
146478
146479

South 63 degrees 34 minutes 18 seconds West a distance of 24.20 feet; 146480
146481

South 79 degrees 33 minutes 23 seconds West a distance of 92.60 feet; 146482
146483

South 75 degrees 58 minutes 20 seconds West a distance of 340.45 feet; 146484
146485

Thence through the land of said Farnbach for the next two (2) courses: 146486
146487

South 21 degrees 11 minutes 23 seconds West a distance of 49.42 feet; 146488
146489

South 0 degrees 25 minutes 20 seconds West a distance of 571.70 feet to a point on the southerly line of said Farnbach and on the northerly line of Michael Ray Schwallie; 146490
146491
146492

Thence through the land of said Schwallie for the next two (2) courses: 146493
146494

South 0 degrees 25 minutes 20 seconds West a distance of 234.76 feet; 146495
146496

South 35 degrees 47 minutes 10 seconds East a distance of 518.08 feet to a point on the southerly line of said Schwallie and on the northerly line of the State of Ohio and *the true point of beginning*; said point being on the easterly line of said real estate; 146497
146498
146499
146500
146501

Thence from said *the true point of beginning* and with a line through the land of said State of Ohio seven (7) courses: 146502
146503

South 35 degrees 47 minutes 10 seconds East a distance of 146504
35.43 feet; 146505

South 6 degrees 22 minutes 58 seconds West a distance of 146506
41.21 feet; 146507

South 51 degrees 22 minutes 58 seconds West a distance of 146508
568.72 feet; 146509

On a curve to the left having a radius of 300.00 feet, an 146510
interior angle of 20 degrees 37 minutes 27 seconds, an arc length 146511
of 107.99 feet, a chord bearing of South 79 degrees 07 minutes 37 146512
seconds West for a chord length of 107.41 feet; 146513

North 51 degrees 22 minutes 58 seconds East a distance of 146514
643.06 feet; 146515

North 6 degrees 22 minutes 57 seconds East a distance of 1.22 146516
feet; 146517

North 35 degrees 47 minutes 10 seconds West a distance of 146518
14.58 feet to a point on the southerly line of said Schwallie and 146519
on the northerly line of said State of Ohio; 146520

Thence with the southerly line of said Schwallie and on the 146521
northerly line of said State of Ohio North 52 degrees 24 minutes 146522
43 seconds East a distance of 50.02 feet to the place of beginning 146523
and CONTAINING 0.740 Acres. 146524

This description was prepared by Christopher S. Renshaw, 146525
P.S., Ohio Registration No. 8319 on 16 October 2009. 146526

III 146527

Starting at a 5/8" iron pin found on the southerly 146528
right-of-way line of Outer Drive, the northeasterly corner of 146529
Edward and Eva K. Farnbach and Michael S. Pfeffer, Trustee at the 146530
northwesterly corner of L.J. Germann's Addition as recorded in 146531
Plat Book C-3, page 204, slide 213 in the Brown County, Ohio 146532
Recorder's Office; 146533

Thence with the southerly right-of-way line of said Outer	146534
Drive and with the northerly line of said Farnbach and Pfeffer for	146535
the next four (4) courses:	146536
South 63 degrees 34 minutes 18 seconds West a distance of	146537
24.20 feet;	146538
South 79 degrees 33 minutes 23 seconds West a distance of	146539
92.60 feet;	146540
South 75 degrees 58 minutes 20 seconds West a distance of	146541
347.02 feet;	146542
South 84 degrees 53 minutes 30 seconds West a distance of	146543
10.54 feet;	146544
Thence with a line through the land of said Farnbach and	146545
Pfeffer for the next two (2) courses:	146546
South 21 degrees 11 minutes 23 seconds West a distance of	146547
43.58 feet;	146548
South 0 degrees 25 minutes 20 seconds West a distance of	146549
586.49 feet to a point on the southerly line of said Farnbach	146550
Pfeffer and on the northerly line of Michael Ray Schwallie;	146551
Thence with a line through the land of said Schwallie for the	146552
next two (2) courses:	146553
South 0 degrees 25 minutes 20 seconds West a distance of	146554
227.62 feet;	146555
South 35 degrees 47 minutes 10 seconds East a distance of	146556
523.46 feet to a point on the southerly line of said Schwallie and	146557
on the northerly line of the State of Ohio and <i>the true point of</i>	146558
<i>beginning</i> , said beginning point being on the easterly line of said	146559
real estate;	146560
Thence from said <i>the true point of beginning</i> and with a line	146561
through the land of said State of Ohio seven (7) courses:	146562

South 35 degrees 47 minutes 10 seconds East a distance of 146563
29.17 feet; 146564

South 6 degrees 22 minutes 58 seconds West a distance of 146565
29.21 feet; 146566

South 51 degrees 22 minutes 58 seconds West a distance of 146567
583.46 feet; 146568

On a curve to the left having a radius of 300.00 feet, an 146569
interior angle of 7 degrees 49 minutes 53 seconds, an arc length 146570
of 41.01 feet, a chord bearing of South 80 degrees 35 minutes 59 146571
seconds West for a chord length of 40.97 feet; 146572

North 51 degrees 22 minutes 58 seconds East a distance of 146573
610.94 feet; 146574

North 6 degrees 22 minutes 58 seconds East a distance of 146575
13.22 feet; 146576

North 35 degrees 47 minutes 10 seconds West a distance of 146577
20.83 feet to a point on the southerly line of said Schwallie and 146578
on the northerly line of said State of Ohio; 146579

Thence with the southerly line of said Schwallie and on the 146580
northerly line of said State of Ohio North 52 degrees 24 minutes 146581
43 seconds East a distance of 20.01 feet to the place of beginning 146582
and CONTAINING 0.295 Acres. 146583

This description was prepared by Christopher S. Renshaw, 146584
P.S., Ohio Registration No. 8319 on 16 October 2009. 146585

IV 146586

Starting at a spike found in the centerline of U.S. Route No. 146587
52, 62 & 68, at the southeasterly corner of Surgical Appliance 146588
Industries, Inc.'s 2.00 Acre tract as recorded in Deed Book 164, 146589
page 778 in the Brown County, Ohio Recorder's Office; 146590

Thence with the line of said Surgical Appliance Industries, 146591
Inc. South 52 degrees 38 minutes 52 seconds West a distance of 146592

80.00 feet to a point on the on the southerly right-of-way line of 146593
said U.S. Route No. 52, 62 & 68; 146594

Thence with the southerly right-of-way line of said U.S. 146595
Route No. 52, 62 & 68 South 36 degrees 23 minutes 01 seconds East 146596
a distance of 19.72 feet to *the true point of beginning*; 146597

South 52 degrees 41 minutes 03 seconds West a distance of 146598
260.37 feet; 146599

South 49 degrees 59 minutes 41 seconds West a distance of 146600
179.65 feet; 146601

On a curve to the left having a radius of 200.00 feet, an 146602
interior angle of 43 degrees 45 minutes 50 seconds, an arc length 146603
of 152.76 feet, a chord bearing of South 28 degrees 06 minutes 46 146604
seconds West for a chord length of 149.08 feet; 146605

South 6 degrees 13 minutes 51 seconds West a distance of 146606
204.40 feet; 146607

On a curve to the left having a radius of 100.00 feet, an 146608
interior angle of 44 degrees 44 minutes 55 seconds, an arc length 146609
of 78.10 feet, a chord bearing of South 16 degrees 08 minutes 36 146610
seconds East for a chord length of 76.13 feet; 146611

South 38 degrees 31 minutes 04 seconds East a distance of 146612
266.21 feet; 146613

On a curve to the left having a radius of 50.00 feet, an 146614
interior angle of 53 degrees 35 minutes 34 seconds, an arc length 146615
of 46.77 feet, a chord bearing of South 65 degrees 18 minutes 51 146616
seconds East for a chord length of 45.08 feet; 146617

North 87 degrees 53 minutes 23 seconds East a distance of 146618
6.15 feet; 146619

On a curve to the right having a radius of 12.50 feet, an 146620
interior angle of 143 degrees 13 minutes 01 seconds, an arc length 146621
of 31.25 feet, a chord bearing of South 20 degrees 30 minutes 07 146622

seconds East for a chord length of 23.72;	146623
South 51 degrees 40 minutes 10 seconds West a distance of	146624
345.58 feet;	146625
On a curve to the left having a radius of 125.00 feet, an	146626
interior angle of 43 degrees 33 minutes 25 seconds, an arc length	146627
of 95.03 feet, a chord bearing of South 29 degrees 53 minutes 28	146628
seconds West for a chord length of 92.75 feet;	146629
South 8 degrees 06 minutes 45 seconds West a distance of	146630
65.53 feet;	146631
On a curve to the right have a radius of 63.00 feet, an	146632
interior angle of 91 degrees 48 minutes 38 seconds, an arc length	146633
of 100.95 feet, a chord bearing of South 54 degrees 01 minutes 04	146634
seconds West for a chord length of 90.49 feet;	146635
North 80 degrees 04 minutes 37 seconds West a distance of	146636
579.25 feet;	146637
On a curve to the right having a radius of 150.00 feet, an	146638
interior angle of 26 degrees 20 minutes 16 seconds, an arc length	146639
of 68.95 feet, a chord bearing of North 66 degrees 54 minutes 29	146640
seconds West for a chord length of 68.35 feet;	146641
North 53 degrees 44 minutes 21 seconds West a distance of	146642
229.52 feet;	146643
North 46 degrees 10 minutes 36 seconds West a distance of	146644
25.00 feet;	146645
North 52 degrees 49 minutes 16 seconds West a distance of	146646
55.12 feet;	146647
On a curve to the left having a radius of 205.00 feet, an	146648
interior angle of 75 degrees 47 minutes 45 seconds, an arc length	146649
of 271.19 feet, a chord bearing of South 89 degrees 16 minutes 52	146650
seconds West for a chord length of 251.85 feet;	146651
South 51 degrees 22 minutes 58 seconds West a distance of	146652

139.29 feet;	146653
On a curve to the left having a radius of 55.00 feet, an	146654
interior angle of 105 degrees 02 minutes 01 seconds, an arc length	146655
of 100.83 feet, a chord bearing of South 01 degrees 08 minutes 03	146656
seconds East for a chord length of 87.29 feet;	146657
South 53 degrees 39 minutes 03 seconds East a distance of	146658
447.62 feet;	146659
North 53 degrees 39 minutes 03 seconds West a distance of	146660
447.62 feet;	146661
On a curve to the right having a radius of 55.00 feet, an	146662
interior angle of 105 degrees 02 minutes 01 seconds, an arc length	146663
of 100.83 feet, a chord bearing of North 01 degrees 08 minutes 03	146664
seconds West for a chord length of 87.29 feet;	146665
North 51 degrees 22 minutes 58 seconds East a distance of	146666
139.29 feet;	146667
On a curve to the right having a radius of 205.00 feet, an	146668
interior angle of 75 degrees 47 minutes 45 seconds, an arc length	146669
of 271.19 feet, a chord bearing of North 89 degrees 16 minutes 52	146670
seconds East for a chord length of 251.85 feet;	146671
South 52 degrees 49 minutes 16 seconds East a distance of	146672
55.12 feet;	146673
South 46 degrees 10 minutes 36 seconds East a distance of	146674
25.00 feet;	146675
South 53 degrees 44 minutes 21 seconds East a distance of	146676
229.52 feet;	146677
On a curve to the left having a radius of 150.00 feet, an	146678
interior angle of 26 degrees 20 minutes 16 seconds, an arc length	146679
of 68.95 feet, a chord bearing of South 66 degrees 54 minutes 29	146680
seconds East for a chord length of 68.35 feet;	146681
South 80 degrees 04 minutes 37 seconds East a distance of	146682

579.25 feet; 146683

On a curve to the left having a radius of 63.00 feet, an 146684
interior angle of 91 degrees 48 minutes 38 seconds, an arc length 146685
of 100.95 feet, a chord bearing of North 54 degrees 01 minutes 04 146686
seconds East for a chord length of 90.49 feet; 146687

North 8 degrees 06 minutes 45 seconds East a distance of 146688
65.53 feet; 146689

On a curve to the right having a radius of 125.00 feet, an 146690
interior angle of 43 degrees 33 minutes 25 seconds, an arc length 146691
of 95.03 feet, a chord bearing of North 29 degrees 53 minutes 28 146692
seconds East for a chord length of 92.75 feet; 146693

North 51 degrees 40 minutes 10 seconds East a distance of 146694
345.58 feet; 146695

North 51 degrees 06 minutes 24 seconds East a distance of 146696
242.53 feet; 146697

On a curve to the left having a radius of 75.00 feet, an 146698
interior angle of 89 degrees 40 minutes 16 seconds, an arc length 146699
of 117.38 feet, a chord bearing of North 06 degrees 16 minutes 16 146700
seconds East for a chord length of 105.76 feet; 146701

North 38 degrees 33 minutes 52 seconds West a distance of 146702
100.75 feet; 146703

North 53 degrees 36 minutes 14 seconds East a distance of 146704
396.32 feet. 146705

This description was prepared by Christopher S. Renshaw, 146706
P.S., Ohio Registration No. 8319 on 16 October 2009. 146707

(B) Consideration for conveyance of the real estate is the 146708
mutual benefit accruing to the state and the Ripley Union Lewis 146709
Huntington School District from the use of the real estate so that 146710
a water well may be constructed and operated. 146711

(C) The Ripley Union Lewis Huntington School District shall 146712

use the real estate to construct and operate a water well. If the
Ripley Union Lewis Huntington School District ceases to use the
real estate to construct and operate a water well, all right,
title, and interest in the real estate immediately reverts to the
state without the need for any further action by the state.

(D) The Ripley Union Lewis Huntington School District shall
pay the costs of the conveyance.

(E) Within thirty days after the effective date of this
section, the Auditor of State, with the assistance of the Attorney
General, shall prepare a deed to the real estate. The deed shall
state the consideration and the condition. The deed shall be
executed by the Governor in the name of the state, countersigned
by the Secretary of State, sealed with the Great Seal of the
State, presented in the office of the Auditor of State for
recording, and delivered to the Ripley Union Lewis Huntington
School District. The Ripley Union Lewis Huntington School District
shall present the deed for recording in the office of the Brown
County Recorder.

(F) This section expires one year after its effective date.

Section 753.23. (A) The Governor is authorized to execute a
deed in the name of the state (Kent State University) conveying to
the Board of Township Trustees of Jackson Township in Stark County
and its successors and assigns all of the state's right, title,
and interest in the following described real estate:

Known as and being a part of the Southeast and Southwest
Quarters of Section 13, Township 11 (Jackson) R-9, County of
Stark, State of Ohio. Also being a part of tracts of land conveyed
to the state of Ohio as recorded in Deed Volume 3109, Page 573 of
the records of Stark County and being more fully bounded and
described as follows:

Commencing at a hex head iron bar in a monument box (JAC 146743
080), being the southeast corner of said Southwest Quarter of 146744
Section 13 and also being an angle point on the centerline of 146745
Dressler Road (C.R. 224) (Variable Width) as recorded in file 106 146746
of the Stark County Engineers Office; 146747

Thence, along the centerline of Dressler Road, N 1803'31" E a 146748
distance of 223.09 feet to the True Place of beginning for the 146749
parcel herein described; 146750

1. Thence N 56°56'23" W a distance of 241.46 feet to a 5/8" 146751
rebar set, said line passes over a 5/8" rebar set at 41.41 feet; 146752

2. Thence N 01°44'30" W a distance of 230.40 feet to a 5/8" 146753
rebar set; 146754

3. Thence N 67°27'21" E a distance of 150.00 feet to a 5/8" 146755
rebar set; 146756

4. Thence S 63°25'06" E a distance of 199.60 feet to a point 146757
in the centerline of Dressler Road, said line passes over a 5/8" 146758
rebar set at 159.15 feet; 146759

5. Thence, along the centerline of Dressler Road, S 18°03'31" 146760
W a distance of 347.32 feet to the true place of beginning and 146761
containing 2.025 acres of land, more or less of which 0.970 acres 146762
are located in the Southeast Quarter of Section 13 and 1.055 acres 146763
are located in the Southwest Quarter of Section 13. 146764

The above described area is contained within the Stark County 146765
Auditor's Permanent Parcel Numbers 1680061 and 1680066. 146766

The basis of bearings in this description is based on the 146767
Ohio North Zone, State Plane Coordinates NAD 83 (86). 146768

The statement of "5/8" rebar Set" refers to a 5/8" x 30" Dia. 146769
Rebar set with a plastic i.d. cap stamped "SCE". 146770

This description was prepared and reviewed by Daniel J. 146771
Houck, Professional Surveyor No. 7851 in March of 2010, of the 146772

Stark County Engineer's Office. This description is based on a 146773
survey made by the Stark County Engineer's Office in March of 146774
2010, under the direction and supervision of Keith A. Bennett, 146775
Professional Surveyor No. 7615. (Attachment A) 146776

(B) Consideration for conveyance of the real estate is the 146777
mutual benefit accruing to the state from Jackson Township's use 146778
of the real estate for a fire station. 146779

(C) If the use of the real estate as a fire station is 146780
discontinued, the real estate reverts to Kent State University, 146781
and Jackson Township shall raze the building currently on the real 146782
estate and remove from the real estate any contaminants relating 146783
to the building's use as a fire station. 146784

(D) The Board of Township Trustees of Jackson Township in 146785
Stark County shall pay the costs of the conveyance. 146786

(E) The Auditor of State, with the assistance of the Attorney 146787
General, shall prepare a deed to the real estate. The deed shall 146788
state the consideration and the reverter. The deed shall be 146789
executed by the Governor in the name of the state, countersigned 146790
by the Secretary of State, sealed with the Great Seal of the 146791
State, presented in the Office of the Auditor of State for 146792
recording, and delivered to the Board of Township Trustees of 146793
Jackson Township in Stark County. The Board of Township Trustees 146794
of Jackson Township in Stark County shall present the deed for 146795
recording in the Office of the Stark County Recorder. 146796

(F) This section expires one year after its effective date. 146797

Section 753.25. (A) The Governor is authorized to execute a 146798
deed in the name of the state conveying to the Board of County 146799
Hospital Trustees of The MetroHealth System ("MetroHealth"), in 146800
the name of the County of Cuyahoga, State of Ohio, its successors 146801
and assigns, all of the state's right, title, and interest in the 146802

following listed parcels of real estate located in the County of 146803
Cuyahoga, State of Ohio: 00821- 008, 00821-009, 00821-010, 146804
00821-011, 00821-012, 00821-013, 00821-014, 00821-015, 00821-016, 146805
and 00821-017. 146806

In preparing the deed, the Auditor of State, with the 146807
assistance of the Attorney General, shall develop a legal 146808
description of the real estate in conformity with the actual 146809
bounds of the real estate. 146810

(B) Consideration for conveyance of the real estate shall be 146811
ten dollars. 146812

(C) The state shall convey the real estate described in 146813
division (A) of this section together with the building situated 146814
upon it, along with the amount of \$3,400,000 to demolish the 146815
building. Notwithstanding any provision of law to the contrary, 146816
the Director of Mental Health shall disburse \$3,400,000 from 146817
appropriation item C58010, Campus Consolidation, as set forth in 146818
Sub. H.B. 462 of the 128th General Assembly, to the grantee within 146819
thirty days after the conveyance of the real estate. After the 146820
disbursement, the state shall, within four months, complete a 146821
physical inventory of assets, relocate assets that are to be 146822
removed from the building, and itemize assets that are to remain 146823
with the transferred real estate and building. 146824

(D) The real estate described in division (A) of this section 146825
shall be sold as an entire tract and not in parcels. 146826

(E) The grantee shall pay all costs associated with the 146827
purchase and conveyance of the real estate, including costs of any 146828
surveys and recordation costs of the deed. 146829

(F) The grantee shall not, during any period that any bonds 146830
issued by the state to finance or refinance all or a portion of 146831
the real estate described in division (A) of this section are 146832

outstanding, use any portion of the real estate for a private 146833
business use without the prior written consent of the state. As 146834
used in this division: 146835

(1) "Private business use" means use, directly or indirectly, 146836
in a trade or business carried on by any private person other than 146837
use as a member of, and on the same basis as, the general public. 146838
Any activity carried on by a private person who is not a natural 146839
person shall be presumed to be a trade or business. 146840

(2) "Private person" means any natural person or any 146841
artificial person, including a corporation, partnership, limited 146842
liability company, trust, or other entity and including the United 146843
States or any agency or instrumentality of the United States, but 146844
excluding any state, territory, or possession of the United 146845
States, the District of Columbia, or any political subdivision 146846
thereof that is referred to as a "state or local governmental 146847
unit" in Treasury Regulation 1.103-1(a) and any person that is 146848
acting solely and directly as an officer or employee of or on 146849
behalf of such a governmental unit. 146850

(G) The grantee shall not sell, convey, or transfer ownership 146851
of the real estate described in division (A) of this section 146852
before December 1, 2019, or before receiving written confirmation 146853
from the state that all of the state's bonded capital indebtedness 146854
associated with any of the buildings located on the real estate 146855
has been fully satisfied. 146856

(H) The Auditor of State, with the assistance of the Attorney 146857
General, shall prepare a deed to the real estate. The deed shall 146858
state the consideration and the conditions and restrictions and 146859
shall be executed by the Governor in the name of the state, 146860
countersigned by the Secretary of State, sealed with the Great 146861
Seal of the State, presented in the Office of the Auditor of State 146862
for recording, and delivered to the grantee. The grantee shall 146863
present the deed for recording in the Office of the Cuyahoga 146864

County Recorder. 146865

(I) This section expires one year after its effective date. 146866

Section 753.27. (A) The Governor is authorized to execute a 146867
deed in the name of the state, on behalf of Cleveland State 146868
University, conveying to a purchaser as yet to be determined 146869
(hereinafter the "grantee"), its heirs and assigns or its 146870
successors and assigns, all of the state's right, title, and 146871
interest in the real estate located at 21425 Shelburne Road, City 146872
of Shaker Heights, County of Cuyahoga, State of Ohio, such real 146873
estate consisting of the building formerly used as the residence 146874
for the President of Cleveland State University, and the land on 146875
which it is situated. 146876

(B) In preparing the deed, the Auditor of State, with the 146877
assistance of the Attorney General, shall develop a legal 146878
description of the real estate in conformity with the actual 146879
bounds of the real estate. 146880

(C) Consideration for conveyance of the real estate shall be 146881
as is agreed upon by Cleveland State University and the grantee. 146882

(D) The deed may contain any condition or restriction that 146883
the Governor or Cleveland State University determines is 146884
reasonably necessary to protect the state's interests. 146885

(E) The grantee shall pay all costs associated with the 146886
conveyance, including recordation costs of the deed. 146887

(F) Upon payment of the purchase price, the Auditor of State, 146888
with the assistance of the Attorney General, shall prepare a deed 146889
to the real estate. The deed shall state the consideration and any 146890
conditions or restrictions and shall be executed by the Governor 146891
in the name of the state, countersigned by the Secretary of State, 146892
sealed with the Great Seal of the State, presented in the Office 146893
of the Auditor of State for recording, and delivered to the 146894

grantee. The grantee shall present the deed for recording in the Office of the Cuyahoga County Recorder.

(G) This section expires one year after its effective date.

Section 753.30. (A) The Governor is authorized to execute a deed in the name of the state conveying to a buyer or buyers to be determined in the manner provided in division (B) of this section all of the state's right, title, and interest in real estate situated in the Township of Green, County of Scioto, and State of Ohio that the Director of Administrative Services determines is no longer required for state purposes and more particularly described as follows:

Being part of French Grant Lots 15 and 16 and being part of Site No. 5 and part of Site No. 6 of the Greater Portsmouth Area Industrial Park Subdivision and being part of the Greater Portsmouth Growth Corporation parcel as recorded in Volume 658 at Page 489 among the land records of Scioto County, Ohio, and beginning at a 1" diameter iron pipe with cap set in the east right-of-way line of Old U.S. 52 County Road No. 1, said point being, North 10° 49' 47" West, 391.16 feet from a concrete monument found marking the northwest corner of the Ohio Power Company parcel as recorded in Volume 719 at Page 227 among the said land records of Scioto County, Ohio;

Thence with the said east right-of-way line of Old U.S. 52 County Road No. 1, North 10° 49' 47" West 810.88 feet to a 1" diameter iron pipe with cap set;

Thence through the said Greater Portsmouth Growth Corporation parcel, North 66° 38' 51" East, 1039.14 feet to a 1" diameter iron pipe with cap set in the west right-of-way line of the Norfolk & Southern Railroad;

Thence with the said west right-of-way line of the Norfolk &

Southern Railroad, South 29° 36' 10" East, passing a 1" diameter iron pipe with cap set at 1414.00 feet, a total distance of 1415.00 feet to a 30" diameter oak marking the northeast corner of Plymouth Heights No. 1 as recorded in Plat Book 4 at Page 6 among the said land records of Scioto County, Ohio;

Thence with the north line of the said Plymouth Heights No. 1, South 66° 38' 51" West, passing a 1" diameter iron pipe with cap set at 3.00 feet, a total distance of 1170.02 feet to a 1" diameter iron pipe with cap set marking the southeast corner of the said Ohio Power Company parcel;

Thence with the east line of the said Ohio Power Company parcel and through the said Greater Portsmouth Growth Corporation parcel, North 23° 21' 09" West, passing the northeast corner of the said Ohio Power Company parcel at 233.14 feet, a total distance of 615.00 feet to a 1" diameter iron pipe with cap set;

Thence continuing through the said Greater Portsmouth Growth Corporation parcel, South 66° 38' 51" West, 199.00 feet to the point of beginning. Containing a total of 37.312 acres of land of which 27.628 acres lies within Site No, 5 of the said Greater Portsmouth Area Industrial Park Subdivision and 9.684 acres lies within Site No. 6 of said Greater Portsmouth Area Industrial Park Subdivision.

Subject to all legal easements.

Bearings oriented to State Plane Coordinates.

Excepting from the above described 37.312 acre parcel the following 1.148 acre City of Portsmouth parcel.

Situate in the Township of Green, County of Scioto, State of Ohio, and being a part of a 37.312 acre parcel of land conveyed to the State of Ohio, by and through the Department of Administrative Services for the use of the Department of Youth Services, by deed of record in Deed Book 875, Page 128, this and all subsequent deed

and plat references made being to the records of the Recorder's Office, Scioto County, Ohio, and being more particularly described as follows:

Beginning at an iron pin called for and found at the southerly corner of the aforementioned 37.312 acre parcel, said iron pin also being the easterly corner of a parcel of land conveyed to the Ohio Power Company in Deed Book 719, Page 227, and said iron pin in the northerly line of the Plymouth Heights No. I Subdivision, of record in Plat Book 4, Page 6, being the true point of beginning of the proposed water storage, tank site being described;

Thence, North 23° 21' 09" West, with the westerly line of the said 37.312 acre parcel, and the easterly line of the Ohio Power Company, and the easterly line of a 2.116 acre parcel conveyed to Mike Holtzapfel in Deed Book 905, Page 244, a distance of 258.14 feet to an iron pin set, passing a concrete monument called for but not found at the northeasterly corner of the Ohio Power Company, and the southeasterly corner of Holtzapfel, at 233.14 feet;

Thence, North 66° 38' 51" East, leaving the said westerly line, a distance of 193.69 feet to an iron pin set;

Thence, South 23° 21' 09" East a distance of 258.14 feet to an iron pin set in the southerly line of the said 37.312 acre parcel, and the northerly line of the Plymouth Heights No. 1 Subdivision;

Thence, South 66° 38' 51" West, with the southerly line of the said 37.312 acre parcel, and the northerly line of said Plymouth Heights No. 1, a distance of 193.69 feet to the true point of beginning of the parcel being described. The parcel, as described above, contains 1.148 acres, more or less, of which the southerly fifty feet, or 0.222 acres is an Ohio Power Company

easement, of record in Deed Book 719, Page 229. 146987

Iron pins set are five eighths inch diameter rebar, thirty 146988
inches long, set flush to the surface with yellow identification 146989
caps. The basis for bearing is the southerly line of the said 146990
37.312 acre parcel, which bears South 66' 38' 51" West. 146991

The above description was prepared by Roger M. Smith, P.S., 146992
P.E., Ohio Registered Surveyor, S-6899. 146993

This description may be modified to a final form if 146994
modifications are needed. 146995

The real property described above is conveyed subject to all 146996
easements, covenants, conditions, and restrictions of record; all 146997
legal highways; zoning, building and other laws, ordinances, and 146998
regulations; and real estate taxes and assessments not yet due and 146999
payable. 147000

(B) The Director of Administrative Services shall offer the 147001
real estate, improvements and chattels located on the parcel 147002
described in division (A) of this section for sale "as is" in its 147003
present condition according to the following process: 147004

The real estate described in division (A) of this section 147005
shall be sold as an entire parcel and not subdivided. 147006

The Director of Administrative Services shall conduct a 147007
sealed bid sale and the real estate shall be sold to the highest 147008
bidder at a price acceptable to both the Director of 147009
Administrative Services and the Director of Youth Services. 147010

The contract for sale shall include a condition that requires 147011
the purchaser to provide preferential hiring treatment to 147012
employees or former employees of the Department of Youth Services 147013
in order to retain or rehire staff displaced as a result of the 147014
closure of the facility located on the property, to the extent the 147015
purchaser's use of the facility requires employees in the same or 147016

similar positions as those displaced as a result of the closure. 147017

The contract for sale also shall include a binding commitment 147018
that does all of the following: 147019

(1) Provides that, before the contractor, or the contractor's 147020
successor in title, may resell or otherwise transfer the facility 147021
and the real property on which it is situated, any surrounding 147022
land that is to be transferred under the contract, or both the 147023
facility and real property on which it is situated plus the 147024
surrounding land that is to be transferred under the contract, the 147025
contractor or successor first must offer the state the opportunity 147026
to repurchase the facility, real property, and surrounding land 147027
that is to be resold or transferred for a price not greater than 147028
the purchase price paid to the state for that facility, real 147029
property, or surrounding land, less depreciation from the time of 147030
the conveyance of that facility, real property, or surrounding 147031
land to the contractor, plus the depreciated value of any capital 147032
improvements to that facility, real property, or surrounding land 147033
that were made to it and funded by anyone other than the state 147034
subsequent to the conveyance to the contractor; 147035

(2) Specifies that the opportunity described in division 147036
(B)(2) of this section must be offered to the state at least one 147037
hundred twenty days before the contractor intends to resell or 147038
otherwise transfer the facility, real property, or surrounding 147039
land that is to be resold or transferred; 147040

(3) Irrevocably grants to the state the right to repurchase 147041
the facility, real property, and surrounding land that is to be 147042
resold or otherwise transferred for the price described in 147043
division (B)(2) of this section. 147044

The Director of Administrative Services shall advertise the 147045
sealed bid sale in a newspaper of general circulation within 147046
Scioto County once a week for three consecutive weeks prior to the 147047

date of the sealed bid sale. The Director of Administrative 147048
Services may reject any and all bids from the sealed bid sale. The 147049
terms of sale shall be ten per cent of the purchase price in cash, 147050
bank draft, or certified check payable within five business days 147051
following written notification of the acceptance of the bid by the 147052
Director of Administrative Services, with the balance payable 147053
within sixty days after the date of the written notification of 147054
the acceptance of the bid by the Director of Administrative 147055
Services. A purchaser who does not complete the conditions of the 147056
sale as prescribed in this division shall forfeit the ten per cent 147057
of the purchase price paid to the state as liquidated damages. 147058
Should a purchaser not complete the conditions of sale as 147059
described in this division, the Director of Administrative 147060
Services is authorized to accept the next highest bid by 147061
collecting ten per cent of the revised purchase price from that 147062
bidder and to proceed to close the sale, provided that the 147063
secondary bid meets all other criteria provided for in this 147064
section. If the Director of Administrative Services rejects all 147065
bids from the sealed bid sale, the Director may repeat the sealed 147066
bid process described in this section or may use an alternate sale 147067
process acceptable to the Director of Youth Services. 147068

Advertising costs and any other costs incident to the sale of 147069
real estate described in division (A) of this section shall be 147070
paid by the Department of Youth Services. 147071

Upon notice from the Director of Administrative Services, the 147072
Auditor of State, with the assistance of the Attorney General, 147073
shall prepare a deed to the real estate to the purchaser 147074
identified by the Director of Administrative Services. The deed 147075
shall be executed by the Governor, countersigned by the Secretary 147076
of State, presented in the Office of the Auditor of State for 147077
recording, and delivered to the grantee at closing and upon the 147078
grantee's payment of the balance of the purchase price. The 147079

grantee shall present the deed for recording in the office of the 147080
Scioto County Recorder. 147081

The grantee shall pay all costs associated with the purchase 147082
and conveyance of the real estate, including the costs of 147083
recording the deed. 147084

The net proceeds of the conveyance of the real estate shall 147085
be deposited into the State Treasury to the credit of the Adult 147086
and Juvenile Correctional Facilities Bond Retirement Fund and 147087
shall be used to offset bond indebtedness for the Ohio River 147088
Valley Juvenile Correctional Facility capital projects. The 147089
Director of Budget and Management may direct that any moneys 147090
remaining in the fund after the redemption or defeasance of the 147091
bonds issued for those projects be transferred to the General 147092
Revenue Fund. 147093

(C) This section expires two years after its effective date. 147094

Section 755.10. The Director of Transportation may enter into 147095
agreements as provided in this section with the United States or 147096
any department or agency of the United States, including, but not 147097
limited to, the United States Army Corps of Engineers, the United 147098
States Forest Service, the United States Environmental Protection 147099
Agency, and the United States Fish and Wildlife Service. An 147100
agreement entered into pursuant to this section shall be solely 147101
for the purpose of dedicating staff to the expeditious and timely 147102
review of environmentally related documents submitted by the 147103
Director of Transportation, as necessary for the approval of 147104
federal permits. The agreements may include provisions for advance 147105
payment by the Director of Transportation for labor and all other 147106
identifiable costs of the United States or any department or 147107
agency of the United States providing the services, as may be 147108
estimated by the United States, or the department or agency of the 147109
United States. The Director shall submit a request to the 147110

Controlling Board indicating the amount of the agreement, the 147111
services to be performed by the United States or the department or 147112
agency of the United States, and the circumstances giving rise to 147113
the agreement. 147114

Section 757.10. ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS 147115

(A) On or before the tenth day of each month of the period 147116
beginning August 1, 2011, and ending June 30, 2013, the Tax 147117
Commissioner shall determine and certify to the Director of Budget 147118
and Management the amount to be credited during that month to the 147119
Local Government Fund and Public Library Fund pursuant to 147120
divisions (B) to (D) of this section. 147121

(B) Notwithstanding any provision of section 131.51 of the 147122
Revised Code to the contrary, for each month in the period 147123
beginning August 1, 2011, and ending June 30, 2013: 147124

(1) The amount credited first to the Local Government Fund 147125
shall be as provided in division (C) of this section; 147126

(2) The amount credited next to the Public Library Fund shall 147127
be according to the schedule in division (D) of this section. 147128

(C) Pursuant to division (B)(1) of this section, amounts 147129
shall be credited to the Local Government Fund as follows: 147130

(1)(a) In August 2011, seventy-five per cent of the amount 147131
credited in August 2010; in August 2012, fifty per cent of the 147132
amount credited in August 2010; 147133

(b) In September 2011, seventy-five per cent of the amount 147134
credited in September 2010; in September 2012, fifty per cent of 147135
the amount credited in September 2010; 147136

(c) In October 2011, seventy-five per cent of the amount 147137
credited in October 2010; in October 2012, fifty per cent of the 147138
amount credited in October 2010; 147139

(d) In November 2011, seventy-five per cent of the amount	147140
credited in November 2010; in November 2012, fifty per cent of the	147141
amount credited in November 2010;	147142
(e) In December 2011, seventy-five per cent of the amount	147143
credited in December 2010; in December 2012, fifty per cent of the	147144
amount credited in December 2010;	147145
(f) In January 2012, seventy-five per cent of the amount	147146
credited in January 2011; in January 2013, fifty per cent of the	147147
amount credited in January 2011;	147148
(g) In February 2012, seventy-five per cent of the amount	147149
credited in February 2011; in February 2013, fifty per cent of the	147150
amount credited in February 2011;	147151
(h) In March 2012, seventy-five per cent of the amount	147152
credited in March 2011; in March 2013, fifty per cent of the	147153
amount credited in March 2011;	147154
(i) In April 2012, seventy-five per cent of the amount	147155
credited in April 2011; in April 2013, fifty per cent of the	147156
amount credited in April 2011;	147157
(j) In May 2012, seventy-five per cent of the amount credited	147158
in May 2011; in May 2013, fifty per cent of the amount credited in	147159
May 2011;	147160
(k) In June 2012, seventy-five per cent of the amount	147161
credited in June 2011; in June 2013, fifty per cent of the amount	147162
credited in June 2011;	147163
(l) In July 2012, fifty per cent of the amount credited in	147164
July 2010.	147165
(2) For each month in the period beginning August 1, 2011,	147166
and ending June 30, 2013, an amount sufficient to make the	147167
distributions required for that month under divisions (E)(2)(a),	147168
(b), and (c) of this section.	147169

(3)(a) For each month in the period beginning August 1, 2011, 147170
and ending June 30, 2012, an amount equal to one-eleventh of the 147171
difference between fifty million dollars and the amount to be 147172
credited for that month under division (C)(4)(a) of this section; 147173

(b) For each month in the period beginning July 1, 2012, and 147174
ending June 30, 2012, an amount equal to one-twelfth of the 147175
difference between fifty million dollars and the amount to be 147176
credited for that month under division (C)(4)(a) of this section. 147177

(4) The amounts described in division (C)(3) of this section 147178
shall be credited each month from any of the taxes credited to the 147179
General Revenue Fund in the preceding month. The amounts described 147180
in divisions (C)(1) and (2) of this section shall be credited each 147181
month from the following sources of revenue: 147182

(a) Any of the taxes credited to the General Revenue Fund in 147183
the preceding month, in an amount equal to the difference between 147184
the amount to be credited for each month under division (C)(2) of 147185
this section and the sum of the following amounts: 147186

(i) The total amount that would be distributed to county 147187
undivided local government funds in that month under division 147188
(E)(2)(a) of this section if any county undivided local government 147189
fund that received a total distribution between five hundred 147190
thousand dollars and seven hundred fifty thousand dollars in 147191
fiscal year 2011 were not entitled to a distribution under that 147192
division; 147193

(ii) The total amount that would be distributed to county 147194
undivided local government funds in that month under divisions 147195
(E)(2)(b) or (c) of this section, as applicable, if those 147196
divisions applied to county undivided local government funds that 147197
received a total distribution between five hundred thousand 147198
dollars and seven hundred fifty thousand dollars in fiscal year 147199
2011 and if the amount to be distributed to a county undivided 147200

local government fund under that division equaled one-eleventh or 147201
one-twelfth of the difference between five hundred thousand 147202
dollars and the total amount to be allocated to the fund in fiscal 147203
year 2012 or 2013, as applicable. 147204

(b) Revenue arising from the personal income tax levied under 147205
Chapter 5747. of the Revised Code, in an amount equal to the total 147206
amount to be credited for each month under divisions (C)(1) and 147207
(2) of this section after subtraction of the amount credited from 147208
commercial activity tax revenue under division (C)(3)(a) of this 147209
section. 147210

(D) Pursuant to division (B)(2) of this section, amounts 147211
shall be credited from revenue arising from the kilowatt-hour tax 147212
and sales tax levied under section 5727.81 or 5739.02 of the 147213
Revised Code, respectively, to the Public Library Fund as follows: 147214

(1) In August 2011 and in August 2012, ninety-five per cent 147215
of the amount credited in August 2010; 147216

(2) In September 2011 and in September 2012, ninety-five per 147217
cent of the amount credited in September 2010; 147218

(3) In October 2011 and in October 2012, ninety-five per cent 147219
of the amount credited in October 2010; 147220

(4) In November 2011 and in November 2012, ninety-five per 147221
cent of the amount credited in November 2010; 147222

(5) In December 2011 and in December 2012, ninety-five per 147223
cent of the amount credited in December 2010; 147224

(6) In January 2012 and in January 2013, ninety-five per cent 147225
of the amount credited in January 2011; 147226

(7) In February 2012 and in February 2013, ninety-five per 147227
cent of the amount credited in February 2011; 147228

(8) In March 2012 and in March 2013, ninety-five per cent of 147229
the amount credited in March 2011; 147230

(9) In April 2012 and in April 2013, ninety-five per cent of the amount credited in April 2011; 147231
147232

(10) In May 2012 and in May 2013, ninety-five per cent of the amount credited in May 2011; 147233
147234

(11) In June 2012 and in June 2013, ninety-five per cent of the amount credited in June 2011; 147235
147236

(12) In July 2012, ninety-five per cent of the amount credited in July 2010. 147237
147238

(E) Notwithstanding any other provision of the Revised Code to the contrary, the total amount credited to the Local Government Fund in each month for the period beginning August 1, 2011, and ending June 30, 2013, shall be distributed by the tenth day of that month in the following manner: 147239
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147243

(1) The total amount credited to the Local Government Fund in each month pursuant to division (C)(1) of this section shall be distributed as follows: 147244
147245
147246

(a) Each county undivided local government fund shall receive a distribution from the Local Government Fund based on its proportionate share of the total amount received from the fund in that respective month in fiscal year 2011. As used in this section, "total amount received" does not include payments received in fiscal year 2011 under division (C) of section 5725.24 of the Revised Code. 147247
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(b) Each municipal corporation that received a direct distribution in fiscal year 2011 from the Local Government Fund under division (C) of section 5747.50 of the Revised Code shall receive a distribution based on its proportionate share of the total amount of direct distributions made to municipal corporations from the fund in that respective month in fiscal year 2011. 147254
147255
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147260

(2) The total amount credited to the Local Government Fund in 147261
each month pursuant to division (C)(2) of this section shall be 147262
distributed as follows: 147263

(a) If a county undivided local government fund's total 147264
distribution in fiscal year 2011 was equal to or less than seven 147265
hundred fifty thousand dollars, the fund shall receive a 147266
distribution equal to the difference between the amount 147267
distributed to the fund in that respective month in fiscal year 147268
2011 and the amount allocated to the fund for the month under 147269
division (E)(1)(a) of this section. 147270

(b) For each month in the period beginning August 1, 2011, 147271
and ending June 30, 2012, if a county undivided local government 147272
fund's total distribution in fiscal year 2011 exceeded seven 147273
hundred fifty thousand dollars and if the sum of the amount 147274
allocated to the fund in July 2011 and the amounts to be allocated 147275
to the fund between August 1, 2011, and June 30, 2012, under 147276
division (E)(1)(a) of this section is less than seven hundred 147277
fifty thousand dollars, the fund shall receive a distribution 147278
equal to one-eleventh of the difference between seven hundred 147279
fifty thousand dollars and that sum. 147280

(c) For each month in the period beginning July 1, 2012, and 147281
ending June 30, 2013, if a county undivided local government 147282
fund's total distribution in fiscal year 2011 exceeded seven 147283
hundred fifty thousand dollars and if the total amount to be 147284
allocated to the fund in fiscal year 2013 under division (E)(1)(a) 147285
of this section is less than seven hundred fifty thousand dollars, 147286
the fund shall receive a distribution equal to one-twelfth of the 147287
difference between seven hundred fifty thousand dollars and the 147288
total amount to be allocated to the fund in fiscal year 2013 under 147289
division (E)(1)(a) of this section. 147290

(3) The total amount credited to the Local Government Fund in 147291
each month pursuant to division (C)(3) of this section shall be 147292

distributed to each county undivided local government fund based 147293
on each fund's proportionate share of the total amount received 147294
from the Local Government Fund in that respective month in fiscal 147295
year 2011. As used in this section, "total amount received" does 147296
not include payments received in fiscal year 2011 under division 147297
(C) of section 5725.24 of the Revised Code. 147298

(F) Notwithstanding any other provision of the Revised Code 147299
to the contrary, by the tenth day of each month of the period 147300
beginning July 1, 2011, and ending December 31, 2011, each county 147301
undivided public library fund shall receive a distribution from 147302
the Public Library Fund equal to the product derived by 147303
multiplying the following amounts: 147304

(1) The total amount credited to the Public Library Fund in 147305
that month; 147306

(2) A percentage calculated by multiplying one hundred by the 147307
quotient obtained by dividing the sum of the county's 147308
distributions from the Public Library Fund during calendar year 147309
2010 by the sum of distributions made to all counties from the 147310
Public Library Fund during calendar year 2010. 147311

(G) Notwithstanding any other provision of the Revised Code 147312
to the contrary, by the tenth day of each month of the period 147313
beginning January 1, 2012, and ending June 30, 2013, each county 147314
undivided public library fund shall receive a distribution from 147315
the Public Library Fund equal to the product derived by 147316
multiplying the following amounts: 147317

(1) The total amount credited to the Public Library Fund in 147318
that month; 147319

(2) A percentage calculated by multiplying one hundred by the 147320
quotient obtained by dividing the sum of the county's 147321
distributions from the Public Library Fund during calendar year 147322
2011 by the sum of distributions made to all counties from the 147323

Public Library Fund during calendar year 2011. 147324

(H) For the 2012 and 2013 distribution years, the Tax 147325
Commissioner is not required to issue the certifications otherwise 147326
required by sections 5747.47, 5747.501, and 5747.51 of the Revised 147327
Code, but shall provide to each county auditor by July 20, 2011, 147328
and July 20, 2012, an estimate of the amounts to be received by 147329
the county in the ensuing year from the Public Library Fund and 147330
the Local Government Fund pursuant to this section and any other 147331
section of the Revised Code. The Tax Commissioner may report to 147332
each county auditor additional revised estimates of the 2011, 147333
2012, or 2013 distributions at any time during fiscal years 2012 147334
and 2013. 147335

Section 757.20. A school district, joint vocational school 147336
district, or local taxing unit may appeal a levy classification or 147337
any amount used in the calculation of total resources as defined 147338
under division (A) of section 5727.84 or division (A) of section 147339
5751.20 of the Revised Code. Such an appeal shall be filed in 147340
writing, including via electronic mail, with the Tax Commissioner. 147341
Upon receiving such an appeal, the Tax Commissioner shall make a 147342
determination of the merits of the appeal and, if the appeal is 147343
upheld, make necessary changes within the classifications or 147344
calculations. The determination of the Tax Commissioner is final 147345
and not subject to appeal. After June 30, 2013, no changes shall 147346
be made in the classifications or calculations. 147347

Section 757.30. The Tax Commissioner shall conduct a review 147348
of the operations of the Board of Tax Appeals, and, not later than 147349
November 15, 2011, shall submit a written report to the Governor, 147350
Speaker of the House of Representatives, and President of the 147351
Senate providing an assessment of the Board's operations and 147352
recommendations for improvement. The Tax Commissioner's review 147353
shall include consultation with persons who have participated in 147354

or have had matters before the Board and are familiar with the Board's operations and procedures. The report shall include recommendations for improving the appeals process, internal operations, and other operational matters the Commissioner deems advisable. The Commissioner may designate an employee of the Department of Taxation to conduct the review.

Section 757.40. (A) As used in this section:

(1) "Qualifying delinquent taxes" means any tax levied under Chapters 5731., 5733., 5735., 5739., 5741., 5743., 5747., 5748., and 5751. of the Revised Code, including the taxes levied under sections 5707.03, 5727.24, 5733.41, and 5747.41 of the Revised Code and taxes required to be withheld under Chapters 5747. and 5748. of the Revised Code, which were due and payable from any person as of May 1, 2011, were unreported or underreported, and remain unpaid.

(2) "Qualifying delinquent taxes" does not include any tax for which a notice of assessment or audit has been issued, for which a bill has been issued, which relates to a tax period that ends after the effective date of this section, or for which an audit has been conducted or is currently being conducted.

(B) The Tax Commissioner shall establish and administer a tax amnesty program with respect to qualifying delinquent taxes. The program shall commence on May 1, 2012, and shall conclude on June 15, 2012. The Tax Commissioner shall issue forms and instructions and take other actions necessary to implement the program. The Tax Commissioner shall publicize the program so as to maximize public awareness and participation in the program. The Commissioner may contract with such parties as the Commissioner deems necessary for promotion, computer support, or administration of the program.

(C) During the program, if a person pays the full amount of

qualifying delinquent taxes owed by that person and one-half of 147385
any interest that has accrued as a result of the person failing to 147386
pay those taxes in a timely fashion, the Tax Commissioner shall 147387
waive or abate all applicable penalties and one-half of any 147388
interest that accrued on the qualifying delinquent taxes. 147389

(D) The Tax Commissioner may require a person participating 147390
in the program to file returns or reports, including amended 147391
returns and reports, in connection with the person's payment of 147392
qualifying delinquent taxes. 147393

(E) A person who participates in the program and pays in full 147394
any outstanding qualifying delinquent tax and the interest payable 147395
on such tax in accordance with this section shall not be subject 147396
to any criminal prosecution or any civil action with respect to 147397
that tax, and no assessment shall thereafter be issued against 147398
that person with respect to that tax. 147399

(F) Taxes and interest collected under the program shall be 147400
credited to the General Revenue Fund, except that: 147401

(1) Qualifying delinquent taxes levied under section 147402
5739.021, 5739.023, or 5739.026 of the Revised Code shall be 147403
distributed to the appropriate counties and transit authorities in 147404
accordance with section 5739.21 of the Revised Code during the 147405
next distribution required under that section; 147406

(2) Qualifying delinquent taxes levied under section 147407
5741.021, 5741.022, or 5741.023 of the Revised Code shall be 147408
distributed to the appropriate counties and transit authorities in 147409
accordance with section 5741.03 of the Revised Code during the 147410
next distribution required under that section; 147411

(3) Qualifying delinquent taxes levied under Chapter 5748. of 147412
the Revised Code shall be credited to the school district income 147413
tax fund and then paid to the appropriate school district with the 147414
next payment required under division (D) of section 5747.03 of the 147415

Revised Code; 147416

(4) Qualifying delinquent taxes levied under Chapter 5731. of 147417
the Revised Code shall be divided between the General Revenue Fund 147418
and the municipal corporation or township in which the tax 147419
originates in accordance with section 5731.48 of the Revised Code; 147420

(5) Qualifying delinquent taxes levied under Chapter 5735. of 147421
the Revised Code shall be distributed according to the 147422
requirements of sections 5735.23, 5735.26, 5735.27, 5735.291, and 147423
5735.30 of the Revised Code; and (6) Qualifying delinquent taxes 147424
levied under section 5743.021, 5743.024, 5743.026, 5743.321, 147425
5743.323, or 5743.324 of the Revised Code shall be distributed as 147426
required under sections 5743.021, 5743.024, and 5743.026 of the 147427
Revised Code. 147428

(6) Qualifying delinquent taxes levied under section 147429
5743.021, 5743.024, 5743.026, 5743.321, 5743.323, or 5743.324 of 147430
the Revised Code shall be distributed as required under sections 147431
5743.021, 5743.024, and 5743.026 of the Revised Code. 147432

Section 757.41. Section 757.40 of this act is hereby 147433
repealed, effective June 16, 2012. The repeal of Section 757.40 of 147434
this act does not affect, after the effective date of the repeal, 147435
the rights, remedies, or actions authorized under that section. 147436

Section 757.50. All inheritance tax files that still remain 147437
open under temporary order, or otherwise, for which the "ultimate 147438
succession" pursuant to former sections 5731.28 and 5731.29 of the 147439
Revised Code as those sections existed before their repeal by S.B. 147440
326 of the 107th General Assembly (effective July 1, 1968), 147441
relating to the inheritance tax, has not been finalized and have 147442
not been submitted to the Department of Taxation as explained 147443
below, shall be considered to be closed as of January 1, 2013. 147444

Notwithstanding the former sections of the Revised Code 147445

constituting the Ohio Inheritance Tax as those sections existed 147446
before their repeal by that act, all claims and inquiries must be 147447
received by the Department of Taxation, or postmarked on or 147448
before, December 31, 2012. 147449

Section 757.60. The amendment by this act of division (00) of 147450
section 5739.01 of the Revised Code is to clarify the General 147451
Assembly's intent of that section when enacted. 147452

Section 757.70. Section 5709.084 of the Revised Code, as 147453
amended by this act, is remedial in nature and applies to the tax 147454
years at issue in any application for exemption from taxation 147455
pending before the Tax Commissioner, the Board of Tax Appeals, any 147456
Court of Appeals, or the Supreme Court on the effective date of 147457
this act and to the property that is the subject of any such 147458
application. 147459

Section 757.80. The amendment by this act of section 5709.07 147460
of the Revised Code applies to tax years 2011 and thereafter. 147461

Section 757.90. For the purposes of this section, 147462
"proceedings" and "securities" have the same meaning as in section 147463
133.01 of the Revised Code. 147464

The amendment or enactment by this act of sections 145.56, 147465
319.301, 3305.08, 3307.41, 3309.66, 3316.041, 3316.06, 3316.08, 147466
3317.08, 5505.22, 5705.214, 5705.29, 5748.01, 5748.05, 5748.081, 147467
and 5748.09 of the Revised Code apply to any proceedings commenced 147468
after the effective date of sections 145.56, 3305.08, 3307.41, 147469
3309.66, 3316.08, 5505.22, 5705.214, 5705.29, 5748.01, 5748.05, 147470
5748.081, and 5748.09 of the Revised Code and, so far as their 147471
provisions support the actions taken, also apply to any 147472
proceedings that on that effective date are pending, in progress, 147473
or completed, and to any elections authorized, conducted, or 147474

certified and securities authorized or issued pursuant to those 147475
proceedings, notwithstanding any law, resolution, ordinance, 147476
order, advertisement, notice, or other proceeding in effect before 147477
that effective date. Any proceedings pending or in progress on, or 147478
completed by, that effective date, elections authorized, 147479
conducted, or certified, and securities sold, issued, and 147480
delivered, or validated, pursuant to those proceedings, are 147481
ratified with respect to, and shall be deemed to have been taken, 147482
authorized, conducted, certified, sold, issued, delivered, or 147483
validated in conformity with section 5748.09 of the Revised Code 147484
and the amended sections so far as their provisions support the 147485
actions taken. To the extent those proceedings are proper in all 147486
other respects, if the proceedings are filed with a board of 147487
elections in anticipation of the taking effect of those amendments 147488
and enactments and in a manner that would be valid if the 147489
amendments and enactments took effect on the date they became law, 147490
then that board of elections, so long as it received a 147491
confirmation stating an intention to proceed from or on behalf of 147492
the board of education within five business days after the 147493
effective date of the amendments and enactments shall accept the 147494
proceedings and take any actions or make any arrangements 147495
necessary for the submission of a question to the electors or 147496
otherwise required by the Revised Code. 147497

The amendment or enactment by this act of sections 145.56, 147498
319.301, 3305.08, 3307.41, 3309.66, 3316.041, 3316.06, 3316.08, 147499
3317.08, 5505.22, 5705.214, 5705.29, 5748.01, 5748.05, 5748.081, 147500
and 5748.09 of the Revised Code provide additional or supplemental 147501
provisions for subject matter that may also be the subject of 147502
other laws, and are intended to be supplemental to, and not in 147503
derogation of, any similar authority provided by, derived from, or 147504
implied by the Ohio Constitution, or any other law, including laws 147505
amended by this act, or any charter, order, resolution, or 147506
ordinance; and those amendments and enactments shall not be 147507

interpreted to negate the authority provided by, derived from, or 147508
implied by such constitution, laws, charters, orders, resolutions, 147509
or ordinances. 147510

Section 759.10. As the terms of members who hold additional 147511
memberships on a veterans service commission under section 147512
5901.021 of the Revised Code expire, the additional memberships 147513
are abolished. When the term of the last such member expires, the 147514
membership of the commission shall be constituted only as 147515
prescribed in section 5901.02 of the Revised Code. 147516

Section 801.20. As used in the uncodified law of this act, 147517
"American Recovery and Reinvestment Act of 2009" means the 147518
"American Recovery and Reinvestment Act of 2009," Pub. L. No. 147519
111-5, 123 Stat. 115. 147520

Section 801.30. REVENUE GENERATED BY TRANSFER OF LIQUOR 147521
ENTERPRISE TO JOBSOHIO 147522

The revenue estimates for fiscal year 2012 assume receipt of 147523
\$500,000,000 in cash from JobsOhio pursuant to section 4313.02 of 147524
the Revised Code, as enacted by this act, and the transfer of the 147525
enterprise acquisition project authorized therein. 147526

Section 803.40. Sections 121.40, 121.401 to 121.404, 1501.40, 147527
3301.70, 3333.043, and 4503.93 of the Revised Code continue to 147528
operate the same as they did before their amendment by this act, 147529
except for the name of the Ohio Community Service Council being 147530
changed to the Ohio Commission on Service and Volunteerism. 147531

Section 803.60. Section 3903.301 of the Revised Code shall 147532
apply only to formal delinquency proceedings that commence under 147533
sections 3903.01 to 3903.59 of the Revised Code on or after the 147534
effective date of this act. 147535

Section 806.10. The items of law contained in this act, and 147536
their applications, are severable. If any item of law contained in 147537
this act, or if any application of any item of law contained in 147538
this act, is held invalid, the invalidity does not affect other 147539
items of law contained in this act and their applications that can 147540
be given effect without the invalid item of law or application. 147541

Section 809.10. An item of law, other than an amending, 147542
enacting, or repealing clause, that composes the whole or part of 147543
an uncodified section contained in this act has no effect after 147544
June 30, 2013, unless its context clearly indicates otherwise. 147545

Section 812.10. Except as otherwise provided in this act, the 147546
amendment, enactment, or repeal by this act of a section is 147547
subject to the referendum under Ohio Constitution, Article II, 147548
section 1c and therefore takes effect on the ninety-first day 147549
after this act is filed with the Secretary of State or, if a later 147550
effective date is specified below, on that date. 147551

The amendment or repeal of sections 9.231, 9.24, 127.16, 147552
1751.01, 1751.04, 1751.11, 1751.111, 1751.12, 1751.13, 1751.15, 147553
1751.17, 1751.20, 1751.31, 1751.34, 1751.60, 2744.05, 3111.04, 147554
3113.06, 3119.54, 3901.3814, 3923.281, 3963.01, 4731.65, 4731.71, 147555
5101.5211, 5101.5212, 5101.5213, 5101.5214, 5101.5215, 5101.5216, 147556
5101.571, 5101.58, 5111.0112, and 5111.941 of the Revised Code 147557
takes effect October 1, 2011. 147558

The amendment or enactment of sections 123.10, 154.11, 147559
154.24, 154.25, 5120.105, 5707.031, 5725.151, 5725.24, and 147560
5751.011 of the Revised Code and Sections 701.50 and 515.40 of 147561
this act takes effect January 1, 2012. 147562

The amendment of sections 131.44 and 131.51 of the Revised 147563
Code takes effect June 1, 2013. 147564

Section 812.20. The amendment, enactment, or repeal by this act of the sections listed below is exempt from the referendum under Ohio Constitution, Article II, section 1d and section 1.471 of the Revised Code and therefore takes effect immediately when this act becomes law or, if a later effective date is specified below, on that date.

Sections 9.06, 9.833, 9.90, 9.901, 101.532, 101.82, 111.12, 111.16, 111.18, 111.181, 111.28, 111.29, 117.13, 121.37, 124.09, 124.14, 124.141, 124.15, 124.23, 124.231, 124.25, 124.26, 124.27, 124.31, 125.15, 125.18, 125.213, 125.28, 125.89, 126.04, 126.12, 126.24, 127.14, 149.091, 149.11, 149.311, 305.171, 319.301, 505.60, 505.601, 505.603, 901.09, 924.52, 927.69, 1309.528, 1327.46, 1327.50, 1327.501, 1327.51, 1327.511, 1327.54, 1327.57, 1327.62, 1327.99, 1329.04, 1329.42, 1332.24, 1501.031, 1515.14, 1545.071, 1551.311, 1551.32, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1701.07, 1702.59, 1703.031, 1703.07, 1776.83, 1785.06, 3301.07, 3301.16, 3301.162, 3301.81, 3301.82, 3302.031, 3302.07, 3306.01, 3306.011, 3306.012, 3306.02, 3306.03, 3306.04, 3306.05, 3306.051, 3306.052, 3306.06, 3306.07, 3306.08, 3306.09, 3306.091, 3306.10, 3306.11, 3306.12, 3306.13, 3306.19, 3306.191, 3306.192, 3306.21, 3306.22, 3306.29, 3306.291, 3306.292, 3307.31, 3307.64, 3309.41, 3309.48, 3309.51, 3310.02, 3310.03, 3310.05, 3310.08, 3310.41, 3311.05, 3311.059, 3311.0510, 3311.06, 3311.19, 3311.21, 3311.29, 3311.52, 3311.76, 3313.29, 3313.411, 3313.55, 3313.64, 3313.6410, 3313.843, 3313.88, 3313.978, 3313.981, 3314.012, 3314.08, 3314.085, 3314.087, 3314.088, 3314.091, 3314.10, 3314.11, 3314.111, 3314.13, 3314.35, 3315.01, 3316.041, 3316.06, 3316.20, 3316.21, 3317.01, 3317.011, 3317.013, 3317.014, 3317.016, 3317.017, 3317.018, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.025, 3317.0210, 3317.0211, 3317.0212, 3317.0216, 3317.03, 3317.031, 3317.04, 3317.05, 3317.051, 3317.053, 3317.061, 3317.07, 3317.08, 3317.081,

3317.082, 3317.09, 3317.11, 3317.12, 3317.16, 3317.17, 3317.18, 147597
3317.19, 3317.20, 3317.201, 3318.011, 3318.051, 3318.36, 3319.19, 147598
3319.39, 3319.57, 3319.62, 3323.091, 3323.14, 3323.142, 3323.31, 147599
3324.05, 3326.33, 3326.39, 3327.02, 3327.04, 3327.05, 3329.16, 147600
3345.14, 3345.81, 3349.242, 3353.15, 3365.01, 3365.08, 3506.05, 147601
3701.0211, 3704.06, 3704.14, 3734.901, 3745.015, 3745.016, 147602
3793.04, 3793.21, 4115.101, 4121.03, 4121.12, 4121.121, 4121.125, 147603
4121.128, 4121.44, 4121.75, 4121.76, 4121.77, 4121.78, 4121.79, 147604
4123.341, 4123.342, 4123.35, 4141.08, 4141.11, 4301.43, 4511.191, 147605
4725.34, 4733.15, 4733.151, 5111.0122, 5111.0213, 5111.0215, 147606
5111.945, 5112.99, 5112.991, 5120.092, 5123.0419, 5126.0511, 147607
5126.11, 5126.18, 5126.24, 5703.05, 5705.211, 5715.26, 5727.84, 147608
5727.85, 5727.86, 5747.46, 5747.51, 5747.52, 5747.53, 5751.20, 147609
5751.21, 5751.22, 5751.23, and 6109.21. 147610

The amendment, enactment, or repeal of sections 109.572, 147611
173.21, 173.35 (5119.69), 173.351 (5119.691), 173.36 (5119.692), 147612
340.03, 340.05, 340.08, 340.091, 340.11, 2317.02, 2317.422, 147613
2903.33, 3306.12 (3317.0212), 3313.65, 3318.49, 3326.11, 3701.07, 147614
3701.74, 3721.02, 3721.50, 3721.51, 3721.56, 3721.561 (3721.56), 147615
3721.58, 3722.011 (5119.701), 3722.021 (5119.711), 3722.022 147616
(5119.712), 3722.03 (5119.72), 3722.041 (5119.731), 3722.05 147617
(5119.74), 3722.06 (5119.75), 3722.07 (5119.76), 3722.08 147618
(5119.77), 3722.09 (5119.78), 3722.10 (5119.79), 3722.11 147619
(5119.80), 3722.12 (5119.81), 3722.13 (5119.82), 3722.14 147620
(5119.83), 3722.15 (5119.84), 3722.151 (5119.85), 3722.16 147621
(5119.86), 3722.17 (5119.87), 3722.18 (5119.88), 3722.99, 3737.83, 147622
3737.841, 3769.08, 3769.20, 3769.26, 3781.183, 3791.043, 5101.35, 147623
5101.60, 5101.61, 5111.023, 5111.025, 5111.113, 5111.222, 147624
5111.231, 5111.24, 5111.243, 5111.244, 5111.25, 5111.254, 147625
5111.911, 5111.912, 5112.30, 5112.31, 5112.37, 5112.371, 5112.39, 147626
5119.18, 5119.61, 5119.613 (5119.614), 5119.62, 5119.621, 147627
5119.622, 5119.623, 5119.99, 5122.15, 5701.13, and 5731.39 of the 147628
Revised Code takes effect July 1, 2011. 147629

The amendment of sections 5112.40, 5112.41, and 5112.46 of the Revised Code takes effect October 1, 2011.

Sections of this act prefixed with section numbers in the 200's, 300's, 400's, 500's, and 600's, except for Sections 309.30.40, 501.10, 515.20, 690.10, and 690.11 of this act and except for the amendment of Section 105.45.70 of Sub. H.B. 462 of the 128th General Assembly.

Sections 701.20, 733.10, 753.10, 757.10, 757.20, and 757.30 of this act.

Sections 801.20, 812.10, 812.20, and 812.30 of this act.

Section 812.30. The sections that are listed in the left-hand column of the following table combine amendments by this act that are and that are not exempt from the referendum under Ohio Constitution, Article II, sections 1c and 1d and section 1.471 of the Revised Code.

The middle column identifies the amendments to the listed sections that are subject to the referendum under Ohio Constitution, Article II, section 1c and therefore take effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified, on that date.

The right-hand column identifies the amendments to the listed sections that are exempt from the referendum under Ohio Constitution, Article II, section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law or, if a later effective date is specified, on that date.

Section of law	Amendments subject to referendum	Amendments exempt from referendum	
102.02	All amendments except as described in the right-hand	The amendment in division (A) striking	147656 147657

	column	through "the director appointed by the workers' compensation council;"	
109.57	All amendments except as described in the right-hand column	The amendment to division (G) takes effect July 1, 2011	147658
173.14	All amendments except as described in the right-hand column	The amendments to divisions (A)(1)(d) and (f) take effect July 1, 2011	147659
173.26	All amendments except as described in the right-hand column	The amendment to division (A)(4) takes effect July 1, 2011	147660
173.42	All amendments except as described in the right-hand column	The amendment to division (I)(3) takes effect July 1, 2011	147661
1551.33	The amendment in division (C) striking through "1551.13,"	All amendments except as described in the middle column	147662
3313.614	All amendments except as described in the right-hand column	The amendment to division (C)(1)	147663
3314.10	The amendments to divisions (A) and (B)(1)	The amendments to division (B)(2)	147664
3314.19	All amendments except amendments to division (A)	Amendments to division (A)	147665
3314.22	All amendments except as described in the right column	The amendments to division (A)(3) and (4) striking references to the office of community schools and inserting	147666

		references to the department of education	
3317.06	The amendments to divisions (A)(2), (K), and (L) and the addition of division (O)	All amendments except as described in the middle column	147667
3318.032	The amendment inserting "subject to a new project scope and estimated costs under section 3318.054 of the Revised Code,"	1. The amendment striking "one-year" and inserting "thirteen-month" 2. The amendment striking "year" and inserting "period"	147668
3318.05	The amendment inserting ", subject to section 3318.054 of the Revised Code"	The amendment striking "one year" and inserting "thirteen months"	147669
3318.41	The amendments to divisions (D)(2) and (H)	The amendment to division (D)(1)(b)	147670
3319.17	The amendment to division (B)	Amendment to division (A)	147671
3721.01	All amendments except as described in the right-hand column	The amendment to division (A)(1)(c)(iv) takes effect July 1, 2011	147672
3722.01 (5119.70)	The amendments to division (A)(13)	All amendments except the amendments to division (A)(13)	147673
3722.04 (5119.73)	The amendments to division (C)	All amendments except the amendments to division (C)	147674
3734.57	All amendments except amendments to division (A)	Amendments to division (A)	147675

3745.11	The amendment inserting division (S)(3) and amendments in division (S)(1) relating thereto	All amendments except as described in the middle column	147676
4115.10	The amendment in division (A) striking "(1) or (2)"	All amendments except as described in the middle column	147677
5111.873	1. The amendment to division (A) that inserts "subject to division (D) of this section" 2. All of division (D)	All amendments except as described in the middle column	147678
5119.22	All amendments except as described in the right-hand column	The amendments to division (A)(1)(a) and the paragraph following division (A)(1)(d)(iii) take effect July 1, 2011	147679
5123.19	All amendments except as described in the right-hand column	The amendment to division (B) takes effect July 1, 2011	147680
5126.05	The amendment to division (D)	The amendment to division (A)(4)	147681

Section 812.40. The amendments to sections 5101.26, 5123.19, and 5123.191 of the Revised Code are subject to the referendum under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, and therefore take effect on the ninety-first day after this act is filed with the Secretary of State. However, in section 5101.26 of the Revised Code, the amendment striking "and 5101.5211 to 5101.5216" takes effect on October 1, 2011.

The amendment to divisions (B) and (G) of section 5123.191 of the Revised Code take effect October 1, 2012.

Section 815.20. The General Assembly, applying the principle

stated in division (B) of section 1.52 of the Revised Code that 147692
amendments are to be harmonized if reasonably capable of 147693
simultaneous operation, finds that the following sections, 147694
presented in this act as composites of the sections as amended by 147695
the acts indicated, are the resulting versions of the sections in 147696
effect prior to the effective date of the sections as presented in 147697
this act: 147698

Section 9.06 of the Revised Code as amended by Am. Sub. H.B. 147699
130 of the 127th General Assembly and Am. Sub. H.B. 1 of the 128th 147700
General Assembly. 147701

Section 121.37 of the Revised Code as amended by Am. Sub. 147702
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 147703

Section 123.01 of the Revised Code as amended by both Am. 147704
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 147705

Section 124.11 of the Revised Code as amended by Am. Sub. 147706
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 147707

Section 124.23 of the Revised Code as amended by Am. Sub. 147708
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 147709

Section 124.27 of the Revised Code as amended by Am. Sub. 147710
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 147711

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